

**MAPINDANI (NGHOTSA – KHUBYANE) COMMUNITY LAND  
CLAIM**

**P.O. BOX 1159**

**MALAMULELE**

**0982**

**DATE: 11 May 2016**

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**OBJECTION OF THE NOTICE OF A BASIC ASSESSMENT AND WATER  
USE LICENCE APPLICATION FOR THE PROPOSED SHANGONI GATE  
DEVELOPMENT WITHIN THE KRUGER NATIONAL PARK.**

**Who we are?**

We are the community of Mapindani (**Nghotsa – Khubyane**) whom our elders used to stay in within the “**Va Hlangano Territory**” now called Kruger National Park as since from time immemorial up until their forcibly removal in **1926** and **1938**.

**How this Notice of a Basic Assessment and Water Use Licence Application for the Proposed Shangoni Gate Development within the Kruger National Park is going to affect our community as claimants?**

- History will be distorted.
- Information era ushers goodwill in this Country won't be displayed according to the correct way it was supposed to be.
- There will be some violation of the promulgation of Acts of Parliament such as:
  - National Heritage Resources Act, 1999 (Act No. 25 of 1999)
  - National Environmental Management Act, 1998 (Act No. 107 of 1998)
  - Restitution of Land Rights Act, 1994 (Act No. 22 of 1994).

**How does this document comprised of?**

This document is comprised of relevant and important information and including:

- Information era ushers goodwill in this country.
- Oral History of the Elders who used to stay in within the now KNP has since from time immemorial up until their forcibly removal in 1926 and 1938.
- National Environmental Management Act.
- Restitution of Land Rights Act.
- National Heritage Management Act.
- Resolution passed by Government that the KNP gates should be 65 km apart when approaching the Northern side i.e.: Kruger Gate, Orpen Gate, Makhuvu Gate (now called Phalaborwa Gate), Xa Va Ngoni Gate (now called) Shangoni Gate, Punda Malia Gate (now called) Punda Maria Gate and Paarl Free Gate (now Pafuri Gate). The intention appears that Xa Va Ngoni Gate (now called) Shangoni Gate is to be marked 1,8km to the south of the original gate site. Unless this resolution has been overruled this change of the gate position goes against the resolution.
- Mr. F. Laubscher – the General Manager: Technical Services and Dr Harold Braack in Skukuza indicated in a meeting held at Skukuza during 1998 with elders of Mapindani (Nghotsa – Khubyane) as during their visits to their interred relatives heritage sites in where they were forcibly removal in 1926 and 1938, they found the insurmountable obstacles since the place has been developed, wherefore, it was very difficult to locate the graves where they are located. Further that the original road within the Kruger National Park in the Shingwedzi area to Xa Va Ngoni now called Shangoni was set out to avoid heritage sites, graves, wetlands and other authentic aspiration of the human inhabitants residing in this area as from time immemorial up until their forcibly removal which was the basis of the:
  - When the pretext government were in need to promulgate the Government Game Reserve in the Lowveld i.e. in 1926 as from the Crocodile Bridge up to the Balule (Olifants river).
  - The other one was for under the guise of the foot and mouth diseases i.e. in 1938, i.e. from Balule (Olifants river) to the Shingwedzi river.
- Furthermore, according to the National Heritage Management Act, 1999 (Act No. 25 of 1999) protects all structures and features older than 60 years (stipulations of Section 33 and 34).
- For the Archaeology, Palaeontology and Meteorites which is for the responsibility of the Provincial Heritage Resources Authority to make protection, (stipulations of Section 35).
- Again, for the Burial grounds and graves which are under stipulations of Section 36 in which we see no responsibility of any authority except for SAHRA to conserve and generally care for burial grounds and graves protected in terms of this section, and it may make such arrangements for their conservation as it sees fit.

Further that, in terms of stipulations of Section 38 of the Heritage Resources Management, a person who intends to undertake a development categorised as e.g. the construction of a road, as under

sub item (2) (b) in notifying the relevant people, and make relevant consultation with communities affected by the proposed development and other interested parties regarding the impact of the development on heritage resources (stipulations of Section 38 (3)(e).of the Act.

