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YOUENS AND GLOBAL ENVIRONMENTAL TRUST STATEMENT ON TENDELE CONTAINS INACCURACIES AND HALF-TRUTHS

Johannesburg, 17 March 2021. Tendele Mining is disappointed to note the statement issued by attorney Kirsten Youens under the banner of the Global Environmental Trust (GET) on 16 March 2021 asserting that “Tendele Admits to Invalid Mining Right”. The statement is full of inaccuracies and half-truths.

Ms Youens and the GET have been working to have the mine closed, including through a Review Application challenging the Minister’s decision to grant in 2016 a mining right to extend the mine’s operations. Closure would lead to substantial job losses and other negative impacts on the surrounding community. It would likely escalate tensions in the community, which tensions the mine has been seeking to reduce.

Rather, in order to be pragmatic, and to bring an end to the tension in the area, Tendele is proposing a remedy that will ensure the survival of the mine, the retention of more than 1,600 jobs and the sustainability of the 70 local businesses that supply goods and services to the mine.

During a confidential case management meeting before a Judge of the High Court, Tendele indicated that it is willing to recognise that there were certain errors in the application process that was before the Minister of Mineral Resources and Energy. It should be borne in mind that the first respondent in this matter is not Tendele but the Minister.

The mine has proposed a just and equitable remedy to ensure the survival of the mine and to allay fears regarding the environmental impacts of its intended mining activities.

Tendele has further undertaken to abandon 92% or 195 square kilometres of the land covered by the mining right which, as a consequence, has addressed the majority of the concerns raised in the Review Application, including 66 square kilometres of land adjacent to the Hluhluwe-iMfolozi Park.

This is an administrative law remedy that is well recognised by the courts. In a separate case brought and lost by the same attorney, both the High Court in Pietermaritzburg and the Supreme Court of Appeal have emphasised the importance of keeping the Somkhele Mine open.

Tendele has, on numerous occasions, approached Ms Youens in an attempt to settle the ongoing dispute, temper community tensions and find ways of accommodating all parties.

The statement by Ms Youens and GET exacerbates these tensions as thousands of people within the community are concerned about whether they will still have employment in the coming months, and whether the mine will continue to assist with the economic development in the area.

In order to address the environmental concerns raised by Youens and others, Tendele contracted independent environmental consultants to prepare additional and updated specialist studies relating to its proposed activities, all of which confirm that Tendele's intended future mining operations in Ophondweni, Emalahleni and Mahujini will not result in unacceptable environmental impacts.

Tendele's proposal is that these additional specialist studies be subjected to a public participation process and that these studies be included in Tendele's existing environmental management programme. The Minister will then have an opportunity to reconsider the matter.

The mine cannot afford any further delays since, and if there isn't certainty by September 2021, Tendele will have no alternative but to retrench a further 600 employees (some 522 have already been retrenched due to the delays) and a further 478 employees when the mine finally closes June 2022.

This will be a tremendous blow to the area where the mine is the main employer, to economic development in the area, and in Kwazulu-Natal and to South Africa's ability to create jobs and attract foreign direct investments.

It should be noted that leaders in the area, representing almost all the community's 220,000 people, including municipal councillors, the National Union of Mineworkers (NUM), the Association of Mineworkers and Construction Union (AMCU) and the Traditional Council all support the survival of the mine. This is in contrast to the purported 3,900 people that Ms Youens claims to represent.

Tendele is still hopeful that an amicable out-of-court settlement is possible.

It should be noted that the Review Application has been postponed indefinitely subject to the outcome of the Withdrawal Application as Ms Youens's mandate to act for MCEJO is in dispute. The organisation on whose behalf she claims to act, MCEJO Somkhele, has asked that she withdraw the case and has terminated her mandate.

There is a faction of MCEJO in distant Fuleni, without an interest in the livelihoods that would be lost by the closure of the mine, which appears to still support her legal action. This matter is being heard on 18 March 2021.

Tendele is not a party to this litigation. However, it is fearful that differences between MCEJO groupings will increase tensions in the area.

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