



Our Ref: JS/216/18

4th July 2018

Omari Shee Mbega

Contact email: wanyeeekinuthia@gmail.com

Dear Sirs

REQUEST FOR INFORMATION UNDER THE ACCESS TO INFORMATION ACT 2016

We refer to your letter dated 22nd June 2018 and note that this is a repeat of previously requested information concerning our mining operations.

Having considered your request, our position remains unchanged and we again decline to provide a copy of the Special Mining Lease ("SML") on the same grounds as previously stated in our letter Ref: JS/230/17 of 26th July 2017, these being:

- a) the request does not disclose your legal right or fundamental freedom that has been breached or violated;
- b) the request does not disclose that Base Titanium is liable for any alleged breach or violation; and
- c) the request does not disclose or establish that the information or document requested is necessary and required by yourself to exercise or protect your rights or fundamental freedom which have been breached or violated.

As clearly stated in our previous response, minerals are defined as public land under the Constitution. The Mining Act 2016 further provides that minerals are the property of the Republic and vested in the National Government in trust for the people of Kenya. It is the SML, a formal instrument issued by the Government of Kenya, and in accordance with the terms and conditions set out therein, that confers on Base Titanium the legal right to mine, process and export the minerals on behalf of the State. The SML, therefore, remains Base Titanium's private property or asset.

We also advised that, if you wish to appeal against Base Titanium's decision, you may do so by lodging your appeal or complaint with the Commission on Administrative Justice. Alternatively, you may wish to approach the relevant statutory authority responsible for mining.

We emphasise that we welcome visitors to our operations and, having received regular visits from a diverse range of interest groups in the past, would be happy to host you on a familiarisation tour of the mine.

Addressing a further point made in your letter, where you refer to "stakeholder engagement in relation to exploration drilling", we point out that activities carried out under the SML are distinctly

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different from exploration drilling. In our above referenced letter we also provided an explanation for the benefit of your understanding, making clear the distinction between exploration and mining.

Following on from this, we are aware that, during the months of May and June this year, the Ministry of Petroleum and Mining has made a concerted effort to engage with local communities for the purpose of sensitising and educating them on the Mining Act, roles and responsibilities of stakeholders and Government's policies and expectations related to the development of the minerals sector. Such meetings have taken place in various locations, including Magaoni, as a consequence of which we trust that you are now fully informed on all relevant aspects.

Yours faithfully

A handwritten signature in blue ink, appearing to be 'J. Schwarz', written in a cursive style.

J. Schwarz

General Manager – External Affairs & Development