

MARIPE J.
IN THE HIGH COURT OF THE REPUBLIC OF BOTSWANA
HELD AT MAUN

Case No: MAHMN-000075-22

In the dispute between

GCWIHABA RESOURCES (PTY) LTD

Applicant

And

MINISTER OF MINERALS AND ENERGY

First Respondent

ATTORNEY GENERAL


Second Respondent

FILING NOTICE

FILED HEREWITH:

1. Supplementary Affidavit and Annexures.

DATED AT GABORONE ON THIS 29TH DAY OF NOVEMBER 2022.



COLLINS CHILISA CONSULTANTS

Applicant's
Attorneys Gaborone
Chambers Plot
4858, Lecha Close
Off Marakanelo Way
P O Box 45136
GABORONE



TO: THE REGISTRAR
High Court
MAUN

Bm
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AND TO:

ATTORNEY GENERAL

G.I. Begane

For Respondents

Government

Enclave

GABORONE

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MARIPE J.
IN THE HIGH COURT OF THE REPUBLIC OF BOTSWANA
HELD AT MAUN

Case No: MAHMN-000075-22

In the dispute between

GCWIHABA RESOURCES (PTY) LTD

Applicant

And

MINISTER OF MINERALS AND ENERGY

First Respondent

ATTORNEY GENERAL

Second Respondent

SUPPLEMENTARY AFFIDAVIT

I, the undersigned,

MOAGI NTUKUNUNU



do hereby make oath and say that:-

- 1 I am an adult male, an Office Administrator of the Applicant, **GCWIHABA RESOURCES (PTY) LTD**, duly authorised to depose to this affidavit on behalf of the Applicant by virtue of the Board Resolution and Power of Attorney filed of record.
- 2 The facts contained in this affidavit therefore fall within my personal knowledge due to my position in the Applicant and are, to the best of my knowledge and belief, both true and correct.
- 3 Where I make legal submissions, I do so on the advice of the Applicant's legal representatives. I verily believe that such advice is well-founded. Where I rely on information conveyed to me by others, I identify the source of that information and attach the relevant confirmatory affidavits.



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NATURE OF THIS AFFIDAVIT

- 4 This is a supplementary affidavit pursuant to Order 61 Rule 4 of the Rules of the High Court which affords the Applicant an opportunity to supplement, amongst others, the founding affidavit upon receipt of a record of proceedings.
- 5 It is common cause that the Second Respondent filed a record of proceedings on 18 November 2022 which was served on the Applicant on 23 November 2022. This said record contains documents which the Applicant has not had an opportunity to speak to and the Applicant wishes to place its version on record herein under.

SUPPLEMENTARY FACTUAL BACKGROUND OF THE APPLICATION

- 6 It is necessary to reincorporate herein, by reference, paragraphs 8.10 to 8.11 of the Founding Affidavit which demonstrate that the Applicant held prospecting licenses in both the eastern and western sides of the panhandle of the Okavango Delta.
- 7 It is imperative to note that some of the licenses held on the eastern side of the panhandle also fell within the buffer zone.
- 8 For purposes of this application, the Applicant had confined itself to those licenses on the western side of panhandle of the Okavango Delta as it no longer holds licenses in the eastern panhandle, and in any event, the current dispute with the First Respondent relates to a licence which falls on the western side of the panhandle.
- 9 After receiving the record of proceedings, information and correspondence relating to the eastern side of the Okavango Delta has been placed on record.
- 10 A prime example of correspondence relating to licenses in the eastern panhandle of the Okavango Delta is a letter dated 15 December 2015 which purports to record an undertaking by the Applicant to surrender its licences in the buffer zone. This correspondence from the Respondents is misleading in light of the fact that it does not disclose that the licenses which the Applicant was willing to give up was those in the eastern side of panhandle in return for the re-issuance of those

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licenses relating to the western side of the panhandle. This letter is attached herein and marked "**SUP 1**".

11 The above is supported by the letter that the Applicant sent in response to **SUP 1**, dated 16 December 2015 wherein the Applicant noted that what it would consider exploring is the possibility of giving up its licenses in the eastern panhandle. This letter is attached hereto and marked "**SUP 2**". This correspondence demonstrates that the parties were as of 2015 willing to engage in negotiations which are a *quid pro quo* process.

12 Notwithstanding the above demonstration by either party to reach an agreement, the negotiations between the parties died a natural death as the parties never finalised anything in 2015.

13 I must confess that the conversation did however, resurface in the context discussed in paragraph 8.10 and 8.11 of the founding affidavit and this time round it bore fruit, in the sense that the Applicant was issued with the licenses attached as **CCC 10** ^{a-f} to the founding affidavit.

14 It is worth pausing at this juncture to comment on the issuance of the above referred licenses.

14.1 Prior to the issuance of the above referred licenses in October 2018, the First Respondent's office had initially issued the licenses earlier, sometime in January 2018. The Applicant rejected the licenses DOM had reduced the extent of the Applicant's prospecting area by excluding the portions that fell into the buffer zone.

14.2 The Applicant learnt about the cutting off from the buffer zone and addressed a letter on 23 January 2018 to DOM wherein the Applicant demanded that the licenses be issued as agreed (including the areas in the buffer zone). A copy of this letter is annexed hereto and marked "**SUP 3**".

14.3 DOM replied on 16 February 2018 and noted as follows:

" ...

2. Please be informed that the Department of Mines is amenable to relinquish the eastern boundaries of the prospecting licenses to

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coincide with the original eastern boundaries of the prospecting licenses 386 – 392/2008.

...

4. *The Department regrets any inconvenience that may have been caused by this oversight. Please do not hesitate to contact our office for any clarifications.*

... "

14.4 Notwithstanding its regrets, DOM was yet again up to no good. Following its above letter, annexed here and marked "**SUP 4**", the Applicant wrote a follow up letter to make a follow up on the new licenses, this letter is attached hereto and marked "**SUP 5**".

14.5 DOM replied by letter attached hereto as "**SUP 6**" wherein DOM sought to change the sorry on realignment of the Applicant's licenses. Per the letter DOM contended that:

"...

7. *We reiterate that the eastern boundaries of prospecting licenses 020 -026/2018 cannot be extended into the buffer zone of the Okavango Delta. If Gcwihaba accedes to the correction as alluded to in bullet 5 above, the Department will amend prospecting licenses 024/2018 and 026/2018 as proposed."*

14.6 The above prompted the Applicant to address DOM, in particular demonstrating and demanding that its licenses be issued as agreed. This letter, which summarises the Applicant's position is attached hereto and marked "**SUP 7**".

14.7 Ultimately, following a long back and forth, the Applicant was issued with the corrected licenses which effected in October 2018. The foregoing is a demonstration that the First Respondent and those through which he acts, have been gunning to remove the Applicant from the buffer zone by hook or by crook.

