



“Aret Kokin Nu Laplaz” [AKNL] / “Stop Stealing Our Beaches” – Civil society coalition in Mauritius against the privatisation of the last wild beaches remaining and the destruction of their unique ecosystems.

Email: contact@aknl.net Website: www.aknl.net

Aret Kokin Nu Laplaz
c/o 70, Ganga Lane
Belle Rose, Rose Hill
Mauritius

The Hon Kavydass Ramano

Minister of Environment, Solid Waste Management and Climate Change
Ken Lee Tower, Cnr Barracks & St Georges Streets,
Port-Louis

Wednesday 4 December 2019

Dear Honourable Minister

On behalf of the *Aret Kokin Nu Laplaz* (AKNL) civil society coalition, we would like to congratulate you on your election and nomination to the post of Minister of Environment. We would like also to submit this dossier to you, on pressing environmental battles, in the hope that you will correct, rather than continue, the catastrophic course of action of your predecessor regarding the destruction of environmentally-sensitive areas (ESAs) in the coastal zone.

Our dossier will reach you while you are probably away participating in the 25th Conference of the Parties to the United Nations Framework Convention on Climate Change (COP 25 of the UNFCCC) taking place in Madrid. Precisely, our dossier concerns a key emerging notion in the fight against climate change, and one that is directly relevant to us in Mauritius: the need to protect Blue Carbon. We hope that you will have the opportunity while in Madrid to engage in one of the COP25 sessions devoted to this issue.

“Blue Carbon is the carbon stored in coastal and marine ecosystems:

- *Mangroves, tidal marshes and seagrass meadows **sequester and store more carbon per unit area than terrestrial forests** and are now being recognised for their role in **mitigating climate change**.*
- *These ecosystems also provide **essential benefits for climate change adaptation**, including **coastal protection and food security** for many coastal communities.*
- *However, if the ecosystems are **degraded or damaged**, their **carbon sink capacity is lost or adversely affected**, and the **carbon stored is released**, resulting in **emissions of carbon dioxide (CO₂) that contribute to climate change**.*
- ***Dedicated conservation efforts** can ensure that coastal ecosystems continue to play their role as long-term carbon sinks.”*

This description comes from a brief by the UNESCO-backed [Blue Carbon Initiative](http://www.thebluecarboninitiative.org) (<https://www.thebluecarboninitiative.org>) that was issued in November 2017. At around the same time GEF and UNDP started implementing a project to protect ESAs in the coastal zone of Mauritius:

“Mainstreaming Biodiversity in the Coastal Zone of the Republic of Mauritius”. At around the same time, your predecessor started approving EIA licenses at speed in the coastal zone to hotels, luxury villa estates and Smart City projects, despite these being direct threats to coastal ESAs. In effect the systematic destruction of a series of Blue Carbon assets in Mauritius was approved by your predecessor while in office. It is thus with great sadness that we enclose also a list of the 40 EIA licenses your predecessor approved, that have made a mockery of the USD4.7 million of funding the GEF has granted via UNDP for the protection of coastal ESAs in Mauritius.

Honourable Ramano, you have the power and opportunity to save our last coastal ESAs from the greed of developers. As Minister of Environment, the Environment Protection Act gives you the power under its Section 24 (3) to correct and cancel EIA license approval decisions at any subsequent time, if new information emerges showing a material risk to the environment. This is in line with the international **Precautionary Principle** (or **Precautionary Approach**) endorsed in 1982 when the [World Charter for Nature](#) was adopted by the [United Nations General Assembly](#). The **Precautionary Principle** was then integrated with many other legally binding international treaties such as the [Rio Declaration](#) and [Kyoto Protocol](#). The principle 15 of the [Rio Declaration](#) notes: *"In order to protect the environment, the precautionary approach shall be widely applied by States according to their capabilities. Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation."*

These past years, we, simple citizens, have had to take on a series of David v/s Goliath battles because your predecessor and your officers neglected to abide by the Precautionary Principle when examining EIA license applications. We have had to deploy whatever minuscule means at our disposition to do the work that your predecessor and your officers should have done before issuing EIA licenses: carry out scientific assessments of ESAs. We have had to frantically rush to the Environment and Land Use Appeal Tribunal (ELAT) a number of times to lodge appeals to try to block a series of catastrophic EIA decisions. We have had to find lawyers, solicitors, experts, asking them to work for free or for minimal costs. Even after all that, we are having to overcome all sorts of procedural objections put forward by the lawyers of the Government and developers, in shameful attempts to prevent the courts and tribunals from examining the substance, merits and contents of our appeal cases.

