

THE IRREFUTABLE FACTS

3 MINING PERMITS PR1323, PR1324 & PR1325 ARE VALID



Spotlight | DRC

Pol Huart faces Dan Gertler in battle for Tshopo iron and gold

Belgian mining engineer Pol Huart's opponent in his legal fight to keep his three gold and iron ore projects in northwest Congo-K is no small player. The rival in question, Iron Mountain Entreprises, which lays claim to the same licences, [...]

— Published on 06/11/2018 at 04:30 GMT • Reading time 3 minutes

Given these realities

- Priority for processing: the mining right is granted to the first applicant who meets the eligibility requirements for this right
- The mining registry is prohibited from processing any application for an area already under processing or already allocated

Therefore

a mining square can only be allocated to a single mining permit

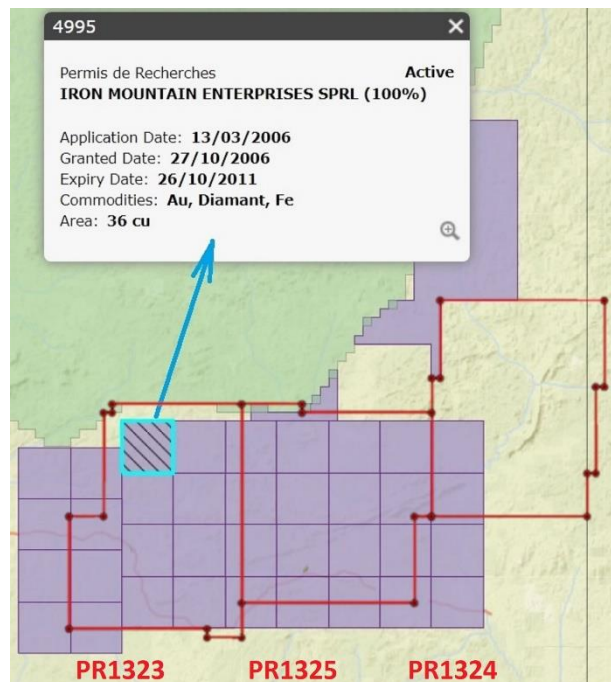
ANY PERMIT ASSIGNED TO A MINING SQUARE IMPLIES THE NON-EXISTENCE OF ANY SUBSEQUENT MINING PERMIT ON THIS SQUARE

Following a request for 36 mining permits (PRs) by a fictitious applicant on March 13, 2006, the Congolese authorities granted 36 PRs on October 27, 2006, covering the 3 PRs 1323, 1324, and 1325 requested on July 9, 2003 and granted on February 17, 2006.

To allow for the existence of these 36 PRs, the authorities had to consider that the 3 PRs had never existed.

However, these 3 PRs were granted in full compliance with mining legislation, as evidenced by these 3 grant files.

[1323](#) [1324](#) & [1325](#)



By issuing unfavorable cadastral advices more than six months after the mining permits were granted by Ministerial Order, the Congolese authorities considered these 3PRs to have never existed. Indeed, these cadastral opinions are issued at the end of the cadastral study; if they are negative, the permit application is closed without further action.

IMPOSSIBLE AND ILLEGAL

These unfavorable cadastral advices imply an **impossible** time-travel; they are therefore non-existent administrative acts.

These unfavorable cadastral advices violate [Article 48 of the Mining Code](#),

This article closes the cadastral study at the time the favorable cadastral opinions are issued.

THE UNFAVORABLE CADASTRAL ADVICES ISSUED ON 12 SEPT 2006 MORE THAN 6 MONTHS AFTER THE GRANTING OF THE PERMITS AND MORE THAN 20 MONTHS AFTER THE FAVORABLE CADASTRAL ADVICES ON 10 MARCH 2005

