



Mining Ombudsman

Case Updates 2005

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Cover photo: Elizabeth Manggol, coordinator of Marinduque Council for Environmental Concerns, shows tailings (mine waste) bags rotting on the banks of the Mogpog River on Marinduque Island in the Philippines. Photo: David Sproule/OxfamAUS

Acknowledgments

The 2005 Mining Ombudsman Case Updates were produced through the hard work and dedication of many individuals and organisations. Firstly, we thank the many mine-affected women and men, who gave their time and stories so that others might understand the impacts of mining activities. The information and learning in these updates stem largely from their support for the Oxfam Australia Mining Ombudsman project. The primary research of many civil society and non-government organisations and researchers has also proved invaluable.

Oxfam Australia would like to thank our Australian-based local groups, as well our supporters and members of the public who have contributed funds to the ongoing work of the Mining Ombudsman project. Oxfam Australia groups which have contributed include: Bayside, Bayswater, Blackburn, Canterbury, Chadstone, Dandenong, Dandenong Ranges, Diamond Valley, Fitzroy, Knox, Mornington, Morwell, Musical Peaces, Southern Fleurieu, South Australian Bookshop group, Warrnambool, and Western Australian groups. The generous support of such groups has enabled the Mining Ombudsman to assist communities to raise their grievances with Australian mining companies, and to defend their rights to a sustainable livelihood and voice.

Ingrid Macdonald, who coordinated the Mining Ombudsman project since 2001, departed in 2005. Her thorough work with communities increased public awareness of the plight of mine-affected women, men and children and highlighted the need for an independent mining industry complaints mechanism.

Special thanks to Sara Bice, who managed the Mining Ombudsman project through a time of transition in 2005.

The Mining Ombudsman Project in 2005

In 2005, the Mining Ombudsman project continued to assist women, men and children from mine-affected communities to voice their concerns and seek redress for human rights abuses. Although the year was one of challenge and transition, it also included campaign successes, increased attention to gender issues and continued fostering of communities' participation in decision-making.

In January 2006, the new coordinator for the Mining Ombudsman project, Shanta Martin, was appointed. With specialisation in corporate responsibility for human rights and dispute resolution, she comes to the role with experience in both the commercial and non-government sectors.

About the Case Updates for 2005

The Case Updates for 2005 consider the impacts of mining operations or proposed mining operations in the Philippines, Papua New Guinea, Fiji and Peru. The cases presented illustrate the breadth of the Mining Ombudsman project, clearly demonstrating the need for:

- adoption of a rights-based approach to mining, including universal human rights standards for the mining industry, wherever companies operate;
- endorsement and implementation of the principle of Free, Prior and Informed Consent, and;
- development of an independent complaints mechanism for the Australian mining industry.

The updates were written in 2005 and reflect the situation of each case as at January 2006. In some cases, a very brief statement about important recent changes to company ownership or engagement with the company have been added. It should be noted that some issues in the community will have progressed since the updates were written. Further updates on each case will be incorporated into the Mining Ombudsman 2006 Annual Report, to be published in early 2007.

Tolukuma Gold Mine:

Tolukuma, Papua New Guinea

Mine Location: Goliata District, Central Province, Papua New Guinea (PNG)

Mine Operator: Tolukuma Gold Mine

Owner/s: (2006 – present) Emperor Mines Limited; (1999-2006) DRD Gold, formerly Durban Roodeport Deep Ltd; (1993-1999) Dome Resources; (1983-1993) Newmont Australia Ltd

Affected Communities: Yaloge, Fuyuge, Roro, Mekeo and Kuni people

Community Support Groups: Centre for Environmental Research and Development (CERD)

2006 note: On 21 March 2006, Emperor Mines Limited acquired DRD Gold's PNG assets, including a 100 percent interest in the Tolukuma Gold Mine. DRD obtained an 88% interest in Emperor. Since Emperor's acquisition of the Tolukuma Gold Mine, the Mining Ombudsman has met with the company's new executives to progress matters concerning affected communities.

