



Media Statement

To all media

22 October 2016

**Financial provision for rehabilitation purposes**

Owing to media speculation pertaining to Optimum Coal Mine, where various aspersions have been cast on the integrity of the Department of Mineral Resources (the Department) and its processes, the Department wishes to clarify the following:

- a. In terms of the National Environment Management Act (NEMA), the Department of Mineral Resources is entrusted with the responsibility of ensuring that all right holders make financial provision for rehabilitation. This financial provision may be held in (3) three specific forms without any deviations or exceptions: contribution to a trust fund, a bank guarantee or a deposit into an account administered by the Department of Mineral Resources or a combination of these.
- b. After acquiring Optimum Coal, a subsidiary of Glencore South Africa (which had been placed under business rescue posing considerable risk to the mining sector *inter alia* due to significant job losses), Optimum applied in terms of section 11 of the Mineral and Petroleum Resources Development Act (MPRDA), to cede its mining right to Tegeta, a request which was approved by the Minister of Mineral Resources upon Tegeta meeting all relevant criteria.
- c. When certain financial institutions terminated their relationship with the mining rights holder, it notified the Department of its intention to transfer the rehabilitation funds which were held with Standard Bank, to another financial institution.
- d. The Department acknowledged receipt of the notification and proactively advised that in the event of the transfer of funds, the holder was to ensure that the funds so transferred are transferred to a financial institution registered with the South African Reserve Bank. The Department also emphasised that the funds should remain in the trust, as rehabilitation funds cannot be used for any other purpose.

The Department states unequivocally that neither permission nor approval has been sought by the holder for the withdrawal of the funds, and as such the Department has not granted approval for a withdrawal of the financial provision.

In the event of cancellation or replacement of the financial provision as well as the closure certificate (lapsing of the right), the holder has to lodge an application for the formal approval process. It must be emphasized that all right holders are obligated in terms of section 24P(3) of NEMA, to annually assess their environmental liability in a prescribed manner, and submit an independently audited report to the Minister of Mineral Resources, on the adequacy of their financial provision.

The people of South Africa and all stakeholders can be assured that all right-holders are treated equally in terms of all the relevant legislation. Where a right-holder is found to be in

transgression, the relevant enforcement measures are implemented.

The Department is aware that the matter is now subject to a court application, and as such will not be drawn into the allegations that have been peddled, so as not to pre-empt the process and its outcomes. Furthermore, all parties are urged to act responsibly and avoid making unfounded allegations that have the effect of bringing the Department into disrepute and as a result, the Department reserves its rights to take appropriate action in order to protect its integrity.

Ends-

**Issued by the Department of Mineral Resources**