



the federation for a sustainable environment

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ENVIRONMENTAL BASIC ASSESSMENT PROCESS OF THE PROPOSED
PROSPECTING RIGHTS IN WAAGFONTEIN 89 JQ, BOJANALA PLATINUM
DISTRICT MUNICIPALITY, NORTH WEST PROVINCE

Name of Applicant: Lwenzhe Resources and Exploration (PTY) LTD
DMR Reference no.: NW 30/5/1/1/2/12283 PR

The following comments are submitted on behalf of the Federation for Sustainable Environment (FSE) The FSE is a federation of community based civil society organisations committed to the realisation of the constitutional right to an environment that is not harmful to health or well-being, and to having the environment sustainably managed and protected for future generations. Their mission is specifically focussed on addressing the adverse impacts of mining and industrial activities on the lives and livelihoods of vulnerable and disadvantaged communities who live and work near South Africa's mines and industries.

We understand from the Background Information Document (BID) that the application is for the prospecting rights for undisclosed minerals/metals. Prefatory to our comments we wish to state that prospecting for minerals/metals involves significant cost and it is not uncommon to spend millions of Rand during the prospecting phase. It can logically be inferred that an Applicant will not prospect unless there is a reasonable opportunity to develop a mine upon applying to the DMR for a mining right.

We now refer to the following undertaking in the Background Information Document:

“The proposed development requires environmental authorisation from the North West Department of Mineral Resources (DMR) which will be carried out under the Environmental Impact Assessment Regulations which were promulgated and came to effect in December 2014 under the National Environmental Management Act - NEMA (Act 107 of 1998) as amended. All relevant legislation will be consulted during the Basic Assessment process and will be complied with at all times.”

According to the BID, a Biodiversity Assessment and a Wetland (Surface Water) Assessment are proposed.

It is our understanding that a Basic Assessment in terms of the 2014 EIA Regulations (as amended) must set out:

- the environmental outcomes;
- impacts and residual risks of the proposed activity;
- determine the policy and legislative context within which the proposed activity is located; and
- how the activity complies with and responds to the policy and legislative context;
- identify the alternatives considered, including the activity, location, and technology alternatives and describe the need and desirability of the proposed alternatives

through the undertaking of an impact and risk assessment process, inclusive of cumulative impacts which focused on determining the geographical, physical, biological, social, economic, heritage, and cultural sensitivity of the sites and locations within sites and the risk of impact of the proposed activity and technology alternatives on these aspects to determine—

- (i) the nature, significance, consequence, extent, duration, and probability of the impacts occurring to; and
- (ii) the degree to which these impacts—
 - (a) can be reversed;
 - (b) may cause irreplaceable loss of resources; and
 - (c) can be avoided, managed or mitigated; and

through a ranking of the site sensitivities and possible impacts the activity and technology alternatives will impose on the sites and location identified through the life of the activity to—

- (i) identify and motivate a preferred site, activity and technology alternative;
- (ii) identify suitable measures to avoid, manage or mitigate identified impacts; and
- (iii) identify residual risks that need to be managed and monitored

In view of the above, we hereby request that Lwenzhe Resources and Exploration (PTY) Ltd, (the Environmental Assessment Practitioner), take into account:

1. The Guideline on the Need and Desirability including alternatives and the best practicable environmental option,
2. The environmental management framework¹ of the region; and
3. Other relevant guideline documents such as the Mining and Biodiversity Guideline, the 2015 Regulations for Financial Provision for Exploration, Prospecting and Mining, the white paper on “Sense of Place”, the Mine Water Management Policy, etc.

in the Basic Assessment process.

In order for Interested and Affected Parties to comment meaningfully and intelligently on the Application, we require sufficient information, which ought to include:

- The minerals/metals, which the Applicant intends to prospect for. If we have overlooked this information we apologise and request to be referred to the section in the BID where it is listed.
- The Closure Plan.
- Whether the prospecting area falls within biodiversity priority areas such as legally protected areas including National Parks, Nature Reserves, etc; areas of highest biodiversity important areas such as critically endangered and endangered ecosystems, critical biodiversity areas, river and wetland freshwater ecosystem priority areas (FEPAs) and a 1 km buffer around these FEPAs; high biodiversity important- and/or moderate biodiversity important areas.