The Mining Ombudsman has brought to the attention of Emperor the results of scientific studies commissioned by Oxfam Australia. The scientific reports are now available at: Pollution from the Tolukuma Gold Mine in the Auga-Angabanga River System, Papua New Guinea available online at http://www.oxfam.org.au/campaigns/mining/news/tolukuma_river_report.pdf and Arsenic and Selected Metal Levels in the Domestic Water Supplies of Mekeo Villages near the Angabanga River, Papua New Guinea, available online at http://www.oxfam.org.au/campaigns/mining/news/mekeo_water_report.pdf

The findings of the studies included that the river water is 'now unfit for human consumption as a result of the pollution'.¹ Further discussion of the test results and Emperor's response will be published in the Mining Ombudsman Annual Report 2006.



Morris Movi describes how TGM's dumping of mine waste directly into the Auga River has negatively affected the fish, eels and prawns, as well as the health of the people in his village.
Photo: Ingrid MacDonald/OxfamAUS

Background in brief

The Tolukuma Gold Mine (TGM) operates in a mountainous region of Papua New Guinea, 100 kilometres north of Port Moresby. Waste (tailings) resulting from the gold extraction process at the mine are discharged into the Auga-Angabanga river system, upon which downstream communities rely.

There is no road access to the area, so the mine relies heavily on helicopter transport. In 2000, one tonne of cyanide, used in ore extraction, was dropped from a helicopter during transit. In 2001, community members wrote to the Mining Ombudsman requesting assistance.

The Mining Ombudsman undertook an initial case investigation in 2001 and follow-up investigations in 2003 and 2004. The *Mining Ombudsman Case Report: Tolukuma Gold Mine* detailing the results of these investigations was released in September 2004, and is available online at: www.oxfam.org.au/campaigns/mining

¹ Tingay, A. and S.R. (2006). *Pollution from the Tolukuma Gold Mine in the Auga-Angabanga River System: Papua New Guinea*. Oxfam Australia commissioned scientific report, p. 27.

In 2005

In May 2005, the Mining Ombudsman attended the Summit of Mine Affected Communities in Papua New Guinea, which brought together representatives of the Fuyuge, Mekeo and Kuni peoples.² Living at different points along the Auga/Angabanga River, all of these groups report serious concerns about the mine's effects on their environment, health and livelihoods. In particular, communities voiced the following common grievances:

- Local women and men complain of environmental pollution and its flow-on effects. The mine dumps over 160,000 tonnes of mine waste directly into the Auga-Angabanga river system annually. Community members report that sedimentation has increased, causing flash floods and making the river difficult, sometimes impossible, to cross. Difficult river crossings prevent community members from accessing their gardens and forests, used for food and building supplies.
- Community members attribute illnesses and deaths to drinking and washing in the river. They also report that many fish have died, which is posing a threat to the community's food security.
- Community members report that local women and men have not been properly informed about the company's ongoing exploration, alleging a lack of informed consent for further exploration. Community members claim that the company is not transparent in its practices and does not disclose information appropriately to the community.

As a result of the concerns expressed by local communities of the impact of the mine on water, Oxfam Australia commissioned two scientific studies of the pollution from the Tolukuma Gold Mine. These studies tested the water quality in the Auga-Angabanga river system and in wells in several of the downstream Mekeo villages.

Company responses

The Mining Ombudsman sent a draft copy of this case update to DRD Gold for comment in September 2005. The company responded on 12 October 2005 by saying that it was "constantly striving to meet the social and environmental expectations of each individual region rather than just adhering to the accepted regulatory standards."³ The letter went on to say that DRD Gold "takes its social and environmental responsibilities very seriously..." and that the company has "a dedicated community liaison office and has assisted in creating a decision making body comprised of representative Chiefs from local villages."⁴

On 17 November 2005, Emperor Mines Limited signed an agreement with DRD Gold Limited for Emperor to acquire DRD Gold's Papua New Guinea assets, including a 100 percent interest in the Tolukuma Gold Mine



The men of Dubiulenga village tell the Mining Ombudsman how their health has been badly affected; they can no longer drink the water and their crops have suffered since the Tolukuma Gold Mine in PNG started dumping over 100,000 tonnes of mine waste annually into the Auga river behind them.
Photo: Ingrid Macdonald/OxfamAUS.

