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Date: 5.01.2005

CONTESTATION

The undersigned *Alburnus Maior*, headquartered in Berk Street, No. 361, Rosia Montana, 517 615, Alba County, member of the directly affected public and as consulted party, herewith requests the suspension of the procedure to obtain an environmental agreement launched in December 2004 by Rosia Montana Gold Corporation S.A. (RMGC), a commercial company, in submitting the PROJECT PRESENTATION REPORT FOR THE ROSIA MONTANA PROJECT to the Environmental Protection Agency-Alba (APM Alba).

Alburnus Maior is an NGO based in Rosia Montana. It represents the interest of over 350 families from Rosia Montana and 100 families from Bucium. Local property owners opposing the involuntary resettlement that RMGC's project entails founded this association in September 2000. *Alburnus Maior* objects to RMGC's Rosia Montana mining proposal on social, environmental, cultural and economic grounds.

The project presentation report submitted is not in accordance with the Ministry for Water and Environmental Protection's Order no. 860/2002, annex II.2 entitled 'Standard Contents for the Technical Memorandum necessary for issuance of the environmental agreement/ environmental integrated agreement'. In support of our request, we would like to list the following details and additional arguments:

The Project Presentation Report (PPR) submitted by RMGC to APM Alba in December 2004 does not contain all necessary information on its environmental impact as stipulated in Art. 12. (2) of order 860/2002 and is in contradiction of the very definition of the evaluation of the environmental impact. According to OG 918/2002 and the EIA Directive – "The evaluation of the environmental impact represents a process meant to identify, describe and establish on a case by case basis and in accordance with the relevant applicable legislation, the effects of a project it could generate upon people's health and environment. The evaluation of an environmental impact aims to establish measures as to reduce and avoid the project's negative impact upon people's

health and environment and determines the realisation or failure of the project on the chosen location.”

RMGC’s PPR does not identify, describe and establish the effects of its project in accordance with the relevant applicable legislation.

According to Art. 11(e) of Environmental Protection Law no. 137/1995, as amended and completed according to GO 91/2002 “ the presentation done by the holder of the project or of the activity over the report regarding the study of impact on the environment, considering all alternatives, including the giving up the proposed action.”

RMGC’s PPR does not consider any alternatives at all.

According to Art. 7(2) of Order 860/2002 of the Ministry of Waters and Environmental Protection projects falling under Annex Nr. I.1¹ must be made subject to an environmental impact assessment process, resulted from Annex no. 1 to the Governmental Decision no. 918/2002 on the setting of the framework procedure of environmental impact assessment and for approval of the public and private projects list subject to this procedure, corroborated with Annex no.1 of the Governmental Emergency Ordinance Order no.34/2002 on integrated pollution prevention, mitigation, and control, and Annex no. 1 of the Convention on transboundary environmental impact assessment, ratified by Law no. 22/2001.

This means that by law RMGC’s project is the object of the Espoo Convention on transboundary environmental impact assessment. However, RMGC’s PPR nowhere mentions the Espoo Convention, nor does it address the proposed project in a transboundary context.

According to Art.9 -1.a) of Order 860/2002 the project developer submits the project presentation report containing the project description and information needed in obtaining data on the environmental impact, including in a transboundary context, according to the model in Annex no. II.2 (Art. 12 (2)).

RMGC’s PPR has failed to submit the data on the environmental impact in a transboundary context, according to the model provided in Annex no. II.2 (Art. 12 (2) of Order 860/2002).

RMGC’s project is also subject to the provisions of the Convention on the sustainable protection and use of the Danube water (Sofia, 1994) and the Convention on the transboundary effects of industrial accidents (Helsinki, 1992).

RMGC’s PPR does not address the project’s impact within the provisions stipulated in both conventions.

¹ According to paragraph 5.6 of Annex I.1 of Order 860/2002 “mining activities with a production capacity of more than 5 million t/a and an exploitation area exceeding 1000 ha”, have a significant environmental impact and are thus subject to an environmental impact assessment.

