

Agri SA guideline for responding to prospecting on agricultural land

Although South African mining and environmental legislation require consultation with landowners during the mining and prospecting application process, landowners permission is not required at ANY stage. **Thus, mining companies can proceed with mining or prospecting once they have acquired the necessary permissions from authorities regardless of whether the landowner consents.**

Applications for prospecting and mining go to the Regional Manager of the Minerals Ministry, they are under NO obligation to notify affected landowners or occupiers directly.

The public comment window is very short, officially 30 days after the Section 10 notice has been published on the notice board at the Regional Manager's office.

It is crucial to appeal any granted applications. As the courts will usually refuse an application to review and set-aside a mining or prospecting decision by a party that has not submitted an appeal.

With this in mind, AgriSA produced a guidance document (click on the infographic to access the document) with the following steps that all landowners should be aware of and undertake in order to be proactive and prepared for mining or prospecting applications on their land.

Step One - Stay vigilant

- Regularly check for Section 10 Notices on public notice boards at the Magistrates Court, Municipal Offices, Traditional Council, libraries, schools and at the offices of the Regional Manager of the Ministry of Mineral Resources.
- Regularly check in with your local municipality regarding applications for landuse changes to permit prospecting and mining. Familiarise yourself with the Environmental Impact Assessment (EIA) process for Prospecting or Mining Rights.

Step Two - Take action

- Upon becoming aware of an application notify ALL other affected landowners/occupiers and Agri SA.
- Ensure anyone requiring access to your farm on behalf of the applicant to conduct environmental studies complies with Agri SA's Farm Access Protocol, providing either written agreement to this or signing the protocol.

Step Three - Participate

- Register as an interested or affected party (IAP) and attend ALL public meetings.
- Form a group of interested parties - this is important for future court appeals.
- Carefully consider the Basic Assessment Report (BAR) and Scoping and Environmental Impact Report (S EIR) and submit formal objections.

Step Four - Appeal

- Appeal to the DFFE regarding Environmental Authority and Waste Management Licence.
- Appeal to the Water Tribunal regarding the Water Use Licence.
- Appeal to the Ministry of Mineral Resources and Energy regarding Prospecting Rights.
- Appeal to the Municipal Manager regarding Prospecting or Mining Rights.

Step Five - Group action

- Form a group and adopt a constitution.
- Brief attorneys to apply to high court to review and set aside any decision authorising prospecting or mining activities.

Step Six - Enforceable access

- Require mining companies to sign a written agreement - ANNEX C of Agri SA's Farm Access Protocol.