



Campaigning for the rights  
of  
Small-scale Marine Diamond Miners

26 JUNE 2020

THE EDITOR OF MINING WEEKLY

EAC RESPONSE: ALEXKOR ARTICLE PUBLISHED ON 18 JUNE 2020

Dear Martin and Donna,

The local BBBEE small-scale marine diamond miners thank you for granting us the opportunity to put forward our perspective about Alexkor SOE and the Alexkor RMC JV.

For ease of reading, we have parsed the original piece and inserted our views where we differ to those published.

Original text is in normal blue font and our text is in black italics.

We look forward to today's online meeting.

Kind regards,

Gavin Craythorne, George Nicolaai and Joseph Klaasse.

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A panel of experts should be formed to properly oversee the future of the struggling State-owned diamond mining company Alexkor, and to unlock the greater long-term potential of northern Namaqualand.

That is the view of Sable Metals & Minerals CEO **James Allan**, following the briefing of the Parliamentary Portfolio Committee on Public Enterprises and the Select Committee on Public Enterprises and Communication by the Administrator of Alexkor **Lloyd McPatie**.

McPatie was quoted by *Mining Weekly* on May 27 as saying that State-owned diamond mining company Alexkor was trading recklessly and could not meet its financial obligations.

McPatie told the Parliamentary committees that the pooling and sharing joint venture (PSJV) between Alexkor and the Richtersveld Mining Company, which comprises the Richtersveld community, was technically insolvent and could not trade itself out of its current financial situation.

Against the background of the Department of Public Enterprises considering its best options for Alexkor and the PSJV, Allan provided this analysis for publication in *Mining Weekly*:

The diamond deposits of Namaqualand were discovered by **Jack Carstens** in 1926 and were further delineated by Dr **Hans Merensky**, who identified Oyster shell as being a significant marker for the paleo beach terraces in 1927.

The State Alluvial Diggings (SAD) were proclaimed in 1928 and mining has taken place along this arid coastline since then for 92 years, with the SAD being transformed firstly into the Alexander Bay Development Corporation in 1989, and then incorporated into a public company, Alexkor Limited, with the State as the sole shareholder in 1992.

Subsequent to a Land Restitution Claim the local community was granted the mineral rights to the land areas and Alexkor remained with the marine mineral rights. A PSJV was formed between Alexkor (51%) and the Richtersveld Mining Community (49%) to mine and recover diamonds from the land and sea.

Notably these deposits have been mined for over 90 years and it is becoming increasingly difficult to mine them profitably. Over the last five years there has been a trend of decreasing stone size in diamonds recovered from land operations and a decreasing contribution in diamonds mined from the sea.

*While true, that the Namaqualand diamond deposits have been mined for almost a century, and it is certainly the case that it is becoming increasingly difficult to mine them profitably, the EAC must disagree with James Allan's overall diagnosis of Alexkor's problems.*

*Firstly, the mining histories of the terrestrial terraces and the marine terraces must be dealt with separately. We agree that the terrestrial diamond terraces have been mined for more than 90 years and that these terraces are now mined out for the most part.*

*The marine terraces, however, are an entirely different matter, the writing of their history will have to wait another hundred years until they too have been mined to the equivalent extent, perhaps even longer.*

*For the following reasons:*

- *The submerged marine diamond terraces hold the bulk, probably about 95%, of the overall diamond population that was transport to the Atlantic Ocean by the Orange River drainage system from the volcanic pipes that hoisted them to the earth's surface.*

*The extensive onshore mining operations along the coast only constitute what could be described as nibbling along the edges of the greater overall diamond mega-placer deposit.*

*Whereas the onshore terraces occupy a coast-wise strip approximately 2 km wide, the seabed marine terrace strip is approximately 45 km wide.*

- *This massive diamond deposit has not been developed, firstly, because until recently the geotechnical challenges were insurmountable, and, secondly, because it has been at the centre of state capture dynamics that have created an environment too toxic to attract the capital investment, innovation and entrepreneurship such an undertaking requires.*

In the recent presentation to Parliament (*Mining Weekly* 27 May 2020) by Mr **Lloyd McPatie**, the Administrator for Alexkor, stated that there should be a more scientific method to splitting the revenue from diamonds between the PSJV and the mining contractors.