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- 15 It is important to highlight that when the October 2018 licenses were issued, they related to the western side of the panhandle and they continued to exist in the same area that the buffer zone encroached upon. This on its own is *prima facie* evidence that the Applicant did not at any point in time, enter into an agreement to relinquish its rights to prospect within the buffer zone as per its prospecting licenses.
- 16 On the face of things, it would appear that the parties were on the same page, however, it has come to light that behind the scenes, the First Respondent with the aid of the Director of the National Museum, embarked on a dissemination of false information campaign to UNESCO by repeatedly submitting that the Applicant had relinquished all its prospecting licenses in the buffer zone and that there were no existing prospecting and/or mining licenses in the buffer zone.
- 17 It also became apparent that the First Respondent was operating under the false impression that prospecting licences were prohibited in the buffer zone. There is nothing in international law or domestic law prohibiting prospecting or mining in the buffer zone. The Applicant repeatedly explained, wrote and made presentations to the First Respondent to demonstrate that prospecting and mining are permitted in the buffer zone. In fact, government has recognized this and attested to it in their filings with UNESCO and the issue has only arisen now with respect to the renewal of PL 020/2018.
- 18 On receipt of the record, the Applicant has been able to learn that the actions of the First Respondent are influenced and dependent on the advice he receives from the DOM. The issue however, is that DOM has feed the First Respondent with misinformation as relates to its license in issue. For instance:
 - 18.1 In a savingram dated 10 December 2021, which is attached hereto and marked "**SUP 8**" the Department of mines told the First Respondent that in 2018, the Applicant when re-issued with prospecting licenses number 020-024/18 agreed that the re-issuance would be on condition that it relinquishes its right to prospect in the buffer zone. This is a lie which is easily disputed by the letter attached as **CCC 9** to the founding affidavit and the fact that the 2018 re-issued licenses ultimately fell within the buffer zone.

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18.2 Still in the same savingram, and another authored on 31 December 2021 (attached hereto and marked "**SUP 9**"), the Department of mines, peddles the incorrect narrative that the Applicant's licenses fall within a World Heritage Property site. As demonstrated in the founding affidavit, the Applicants licenses fall within the buffer zone and not the WHP. The WHP is designated by UNESCO and the buffer zone is designated by the Government of Botswana. That which the Government of Botswana designates, does not form part of that which is designated by UNESCO and as a result, activities such as prospecting and mining which cannot take place in the area designated by UNESCO can take place in the area designated by the Government of Botswana. This is pivotal information which the DOM, in its wisdom, either withheld or misled the First Respondent on.

19 **SUP 8**, together with another savingram dated 14 April 2022, attached herein and marked "**SUP 10**" reveal the motive behind the DOM's advice to the First Respondent and by extension, the true reason behind the First Respondent's refusal to renew the Applicant's license in issue. This reason is stated as follows by the Department of mines:

"The Department further believes there is a big risk for the Government or Country to grant a Prospecting License inside the buffer of a World Heritage Site, no matter how short the duration before relinquishment. Should International Environmental Pressure Groups and International Stakeholders become aware of the granting of a Prospecting License inside the World Heritage Site, Botswana may be put under a lot of pressure and disadvantage." [emphasis added]

20 The above is *prima facie* evidence that the First Respondent's decision not to renew the Applicant's license in issue is devoid of logic, reason and legal backing. This goes to show that the First Respondent is willing to trample on the Applicant's rights, by disregarding the provisions of the Act, in order to avoid the 'risk' of pressure from international environmentalists.

21 One last issue which this supplementary affidavit seeks to address is the contents of the Applicant's letter dated 06 December 2021 which is attached hereto as "**SUP 11**". This letter was yet again, a result of active lobbying by the parties to reach an amicable settlement through negotiations.

- 22 As alluded to in the founding affidavit, the Applicant was, and still is interested in having MDCB invest in its project relating to the prospecting activities and recovery of the discovery that the Applicant has made. The MDCB's Board is equally willing and ready to invest, however, such investment is subject to ministerial approval.
- 23 The ministerial approval in this instance is delayed by the fact that there is an issue between the Applicant and the First Respondent as relates to the renewal of the license in issue which falls within the buffer zone.
- 24 The letter is therefore an attempt by the Applicant to create a win- win environment wherein the Applicant would agree to relinquish its rights in the buffer zones upon the First Respondent's approval of the invest by MDCB.
- 25 The above letter therefore was a precursor to negotiations which did not take place. As a result, it cannot and should not be gain said that the Applicant has as a matter of fact relinquished its rights to prospect in the buffer zone. The letter however, does disclose that the Applicant has always been willing to find ways to resolve the matter amicably, if at all the main issue relating to the non-renewal of its license in issue related to the buffer zone.
- 26 It must be recalled that the Applicant's licenses existed way before the buffer zone and as such, its license cannot be said to be encroaching on the buffer zone.

CONCLUSION

- 27 On the basis of the foregoing, I therefore pray for an order in terms of the draft order filed of record.



MOAGI NTUKUNUNU

THUS SWORN TO AND SIGNED BEFORE ME AT MAUN ON THIS 30 DAY OF NOVEMBER 2022, AT 1000 HOURS, THE DEPONENT HAVING ACKNOWLEDGED THAT HE KNOWS AND UNDERSTANDS THE CONTENTS OF THIS AFFIDAVIT AND HAS NO OBJECTION TO TAKING THE PRESCRIBED OATH WHICH HE CONSIDERS BINDING ON HIS CONSCIENCE.

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COMMISSIONER OF OATHS

Full names: Boneeb Motsetisi
Rank: Sergeant
Station: Maun Airport

Bm
MN

Tel.: (267) 365 7000
Fax.: (267) 395 2141

Ref: CP 337 XII (11)

"SUP 1"



Republic of
Botswana

Department of Mines
Private Bag 0049
GABORONE
BOTSWANA

1

All correspondence to be addressed to the Director

Date: 15th December 2015

Gcwihaba Resources (Pty) Ltd
P O Box 3726
GABORONE

ATTENTION: Dr. Mike de Wit


Fax: 392 7144

**RE: RESOLUTION OF MEETING HELD BETWEEN DEPARTMENT OF MINES AND
GCWIHABA RESOURCES (PTY) LTD.**

The above refers.

2. This communiqué serves to summarize the resolutions agreed to between Department of Mines and Gcwihaba Resources (Pty) Ltd represented by Dr. Mike de Wit.
3. The meeting was held to discuss the issues of the pending renewals of prospecting licences held by Gcwiha Resources. This licences fall within the buffer zone of the Okavango World Heritage Site (OWHS) where prospecting activities/operations are prohibited and/or will be subjected to stringent EIA measures.
4. Gcwihaba has agreed to release those licences that fall within the buffer zone in lieu of areas outside the buffer zone and also with the basis that the licences will be issued as new ones rather than as renewals. This request came about as Gcwihaba has spent and carried out works on the areas that they are now requested to surrender to give way to the OWHS.
5. In light of the above, we are currently waiting for the submissions from Gcwihaba Resources indicating those licences that they wish to release and also to indicate those that they wish to be given as a substitute.
6. Thank You.

Yours faithfully,



T. Segwabe
/FOR DIRECTOR



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"SUP2"

2

GCWIHABA RESOURCES (PTY) LIMITED

Co 2003/292

VAT NO. C 06643801113

Mailing Address
P. O. Box 3726
Gaborone, Botswana

Registered Address
1st Floor, Acacia House – PL 54358
Gaborone, Botswana

TEL / FAX (267) 392-7144

PRIVILEGED AND CONFIDENTIAL

16th December 2015

The Director of Department of Mines, MMF/WR,
Private Bag 0049
GABORONE

Attention: Mr Gabotshwarege Tshckiso

RE: Gcwihaba Resources (Pty) Ltd and prospecting licences near the Okavango delta

Dear Director,

Since we last spoke on Monday the 14th of December, I have had the opportunity to discuss with Mr. James M. Bruchs, Chairman and CEO, of Tsodilo Resources Limited (100% owner of Gcwihaba Resources), several scenarios whereby our mutual interests could be obtained. We would like to explore with you the possibility of giving up all rights to our metal licenses on the eastern side (Parcel 1, see map) of the panhandle (PL 393/2008 – 395/2008;

→ PL 93/2012 – PL 97/2012; and PL 588/2009) in exchange for having the licenses on western side (Parcel 2, see map) (PL 386/2008 – 392/2008; PL 51/2008 and 52/2008; PL 595/2009 – 597/2009; and PL 119/2005) be renewed for their initial three (3) year term. We would also like to select an area south of PL 391/2008 and PL 392/2008, linking it with PL 595/2009 and 119/2005, to be added to Parcel 2.

