

**DOWLADDA PUNTLAND
EE SOOMAALIYA
XAFIISKA
AGAASIMAHA GUUD EE MACDANTA
IYO SHIDAALKA**



**PUNTLAND STATE OF
SOMALIA
OFFICE OF THE DIRECTOR GENERAL OF
PUNTLAND PETROLEUM AND MINERALS
AGENCY**

Ref: AGG/MSH/DPL/10/2015/1

Nairobi

Date: September 10, 2015

To

Mr. Graham Mayhew, EVP Multi-Client, Africa
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RE: Seismic Survey Signed With The Federal Government

Dear Mr.

I am writing to you with regards to your recent agreement reached and signed in Mogadishu between yourselves and the Federal Government of Somalia.

On the outset, we welcome any agreement that is legally and constitutionally valid and has benefit for the people of Somalia. We, as the only Federal State in the country, are and have been tirelessly working to better the lives of the people of Somalia. That said, it is our position to inform you that your agreement is illegal and you have been misled about the current legal situation in Somalia.

As you are aware, Somalia has undergone profound changes in the past 25 years, notably the complete restructuring of its constitution and governance model. Somalia is now a Federal Nation, consisting of Federal states. Such a governance model has clear guidelines as to authority and powers accorded to both Federal Government and the Federal Member States. In relation to this, it is advisable that you re-read the Federal Constitution of Somalia (attached here), the final authority in the country, which clarifies who has what in terms of powers. This Federal provisional Constitution was adopted and ratified in 2012 making all previous laws, including the 2008 Somalia's Petroleum Law, redundant. At the time of ratification, Somalia had only one Federal state in place- Puntland.

The Somalia's Federal Provisional Constitution.

Article 54 of the Somalia's Federal Provisional Constitution States that

The allocation of powers and resources shall be negotiated and agreed upon by the

Federal Government and the Federal Member States (pending the formation of all the Federal Member States), except in matters concerning: (A) Foreign Affairs; (B) National Defense; (C) Citizenship and Immigration; (D) Monetary Policy, which shall be within the powers and responsibilities of the Federal Government.

The above Article states that the Somalia Federal Government has 4 powers only and the Natural resources does NOT include these powers. The rest of Somalia's political powers are now with the existing Federal Members States and those states about to be established. Therefore, your agreement signed by the Federal Government is invalid and illegal.

The Constitution further explains that the Somalia's Federal Government and the Federal Member States must respect each other's powers and must not assume and exercise more powers than the Constitution allocates, which is what the Federal Government is currently doing. This is clearly stated in article 51 as below;

(4) All levels of governments must comply with the national Constitution, without any government assuming more powers than the Constitution allocates.

With this in mind, the Federal Government has been accorded only 4 areas as article 54 explains and article 51 explains the way both Regional States and Federal Government should not assume powers it was not accorded by the constitution of the Country. The constitution also makes it clear how the Nation's natural resources should be managed and who has authority to licence such agreements as you have recently signed.

Furthermore, the Federal Constitution under article 142 states that;

(1) Until such time that all the Federal Member States of Somalia are established and the adopted Federal Member State Constitutions are harmonized with the Somali Federal Constitution, the Federal Member States existing prior to the provisional adoption of this Provisional Constitution by a National Constituent Assembly shall retain and exercise powers endowed by their own State Constitution.

At the time this constitution was ratified in 2012, Puntland was the only State in existence in Somalia and as such, Puntland retained the powers over it's natural resources in it's entirety. Therefore, the Federal Government has no powers to issue any awards in the State Of Puntland or even any other part of Somalia. Thus, the only awarding body in Puntland shall and always

will be the Puntland Government represented by the Puntland Petroleum and Minerals Agency and guided by the laws within the Constitution of the state; the Puntland Constitution. Puntland's Constitution accords itself the following under article 54;

1. *Puntland natural resources belong to the people of Puntland and shall be benefitted from only in accordance with the law.*
2. *Puntland State is responsible for the protection of and benefit from the natural resources of Puntland.*
3. *Puntland State shall make agreements with national or foreign companies and give them the right to benefit from natural resources.*

For your information, we have had the opportunity to study the maps of your planned Seismic survey in Somalia's Indian Ocean and immediately realized that it extends about 45kms into Puntland territory, making the entire agreement illegal and therefore Null & void in the eyes of the Federal Constitution and that of Puntland.

We, therefore, wish to give you the clearest warning that you are in no way allowed to enter Puntland waters and should you illegally do so, trying to acquire seismic data, we will defend our waters, and will have no choice but to board the vessel/s and seize the vessel/s. We will also detain those on board to question them for illegally violating our resources, waters and our sovereignty.



Regards

Issa Mohamud Farah
Director General
Puntland Petroleum & Minerals Agency (PPMA)
Bosaso, Puntland, Somalia.

CC: Office of The President, Puntland State of Somalia

CC: Office Of Interior Minister, Puntland State Of Somalia
CC: Office Of The Prime Minister, Federal Government of Somalia
CC: Minister of Natural Resources, Federal Government of Somalia,
CC: Ministry of Foreign affairs, Kingdom Of Norway (Via The Norwegian
Embassy, Nairobi)