

ELOFF MINING COMPANY (PTY) LTD

STATUS QUO AND PRE-MITIGATION HERITAGE ASSESSMENT REPORT IN SUPPORT OF TEST
EXCAVATION PERMIT APPLICATION FOR A RELOCATED BURIAL SITE WERE GRAVES EXHUMED
UNDER PERMITID 2897-CASEID 13086 AT STRYDPAN FARM 243 PORTION 16 FOR A PROPOSED ELOFF
PHASE 3 PROJECT IN DELMAS, STEVE TSHWETE LOCAL MUNICIPALITY, MPUMALANGA

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MANAGEMENT SUMMARY

BACKGROUND

Eloff Mining Company PTY Ltd commissioned the Environmental Impact Assessment (EIA) study which was conducted by Environmental Impact Management Services (EIMS). In turn EIMS appointed Professional Graves Solutions (PGS) Pty Ltd to conduct Heritage and Archaeological Impact Assessment, (2020). The study focuses on graves and burial grounds, historical structure as identified during Heritage Impact Assessment specialists study for the proposed development of mining activities to be called Eloff Mining Phase 3 within Strydpan Farm 243IR. portion 15, 16, 19 & 20. Human burial (graves) were identified during Phase 1 Heritage Impact Assessment for the proposed development of mining activity at the identified farm in Delmas, Mpumalanga Province.

In July 2019, Mulaifa Development Projects, was appointed by Kangala Colliery to conduct Phase 2 heritage mitigation study for the burial grounds and graves recorded within the footprint of the proposed Eloff Mining Phase 3 project development area. Mulaifa Development Projects archaeologists and physical cultural property specialists conducted field survey of the area in an attempt to verify the graves as identified during the Phase 1 studies. The graves exhumation permit to relocate a total of 9 graves was lodged under section 36 of National heritage Resources Act, 25 of 1999 (NHRA), and on Tuesday July 23, 2019 a permit was granted by the South African Heritage Resources (SAHRA) under CaseID 13086 and PermitID 2897.

SUMMARY RESULTS

The status in which the affected graves were (*disturbed by burrowing animals*), makes it impossible to make determination of the exact number of graves buried in the particular graveyard. It was during the site visit by SAHRA officials wherein the discussion around conducting further studies in a form of test excavation was recommended.

This report is produced in order to provide competent authorities with background information regarding the status for the affected grave-site and motivation for a test excavation permit application.

Recommendations

- Field survey was conducted on Wednesday the 26th April, 2023 in order to map the affected landscape which was a graveyard identified along the proposed Eloff phase 3 project footprint and servitude at Strydpan 243 IR farm, portion 16.
- The survey confirmed that the affected landscape has a potential of yielding many other graves that might not have been exhumed because of the graveyard disturbed nature. Previously unmarked graves or unidentified graves or graves that might have been disturbed by burrowing animals like Aardvark, could still be unearthed during mining excavation.
- Test excavation permit must be issued to ascertain if the affected graveyard still has graves or grave's contents which will require exhumation.
- Should test excavation discover human remains or grave good or contents, due process will be followed in line with the NHRA.
- In the likely event that no custodians will come forward to claim the remains, the graves will be treated as unknown graves and as such they will fall within the jurisdiction of the National Heritage Resources Act (NHRA) 25 of 1999 under the assumption and observation that some of the graves have been confirmed to be older than 60 years.
- The mining development footprint will cover the historic and active cultural landscape with historic and contemporary human settlements. This provides for a high probability of encountering chance finds and previously unknown graves during sub-surface construction work. The proposed mining development will cover historic homestead remains where there are high possibilities of encountering unmarked burials such for infants (stillborn) that are traditionally buried in homesteads as opposed to being buried in cemeteries. As such, it is recommended that heritage-monitoring program be developed for implementation during the construction period.

1. INTRODUCTION

Mulaifa Development Projects was commissioned by Eloff Mining Company Pty Ltd (Eloff Phase 3) to conduct archaeological/graves test excavation on a grave-site in which a total of nine (9) graves were previously relocated as part of mitigation measures for the proposed Eloff Phase 3 mine extension development project. Mulaifa Development Projects' archaeologists and heritage specialist team conducted a field survey for the proposed mining footprint. The survey which was a follow up of the phase two study conducted in 2019 and constitute gravesite mapping and verification of site in question.

This report provides the results of the field study conducted to confirm the status quo of the affected grave-site within the project receiving area. The study was conducted within the framework of the legislations including the Section 36 of the National Heritage Resources Act (Act No 25 of 1999) and will soon apply the Human Tissue Act (1983).

2. AIM OF THE STUDY

The study was commissioned as part of a Phase 3 graves mitigation/test excavation exercise for Eloff Mining Company Pty Ltd (Eloff Phase 3) Mine extension project. The study is part of the grave relocation mitigation process aimed at verifying that all identified graves from the footprint of the mining development have been exhumed and relocated to safer locations. In addition, the study sought to:

- ❑ Confirm possible existence of the graves as could be situated within the area where other graves were exhumed.
- ❑ Conduct site condition survey of all recorded burial grounds and gravesite in the project's primary footprint impact zone. The primary impact zone being the direct path of the development.
- ❑ Make further recommendations on mitigation measures with the view to reduce specific adverse impacts and enhance positive impacts on the affected burial sites.

