



13 August 2013

COMMENCEMENT OF LEGAL PROCEEDINGS

The Company has commenced legal action in respect of

1. The non-renewal of PL69/2003 – the Kihabe Project, Botswana
2. Maladministration (fourteen months for rejection decision to be handed down).

Funding of litigation has been agreed to be undertaken by Mr AP Stirling, a Director of Mount Burgess Mining.

On 9 July 2013 The Hon Minister for the Ministry of Minerals, Energy and Water Resources (MMEWR), Botswana, informed Mount Burgess Botswana (Proprietary) Limited (MBB), that he was unable to reverse his decision rejecting the Application for Extension of PL69/2003, submitted on 29 March 2012, (Refer to Attachment).

In Paragraph 4 the Minister stated:

"In addition any holder of a Mineral Concession issued under the Mines and Mineral Act of Botswana is required to comply with the relevant sections of MMA irrespective of the company's international reporting requirement. JORC Code or any other international requirements does not substitute one's obligation under the MMA."

The Company believes that what is outlined in Paragraph 4 as a reason for not renewing PL69/2003, is **not in accord** with **Sections D and E of the MMEWR Checklist for Appropriate Company Programme of Prospecting Operations** which formed part of the documents lodged in 2010 for the Extension of PL69/2003.

Sections D and E of the MMEWR Checklist cover Reserves as required for Pre-feasibility and Mine Feasibility studies respectively. The MMEWR Checklist stipulates **"Delineated Reserves must be compliant to one of the international codes for estimating reserves"**. In its submission MBB stated that the delineation of reserves would be undertaken.

However, in compliance with the JORC Code, which is **an accepted international code**, MBB was subsequently not able during the two years to 30 June 2012, to upgrade its resources to ore reserve status required for a feasibility study because of the lack of a commercial power supply. MBB was previously advised that grid power would be available in the project area by the end of 2012.

Regarding obtaining the Minister's approval to amend the prospecting programme as MBB was not able to complete a feasibility study (refer **Paragraph 3** of the Minister's letter), MBB advised the previous Minister MMEWR on 23 March 2012 of the impact the non-availability of power was having on the project. The previous Minister suggested that MBB should join the power forum in order to be updated regarding the future provision of grid power.

Nigel Forrester
CEO
Mount Burgess Mining NL

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REPUBLIC OF BOTSWANA

MINISTRY OF MINERALS,
ENERGY AND WATER
RESOURCES, PRIVATE
BAG 0018, GABORONE
BOTSWANA

Ref: GSC 6/43/ 7 III (14)

9 July 2013

Mr Nigel Forrester
The Director
Mount Burgess (Botswana) Pty Ltd
BDO Spencer Steward
P.O. Box 1839
Gaborone

Fax: 318 6055 or
(00619) 9355 1484

Dear Sir

**MOUNT BURGESS BOTSWANA (PTY) LTD APPEAL IN RESPECT OF
PROSPECTING LICENCE (PL) 069/2003.**

1. I refer to your letter of the 6th June 2013 which was forwarded to my office via Mr. Peter O'Halloran's letter of the 12th June 2013.
2. The Minister of Minerals, Energy and Water Resources is empowered through the Mines and Minerals Act (MMA) to administer the investigation and exploitation of mineral resources in Botswana, including management of mineral concessions. It is for this reason that I respond to your letter of the 6th June 2013 addressed to the Vice President.
3. The issue of unavailability of grid power was raised as the main reason why you did not proceed with the feasibility study as it is a requirement under the Australian JORC Code for a competent person to sign off the feasibility. As indicated in my letter of the 13th May 2013, Ref: GSC 6/43/ 7 III (12), Mount Burges cannot unilaterally amend the approved prospecting programme without the Minister's approval, this is as per Section 22 of MMA.
4. In addition any holder of a Mineral Concession issued under the Mines and Minerals Act of the Republic of Botswana is required to comply with the relevant sections of MMA irrespective of the company's international

The Ministry that makes a real difference to Botswana

reporting requirement. JORC Code or any other international requirements and standards does not substitute one's obligation under the MMA.

5. Prospecting licence PL 069/2003 has already exhausted two permissible renewals under Section 17(3) of MMA. Any further renewal of a prospecting licence for a period or periods in excess of the periods specified in Section 17(3) above, may be granted where a discovery has been made.
6. Mount Burgess' efforts to complete evaluation work under PL 069/2003 during the last renewal period was unsatisfactory as the approved programme of prospecting was not carried out. Please note that it is only after a feasibility study is completed, that the applicant can progress the project forward from prospecting stage to mining or retention licence depending on the viability of the project.
7. On the issue of licence documents missing a page containing the programme of prospecting (Annexure II), please note that all licence documents issued in Botswana has a programme of prospecting as per Form II of the First schedule of MMA. Furthermore kindly note your obligations as a holder of a prospecting licence in particular conditions 3 of the Prospecting Licence, Sections 21(1)(ii) and 21(2) of MMA.
8. Given the above mentioned issues of Law, I am unable to reverse my decision which is to reject the application for renewal of prospecting licence PL 069/2003 of Mount Burgess (Botswana) Pty Ltd.

Yours faithfully,



Onkokame Kitso Mokaila
MINISTER OF MINERALS, ENERGY AND WATER RESOURCES

cc: Ag. Director of Mines