



African Barrick Gold PLC  
5th Floor  
No. 1 Cavendish Place  
London W1G 0QF

Tel: +44 (0) 20 7129 7150  
Fax: +44 (0) 20 7129 7180  
[www.africanbarrickgold.com](http://www.africanbarrickgold.com)

14 August 2014

Business and Human Rights Resource Centre

Attn: Joseph Kibugu, East Africa Researcher and Representative

*Via Email*

Dear Mr. Kibugu:

**Re: Invitation to respond to MiningWatch Canada Mines Alert**

Thank you for your invitation to respond to the MiningWatch Canada Mines Alert dated 5 August 2014 and entitled "Violence Ongoing at Barrick Mine in Tanzania: MiningWatch Canada & RAID (UK) Complete Human Rights Assessment."

African Barrick Gold ("ABG") is committed to engaging with local communities and with civil society in connection with our operations, including at the North Mara mine in Tanzania. We have therefore responded in detail to two letters from MiningWatch Canada ("MWC") and RAID over the past six months in which they have levelled similar allegations. In our responses we have also offered to meet with MWC and RAID in our London offices to discuss their concerns. This exchange is available on our website at <http://www.africanbarrickgold.com/corporate-responsibility/community-relations/grievance-mechanism.aspx> and also on your website.

Regrettably, it appears from MWC's recent Alert that MWC and RAID will reiterate many of the same unfounded allegations again in an upcoming report, ignoring the detailed information we have provided previously and without accepting repeated offers to discuss this with the senior management of ABG or the North Mara mine. While we cannot provide a comprehensive comment without having seen the report itself, below we do provide some preliminary reactions to the short summary of the report contained in the MWC Alert. We invite MWC and RAID to provide us a copy of the full draft report so that we may better identify inaccuracies that should be corrected before it is published.

**Security at North Mara**

We disagree with MWC and RAID's criticisms of security arrangements and investigations into security incidents at the North Mara mine. In particular, we do not accept the factual allegations on which those criticisms appear to be based, including the statement that there were fatalities caused

by gunshot at the North Mara mine site. There were no fatalities caused by Police or mine security, by gunshot or otherwise, at the North Mara mine in the two months previous to the MWC/RAID visit to the area. Moreover, some of the factual allegations are the subject of civil litigation, about which MWC and RAID appear to be well aware, and we believe it is inappropriate to comment on those specific allegations in this forum.

We note that the Voluntary Principles on Security and Human Rights (“VPs”) provide the cornerstone for our policies and practices in this area and for our ongoing review to ensure those policies and practices are protective of human rights. For example, in line with best practice under the VPs, all of our contracts with private security providers and our memoranda of understanding with the Tanzanian police assigned by the state to maintain security in North Mara incorporate the VPs by reference.

Our investigations policy is also designed to reflect best practice under the VPs, including with respect to the gathering of evidence about credible allegations of human rights abuses by private contractors and public security forces. We record such evidence in order to report it and use it in our own investigations and reviews of our security policies and practices, as the VPs recommend. Further details regarding our approach to security and human rights can be found on our website at <http://www.africanbarrickgold.com/corporate-responsibility/security-and-human-rights.aspx>.

### **Grievance mechanism at North Mara**

We also disagree with MWC and RAID’s criticisms of the grievance mechanism at North Mara. We maintain grievance mechanisms at all of our mines, as prescribed by the UN Guiding Principles on Business and Human Rights (“UNGPs”). We have made and we continue to make a concerted effort to ensure that these grievance mechanisms are responsive to the concerns of surrounding communities and otherwise satisfy the effectiveness criteria set out in the UNGPs. Information about our grievance mechanisms is available on our website at <http://www.africanbarrickgold.com/corporate-responsibility/community-relations/grievance-mechanism.aspx>.

As detailed on our website, we have worked to ensure that the grievance mechanism at North Mara is legitimate and accessible, based on the free and informed consent of those who use it, and designed to resolve grievances through engagement and dialogue. We therefore note the following in response to the claims in the MWC Alert regarding the grievance mechanism at North Mara:

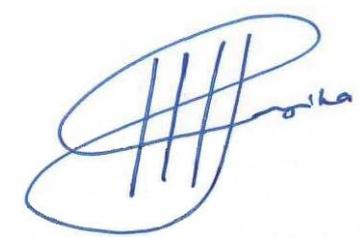
- **The grievance mechanism is well-publicised:** Contrary to MWC and RAID’s claims, the grievance mechanism is advertised widely, including through posters, leaflets and presentations at community engagement meetings by our community relations officers and

the NGO Search for Common Ground. Leaders from each of the seven villages that surround the mine report that community members are generally aware of the grievance mechanism, know how to access it and understand how it functions. Indeed, the mechanism is used by hundreds of community members every year (only a small percentage of whom bring human rights-related claims).

- **Grievances are resolved only through informed consent:** It is also not true, as MWC and RAID allege, that individuals who agree to resolve their grievances through the mine’s mechanism are encouraged to sign documents that they do not understand in English and only receive a Swahili version a month later. The text of grievance resolution agreements is always written, discussed and executed in Swahili, with an English version also executed only in the final instance, and with both versions returned to the complainant promptly upon being signed by the mine management. Moreover, the mine goes to great lengths to ensure that complainants understand the terms of grievance resolution agreements, including by offering vouchers to fund consultations with independent lawyers and insisting that a retired Justice of the Tanzanian High Court review the agreements carefully with all complainants in Swahili.
- **The grievance mechanism is open to all:** The operation of the grievance mechanism is neither selective nor biased, as MWC and RAID allege. It is open to anyone who would like to access it, and it is not only claimants in the civil litigation mentioned above who have been offered and received financial benefits through the mechanism, as MWC and RAID suggest. Indeed, many grievances had been resolved through the mechanism, including a number of human rights-related grievances, before that lawsuit was filed in 2013. The mine has taken numerous steps to make the mechanism as accessible as possible, including by accepting complaints by phone, mail or email, and by moving the Grievance Office outside the mine’s premises to make it more accessible to those who wish to submit their grievances in person.
- **Grievance resolution agreements are rights-compatible:** MWC and RAID repeat the criticism they have made numerous times elsewhere that the “use of legal waivers [in grievance resolution agreements] means that compensation is dependent on the victims signing away their rights to pursue civil legal action against the company.” However, as ABG has repeatedly explained, the UN Office of the High Commissioner for Human Rights (“OHCHR”) recognised in an August 2013 opinion that the need by both sides for predictability and finality justifies the use of narrowly-tailored legal waivers in such agreements. The legal waivers used in the mine’s grievance resolution agreements are designed to be narrowly-tailored in accordance with the guidance offered by the OHCHR and the UNGPs.

ABG will respond to any additional points raised in MWC and RAID's report regarding North Mara once it has had an opportunity to review the report. We thank you again for the opportunity to respond to the MWC Alert.

Yours faithfully,

A handwritten signature in blue ink, consisting of a large, stylized 'D' followed by the name 'Mwanyika'.

Deo Mwanyika

Vice President – Corporate Affairs