To ensure an open, participatory and transparent procedure the Convention on access to information, public participation in decision-making and access to justice in environmental matters (Aarhus, 1998) is applicable for the Rosia Montana EIA procedure. **Clarification and information requests resulting from issues raised in RMGC's PPR are listed in section B.2..**

RMGC's PPR fails to address issues requested by Annex II.2 of Order 860/2002, on the Standard Contents for the Project Presentation Report necessary for issuance of the environmental agreement/ environmental integrated agreement. **The most pertinent issues lacking are listed in section A..**

According to Art.9 (1) b) of Order 860/2002 the project developer submits notification containing information on the identification of hazardous substances/substance categories, storage thereof, quantity and physical state, the activity of the storage unit, elements that might cause major accidents or enhance the consequences thereof, as provided in art. 6(1) of GD no. 95/2003.

Whilst the proposed mining and mining related activities may use substances in quantities subject to the Romanian Government Decision no. 95/2003 on the control of activities entailing major accident risk involving hazardous substances, no "notification containing information on the identification of hazardous substances/substance categories, storage thereof, quantity and physical state, the activity of the storage unit, elements that might cause major accidents or enhance the consequences thereof, as provided in art. 6(1) of GD no. 95/2003" has been submitted; in the sense of being either part of RMGC's PPR or being made publicly accessible as part of the procedure. Please find a request for access to this information in section B.2..

According to Art.9 (1) c) of Order 860/2002 the project developer submits the technical fiche (according to Order No. 76/2002) regarding the environmental protection conditions (annex to the urbanistic certificate, according to the provisions of the legislation in force on development consent)

Urbanistic Certificate No. 68/20.08/2004 for RMGC's mining proposal contains no environmental protection conditions.

According to Art.9 (1) d) of Order 860/2002 the project developer submits proof of payment of the tariff.

Please confirm receipt of the tariff payment.

Section A.

- 1. RMGC's PPR fails to address Addenda II. of Annex no. II.2 (see Art. 12 (2)) for activities included in Annex no. I.1 of the present procedure, respectively in Annex no. 1 of the Emergency Ordinance no.34/2002 on integrated pollution prevention, mitigation and control.**
- 2. RMGC's PPR's section entitled "Sources of pollution" (pages 113-180) fails to describe the projects' impact on either people's health and the environment. The project owner does not adequately describe nor list all sources of pollution and mitigation measures.**

- 3. RMGC's PPR fails to describe the projects' impact resulting from the project's location as well as mining and mining related activities right on and around the human settlements known as Rosia Montana, Corna and Abrud. The project owner also fails to describe any impact resulting from the project's location as well as mining and mining related activities on all of Rosia Montana's historical and architectural monuments (as listed in Annex 3.1 of Law 5/2000 as well as in the various lists of territorial management and the Ministry of Culture's approved 2000 listing of Alba County's 'List of historical monuments'), various establishments, areas of traditional interest, etc.**
- 4. RMGC's PPR fails to address the impact of the project's raw water usage. On page 72 it describes the quantities and the sources of raw water it will use during the project. The Aries River is the regions most important water source. The project's raw water use will have a direct impact upon the inhabitants living along the Aries Valley as well as the region. The impact upon the population would be even more significant during dry seasons. The projects' raw water use will also have a direct impact on the flora and fauna along the Aries Valley and the region. The impact upon the flora and fauna would be even more significant during dry seasons.**
- 5. RMGC's PPR fails to address the inter-connections of the direct impact of the projects raw water use between 'man and nature'. This is important given that subsistence farming is the main activity practiced along the Aries Valley and also is the main activity practiced in the region as whole.**
- 6. The PPR fails to address the projects' impact on Rosia Montana's eco-systems resulting from the irreversible change in the land use: 1121.87 ha of agricultural land and 305.98 ha of forest planned to be put into the industrial circuit for RMGC's mining operation (including mudslides/ landslides, flash floods, siltation of streams, and increased runoff etc.).**
- 7. The PPR fails to address the projects' impact on the regions' eco-systems resulting from the irreversible change of Rosia Montana's land use: 1121.87 ha of agricultural land and 305.98 ha of forest planned to be put into the industrial circuit for RMGC's mining operation (including mudslides/ landslides, flash floods, siltation of streams, and increased runoff etc.).**
- 8. RMGC's PPR fails to address how the project fits within the "urban plans and land use, other use schemes, special programmes, including the national waste management plan" (according to annex II. 1 section II.1).**
 - a.) RMGC's PPR lists the General Urbanistic Plan (PUG) and the Zoning Urbanistic Plan (PUZ) for the RMGC Industrial Development Zone (both approved in July 2002), without mentioning the way the present submission for an environmental agreement and/or integrated environmental agreement fits into them. Since the PUG approved in July 2002 and the present submission for the environmental agreement significant changes were made; this due to the fact that RMGC's project went through several changes (ie. the surface of the tailing pond was reduced from 519 ha as was planned in PUG to 300 ha as it is planned in the present submission). As for the PUZ, it is invalid given that its environmental**

