



29 April 2014

**LEGAL PROCEEDINGS IN RESPECT OF PL69/2003
The Kihabe Nxuu Zn/Pb/Ag Project Botswana**

On 28 April 2014 the High Court of Botswana handed down its ruling in regard to the decision made by the Minister of the Ministry of Minerals, Energy and Water Resources (MMEWR) not to renew Prospecting Licence PL69/2003, previously held by Mount Burgess (Botswana) (Proprietary) Limited (the Applicant).

The High Court judge ruled that the Applicant's application for the renewal of PL69/2003 be struck out with costs.

The ruling was based on the fact that the decision maker, being the Minister, MMEWR was not joined in the proceedings. Only the Attorney General was cited as the Respondent. Legal advice conveyed to the Applicant confirmed that Sections 3(1) and 3(2) impose a legal duty on the Applicant to cite the Attorney General in this matter, as actions by or against the Government shall be instituted by or against the Attorney General. Botswana High Court case authority supports such process.

In Section 30 of his ruling, the Judge even highlights the fact under Order 16 Rule 9 (1) "No cause shall be defeated by reason of the misjoinder or non-joinder of parties and the judge may in every cause deal with the matter in controversy so far as regards the rights and interests before him"

In Section 32 of his ruling the Judge further states "Although Order 16 Rule 9(1) provides some shelter to the Applicant, the Court has discretion to reach a just decision, having regard to the circumstances of each particular case. In casu, the Applicant wants the Minister to issue in its favour a prospecting licence but has not joined the Minister in these proceedings. In my ruling, it was necessary for the Applicant to have joined the relevant licencing authority and not just the Attorney General."

The Applicant intends to appeal against this ruling.

The Company believes it is important to advise the market of this ruling for the purpose of keeping the market fully informed. However, because of the time difference between Western Australia and Botswana, it is doing so without prior consultation with its legal advisors.

Any further material information arising as a result of consultation with its legal advisors will be released to the market accordingly.

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