*Mr McPatie makes a good point but then he discredits himself by recalibrating the small-scale miners' deal splits in favour of the PSJV without conducting any of the "scientific" analysis he claims is necessary.*

The current split has been found to be appropriate over a long period of time, and if it does favour the contractors, this is appropriate given they carry all risk, including mining, geology, an old and depleted resource, and decreasing sea-days due to climate change, with ample evidence that the mining contractors themselves do not have highly profitable operations.

Alexkor's land and shallow marine operations are increasingly marginal and changing the revenue split could result in some of the contractors leaving for other, better, options.

*The local small-scale marine miners have no other option and their assets are hopelessly stranded, a situation that has been unethically exploited by both Alexkor RMC JV and Trans Hex for more than a decade.*

The awarding of a tender to Scarlet Sky Investments (SSI) has been controversial since it was awarded the contract to run the tender process on behalf of the PSJV.

This award was approved in a PSJV board meeting and premised on the State's drive to beneficiate goods locally, which SSI has done in its joint venture beneficiation facility in Killarney, Gauteng, in spite of most of Alexkor's being too small (60% of production is less than 0.66 carats per stone) to ensure economic local beneficiation.

*Section 20A of the Amended Diamond Act deprives the local emerging BBBEE marine diamond miners of at least 30% of the market value of their diamonds and the State Diamond Trader gets 10% of our production at an even greater discount. There can be no doubt that beneficiation was merely a pretext for state capture and even greater gouging.*

*Given the impacts of climate change, surf-zone resource depletion, resource hoarding, resource concentration, statutory non-compliance, suppression of active citizenship and predatory commercial terms, what measures can the regulatory authority demonstrate have been taken to assist the local BBBEE marine miners? None, because as Trans Hex smugly informed the EAC when we challenged the now failed West Coast Resources transaction in 2010, we have no political top cover. Our members have lamented this unfair reality ever since.*

*As one of our members declared in a town hall meeting in Port Nolloth during the same year:*

**"Die EAC beteken niks en die Wet beteken niks, want julle het geen politieke mag nie"**

*And in Parliament on 17 November 2010, the chairperson of the Portfolio Committee on Minerals, Mr Fred Gona, gave credence to this dim view when he stated:*

**"The DMR has failed in its regulatory functions in the area of Namaqualand"**

*Furthermore, the EAC has ensured that the existential threats to the local marine diamond industry have been well documented in Parliament and the mainstream media since 2010 and we have repeatedly stated, and it has been acknowledged, in the same fora, that the health of our industry is of primary importance to the local economy because it is the only primary industry in our region with the scalability to impact meaningfully on local tertiary industries.*

*Why then is all the regulatory emphasis on the beneficiation of Alexander Bay's diamonds when there is no benefit at all for the people who live in Alexander Bay or the people that mine these diamonds? And why are veteran miners' contracts cancelled for voicing legitimate concerns while SSI's contract is untouchable even after revelation upon revelation of state capture participation? The hypocrisy of it beggars belief.*

An investigation of the mining, recovery and tender process was conducted by the author in early 2019 and comprehensive report showed that while there was room for improvement in certain aspects of the SSI arrangements, the overall tender sale system (sealed auction) was inherently robust, and compatible with the approach followed by most local and international small and medium diamond producers.

*Based upon his investigation into the sales and marketing of our diamonds, Mr Allan contends that SSI conducts a "sealed auction" on behalf of Alexkor RMC JV, that is "inherently robust" and "compatible with the approach followed by most international small and medium diamond producers".*

*The EAC contends that SSI conducts a farce of an auction on behalf of a cabal of insiders who use Nathan's ability to monitor bids in real time and communicate these bids to the cabal as a means to providing its members with a robust and unlawful competitive advantage over other bidders. The same modus operandi he and his partner, Kuben Moodley, used to win the marketing and sales contract in the first place.*

*Gobodo Forensic and Investigative Accounting found that the process by which SSI won the tender to market and sell our diamonds was unconstitutional, uncompetitive and unfair to the other competing bidders.*

The appointment of an experienced independent diamond valuator to ensure that the contractor's interests were taken care of was one of the positive outcomes of this independent investigation.