² The Summit of Mine Affected Communities was organised by the Centre for Environmental Research and Development (CERD). The Summit was partially funded by Oxfam Australia. Over 20 community representatives attended the Summit, held from 30 May to 2 June 2005, outside Port Moresby.

³ Letter from Mark Wellesley-Wood, CEO of DRDGOLD Limited to the Mining Ombudsman, 12 October 2005.

⁴ Ibid.

Summit of Mine Affected Communities, PNG

The May 2005 Summit of Mine Affected Communities, organised by Oxfam Australia partner organisation the Centre for Environmental Research and Development, brought together more than 20 representatives of the Fuyuge, Mekeo and Kuni peoples.

These groups live at distant points along the Auga/Angabanga river but report similar environmental effects of riverine tailings disposal from the Tolukuma Gold Mine. Although they had not previously been in communication, during the Summit it became apparent that they shared many concerns and common goals in relation to the mine.

After three days of presentations and discussion, representatives created 'Community Action Plans'—strategic, short-to-medium term plans to guide their communities' response to the mining. Although each community created a separate plan, their shared main objective was 'access to clean, drinkable water'.

More information

- *Mining Ombudsman Case Report: Tolukuma Gold Mine* at: www.oxfam.org.au/campaigns/mining
- Pollution from the Tolukuma Gold Mine available online at http://www.oxfam.org.au/campaigns/mining/news/tolukuma_river_report.pdf
- Arsenic and selected metal levels in the domestic water supplies of Mekeo villages near the Angabanga River available online at http://www.oxfam.org.au/campaigns/mining/news/mekeo_water_report.pdf
- Oxfam America and Earthworks No Dirty Gold campaign, online at www.nodirtygold.org

Tintaya Copper Mine:

Espinar Province, Peru

Resource: Copper

Mine Location: Espinar Province, Peru

Mine Operator: (from 2006) Xstrata Copper; (1996–2006) BHP Billiton Tintaya S.A.

Affected Communities: Tintaya Marquiri, Huisa, Alto Huarca, Alto Huancane, Huano Huano, Bajo Huancane, the Yauri township.

Community Support Groups: The National Co-ordinator of Communities affected by Mining (CONACAMI), Cusco Region Co-ordinator of Communities Affected by Mining (CORECAMI CUSCO), Cooperaccion and Oxfam America.

2006 note: In May 2006, BHP Billiton sold the Tintaya Copper Mine to Xstrata Plc. The Mining Ombudsman is continuing to monitor this case, including Xstrata's commitment to the agreements that BHP Billiton has in place with the communities surrounding Tintaya.⁵

Background in brief

The 2004 *Mining Ombudsman Annual Report* recounted successful negotiations during the multi-stakeholder *Mesa de Dialogo* (Dialogue Table) between Espinar communities affected by the Tintaya mine, civil society groups and BHP Billiton. In December 2004, BHP Billiton and the Tintaya Marquiri, Alto Huarca, Alto Huancane, Huano Huano, and Bajo Huancane communities signed an Agreement to crystallise the advances that had been made to date. The 2004 Agreement stated, amongst other things, that the company would facilitate land acquisition for communities, including providing technical assistance for land use (for example training in animal health and provision of tools); details of a community development fund, of which the company would contribute US\$300,000 each year; and reaffirmed commitments of the Dialogue Table members to advance solutions with regard to human rights issues, and environmental and social problems.⁶

In 2005

In November 2005, the Mining Ombudsman attended a Dialogue Table meeting at which the communities reported back to the forum the advances that had been made in implementing the Agreement, with reports from each of the four commissions – Land, Environment, Sustainable Development and Human Rights.

