

Gcwihaba Resources - Renewal of PL020/2018 with a portion in the Buffer Zone

Review of World Heritage Documents with Respect to the Okavango Delta property (core zone) and Prospecting Licenses

To help set the scene and give some context to the issues surrounding the property (core zone) and the buffer zone (outside of the property) the Company has reviewed the public documents on file with UNESCO's World Heritage Committee (WHC) with respect to the Okavango Delta World Heritage (WH) property (core zone).

This presentation sets forth the pertinent parts of these documents on file that impact PL020/2018.

The purpose of this is not to be argumentative or set forth a legal position but rather the facts as they are contained in the record to assist in a resolution of this matter.

1.

Okavango Delta

World Heritage Nomination Dossier

Nomination dossier to UNESCO for inscription into the World Heritage List

2013
Republic of Botswana

2.

Botswana - Okavango Delta

World Heritage **38 COM**

WHC-14/38.COM/16
Doha, 7 July 2014
Original: English / French

WORLD HERITAGE NOMINATION – IUCN TECHNICAL EVALUATION
OKAVANGO DELTA (BOTSWANA) – ID No. 1432

IUCN RECOMMENDATION TO WORLD HERITAGE COMMITTEE: To inscribe the property under natural criteria.

Key paragraphs of Operational Guidelines:
Paragraph 77: Nominated property meets natural World Heritage criteria.
Paragraph 78: Nominated property meets conditions of integrity and protection and management requirements.

1. DOCUMENTATION reconnecting ecosystems allow long-distance mammal migrations to resume? A case study of a

3.

World Heritage **38 COM**

WHC-14/38.COM/16
Doha, 7 July 2014
Original: English / French

UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

CONVENTION CONCERNING THE PROTECTION OF THE WORLD CULTURAL AND NATURAL HERITAGE


WORLD HERITAGE COMMITTEE

Thirty-eighth session
Doha, Qatar
15 - 25 June 2014

DECISIONS ADOPTED BY THE WORLD HERITAGE COMMITTEE AT ITS 38TH SESSION (DOHA, 2014)

4.

STATE OF CONSERVATION REPORT
OKAVANGO DELTA NATURAL WORLD HERITAGE SITE, BOTSWANA (N1432)



REPUBLIC OF BOTSWANA

BY THE GOVERNMENT OF THE REPUBLIC OF BOTSWANA
DEPARTMENT OF NATIONAL MUSEUM & MONUMENTS
MINISTRY OF ENVIRONMENT, WILDLIFE & TOURISM

Report Developed by State Party of Botswana with the support of USAID, Southern African Regional Environmental Program (SAREP)

NOVEMBER 2015

5.

World Heritage **40 COM**

WHC/16/40.COM/19
Paris, 15 November 2016
Original: English

UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

CONVENTION CONCERNING THE PROTECTION OF THE WORLD CULTURAL AND NATURAL HERITAGE

WORLD HERITAGE COMMITTEE

Fortieth session
Istanbul, Turkey
16 - 17 July 2016
UNESCO Headquarters, Paris, France
24-26 October 2016


Report of the Decisions adopted during the 40th session of the World Heritage Committee (Istanbul/UNESCO, 2016)

The decisions adopted during the continuation of the 40th session of the World Heritage Committee at the UNESCO Headquarters from 24 to 26 October 2016 are followed by an asterisk (*)

<http://whc.unesco.org/en/list/1432/documents/>

6.

STATE OF CONSERVATION REPORT
OKAVANGO DELTA NATURAL WORLD HERITAGE SITE, BOTSWANA (N1462)



REPUBLIC OF BOTSWANA

BY THE GOVERNMENT OF THE REPUBLIC OF BOTSWANA
DEPARTMENT OF NATIONAL MUSEUM & MONUMENTS
MINISTRY OF ENVIRONMENT, NATURAL RESOURCES CONSERVATION & TOURISM

Report Developed by State Party of Botswana

NOVEMBER 2017

7.

World Heritage **42 COM**

WHC/16/42.COM/18
Manama, 4 July 2018
Original: English

UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

CONVENTION CONCERNING THE PROTECTION OF THE WORLD CULTURAL AND NATURAL HERITAGE


WORLD HERITAGE COMMITTEE

Forty-second session
Manama, Bahrain
24 June – 4 July 2018

Decisions adopted during the 42nd session of the World Heritage Committee (Manama, 2018)

8.