agreement expired in July 2004. Project No. 4548/1/2004 entitled “Modification to the Zoning Urbanitic Plan for the Industrial Development Area Rosia Montana Gold Corporation S.A” and the Zoning Urbanistic Plan “Protected Area” are not yet approved and at an early stage of authorisation.

b.) Project No. 4548/1/2004 entitled “Modification to the Zoning Urbanitic Plan for the Industrial Development Area Rosia Montana Gold Corporation S.A” contradicts Art.60 a.), b.), c.) & d.) of Environmental Protection Law no. 137/1995, as amended and completed according to GO 91/2002.

c.) Page 43 of Project No. 4548/1/2004 entitled “Zonal Urbanism Plan Amendment for the RMGC Industrial Development Area”², mentions that RMGC has a feasibility study for the new processing capacity it proposes (13Mt/a) - as updated and submitted to ANRM³ in 2004. However, the only feasibility study mentioned in the PPR⁴ is dated August 2001. The so-called Minproc Rosia Montana feasibility study covers a processing capacity of 20Mt/a. The mining project described in RMGC’s PPR covers a processing capacity of 13 Mt/a. Minproc’s definite feasibility is thus not only irrelevant but also outdated. To mention but one example, since 2001 many important provisions were incorporated into Romanian environmental legislation alone, which in return advance new conditions as well as risks and increased costs from the part of the project owner.⁵

This means that RMGC’s PPR has either failed to submit accurate information or that to date there exists no feasibility study for the mining project described in RMGC’s PPR. Either case is significant.

d.) Page 5 of Project No. 4548/1/2004 entitled “Zonal Urbanism Plan Amendment for the RMGC Industrial Development Area”⁶, lists a surface of 1566.21 ha as the total surface covered by the project. The technical memorandum lists a surface of 1346. 22ha (page 21).

Section B.

B.1. Comments & Observations:

I. The Equator Principles, referred to on page 13 of RMGC’s PPR, are a voluntary set of environmental and social guidelines that provide a framework for banks (as opposed to mining companies) to manage environmental and social issues in project financing. They are based on the shared environmental and social standards of the IFC and the World Bank. This means that any commercial company needing to manage environmental and social issues in project financing may claim the same as RMGC. On the other hand, not just

² Download in English or Romanian from www.rosiamontanagoldcorp.com

³ Romania’s National Agency for Mineral Resources; see www.namr.ro

⁴ “Exploration and geological investigation was conducted through to 2000, resulting in the generation of a sufficient resource to commence a definitive feasibility study, followed by a basic engineering study which was completed in 2003. During 2004 work has continued on components of detailed engineering”; p.10

⁵ See “Anticipating Surprise: Assessing Risk” – Investors Guide to Gabriel Resources’ Rosia Montana Mine Proposal (TSX:GBU); prepared by *Alburnus Maior* & al.; www.rosiamontana.org

⁶ Download in English or Romanian from www.rosiamontanagoldcorp.com

any commercial company has an IFC financing withdrawal on its record. The IFC is a lender of last resort. In October 2002 the IFC announced withdrawal from financial support for RMGC's Rosia Montana project; quoting "significant social and environmental concerns." Whilst it is true that since then RMGC's project has undergone changes, the social and environmental concerns are still present. RMGC's evocation of the Equator Principles are but a linguistic mitigation attempt to hide this deeper reality whilst endeavouring to look more serious to its stakeholders and to those its PPR aims to impress.

