

ALBURNUS MAIOR
Rosia Montană
W O R K I N G F O R

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29 April 2009

Dear Mr Wates,

Re: Communication to the ACCC regarding ACCC/C/2005/15

Thank you for your letter dated 14 April 2009. Our response will focus on the effects of the recent court verdict which ascertained the *de jure* suspension of Rosia Montana's urbanistic certificate No. 105/2007 while at the same time drawing your attention to recent developments as well as relevant declarations made by Romania's new Minister for the Environment.

As is stated in the *Alburnus Maior & ICDER* joint press release dated 19 March 2009 and to which your letter makes reference to, a valid urbanistic certificate is at the base of an environmental impact assessment procedure, both for its commencement and for its continuation. In our previous correspondence we detailed the aspect that in case of the Rosia Montana EIA procedure, the project owner obtained and submitted three urbanistic certificates to the environmental authority to obtain an environmental accord. The first one, urbanistic certificate No. 68/ 20.08.2004, was suspended by the Alba Iulia Tribunal on 20 June 2005. This suspension is valid given that the court case over the annulment of this act is still pending. The second is urbanistic certificate, No. 78/2006. It was suspended by the Cluj Tribunal on 20 July 2007 and was irrevocably annulled by the Cluj Court of Appeal on 26 March 2008. For the third certificate - No 105/2007, the Timisoara Court of Appeal irrevocably ascertained that it is suspended *de jure*. The court case over the annulment of this act is currently pending at the Cluj Tribunal. At the moment the EIA procedure can thus not proceed and once these administrative acts are irrevocably annulled by the relevant courts then the EIA procedure will finally become invalid and the ministry for the Environment (the 'Ministry') will have to return the whole EIA documentation to the project owner. However, the court verdicts for the suspension/annulment of the urbanistic certificates do not have the direct effect of obliging the Ministry to suspend/invalidate the EIA procedure. The Ministry has to act on them, in the sense of taking the administrative decision of suspending/invalidating the EIA procedure. This decision can be separately

challenged in court, just as the Rosia Montana project owner already proceeded over the decision of the previous Ministry not to proceed with the EIA procedure on the grounds that urbanistic certificate 105/2007 is *de iure* suspended. This litigation case is still pending at the Bucharest Court of Appeal.

Based on previous experience we would argue that the way in which the Ministry acted on the court verdicts over the urbanistic certificates has been based on political will. We detailed several such examples in our communications to the ACCC and there is no need to reiterate. The worrying aspect that we would like to raise today is that there are recent signs of resistance from the part of the newly-appointed Minister for the Environment to act on the above-mentioned court verdicts. According to recent declarations made to the press by Mr. Nicolae Nemirschi, Romania's new Minister for the Environment while visiting Alba-Iulia on 11 April 2009, the '*Rosia Montana mining project is in the evaluation procedure; it being uninterrupted.*' The relevant press article, which we attach to this letter in its original form as well as translated into English, continues explaining that '*when asked by journalists whether the evaluation of the Rosia Montana project has been taken up again after having been suspended by the former minister for the environment, Nemirschi declared, according to the Mediafax correspondent, that he has no information about such interruption of the evaluation and that there exists no official document to support such claim within the ministry.*' In light of these declarations we are worried that the new minister for the Environment is rejecting the grounds¹ that led to the interruption of the EIA procedure on 13 September 2007² and that it will be re-activated.

We would therefore conclude that there are no grounds for closing ACCC/C/2005/15 because Romania's Ministry for the Environment has not acted on the court verdicts issued over the urbanistic certificates in the sense of invalidating the EIA procedure and returning the entire EIA documentation to the project owner. It is only then that our case can be considered as having remained with no object. Until then we strongly encourage the ACCC to request from the Romanian Government further explanations on how it complies with the court verdicts issued over the urbanistic certificates; on the actual stage of the EIA procedure and on all acts and measures that it is taking to ensure that the EIA procedure is compliant with the relevant laws and norms.

