

List of Stakeholder NGOs

№	
1	Open Society Forum
2	Human Rights – Development Centre
3	Steps Without Border
4	Network of Mongolian Environmental NGOs
5	Oyu Tolgoi Watch
6	Owners of Huvsgul Lake Movement
7	Mongolian Environmental Protection Federation
8	Ikh Baga Bayan Sharga
9	Salhi Sandag
10	United Movement for Lakes and Rivers
11	Gachuurt Association
12	Mon-Ame Mongol-American Scientific Research Center
13	Onon-Ulz River Movement
14	Human Rights-Environment-Sustainable Dev't
15	Nature-Development Association
16	Ger District Century Association
17	Association ofr Combating Air Pollution
18	Center for Research of Air and Environment Pollution
19	Ger Stove Project Association
20	Global Air Pollution Reduction Sustainable Dev't Foundation
21	National Disaster Prevention Center
22	New Generation Leadership
23	Eg uur – Eh nutag

24	Bright Perl
25	Save Mother Nature Foundation
26	Ambassador of Ecology
27	Eternal Green Life Association
28	Human Center Environmental Protection
29	Huduu Aral Movement
30	Asian Retired Association
31	Forest Research Student Union
32	Hongor Gobi
33	Green Gold Foundation
34	Association for Protection of Citizens from Crime
35	Summer Camp Friends
36	Nature Future Foundation
37	Ecological Education Centre
38	Nature Protection Youth & Student Association
39	Revered Root Association
40	Hairkhan Erdene Foundation
41	Mongolian Foundation for Protection of Desert and Steppe
42	Union of Mongolian Environmental NGOs
43	Teel Mandal
44	Climate Change, Renewable Energy Centre
45	Food Coalition
46	Parachute Association for Support of Nature Conservation
47	Technical Business Incubator Centre
48	Ecology Education Centre, National University of Mongolia
49	Selenge-Mother Ocean NGO

50	Baganuur, Toson Zaamar, Ariunsuvraga Coalition of Environmental Movements
51	Citizens' Cooperative for Protection and Restoration of Nature
52	Han-Uul District Association of Disabled Persons
53	Animal Rights Protection Foundation

**ENVIRONMENT-MINING-HUMAN RIGHTS
MONGOLIAN STAKEHOLDERS' JOINT SUBMISSION
TO UPR OF OHCHR**

1. **NGO consultation process:** Environment-Mining-Human Rights thematic group comprises over 50 environmental and human rights civil society organizations, which appointed a working group to carry out coordination of discussion, data collection and processing and drafting of the stakeholder submission for this group. New and updated data was collected through field trip to Tavan Tolgoi¹ mine area and Hongor soum² where focus group meetings and one-on-one interview were held with local residents, local administration and mine officials. “Degradation of Environment and Human Rights” was announced among 300 environmental NGOs yielding 9 valuable submissions to inform this report³. The WG reviewed existing government, donor and international NGO reports, kept channels open for submission of information by any willing organization or individual.
2. **State’s international human rights obligations** – in addition to joining UDHR, ICCPR and ICESCR Mongolia has ratified 24 international treaties such as Convention on Biological Diversity, UN Framework Convention on Climate Change, Convention on International Trade in Endangered Species of Wild Fauna and Flora, Vienna Convention on Protection Ozone Layer, Convention to Combat Desertification in those Countries Experiencing Serious Drought and Desertification as well as regional treaties and agreements⁴.

MDGs include under Goal 14b: *increase national territory under special protected area status to 30 percent by 2015*; Goal 15: *Protect and restore river and stream source territories to reduce drop in water levels*⁵.

3. **State’s national obligations:** There exist 31 laws, over 130 guidance and procedures, 26 programs and 90 central government, agency and inter-ministerial agreements aimed at protecting, restoring and ensuring sustainable use of natural resources.⁶
4. **Human rights protection mechanisms** – there exists an independent National Human Rights Commission, Human Rights Sub-committee of the State Great Hural (Parliament), Human Rights Committee under the Ministry of Justice and Home Affairs responsible for the implementation of the National Human Rights Protection Programme. Ministry of Nature and Tourism, Ministry of Mineral and Energy Resources, State Specialized Inspection Agency, Forestry Agency and Water Agency with mandate to ensure sustainable use, protection, restoration and monitor conformity in use natural resources.
5. **Legal and institutional mechanisms that are lacking** – Citizen’s right to participate in decision-making exists in declarative form in most laws without mechanisms of implementation and enforcement. NGO/CSOs have no right to claim damage to public interest while the State does not exercise its right to claim environmental damage due to lack of a conflict of interest law⁷.

