

MINISTERIAL STATEMENT

ON

STATUS OF KANGALUWI COPPER PROJECT IN LOWER ZAMBEZI NATIONAL PARK

BY

THE HON. MINISTER OF MINES AND MINERALS DEVELOPMENT MR MUSUKWA, MP

Mr Speaker, I thank you for giving me this opportunity to inform this august House and the nation at large, on the status of the proposed large-scale mining project known as the Kangaluwi Copper Project in the Lower Zambezi National Park by Mwembeshi Resources Limited following the ruling of the High Court of Zambia, delivered on 17th October, 2019.

Sir, I will begin by giving a background to the licence before proceeding to give the position of the Government on the project.

Background

Mr Speaker, the Kangaluwi Copper Project started during the reign of the Movement for Multi-party Democracy (MMD) Government with a grant of a large-scale prospecting licence on 18th December, 2003 to Mwembeshi Resources Limited, a subsidiary of an Austrian Stock Exchange Listed Company called the Zambezi Resources Limited, which is now called, Trek Metals Limited.

Sir, the licence was granted under the Mines and Minerals Act of 1995. The company commenced prospecting after the approval of the environmental project brief report by the then Environmental Council of Zambia (ECZ), now the Zambia Environmental Management Agency (ZEMA).

Mr Speaker, Mwembeshi Resources Limited applied for a large-scale mining licence following the completion of the prospecting works and was granted a large-scale mining licence on 16th March, 2011 by the then Minister of Mines and Minerals Development, Hon. Maxwell Mwale

for a period of twenty-five years, in accordance with the provisions of the Mines and Minerals Act Development No. 7 of 2008. However, the project could not proceed with the mine development because the environmental and social impact assessment had not been approved by ZEMA. The issuance of the mining license was done without the prior clearance from ZEMA, but was conditioned on Mwembeshi Resources Limited obtaining authorisation from ZEMA prior to commencement of the mining operations.

Sir, on 14th March, 2012, Mwembeshi Resources Limited submitted an environmental and social impact assessment report for the proposed Kangaluwi Copper Project to ZEMA, which was rejected for the following reasons:

- (a) the tailing storage facilities were going to be located in the Zambezi Escarpment, an area prone to earthquakes, and this would increase the chances of failure of the tailing storage facilities. This failure of the tailing storage facilities would have significant impact extending to neighbouring countries;
- (b) the mine would be located about 30 km from Mana Pools, a world heritage site in Zimbabwe. Any possible failure of a tailing storage facility or abnormal discharge of the effluence from this operation would negatively affect the world heritage site. The 30 km may seem like a long distance on face value, but in this case, it is not, because of the location of the mine and the terrain. The mine is envisaged to be located on a higher ground in the escarpment. Therefore, the effluent could easily flow to the valley where the Mana Pools, the world heritage site, is located.
- (c) the issue of acid rock drainage and consequently the metal leaching was not addressed by the environmental and social impact assessment reports submitted by Mwembeshi Resources Limited. The environmental and social impact assessment report stated the potential to generate acid, yet it did not state mitigation measures both in the short-term and long-term to address this issue.

On that score, the Zambia Environmental Management Agency (ZEMA) rejected the proposal;

- (d) the proposed mine site would be located in the middle of the national park. The adverse impact of the open pit mining would therefore permanently destroy the landscape of the game park. Certainly, Mwembeshi Resources Limited did not provide an alternative location to avoid disturbing the natural habitat;
- (e) the environment footprint of the mine would increase when the roads and power lines and other associated works related to the mine are constructed. The integrity of the national park would therefore be compromised, and in the long-term, the ecological value would be affected; and
- (f) the estimate of mine life was not based on verifiable facts as the environmental and social impact assessment report was full of contradictions coming from Mwembeshi Resources Limited itself. The benefit from the mining operation may be for a very short time, but the consequences may be far-reaching.

Mr Speaker, on 19th September, 2012, Mwembeshi Resources Limited appealed against the decision of ZEMA to the then hon. Minister of Lands, Natural Resources and Environmental Protection, Hon. Harry Kalaba, in accordance with the provision of the Environment Management Act No. 12 of 2011. On 17th January, 2014, and in exercise of the powers vested in the ministry under the Environmental Management Act No. 12, the hon. Minister revised the decision of ZEMA and approved the project based on the grounds that:

- (a) the project would eventually create employment for ordinary Zambians in the area;
- (b) there are currently available cost effective technologies and methods to adequately deal with all the identified negative impacts that may arise from the project; and

- (c) wildlife management in the area will be enhanced and conserved by the proposed management scheme contained in the submission by Mwembeshi Resources Limited.