*Mr Allan's claim of an "experienced independent diamond valuator" being appointed to "ensure that the contractors' interests were taken care of" is disingenuous as there are volumes of prima facie evidence indicating that there is no such thing in South Africa's deeply conflicted rough diamond trading industry. The entire South African diamond value chain needs to be subjected to deep scrutiny and fundamental overhaul in the public interest.*

The Department of Public Enterprises appointed Gobodo Forensic and Investigative Accounting (GFIA) to investigate complaints by a group of contractors into the construction of a coffer dam in 2012, the awarding of the marketing contract to SSI, and the conflict between the contractors and the PSJV.

The GFIA Report on Alexkor presented to Parliament and referred to in the *Mining Weekly* article is flawed in many respects. The report makes a comparison between the prices achieved on tender with the Zimnisky and Bloomberg long term diamond sales indices, which they (Gobodo) show as prices in the various tables.

*The report may be flawed in certain respects, but this is more indicative of the lack of cooperation the team received from the PSJV management combined with the overwhelming tactical complexity that is deliberately woven into the opaque fabric of the diamond trading industry.*

*The EAC has made numerous futile requests to the PSJV CEO and company secretary for transparency regarding information fundamental to protecting our rights and which, as a matter of good governance, should be provided freely. Our persistence ultimately led to the cancellation of our contracts; a fact Mr Allan is aware of.*

An index is an index, not a price. Significantly, the diamond production from the PSJV is unique in terms of both its alluvial (secondary) origin, size distribution of the diamond sizes, and quality.

By comparison the Zimnisky and Bloomberg Indices which purport to reflect global diamond production are based almost exclusively on kimberlite mine goods, bearing in mind that about 96% of world diamond production is from kimberlite (primary) hard rock sources, and hence any comparison of the two distinct populations is erroneous.

The PSJV production is furthermore bimodal with approximately 35% of the value derived from single stones over 6 carats in size (5% in carats) and another 34% from diamonds below 1,5 carats per stone (approximately 80% of carats).

*An index is an accepted statistical measure by which the relative performance of a financial investment in an asset can be assessed. As emerging BBBEE marine diamond miners our mining vessels are massive investments in Alexkor's high quality diamonds and the assurance of equitable access to mine them.*

*We can put the considerable sweat equity and the hard-earned specialized ability to mine marine diamonds profitably aside, as they can be considered mere "tickets to the game" for which we invest our "skin" (all of it) to play in.*

*The suggestion that we must put our entire family estate's at monumental risk and not be entitled to benchmark the price performance of our investment against an index because the diamonds we invested in outclass the average quality of the global rough diamond market can't be taken seriously.*

*Our businesses are our pension funds and we are within our rights to fight against our pensions being looted. Regrettably, they have been looted despite our best efforts to defend them.*

*In the period from 2008 to 2017, the State Diamond Trader's selling price in US\$ per carat as presented to Parliament on 10 October 2019, increased by 412%, from \$97/ct to \$496/ct. Apparently the Zimnisky index, which only grew by 48% over the same period, is far too conservative.*

*And by all accounts, our pension funds should at least match this growth as the law states that the State Diamond Trader may only trade in representative selections of local mining production from which it follows that while everyone else supplying the SDT has achieved exceptional price growth, we have gone backwards.*

*During the same period, Alexkor RMC JV's diamond prices and our pension funds dropped by 6%, from \$463/ct to \$438/ct.*

*How is it possible that Mervyn Carstens, who is the Chairman of the SDT and the CEO of the Alexkor RMC JV finds nothing untoward about such a glaring price differential? Or Mr Allan for that matter?*

The GFIA report also analyses the total sales and the values sold to the State Diamond Trader (STD) and for beneficiation.

It ignores the fact that there is an agreement with the State Diamond Trader not to buy diamonds over 4 carats in size, because there are few diamonds produced in this size range, and for example it would be impossible to 'remove' 10% of a single 6 carat stone (or for that matter a 30 carat stone)?