¹ Tavan Tolgoi Field Trip Report, www.upr-mongolia.org.mn

² Rural administrative unit of 800-3,000 population

³ “Degradation of Environment and Human Rights” Competition Summary, www.upr-mongolia.org.mn

⁴ <http://www.mn-nhrc.org/en/international-conventions-protocols>

⁵ SGH Resolution 13 of January 31, 2008, www.legalinfo.mn

⁶ www.legalinfo.mn

⁷ Ian Hannam, Assessment of Environmental Laws, Final Report, Annex 1, page 130-131

Law does not recognize rights recognized under customary law. National legislation does not protect the rights of nomadic herders to their pasture and hay land, winter camps as their home property as is recognized under customary law. There is no mechanism for valuation of these assets, compensation in case of taking land for public purpose, e.g. extraction of minerals. .

6. **Legal and regulatory environment issues** - Impunity is the key issue that is rooted in the lack of implementation and enforcement mechanisms in national legislation. Mongolia's legal environment, beginning with the ambiguity of definitions of the Constitution, for example Articles 6.1 and 6.2 which define ownership rights of natural resources and underground wealth as property of the people and the State, national legislation, ministries and sectors are defined as lacking coordination and cooperation and subjected to rampant corruption.
7. **One.** The following deficiencies were established by the Assessment of Environmental Laws: "Contradictions exist between EPL and with State Monitoring Law and Inspection and the revised Criminal Code; The concept of the Law contradicts its objectives; Government organization rights are defined, but a rights and accountability system has not been established; Standard parameters to analyze implementation of the Law do not exist; Implementation of standards for environmental protection do not exist; Regulation on dispute resolution issues does not exist; Standards of natural resource use have not been established⁸" which is a common feature of laws. **Two.** Article 57.2 of the Minerals Law allows, upon request of the investor, to treat technical and economic feasibility study reports as classified information⁹. The law fails to require any form of legally binding document such as a contract to begin extraction activities. This leaves civil society and local residents with no document against which to measure compliance of the extractive industry and hold responsible for violation of law, human rights and environmental damage¹⁰. **Three.** Land Law stipulates that land shall be utilized based on land use plans coordinated at all levels of government. Minerals Law does not carry this stipulation resulting in mining licenses issued without consulting the land use plans approved by local authorities in consultation with local residents. The Law on Environmental Impact Assessment is not coordinated with the above two laws and therefore environmental impact assessments are carried out after licenses are issued.

8. **General background**

Implementation of the Gold Programme (1993) and further decisions and policies to attract foreign investment for development of strategic mineral resources have given impetus to rapid growth of mining sector share in the GDP. This resulted in shrinking of the livestock sector which employs 40% of the workforce¹¹, reduction in crop and tourism sectors due to loss of land to mining and/or negative impact on soil and vegetation. Loss of pasture, hay, crop and tourism land, loss of animals to impact of desertification and severe winters forced more landless, jobless and homeless rural

⁸ Assessment of Environmental Laws, Final Report, Ian Hannam, 2008, page 36

⁹ www.legalinfo.mn, Mineral Law, Art. 57.2: "...upon request of the investor relevant public authority may treat exploration findings, technical and economic feasibility study reports as classified information and may conclude an agreement on the terms of confidentiality".

¹⁰ Environmental protection – establish effective links between Mining Law and other key environmental laws for exploration and mining activities, particularly in relation to environmental protection, pollution control, wildlife conservation, water, pastureland;¹⁰ emphasis must be on environmental impact assessment, land protection and mitigation, land rehabilitation and restoration, reporting and compliance recommends Ian Hannam, Final Report, p.42;

¹¹ 40 percent of the work force is directly dependent on the livestock sector, and despite the decline in share of GDP, the sector is likely to continue to be the single most important sector to the economy in terms of employment; third, the livestock sector is dominated by an extensive livestock production system dependent upon access to grasslands and which is therefore inherently vulnerable to climatic and natural resource management risks; World Bank:

population to urban areas increasing the number of jobless, homeless poor whose rights are further violated as access to social benefits and services is denied due to lack of urban registration documents.

