

## SCA DISMISSES CASE AGAINST TENDELE MINING

**Johannesburg, 10 February 2021.** The Supreme Court of Appeal (“SCA”) yesterday handed down judgment dismissing an appeal brought by the Mfolozi Community Environmental Justice Organization Somkhele (“MCEJO”), and the Global Environmental Trust, and Sabello Dladla against a 2018 judgment of the KwaZulu-Natal High Court.

Before the case was heard, Dladla, a MCEJO Committee member and a member of the Mpukunyoni community withdrew as an appellant as he no longer supported the appeal.

The appellants asserted that Tendele Mining’s Somkhele mine was operating without certain statutory authorisations and therefore asked the court to interdict the Mine from continuing with its operations. In dismissing the appeal, the SCA found (amongst other things) that the appellants failed to plead essential facts demonstrating that Tendele was conducting listed activities that would require an environmental authorisation in terms of the National Environmental Management Act, 107 of 1998 and therefore it was unnecessary for the court to interpret the provisions of NEMA . The SCA also found that Tendele Mining did not require municipal approval for land use under the Spatial Planning and Land Use Management Act or a waste management licence under the National Environmental Management: Waste Act because of certain transitional arrangements in these statutes.

Tendele Mining is naturally pleased at the overall finding which allows our mining operations to continue without disruption.

The company is pleased that the court recognised the importance of the mine to the area’s economic development, and would like to thank the Mpukunyoni Community Mining Forum, AMCU, the NUM and the Mpukunyoni Traditional Council who participated in the appeal as “*amicus curiae*”.

Tendele commits to continuing to work with all stakeholders to find mutually beneficial solutions to ensure the long term future of the mine, ensuring the continuing economic development of the community with due regard for the rights of community members and observing good environmental management.

There remains a review application brought against the decision of the Minister of Mineral Resources and Energy to grant to Tendele Mining a mining right to operate and expand the Somkhele Mine. Tendele Mining has opposed the review application but remains hopeful that this matter can be resolved cordially

through dialogue as the closure of the mine will have a significant and devastating impact on the surrounding community.

The other factor needing resolution before the expansion of the mine can proceed is the finalisation of relocation agreements with families that would need to be resettled to allow for the expanded operations. Agreements have been signed with 133 of the 143 families affected. An independent mediation process is underway to try and resolve these matters with the remaining 10 families.

A summary of the judgment issued by the court can be found at

<https://www.petmin.co.za/pdf/media-release/sca-appeal-summary.pdf>

**For further information please contact:**

Nathi Kunene

Tendele Mine Community Development Manager

Email: [nathi@somkhele.co.za](mailto:nathi@somkhele.co.za)

M: +27 (0) 78 815 5309