

# POST-ESIA LICENSING COMPLIANCE MONITORING FOR MINING SECTOR

## CASE STUDY

### BASE TITANIUM IN KWALE COUNTY, KENYA

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BY

**Robert Orina**  
**Deputy Director**  
**Environmental**  
**Assessments**



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# Introduction

- Mining project is usually a very degradative activity with serious adverse environmental and **social impact**



# Introduction

- ESIA provides opportunity to assess the impacts and give mitigation measures
- Therefore there is need for post-licensing compliance monitoring to ensure implementation of the mitigation measure



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# Regulatory Framework

- In Kenya ESIA is governed by the Environmental and Coordination Act, 1999 (EMCA) and the EIA/Audit Regulation of 2003
- EMCA gives the National Environment Management Authority (NEMA) the mandate to administer the ESIA process
- The success of the ESIA process is the compliance with EIA Conditions
- Failure to comply attracts legal consequences which include, project stoppage, restoration orders, prosecution



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# Overview Base Titanium Mining Project

- Initiated in 2001 before any legal framework
- ESIA's conducted for subsequent expansion projects and utilities under the 2003 EIA/audit regulations
- Undertakes mining of three minerals, rutile, ilmenite and zircon in Kwale County, Coastal region



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# EIA Conditions and Compliance Measures

- Commitment to adhere to EMP
- Compliance to submission of annual audit
- Compliance to relevant laws, regulations and guidelines
- Compliance with improvement orders
- Compliance to;
  - Water quality and quantity
  - Radioactivity
  - Occupational health and safety
  - Biodiversity
  - Ship loading and infrastructure
  - Rehabilitation of mined and affected areas

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# Objective of compliance monitoring

- Ensure adherence to ASIA conditions
- Minimize negative environmental  
Impacts
- Protect Biodiversity and ecosystems
- Evaluate and enhance social  
responsibility



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# Monitoring parameters

- Air Quality
- Water Quality
- Soil and Land Use
- Noise Levels
- Biodiversity and Habitat Preservation

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# Monitoring methods

- On-site inspections by NEMA inspectors
- Stakeholder Engagement
- Community Feedback Mechanisms through incident reporting
- Audit reports

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# Success Stories and Lessons Learned

- **The only project that has paid the environmental Deposit Bond without the relevant legislative framework**
- **Periodic compliance Reports**
- **Documentation of corrective Actions**
- **Transparency and Accountability of project operations**
- **Simultaneities concept in mining project management**



# Lessons

- Proactive engagement with the Regulatory Authority to clarify regulatory requirements before hand- Pre-Application Consultations (PAC).
- Compliance with statutory requirements – Design Phase, Construction phase, Operational phase and decommissioning phase
- Self- Regulation - being proactive to meet the compliance requirements using the international standards
- Adequate, meaningful and inclusive PAP and/or stakeholders engagement/involvement
- Negotiate Compliance (*Where applicable*)
- Compliance Assistance Programme -



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# Challenges

- Political interest and interference in compliance monitoring
- Low levels of community literacy
- Limited skills and equipment by environmental inspectors in monitoring mining activities
- Lack of enactment of Deposit Bond legislation



# Benefits of compliance monitoring

- The company has spent a colossal amount of money in mitigation thus promising long-term Environmental Sustainability
- Positive Community Relations has been fostered
- Regulatory Compliance and Risk Mitigation



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