9. **Environmental issues: Impact of climate change** due to Mongolia's location in high altitude regions results in 3 times higher or **2.14°C** change impact compared to the global average, resulting in significant negative impact on the fragile ecosystems and nomadic life-style and economy dependent on weather conditions and natural resources.
10. **Land degradation/desertification/deforestation** has affected 72% of total territory and is continuing to gain pace. This process is leading to **loss of biological resources and key ecosystems** leading to reduced biodiversity, negative impact on the quality of livestock and livelihoods of rural population. In the South Gobi sand movement is taking over pasture land at the pace of 20 m per year.¹² Thawing permafrost has entailed significant loss of forest and increased incidence of forest fires in the past few years.
11. **Mining impact** has left 14,565 hectares of land damaged by extractive industry of which only 3,708 hectares were simply leveled as form of technical restoration. Since 1992 much land has been damaged but government and extractive industries both fail to comply with legal and regulatory requirements. MNT is planning stock-taking of damaged land in 2010. Degazetting land from protected areas for mining purposes is going in opposite direction from what the State has committed to under its international obligations.
12. **Solid and hazardous waste** is result of extensive use of outdated industrial technologies. Due to lack of control over use and dumping of chemical and hazardous substances, illicit importation and storage have led pollution and contamination of 53, 5 hectares of land in 120 units or 203,508 m³ of soil with cyanide and mercury in Hongor soum in Darkhan-Uul aimag¹³, Zaamar, Jargalant, Bornuur soums in Tuv, Mandal, Eruu in Selenge, Bayan-Ovoo and Bumbugur in Bayanhongor, Mandal-Ovoo, Khanbogd in South Gobi aimags¹⁴.
13. **Air pollution** –Regardless of its commitments and obligations taken under such instruments as the Kyoto Protocol, FCCC and other environmental conventions, national legislation and MDGs, Government is implementing policies which lead to damage of habitat, pushing out biodiversity, wildlife¹⁵ and human population. World's largest coal mine at Tavan Tolgoi is exporting raw coal to China, world's largest GHG emitter¹⁶, trucking it via 240 km long and 35m wide soil road. Coal and sand dust travels and contaminates air, soil and water far beyond this region.
14. **Water quantity and quality** is degrading at an alarming pace. The 2007 National Water Count revealed that 852 out of 5,128 rivers and streams; 2,277 out of 9,306 springs; 1,181 out of 3,747 ponds and 60 out of 429 spa sources have dried out completely. **One.** Under these circumstances government is moving forward with the implementation of Oyu Tolgoi copper and gold mine, which does not have demonstrated availability and access to water resources to cover the needs of this large mine planned to be exploited in the next 30-60 years in the fragile ecosystem of Gobi Desert. **Two.** Licenses are issued for extraction of phosphor in deposits near Lake Huvsgul,

¹² National Report on Implementation of the UN Convention on Combating Desertification, UB, 2007, page 37

¹³ Aimag - province

¹⁴ http://www.ssa.gov.mn/index.php?option=com_content&task=view&id=37&Itemid=44

¹⁵ <http://en.rian.ru/russia/20100126/157685404.html>, <http://en.rian.ru/russia/20080514/107323138.html>

¹⁶ www.sbmchina.com China's CO2 emissions will continue to rise until 2030; мөн unfccc.int/.../notifications/application/pdf/150609_china_37_countries_amend_kp.pdf - 2009-06-15

which comprises 74% of Mongolia fresh water resources. This decision is delivered regardless of the conclusion of researchers that it will cause irreparable damage to the lake and surrounding environment.

