

MINISTERIAL STATEMENT
ON THE
MINING IN THE LOWER ZAMBEZI NATIONAL PARK
BY
THE MINISTER OF GREEN ECONOMY AND ENVIRONMENT (ENG. NZOVU),
MP

Madam Speaker, I would like to thank you for allow me this opportunity to address the House on the statues of the proposed large-scale mining activities in the Lower Zambezi National Park by Mwembeshi Resources Limited. This matter has attracted a lot is interest from different stakeholders within the country, the Southern African Development Community (SADC) region, the African continent and the global community at large. Therefore, my office is cognisant of the need to stick a proper balance between the varying interests without negating the need for sustainable utilisation of our natural resources.

Madam Speaker, my office received an appeal from Mwembeshi Resources Limited against the cancellation of the decision letter No. ZEMA/ EIA/EIS/ 726, with respect to the mining project by the Zambia Environmental Management Agency (ZEMA).

Madam Speaker, the brief back ground of the matter is that in March 2012, Mwembeshi Resources Limited submitted an environmental impact assessment to undertake large scale mining activities under Licences No. 15547-HQ-LML in the Lower Zambezi National Park for consideration to ZEMA, as per requirements of the Environmental Management Act (EMA), 2023, as read with the Environmental Management Act, of 2011. The proposed project was considered and rejected by ZEMA on 31st August, 2012 through a decision letter No. ZEMA/INS/101/04/01 for the following reason;

- (a) locations of the Tailing Storage Facility in relation to the Mana Pools, a World Heritage Site in Zimbabwe
- (b) absences of adequate mitigation measures to avert the risks associated with the Acid Rock Drainage; and

- (c) inconsistencies in the Environmental Impact Assessment report on the estimated life of the mine.

Madam Speaker, Mwembeshi Resources Limited being dissatisfied with the decision of ZEMA appealed against the said decision letter to the then Minister of Lands and Natural Resources and Environmental Protection as the ministry responsible for the environment at the time.

Madam Speaker, on the 9th of October 2013 the then minister referred the matter back to ZEMA for reconsideration in accordance with section 115(1) (c) of the Environmental Management Act of 2011. ZEMA upheld its early decision to reject the project and accordingly communicated to the then Minister of Lands, Natural Resources and Environment Protection in a letter dated 29th November 2013.

Madam Speaker, Mwembeshi Resources Limited being dissatisfied with the decision of ZEMA appealed to the office of the then hon. Minister and on the 17th January 2014, in determining the said appeal, the then hon. Minister of Minister of Lands, Natural Resources and Environmental Protection allowed the appeal and overturned the decision of ZEMA.

Madam Speaker, consequently an appeal was filed before the High Court for Zambia against the decision of the hon. Minister to overturn the decision of ZEMA and an order to stay execution was obtained to that effect on 14th February 2014. On the 17th October, 2019 the High Court dismissed the appellant's appeal for a warrant of prosecution and further discharged the stay of execution. The appellants appealed to the court of appeal and the same was dismissed on 25th February, 2021.

Madam Speaker, following the conclusion of the court matter in favour of Mwembeshi Resources Limited, on 7th May, 2021, ZEMA approved an application for the re-registration of the project through decision letter number ZIMA/ EIA/ EIS 726. The registration was subject to specific conditions as stated in the Decision Letter. On 31st May, 2023, ZEMA issued Mwembeshi Resources Limited with a compliance order for breach of the conditions

of the Decision Letter. The said compliance order, suspended the Decision Letter and further required the developer to comply in full with the condition of the Decision Letter.

Madam Speaker, following the failure by Mwembeshi Resources Limited to fully comply with the directives of the compliance order, the Agency on 29th June, 2023 issued Mwembeshi Resources Limited with a Notice of Intention to Cancel the Decision Letter. Further, Mwembeshi Resources Limited was given thirty days to show cause as to why the said Decision Letter should not be cancelled. Mwembeshi Resources Limited submitted its response on 26th July, 2023.

Madam Speaker, on 23rd August, 2023, ZEMA issued Mwembeshi Resources Limited with a Notice of cancellation of the Decision Letter for failing to comply with the conditions of the Decision Letter followed by the failure to take remedial actions to the satisfaction of ZEMA.

Madam Speaker, the Environmental Management Act of 2011 read as one with the Environmental Management (Amendment) Act of 2023, empowers ZEMA to cancel any authorisation issued under the Act where a developer fails to comply with the conditions of the Decision Letter. The Act further, accords any person aggrieved with the decision of ZEMA to appeal to my Office within thirty days of the decision. Therefore, on 31st August, 2023, Mwembeshi Resources Limited appealed to my office against the said cancellation in line with the provisions of the Act.

Madam Speaker, having considered all the evidence, facts, the historical perspective, principles governing natural resources management and the environment, guidelines, and standards currently in use and submission made by both parties herein, my findings are based on the following;

Madam Speaker, the Decision Letter directed Mwembeshi Resources Limited to submit detailed designs of the Tailings Storage Facilities to ZEMA and the Mines Safety Department prior to the commencement of the project. Mwembeshi Resources proceeded to undertake activities on the ground without complying with this condition of the Decision Letter. ZEMA served Mwembeshi Resources Limited with a compliance order on 31st May, 2023, which directed Mwembeshi Resources Limited to comply in full with this and all other conditions of the letter.