- Take responsibility for communicating with SAHRA and other related authorities in order to obtain the relevant test excavation permit and thereafter burial/graves exhumation and relocation permits and authorization.

3. SPECIALIST QUALIFICATIONS

Mulaifa Development Projects compiled this Report for Eloff Mining Company Pty LTD (Eloff Phase 3). Mulaifa Development Project led by Mr. M.M Mabuda and Mr. Munyai R.R has more than 15yrs experience in the heritage and cultural resources management consulting and development industry. Both project members are registered with the Association of Southern African Professional Archaeologists (ASAPA) and the PI has CRM accreditation within ASAPA.

4. ASSUMPTIONS AND LIMITATIONS

Regardless of the comprehensiveness of the graves exhumation undertaken, it is necessary to realize that this report speak about graves that are suspected to be still intact in the graveyard identified during the fieldwork. As such the report do not necessarily represent all the possible heritage resources present within the area. Other classes of heritage resources in the area were covered under the Phase 1 HIA study. The present study was restricted to physically un-identifiable burial grounds and graves and in particular graves that are suspected to have not been exhumed and relocated.

This report is in support of the application for test excavation for such suspected burial ground/graves, which will not be disturbed or removed in any way until such time that the heritage authority issues the test excavation and subsequent a grave exhumation permit.

5. HERITAGE LEGISLATION

The present study was conducted in line with applicable legislations and regulations. The identification, evaluation and assessment of any cultural heritage site, artefact, physical cultural properties, burial grounds and graves, intangible heritage or find in the South African context is required and governed by the following legislation:

1. National Environmental Management Act (NEMA) Act 107 of 1998
2. National Heritage Resources Act (NHRA) Act 25 of 1999
3. Minerals and Petroleum Resources Development Act (MPRDA) Act 28 of 2002
4. Development Facilitation Act (DFA) Act 67 of 1995
5. National Heritage Resources Act (NHRA) Act 25 of 1999
 - a) Protection of Heritage resources – Sections 34 to 36; and
 - b) Heritage Resources Management – Section 38

The NHRA stipulates that cultural heritage resources may not be disturbed without authorization from the relevant heritage authority. Section 34 (1) of the NHRA states that “no person may alter or demolish any structure or part of a structure which is older than 60 years without a permit issued by the relevant provincial heritage resources authority...” The NEMA (No 107 of 1998) states that an integrated EMP should (23:2 (b)) “...identify, predict and evaluate the actual and potential impact on the environment, socio-economic conditions and cultural heritage”. In accordance with legislative requirements and EIA rating criteria, the regulations of SAHRA and ASAPA have also been incorporated to ensure that a comprehensive legally compatible HIA report is compiled.

As highlighted in introduction sections of this report, the study specifically focuses on suspected graves which might have been missed for exhumation but they are affected by the planned extension of Eloff phase 3 development project. Law irrespective of their ages protects all burial grounds and individual graves. Furthermore, there are regulations, which control handling and management of human remains and grave goods. Specifically,

in terms of the Section 36 (3) of the National Heritage Resources Act, 1999 (Act No. 25 of 1999) no person may, without a permit issued by the relevant heritage resources authority:

(a) destroy, damage, alter, exhume or remove from its original position or otherwise disturb the grave of a victim of conflict, or any burial ground or part thereof which contains such graves;

(b) destroy, damage, alter, exhume or remove from its original position or otherwise disturb any grave or burial ground older than 60 years which is situated outside a formal cemetery administered by a local authority; or

(c) bring onto or use at a burial ground or grave referred to in paragraph (a) or (b) any excavation equipment, or any equipment, which assists in the detection or recovery of metals.

Therefore, in addition to the formal protection of culturally significance graves, all graves which are older than 60 years and which are not located in a cemetery (such as ancestral graves in rural areas), are protected. Communities, which have an interest in the graves, must be consulted before any disturbance can take place. The graves of victims of conflict and those associated with the liberation struggle will have to be included, cared for, protected and memorials erected in their honour where practical. Regarding graves and burial grounds, the NHRA distinguishes between the following:

- Ancestral graves
- Royal graves and graves of traditional leaders
- Graves of victims of conflict
- Graves of individuals designated by the Minister by notice in the Gazette
- Historical graves and cemeteries
- Other human remains, which are not covered in terms of the Human Tissue Act, 1983 (Act No.65 of 1983).

All human remains are also protected under the Human Tissue Act, 1983 (Act No.65 of 1983). In addition, Municipal Ordinances provide for both burial grounds/cemetery and gravesites within certain localities.

6. SITE LOCATION

The proposed site of development is located at portion 16 of Strydpan 243 IR farm in Delmas Town of Mpumalanga Province. The site is marked by the following coordinates, S26° 12' 05" E28° 39' 02". The affected gravesite is 27m X 23m in extent.

