

**Complaint Letter to the President of the Republic of Kenya
Raising Villagers' Concerns about Base Titanium**

22nd August 2023

His Excellency Dr. William Samoei Ruto, C.G.H
President of the Republic of Kenya and Commander-in-Chief of the Defence Forces
Office of the President
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Dear Mr President,

RE: Letter from Villagers in Kwale County, Kenya, Raising Serious Concerns about the Exploratory Drilling Exercise Presently Being Conducted by Base Titanium Limited / Base Resources Limited (Australia) in Our Ancestral Lands

We refer to our previous three letters to Base Titanium Limited / Base Resources Limited (Australia), dated [10th March 2023](#), [25th March 2023](#) and [6th April 2023](#), expressing our concerns with regards to exploratory drilling. We have written this fourth letter, in order to bring our concerns directly to your attention, particularly in light of the claims that have been made by one of the company's managers, Mr. Simon Wall, recently published in an article titled [Kwale Mineral Exploration Faces Potential Stalling](#).

Concerns about Exploratory Drilling

The present exploratory drilling exercise is being conducted in an unprofessional and intimidatory manner (sometimes under police escort), using "divide and rule" tactics, in order to obtain consent from landowners. Furthermore, many of those who have consented to the drilling exercise are not registered landowners in the first place, but younger family members who have been co-opted by company officials. This has led to tension and sometimes open conflict between family members. According to your company's website, this amounts to "inappropriate misconduct" by company staff, which includes "behaviour or practices that may cause harm to its host communities" (Re: [Whistleblower Standard](#)).

Moreover, the ongoing drilling exercise is being conducted on the same parcels of land, giving the false impression that the "number continues to grow each day", as erroneously stated in a [letter](#) from the company. We would also like to bring it to your attention that the officials from the local administration have been dictatorial while engaging villagers on the subject of exploratory drilling. In a meeting called by the above officials on 3rd August 2023, those opposed to the exploratory drilling exercise were not allowed to express their views.

These facts call into question the company's [claim](#) that "nearly 1,500 households have expressed their willingness to participate in exploration and 290 households have given their express and written consent and had holes drilled on their properties."

We would also like to correct the assertion that we requested for a meeting with Base Titanium officials through Mr Mshenga Ruga, who is presently an official in the County Government of Kwale. On the contrary, it is the company that sought audience with us via Mr Ruga, after learning about our stance against drilling. The money that was subsequently given to us was only meant to facilitate the traditional and cultural rites that should precede any serious discussions, as per our norms, and not to in order to give our consent to exploratory drilling, as Mr. Wall has claimed.

Further to this, the capacity building exercise conducted by the company, during which we were given a tour of “rehabilitated” mining sites, did not serve to allay our concerns about harmful environmental and health impacts. There was also no follow-up to obtain our feedback, but yet again, the company interpreted our participation to mean “consent”.

Development/Exploration Committees

The Development/Exploration Committees mentioned by Mr. Wall were not formed in a transparent and inclusive manner, nor do they represent our best interests. Instead, these committees appear to have been created in order to consolidate any opposition to the company's mining activities and “to establish a centralised point of engagement and information dissemination on exploration exercises...” primarily to the benefit of the company, as it seems, since our plight has not been addressed by any of these committees.

Irregularities

Kenya’s former Auditor General has faulted the issuance of export permits to mining companies, stating that mining licences are “dished out irregularly” with negative consequences in terms of revenue collection: “information available indicates that export permits with a value of \$18,619,645 (approximately Ksh 1.9 billion) were issued...by an unauthorised officer whose employment contract expired on April 19, 2014. This is contrary to the Mining Act...consequently the validity of the revenue collections on the export permits issued by the officer can be challenged.”¹

In addition to the above, former Acting Commissioner of Mines and Geology, Mr Shadrack M. Kimomo, who issued Base Titanium’s aforementioned “Special Licence” (Annex 1a and 1b), has been adversely mentioned in connection to “regulatory lapses and poor monitoring systems...giving firms which export billions worth of minerals annually the leeway to determine what royalties to pay.”² For example, according to the Auditor General, the receipts submitted by Base Titanium “are based on self-declared export quantities. There has been no evidence of subsequent verification of the actual exports vis-à-vis declared quantities to validate their accuracy. It is, therefore, not possible to confirm the completeness and validity of royalties’ income as reported.”³

¹ Okoth, E. (2016). *Millions feared lost in mining sector through lax regulations*. The Daily Nation, 31st October 2016 – www.google.com/amp/www.nation.co.ke/business/Millions-feared-lost-in-mining-sector-through-lax-regulations/996-3436114-view-asAMP-nv3t63z/index.html

² *Ibid*

³ *Ibid*

In spite of these irregularities, the aforementioned Acting Commissioner of Mines and Geology was subsequently appointed to the post of Director General of the Kenya Geological Survey, by virtue of which he also became a member of the Mineral Rights Board, which advises and gives recommendations to the Cabinet Secretary (Mining, Blue Economy, and Maritime Affairs) on important matters concerning the mining industry.

Our Position

Pursuant to the above, Base Titanium Limited was issued with a “Special Licence” on 26th May 2016, under the old Mining Act (Appendix 1a and 1b) – six days after the new Mining Act had been gazetted, and a day before the new Act came into effect on 27th May 2016. The timing in this licensing process suggests that Base Titanium wanted to continue exploiting the weaknesses of the old Mining Act. Furthermore, the company has refused to provide us with copies of its [Environmental Impact Assessment \(EIA\)](#) and [Special Mining Lease \(SML\)](#). This lack of transparency concerns us greatly, particularly in view of the [experiences](#) of the villagers who were initially displaced to make way for mining, but have languished in poverty ever since.

In closing, we would like to recall the advice of the late former President Mwai Kibaki, when he posited that the titanium mining project should be a partnership between local residents and the mining company and also advised the Kwale residents not “not to sell their land...until they are given shares in the project”. The National Mining Corporation, established under the *Mining Act (2016)*, can be the institution to facilitate this, by giving local residents (and other citizens) the opportunity to own shares in the project and thereby serve as an example of local ownership and sustainable development (including value addition) of natural resources.

Your Excellency, we urgently request for your attention to this matter.

Sincerely,

Mzee Omari Shee Mbega
Chairman
MAZIMA Community Based Organization
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On behalf of:

Concerned villagers in Gazi, Vumbu, Maumba, Bumamani, Fihoni, Magaoni, Masindeni, Majikuko, Mwaloya, Madongoni, Mwandimu, and Zigira.

Copied to:

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