

Resistance to Marine Phosphate Mining in Namibia

Namibia is facing the prospects of becoming the first country to allow marine phosphate mining. There is currently a request from Namibian Marine Phosphates (NMP), an 85-percent foreign-owned company (Omani investor) intent on mining for phosphates on the seabed, close to the major coastal fishing town of Walvis Bay, where it proposes to dump tonnes of waste on-land. Another applicant, Lev Leviev Namibia Phosphates, are hoping to also apply to set up a marine phosphate mining operation and a phosphoric acid plant at Luderitz.

NMP received an environmental clearance certificate from Namibia's Environmental Commissioner in 2017 despite many concerns raised by various activists and environmentalist over the years. However, their activism was mostly internet/email based. This approach was criticised by the proponents of phosphate mining as "faceless activism". Understandably, the activists were probably weary of intimidating lawsuits or other threatening tactics. At least one marine biologist came forward and explained why he could not publicly raise objections to marine phosphate mining as this would have threatened his livelihood and possibly even posed a risk to his life.

There was thus a need for public resistance to phosphate mining. The Economic and Social Justice Trust discussed and agreed on making this issue one of our current focus areas. One of our Trustees, Michael Gaweseb, went to the Environmental Commissioner's office to enquire about the state of affairs with the intention for the Trust to lodge an appeal against the proposed marine phosphate mining project. The officials basically presented a scenario that the appeal period as opened by the minister was running out and that Michael had to launch an appeal immediately to stay within the deadline. As he did not have a formal mandate from the Trust yet, he decided to launch the appeal in his personal capacity.

Having had experience with the Walmart and the Namibia Competition Commission appeals processes some years back, Michael was aware that there may be risk of adverse lawsuits against him for simply lodging an appeal. He even received a “friendly warning” from a fishing sector activists who warned him that the company is well resourced and thus able to sue him in expensive litigation suits. The company being big and influential was part of Michael’s reason for challenging them as resource utilisation in a democracy should not be subjected to corporate economic power or political influence. There were, however, many mountains to climb.

First, Michael had to pay N\$/ZAR 1,000 to just launch the appeal. He was also required to read and understand the relevant law and regulations. There was no legal advice available at the time, but one requirement was that the appellant had to inform the proponents when lodging the appeal, providing them with reasons and even informing them when/where the appeal hearing would be held. This was difficult as it was in the hands of the Minister of Environment and Tourism to decide on such a hearing. In the haste to launch the appeal, Michael made a mistake to indicate that he would not need witnesses, which could have been a key weapon for an activist to use.