*If what Mr Allan says regarding an agreement between the SDT and the PSJV is true, then more important is the fact that such an agreement is unlawful as it clearly breaches S59B.(1)(b) of the Diamond Act as amended which states:*

**"The percentage contemplated in paragraph (a) may be based on carats and value and shall be a representative sample of a production cycle of any diamond producer."** *(Own emphasis)*

If the STD were to buy single stones in these categories this would furthermore prejudice the contractor and the PSJV.

By agreement with the PSJV, the STD has the right to purchase up to 10% of total production from diamonds less than 4 carats per stone. This means that the STD buys a higher percentage of diamonds in the lower size ranges.

The legislation allows for the purchase of the 10% in terms of carats. However, inspection of annual reports for the STD shows that this percentage has typically been about 4% of local production anyway. The GFIA report finds that less than 5% by value of diamonds are sold for beneficiation. The South African cutting and polishing industry can only cut and polish certain sizes profitably.



Large single stones and small stones or Melee are typically cut overseas where the expertise and cost structures are better suited to maximising the value from large stones and the smaller diamonds (of which the PSJV has a large proportion of their production).

Overall Alexkor goods are too small to be manufactured profitably in South Africa because of high labour costs and the inability to compete with the costs of manufacturing in India. Nine out of every ten (90%) of the world's rough diamond production (which averages about 0.30 carats per stone) are manufactured in India due to their competitiveness, cost structures, and cut quality.

Thus, only a small range of sizes is selected for beneficiation, mainly in the 2 to 4 carat range. This size range represents approximately 14% in terms of carats and 24% in terms of the Alexkor value.

Taking 5% of total production out for beneficiation would represent a large proportion of the diamonds in this size range and it has been decided by the tender house jointly with the PSJV that withdrawing this proportion of diamonds for beneficiation would be detrimental to the overall tender prices achieved, and hence further directly impact the sustainability of Alexkor.

*What Mr Allan is implying is that every transaction between the SDT and Alexkor RMC JV under the watch of Mr Carstens and Mr Nathan has been unlawful. Two parastatals doing business together cannot simply disregard regulations they find inconvenient. After all, they make these regulations.*

*Furthermore, the local cutting and polishing industries inability to compete internationally is not our problem, we have more than enough of our own to contend with and while these have been cogently argued and documented over many years our pleas were disregarded even while our hardships were clearly being aggravated by downstream greed, state capture and contempt for our stakeholder materiality and constitutional rights.*

*For the record, the local miners have no beef with the SDT, and whether it takes 10% or less is neither here nor there. We know that they get our diamonds on the cheap and we can live with that. What we can't live with is the secrecy about who is benefiting and the fact that the small-scale guys who should be, clearly are not.*

The contract does allow for the quantity to be agreed between the PSJV and the tender house.

The Goboda report goes on to say that SSI has contravened the Diamond Export Levy Act in that it does not pay any export royalty.

GFIA ignores the fact SSI does not sell the diamonds, they facilitate a tender sales process (which is generally acknowledged as the best way for a diamond producer to realise value from production) on behalf of the PSJV.

*In the greater context of state capture, the granular details relating to export royalties and offtakes are not material issues, particularly considering the uncontested finding by Gobodo that SSI should clearly have been disqualified right at the very start of the tender process in 2014. To be quibbling about offtakes and royalties at this stage of the game seems rather incongruous.*

All of the buyers of the PSJV goods are South African based (albeit some of them have foreign holding companies) and therefore the sales are exempt from the export levy. It is only when these local buyers wish to export the diamonds that the diamonds are offered on the local bourse, and if they are not sold to local buyers, then the export tax is paid.

*The export exemption, as with the royalties, is not germane to the burning issues.*

Overall, the situation facing Alexkor is indeed in need of a positive outcome, most of all for the impoverished communities of the Richtersveld and Northern Namaqualand, and the long-term sustainability of the region and its economy.

Importantly positive solutions and outcomes need to be achieved on the basis of proper due diligence of the facts by experts, mindful of the need for long term development that will benefit the entire region, and which replace mining which is finite and in decline.

*If there had been any due diligence or concern for the long term development of Alexkor and the region during all the years that the EAC has been fighting for transparency, public accountability, good governance and against relentless state capture, Alexander Bay and Port Nolloth would be hosts to thriving marine diamond mining industries and vibrant diamond tourism attractions today.*

There may well be some future in the evaluation and development in the longer term of the deeper offshore diamond resources (the 'B' and 'C' Concessions of Alexkor). However, at a rough estimate an initial R500-million would be needed for systematic and detailed evaluation of these deposits, money which Government does not have.

