



12 September 2013

## NOTICE OF MOTION TO BE FILED IN THE HIGH COURT OF BOTSWANA

### Legal Proceedings Re Non-Renewal Of Prospecting Licence 69/2003 – The Kihabe Nxuu Project, Botswana

Legal representatives of the Company's wholly owned subsidiary, Mount Burgess (Botswana) (Proprietary) Limited (The Applicant), will be filing a Notice of Motion with the High Court of Botswana and The Attorney General of Botswana (The Respondent).

The Notice of Motion outlines the intention of the Applicant to make an application to the High Court for an order in the following terms:

- (a) That the Respondent's decision to reject the application for renewal of Prospecting Licence 69/2003 be and is hereby set aside;
- (b) The Respondent is ordered to grant such application forthwith;
- (c) In the event of the Respondent opposing this application it pay the cost thereof.

In support of the Notice of Motion an affidavit will also be filed by Nigel Raymond Forrester, Chairman of the Applicant, outlining the following:

1. The impossibility of the Applicant to comply with "*the approved prospecting programme*" compiled by the Respondent in August 2010 for the two years to 30 June 2012. The Applicant was not advised by the Respondent of "*the approved prospecting programme.*" The Applicant only had first knowledge of such a programme when provided with a copy from the Respondent on 17 April 2013. ***(This is in response to the Respondent maintaining that the Applicant had not complied with "the approved prospecting programme").***
2. The ultimate impossibility of the Applicant to produce a feasibility study, in compliance with:
  - (a) the internationally accepted JORC Code and
  - (b) the Respondent's Checklist for Appropriate Company Programme of Prospecting, as outlined in the Applicant's application for extension of PL69/2003 for the two years to 30 June 2012. The Respondent's Checklist required compliance with "*one of the international codes.*"

Without the provision of a commercial grid power supply to the project area, as previously assured would be available, the Applicant could not proceed with a feasibility study. ***(This is in response to the Respondent maintaining that the Applicant should have completed a feasibility study regardless of the lack of power).***

3. The acceptance by the Respondent of the Applicant's proposed amendments to the prospecting programme of PL69/2003 for the two years to 30 June 2012. The Applicant advised the Respondent on 23 March 2012 of proposed amendments to the prospecting programme, as a result of the forecast lack of a commercial grid power supply to the project area. As the Respondent did not reject the Applicant's proposed amendments within two months, as required by section 22(1) of the Act, such amendments took effect after that period. *(This is in response to the Respondent maintaining that the Applicant did not apply to amend the prospecting programme and that any amendments to the prospecting programme should only be done after the approval of the Respondent).*
4. The Applicant's reliance on a further renewal of PL69/2003 to 30 June 2014, as it did not receive a rejection from the Respondent within three months of lodging its application for extension on 29 March 2012.
5. The unreasonable 14 month delay in receiving a decision from the Respondent on 13 May 2013, rejecting the Applicant's application for extension of PL69/2003, lodged with the Respondent on 29 March 2012. During the 14 month time frame the Applicant continued in good faith with resource and development operations on PL69/2003.

Nigel Forrester  
CEO  
Mount Burgess Mining NL