Mauritius is not a paradise for environment lovers. All this has forced AKNL in early 2019 to alert the international community that ex-Minister Sinatambou was rushing to approve EIA licenses in the coastal zones while a GEF-UNDP project to save the ESAs had barely started, entitled *“Mainstreaming Biodiversity in the Coastal Zone of the Republic of Mauritius”*. We have had to warn the GEF Council that their funds are at risk of being wasted.

1. Cancellation of EIA license issued to beach hotel project of West Coast Leisure Ltd

We submit to your kind consideration please the same request that AKNL had sent to ex-Minister Sinatambou in February this year, with the international community in copy. We asked him to save 4 wetlands, one sand dune, 2 pristine coral communities, in short an entire still functioning natural ecosystem that is maintaining in Bel Ombre one of the last still healthy coral lagoons of Mauritius. This entire ecosystem will be destroyed by a hotel project, namely that of West Coast Leisure Ltd. In support of our request, **we submitted to ex-Minister Sinatambou a full set of expert studies, including a wetlands survey by experienced South African university researchers on wetlands whose findings showed that the National Ramsar Committee had failed to properly assess the existence of**

wetlands present on site and the ecosystem services they render, and how all this will be irretrievably lost if the hotel was to be built. We submitted also a land survey and a lagoon survey, demonstrating the glaring omissions and failures in the EIA approval process.

In return we received an appalling rejection letter through UNDP dated 13 June 2019 that your predecessor got his staff to send us. The Ministry avoided to address specific issues clearly, formulating instead vague general considerations, without any evidence in support. We copy below an extract that will remain for ever as a monument of ministerial failure to understand the very basic notion of sustainable development. The whole world, with the climate crisis on us, knows that there will be no economic growth if environment protection is not ensured first, especially in the case of Small Island Developing States. Yet the Mauritius Ministry of Environment views environment protection as a potential threat to economic development:

Licences have been granted based on a thorough assessment by all concerned expert authorities in line with provisions of the EPA and the provisions of the Land Use Plans in place and a number of environmental legislation and guidelines. It is to be noted that sustainable development refers to the promotion of economic development whilst taking into consideration the environmental and social aspects. Therefore, this should not be used as a means to stop development, but rather as a way of ensuring that development promotes environmental protection and social inclusiveness and integration.

Therefore, our first appeal to you, Honourable Minister, is to cancel the EIA license issued to West Coast Leisure Ltd. You will find enclosed with this letter the wetlands survey and other expert studies AKNL commissioned. **We also would be very honoured if you would agree to do a site visit so that you can see for yourself this coastal ecosystem that future generations are about to lose forever.**

2. Recognition of legal right of citizens and civil society actors to challenge EIA approval decisions

Honourable Minister, our second appeal to you concerns the shocking and unacceptable attitude of the Ministry of Environment and of the State Law Office (SLO) when members of the public and civil society actors like AKNL go to the Environment Appeal Tribunal (ELAT) to ask that an EIA license issued to a developer be cancelled. The SLO and your Ministry systematically ask the magistrates to throw out our cases on the ground that members of the public do not have the legal right ("*locus standi*") to put such cases. This attitude towards civil society raises very troubling questions and puts Mauritius in a very, very bad light. Are we living in 2019 or in 1919? Is Mauritius truly becoming a modern democratic country?