## **Why are we saying this as a Community?**

We are saying this as Mapindani (**Nghotsa – Khubyane**) community that:

- On pages 7 - 735 of the Book of “**A Cameo From the Past**” by Dr U. de V. Pienaar and Contributors, 2012 and an Afrikaans Book “**Neem Uit die Verlede**, by Dr U. de V. Pienaar, 1990, one has to learn the following:
  - It is common cause that the KNP maps indicate the heritage sites of communities such as Makhuva, Shilowa, Mapindani and Makuleke as Cadastral Spatial Maps Information such as:
    - Maps of 1844 – 1902
    - Maps of 1903
    - Maps of 1905/06
    - Maps of 1911 and
    - Maps of 1916.
  - It is an indication that based on stipulations of Section 30 (2)(b) of the Restitution of Land Rights Act, 1994 (Act No. 22 of 19994) as amended that:
    - ✓ Without derogating from the generality of the foregoing subsection, it shall be competent for any party before the Court to adduce:
      1. **Bringing expert evidence leading to the historical background information aspects.**
      2. **Showing the Sociological Information Aspects.**
      3. **Cu pulled with the Anthropological Information Aspects.**
      4. **Added with the Cadastral Spatial Maps Information Aspects which we have indicated above that we are having, and the Supporting documents such as the one we have indicated.**

This is an indication that during your consultation with stake holders to participate, you consulted the wrong people all together, this is the reason that if one has to comply with the legislation, the applicant, who is us as Mapindani (**Nghotsa – Khubyane**) as community, we requires information on the heritage resources, and their significance that occur in the demarcated area of that catchments landscapes.

Further that, your compilation of your Environmental Impact Assessment Documents and also the addition of the Department of Rural Development and Land Reform – Limpopo, is

indicating that the claimants is the communities of Madonsi, N'wa Dzekudzeku, Muyexe and Ndindani, whom according to us we are saying that they are not because of the following:

- Madonsi and N'wa Dzekudzeku is sibling, they never settled inside the KNP. They were the “knopneusjagter” of Joao Albasini who were staying in around Albasini dam next to Elim Hospital in the Makhado Municipality.
- Madonsi never made a land claim before the Land Claim Commissioner, whereas N'wa Dzekudzeku made a Land Claim with the Land Claims Commissioner Limpopo, but the property descriptions is not in a place where the Regional Land Claims – Limpopo is indicating as he (N'wa Dzekudzeku) claims Bon'wani, Xivulani, Mninginisi Block 2 and 3 etc.
- Ndindani didn't make a claim with the Land Claims Commissioner. He comes from Xilovola in the Nhlaniki within the Giyani area.
- Muyexe made a Land Claim but his property descriptions is indicating Muyexe.
- The minutes of the **11<sup>th</sup> of January 1913** is indicating Muyexe at Nhlaninki not inside the KNP.
- The reason why we are saying these is on the basis that Muyexe, Ndindani, N'wa Dzekudzeku and Madonsi are not having the heritage linkages in within the KNP.

Further that you must know the following as “**Information era ushers goodwill in this country**” such as:

- Page 45 of the Afrikaans version of the “**Neem Uit die Verlede**” by Dr U. de V. Pienaar, 1990, and page 65 of the English version of the Book of “**A Cameo from the Past**” by Dr U. de V. Pienaar and Contributors, 2012, talks about Chiefs such as **Makuleke, Khubyane** who is the grandfather of **Nghotsa, Mahlathi “Dzombo” Shilowa and Makhuva**. No mention of Muyexe, Ndindani, N'wa Dzekudzeku and Madonsi.
- Page 224 of the Book of **Neem Uit die Verlede**, by Dr U. de V. Pienaar, 1990 Afrikaans version and pages 274 and 275 of the Book of “**A Cameo from the Past**” by Dr U de V. Pienaar and Contributors, 2012, the book indicate the heritage sites of chief **Nghotsa Mapindani**, not Madonsi, N'wa Dzekudzeku, Ndindani and Muyexe.
- Page 228 of the Book of **Neem Uit die Verlede** by Dr U de V. Pienaar, 1990 and a Book of the English version of “**A Cameo from the Past**” by Dr U de V. Pienaar and Contributors, 2012, page 279 we found on how those books indicating that **Missionary Henry Berthoud in 1889** found our elders doing ritual performances in a place called **Red Rocks** where the road will be passing by. . **The version is read as follows: “We call to you, Khubyane, master of the universe, creator of the trees, the rivers, the grass, the mountains, the cloud that give us rain, the animals and the people. We offer these things to you so that you can guide and protect us along the way, give us meat, the food of the wilderness, give us joy, a good road and the**

sleep that we need to live”. Here there is no indication of Madonsi, N’wa Dzekudzeku, Ndindani and Muyexe.

