

ANNEX 3 - MALAWI - DRAFT LETTERS

DRAFT LETTER OF OBJECTION BY INTERESTED AND AFFECTED PERSON/S

[Address and details of the Director]

[Address and details of the Minister]

[Address and contact details
of I&AP's]

LACK OF PUBLIC PARTICIPATION AND INFORMATION OF THE PROPOSED PROJECT... /COMPLAINT TO THE MINISTER UNDER THE ENVIRONMENT MANAGEMENT ACT

Dear Sir/Madam

I am a resident in the immediate vicinity of the area in which the above-mentioned project is proposed. I have not been contacted, informed or in any way consulted by the developer in connection with the proposed project.

I am opposed to the proposed project on the basis that my constitutional rights of access to information and lawful and procedurally fair administrative action have been infringed and threatened. Furthermore, the proposed project may violate my right to a clean and healthy environment and the developer has failed to comply with the Ministry's Guidelines for Environmental Impact Assessment ("the Guidelines"), especially those provisions relating to public participation, as required.

In terms of the Guidelines, substantial effort must be made to overcome the constraints to public consultation and stakeholders in a project area must be informed and consulted. I am not aware of any efforts having been made by the developer to overcome constraints to public consultation or of any newspaper advertisements or consultations that took place regarding the proposed project. As already indicated above, I am of the view that the failure by the developer to comply with the provisions of the Guidelines is an infringement of my constitutional rights and my right to a clean and healthy environment.

I respectfully call on the Director to conduct public hearings to assess the public's opinion on the proposed project and to address the failure by the developer to consult with interested and affected persons. However, in the event of the Director finding that it is not necessary to conduct public hearings, I respectfully call on the Minister to investigate the matter and to provide a written response indicating his or her proposed actions.

I look forward to hearing from you.

Yours faithfully

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DRAFT LETTER OF APPEAL

[Address and contact details of the
Environmental Appeals Tribunal]

[Address and contact details of the appellant]

APPEAL IN TERMS OF SECTION 69(a) OF THE ENVIRONMENT MANAGEMENT ACT, 1996

Dear Sir/Madam

I hereby lodge an appeal, against the decision of the Minister to authorise or approve of the proposed project...reference number...which approval was communicated to us/me on ...[Date of receiving the information that the project was approved by the Minister].... I appeal against this approval on the grounds set out below.

Facts

[A brief discussion of all the relevant facts are required in order to place those facts before the decision-maker.]

I am a resident in the immediate vicinity of the proposed project. I am opposed to the proposed project in that it will have a substantial detrimental effect on the environment and subsequently have a negative impact on my livelihood.

I became aware of the project on 14 December 2002 after I noticed a newspaper article in which the designs of the project were displayed. At no material time prior to this was I aware, informed or consulted with concerning the proposed project.

Grounds of appeal

[The basis of the appeal should be clearly spelt out. This may include both procedural and substantive issues. With regard to procedural grounds issues such as insufficient or inadequate public consultation or the failure of the developer to comply with the Guidelines. Substantive issues may include the failure to request authorisation for additional activities that may form part of the proposed project.]

In support of this appeal I append the following documents or copies (which copies should preferably be certified as true).

I request that the approval granted by the Minister be varied, amended, altered or substituted for a decision which is just and equitable and in the interest of the protection and management of the environment.

I thank you for considering our appeal and eagerly await your decision.

Yours faithfully