The above would be conditioned on several factors not limited to the following:

- 1) The areas on the eastern side (Parcel 1) that we would be giving up would be off-limits to further license grants to other companies, i.e. if we relinquish them they cannot then be then granted to another party/company - ever. However, if for some reason they would be granted to other parties, the Ministry would first give Gcwihaba Resources the right of first refusal to take up the licenses.
- 2) Our licensees on the western side (Parcel 2) would be granted their initial 3 year term and at minimum expenditure levels and would be considered contiguous licenses under the Act. As of to date, we have spent 213,762,183 BWP (over 200m BWP) on our metal licenses and although we continue to proceed with our aggressive exploration, prior expenditures and a recognition of the down turn in the resource sector must be recognized.
- 3) In-fill areas in Parcel 2 would be granted to us.
- 4) The licenses would be granted to us no earlier than April 1, 2016.

We believe that such an arrangement would serve the interests of all parties.

Yours sincerely,

| |
|-------------------------------------|
| GCWIHABA RESOURCES (PTY) LTD |
| COMPANY NO. 2003/292 |
| VAT REG. NO. C06643801113 |
| P.O. BOX 3726 |
| GABORONE BOTSWANA |
| TEL/FAX: 3927144 |

Dr. Michiel C.J. de Wit
Director and COO

Attached map

Directors: James M. Bruchs (Managing), Michiel C.J. de Wit, David J. Cushing
American - Malheur - Botswana prospect

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Co 88/384 / VAT No C00452001111

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PO Box 3726
Gaborone, Botswana

Physical Address
The Office Building #59
Plot 61547 Fairgrounds Office Park
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TEL / FAX (267) 392-7144

January 23, 2018

Director of the Ministry of Mines

Attention: Mr. Lesego Ungwang
Acting Assistant Director
Department of Mines
The Ministry of Mineral Resources, Green Technology, and Energy Security

Dear Mr Ungwang,

Our Company received the new licences PL 20 -26/2018 earlier this week. I would however like to point out the following:

1. The agreement with you was that the Company would relinquish all licences east of the Okavango river and north of the Delta (PL 393, 394, 395/2008 and PL 093, 094, 095, 096, 097/2012), on which considerable expenses were incurred by the Company during its exploration program, in exchange for new licences replacing the existing ones on the west of the Okavango River (PL 386, 387, 388, 389, 390, 391 & 392/2008).
2. The Company prepared and submitted the applications for new licences, replacing PL 386 – 392/2008 in its entirety, as agreed.
3. The following new licences were received: PL 20, 21, 22, 23, 24, 25, and 26/2018,
4. However, it is apparent that the eastern boundaries of PL 20, 21, 22, 24 & 26/2018 are not aligned with that of PL 386, 387, 388, 390 & 392 respectively and were modified by your office without notice or consultation.
5. This might be an error on your behalf or done intentionally, but either way the Company requires that this modification of the licenses rectified.
6. If these boundaries were fixed *sua sponte* with purpose not to coincide with the old licences, the Company wish to point out that the Iron Ore resource that the Company has outlined will be deflated in value by a large number risking the fact that Ngamiland might never benefit from this resource.
7. If the Ministry is not prepared to change the boundary to that as was agreed, the Company will withdraw its relinquishment and revert back to the old licences, on both sides of the river for which it still has 2 years left and continue with its drilling program.

Yours sincerely,



James M. Bruchs
Managing Director



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"SUP 4"

Exhibit 4

Telephone: (267) 365 7000
Fax No: (267) 395 2141
Telegraphic Address:
Mines Gaborone



REPUBLIC OF BOTSWANA

Department of Mines
Private Bag 0049
Gaborone
Botswana

All correspondence to be addressed to the Director

Ref: CP 215 XIII (8)

Date: 16 February 2018

The Managing Director
Gcwihaba Resources (Pty) Ltd
PO Box 3726
Gaborone

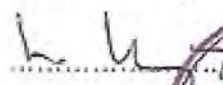
Attention: James M. Bruchs

Dear Sir,

**RE: NEW PROSPECTING LICENCES 020-026/2018 ISSUED TO GCWIHABA
RESOURCES (PTY) LTD**

1. Your letter dated 23 January 2018 and the meeting of 14 February 2018 with Gcwihaba Resources (Pty) Ltd representatives refer.
2. Please be informed that the Department of Mines is amenable to re-aligning the eastern boundaries of the prospecting licences to coincide with the original eastern boundaries of prospecting licences 386-392/2008.
3. We recognise that the current eastern boundaries have a negative effect on your Fe ore resource and Cu deposits. To that end, the Department will issue amended prospecting licences with re-aligned boundaries.
4. The Department regrets any inconvenience that may have been caused by this oversight. Please do not hesitate to contact our office for any clarifications.

Yours faithfully,


Lesego Ungweng
For/Director



Visit our Website at, <http://www.mines.gov.bw/>

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GCWIHABA RESOURCES (PTY) LIMITED

Co 88/384 / VAT No C00452001111

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PO Box 3726
Gaborone, Botswana

Physical Address
The Office Building #59
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TEL / FAX (267) 392-7144

July 12, 2018

Director of the Ministry of Mines

Attention: Mr. Lesego Ungwang
Acting Assistant Director
Department of Mines
The Ministry of Mineral Resources, Green Technology, and Energy Security



Dear Mr Ungwang,

I would like to inquire as to the status of the licenses which I brought to your attention on or about January 23, 2018 (see attachment A) regarding the inaccuracies of the license co-ordinates and our concern that the Department of Mines *sua sponte* decide to breach our agreement concerning these and other licenses. These are the same licenses together with the licenses east of the panhandle that we have been discussing with DOM for close to 3 years and it is not important at this time to reiterate everything as I am sure this matter has just been over-looked.

I acknowledge your response of February 14, 2018 to my letter (see Attachment B) in which you acknowledge the error and assured me that the errors would be corrected.

However, to this date, some 5 months later nothing has happened and we are waiting to commence work on the licenses. The errors can visually be seen on Attachment C. The *sua sponte* action by the DOM and not in conformity with our agreement has not only an impact on our exploration efforts and the resource defined billion USD iron ore project but it has further legal and regulatory implications. I have assured our shareholders; our stakeholders; our lawyers; our regulators; and, our auditors that the long saga of these licenses was over and they accepted your letter as acknowledgement of the same. I'm at a lost as to what to report now as I believe we have all acted in good faith and that there is just some clerical error that needs correcting. We and our joint venture partner have spent 25M USD on the project and the issues surrounding these licenses are something that need to get resolved as we agreed to do as we are not able to capitulate further.

If I may, I would again like to propose a solution that is 100% consistent with the agreement we reached. I have attached the original licenses (Attachment 4) and have the GIS license staff plot them exactly as they are and put an effective date on as July 1, 2018 for an initial term and we can all put this matter behind us.