II. Comment on impacts resulting from Resettlement and Relocation:

According to an independent evaluation of several resettlement programs carried out by Michael Cernea, a leading resettlement expert at the World Bank Group, "Generally, resettlement only brings trouble. We have identified 8 characteristics of this disastrous process: 1. Loss of land; 2. Loss of employment; 3. Loss of home; 4. Marginalisation; 5. Food insecurity; 6. Increase in diseases; 7. Loss of access to commonly owned property; 8. Community ruptures. In short, we witness a severe impoverishment process. During the past 20 years roughly 200 million people were resettled in order to make way for industrial projects. In most of the cases, the affected people suffered from what I mentioned above."

III. Comments & Observations regarding the impacts on the cultural patrimony:

RMGC is bound by OG 43/2000 to archaeologically research the area it wishes to develop. Given the size of RMGC's project, this has given rise to an equally sizeable research project. However, the financing of an archaeological research program form the part of a project sponsor does and should not automatically lead to the archaeological discharge of the area required by that project sponsor. Law OG 43/2000 stipulates that in the event that important archaeological findings are made, the proposed project must be either abandoned or modified.

RMGC's PPR fails to describe the projects' impact upon the cultural patrimony of Rosia Montana protected by Law 5/2000. The so-called cultural patrimony management plan lists a series of mitigation techniques, at the base of which there are significant irregularities:

III.1. The rehabilitation of a mine gallery called Catalina-Monulesti to legitimise/mitigate the destruction of the unique complex of Roman and pre-roman galleries in the Carnic Massif (to become the so-called Cirnic Pit). Catalina Monulesti to date has not been fully researched – i.e. in a manner to compare it with the archaeological research results of the Carnic Massif. According to the French archaeologists from Toulouse University who researched Carnic since 2000, "thus, in Carnic, antic mining networks (from Dacian times, identified as such for the first time, and from Roman times as well) remain of a striking coherence and in a remarkable state of conservation, as well as wooden equipments from XVIIth century (railways, switch-rails), rare and therefore valuable."⁷

Rosia Montana's Roman mine galleries including those of the Carnic massif are listed as monuments of exceptional national importance (according to Law 5/2000, to PATJ Alba,

⁷ Communiqué from the UMR 5608 (UTAH , Unité Mixte de Recherche CNRS-Le Mirail University of Toulouse - Ministry of Culture); Toulouse, February 4th 2003 on www.rosiamontana.org

Project No. 4406 from 1999, to PATN – section III – Protected Areas, annex III, listed as such in the urbanistic certificate No 68 /20.08.2004).

III.2. The setting up of a new mining museum in the centre of Rosia Montana to legitimise/mitigate the destruction of Rosia Montana’s present mining museum of which the Orlea Roman mine galleries are part (to become the so-called Orlea Pit).

III.3. The so-called Protected Area RMGC is promoting contradicts Avis No. 171/ June 2002. According to this avis, the protected area should have included ALL areas with value of cultural patrimony; including i.e. the Roman Mine galleries of the Carnic and Orlea Massifs.

III.4. The project’s owner fails to describe how the listed patrimonial houses included in the protected area would withstand and be protected from i.e. vibrations, dust etc. resulting from mining and mining related activities. This ever more so, given the protected area’s extremely close position to the open pits .

III.5. RMGC’s PPR also fails to describe how the listed patrimonial houses protected by Law 5/2000 that are situated outside RMGC’s so-called Protected Area but within RMGC’s project area would withstand and be protected from i.e. vibrations, dust etc. resulting from mining and mining related activities. This ever more so, given some of the listed patrimonial houses’ extremely close position to the open pits. This example also contravenes Avis No. 171/ June 2002.