Overall, clear progress had been made, especially in relation to the purchase and development of land. However, a member of the Huano Huano community reporting for the Land Commission highlighted the lack of infrastructure on their land and noted that many people had



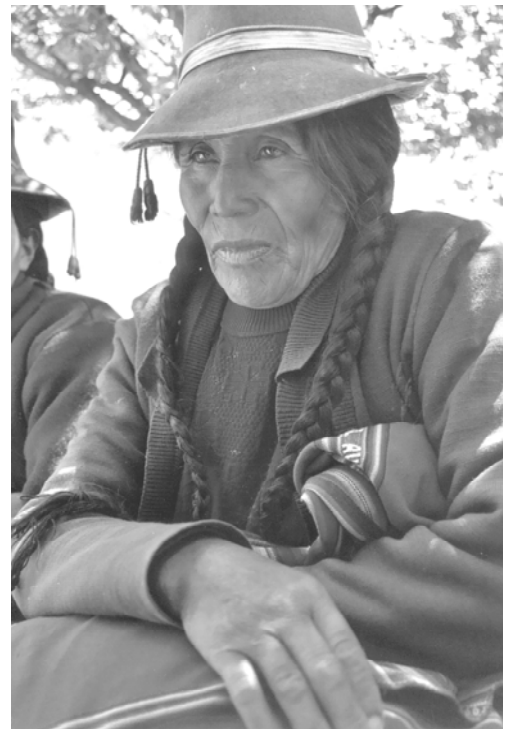
Wife and husband show the milk and yoghurt that they produce daily from their farm in the Ccanipia Microbasin.
Photo: Ingrid MacDonald/OxfamAUS

⁵ Xstrata news release: 'Xstrata plc announces acquisition of Tintaya Copper Mine from BHP Billiton for US\$750 million, available online at www.xstrata.com/news/200605161.en.pdf, accessed 25 June 2006.

⁶ Tintaya Dialogue Table – Agreement on the Consolidation of the Progress on the Process of the Dialogue Table, 21 December 2004.

been living without proper housing or toilets for more than a year. Other commissions also reported delays, with much of the work of the Environment Commission relating to developing protocols for environmental monitoring. The Sustainable Development Commission provided a briefing on community projects taking place, for instance, the construction of shelter for animals and the purchase of a tractor. The Human Rights Commission reported that it would investigate all alleged rapes and conduct workshops on human rights. One of the communities raised the point that the Human Rights Commission should not be restricted to investigating past violations, but should also continue to monitor the current situation.

The 2004 Agreement and other commitments made in the Dialogue Table are being implemented, although some community members say it is occurring too slowly.⁷ Also, the Mining Ombudsman heard in later meetings that families who have been relocated due to mining report that relocation sites lack basic services, such as health and education centres, leading many parents to leave their children with extended family in other areas, as indicated by the Land Commission's report. Complaints about separation of families have been brought before the Human Rights Commission.⁸



A woman from the community attends the Dialogue Table to hear results of the four working commissions. Photo: Diego Nebel/Oxfam America.

Despite concerns about the speed of implementation, community members report that the Dialogue Table process has improved their situations. Local women have asked for sustained support from the Mining Ombudsman and involvement with the Dialogue Table.⁹ This request has been echoed by other participants in the Dialogue Table, including company representatives, local non-government organisations and Oxfam America.¹⁰ Others have requested further resources so that the process may continue.¹¹

Conflict around Tintaya in 2005

While the Dialogue Table is progressing and the 2004 Agreement is being implemented, other events surrounding the Tintaya mine in May 2005 caused the temporary closure of the mine. Some commentators have confused this disruption with the Dialogue Table process. In fact, the protests that caused the mine closure had no relation with the Dialogue Table and did not involve any of the five neighbouring communities that participate in the Dialogue Table.

The disruption related to activities that first begun in the 1990s when Campesino groups and other organisations demanded resources for development of the Province. In 2003, under the leadership of the mayor of the Provincial Municipality, these demands were reinvigorated and quickly culminated in an agreement known as the Marco Convenio (or Framework Agreement). The Framework Agreement

⁷ Personal communication from women of Tintaya Marquiri to the Mining Ombudsman, December 2004.

⁸ Personal communication from Francisco Córdoba, Founder CORECAMI-Cusco with the Mining Ombudsman, 2 December 2004.

⁹ Cooperacion meeting of local women. Sicuani, Peru. 30 November 2005; Personal communications with local women during 2005 Dialogue Table meeting, Arequipa, November 2005.