Yours sincerely,

James M. Bruehs
Managing Director
Cc: Mike de Wit / Blackie Marole / Milton Keeletsang
Attachments: A, B, C & D

"SUP 6"

Telephone (267) 365 7000
 Fax No. (267) 395 2143
 Telegraphic Address
 Mines Gaborone



REPUBLIC OF BOTSWANA

Department of Mines
 Private Bag 0514
 Gaborone
 Botswana

All correspondence to be addressed to the Director

Ref: CP 215 XIII (12)

Date: 02 August 2018

The Managing Director
 Gcwihaba Resources (Pty) Ltd
 PO Box 3726
 Gaborone

Attention: James M. Bruchs

Dear Sir,

RE: NEW PROSPECTING LICENCES 020-026/2018 ISSUED TO GCWIHABA RESOURCES (PTY) LTD

1. Your letter dated 12 July 2018 and our letter CP 215 XIII (8) dated 16 February 2018 on the subject matter refer.
2. In 2014, the Okavango Delta was declared a World Heritage Site by UNESCO and the Government of Botswana took a deliberate decision to prohibit any prospecting or mining activities within the core and buffer zones of the Delta. At the time Gcwihaba Resources (Pty) Ltd ("Gcwihaba") had a number of prospecting licences within the buffer zone of the Delta (see Map 1).
3. Gcwihaba agreed in principle to relinquish all the licences in the buffer zone and others that were outside the buffer zone. In the spirit of fairness and compromise, Gcwihaba proposed that the other prospecting licences that were located to the south-west of the pan-handle (see Map 2), where there is an auspicious deposit of magnetite, be renewed in their entirety with a new lease of life with effect from 1st January 2018.

Visit our Website at <http://www.mines.gov.bw/>

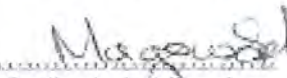
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4. The licences were renewed as shown in the table below (see Map 3):

| Original PLs | | New PLs | | Comments |
|--------------|-------------------------|-----------|-------------------------|---|
| PL Number | Size (km ²) | PL Number | Size (km ²) | |
| 386/2008 | 570.0 | 020/2018 | 458 | Cut off from the Buffer Zone |
| 387/2008 | 964.9 | 021/2018 | 925 | Cut off from the Buffer Zone |
| 388/2008 | 317.1 | 022/2018 | 152 | Cut off from the Buffer Zone |
| 389/2008 | 978.6 | 023/2018 | 978 | Unaffected by the Buffer Zone |
| 390/2008 | 978.6 | 024/2018 | 706 | Cut off from the Buffer Zone and A35 road |
| 391/2008 | 454.5 | 025/2018 | 455 | Unaffected by the Buffer Zone. |
| 392/2008 | 828.1 | 026/2018 | 732 | Cut off from the Buffer Zone and A35 road |

5. On the basis of the above, the only prospecting licences that were to be corrected are 024/2018 and 026/2018 that have been cut off from the Sehitwa – Shakawe road (A35). This correction was to involve moving the eastern boundaries of prospecting licences 024/2018 and 026/2018 from A35 road to the edge of the Buffer Zone (see Map 4).
6. Please note that our letter of 16 February 2018 was with regards to the above mentioned two (2) prospecting licences only. It is obvious from your contention that this was erroneously construed to be in reference to all the prospecting licences.
7. We reiterate that the eastern boundaries of prospecting licences 020-026/2018 cannot be extended into the buffer zone of the Okavango Delta. If Gcwihaba accedes to the correction as alluded to in bullet 5 above, the Department will amend prospecting licences 024/2018 and 026/2018 as proposed.
8. Please do not hesitate to contact our office if there is any clarification sought.

Yours faithfully,


Sellinah A. Mogojwa
Director of Mines

Visit our Website at <http://www.mines.gov.bw>



"SUP 7"

GCWIHABA RESOURCES (PTY) LIMITED

Co 88/384 / VAT No C00452001111

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TEL / FAX (267) 392-7144

August 13, 2018

Director of the Ministry of Mines

Attention: Sellinah A. Mogojwa, Director
Department of Mines (DOM)

The Ministry of Mineral Resources, Green Technology, and Energy Security (MRGE)

RE: Gcwihaba Resources (Pty) Ltd Prospecting Licenses

Dear Madame Director,

Thank you for your correspondence of August 2, 2018. I have read it over several times, shared it with my colleagues and with counsel and from our standpoint it is neither supported by the documented facts or represents an accurate portrayal of the agreement reached with DOM with respect to our prospecting licenses in Ngamiland. Your letter asks us to accept the credulity of a narrative that is neither accurate or factually supported.

I will address the points you set forth individually and incorporate my letters of October 25, 2017, January 24, 2018 and July 12, 2018 and DOM's letters of February 16, 2018 and August 2, 2018. Your statements as they are set forth in your letter are italicized and Gcwihaba Resources (Pty) Limited's (Gcwihaba) response follows each point.

DOM

2. In 2014, the Okavango Delta was declared a World Heritage Site by UNESCO and the Government of Botswana took a deliberate decision to prohibit any prospecting or mining activities within the core and buffer zones of the Delta. At the time Gcwihaba Resources (Pty) Ltd ("Gcwihaba") had a number of prospecting licenses within the buffer zone of the Delta (see Map 1),

Gcwihaba response:

Facts:

- 1) At no time did DOM or MRGE inform Gcwihaba of any such prohibition to prospecting or mining in the areas where we held licenses. If in 2014 a decision to prohibit any prospecting or mining activities was indeed consummated there must be a record of such a public decision and we hereby request a copy of any such

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documentation. We would also request any such record evidencing this prohibition being delivered to us.

- 2) As a stakeholder, we were never consulted or advised with respect to the UNESCO process although I have recently been told by our lawyers that there are references in the UNSECO filings by the government of Botswana that all stakeholders were consulted with. This statement by the government is not accurate with respect to Gcwihaba as no such consultations with Gcwihaba were ever held.
- 3) Starting in 2013 and prior to the OKV designation as a World Heritage site, Minister Onkokame Kitso Mokaila and Permanent Secretary Boikobo Paya informed us on numerous occasions in 2013, 2014, 2015 and 2016 that **“the Botswana government would not allow the placement of any arbitrary boundaries against the development of its natural resources for the benefit of its people”**. In fact, Ministry staff several times commented about the problems that would occur if an Orapa was found in the core zone! More to the point, we were informed by Minister Mokaila that he in fact held high level talks at the end of 2015 with his counterpart, Minister TS Khama at the Ministry of Environment, Natural Resources and Conservation and Minister Mokaila stood firm in his resolve that the buffer zone was not off limits to prospecting or development
- 4) The facts set forth in point 3 are further supported by the fact that on July 1, 2016, **two (2) years after the World Heritage designation**, the Minister renewed PLs 386, 387, 388, 390 and 392 all of which had parts of them in the buffer zone and PLs 393, 394 and 395 which were entirely in the buffer zone were also renewed. These licenses were all processed by DOM while you were the Director at DOM.
- 5) In 2014, 2015, 2016, 2017, the DOM issued confirmation letters confirming that the licenses in question were in good order. Nowhere in the confirmation letters are there qualifying remarks that impair the licenses which DOM would have to have been stated if in fact what you say is correct.
- 6) I read your letter as an admission that the Ministry intentionally granted licenses knowing full well that they would never allow resource development in a portion or all the area and yet they did not inform the license holder who was spending money on these projects or offer any reparations for this condemnation or impairment. You are effectively saying that there was a constructive taking of the license without notice or compensation.
- 7) Accordingly, only one of the following can be true:
 - a) there was a ban on PLs being awarded in the buffer zone after 2014 in which case we are owed some +25M USD representing the expenditure on these licenses plus the value of the iron deposit because you contend we should not have been awarded these licenses in the first place; or
 - b) Minister Mokaila and PS Paya were correct in their statements and the renewal licenses in 2016 were indeed correct.
 - c) a & b cannot both be correct.

DOM

3. Gcwihaba agreed in principle to relinquish all of the licenses in the buffer zone and others that were outside the buffer zone. In the spirit of fairness and compromise, Gcwihaba proposed the other prospecting licenses that were located to the south-west of the pan-handle (see Map 2), where there is an auspicious deposit of magnetite, be renewed in their entirety with a new lease of life with effect from 1st January 2018.

