

6th August 2020

## USD4.65 million Litigation Funding Secured

- **USD4.65 million litigation funding confirmed with Litigation Capital Management Limited**
- **Funding will support legal costs associated with the Claim to Arbitration against the Government of Tanzania**
- **All monies advanced through the funding facility are non-recourse and only repayable in the event of a successful Claim where monies are recovered**
- **Six-month notice period to the Government of Tanzania has now expired without any engagement from the Government**
- **Preparations now well advanced to lodge a Request for Arbitration seeking compensation for the illegal expropriation of the Ntaka Hill Nickel Project and loss of the asset**

**Indiana Resources Limited (ASX: IDA) ('Indiana' or the 'Company')** provides the following update on litigation activities in relation to its majority shareholding position in Ntaka Nickel Holdings Ltd ("**NNHL**") and Nachingwea UK Ltd ("**NUK**") (both incorporated in the United Kingdom) and the Ntaka Hill Nickel Project located in the Nachingwea Property in south-eastern Tanzania (the "**Project**"). Indiana is the manager of the Joint Venture for the Project and is leading activities with regards to this matter in liaison with the Board of NNHL. Further background is contained in the latter part of this release.

The Company is pleased to advise that it has now finalised a Funding Confirmation Notice ("**FCN**") for **USD4,653,400** with Litigation Capital Management Limited ("**LCM**") - a firm listed on the Alternative Investment Market ("**AIM**") of the London Stock Exchange. The FCN provides for funds to be progressively drawn down from a financing facility to meet legal expenses associated with the Claim to Arbitration seeking compensation from the Government of Tanzania for the illegal expropriation and loss of the Ntaka Hill Nickel Project.

Monies drawn from the non-recourse financing facility are only repayable to LCM in the event of a successful Claim or settlement of the Dispute that results in the recovery of any monies. If there is no settlement or award, then LCM is not entitled to any repayment of the financing facility. A detailed budget has been approved as part of the Litigation Funding Agreement, which confirms all expected legal and ancillary costs associated with the arbitration process.

With funding to support legal costs secured, the Company is now preparing to lodge a Request for Arbitration against the Government of the United Republic of Tanzania under the Agreement between the United Kingdom and the Government of the United Republic of Tanzania for the Promotion and Reciprocal Protection of Investments which entered into force on 9 December 2013 (the "**BIT**") ("**the Arbitration**"). Arbitration will be initiated under the Convention on the Settlement of Investment Disputes between States and Nationals of Other States process, which falls under the auspices of the World Bank's International Centre for Settlement of Investment Disputes (ICSID), to which Tanzania is a signatory.

In January 2020, notice was delivered to the President of Tanzania, Mr Magufuli, the Attorney General for Tanzania and the Minister for Minerals advising of the intention to submit a claim to arbitration as a result of Tanzania's breaches of the BIT, including the expropriation of its investments.

The notice period provided for a six-month consultation period before arbitration proceedings can be pursued which has now expired and, as a result, the Company is now focused on moving to commence arbitration proceedings.

### **Company Comment**

**Indiana's Executive Chairman Bronwyn Barnes said:** *"With funding through one of the world's most reputable litigation finance companies now in place to support our claim for compensation for the illegal activities of the Government of Tanzania in expropriating the asset, and the expiry of the six-month notice period during which the Government failed to meaningfully respond to our correspondence notifying them of a dispute, we will now move to lodge our Request for Arbitration.*

*I remain very disappointed that we have received no meaningful response from the Government of Tanzania to our correspondence on this important issue. The lack of response reflects the disdain that has been shown toward international mining investors since 2017 when the first changes to the Mining Code were made without consultation. The following expropriation of the Ntaka Hill Nickel Project in 2019 showed further contempt towards international investors and as such we are prepared to take decisive action."*

### **Next Steps**

In the absence of any meaningful correspondence in relation to this matter from the Government of Tanzania, the Company will now move to lodge a Claim to Arbitration with the ICSID, part of the World Bank.

The quantum of any Claim for compensation may include, but will not be limited to:

- the value of historic investment made by Indiana in Tanzania;
- the value of the project at the time that tenure was expropriated; and
- damages the Company has suffered as a result of Tanzania's acts and omissions.

The Company is not able to make any comment in relation to the potential quantum of any claim for compensation at this point.

### **Background to LCM**

LCM specialises in investments relating to the global disputes market and has an unparalleled record in providing dispute financing that is driven by its disciplined project selection criteria and robust risk management. As one of the world's first litigation funders, LCM has assisted hundreds of companies to achieve significant recoveries from claims that, without LCM, would not have been pursued due to the associated costs and risks.