STATE OF CONSERVATION REPORT
OKAVANGO DELTA NATURAL WORLD HERITAGE SITE, BOTSWANA (N1462)



REPUBLIC OF BOTSWANA

BY THE GOVERNMENT OF THE REPUBLIC OF BOTSWANA
DEPARTMENT OF NATIONAL MUSEUM & MONUMENTS
MINISTRY OF ENVIRONMENT, NATURAL RESOURCES CONSERVATION & TOURISM

Report Developed by State Party of Botswana

MARCH 2020

9.

World Heritage **44 COM**

WHC/21/44.COM/18
Paris, 31 July 2021
Original: English / French

UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

CONVENTION CONCERNING THE PROTECTION OF THE WORLD CULTURAL AND NATURAL HERITAGE

WORLD HERITAGE COMMITTEE

Extended forty-fourth session
Fuzhou (China) / Online meeting
16 - 31 July 2021


Decisions adopted during the extended 44th session of the World Heritage Committee (Fuzhou (China) / Online meeting, 2021)

10.

Operational Guidelines for the Implementation of the World Heritage Convention

UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

INTERGOVERNMENTAL COMMITTEE FOR THE PROTECTION OF THE WORLD CULTURAL AND NATURAL HERITAGE



WORLD HERITAGE CENTRE

WHC-21/01
31 July 2021

Point 1: The designated buffer zone is not part of a World Heritage (WH) property as is clearly stated and defined in the WH Operational Guidelines.

By definition and agreement of the parties, only the core zone is defined as the property. The buffer zone is an area outside the property and is not or never was considered to be part of the property.

Document: World Heritage Operational Guidelines 2021

- States under Section 107 (Buffer Zone): “**buffer zones are not part** of the nominated property”
- What this means is that the **core zone is the “Property”** and the Buffer zone is outside the property.
- There are extra layers of protection that can be placed on the surrounding buffer zone by the State Party to protect the core property.
- **There is no restriction** by legal agreement, treaty or other between the Botswana Government (State Party) and the World Heritage Committee (WHC) **to prevent prospecting licenses or mining licenses in the designated buffer zone**.

Document: Okavango Delta: World Heritage Nomination Dossier (submitted to WHC in 2014)

- “The Operational Guidelines also provide guidance on buffer zones, which are not in themselves part of the WHS, but which surround the nominated property (core zone) ...”
- Buffer zones are not part of the World Heritage Site (WHS), but have restrictions, restrictions can be placed to protect the property (core zone)
- **Which means that activities such as mining are permitted in law, as long as the core property WHS Outstanding Universal Value (OUV) is protected.**

Point 2: There is no prohibition by legal agreement, treaty or other between the Botswana Government (State Party) and the World Heritage Committee (WHC) to prevent prospecting licenses or mining licenses in the designated buffer zone.

Document: Okavango Delta: World Heritage Nomination Dossier (submitted to WHC in 2014)

- “Should an application to mine within the buffer zone arise, and Environmental Impact Study (EIA) will be required as part of Botswana’s EIA Act, which would address concerns relating to the World Heritage property (core zone).”
- Note: the word “mine” is quoted (Mining License) not “Prospecting License” (PL)
- “Regarding the buffer area, stringent environmental protocols and practices will be adhered to, to protect the integrity of the Delta.”
- Again, this states that you can have PL’s in the buffer zone, just follow good environmental practices

Document: International Union for Conservation of Nature (IUCN) – Technical Evaluation (2013 to 2014)

- “We would further request information on the status of licenses in the Buffer Zone, and what measures (including EIA and other safeguards) are anticipated to ensure that these do not create impacts on the nominated property (core zone).”
- Basically what this is saying is that there should be no mining in the core zone, but mining is allowed in the buffer zone but the State Party has to make sure that safeguards are in place to protect the property (core zone).

Documents: IUCN (2014; WH Decision Document 2014; State of Conservation (2015);

- “ensure no extractive industry activity is permitted in the property (core zone)”;
- “carefully monitor and manage mining in areas outside of the property (core zone) so as to avoid any adverse impacts to the property (core zone)”;
- Basically what this is saying is that there should be no mining in the core zone, but mining is allowed in the buffer zone but the State Party has to monitor and manage areas in the buffer zone to protect the property (core zone).

Point 2: *A portion of PL020/2018 submitted for renewal is in the buffer zone.*

Contained in the documents filed with WHC by the State Party is an acknowledgment that the State Party cannot unilaterally take or fail to renew a prospecting license in the buffer zone according to the Mines and Minerals Act or Botswana law in general.