Gcwihaba response:

The supposition of your statement is not supported by the facts so it is hard for me to comment on such inaccuracies.

Facts

- 1) After several years of countless meetings with DOM and resulting no actions on several PL's that were languishing in their renewals only to discover that one if not more of these metals licenses were given to a Chinese company, Triprop Holdings, while it was still licensed to Gcwihaba, I then took a conciliatory approach with DOM to get everything resolved as no one including our investors, the public market and ourselves could understand why licenses were not being renewed despite being told repeatedly by DOM over years that "don't worry next week they will be done".
- 2) Gcwihaba proposed a solution and that is set forth in my letter of October 25, 2017 and January 24, 2018. The only difference between the October 2017 discussion letter given to DOM and the January 24, 2018 letter is that we capitulated and gave up our rights to PL's 393, 394 and 395 during discussions with DOM in November and December of 2017. We gave up our rights and claims to 14 licenses in their entirety and kept 7 as they currently were. At no time did we ever say that we would give up any areas in PL's 386 - 392 (7 licenses) nor were we ever asked to as part of our agreement with DOM. My offer was accepted by DOM in early December 2017 and we proceeded to relinquish all licenses effective December 29, 2018 in consideration for PL's 386 - 392 being issued to us with an effective date of January 1, 2018.
- 3) The agreement between Gcwihaba and DOM is set forth in the attached letters and there is no need to repeat what has already been said except to say that Dr de Wit, Milton Keeletsang, Lesego Ungwang (DOM Employee), Mr. Mathule (DOM Employee), and myself will testify under oath to the circumstances and facts surrounding the 21 PL's held by Gcwihaba and the agreement with DOM concerning those licenses and that testimony is not consistent with the facts as you have set forth. As you were not present at the meetings I can only surmise that you have been provided with misinformation as I am confident that the individuals named above and myself will testify truthfully and that testimony is not consistent with what you have set forth.

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DOM

4. The licenses were renewed as shown in the table below (see Map 3):
(table and map excluded - JMB)

Gcwihaba response:

Facts

- 1) The licenses were not renewed as agree to by the parties as set forth in my letter of January 24, 2018 and DOM's reply letter of February 16, 2018. Point 2 of DOM's February 16, 2018 letter states as follows:
"Please be informed that the Department of Mines is amenable to re-aligning the eastern boundaries of the prospecting licences to coincide with the original eastern boundaries of prospecting licences 386-392/2008." (emphasis added)
- 2) DOM's letter of February 16, 2018 is in response to my correspondence of January 24, 2018 in which I asked DOM to align the 7 licenses to our original licenses as per our agreement. DOM's letter in response apologized for the error and said they would move the 7 licenses to their original co-ordinates. Further to my letter, a meeting was held on February 14, 2018 between Dr Michiel CJ de Wit, Milton Keeletsang and Lesego Ungwang (DOM Employee) and Mr. Mathule (DOM Employee) with respect to the license boundaries.
- 3) To date some 6 months after DOM's letter of February 16, 2018 the boundaries have not been re-aligned.

DOM

4. The licences were renewed as shown in the table below (see Map 3):

| Original PLs | | New PLs | | Comments |
|--------------|-------------------------|-----------|-------------------------|--|
| PL Number | Size (km ²) | PL Number | Size (km ²) | |
| 386/2008 | 570.0 | 020/2018 | 458 | Cut off from the Buffer Zone |
| 387/2008 | 964.9 | 021/2018 | 925 | Cut off from the Buffer Zone |
| 388/2008 | 317.1 | 022/2018 | 152 | Cut off from the Buffer Zone |
| 389/2008 | 978.6 | 023/2018 | 978 | Unaffected by the Buffer Zone |
| 390/2008 | 978.6 | 024/2018 | 706 | Cut off from the Buffer Zone and A35 |
| 391/2008 | 454.5 | 025/2018 | 455 | Unaffected by the Buffer Zone. |
| 392/2008 | 828.1 | 026/2018 | 732 | Cut off from the Buffer Zone and A35 |
| | 5091.8 | | 4406 | 685.8 km ² reduction by DOM (JMB) |

5. On the basis of the above, the only prospecting licenses that were to be corrected are 024/2018 and 026/2018 that have been cut off from the Sehitwa – Shakawe road (A35). This correction was to involve moving the eastern boundaries of prospecting license 024/2018 and 026/2018 from A35 road to the edge of the Buffer Zone (see Map 4).
6. Please note that our letter of 16 February 2018 was with regards to the above

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mentioned two (2) prospecting licences only. It is obvious from your contention that this was erroneously construed to be in reference to all the prospecting licences.

Gcwihaba response:

With respect to Point 4, 5 & 6, I again have a difficult time to formulate a coherent response because the facts are not correct.

- 1) DOM's letter of February 16, 2017 refers to 7 licenses, PL386-392 and any assertions that it is referring to 2 licenses are ludicrous and not consistent with either the documented facts nor testimony that will be forthcoming from Gcwihaba employees or DOM employees.
- 2) In Point 5 you state that PL24 & 26 (are) being changed to accommodate our auspicious deposit of magnetite and you accommodate this by changing PLs 24 & 26.
- 3) None of this makes any sense because the magnetite iron deposit is located in old PL386 397 or new PL20 & 21. There was never any discussion about magnetite being in PL24 or PL26 as there is only possible cobalt, copper and gold deposits in these licenses.
- 4) Compounding this problem is that nothing in your points 4, 5 or 6 deal with the issue that DOM said it would fix the eastern boundaries as set forth in DOM's letter of February 16, 2018 which states exactly as follows:

2. Please be informed that the Department of Mines is amenable to re-aligning the eastern boundaries of the prospecting licences to coincide with the original eastern boundaries of prospecting licences 386-392/2008.

3. We recognise that the current eastern boundaries have a negative effect on your Fe ore resource and Cu deposits. To that end, the Department will issue amended prospecting licences with re-aligned boundaries.

- 5) Simply put, the facts as you state them have no support, they are just unsupported statements of convenience.
- 6) The *sua sponte* changing of the license area has effectively reduced our license area by 659 square kilometres a material amount.

DOM

7. *We reiterate that the eastern boundaries of prospecting licenses 020-026/2018 cannot be extended into the buffer zone of the Okavango Delta. If Gcwihaba accedes to the correction as alluded to in bullet 5 above, the Department will amend the prospecting licenses 024/2016 and 026/2018 as proposed.*

Gcwihaba response:

Your proposal is not acceptable nor is it consistent with the agreement made with DOM. At the end of the 2017 Financial Year and the First Quarter 2018, I notified the market place, our stakeholders, our shareholders and the regulators that we had after negotiations with DOM relinquished twenty-one license (21) in consideration of our 7 core licenses being renewed in their entirety. This disclosure was with the approval of our auditors Ernst & Young LLP and their approval of the disclosure language was based entirely on DOM's letter of February 16,

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2018 in response to my letter of January 24, 2018, in which DOM confirmed that the licenses would be reconfigured to the correct co-ordinates.

Our Second Quarter Financials are due to be released no later than the 24th of August and we need to have this matter resolved prior to that date as I am required to give the specifics of the dispute with DOM over these licenses if the matter is in fact not resolved as previously disclosed.

If we do not resolve this matter then I suggest that the best way forward is to submit this matter to binding arbitration with respect to the issue of damages as I do not believe there is any question as to the facts surrounding this matter as you on behalf of the Botswana government are confiscating at least part of a resource that has a current in situ value of some \$14 billion USD with respect to the Block 1 resource and \$159 to \$223 billion USD if extrapolated to the entire exploration target. We would be agreeable to submit this matter to the International Chamber of Commerce (ICC) to determine damages as First Quantum Minerals did with the Democratic Republic of Congo (DRC) and others when the DRC impaired / confiscated their licenses. First Quantum Minerals were subsequently awarded \$1.25B USD.