Honourable Minister, the duty to protect the environment is imposed on all citizens of Mauritius by the EPA in its section 2: "*It is declared that every person in Mauritius shall use his best endeavours to preserve and enhance the quality of life by caring responsibly for the natural environment of Mauritius.*" Are the Ministry and the SLO using their best endeavours to preserve the natural environment of Mauritius when they tell the judges and magistrates that citizens do not have any legal right to challenge EIA licenses? **Hence, our second appeal to you please is that the Ministry of Environment and the SLO from now on cease to invoke this most antidemocratic argument in the courts and tribunals. All Mauritian citizens have not only the right, but the duty, to protect our country's natural heritage.**

3. Reinstate the 42-day timeframe for appeals at the Environment and Land Use Appeal Tribunal (ELAT)

Honourable Minister, **our third appeal to you please is the reinstatement of the 42-day timeframe for appeals at the ELAT. We would be immensely grateful to you if you were to circulate at your earliest convenience please in Parliament a proposal to correct a massive injustice inserted in the law that regulates how the ELAT should operate.** Since the Finance Act 2016, the law governing the ELAT has been modified so that citizens only have 21 days to lodge an appeal at the ELAT, compared to 42 days previously. On top of that, all legal and scientific arguments, evidence and statements must be submitted in one go, within these 21 days, whereas before they could be submitted sequentially over the course of a few months. The previous system was not abusive nor arbitrary as the magistrates at the ELAT enforced tight timeframes for each stage in the process. One has to bear in mind that developers often take more than a year to prepare an application for EIA application or a Building Permit. They also hire professionals who are paid big money and who work full time. Civil society is operating with very limited financial means and during the spare time available to citizens. It is absolutely unfair, wrong and abusive that Government is asking civil society to do in 21 days not only the kind of technical work that professionals working full time have taken many months to do for developers, but to also on top couch all this technical work into a thorough legal dossier.

The justification given by the Ministry in its letter dated 13 June is that the reduction to 21 days is aimed at harmonising the appeal timeframe with that of the Civil and Criminal Courts. That is a totally flawed reasoning. An appeal in a civil or a criminal case comes after months, if not years, of first level judiciary proceedings during which the person(s) involved have had the time to fully develop arguments and evidence before going on appeal. Whereas in the case of appeals against an EIA license approval, it is an appeal mechanism against an ADMINISTRATIVE decision which has been taken after months of investigations by a Ministry and its officers, that once the 4 weeks period for public comments has lapsed, progress in a totally *non-public* manner. Direct interactions even take place with developers. Members of the public in contrast are not involved and are kept at distance. Members of the public during that time count on the good work of the Ministry to set aside EIA applications that are not adequate. In the case of West Coast Leisure Ltd, the approval should never have been granted.

The changes brought to the appeal timeframe for the ELAT have effectively deprived citizens of having the ability to exert a right of appeal. The central, and even only, consideration when making such radical changes should have been to assess whether the proposed changes would serve justice better. They do not. The entire appeals process for citizens at the ELAT has become a farce.

4. Temporary freeze on all EIA licenses issued for projects in the coastal zone until the completion in 2021 of the GEF-UNDP project “Mainstreaming Biodiversity in the Coastal Zone of the Republic of Mauritius”

Honourable Minister, besides cancelling the EIA license to West Coast Leisure Ltd, our fourth appeal to you therefore is that all the EIA licenses approved by your predecessor in the coastal zone are frozen until completion of the ESA mapping underway by GEF-UNDP consultants.

The UNDP HQ has initiated an audit of the UNDP Country Office, with an interim report due to be circulated soon. A team was in Mauritius at the end of July. Whether UNDP will have the courage to