B.2. Clarification and Information Requests:

i.) As part of the information submitted to the environmental authorities to launch the procedure for obtaining an environmental and/or integrated environmental agreement, the project developer, according to Art.9 (1) b) of Order 860/2002, submits a notification containing information on the identification of hazardous substances/substance categories, storage thereof, quantity and physical state, the activity of the storage unit, elements that might cause major accidents or enhance the consequences thereof, as provided in art. 6(1) of GD no. 95/2003. Please provide the undersigned with either a paper copy or an electronic version of this document. Please also consider posting this document on www.apm-alba.ro

As part of the procedure to assess and evaluate the impact of RMGC’s proposed mine development, the territorial and regional environmental authorities may request additional information from the project owner, authorities etc. Annex no. II.2 (Art. 12 (2)) of Order 860/2002) requires the project owner to detail the ownership of the project; including information pertaining license agreements, amendments, additional acts. The information provided in RMGC’s PPR is unclear in the sense that it gives rise to questions. Whilst some of the information provided in the PPR contradicts details listed in other licenses held by RMGC, other parts of the data contradict information provided by RMGC in other project proposals such as the relevant “Zonal Urbanism Plan Amendment for the RMGC Industrial Development Area”⁸; Project No. 4548/1/2004.

ii.) Page 15 of RMGC’s PPR goes as follows: ”In 1997, a mixed company was created between the Autonomous Copper Company Deva (later turned into Minvest) (19,31 %),

⁸ Download in English or Romanian from www.rosiamontanagoldcorp.com

Gabriel Resources Limited – Canada (80 %) and three small shareholders (Cartel Bau S.A., Foricon S.A., Comat S.A. – each holding 0,23 %). The new company, entitled S.C. Eurogold Resources S.A. was registered in August 1997, with the aim of carrying out all types of exploration activities in the Rosia Montana perimeter.”

This seems in contradiction with i.e. the Concession License for Exploration in the Bucium Perimeter No. 218 dated 6 April 1999: “The National Agency for Mineral Resources acknowledges, through the constitution/setting up of certificate No.328/4/6/97, Minvest S.A as the founder of S.C. Eurogold Resources S.A, headquartered in Deva, [...] represented by Stephen F.Bugg, Director for Exploration [...].” Please provide detailed clarification.

iii.) Page 15 of RMGC’s PPR goes as follows: “An Exploitation Concession License was granted, in accordance with Mining Law No. 61/1998, by the National Agency for Mineral Resources (NAMR) to Minvest (the titleholder) and RMGC (as an affiliated company) in December 1998 and the license came into force in June 1999. In October 2000, the license was transferred from Minvest to RMGC, with Minvest as an affiliated titleholder. As such, Minvest is entitled to continue its current small-scale Rosia Min mining operations at Rosia Montana, while RMGC conducts exploration and early project development activities”.

The above indicates that RMGC may have been carrying out exploration activities based on an exploitation license. According to Mining Law 85/2003 exploitation and exploration are two different activities; each requiring a different license; which in return are granted on different authorisation procedures. Please provide detailed clarification.

iv.) Art. 38 of Mining Law 85/2003 stipulates that: “The title holder of the license has the following rights: e) to associate with other legal persons, with the prior approval of the competent authority, for the purpose of carrying out mining activities provided in the license [...] in order to issue its approval, the Competent Authority shall consider at least the following items: the technical and financial capability of the associate, the purpose of the association, the way the rights and obligations are split.”

Given 7c.) as well as the information on page 15 of RMGC’s PPR quoted above, it would be useful to know whether and how the National Agency for Mineral Resources considered the technical and financial capability of the associate, the purpose of the association, the way the rights and obligations are split. Please provide detailed clarification.

v.) Page 28 of Project No. 4548/1/2004 entitled “Zonal Urbanism Plan Amendment for the RMGC Industrial Development Area”⁹ goes as follows: “Following the reduction of the surface originally included in the license’s perimeter in June 2004 from 42,283 square km to 23,883 square kilometres, the majority of the current exploitation industrial facilities were taken out of the area of responsibility of RMGC and they will be closed by Minvest according to the mining sector adjustment strategy”.