We are not asking for anything more than what was agreed to and that which we already had. DOM's breach of the agreement entered into was not only deceitful to Gcwihaba but the effective confiscation of our licenses is not consistent to representations made to UNESCO and I don't believe UNESCO would have approved the designation when they did if they knew that the representations about consultations with stakeholders were not accurate.

Yours sincerely,



James M. Bruchs
Managing Director

Cc: Permanent Secretary, Cornelius K. Dekop
Mike de Wit / Blackie Marole / Milton Keeletsang

Attachments: 1) October 25, 2017 letter from James M. Bruchs to Lesego Ungwang
2) January 24, 2018 letter from James M. Bruchs to Lesego Ungwang
3) February 16, 2018 letter from Lesego Ungwang to James M. Bruchs
4) July 12, 2018 letter from James M. Bruchs to Lesego Ungwang
5) August 2, 2018 letters from Director Sellinah A. Mogojwa to James M. Bruchs

TSODILO RESOURCES LIMITED



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TEL. +1 416 572-2033 / FAX +1 416 987-4369 / EMAIL: info@tsodiloresources.com WEBSITE: http://www.tsodiloresources.com

October 25, 2017

Mr. Lesego Ungwang
Acting Assistant Director
Department of Mines
The Ministry of Mineral Resources, Green Technology, and Energy Security

RE: Gcwihaba Resources (Pty) Ltd – Licenses

Dear Sir,

Once again thank you and Mr. Mathule, for taking time to meet with Dr Mike de Wit, Milton Keeletsang and myself on September 20, 2017. We appreciated the opportunity to meet with you and have a frank and open discussion with respect to Gcwihaba's metal licenses in Ngamiland.

Let me say from the onset that we understand the Ministry's and the Department of Mines' efforts in adhering to the spirit of the caveats that the UNESCO designation of the Okavango Delta as a World Heritage site have brought about. As the largest license or land holder in the area, we were never consulted by any party to the accord prior to the delta's designation which we have always thought peculiar but we have nonetheless conducted our activities in all our licenses according to the World Bank's good practice standards at all times with respect to environmental and social matters and will continue to do so.

Our prospecting licenses as they are today are set forth in attachment A & B. No license rests in either in the Ramsar or World Heritage core areas and only those to the east of the panhandle rest in the buffer zones (Attachment C). Some of our licenses in the buffer zone were renewed 2 years after the World Heritage designation while others which may or may not be contiguous to other licenses have not been acted upon in years or in an extreme case were granted to another company while still under license to us. The latter example is clearly an anomaly and not representative but it remains an issue. However, no matter the reason, the delay in renewal has caused actual damages in the exploration program due to the uncertainty caused by the delay. In the past five years, I would estimate that 250M BWP has been spent on the metals licenses and the uncertainties have now resulted in a disjointed exploration program and effort where there should be one cohesive effort and it has also hindered discussions with development partners who question the lack of license renewal.

It should also be pointed out that in previous discussions with the Honourable Mr. Onkokame Kitso Mokaila, Permanent Secretary Paya and others that no impediment to prospecting licenses in the buffer zone existed and that MMEWR and DEA were both so operating.

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I have heard reports that our overtures to resolve these issues over the past years have been viewed by the DOM as contentious but let me assure you that this is not the case at all but rather it has been a good faith effort in trying to reach an understanding and a resolution of the matters with DOM.

In the spirit of equity and compromise without relinquishing any of our rights, we would like to propose for discussion purposes the following:

- ◇ We would agree to drop all claims be they actual or in equity to those licenses (11) highlighted in blue on both Attachment A & B effective December 31, 2017;
- ◇ in exchange for an initial grant of those licenses (10) highlighted in yellow in Attachment A & B to be effective January 1, 2018.

Although, we would have to take a large impairment charge on our financials for the relinquishment of the licenses we deem this an acceptable outcome if it allows us to further those licences west of the panhandle without any dark clouds which arise over any license controversy. In the mineral resource and other areas, Botswana works because of the rule of law and the ability of its governmental staff to address issues, it is in this context that we are putting forth this proposal.

Best regards,



James M. Bruchs
Chairman & CEO
Attachment A, B & C

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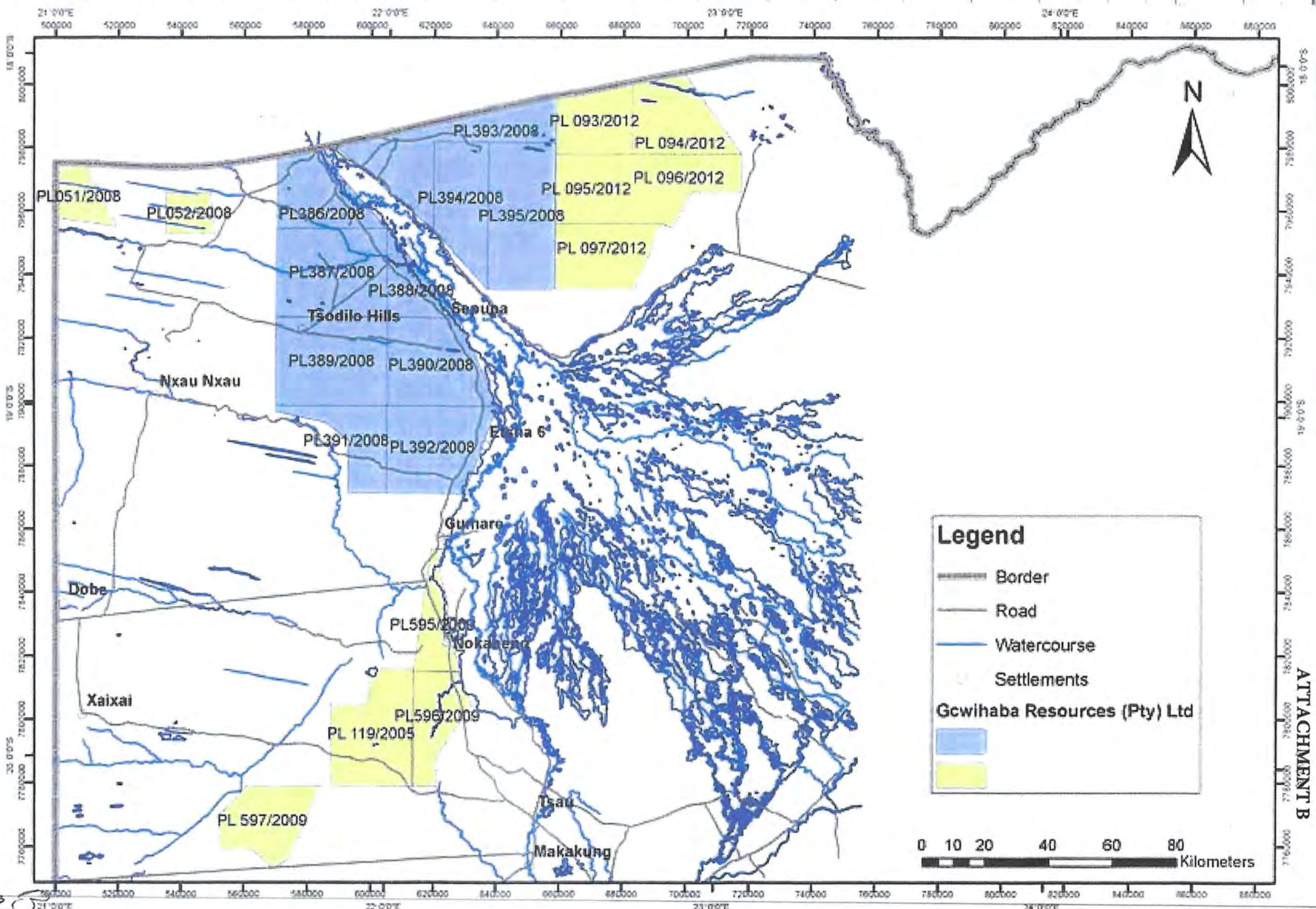
DESCRIPTION OF PROPERTIES