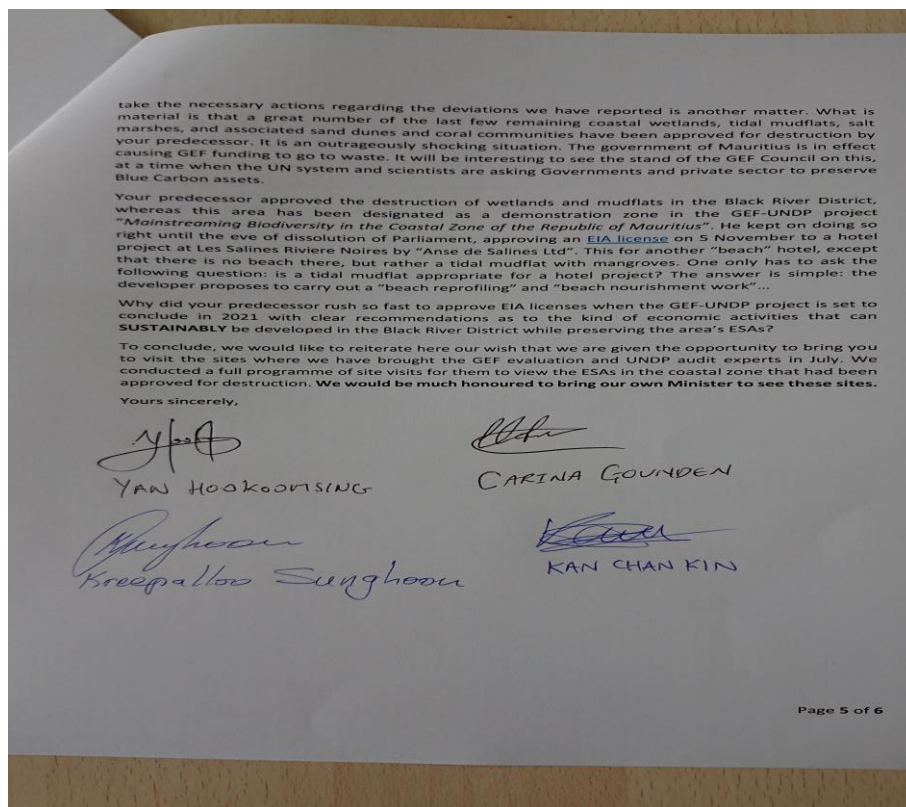
take the necessary actions regarding the deviations we have reported is another matter. What is material is that a great number of the last few remaining coastal wetlands, tidal mudflats, salt marshes, and associated sand dunes and coral communities have been approved for destruction by your predecessor. It is an outrageously shocking situation. The government of Mauritius is in effect causing GEF funding to go to waste. It will be interesting to see the stand of the GEF Council on this, at a time when the UN system and scientists are asking Governments and private sector to preserve Blue Carbon assets.

Your predecessor approved the destruction of wetlands and mudflats in the Black River District, whereas this area has been designated as a demonstration zone in the GEF-UNDP project "*Mainstreaming Biodiversity in the Coastal Zone of the Republic of Mauritius*". He kept on doing so right until the eve of dissolution of Parliament, approving an [EIA license](#) on 5 November to a hotel project at Les Salines Riviere Noires by "Anse de Salines Ltd". This for another "beach" hotel, except that there is no beach there, but rather a tidal mudflat with mangroves. One only has to ask the following question: is a tidal mudflat appropriate for a hotel project? The answer is simple: the developer proposes to carry out a "beach reprofiling" and "beach nourishment work"...

Why did your predecessor rush so fast to approve EIA licenses when the GEF-UNDP project is set to conclude in 2021 with clear recommendations as to the kind of economic activities that can **SUSTAINABLY** be developed in the Black River District while preserving the area's ESAs?

To conclude, we would like to reiterate here our wish that we are given the opportunity to bring you to visit the sites where we have brought the GEF evaluation and UNDP audit experts in July. We conducted a full programme of site visits for them to view the ESAs in the coastal zone that had been approved for destruction. **We would be much honoured to bring our own Minister to see these sites.**

Yours sincerely,



Copy to:

- The media

List of Enclosed Documents:

- Issue Brief on Blue Carbon – IUCN, November 2017
- List of 40 EIA licenses approved by ex-Minister Sintambou in the coastal zone since start of the GEF-UNDP project *“Mainstreaming Biodiversity in the Coastal Zone of the Republic of Mauritius”*
- Request letter sent by AKNL to ex-Minister Sintambou on 22 February 2019 to cancel the EIA license issued to hotel project in Bel Ombre by West Coast Leisure Ltd
- West Coast Leisure Ltd: wetlands survey and other expert studies commissioned by AKNL.