- Pages 471 and 560 of both the Afrikaans and English version of the *Neem Uit die Verlede* and *A Cameo from the Past* by Dr U de V. Pienaar and Contributors, 1990 and 2012 is indicating the Kraals of the Chiefs whom were within the now called KNP where we found **Chief Nghotsa** indicated, but nowhere there is an indication of Madonsi, N’wa Dzekudzeku, Ndindani and Muyexe.
- Pages 352 and 422 of the Afrikaans and English version of the Books of *Neem Uit die Verlede* and *A Cameo from the Past* by Dr U de V. Pienaar and Contributors, 1990 and 2012 talks about **Hosi Nghotsa** showing the tourists the way in within the catchments landscapes in where our elders as **Custodians of Indigenous Knowledge Systems (IKS) on Culture Development and Heritage Interpretation**. Here, there is no indication of Madonsi, N’wa Dzekudzeku, Ndindani and Muyexe.
- Again, on pages from 434 to 443 for the version the **“Reproclamation of the Sabie Game Reserve and later border changes”**, in particular to page 439 from the Book of **“A Cameo From the Past”** by Dr U. de V. Pienaar and Contributors, 2012, indication is that “In within the District of Zoutpansberg, they demarcated the Trust Farms of Hosi Nghotsa Mapindani, that is twenty four (24) Trust Farms such as: Altein No. 1237, Plange No. 1238 and Lombard No. 1239. Those Trust Farms are occupied by the Mtiti Traditional Authority as of now. Also Trust Farms occupied by the Madonsi Traditional Authority, that is fifteen (15), such as Kelder No.1240, Schutte No. 1242, etc. Also Trust Farms being occupied Xikundu Traditional Authority such as Kluster No. 1244 (Nkovani – Xaswita), Johnstone No. 1253 (Nghezimani). Again, Trust Farms occupied by Mavambe Traditional Authority such as: Krause No. 1226 (Mapapila), Ireland No. 1225 (Dinga) and Van Duuren No. 1224 (Xitlhelani). And trust farm occupied by Hosi Xigalo that is Pagelee No. 1252 (Makhasa). TOTAL NUMBER OF TRUST FARMS ALLOCATED TO THE (NGHOTSA –KHUBYANE) MAPINDANI ARE TWENTY FOUR (24). Wherefore, it is the basis of Proclamation 1185 dated 11 July 1962 which the pretext government has transfer those trust farms to the other Traditional Authorities, and not as of now falling to the Nghotsa Khubyane Mapindani as a Tribe.

Bare in mind that from the source documents from the Book of **“Neem Uit die Verlede”** and **“A Cameo from the Past”** by Dr U de V. Pienaar and Contributors, 1990 and 2012, we came

to the conclusion of writing the **“Kruger History”: 1895 -1994**

#### **Where we said:**

In 1895, after the **“gold rush”**, the parliament of the Transvaal adopted a resolution that the executive council be directed to proclaim a government game reserve in the Lowveld. The matter was discussed by the executive council in **December 1897** and, three months later,

on the **26<sup>th</sup> of March 1889**, the necessary proclamation was issued and the **Sabie Game Reserve** established. Little more was done before the South African war a year later.

By 1901, the British had occupied the Lowveld and reaffirmed the status of the Sabie Game Reserve. The new administration was of the opinion that conservancy would eventually prove profitable when antelope numbers had increased to levels where the Park could be opened to Sportsmen who would pay for the privilege of hunting. It was this scenario that Major (later Colonel) James Stevenson – Hamilton entered. Stevenson – Hamilton eventually set up his headquarters at Sabie Bridge (now Skukuza). One of his first actions was to clear the Park of its black inhabitants, a step that would be caused great bitterness and hardship until 1994. Before leaving Pretoria, he wrote, I quote: “It had impressed on me that the first difficulty would be probably be with the natives, since these and the game could not be expected to exist together. I had already decided on my own mind that, so far as it might prove possible, to game reserve would have to be cleared of human inhabitants if beginnings was to be made at all”. Local blacks, for his efforts in removing them from the game reserve, dubbed him Skukuza – the man who has forcible removed people. Stevenson – Hamilton now set his sights on bringing the land north of the Sabie River within the jurisdiction of the game reserve.

The establishment of the Kruger National Park in 1926 was part of a process that culminated in the loosening of a South Africa’ with Britain. In the circumstances, naming the Park after a heroic Afrikaner figure, Paul Kruger, touched a receptive chord and ensured the passing of the National Parks Act. Insensitivity by the custodians of the Park, put wildlife before humans in what some call the “gardeners of Eden” complex. That this action was racially and ideologically driven made matters worse. For white South Africans, the Park was a symbol of pride – a mirror of a mythical past. For blacks however, it represented a government structure from which they had systematically been excluded and, more – over, it was a factor in the material, moral and emotional outrages committed against them, it was, in reality, the mirror on an oppressive past representing racial discrimination, subjugation and exploitation. Kruger National Park ignored or suppressed the existing indigenous knowledge systems (IKS), local institutional systems and practices.