¹⁰ Personal communications with Edgar Basto of BHP Billiton Tintaya, Jose de Echave (Cooperacion), Javier Aroca and Martin Scurrah (Oxfam America), Arequipa and Lima, November 2005.

¹¹ CONACAMI (2004). *Evaluation of CONACAMI's Participation in the Progress of the Dialogue Table Process in Espinar-Cusco*. Preliminary report. Lima: CONACAMI.

between the Provincial government of Cusco, BHP Billiton and more than 30 rural and urban organisations requires BHP Billiton to respect the environment and to contribute three percent of revenues (or no less than US\$1.5 million) to the development of the Province.

Despite the commitment of funds, only 30 percent of the money contributed by the company had been employed for development objectives by early 2005. Rural and urban groups complained that implementation of development initiatives from the Framework Agreement was occurring too slowly.¹² They also demanded an increase in annual payments to the Province from an agreed \$1.5 million to \$20 million.¹³ The frustration of protestors was exacerbated by the failure of the National Government to follow through its promises to build a hospital in the Province and to construct a much-anticipated road.¹⁴ In May 2005, these organisations protested at the mine site, resulting in a month-long shut down of the mine.

Representatives of the five communities participating in the Dialogue Table expressed concern that the protests might harm implementation of Dialogue Table agreements. However, the precedent established by the Dialogue Table in fact played an important role in seeking a resolution to the protestors' concerns. Partly as a result of the constructive example set by the Dialogue Table, the Vice Minister of Mines created a mediatory commission involving government, civil society and local Catholic Church representatives to broker a resolution between the government, the company and the protestors. Oxfam America was asked to participate in this process. On 3 June 2005, the protestors agreed to join the commission and voluntarily withdrew from the mine site.

The process for resolving dissatisfaction with development in the Province will be complex. Since June 2005, the commission has worked to advance the construction of a hospital in Espinar, although the issue of construction of the road remains unresolved. Nevertheless, open communication between these groups—and the protestors' voluntary withdrawal from the mine site—represents a significant opportunity to broaden community involvement and create a forum for continuing dialogue.¹⁵

More information

- Oxfam Australia website, for more information about the Tintaya Gold Mine and previous case reports, available at <http://www.oxfam.org.au/campaigns/mining/ombudsman/2003/cases/tintaya/index.html>
- Oxfam America website: http://www.oxfamamerica.org/whatwedo/where_we_work/south_america/news_publications/tintaya/art6261.html

¹² Oxfam America (2005), *Commission Formed to Resolve Tintaya Conflict*, 10 June. Available: [http://www.oxfamamerica.org/newsandpublications/news_updates/news_update.2005-06-10.3281933067]. Accessed: 11 June 2005.

¹³ Mines and Communities. (2005). *Confrontations widespread*. Available: [<http://www.minesandcommunities.org/Action/press661.htm>]. Accessed: 13 August 2005.

¹⁴ Personal communications with Javier Aroca, Oxfam America, November 2005

¹⁵ For further information, see: Oxfam America (2005) Op cit.

Vatukoula Gold Mine:

Vatukoula, Fiji

Resource: Gold

Mine location: Viti Levu, Fiji, 380 kilometres from Suva

Mine owner/operator: Emperor Mines Limited

Affected communities: Vatukoula, Nasomo, Tavua Basin and sacked mine workers

Community Support Groups: Citizens Constitutional Forum (CCF), Fiji Mine Workers Union and the Fiji Women's Rights Movement (FWRM)

2006 note: On 21 March 2006, DRD obtained an 88% interest in Emperor while Emperor acquired DRD Gold's PNG assets. Since these acquisitions, the Mining Ombudsman has met with Emperor's new executives to progress matters concerning affected communities.