Document: State of Conservation Report Okavango Delta Natural World Heritage Site, Botswana (N1432), 2015

- “Challenge of dealing with outstanding prospecting licenses in buffer zone, which can be renewed up to 7 years, in terms of the existing laws.”
- “It is important to note that there are challenges in this process given that the duration of the prospecting licenses is 7 years and negotiable with the respective companies who may have invested heavily in the process over the years.”
- “Therefore their review is a complex task that has to consider companies who have heavily invested in the prospecting process. As such, the State Party is still engaging the companies with a view of not renewing these licenses.”
- “(iii) challenge of dealing with outstanding prospecting licenses in buffer zone, which can be renewed up to 7 years, in terms of the existing laws,”
- This states clearly that under the laws of Botswana that removal of PL’s is difficult as there is no law that says it can be done without the involvement and negotiation with the holder of the PL clearly acknowledging that any taking is not permitted under the Mines and Minerals Act, Botswana or International law.
- **It would also appear to indicate that the State’s intent was to let companies spend money on exploration while intending to prevent them from advancing their projects, this was all done without disclosing this policy to the companies.**

Document: Decision Adopted by the World Heritage Committee at its 40th Session (Istanbul, 2016)

- “Commends the progress made by the State Party in terminating mineral prospecting licenses in the property (core zone), and requests the State Party to conclude negotiations with remaining licensees to terminate all prospecting activities within the property’s buffer zone, and to continue monitoring and managing prospecting licenses and mining operations outside the buffer zone so as to avoid any adverse impacts on the property (core zone);”
- What this means is: the WH Committee requests, but does not insist, that the State Party conclude negotiations with remaining licensees to remove prospecting from the buffer zones. (Note that the WH committee also understand that removal of licenses from a holder is a negotiation and not a right by the State Party). It is clear that there could not be a taking or confiscation of a prospecting license.

Point 2: Continued

Document: State of Conservation Report Okavango Delta Natural World Heritage Site, Botswana (N1462), 2017

- “Regarding prospecting licenses in the core and buffer zone of the property, the State Party has made progress in addressing the issue. Currently there are no prospecting licenses in the core zone. Negotiations with companies holding prospecting licenses within the buffer zone have been concluded and the company Gcwihaba Resources (Pty) Ltd had agreed in principle to relinquish all the prospecting licenses in the buffer zone and others that are outside the buffer zone. Currently there are no prospecting licenses in the buffer zone.”
- *The above is an incorrect statement about the negotiations with Gcwihaba, and also is not true as our licenses were renewed (including the parts in the buffer zone) in 2018.*
- The WHC requested that the State Part “Conclude negotiations with remaining licenses to terminate all prospecting activities within the property’s buffer zone.”
- The State Party is saying that it will conclude negotiations with remaining license holders in the buffer zone.
- **Note again the State Part and the WHC acknowledges that it is a negotiation and the State Party does not have the right to terminate sua sponte or unilaterally cancel licenses legally held!**
- *The document also stated that the Gcwihaba Licenses had “Expired” this was an incorrect statement as it makes no reference to PL386-392/2008 which were renewed including all original parts in buffer zone in 2016 and again in 2018 as PL 020-026/2018.*
- *This document also goes on to make false and misleading claims about the negotiations with Gcwihaba, our licenses in the buffer zone were renewed in 2018.*

Point 3: *For whatever the reason, it is clear from the actual record that there was no attempt to consult with Gcwihaba during the designation process as was done with other companies. Had there been, the buffer zone would have been adjusted to accommodate our iron resource as it was for those companies located in the Kalahari copper belt.*

Note: *we had just proven up a 441 Mt resource in 2014*

Document: Okavango Delta: World Heritage Nomination Dossier (submitted to WHC in 2014)

- “Specific concerns about the alignment of the buffer to the west of the Delta were raised in relation to the prevalence of prospecting licenses for mining in the far northeast, but also in terms of potentially unjustified limitations posed by the very extensive buffer proposed elsewhere along the west and south of the Delta”
- “the alignment of the buffer which may conflict with developments such as mining, and a concern about the transparency and robustness of the process used to align the original boundaries.”
- This basically means Buffer zone was moved to allow for the Kalahari Copper Belt mining such as Discovery Metals and Hana Mining (Khoemacau) etc.
- But there was no consultation with Gcwihaba on where its iron resource was.
- So the State Party was happy to move the buffer zone to let Copper mining continue, but did not engage Gcwihaba on iron resource location in the same way it did the Copper mining and prospecting Companies

Point 4: The record on file with WHC clearly shows that the WHC was given false and misleading information concerning Gcwihaba's licenses practically from the start of the designation process. The reasons for the filing of misinformation will most likely never be known but it clearly took place and continues to date.