Yours sincerely,

Eugen David
President
Alburnus Maior

¹ http://www.mmediu.ro/departament_mediu/rosia_montana/pdf/NOTE_Suspension.pdf

² http://www.mmediu.ro/departament_mediu/rosia_montana/conferinta_presa.htm

Attachments:

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Gardianul
ACTUEL PENTRU CA SI TU ESTI ACTUEL

Vineri, 24 Aprilie 2009 Nr. 2084

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Nemirski: Proiectul minier de la Rosia Montana este in procedura de evaluare

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Editorial	Ministrul mediului, Nicolae Nemirski, a declarat, vineri, la Alba Iulia, ca proiectul minier de la Rosia Montana este in procedura de evaluare, aceasta nefiind intrerupta.
Globul lui Orasta	El a precizat, totodata, ca de procesele pe care investitorul le-a intentat ministrului se ocupa o firma de avocatura angajata.
Actualitate	Intrubat de jurnalisti daca evaluarea proiectului de la Rosia Montana a fost reluata, dupa ce fostul ministru al mediului o suspendase, Nemirski a declarat ca nu are nici o informatie privind o astfel de intrerupere a evaluarii sau nu exista nici un
Dezvaluiri	document oficial in acest sens la ministru, transmite corospondentul Mediafax. El a precizat ca raspunsul privind derularea sau nu a proiectului de la Rosia Montana nu il va da Ministerul Mediului, ci o comisie speciala de evaluare, din care fac parte reprezentantii mai multor autoritati ale statului. Nemirski a declarat ca nu a venit la Alba Iulia sa dea un raspuns despre Rosia Montana, precizand insa ca si-a propus sa vina la Rosia pentru a discuta cu reprezentantii administratiei locale, pentru a se
Economie	consulta cu ONG-urile si apoi cu investitorul, iar decizia o va lua o comisie care face evaluare. Oficialul a spus ca intelege problemele administratiei locale si ce inlocuina dezvoltare durabila, dar "inteleg la fel de bine ca, atunci cand faci un lucru pentru
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Intrebarea Zilei

Miron Mitrea sustine ca grupuri politico-economice de inspiratie mafiotă, cu legaturi in lumea interlopa si in fosta Securitate, incearca, folosind politisti si procurori, inclusiv de la DNA, sa-si impuna propria ordine in Romania, punand in pericol chiar stabilitatea statului roman, dar nu da nici un nume. Cum comentati?

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Monden mai multi ani, trebuie sa il faci cu raspundere". "Faptul ca aceasta investitie este necesara, faptul ca alta sansa zona nu are, aceasta este o decizie guvernamentala, nu naraipar una a Ministerului Mediului", a spus Nemirski. Potrivit acestuia, decizia asupra viabilitatii proiectului din punctul de vedere al mediului se va lua cu "da" sau "nu" sau cu "da si anumite conditii". Nemirski a precizat ca se fereste sa exprime o pozitie fata de acest proiect pe motiv ca ar putea avea un impact politic, precizand doar ca poate spune ca proiectul este in procedura de evaluare a impactului asupra mediului. Potrivit sursei citate, titlularul proiectului a initiat etapa de informare si consultare publica in 9 ianuarie, iar pana in prezent au avut loc mai multe dezbateri publice la Rosia Montana, Ciampeni, Abrud sau Bacium. Potrivit lui Nemirski, Ministerul Mediului a primit si punctul de vedere al Ungariei privind proiectul si il va analiza in cadrul evaluarii, proiectul fiind transfrontalier. Rosia Montana Gold Corporation intentioneaza sa exploateze timp de aproape 20 de ani zona de la Rosia Montana, sustinand ca ar putea extrage cateva mii de tone de aur si argint prin procedul de cianurare. Compania romano-canadiana intentioneaza sa deruleze o investitie de aproape un miliard de dolari pentru exploatarea celui mai mare zacamant auro-argintifer din Europa. In urma studiilor realizate in zona, specialistii au descoperit o rezerva de aproximativ 331 de tone de aur si 1.600 de tone de argint. Proiectul de exploatare a aurului si a argintului de la Rosia Montana a ajuns intr-un impas, dupa ce Guvernul a respins, in septembrie 2007, evaluarea privind impactul asupra mediului. In consecinta, Rosia Montana Gold Corporation (RMGC) a dat in judecata Ministerul Mediului si Dezvoltarii Durabile, dar si pe ministrul Korodi Albita si pe secretarul de stat Silvia Stoica, reprezentantul ministerului in Comitetul de Analiza Tehnica a proiectului minier, compania fiind nemulumita de decizia institutiei de intrerupere a procedurii de autorizare a proiectului sau minier.

M.D.