Background in brief

The Mining Ombudsman conducted an initial investigation at Vatukoula in 2003 at the request of community members. Local women and men complained of poor wages and inadequate health and safety practices for mine workers, environmental degradation, lack of potable water, gender discrimination by the company and substandard housing conditions. The company did not respond to requests for comment on the *Mining Ombudsman Case Report: Vatukoula Gold Mine* released in July 2004. That same month, DRD Gold increased its shareholdings in Emperor Mines Ltd to 45.33 percent, becoming the company's largest shareholder.¹⁶



Women attending a meeting with the Mining Ombudsman to express their grievances with the Vatukoula mine.

Photo: Anne Lockley/OxfamAUS

In 2005

In 2005, the Mining Ombudsman project conducted a follow-up investigation and Gender Impact Assessment to enrich understandings of the social impacts of the mine on local women, men and youth.

The Vatukoula case demonstrates how poor labour practices can contribute to significant negative social impacts. Since 1991, ex-mine workers have picketed daily at the main gate of the Vatukoula Gold Mine (VGM). The strikers say they began their industrial action to protest unsafe working conditions, poor pay, substandard housing, and social and environmental issues.

Current mine workers report that pay has improved slightly since 1991, but many still say that the wages they receive are inadequate and do not cover basic living costs. Workers report that certain practices,

¹⁶ In 2006, DRD acquired an 88.3% interest in Emperor.

such as using subcontractors to train and hire parts of the labour force, mean that some workers do not receive equal pay for equal work. Local women report difficulty in gaining employment beyond the role of 'hand pickers'—sorting ore with their bare hands, risking exposure to heavy metal contaminants.

Community members attribute substance abuse, infidelity, domestic violence and family breakdowns to the stress caused by financial difficulties due to low wages.¹⁷

Workers have said that company housing has been substandard. Many workers have purchased houses from the company at low cost. Although they have become homeowners, the company has divested itself of responsibility for maintenance of the already dilapidated homes while low wages prevent workers from taking over this responsibility.¹⁸ During the 2005 investigation, Oxfam Australia witnessed houses with structural damage, unsafe electrical hook-ups and broken plumbing. In one village, a single working toilet was shared by up to 40 people. Villagers say they do not make enough money for the repairs needed to their houses and shared toilet/shower facilities. They also report that because of the low wages, they aren't able to afford to move to better housing.

Occupational Health and Safety concerns remain at the centre of workers' complaints. Some current workers report that since July 2005, newer mine management have taken steps to improve safety, particularly by installing a new ventilation shaft.¹⁹ However workers maintain that underground conditions are very poor, with an intensely hot and wet environment, lack of proper respiratory equipment and consequent health concerns.



Mine workers housing, which is in disrepair.
Photo: Sara Bice/OxfamAUS.

¹⁷ The links between substance abuse, domestic violence, family break downs and low wages has long been recognised by social research and has been previously identified by women at Vatukoula. See, for example: GP Lala Report, 1995, p. 21.

¹⁸ The Fiji Government commissioned GP Lala report condemns this practice.

¹⁹ DRD Gold increased its shareholding in Emperor Mines Ltd. to 45.33% in July, 2004. In July, 2005, DRD Gold entered into an Operational Support Agreement with Emperor Mines Ltd to provide on-ground management and technical services to Emperor. See: Emperor Mines Limited (2004). *Annual Report 2004*. DRD Gold (2005). *DRD Gold Financing, Operating Assistance Package for Emperor*. 12 July. Available: [<http://www.drd.co.za/>]. Accessed: 30 August 2005. In 2006, DRD acquired an 88.3% interest in Emperor.

Why a Gender Impact Assessment?

Gender disparities exist in all communities, including those discussed in this report, and are a root cause of many social issues. Often, gender disparities are exacerbated by the negative social and economic impacts of mining.

Gender Impact Assessments (GIAs) use in-depth interviews and social mapping to help to identify the diverse effects of economic, social and environmental issues on women, men and children from the same community. For example, although Vatukoula women, men, and children face common issues such as substandard housing, they experience those issues differently. A GIA helps to build an understanding of these differences, and to create effective policy and practice changes.

Results of the Vatukoula GIA suggest that the community's increased dependence on a 'cash economy' has significantly changed gender roles from those traditionally practiced in Fijian villages.