These deep-water concessions should be sold off to capable and well-resourced private enterprise as a priority, so as to prevent a repeat of Alexkor's recent history.

*When the EAC took steps to counter Alexkor's state-capture-driven strategy to exit diamonds for coal, and Alexander Bay for Witbank, we took a principled decision to fight to keep Alexkor's marine diamond rights in the hands of the state and to argue that the privatisation of these rights would deprive the people of South Africa the opportunity to not only recover all the taxpayer money that has been invested into Alexkor but also to participate in the most significant mining play in the history of the diamond industry.*

*The kimberlite diamond pipes of the Kimberley diamond fields that gave up tonnes of diamonds and placed South Africa at the centre of global diamond mining for many decades, are only small remnants of the original diamond pipes.*

*The original diamond pipes extended 1.4 km vertically and proportionally in the horizontal plane compared to what remains today. It is a geological fact that 1 400 m of the earth's surface has been removed by denudation from the region.*

*This process liberated every diamond that was trapped in the kimberlite host rock of the original volcanic pipes above the present-day surface elevation and released them into the westward flowing Orange River drainage system.*

*The late Dr John J. Gurney estimated that 3.5 billion carats of diamonds started the epic journey from Kimberley to the mouth of the Orange River, a process that destroyed the low grade diamonds and released about 1.5 billion carats of 97% high grade gem quality diamonds into the sea.*

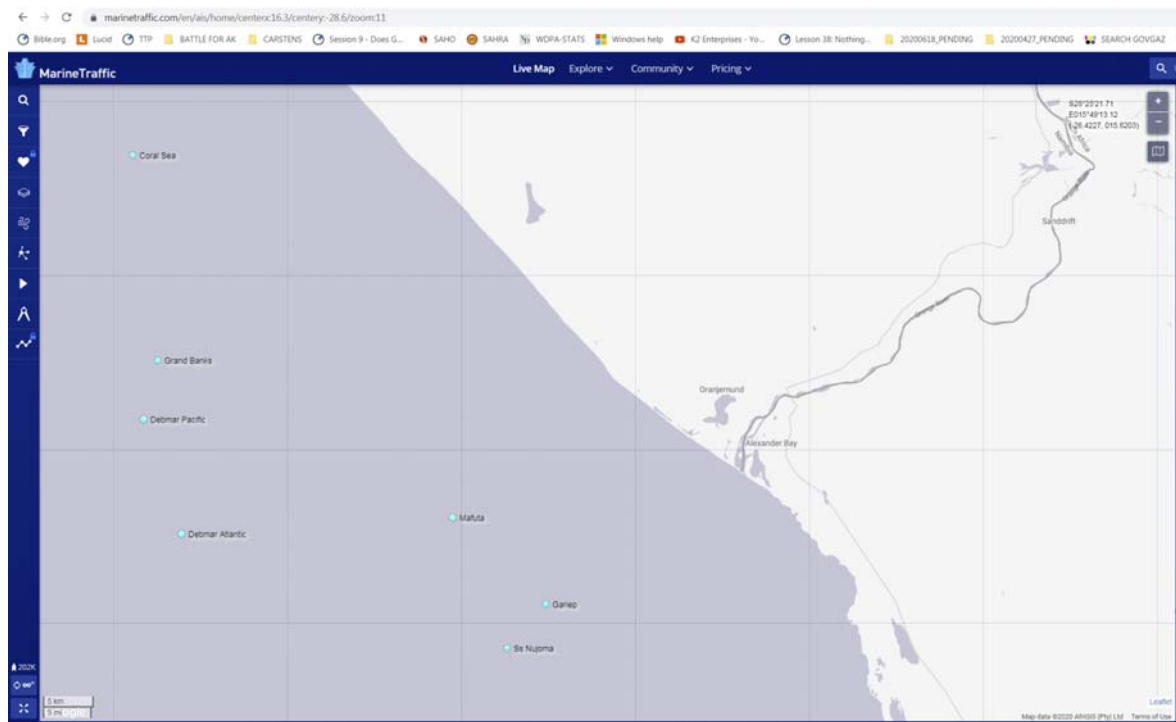
*The proof of this geological pudding can be found by logging onto the AIS (automatic identification system) portal indicated in the screengrab below. The seven Namibian diamond vessels shown (as of 23 July 2020) are producing about 1.5 million carats of gem diamonds a year, worth approximately R12.5 billion.*