Sir, consequently, a decision letter was issued to Mwembeshi Resources Limited on 3rd February, 2014, allowing it to proceed with the project. The following day, on 4th February, 2014, some civil society organisations, namely the Zambia Community Based Natural Resources Management Forum, the Zambia Climate Change Network, Chalimbana River Head Waters and Conservation Trust, and one Zambian named David Ngwenyama, aggrieved with the decision of the hon. Minister, appealed to the High Court of Zambia and an injunction to stay the execution of Mwembeshi Resources Limited's mining plan was granted on 17th October, 2014. On 17th October, 2019, the High Court of Zambia dismissed the injunction for failure to prosecute. The House may wish to know that after being granted an injunction, the appellants were required to prosecute the case by filing in the required documents to prove their case in court. However, this was not done. Consequently, the High Court had no choice but to dismiss the injunction for want of prosecution.

Mr Speaker, let me now state the position of the Government of the Republic of Zambia on the matter. Let me begin by informing the House and the nation at large that the law allows the issuance of mining rights anywhere in the Republic of Zambia, including national parks, forests, and any other related places. However, mining activities, whether exploration or mining, can only take place if the environmental management plan on the project conforms with the specifications and practices established by national standards for the management of the environment. This is the reason the granting authority ensures that an environmental and social impact assessment report is approved by ZEMA before a mining licence is granted. In short, without the approval, operations cannot start.

Sir, both mining and tourism are key economic sectors of this country. Therefore, the Government cannot completely prohibit mining activities in national parks or game management areas, neither can we allow mining to destroy our national parks and game management areas, thereby jeopardising the potential of tourism. The policy of the Government is to promote

justified prospecting and mining in protected areas, which include national parks and game management areas so that both sectors thrive for the economic development of the country. In this regard, in as much as the High Court ruling gave a go ahead, Mwembeshi Resources Limited can only proceed with the project upon fulfillment of the conditions of the grant of the licence as required by the Mines and Minerals Act No. 11 of 2015. As a holder of a valid large-scale mining licence, Mwembeshi Resources Limited is obliged, according to Section 52 of the Mines and Minerals Development Act, to obtain the necessary written consent from the relevant appropriate authorities, including the hon. Minister responsible for national parks and wildlife in accordance with Section 16 of the Zambia Wildlife Act No. 14 of 2015, the environment in accordance with the Environmental Management Act of 2011 and national heritage conservation in accordance with the National Heritage Conservation Act, prior to commencement of operations.

Mr Speaker, the House may wish to know that according to the Environmental Management Act as read together with the Environmental Protection and Pollution Control (Environmental Impact Assessment) Regulations, Statutory Instrument No. 28 of 1997, and as contained in Condition 3.4 of the decision letter of 4th February, 2014, Mwembeshi Resources Limited was required to commence implementation of the project within three years from the date of approval. Failure to commence a project in the required timeframe rendered the authorisation granted to Mwembeshi Resources Limited invalid and therefore, Mwembeshi Resources Limited is required to resubmit the environmental and social impact assessment report to ZEMA for consideration. The decision letter for Mwembeshi Resources Limited expired on 4th February, 2017. The decision letter for Mwembeshi Resources Limited expired on 4th February, 2017.

Sir, notwithstanding the High Court ruling, mining activities will not proceed because in accordance with the Environmental Management Act, Mwembeshi Resources Limited was required to commence the implementation of the project within three years from the date of approval. The company's failure to commence the project within the required timeframe rendered the authorisation invalid. Therefore, Mwembeshi Resources Limited is now required to resubmit the environmental and social impact assessment report for consideration by the Minister of Tourism and Arts.

Mr Speaker, it is through these processes that the project in the Lower Zambezi National Park will be assessed to determine whether to proceed or not.

Therefore, Mwembeshi Resources Limited is required to obtain approval from the hon. Ministers responsible for national parks and wildlife and the environment. Further, the company should obtain consent from the source right holders, where necessary, as enshrined in the Mines and Minerals Act.

Mr Speaker, let me take advantage to remind this august House that in relation to preservation of the environment, His Excellency the President of the Republic of Zambia, Dr Edgar Chagwa Lungu, is on record as having directed the preservation of water bodies, including their sources.

In that regard, Mr Speaker, the ministry will not allow mining to compromise any water body and, indeed, the environment. The ministry has since restricted mining licenses at the source of the Zambezi River to give assurance to the people of Zambia about the Government's commitment to ensuring that environmental protection is key. Similarly, in the current case of the Lower Zambezi, the Government will ensure that the water body in the Zambezi River is not compromised by the mining activity, hence the need for the Zambia Environmental Management Agency (ZEMA) to indicate its approval or otherwise for the project.

Mr Speaker, in conclusion, I wish to emphasise that the progress or otherwise of the project will be determined through the legal processes I have explained and outlined in great depth this afternoon. I urge all stakeholders to be patient and allow the determination of the matter in accordance with the law.

I thank you, Mr Speaker.