

MEDIA RELEASE: IMMEDIATE

PRE-EXISTING UNUSED PROSPECTING AND MINERAL RIGHTS NOT AT RISK OF BEING EXPROPRIATED THROUGH THE MPRDA

The Department of Minerals and Energy (DME) today (**Monday**, 16 March 2009) announced that it has noted the judgment handed down in the Pretoria High Court on Friday 6 March 2009 in the case of *Agri South Africa and Another v The Minister of Minerals and Energy*, in which the plaintiffs contend that certain mineral rights – which were not being used for prospecting or mining – were expropriated when the Mineral and Petroleum Resources Development Act, No. 28 of 2002 (the MPRDA) came into effect.

Bheki Khumalo, Spokesperson for the Department of Minerals and Energy said, “Although the judgment may seem to be an early setback in the litigation process with these particular plaintiffs concerning their unused mineral rights, the effect of the judgment should not be overstated. The case is at a preliminary stage. The court dismissed two exceptions raised by the DME against the plaintiffs’ claims. The merits of the main case remain to be decided by the High Court.”

The DME will continue to contest the case vigorously. It now has an opportunity to file its plea in the High Court responding to the plaintiffs’ claims and to raise defences in terms of the MPRDA and the Constitution. It will take advice on further proceedings on appeal at the appropriate time.

“The DME is confident that, in the end, the Government’s view that the MPRDA did not expropriate pre-existing mineral rights will prevail. That

is a question of vital public importance which may have to be resolved in the final instance by the Constitutional Court,” Khumalo said.

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