The following issues in this regard can be seen in the following State Party filed documents:

- 1. A number of Gcwihaba Licenses including PL386/2008 (which went on to become PL020/2018) were incorrectly listed as "Expired".**
 - *This simply was not accurate as these licenses were active and then renewed in their entirety in 2016 and 2018*
 - *This inaccuracy was stated in Documents: a). Okavango Delta: World Heritage Nomination Dossier (submitted to WHC in 2014); b). State of Conservation Report (2015, and 2017)*
- 2. The boundaries for PL's 386-392/2008 were incorrectly drawn on maps, where the maps submitted made it appear that those parts of these licenses within the buffer zone were not there**
 - *In fact they were issued in the buffer zone on these licenses in 2012, 2016 and then again in 2018 (when they became PL020-026/2018)*
 - *This inaccuracy was stated in Documents: State of Conservation Report (2015, 2017, and 2020)*
- 3. Documents further state that PL's in the buffer zone were "not been renewed" or were "cancelled".**
 - *In fact they were issued in the buffer zone on PL's 386-392/2008 in 2012, 2016 and then again in 2018 (when they became PL020-026/2018)*
 - *This inaccuracy was stated in Documents: State of Conservation Report (2015, 2017, and 2020)*
- 4. Incorrect statements about the negotiations with Gcwihaba with respect to licenses were made; That Gcwihaba "agreed to relinquish its PLs in the buffer zone", no such agreement was made.**
 - *In fact PL's were issued in the buffer zone for PL's 386-392/2008 in 2012, 2016 and then again in 2018 (when they became PL020-026/2018)*
 - *This inaccuracy was stated in Documents: State of Conservation Report (2015, 2017, and 2020)*

Point 5: Gcwihaba produced an inferred resource report in 2014 that established a tonnage of 441 Mt of inferred resource with a current in-situ value of approximately \$18.4 Billion USD. Said report was filed with the Ministry in 2014 and discussed numerous times with sitting Ministers since that date. Exploration activity and promising results had been discussed with Ministers and the Ministry since 2008.

Point 6: A review of the attached presentation and the documentation filed with the WHC by the State Party clearly shows that prospecting and mining licenses are not prohibited in the buffer zone. This was the same conclusion reached by the Ministry under Honourable Ministers Ponatshego H. K. Kedikilwe, Onkokame K. Mokaila, and Eric M. Molale when they duly issued and renewed said licenses in 2008, 2012, 2016, and 2018.

Point 7: It has been 13 months since a renewal application for PL020/2018 was filed and the Company has been told by several government officials and personal that “we need to work together to resolve this issue”. We agree with this sentiment and had worked closely with the Department of Mines (DOM) in October 2021 to achieve a resolution of the issues. As a result, 4 of the 5 licenses were approved by the Ministry with only PL020/2018 still awaiting approval.

Point 8: PL020/2018 is an integral part of the project and includes 441 Mt of an inferred iron resource, with a current in-situ value of approximately \$26 Billion USD of which 164 Mt (\$6.8 billion USD) is within the buffer zone.

- Towards the end of September when the licenses were not issued in regular order, the market took the failure to announce the license renewals as a negative and since October 1, 2021 the company’s market value as decreased by C \$20,000,000.
- In addition to the decrease in the market value of the Company it cannot be ignored that the Company and its JV partner has spent in excess of \$25,000,000 USD evaluating this resource on these licenses that were legally and properly granted and renewed, repeatedly.

Conclusion

- The buffer zone became an issue during the renewal of PL020/2018 in 2021.
- The Company had worked closely with the Department of Mines (DOM) in October 2021 to achieve a resolution of the issues.
- However, the matter has not been concluded as PL020/2018 is still pending renewal.
- as we have a duty to inform our investors and the investing public the status with respect to PL020/2018. As a license holding billions of dollars' worth of resource it is clearly material.
- Acknowledging the issue, several Ministry personnel stated to us that “we needed to work together to resolve this issue” and we couldn't agree more.
- The Company has a duty to inform our investors and the investing public the status with respect to PL020/2018. As a license holding billions of dollars' worth of resource it is clearly material.
- It is clear that the Company has been monetarily damaged and will continue to be damaged until a resolution is achieved, hence why we are looking for an expedited resolution.
- The facts are not at issue and we are certain a satisfactory result can be achieved in short order.