Historically, it focused on biodiversity conservation while cultural resources and knowledge were neglected.

The emphasis was on biological and aesthetic value, and local people and their culture were pushed aside and fenced out.

However, on things, which happened before 1994 on the basis of the black inhabitants who were occupying the landscapes of the “Va Hlangano Territory” now called Kruger National Park, after the passing of the National Parks Act, people experience the forcible removal, which occurred in this fashion:

- In 1926 where black inhabitants of the jurisdiction of the landscapes of between Crocodile Bridge and Olifants (Balule) rivers were forcible removed.
- In 1938, where the black inhabitants of in between Olifants (Balule) and Shingwedzi rivers were washed away on that forcible removal.
- In 1951, the black inhabitants of in between Shingwedzi and Levubu rivers also occurred with forcible removal.
- In 1969, the Makuleke forcible removal occurred between the landscapes of Levubu and Limpopo rivers.

**All groups were given two options: i.e.**

- “To go back to their domain of their origin i.e. in Mozambique.”
- “To seek another place in the western side outside Kruger Fence for the purpose of the grazing land of their domestic animals”.

**Their perceptions in this scenario happened in this way:**

**Sufferings:**

- They were stressed by the loss of their land, and this was further aggravated by the loss of their Elders (they died in great numbers) because they could not adjust to the new environment.
- Their practice of Indigenous Knowledge Systems (IKS) was curtailed and their heritage management ethics were disrupted.
- Water was not easily available since the streams were not as abundant as in their ancestral land.
- They had no shelter for their families.
- The land they moved to be infertile, thus they suffered from hunger and malnutrition.
- Food was scarce because the land they were taken to was barren.

**Emotional Pain:**

- No one to can describe the pain they endured having to go against one of their customs, namely to leave the burial sites of their forefathers.
- The reality of leaving one’s home and belongings was also too harmful to bear.
- They left their belongings, which they could not carry along.

**Loss:**

- They lost their land with heritage sites, sacred sites, wetlands and burial sites.
- Their livestock was killed and their belongings were burnt.
- Their mud huts were torched.
- They lost places where their Great Traditional Healers used to practice Indigenous Knowledge Systems (IKS).

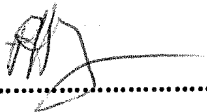
- They lost the places where the Mermaids used to baptized people with ancestral spirits e.g. place like Njhuzini, Nguvu ya N'wana Manana and Xinhuzanini.
- They lost their ancestral land with heritage sites and wetlands like at Malahlaphanga, Mafayeni and Mati yo Hisa north of Mafayeni in the Far North Business Unit.
- Their means of trade exchange, manufactured at "Mindzwalo Mine" (Red rocks) was lost.

Here, we are indicating to you that: "The new alignment of the proposal road will destroy heritage sites. It is proposed that the "Xa Va Ngoni now called Shangoni Gate" is not moved to a new position, wherefore, avoiding heritage being damaged".

We also proposed that the correct information be obtained before any future developments take place, not to be cheated by the Madonsi, N'wa Dzekudzeku, Ndindani and Muyexe who doesn't have the heritage linkages with the Kruger National Park.

Further that, if any of the above regulations or rules within the documents in this report are overruled, lawful steps will be taken. Currently there is still an impending land claim that still needs to be resolved. Please refer to the document from the Office of the State Attorney, Pretoria, dated 7 April 2016 within the document.

**Compiled by:**



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**Chauke H.P.**

**Mapindani (Nghotsa – Khubyane) Community Land Claim, Ref No. KRP 2209, Case No. LCC 87/2005. Cell: 072 349 7429. Email: hlenganiphineas@gmail.com**



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07 APRIL 2016

Enquires: A.R MATHAGA  
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My Ref: 5749/2005/Z56/sr  
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Attention: Sayi

LEGAL RESOURCE CENTRE  
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**RE: REGIONAL LAND CLAIMS COMMISSIONER (LIMPOPO) MINISTER OF LAND  
AFFAIRS / HP Chauke N.O and Another (Land Claims Court)**

**CASE NUMBER: LCC 87/05 (LAND CLAIMS COURT)**

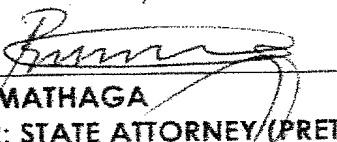
The above matter bears reference.

Kindly be advised that in order to expedite the finality of this matter we are of the view that a round table meeting between the legal representatives is necessary.

Please advise if you are open to the proposal and also suggest possible dates for such meeting.

We trust you will find the above in order and we await your urgent response herein.

Yours faithfully

  
AR MATHAGA  
FOR: STATE ATTORNEY (PRETORIA)