



FIRST QUANTUM

MINERALS LTD.

BY EMAIL:

Ref: AL OTH 134/2023

Special Rapporteur on the Situation of Human Rights Defenders

United Nations Human Rights Council

Palais Des Nations

1211 Geneva 10

Switzerland

28 February 2024

Attention: Mary Lawlor

Invitation to respond – First Quantum Minerals Ltd

We refer to your letter dated 18 October 2023 addressed to Mr Tristan Pascall, the Chief Executive Officer of First Quantum Minerals Ltd (“**FQM**”). The Letter invites FQM to provide a response to, among other things, the allegation that the action instituted against the South African Resource Watch (“**SARW**”) constitutes a Strategic Lawsuit Against Public Participation (a “**SLAPP** action”). Nothing could be further from the truth in this instance.

Firstly, while the Letter provided FQM with sixty days to respond, we must hasten to point out that the Letter was never actually received by anyone within FQM. In fact, we only managed to get access to the Letter by downloading it from the United Nations Human Rights Office of the High Commissioner webpage, having been made aware of its existence by third parties.

Therefore, even though the sixty-day period has elapsed, in the interest of fair evaluation it is essential that our response be fully captured and appropriately recorded.

In relation to the substantive issues raised in the Letter, FQM categorically denies that it instituted the action against SARW with the intention to intimidate or censor that organisation. On the contrary, the action was instituted as a last resort to protect the Company’s reputation after extensive interactions with SARW to address the unfounded defamatory statements it has published about FQM.

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In order to provide fuller context, we have taken the liberty of attaching a copy of the summons we issued against SARW as it will assist with painting a clear picture of the factual, scientific and legal inaccuracies that forced us to act as we have. We have also attached, for your additional review, a statement by one of our employees that was filed in support of a complaint we previously made to the Zambia Chamber of Mines prior to issuing the summons. The complaint highlights a particularly troublesome issue, which is expanded in paragraph 4 of the attached statement. This specific issue alone would have warranted legal action to protect our interests.

Sequence of Events

1. The following sequence of events gave rise to the unenviable position FQM found itself in and, we consider left us with no other alternative but to issue summons to protect our reputation.
 - 1.1 SARW published a report on its website during February 2019 which contained untrue and unfounded defamatory statements concerning us (the "**First Report**").
 - 1.2 We advised SARW that the statements were untrue and defamatory and requested SARW to remove the First Report from its website. We also invited SARW to visit our mine in order to conduct a joint validation process to verify its initial findings as stated in the First Report.
 - 1.3 SARW accepted our invitation and removed the First Report.
 - 1.4 In April 2019, a delegation from SARW visited our mine site for a period of two days and spent several other days interacting directly with the local community. During the visit we comprehensively addressed the contentious issues raised in the First Report and questions posed by members of the SARW delegation. The delegation was also given the opportunity to conduct a tour of our mining operations.
 - 1.5 During May 2020, more than a year after the aforementioned interaction, we received a letter from SARW requesting our response to so-called "*key findings*" regarding our mining operations which it intended to publish in a further report (the "**Request**").
 - 1.6 We provided SARW with a detailed and comprehensive response ("**Our Response**"), which was attached to a letter from our attorneys addressed to SARW, advising it that the Request contained substantial factual, scientific and legal inaccuracies which we addressed in Our Response.

- 1.7 On 15 December 2020 a report titled "*First Quantum Minerals corporate governance and social responsibility: Kansanshi Mine*" (the "**Second Report**") was published on the website of SARW.
- 1.8 The Second Report still contained a number of defamatory and untrue statements, which were comprehensively addressed and refuted in Our Response. SARW went so far as to accuse us of committing human rights abuses without any credible evidence supporting such an accusation.
- 1.9 The Second Report referred to the Request and the letter addressed to SARW by our attorneys. However, SARW neither made any reference to Our Response nor did it attach Our Response to the Second Report, thus leaving the readers of the Second Report with the impression that we failed to respond to the Request and that the defamatory statements must therefore be true. In light of the foregoing, we had no other recourse than to issue summons against SARW.

Last Resort

2. We wish to reiterate that the issuing of the summons was a last resort after we had made extensive efforts with SARW to allow them to address the factual, scientific, and legal inaccuracies of the allegations levelled against FQM. Public participation and commentary, and engagement with the same by extractive industry operators, is key in creating and maintaining a social licence to operate. However, such participation and commentary must be conducted in good faith, and operators must be permitted to defend themselves in instances of plainly false and misleading reporting or publication. FQM therefore considers that, based on the chronology of facts and events outlined above, the issuing of the summons did not constitute a SLAPP action, and was instead an unavoidable and necessary measure to protect the company and its stakeholders (including its employees and the local communities it works with) from the repercussions of the publication of untrue and extremely defamatory statements in the public domain without any transparency and accountability.

Resolution with SARW

3. The issues between FQM and SARW were finally resolved through a process of dialogue and a consent order was signed by the parties ending the legal action. The consent order set forward a mechanism where SARW has open access to FQM projects and communities in the region. Pursuant to the consent order, FQM is to be given a fair opportunity to participate in

community surveys as well as comment on any publications prior to the publications being made.

We firmly believe that this resolution further substantiates the position that FQM's action against SARW was not a SLAPP action but rather a genuine attempt by FQM to ensure SARW's reporting reflects the truth and is not defamatory in nature.

Moreover, FQM is pursuing fairness and balance by delivering this response to the Letter, notwithstanding the fact that FQM possesses no record of having received it.

Specific Responses to the Letter

We reiterate the comprehensive explanation we have offered above in relation to the dispute with SARW.

Governments remain the primary duty holders for human rights protection, however we recognise that we must respect and protect human rights within our sphere of influence. FQM's approach to human right is guided by internationally recognized principles and standards including:

- a. Universal Declaration of Human Rights;
- b. Voluntary Principles on Security and Human Rights;
- c. ILO Declaration on Fundamental Principles and Rights at Work;
- d. UN Declaration on the Rights of Indigenous Peoples;
- e. Guiding Principles on Business and Human Rights;
- f. UN Protect, Respect and Remedy Framework

These standards and principles are adopted in our Human Rights Policy. Human rights impact assessments are embedded in our social impact management programs and our land acquisition and resettlement programs. Further, in respect of our supply chain, we only conduct business with suppliers and contractors who maintain zero tolerance for human rights violations, and we reserve the contractual right to terminate the contract of any provider who breaches the law, human rights standards referenced above or any of our policies.

We reaffirm our detailed account of the events preceding the lawsuit against SARW. Additionally, we emphasize once more that FQM does not participate in the intimidation of human rights defenders; rather, we strive to collaborate with them to pinpoint areas for enhancement. We have demonstrated this position by the consent order signed with SARW guaranteeing FQM greater

participation in the activities of human rights defenders in the communities and permitting us a chance to comment on any potential issues identified by such defenders.

We remain committed to a process of constructive dialogue with organizations working within our host communities and are open to fair, constructive criticism by journalists, civil societies and any human rights defenders in general.

To ensure that future communications are received by FQM, please direct communications to myself at john.gladston@fqml.com with a copy to our company secretary at cosec@fqml.com

Yours faithfully,

A handwritten signature in black ink that reads "J. Gladston". The signature is written in a cursive, flowing style.

John Gladston
Director Corporate Affairs
First Quantum Minerals Ltd

Attachments:

- A. Summons-First Quantum Minerals v SARW, dated 8 Mar 21
- B. Statement by Employee Regarding SARW, dated 21 Sep 20