7. GRAVE OUTSIDE NHRA PROTECTION

Graves younger than 60 years of age fall under Section 2(1) of the Removal of Graves and Dead Bodies Ordinance (Ordinance no. 7 of 1925) as well as the Human Tissues Act (Act 65 of 1983) and are the jurisdiction of the National Department of Health and the relevant Provincial Department of Health and must be submitted for final approval to the Office of the relevant Provincial Premier.

This function is usually delegated to the Provincial MEC for Local Government and Planning, or in some cases the MEC for Health Services. Authorisation for exhumation and re-interment must also be obtained from the relevant local or regional council where the grave is situated, as well as the relevant local or regional council to where the grave is being relocated. All local and regional provisions, laws and by-laws must also be adhered to. In order to handle and transport human remains the institution conducting the relocation should be authorised under Section 24 of Act 65 of 1983 (Human Tissues Act).

Graves older than 60 years, but younger than 100 years fall under Section 36 of Act 25 of 1999 (National Heritage Resources Act) as well as the Human Tissues Act (Act 65 of 1983) and are the jurisdiction of the South African Heritage Resource Agency (SAHRA).

The procedure for consultation regarding Burial Grounds and Graves (Section 36(5) of Act 25 of 1999) is applicable to graves older than 60 years that are situated outside a formal cemetery administered by a local authority. Graves in the category located inside a formal cemetery administered by a local authority will also require the same authorisation as set out for graves younger than 60 years over and above SAHRA authorisation. If the grave is not situated inside a formal cemetery but is to be relocated to one, permission from the local authority is required and all regulations, laws and by-laws set by the cemetery authority must be adhered to.

8. PREVIOUSLY UNIDENTIFIED BURIAL SITES/GRAVES

The proposed mining development is situated in a historic and contemporary cultural landscape with prehistoric, historic and contemporary human settlements and homestead remains. Given the history of human occupation of the affected area, there is a possibility that previously unknown burials may be discovered during subsurface construction work. Should burial sites be accidentally found, they must be reported to the nearest police station to ascertain whether or not a crime has been committed and a heritage expert should be called in to establish whether the burial is covered by the NHRA. If there is no evidence for a crime having been committed, and if the person cannot be identified so that their relatives can be contacted, the remains must be kept in an institution where certain conditions are fulfilled. These conditions are laid down in the Human Tissue Act (Act No. 65 of 1983). In contexts where the local traditional authorities give their consent to the unknown remains to be re-buried in their area, such re-interment may be conducted under the same regulations as would apply for known human remains.

9. HERITAGE CONSULTATION

The research team has been liaising with SAHRA officials, Eloff Mining Company Project Development Team members to deal with aspect of the potential existence of graves that might not have been exhumed for relocation on the affected project area. Although

consultation is limited in scope, in that it entails the client and the competent authority for the sole purpose of test excavation permit application process.

10. METHODOLOGY

The methods in this study followed an HIA process that consisted of three steps:

Step I – Literature Review: The background information to the field survey leans greatly on the Heritage Mitigation Report completed for Universal Coal Development I Pty Ltd Kangala colliery by Mulaifa Development Project and, 2019.

Step II – Physical Survey: A physical survey was conducted on foot through the affected gravesite within the mine development project area, in particular where the grave in question is located by qualified archaeologists (26th April 2023), aimed at mapping and documenting gravesite and its in-situ status.

Step III – The third step involved the recording and documentation of relevant gravesites, as well as the assessment of sites in terms of the heritage impact assessment criteria and report writing.

Step IV- The final step will involves the test excavation permit application with SAHRA and subsequent test excavation exercise.

11. RESULTS: BURIAL GROUNDS AND GRAVES

During thorough inspection of the gravesite, it was discovered that the entire gravesite has been heavily damaged by animal burrowing, and thus makes it impossible to figure out the existence of the possible graves to be rescued.

As highlighted in previous sections, burial grounds and gravesites are accorded the highest social significance threshold. They have both historical and social significance and are considered sacred. Wherever they exist they may not be tempered with or interfered

with during any proposed development. It is important to note that the possibility of encountering human remains during subsurface earth moving works anywhere on the landscape is ever present.



Plate 1. The affected gravesite in the middle of the farm.



Plate 2. Evidence of animal burrowing at the affected gravesite.

11. SUMMARY RECOMMENDATIONS AND CONCLUDING REMARKS

This report is limited to survey and confirmation of location of burial ground and gravesites in relation to Eloff Mining phase 3 development project. No other physical cultural properties are discussed herein. Burial ground and graves are classified as of high cultural significance. Grave(s) that will be exposed after test excavation exercise, should be mitigated prior to the mining construction works commencing. The site identified is on the direct path of the mining development footprint and therefore should be relocated.

- i. All graves identified within the mine footprint are under threat one way or the other from the proposed mining and associated developments perspective. Such recorded graves directly affected should be rescued or salvaged by exhumation and relocated as soon as the necessary permits are obtained.
- ii. An urgent Burial Ground and Graves heritage permit from SAHRA will be applied for, should the test excavation prove that the said gravesite still contain grave contents or remains. This will be done in order to allow all affected graves that fall under the NHRA to be exhumed and relocated as stipulated by applicable laws and SAHRA regulations.