Gcwihaba Resources (Pty) Limited [Botswana]

(Prospecting Licenses - Metals: base, precious, platinum group, and rare earth)

| | PL number | PROPOSAL |
|----|-------------|-----------------------------------|
| 1 | PL 119/2005 | RELINQUISH LICENSE AND ALL CLAIMS |
| 2 | PL 051/2008 | RELINQUISH LICENSE AND ALL CLAIMS |
| 3 | PL 052/2008 | RELINQUISH LICENSE AND ALL CLAIMS |
| 4 | PL 386/2008 | RENEW INITIAL TERM AS OF 1/1/2018 |
| 5 | PL 387/2008 | RENEW INITIAL TERM AS OF 1/1/2018 |
| 6 | PL 388/2008 | RENEW INITIAL TERM AS OF 1/1/2018 |
| 7 | PL 389/2008 | RENEW INITIAL TERM AS OF 1/1/2018 |
| 8 | PL 390/2008 | RENEW INITIAL TERM AS OF 1/1/2018 |
| 9 | PL 391/2008 | RENEW INITIAL TERM AS OF 1/1/2018 |
| 10 | PL 392/2008 | RENEW INITIAL TERM AS OF 1/1/2018 |
| 11 | PL 393/2008 | RENEW INITIAL TERM AS OF 1/1/2018 |
| 12 | PL 394/2008 | RENEW INITIAL TERM AS OF 1/1/2018 |
| 13 | PL 395/2008 | RENEW INITIAL TERM AS OF 1/1/2018 |
| 14 | PL 595/2009 | RELINQUISH LICENSE AND ALL CLAIMS |
| 15 | PL 596/2009 | RELINQUISH LICENSE AND ALL CLAIMS |
| 16 | PL 597/2009 | RELINQUISH LICENSE AND ALL CLAIMS |
| 17 | PL 093/2012 | RELINQUISH LICENSE AND ALL CLAIMS |
| 18 | PL 094/2012 | RELINQUISH LICENSE AND ALL CLAIMS |
| 19 | PL 095/2012 | RELINQUISH LICENSE AND ALL CLAIMS |
| 20 | PL 096/2012 | RELINQUISH LICENSE AND ALL CLAIMS |
| 21 | PL 097/2012 | RELINQUISH LICENSE AND ALL CLAIMS |

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ATTACHMENT B

Gwihaba Metal (Base & Precious, PGMs and REE) Licenses as of September 26, 2017.

© TheobaldGIS/0171716_License_2017_09_18/Gwihaba Metal (Base & Precious, PGMs and REE) Licenses_26 September 2017_T&D

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SAVINGRAM



Mogomotsi Nyepetsi
For/Director

FROM: Director
Department of Mines

TEL: 365 7000

FAX: 395 2141

TO: Permanent Secretary, Ministry of
Mineral Resources, Green Technology
& Energy Security

REF: CP 215 XIV (11)

10 December 2021

RE: Application for First Renewal of Prospecting Licence, ("PL") 020/2018 by Gcwihaba Resources Pty Ltd

Gcwihaba Resources Pty Ltd ("Gcwihaba") has applied for renewal of their prospecting licence number 020/2018 to continue with prospecting for metals in the North West District. Gcwihaba is a company incorporated under the laws of the Republic of Botswana and the registered shareholders with more than 5% of the issued capital is Tsodilo Resources Bermuda Limited.

In 2018 Gcwihaba was re-granted prospecting licences numbers 020-024/2018 previously issued to the company in 2008 as PL386-390/2008. These were re-granted as new licences rather than as renewals on grounds that Gcwihaba release the licences that fell within the buffer zone for Okavango Delta World Heritage Site. This came about as Gcwihaba had spent funds and carried out work on the areas that they were now requested to surrender, to give way to the Okavango World Heritage Site (OWHS) where prospecting activities/operations are prohibited and/or will be subjected to stringent EIA measures.

In the initial renewal application received on 2nd July 2021, prospecting licences numbers 020-024/2018 encroached into the delta's buffer zone, and the company was requested to revise their submissions. Upon the re-submission of the modified licences boundaries, prospecting licence number 020/2018 still encroached into the buffer zone. The applicant was further engaged to realign the boundaries of the prospecting licence number 020/2018 with the buffer zone boundary of the Okavango Delta or otherwise submit an approved Environmental Assessment Statement for the area, but to no avail.

In their letter dated 6th December 2021, purportedly following engagements with the Honourable Minister, the applicant proposes that they be granted a renewal with the licence encroaching into the buffer zone to enable them to engage with Mineral Development Company Botswana ("MDCB") on a pending funding and investment agreement. The proposal

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is that once the funding agreement and investment agreement has been executed with MDCB, Gcwihaba will relinquish a portion of the prospecting licence that falls within the buffer zone.

The Department of Mines does not see the rationale for signing a funding and investment agreement based on mineral resources that will shortly thereafter be relinquished. The Department further believes there is a big risk for the Government or Country to grant a Prospecting Licence inside the buffer of a World Heritage Site, no matter how short the duration before relinquishment; should International Environmental Pressure Groups and International Stakeholders become aware of the granting of a licence inside the World Heritage Site, Botswana may be put under a lot of pressure and disadvantage. The Department of Mines is of the view that the most reasonable thing will be to grant the licence renewal for a portion falling outside the buffer zone.

On the contiguous licence block on which a renewal of tenure has been applied for, to date, Gcwihaba has spent BWP 1, 753, 815.00 on prospecting activities conducted. This amount was spent on prospecting operations and some technical studies such as an independent scoping studies into the feasibility of the iron ore project, exploration drilling of 556 holes totalling to 83, 546.95 meters with 12, 898 assays taken. Also, a resource of 441 million tonnes at 29.4% Fe was defined together with completion of airborne electromagnetic survey, ground magnetic survey and hydro geochemical analysis.

In their proposed renewal of tenure, among other activities, Gcwihaba intends to conduct analysis of flown airborne magnetic, electromagnetic, radiometric and gravity surveys; geological interpretation in 2D and 3D followed by petrographic analyses of the existing drill cores. Also, a preliminary economic assessment (PEA) of the Xaudum Iron Formation in collaboration with a reputable resource assessment company together with drilling, detailed metallurgical test work, geological modelling of the deposit and the Pre-feasibility studies into iron ore mining start-up will be carried out.

Gcwihaba has committed a minimum expenditure of BWP 2, 000, 000.00 to undertake their proposed work programme. We view both the technical competence, financial commitment and prospecting programme as satisfactory.

In light of the above, the Department of Mines therefore recommend to the Honourable Minister that Gcwihaba be granted the renewal of their Prospecting Licence Number 020/2018, for a portion of licence area falling outside the buffer zone, and the company be advised that Government is not in a position to grant a prospecting licence within a World Heritage Site. The Department has taken the liberty to crop out the portion of the area falling with the buffer zone. The licence documents are attached for the Minister's consideration and approval together with a draft letter advising the applicant that Government is not in a position to grant a prospecting licence within a World Heritage Site.