15. **Adverse trans-boundary impact** – damage to natural habitat of wild life has caused migration of 70,000 Mongolian antelope to Russian as reported by Chita Region where a state of emergency was declared to protect the habitat and local wildlife. There are reports of “gold rush” and use of toxic chemical substances in river and streams are affecting quality and quantity of water in 50% of water that flows from Mongolia to Lake Baikal. Lake Baikal will also be affected by phosphorus extraction in Lake Huvsgul region through river Selenge, one of main rivers that feed Lake Baikal.
16. Violation of human rights: right to life in safe and secure environment, choose and protect the source of livelihood income, right to work, to own property, preserve cultural heritage and leave legacy, right to protect his\herself and home, protection from loss of ecological balance, right to water, right to take part in government and right to human development are the rights that are violated directly by mining impact on the environment, social and economic life of the region. Indigenous nomadic households are being pushed out by mining companies by way of forced or negotiated eviction. Use of toxic chemical substances in mining led to contamination of soil and air in several settlements counting hundreds of dead and many more still suffering from various forms of illnesses. Attempts to complain, to apply for compensation, restore rights to property and land owned under customary law, seek information and legal aid all fail as local authorities and judiciary are closed for the poor¹⁷.
17. Artisanal or the “ninja miners” are in worse position as in addition to above listed violation of rights, these people suffer from violation of the basic right to life, to be free of slavery, child labor, prostitution and violence, right to work in safe working conditions and compensation commensurate to job performance, equality before law and equal protection of the law, right to social benefits and services. The root cause is in the absence of a law that would recognize their existence and set norms and standards, as well as protect the rights of this huge (corresponds to 20% of rural workforce) informal sector.¹⁸
18. ***The right to safe environment, protection from environmental pollution and loss of ecological balance:***
The fact that licenses are issued permitting mining/exploration in close proximity of human settlements such as Janchivlan uranium exploration just 70 km outside capital city Ulaanbaatar¹⁹ or Zaamar and Hongor,²⁰ Tsogtsetsii, Tsenhermandal, Khanbogd and Murun for gold, copper, phosphor and coal evidence disregard of the State’s duty to ensure safe living environment, resulting in violation of right to life, to protection of health and livelihood income source as documented by statistics of growing number of still births and fetus mutations, loss of life due to poisoning, poor and homeless persons.

Recommendations:

19. Suspend licenses issued for mining activities in close proximity of human settlements. Carry out detailed environmental and social impact assessments audited for compliance with

¹⁷For example, in 2007 in Hongor soum of Darkhan-Uul aimag over 340 people applied damages to health via poisoning with no one receiving compensation, see also www.nhrc.mn, NHRC, 2007 Annual Report, p. 89, Box 1;

¹⁸ Sustainable Artisanal Mining Project – Mongolia, Mid-Term Review 2009, Final Report, page i

¹⁹ www.uranium308corp.com

²⁰ Ian Hannam, Assessment of Environmental Laws, Final Report, Annex 1, page 130-131

international standards. Re-issue licenses upon satisfactory confirmation of no harm to human life and health is obtained;

20. The definition of Special Needs Land in Article 16 of the 2002 Law on Land should be extended to explicitly include sites designated under multilateral environmental agreements (i.e. Ramsar Sites, Biosphere Reserve core areas and World Heritage Sites) and natural sacred sites, thus affording them protection from exploration and mining within their boundaries.
21. Ramsar Sites and IBAs that are not fully protected within nationally or locally protected areas should be considered for designation as either State SPAs or Local SPAs, particularly where their gazettal would address gaps in the coverage of Mongolia's protected area system²¹.
22. ***Water scarcity and water right:*** The Copenhagen Climate Change Summit defined water scarcity as a problem to come after climate change. Mongolia is already affected by climate change. Regardless of this fact government is planning to mine a so-called strategic mineral deposit of phosphorus located in the watershed of Huvsgul and Baikal lakes, thus affecting fresh water sources of regional importance.
23. Russian-Mongolia scholars researched the Burenkhan phosphorus deposit (100 km from the lake) during 1988-1998 finally coming to a conclusion that exploitation of this deposit will harm Lake Huvsgul (Huvsgul National Park) which contains 74% of Mongolia's fresh water resources, and its environment, human population and wildlife. In addition mine pollution will affect rivers Delgermurun and Selenge, which in turn will pollute Lake Baikal. The ecological balance of Lake Huvsgul and Selenge river watershed may be severely affected due to loss of forest and vegetation. That conclusion had stopped the plan to mine at the time. The current government's decision to allow exploitation of this deposit disregarding conclusions of experts²² evidence serious violation of obligation taken under Ramsar Convention on Wetlands²³, World Heritage and other .