If the mining falls within legally protected areas, mining is prohibited and if the mining falls within an area of highest biodiversity important the likelihood of a fatal flaw for new mining projects is very high because of the significance of the biodiversity features in these areas and the associated eco-systems services. If these areas are confirmed the EIA should include the strategic assessment of the optimum, sustainable land use for the particular area, and should fully take into account the environmental sensitivity of the area, the overall environmental and socio-economic costs and benefits of mining as well as the potential strategic importance of the minerals to the country.

Prospecting for metals/minerals in legally protected and highest biodiversity important areas carry with it the risk that if quantities of the metals/minerals are found to be economically extractable, authorisations for mining may well not be granted.

It is for the above-mentioned reasons and the fact that the prospecting area is 5km from Sun City, along the border of the Pilanesberg National Park that we request that the need and desirability of the project be considered as part of the Basic Assessment.

¹ The EMF for the Bojanala Platinum District Municipality is in the process of being finalised. We therefore consider an environmental authorisation to be premature in view of the pending EMF.

Need and Desirability

The need and desirability assessment of the project ought to be evidence-based and not subjective and that in the evaluation of the need and desirability, the benefits derived from alternative land uses such as tourism and eco-tourism ought to be considered in order to determine the economic viability of the proposed project as well as the impacts of the prospecting operations on the sense of place*.

*(It is part of our law that the potential impact of a development on the sense of place of an area must be considered. In the case of Director: Mineral Development Gauteng Region and another v. Save the Vaal Environment and others 1999 (2) SA 709 (SCA) at 715C, the Supreme Court of Appeals with regards to a proposed mine on a wetland next to the Vaal river, identified as an environmental concern the “...*predicted constant noise, light, dust and water pollution resulting from the proposed strip mine will totally destroy the ‘sense of place’ of the wetland and the associated Cloudy Creek. Thus the spiritual, aesthetic and therapeutic qualities associated with this area will also be eliminated.*”

Sense of place has an economic value and insensitive developments within special areas such as Nature Reserves can have a definitive influence on the visual value of these areas.

Tourists to Sun City and the Pilanesberg National Park are highly sensitive to any changes in visual quality and the large number of tourists to these areas require that these areas be more protected than a lesser used area.)

The balancing of the negative environmental impacts versus the alleged short term social benefits (which have, in the past, not accrued to the local communities) and the economic advantages can only be assessed if the loss to the environment is evaluated. This appraisal ought to be conducted with the guidance of *inter alia* the Mining Biodiversity Guideline and the taking into consideration of the opportunity costs.

In the light of the above-mentioned, the FSE recommends that the specialist studies include not only biodiversity and wetland assessments but an assessment of the Best Practical Environmental Option, which ought to take into consideration whether the proposed development will constitute the best use of the resources. This ought to include an assessment of the opportunity costs, e.g.

- o Understanding the value of the foregone opportunity (e.g. tourism and eco-tourism);
- o The achievement of the desired aim/goal for the specific area (e.g. eco-tourism and conservation);
- o Optimising of positive impacts;
- o Minimising of negative impacts;
- o Equitable distribution of impacts; and
- o The maintenance of ecological integrity and environmental quality.

The current model for the development of mining within the North West Province and is not sustainable. While we acknowledge that mineral extraction location is based on the ore deposit and that alternative locations of the mining area may be very limited, the fact is that

some metals, such as platinum is plentiful within the North West Province. It is overproduced and the sensitive environment is neither of the aforesaid.

In conclusion, we request an assessment of the project on the scarce water resources within the Crocodile West/Limpopo Catchment Management Area, taking into consideration that the Limpopo River Basin is already over-allocated by about 120% and is facing a 241% increase in demand by 2025. (Ref. Ashton 2009)

A dramatic increase in water demand is expected in the Crocodile West/Limpopo Water Management Area (WMA) as a result of:

- Current mining activities and proposed mining activities
- Sasol's proposed Maphuta coal to liquid fuel projects
- The exploitation of the vast coal reserves in the Waterberg;
- The expansion of the Grootegeeluk mine to supply the new Medupi Power Station with coal; and
- Matimba and Medupi - three new Eskom power stations in the future
- Implementation of the Reserve is expected to result in serious deficits in some of the main river catchments.

(Ref. DWS' Classification of Significant Water Resources in the Crocodile (West) Marico WMA and Matlabas and Mokolo Catchments: Limpopo WMA (WP 10506) Classification Report; DWS Business Case for the Limpopo CMA. September 2013.)

SUBMITTED BY:

A handwritten signature in black ink, appearing to read 'M. Liefferink', written in a cursive style.

Mariette Liefferink

CEO: FEDERATION FOR A SUSTAINABLE ENVIRONMENT

5 March 2018