Thank you.

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SAVINGRAM

FROM: Ag. Director
Department of Mines


Kenalemang Charles

TEL: 365 7000

FAX: 395 2141

TO: Permanent Secretary, Ministry of
Mineral Resources, Green Technology
& Energy Security

REF: CP 215 XIV (16)

31 December 2021

RE: PROSPECTING LICENCE NUMBER 020/2018 AND MINERAL DEVELOPMENT
COMPANY BOTSWANA (MDCB)

We refer to your savingram referenced CMMGE 7/3/56 III (4) dated 17 December 2021 on the subject matter.

Through our savingram referenced CP 215 XIV (11) and dated 10 December 2021, we recommended to the Honourable Minister that prospecting licence number 020/2018 should only be granted with the exclusion of areas that encroaches the buffer zone of the Okavango Delta.

The Rio Declaration on Environment and Development (Principle No. 15) which Botswana is also a signatory, it clearly states that where there is no scientific certainty that serious or irreversible harm would not occur to the environment as in the case of PL 020/2018, cost-effective measures must be taken and these includes not authorising the potential harmful activity of prospecting.

The position of the Department of Mines remains unchanged in that the licence cannot be issued with the inclusion of areas within the buffer of the heritage site as per the applicant, Gcwihaba Resources (Pty) Ltd request.

Department of Mines once again recommend to the Honourable Minister that Gcwihaba Resources (Pty) Ltd be granted prospecting licence number 020/2018 with the exclusion of areas within the World Heritage Site buffer zone as proposed.

Thank you.

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SAVINGRAM

FROM: Director,
Department of Mines


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Ofentse Ditsele

TEL: 365 7000

FAX: 395 2141

TO: Permanent Secretary, Ministry of
Mineral Resources, Green Technology
& Energy Security
Attention: Johannes o. Tsimako

REF: CP 215 XIV (21)

14th April, 2022

RE: Application for First Renewal of Prospecting Licence, ("PL") 020/2018 by Gcwihaba Resources Pty Ltd

1. Gcwihaba Resources Pty Ltd ("Gcwihaba") has applied for renewal of their Prospecting Licence No. 020/2018 for metals in the North West District.
2. Gcwihaba is a company incorporated under the laws of the Republic of Botswana and the registered shareholders with more than 5% of the issued capital is Tsodilo Resources Bermuda Limited.
3. In 2018 Gcwihaba was re-granted Prospecting Licences Nos. 020-024/2018 previously issued to the company in 2008 as PL386-390/2008. These were re-granted as new licences rather than as renewals on grounds that Gcwihaba release the licences that fell within the buffer zone for Okavango Delta World Heritage Site. This came about as Gcwihaba had spent funds and carried out work on the areas that they were now requested to surrender, to give way to the Okavango World Heritage Site (OWHS) where prospecting activities/operations are prohibited and/or will be subjected to stringent EIA measures.
4. In the initial renewal application received on 2nd July 2021, Prospecting Licences Nos. 020-024/2018 encroached into the buffer zone of the Okavango Delta, and the company was advised to revise their submissions. Upon re-submission of the modified licence boundaries, Prospecting Licence No. 020/2018 was noted to still encroach into the buffer zone.

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5. The applicant was further engaged to realign the boundaries of the prospecting licence number 020/2018 with the buffer zone boundary of the Okavango Delta or otherwise submit an approved Environmental Assessment Statement for the area, but to no avail.
6. In their letter dated 6th December 2021, purportedly following engagements with the Honourable Minister, the applicant proposes that they be granted a renewal with the licence encroaching into the buffer zone to enable them to engage with Mineral Development Company Botswana ("MDCB") on a pending funding and investment agreement. The proposal is that once the funding agreement and investment agreement has been executed with MDCB, Gcwihaba will relinquish a portion of the prospecting licence that falls within the buffer zone.
7. The Department of Mines does not see the rationale for signing a funding and investment agreement based on the mineral resources that will shortly thereafter be relinquished. The Department further believes there is a big risk for the Government or Country to grant a Prospecting Licence inside the buffer of a World Heritage Site, no matter how short the duration before relinquishment. Should International Environmental Pressure Groups and International Stakeholders become aware of the granting of a Prospecting Licence inside the World Heritage Site, Botswana may be put under a lot of pressure and disadvantage.
8. Gcwihaba Resources, through their letter dated 15 March, 2022, are still insisting that Prospecting Licence No. 020/2018 be granted still with a portion of the licence falling within the buffer zone of the Okavango Delta.
9. The Department of Mines is of the view that the most reasonable thing will be to grant licence renewal only for a portion falling outside the buffer zone.
10. In light of the above, the Department of Mines therefore recommend that the Honourable Minister advises Gcwihaba Resources that he is not in a position to grant renewal of Prospecting Licence No. 020/2018 as long as the licence falls with the buffer zone World Heritage Site. The company should be advised to consider revising the boundaries of the area, or otherwise submit an approved Environmental Impact Assessment with their application
11. Attached herewith is a draft letter for consideration of the Honourable Minister

Thank you.

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"Sup 11"
GCWIHABA RESOURCES (PTY) LIMITED

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Mailing Address
PO Box 3726
Gaborone, Botswana

Physical Address
The Office Building #59
Plot 21532 Fairgrounds Office Park
Gaborone, Botswana

Registered Address
RSM House – Plot 39
Plot 39, Commerce Park
Gaborone, Botswana

TEL / FAX (267) 392-7144

6th December 2021

To: Honourable Lefoko M. Moagi
The Minister of Mineral Resources, Green Technology and Energy Security
Ministry of Mineral Resources, Green Technology and Energy Security (MMGE)
Private Bag 0018 – Gaborone, Botswana

Re: PL020/2018 license renewal and Mineral Development Corporation of Botswana (MDCB)

Dear Honourable Minister,

As per our discussions at the meeting on the 6th December 2021, with respect to Gcwihaba Resource (Pty) Ltd. (hereinafter "Gcwihaba") PL020/2018 prospecting license, we propose that Honourable Minister renew PL020/2018 as submitted for the reasons and rationale we set forth at today's meeting (see, attached presentation). This will allow us to announce the renewal of the five (5) licenses containing the Xaudum Iron Formation (XIF) project allaying the concerns of the board of directors, shareholders, stakeholders and investment community with respect to these license renewals.

Further to our discussion and in conjunction therewith, Gcwihaba will then agree to relinquish that portion of PL020/2018 which is located within the Okavango Delta World Heritage buffer zone upon execution and funding of the Gcwihaba / MDCB investment agreement ("the Agreement") that is currently pending. We would agree to make this a condition within the Agreement documentation and include language to this effect, so that the relinquishment occurs without further action required on our part. Said relinquishment achieves the government's goal of having no licenses in the Okavango Delta World Heritage buffer zone.

Coincident with the relinquishment of the buffer zone area, the Department of Mines (hereinafter "DOM") shall issue a revised PL020/2018 license modified to exclude the area of PL 020/2018 within the buffer zone only, all other terms to remain the same.

In consideration for the buffer zone area relinquishment, DOM will issue a letter to Gcwihaba, inclusive of MDCB's ownership, stating that Gcwihaba shall have the right of first refusal to acquire the area relinquished in the buffer zone if the Government of Botswana (a) decides to take such action to officially modify the buffer zone to exclude the area relinquished (by Gcwihaba); or, (b) otherwise permits any prospecting or mining license in the Okavango Delta World Heritage site.

I trust that the above accurately reflects our discussion. I believe the above rectifies the issues and allows the development of the XIF iron project to proceed without delay.

Respectfully submitted,



James M. Bruchs
Managing Director
Attachment – License Renewal / MDCB



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