Recommendation:

24. Consider including Lake Huvsgul in the list of natural resource sites of international significance.
25. The TEFS for exploitation of gold\copper deposit of Oyu Tolgoi in South Gobi states that it will require pumping water at 3,801 l/sec rate in to cover total production, infrastructure and social needs. Established and accessible water (approved by MNT) resource will allow pump rate of 870 l/sec²⁴. Tavan Tolgoi, Ovoot Tolgoi, Nariin Suhait are big coal mines located in the same region experiencing same problems of insufficient water infrastructure.
26. Regardless of protests by local residents, projects are moving forward to divert rivers Orkhon, Onon and Herlen, which will have further adverse impact on water tables already at their

²¹ Safeguarding Important Areas of Natural Habitat in Mongolia alongside Economic Development January 2009, by BirdLife, Int'l, WB and Wildlife Science and Conservation Centre of Mongolia, page

²² Comments by Movement of Huvsgul Owner – (Mongolian doc) www.upr-mogolia.org.mn

²³ Selenga Delta (RF) and Orkhon Valley (Mgl) are Ramsar and WH sites

²⁴ Oyu Tolgoi TEFS, 2009, page 2, 1.1.5. Water Resources (Mongolian doc).

lowest²⁵, endanger watershed and water rights of people, livestock and wildlife living along these rivers.

27. In addition to adverse impact of big mining projects use of low-cost technologies, toxic chemical substances by small/medium and artisanal miners have caused water pollution leading to their extinction was established/reported by the NHRC²⁶.

Recommendation:

28. Amend Article 57.2 of the Minerals Law to open mining contracts and related documents for public scrutiny and compliance monitoring by civil society and local population;
29. Apply for funding, for example to Copenhagen Climate Change Fund, for technical and financial assistance in introducing environmentally friendly technological know-how, nature restoration and renewable energy technologies;
30. Introduce Water Disclosure as a requirement for companies mining strategic mineral deposits in arid and water stressed areas.

Economic, social and cultural rights:

31. ***Right to land:*** Due to lack of mechanisms for valuation of property and businesses located on land on before mining license is issued to change ownership of land, citizens engaged in livestock, crop and tourism sectors are losing land and property directly to mines or indirectly through soil, air and water degradation²⁷.
32. According to rights under customary law a herder's winter camp is his home; a piece of real estate received from ancestors and that will go to his heirs. Winter camp site includes herd-shed which is key to herding business as land under animal droppings does not freeze. Herders are being relocated in most cases without compensation, leaving them with no business infrastructure, home/real estate and nomadic herding tradition to pass onto the next generation.
33. ***Right to earn, own and bestow property:*** The State's duty spelled out in Article 16.3 of the Constitution²⁸ to protect and provide for this right is not being fulfilled due to lack of coordination of macro-policy elements, leading to development of mega-size mines without infrastructure to support them. Hundreds of 80-100 ton open trucks per day transport cheap raw coal from world's largest coal mine to China via fragile desert soil in this classic arid region. Large mines in this region build airports, improved roads, mine for construction material leaving severely damaged and contaminated land, soil and vegetation. The level of contamination along the Tavan Tolgoi "coal road" is so high it forced out herders creating a new group of refugees in surrounding towns. Most livestock did not survive 2010 severe winter and wildlife fled to Russia and China. The alarming trend has set among large mines: putting its own road to China and building airports, instead of utilizing existing ports and airstrips. This is another evidence of lack of will to adhere to, in this case to Article 3 of the Convention on Biodiversity... "States have, the sovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause

²⁵2007 National Water Count

²⁶www.nhrc.mn, State of Human Rights, 2007, Section III

²⁷NHRC 2007 Annual Report, p 87; Cadastral map of Tsogttsetsii soum.

²⁸Constitution of Mongolia, Art. 16, www.legalinfo.mn

damage to the environment of other States or of areas beyond the limits of national jurisdiction²⁹”.