Madam Speaker, Mwembeshi Resources Limited only submitted the detailed designs of the Tailing Storage Facility to the Mines Safety Department on 4th July, 2023. Clearly Mwembeshi Resources did not comply with this requirement and only did so after issuance of a Notice of Intention to cancel the Decision Letter, which Notice directed the company to take remedial measures and show cause as to why the Decision Letter, would not be cancelled.

Madam Speaker, despite the approval of the detailed designs of the Tailing Storage Facility by the Mines Safety Department ZEMA has not approved the designs on the basis that they lack mitigation measures against the risk of seismic activities.

Madam Speaker, the Decision Letter further directed Mwembeshi Resources to obtain approval from the Department of Parks and Wildlife before putting up any permanent structures in a national park. To the contrary, Mwembeshi Resources Limited proceeded to construct a block of worker's accommodation using concrete blocks erected on a concrete foundation. This entails a clear breach of the condition of the Decision Letter that demands prior approval from the Department of Parks and Wildlife. Mwembeshi Resources Limited has not taken sufficient remedial measures to remedy this breach despite being served with a compliance order and a Notice of Intention to cancel the Decision Letter.

Madam Speaker, Mwembeshi Resources Limited submitted that it had requested for a No Objection from the Department of Parks and Wildlife. The request for No Objection was made on 25th July, 2023, after issuance of the compliance order and the Notice of Intention to cancel the Decision Letter by the Agency. I wish to state that the mere request of No Objection from the Department of Parks and Wildlife is not a remedial measure. The Decision Letter demands that prior approval be obtained before erection of permanent structures. In remedying this breach, Mwembeshi Resources ought to have demolished the said structures.

Madam Speaker, the Decision Letter also directed Mwembeshi Resources to employ the best available technology and the best environmental practices throughout the project life. Again, Mwembeshi Resources Limited was in breach of this condition of the Decision Letter and despite being served with a compliance order and Notice of Intention to cancel the Decision

Letter, Mwembeshi Resources has not taken sufficient remedial measures to remedy the breach. An inspection, indeed, carried out revealed that the mini mechanical workshop and fuel and oil storage areas had no impermeable surface. Mwembeshi Resource Limited did not appropriately treat the soils contaminated by hydrocarbons during the operations of the fuel storage tank that was erected on the open ground. This does not conform with the best environmental practice for population and fire prevention.

Madam Speaker, Mwembeshi Resources Limited did not address and remedy the storage of hydrocarbons on open grounds, but it merely transferred environmental damage from the project site to the Mukamba gate when it removed the fuel tank from the mine site to the gate. Further, the two water channels incising and draining water from the escarpment, which Mwembeshi Resources had blocked had not been unblocked all culverts placed underneath to allow a smooth flow of water across the embankment.

Madam Speaker, I wish to highlight that a fuel storage tank and crusher does not have approval from ZEMA, the blocking of the stream does not have authorisation from the Water Resources Management Authority and the storage of fuel does not have authorisation from the Energy regulation Board.

Madam Speaker, the Decision Letter also directed Mwembeshi Resources Limited to submit a separate Environmental Impact Assessment Report for the source of process water, fuel storage facility, power line, and sewerage treatment for consideration to ZEMA. In their own admission, Mwembeshi Resources Limited had yielded to not fulfilling the requirements of the said condition apart from the submission of an Environmental Project Brief for power line transmission and fuel storage facility. This is despite the issuance of a compliance order and Notice of Intention to cancel the Decision Letter.

Madam Speaker, the Decision Letter is clear as to its directives in this regard the mere registration undertaken by Mwembeshi Resources Limited does not negate the obligation of conducting an Environmental Impact Assessment.

Madam Speaker, Mwembeshi Resources Limited has also cleared land on an area covered by twenty-seven borrow pits, which were not covered in the Environmental Assessment and no remedial measure have been proposed for the same.

Adam Speaker, further, the Decision Letter directed Mwembeshi Resources Limited to submit a comprehensive monitoring programme to ZEMA for approval. In this case, the firm proceeded to commence construction activities without submitting a comprehensive monitoring plan. The absence of the said plan entails that the appellant has not been able to thoroughly assess the effectiveness of the mitigation measures over the activities that have already been implemented.

Madam Speaker, the Decision Letter directed Mwembeshi Resources to obtain and comply in full with other relevant authorisations such as the Forest Act of 2015 in relation to land clearance and cutting down of trees, Water Resources and Management Act of 2011 in relation to interference with water bodies and the energy relation body Act of 2019 in relation to the use and storage of fuels.

Madam Speaker, I wish to reiterate that the requirement of the Decision Letter was for Mwembeshi Resources Limited to have obtained authority from the appropriate institutions as required by the respective pieces of legislation.