REPUBLICUE DEMOCRATIQUE DU CONGO	REPUBLICUE DEMOCRATIQUE DU CONGO
<p>the FAVORABLE cadastral notice of March 10, 2005 Avis cadastral FAVORABLE au 10 mars 2005</p> <p>Kinshasa, le 10 MAR 2005</p> <p>CADASTRE MINIER</p> <p>N°Réf/CAMI/DG/ 411 /2005</p> <p>A Monsieur l' Administrateur-Gérant de la société RUBI RIVER Sprl 290, avenue Lubumbashi, à BUTA (Province Orientale)</p> <p>While the mining permit was granted on February 17, 2006 and that the surface taxes were paid on May 2, 2006 et que les taxes superficielles ont été payées le 2 mai 2006</p> <p>Concerne: Notification avis cadastral favorable.</p> <p>Monsieur,</p> <p>En réponse à votre demande de Permis de Recherches n° 470 introduite en date du 09/07/2003 par la Société RUBI RIVER Sprl et conformément aux dispositions de l'article 104 du Règlement Minier, nous avons l'honneur de vous notifier l'avis cadastral favorable émis par le Cadastre Minier quant à l'octroi du Permis de Recherches sollicité.</p> <p>Le Permis de Recherches à octroyer portera le numéro 1323.</p> <p>Le Périmètre de Permis de Recherches demandé est composé de 471 carrés contigus, uniformes et indivisibles conformes au quadrillage cadastral ;</p> <p>Les coordonnées géographiques des sommets du périmètre couvert par le Permis de Recherches ci-dessus sollicité et ses carrés codés correspondants se trouvent sur la liste en annexe.</p> <p>Vous voudrez bien trouver ci-joint copie dudit avis cadastral.</p> <p>Veuillez agréer, Monsieur, l'expression de nos sentiments distingués.</p> <p>Jean-Patrice INTIOLE MBONINO MOKFE Directeur Technique a.i.</p> <p>Patrick MAYUBA MAVUNGU Directeur Général a.i.</p> <p>Avenue de la Justice 239, Kinshasa / Gombe</p> <p>Téléphone : +243 139 87 07 Email : caml@ic.cd</p>	<p>UNFAVORABLE on September 12, 2006 défavorable le 12 septembre 2006</p> <p>Kinshasa, le 12 SEP 2006</p> <p>CADASTRE MINIER</p> <p>N°Réf/CAMI/DG/ 3440 /2006</p> <p>A Monsieur l'Administrateur-Gérant de la société RUBI RIVER Sprl 290, avenue Lubumbashi, à BUTA (Province Orientale)</p> <p>Concerne: Notification avis cadastral défavorable.</p> <p>Monsieur,</p> <p>En réponse à votre demande de Permis de Recherches n° 470 introduite en date du 09 juillet 2003 par la Société RUBI RIVER Sprl et conformément aux dispositions de l'article 104 du Règlement Minier, nous avons l'honneur de vous notifier l'avis cadastral défavorable émis par le Cadastre Minier quant au refus d'octroi du Permis de Recherches sollicité.</p> <p>Vous voudrez bien trouver ci-joint copie dudit avis cadastral.</p> <p>Veuillez agréer, Monsieur, l'expression de nos sentiments distingués.</p> <p>Pour le Directeur Technique ai empêché, Chantal BASHIZI LEMBO Directeur Administratif</p> <p>Jean-Félix MUPANDE KAPWA Directeur Général</p>

THE 36 PRs GRANTED TO DAN GERTLER NEVER EXISTED

The 3PRs 1323, 1324, and 1325 were requested on July 9, 2003.

The application forms bear the numbers [470](#), [471](#), and [472](#).

The 36 PRs granted to Dan Gertler, which cover these 3PRs, were requested on March 9, 2006, and bear the numbers 4977 to 4979, and 4990 to 5022.

The 3PRs existed as of March 9, 2006, as confirmed by the [minutes of the September 1, 2006, working session](#).

The Mining Registry therefore violated [Art34 of the Mining Code](#), which prohibits it from processing any application for an area already allocated.

This violation is the first sufficient cause for the non-existence of the 36PR. Other causes, far more ridiculous, confirm this non-existence.

- The applicant for the 36PR is a fictional character.
- The 36PR under the mining code that preceded that of 2002 and which were transformed never existed.
- The old PR under the old mining code were not defined by the vertices of polygons 30 arc seconds apart.

THE APPLICANT FOR DAN GERTLER'S 36 PR LICENSES IS FICTITIOUS

In addition to violating Article 34 of the Mining Code, which prohibits the Mining Registry from processing any new application for an area already allocated, the applicant for the 36 PR licensures granted to Dan Gertler is fictitious.

The Mining Registry has consistently refused to provide the courts with the PR application forms, as required by [Article 35 of the Mining Code](#), which provide the applicant's full identity and the references of the previous permits to be converted.

[As a preface to Thaurfin's submissions in his third-party opposition](#) writ RC14.495, these forms were requested, along with the references of the supposed previous permits converted outside the legal deadline. The judges did not consider the necessity of this information to establish the truth.

Faced with this denial of justice, Thaurfin Ltd. conducted a judicial review of the applicant's residences. If the applicant is fictitious, he would never have resided in the residences provided in the official documents.

[Here are these certificates:](#)

DAN GERTER CANNOT RETURN NON-EXISTENT PERMITS

[Letter TH-042-23 dated April 16, 2023](#), sent to the Minister of Justice [with acknowledgment of receipt on April 19, 2023](#), informs that the [memorandum of understanding it signed with Ventora](#) on February 24, 2022, is incorrect since it is not possible to return permits that never existed.

No answer was received to this letter TH-042-23.



FORCE MAJEURE

On February 17, 2006, 37 PRs were granted to RUBI RIVER in full compliance with the Mining Code, including 3PRs [1323](#), [1324](#) & [1325](#)

On February 28, 2006, [the debit notes for the surface area taxes were issued](#).

On March 30, 2006, the surface area taxes were paid, [as evidenced by this transfer](#).

According to Article 109 of the Mining Regulations, as soon as the surface area taxes are paid, the exploration certificates must be issued.

On September 1, 2006, a working session was held at the Mining Registry. [The minutes confirm](#) that the 37 PRs had indeed been granted and the surface area taxes had been paid.

Sur 37 Permis de recherches octroyés et dont les droits superficiaires ont été payés, seulement 17 certificats de recherches avaient été établis.

The research certificates for 3PR 1323, 1324 & 1325 were not issued in violation of Article 109 of the mining regulations, [causing the force majeure situation](#).