34. Mongolia is said to have over 100,000 “ninja” miners, mostly consisting of herders who lost their animals in previous winter disasters and it is expected that the 2010 “zud³⁰” victims will join their ranks. Artisanal mining sector existed since mid-90s and continues to stay an informal sector due to lack of political will to pass a law defining rights, roles and responsibilities of all parties. Unprotected by law “ninjas” are treated as illegal elements of the society denied any protection of their right to obtain and own property, to apply for land use license, to protection by and before the law³¹.
35. ***The right to protection of cultural heritage and transmission to future generations:*** Mongolia had been the cradle of indigenous nomadic lifestyle and herding traditions, culture rich with tangible and intangible wealth of wisdom of living in harmony with nature.
36. Animal shed in the winter camp of a nomad sits on land that does not freeze due to long years of use and thick cover of animal droppings which makes it an essential asset of animal husbandry business. Winter camp location is selected to ensure access to water resources and market infrastructure. Relocation of herding households to sites regardless of carrying capacity of pasture, frozen land and social and market relationships built over many years have led to loss of business and animals.
37. A herder’s winter camp is also his real estate, a home to be passed down to his descendants. Lack of proper valuation methods and compensation mechanisms is resulting in loss livelihoods, herding business and real estate and nomadic traditions and culture to be passed on to future generations. Mongolia has over 300 soums 90% of which have mining and almost third of them have lost over 50% of soum land to mining licenses hurting indigenous nomadic population.

Recommendation:

38. Incorporate in national legislation, in particular environmental laws principles of the UN Declaration on the Rights of Indigenous Peoples. Ratify ILO Convention 169 to ensure protection of indigenous nomadic and ethnic Tsaatan minority population.
39. Adopt law on artisanal mining to ensure protection of human rights of citizens engaged in this sector.
40. Policy and decisions of the State to de-gazette land from national parks, SPAs, natural, cultural and historical sites taken under national and international protection for purposes of mineral exploration and extraction, issuing licenses on land overlapping with critical natural habitat disregarding local population’s appeals have been criticized by national and international organizations.

²⁹ Convention on Biological Diversity, www.mne.mn

³⁰ Winter disaster: severe cold weather combined with heavy snow or severe cold combined with lack of snow;

³¹ SAM Project Mid-Terms Review, 2009, p. 2: Violations include capturing and detaining artisanal miners by private company security and subjecting them to degrading and inhuman treatment, severe beating, starvation and forced labor. Furthermore, the local police destroyed and/or confiscated private property of artisanal miners with explicit and implicit support of local and central Government, violating miners’ rights to private property.

41. The South Gobi “coal road”³² lies through the Gobi Small SPA leading to Gashuun Suhait port. Many years of use have caused contamination of 89 ha, which is now under discussion for more de-gazetted³³. Mongolia is planning more roads through protected zones under the pretext that China had built roads from their side which need to connect, as well as issuing permits to mines to build roads and ports to suit their needs.
42. Based on Cabinet Resolution 86 (04/2009) a total of 62,256.58 ha of land were de-gazetted from 25 protected areas for period of 2, 9-6, 3 years for mineral explorations to be funded by central budget³⁴. This Resolution and mineral licensing policies of the Cabinet are in violation with the principles of international conventions and Mongolia’s MDG commitment: “7a to take under environmental protection 30% of land by 2015; 7b significantly lower reduction of biodiversity by 2010” as evaluated by national and international organizations.

Recommendation:

43. Return de-gazetted land to environmental protection jurisdictions;
44. Take real measures to increase percentage of land taken under protection as per the MDGs commitments and
45. Report to the UN on measures taken.
46. **Right to protection of health, safety and security of person:** Soums located near mining are seeing increasing in-migration of people hoping to get employment at mines. Even if current count of citizens doubles, the soum continues to receive budget and is approved capacity to deliver public services only its registered population. Due to this the right... *to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment...* are not fulfilled. Local government operating on budget approved for 2,600 population is not able to deliver services to 5,800 people, particularly under circumstances when dust from the “coal road” increases cases of respiratory diseases, poor road conditions caused by heavy trucks and machinery lead to road accidents, concentration of male population seeking jobs increases the number of social disorders³⁵.
47. As result of above doctors and medical personnel, social order police and traffic police, local administration personnel’s right to ... (b) *Safe and healthy working conditions;* and (d) *Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays...* are violated³⁶.

