



30 March 2015

**UPDATE: APPEAL COURT HEARING RE PL69/2003, THE KIHABE Zn/Pb/Ag PROJECT BOTSWANA**

Mount Burgess (Botswana) (Proprietary) Ltd (MBB) a wholly-owned subsidiary of the Company has been informed by its newly appointed Botswana Attorneys that they have received confirmation from the Registrar of the Court of Appeal, Botswana, that MBB will be able to have its appeal heard in the July 2015 Appeal Court sitting.

MBB is appealing against the final decision, handed down in **July 2013** by Minister Mokaila, the Minister for Minerals Energy and Water Resources, Botswana, (MMEWR), not to grant an extension to PL69/2003, applied for in **March 2012**.

MBB should have had its appeal heard in **January 2015**. With sufficient funds available in trust, MBB's previous attorney confirmed in writing that both a bond for security for costs was lodged and costs for the preparation of the record were paid on **24 September 2014**. These were both required prior to close of business on **29 September 2014**.

Unbeknown to MBB and its Legal Counsel, this was not done until October 2014. MBB's previous attorney then lodged a forged Application for Condonation for late payment of costs, which was first discovered by MBB's Legal Counsel on 22 January 2015. The forged Application for Condonation then had to be withdrawn and an authentic Application for Condonation for late payment of costs was submitted on 26 February 2015, requesting a hearing date in the April 2015 Appeal Court sitting. Even though the new Application for Condonation was submitted on 26th February MBB has not been allocated a hearing in the April 2015 Appeal Court sitting.

MBB has informed its previous Attorney that it will be seeking damages in respect of late filing of the bond and costs in 2014 and the subsequent submission of forged documents in applying for condonation for late payment of costs. The Attorney responded on 17 March 2015, accepting responsibility for these actions agreeing to settle the damages.

**MINISTER MOKAILA'S QUOTE RE DECISION NOT TO EXTEND PL69/2003**

MBB has recently become aware of a published interview that JP Stevenson, journalist, Global Business Review had with Minister Mokaila, MMEWR, at the Africa Downunder Conference in August 2013. Minister Mokaila is quoted as saying *"Botswana's reputation as a destination for investment capital has been built upon*

*the stable enforcement of the rule of law. In the case of Mount Burgess the Company clearly went against the legal framework that Botswana has in place to govern its mining industry. Were we to make an exception and waive the penalties associated with their violation, would it not in fact be indicative of the type of exceptionalism that have (sic) led many other African countries to have poor investment climates? Would this not undermine our credibility?"*

MBB questions:

**What evidence is there to show that MBB "clearly went against the legal framework that Botswana has in place to govern its mining industry"?**

**What has MBB violated?**

On 13 May 2013 and 11 July 2013, Minister Mokaila informed MBB that in terms of section 22 of the Mines and Minerals Act of Botswana (MMA), it didn't get approval from the Minister to amend its prospecting programme as a result of the unavailability of grid power previously assured would be available.

**MBB did get approval.**

On **23 March 2012** MBB informed Minister Kedikilwe, then Minister MMEWR, of the proposed amendments to its prospecting programme as a result of the lack of grid power. In accordance with section 22 (1) of Botswana's MMA, because Minister Kedikilwe did NOT reject those proposed amendments within two months, they became effective as of **23 May 2012**.

On 11 July 2013, Minister Mokaila informed MBB that it should have produced a feasibility study on The Kihabe project as it said it would. MBB did say it would undertake a feasibility study during the two years to 30 June 2012, based on:

1. Assurances that grid power would be available in the Kihabe area by the end of 2012 and
2. Compliance with the Checklist for Appropriate Company Programme of Prospecting Operations, issued under Botswana's MMA, which specifically states under section D - **PRE-FEASIBILITY STUDIES** and section E - **MINE FEASIBILITY STUDIES**, that **RESERVES must be compliant with an international code**.

**The Australian JORC Code with which MBB must comply, is a recognised international code.** It states, as all other international codes do, that feasibility studies can only be compiled and signed off by a competent person when dealing with **RESERVES**. The JORC Code further states, as all other international codes do, that RESOURCES can only be upgraded to **RESERVE** status if at the time of so doing it can be shown that those **RESERVES** can be mined and treated on a commercial basis.

Early in 2012 it became apparent that grid power would not be available in the Kihabe area by the end of 2012, as previously assured would be the case. At that time there wasn't any determinable or foreseeable future date for when it would be available.

Without a foreseeable commercial power supply, as previously assured would be available, **MBB, in compliance with the JORC Code and Botswana's MMA checklist, therefore, could NOT:**

1. Show that **RESERVES** could be mined and treated on a commercial basis,
2. Upgrade its RESOURCES to **RESERVE** status and
3. Produce and get a competent person to sign off on a **FEASIBILITY STUDY**, despite attempts by SENET and ProMet, two independent project engineering firms befitting competent persons, to undertake such a **FEASIBILITY STUDY**.

The Company will continue to update the market accordingly.