*The Namibians are investing heavily into the development of their side of the Orange River Delta diamond field, training and employing hundreds of their citizens in advanced technologies and professions, making money hand over fist, ordering new multi-billion rand state of the art mining vessels every three years and generally making us look like backward garimpeiros.*

*What you will notice from the image is that these vessels are all mining a considerable distance from the shore because the sediment thickness increases to the east before it thins out again at the coast, and the remote tooling is at risk when mining into mud thicker than four metres.*

*What you will also notice from this image is that there is no mining activity south of the provisional maritime boundary, simply because of the destructive state capture dynamics mentioned above.*

*While the Namibians have been quietly putting all their energy into developing their half of this phenomenal resource, South Africans have been putting all their energy into either defending state capture or fighting to bring it down.*



*In conclusion, the EAC strongly disagrees with Mr Allan’s advice to Government that the marine mineral rights must be “sold off” as **they are unquestionably strategic national assets and arguably priceless.***

*We just as strongly disagree that we need yet another “panel of experts, all of whom already exist, to properly oversee the future of Alexkor, and to unlock the greater long-term potential of Northern Namaqualand”. **It’s a governance problem, not an expertise problem.***

*What we need is for the shallow, mid and deep-water miners to sit down with the Department of Public Enterprises, Alexkor, local government and the authentic representatives of the Richtersveld Community and negotiate a way out of the disastrous PSJV agreement and into a new, equitable and sustainable long term marine mining industry development plan.*

*The framework upon which to build a prosperous and sustainable inshore marine diamond industry requires only three, but equally essential legs.*

1. *Commercial terms agreed upon through a participatory process based upon a minimum viable revenue split model using real data inputs. It cannot be arbitrary.*

**Currently, there is great inequality between the different contractor groups.**

2. *Optimum diamond recoveries through a process that is metallurgically sound, protected against theft and negligence, transparent and accountable.*

**Currently, there is grand theft of our diamonds in the PSJV's plant.**

*(We get polygraph tested but not the plant operators)*

3. *Optimum diamond prices through a process that is commercially sound, transparent and accountable.*

**Currently, there is grand corruption in the PSJV's diamond value chain.**

*(Our contracts got cancelled for over a year for fighting state capture while Daniel Nathan's gets protected because it serves state capture)*

*In a nutshell, all the Equitable Access Campaign and our members humbly seek, is what the Minerals and Petroleum Resources Development Act provides for – EQUITABLE ACCESS.*

Mineral resources are finite, and after some 90 years of exploitation, which included high-grading, and mining without concomitant robust exploration and a mine plan due to lack of financial resources and technical capacity, Alexkor obviously faces declining production and an uncertain future.

Added to this is that continual changes in the management team of Alexkor, and a flawed privatisation process in 1997 which was scuppered due to political factors. The inability of Provincial and Central Government departments to recognise and develop the extensive non-mining attributes of the northern Namaqualand region have created a miserable legacy for this unique region.

Northern Namaqualand is endowed with a wealth of history, other mineral deposits, unique natural resources, game parks, unrivalled plant and flower species, exceptional farming opportunities along the banks of the Orange River, aquaculture options, and tourism potential.

Tragically none of the other resources have been properly developed and utilised.

I trust that the Minister consults with industry experts before making any decisions on the future of Alexkor and that the PSJV does not rely on the GFIA report to form his opinion.

It would also be appropriate to form a panel of experts, all of whom already exist, to properly oversee the future of Alexkor, and to unlock the greater long-term potential of Northern Namaqualand.

*Mining Weekly* can report that South Africa has the people, the skills and the goodwill to address Alexkor's challenges. Political will, foresight and leadership are required to modernise and transform Alexkor, drive job creation and revive economic development. 🇿🇦