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- Adauga comentariu
- Popescu**
 2009-04-14 23:31:44
STOPATI PROSTIA DIN ROMANIA!!!
 Si in Canada si peste tot in lumea asta se folosese aceleasi metode de scoatere a aurului de sub pamant. Credeti ca ditamai firma canadiana n-are niste ingineri si niste specialisti de zece ori mai buni decat ai nostri? Pina una alta avem somaj 80% in zona si stam cu mimile'n sin si strigam ca nu e ecologic.
SOMERUL
 2009-04-12 19:49:47
IL DE MUNCA
 cita ratate pe acest proiect //cianurile si apele cu ioni cianici se pot trata pana la 0,001 in bazine fara sa distruga natura//cred ca interesele ar trebui sa inceteze pentru ca noi nu avem locuri de munca si murim de foame romani
 2009-04-11 23:50:13
stopati poluarea la ROSIA MONTANA
 Cele 200 000 de tone de cianuri ,distrug toata zona MUNTILOR APUSENI,nu numai zona ROSIA MONTANA,si atunci ne intrebam si va intrebam ,de ce vor distruge si boli ,pe ca nu se intampla la ei in Canada????????
MARIA
 2009-04-11 21:50:20
STOPATI POLUAREA, IN ROMANIA!!!
 Dece nu raspundeti cu FERMITATE, Domnule Ministru, la aceste probleme de mediu???Sunteti platiti din banii romanilor sa-i protejati de noxe, otravari!!!Sanatatea oamenilor este in pericol din cauza poluarii factorilor de mediu(apa, sol, aer).Dece nu opriti ACEST PROIECT, care aduce MOARTEA odata cu cianurile??S A PASTRAM NATURA CURATA, PENTRU NOI SI URMASII NOSTRI!!! VA DORESC SARBATORI FERICITE!!!
 rosieni
 2009-04-11 20:43:54
SALVATI ROSIA MONTANA!!!!!!!!!!!!!!!!!!!!
 Vrem sa traim nu ne omoram, lasand sa-si faca de cap aceasta companie ,cu cel mai mare lac cu cianuri din lume!
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Nemirschi: The Rosia Montana project is in the evaluation procedure

Translated from an article published in the daily paper 'Gardianul' on 11 April 2009

To access the original version in Romanian language, visit

<http://www.gardianul.ro/index.php?pag=nw&id=133206&catid=1&p=nemirschi-proiectul-minier-de-la-rosia-montana-este-n-procedura-de-evaluare.html>

Nicolae Nemirschi, the minister for the environment, declared Friday at Alba Iulia that the Rosia Montana mining project is in the evaluation procedure; it being uninterrupted. He highlighted however, that the court cases that were started by the mining company are being taken care of by a lawyer's firm.

When asked by journalists whether the evaluation of the Rosia Montana project has been taken up again after having been suspended by the former minister for the environment, Nemirschi declared, according to the Mediafax correspondent, that he has no information about such interruption of the evaluation and that there exists no official document to support such claim within the ministry. He explained that the answer on whether the Rosia Montana project will go ahead or not will not be given by the ministry for the environment but by a special evaluation commission that is made up by representatives of several state authorities. Nemirschi declared that that he hasn't come to Alba Iulia to give an answer about Rosia Montana, underlining that although it has been proposed that he visits Rosia Montana to talk with representatives of the local authorities and to consult the NGO's as well as the project owner, the decision will be taken by the evaluation commission. He declared that officially he understands the problems faced by the local authorities and also understands what sustainable development means but that he "understands just as well that when you do a job that will last for several years, then you have to do it assuming responsibility." "The fact that this investment is necessary, the fact that the area has no other chance – this is a government decision and not necessarily one of the ministry for the environment," said Nemirschi. According to him, the decision about the project's viability from an environmental point of view will be taken either with "yes" or "no" or "yes with certain conditions". Nemirschi highlighted that he will hold back from expressing a point of view vis-à-vis this project for the reason that this could have a political impact; underlining that what he can say is that the project currently is in the environmental impact assessment procedure. According to the quoted source, the project owner initiated the information and public consultation stage on 9 January and until now several public consultations have taken place in Rosia Montana, Cimpeni, Abrud or Bucium. According to the minister for the Environment he also received a point of view about the project from Hungary which will be analysed within the evaluation procedure given that the project is transboundary. Rosia Montana Gold Corporation intends to exploit the Rosia Montana area for a period of roughly 20 years, saying that it could extract some millions of tons of gold and silver with the cyanide extraction process. The Romanian-Canadian company intends to trigger an investment of a value of approximately 1 billion Dollars to exploit Europe's largest gold/silver deposit. According to results of studies carried out in the area, specialists discovered a reserve of approximately 331 tons of gold and 1.600 tons of silver. The Rosia Montana gold/silver exploitation project arrived at a cul-de-sac in September 2007 when the government rejected the EIA procedure. Because the company was unhappy about the ministry's decision to interrupt the authorisation procedure for its mining proposal, Rosia Montana Gold Corporation (RMGC) consequently sued the ministry for the environment and sustainable development as well as Minister Attila Korodi and state secretary Silviu Stoica, the ministry's representative in the CAT committee.

M.D.