By understanding why and how these roles have changed, communities can begin to address issues such as domestic violence. For example, many male workers at Vatukoula have complained of stress due to low wages and their inability to maintain their family's basic needs. They reported that this stress often makes them angry and frustrated. Some men said they are jealous of women who can get work at the mine, while they remained unemployed. Women reported that domestic violence is rife in the community, but is not often talked about. There are clear links between these issues.

A GIA helps communities to raise such issues, to make the connections between them, and to inform the development of strategies that address the roots of the problems.

Full results of the Gender Impact Assessment at Vatukoula Gold Mine will be available on the Oxfam Australia website later in 2006.

More information

- *Mining Ombudsman Case Report: Vatukoula Gold Mine*, online at www.oxfam.org.au/campaigns/mining
- *Gender Impact Assessment at Vatukoula Gold Mine* will be available online at the Oxfam Australia website later in 2006.

Marcopper Copper Mine:

Marinduque, Philippines

Resource: Copper, with gold and silver by-products

Mine location: Marinduque Island, Philippines

Mine owners: Currently difficult to ascertain—the main shareholder is F Holdings (since 2001).²⁰ Previously Placer Dome had a significant interest in the mine and was heavily involved in the operation of the mine (see report) from 1967-1997 at which time it divested from the Philippines.

Affected communities: Calancan Bay, Mogpog, Boac, mine site

Community Support Groups: Social Action Commission, Marinduque Council for Environmental Concerns (MACEC), Upliftment of Life and Nature (ULAN), Legal Rights and Natural Resources Centre—Kasama sa Kalikasan (LRCKsK/Friends of the Earth Philippines) Luzon Regional Office.

2006 note: On 3 March 2006, Barrick Gold completed its acquisition of Placer Dome Inc. Various assets of Placer Dome's were subsequently sold to Goldcorp on 12 May 2006. On 19 July 2006, a motion was granted to the Province of Marinduque that Barrick Gold Corporation be joined as a defendant in a civil case filed originally against Placer Dome, Inc.²¹

Background in brief

The Marcopper Copper mine operated under various forms of ownership from 1967 until 1996, when operations ceased.²² Although the mine closed almost a decade ago, communities throughout Marinduque report that their daily lives and environment are still affected by the mine.

Calancan Bay, in Marinduque's north, bears the impact of over 200 million tonnes of mine tailings dumped into its coastal waters at surface level. The tailings form a causeway stretching seven kilometres into the bay. Community members report that tailings are sometimes carried by the wind, spreading contaminated dust over the nearby area.



Locals use a handmade bridge too cross the Mogpog River at Malusak, Mogpog on Marinduque Island in the Philippines. Photo: David Sproule/OxfamAUS

²⁰ It is also important to note the involvement of MR Holdings in the ownership of Marcopper. MR Holdings took stake in Marcopper through assignments from the Asian Development Bank and Marcopper Mining Corporation in 1997. In August, 1998 MR Holdings made a Third Party Claim on Marcopper, and was identified as a 'foreign corporation organised and existing under the laws of the Cayman Islands' and 'as a wholly owned subsidiary of Placer Dome Inc.' See: Damsell, Keith (1999). Company Denies Claim, In: *Financial Post*, 7 April. Available: [<http://www.probeinternational.org/pi/index.cfm?DSP=content&ContentID=4822>]. Accessed: 28 September, 2005; Supreme Court of the Philippines (2002). MR Holdings Ltd. vs Sheriff Carlos P. Bajar. G.R. no. 138104. April 11.; Coumans, C. (1999). *Canadian Transnational Dumps Waste, Responsibility in Marinduque*. Available: [<http://www.pcij.org/stories/1999/marcopper.html>]. Accessed: 28 September 2005.

²¹ JATAM – Mining Advocacy Network, Marinduque Gov't Includes Barrick Gold As Defendant In Nevada Case, press release, 21 June 2006.

²² Placer Dome Ltd (2004). *Placer Dome 2004 Online Annual Report*. Available: [<http://www.placerdome.com/investors/annualreports/2004/financials-note18.html>]. Accessed: 30 August 2005.