This raises three important aspects that RMGC’s PPR should have clarified on the so-called ‘Specific Project Data’ section:

⁹ Download in English or Romanian from www.rosiamontanagoldcorp.com

1. One of the major arguments RMGC and proponents of the RMGC project have been promoting is the fact that RMGC is responsible for paying for the closure of Minvest's current mining operation at Rosia Montana as well as for the clean-up historical pollution caused by Minvest's mining and mining related activities. This seems in contraction with the above mentioned quote.
2. Page 25 of RMGC's PPR mentions that: "in numerous cases, in order to allow the functioning of the new exploitation of RMGC, it will be necessary to completely disable Minvest's facilities". Cleaning up existing pollution (page 17) that resulted from Minvest's current mining operation at Rosia Montana is also listed amongst the benefits of the new mining project and it is mentioned that RMGC works together with Minvest for planning mine closure (page 21). This seems in contraction with the above mentioned quote.
3. Given that the current open pits Cetate and Carnic are industrial facilities belonging to Minvest, the logical conclusion would be that they are no longer in the surface covered by RMGC's new mining operation and license.

RMGC's PPR should have addressed the obligations and responsibilities established for each party - the title holder and the affiliated company by mining license 47/1998. The PPR should also have listed and explained any changes; i.e. associated acts such as Additional Act no.3, Order nr.310/09.10.2000, Protocol and the Additional Act no. 6/ 21.06.2004. Importantly, RMGC's PPR should have highlighted the new concession perimeter. Please provide detailed clarification.

B.3. Exceptions are not the Rule:

RMGC's PPR is failing to demonstrate how the project will comply with a series of laws and regulations in sections such as i.e. "Impact on human beings and public goods" or "Land use":

Art 11. of mining law 85/2003 stipulates that "Carrying out mining activities on the lands on which are located historical, cultural and religious monuments, archaeological sites of important interest and natural reservation, (...) as well as instituting the legal lien for mining activities over such lands is strictly forbidden."

Art. 92 - (1) of Law of landed fund 18/1991 (republished in the Official Gazette No 1 from 5 January 1998): "Positioning any types of constructions on lands on which are located [...] national parks, reservations, monuments, archaeological and historical vestiges is forbidden."

Rosia Montana, including its Roman and Pre-Roman mine galleries are protected by law no. 5/2000 and the central and territorial environmental authorities are obliged to assess the project's impact upon patrimonial issues during the EIA procedure.

Art. 11 of Ordinance No. 108 from 30 August 1999 for the modification and complementing of Law no. 98/1994 for establishing and sanctioning the contravention to legal norms of hygiene and public health: "the abolition of change in use of a cemetery is only possible after 30 years from the latest burial and removing all relics". **On page 33 of the PPR, RMGC acknowledges that it has to 'abolish' nine cemeteries from the directly affected area.**

Art. 54 of Forestry Code (Law 26/1996) – “Reductions in the surface of the forestry patrimony which is public property is forbidden”. **According to Project No. 4548/1/2004, 305.98 ha of forest out of which approximately half is public property would be put into the industrial circuit.**

Whilst most of these aspects haven been addressed in Project No. 4548/1/2004¹⁰ they show that RMGC aims for the exception to the law; not the rule. To apply for a governmental decision, which is how an “exception to the rule” is obtained, the applicant has to make proof of the “exceptional conditions” clause; usually associated with projects of public utility in the national interest.

Given all the above AM herewith requests the suspension of the procedure to obtain an environmental agreement initiated by Rosia Montana Gold Corporation S.A. until its Project Presentation Report meets all relevant provisions as stipulated in the applicable components of Romanian Laws and Regulations, which include Conventions and EU Directives.

Yours sincerely,

The image shows a handwritten signature in black ink that reads "E. David". To the right of the signature is a circular stamp. The stamp contains the text "ASOCIATIA ALBURNUS MAIOR" around the top edge and "ALBURNUS MAIOR" in the center. There are also some smaller, less legible characters within the stamp.

Eugen David
President
Alburnus Maior

¹⁰ Download in Romanian or English on www.rosiamontanagoldcorp.com