Recommendation:

48. Require audited, international standard assessments and evaluation of economic and social impact of mining as pre-condition for investment contracts and mining permits; develop and implement policy for mitigating and preventing adverse impact.
49. **Right to appropriate information concerning the environment...and the opportunity to participate in decision-making processes:** the cadastral map of Tsogttsetsii soum (Map 1) show a small white area not covered by mining license. The Minerals Authority, in violation of the

³² “Coal road” video, www.upr-mongolia.org.mn

³³ Survey team established that over 450 80-100 ton capacity trucks transport coal via Gashuun Suhait port located in the Gobi strictly protected area

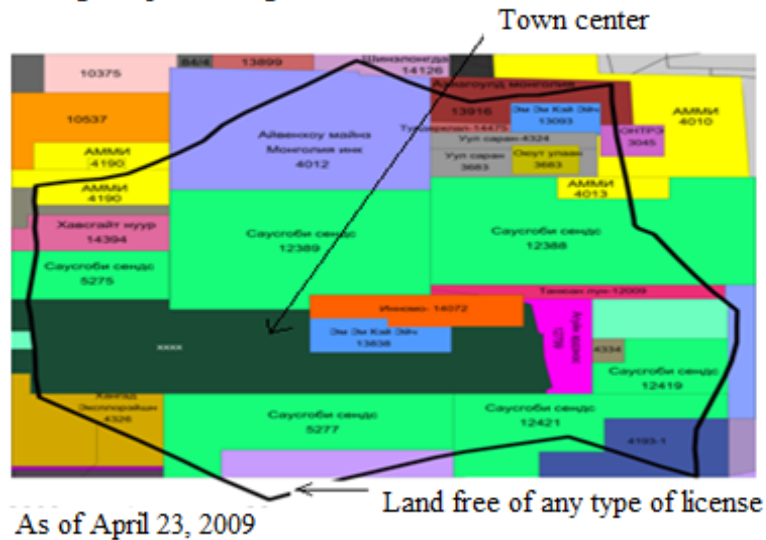
³⁴ Cabinet Resolution №86, 2009.04.01, www.legalinfo.mn

³⁵ Focus group interviews with citizens and local administration of Tsogttsetsii soum. www.upr-mongolia.org.mn

³⁶ One-on-one interviews with traffic police, medical personnel and doctors.

provision of the Constitution 16.3: ...”*unlawful expropriation of private property is prohibited. State, its authorized agencies shall pay compensation if the need arises to take over private property for purposes of public need*”³⁷ and disregarding protests of local residents issues mining licenses on soum center, pasture, crop and hay land.

Map 1. Tsogtsetsii soum of South Gobi aimag. Map of mining license ownership



50. Since transfer of some soums to a system of self-financed budget through collection of land and water use fees from mining companies these local authorities have become fully dependent on mines. Soums that continue to receive central budget financing are still dependent on donation from mining companies due to insufficiency of approved budgets. This leads to inability of local governments to enforce environmental and human rights protection requirements. Lack of access to information and decision-making process corruption at the local level has become rampant³⁸.

51. ***The right file a complaint and receive resolution from the state authorities:*** the Rio Declaration on Environment and Development, Principle 10 states that: *Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided*³⁹. Examples of Zaamar, Hongor, Tsogtsetsii, Khanbogd soums which lost over 90% of land to mining licenses speak of how this obligation is being fulfilled.

Recommendations:

52. In order to protect basic rights of indigenous nomadic population create and enforce mechanisms for monitoring and evaluation of compliance with ISO 14000, Company Social Responsibility policies.

³⁷ In 2009 herders gathered in anti-mining demonstration.

³⁸ In 2009 Citizen Representative Hural of Eruu soum in Selenge aimag has issued an exploration license on land set aside as local special needs land resource receiving \$20,000 in payment is being investigated by the Anticorruption Agency. Also see Project Final Report on Public Monitoring of Corruption in the Mongolia’s Mining Sector, 2007, page 6.

³⁹ Rio Declaration on Environment and Development, Principle 10

53. Join the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters⁴⁰
54. Incorporate in national legislation and enforce human rights protection, redress and remedy mechanisms.

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⁴⁰ Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, 1998