### **Background to Claim**

In July 2017, the Government of Tanzania introduced wide-ranging and severe amendments to the Mining Act 2010, which, *inter alia*, abolished the legislative basis for the Retention Licence classification with no replacement classification.

On 10 January 2018, Tanzania published the Mining (Mineral Rights) Regulations 2018. Under Regulation 21 of these Regulations, Tanzania cancelled all Retention Licences issued prior to 10 January 2018 at which point they ceased to have any legal effect. The rights over all areas under Retention Licences, including the Retention Licence held for the Project, were immediately transferred to the Government of Tanzania.

During the time from January 2018 to December 2019, the Company actively engaged with the Tanzanian Minister for Energy and Minerals and the Mining Commission in an effort to resolve a suitable tenure mechanism for the Project Licence to be reinstated.

A submission presented to the Government in May 2018 included an application for a Prospecting Licence as recommended by Government Officials.

Following numerous visits to Tanzania and meetings with the Minister for Energy and Minerals, Mining Commission and other senior government officials, a further submission was presented to the Minister for Energy and Minerals and the Mining Commission in October 2019 that outlined a four-year work programme and a US\$8-11 million proposed budget to progress the Project. At a meeting on 9 December 2019 with the Minister for Energy and Minerals, the Mining Commission and other senior government officials, the Chairman of Indiana was reassured that the Company's historic investment would be respected and the Government would shortly advise a process to agree an appropriate tenure for the Project.

At all times Tanzanian Government representatives reassured Company representatives, including Indiana Board members that visited Tanzania for the purpose of collaborative engagement with the Government, that the historic investment of the Company would be recognised and that its rights would be respected and protected.

On 19 December 2019, the Mining Commission of Tanzania announced a public invitation to tender for the joint development of areas covered previously by Retention Licences (the "**19 December Tender**"). It was a condition of the 19 December Tender that the successful bidder compensate the previous Retention Licence holder for its exploration costs incurred. This public invitation was not sent to the Company but was advertised on the website for the Ministry of Energy and Minerals.

On 20 December 2019, the Mining Commission of Tanzania announced a revised public invitation to tender (the "**20 December Tender**"). The 20 December Tender removed the condition that the successful bidder compensate the previous retention licence holder for its exploration costs incurred.

Through the measures described above, it is now clear that Tanzania has removed the ownership of the Project from NNHL and its local subsidiary (the "**Investors**"), and in doing so has breached its obligations to the Investors under the UK-Tanzania BIT and international law. These include, but are not limited to:

- a) Tanzania's obligation not to nationalise or expropriate the Investors' investments or subject them to measures having effect equivalent to nationalisation or expropriation without prompt, adequate and effective compensation under Article 5(1) of the BIT; and
- b) Tanzania's obligation to accord fair and equitable treatment to the Investors' investments under Article 2(2) of the BIT.

Article 8(3) of the BIT provides that the Investors may submit the dispute to the ICSID if the Investors and Tanzania are unable to reach an agreement concerning the dispute within six months of the dispute arising (in this instance from the date of the Investors' dispute notice being 14 January 2020). ICSID is an arm of the World Bank and the treaty underlying the institution, the ICSID Convention, has been ratified by 154 States. An award issued by ICSID is enforceable in any one of those 154 member States as if it were a judgment of

one of their own courts. Partly because of this, States have overwhelmingly and historically complied voluntarily with the payment terms of such awards.

Consequently, a Notice was delivered to the President of Tanzania, H. E. The Hon John Magufuli, to the Tanzanian Solicitor General and to the Tanzanian Ministry of Energy and Minerals on 14 January 2020, that a dispute had arisen in relation to the Investors' investment in the Ntaka Hill Nickel Project. In delivering that Notice the Investors notified Tanzania of the commencement of the abovementioned six-month period.

The Notice of Intent is necessary in order to preserve the Company's rights to initiate arbitration should a resolution with the Tanzanian Government not be reached.

Further information on the Ntaka Hill Nickel Project, including historical exploration reporting and releases relating to development studies, can be found at the Company's website [www.indianaresources.com.au](http://www.indianaresources.com.au).

**Ends**

*This announcement is authorised for release to the market by the Chairman of Indiana Resources Limited with the authority from the Board of Directors.*

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To find out more, please visit [www.indianaresources.com.au](http://www.indianaresources.com.au).