Scientific studies suggest that the tailings are leaching heavy metals, including unsafe levels of arsenic, copper, selenium and silver.²³

In addition to this impact, Marinduque has been the site of two mine-related disasters.

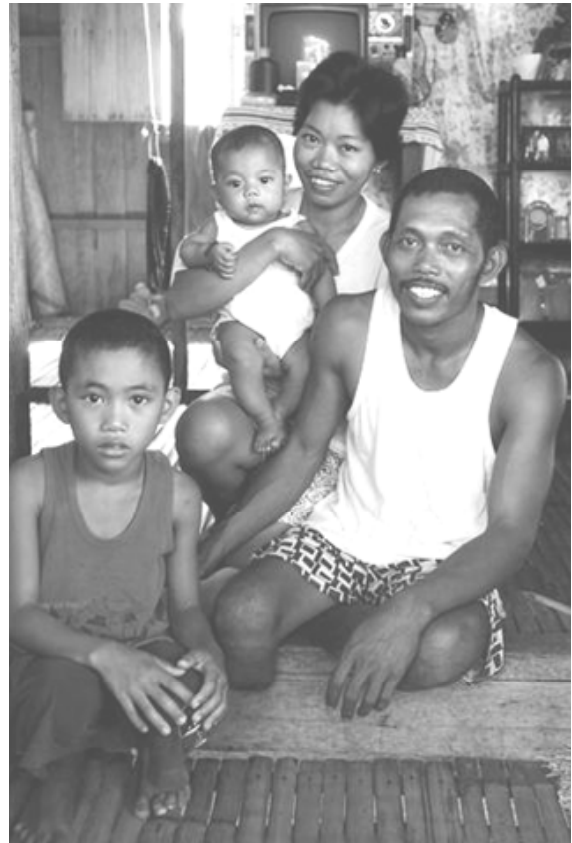
On 6 December 1993, the Maguila-Guila mine tailings dam collapsed. The resulting rush of water destroyed homes and livestock and is attributed by the communities to the death of two children who were washed away. Today, the Maguila-Guila dam remains in disrepair and community members fear it will burst again. Canadian engineering firm Klohn Crippen supports these claims in a report commissioned by Placer Dome, saying the dam is an 'imminent danger to life and property'.²⁴

On 24 March 1996, a drainage tunnel linking the mine's Tapan Pit to the Boac River burst, releasing an estimated two to three million cubic metres of heavy metals-contaminated mine tailings into the river. The Philippines government declared the Boac area a 'State of Calamity'.²⁵ The company hired local women and men to clean up the tonnes of mine waste. Many loaded contaminated tailings into hessian bags with their bare hands.

The Boac disaster is the only incident for which Placer Dome has accepted responsibility, stating that it would 'quickly and fairly' compensate affected community members and 'rehabilitate all areas impacted by the tailings flow'.²⁶ Although the company undertook cleanup and paid more than \$AUD1.9 million (\$USD1.5 million) in compensation to residents,²⁷ community members report that they still have environmental concerns and that compensation was not sufficient. They report that river pollution is still visible and fear the drainage tunnel has not been adequately plugged and will burst again. In addition, more than 2,300 claimants in Boac still await compensation.²⁸

In 2005

In March 2005, the *Mining Ombudsman Case Report: Marinduque Island* was released jointly in Australia, the Philippines and Canada — home to Placer Dome's headquarters. That case report was the result of a 2004 Mining Ombudsman investigation in response to a 2002 request from community members.



Wilson Manuba with his wife Marieta and children Bryan age 8 and Ron Lester 4 months in their home at Calacan Bay Santa Cruz on Marinduque Island in the Philippines.

Photo: David Sproule/OxfamAUS

²³ United States Geological Survey (2000). *An Overview of Mining-Related Environmental and Human Health Issues, Marinduque Island, Philippines: Observations from a Joint U.S. Geological Survey*. Armed Forces Institute of Pathology Reconnaissance Field Evaluation, 12-19 May, p. 29.

²⁴ Report information leaked to Congressman Edmundo Reyes. (2001). Chin, B. and Murray L. (Klohn Crippen engineers) to Ralph Ante (Marcopper), facsimile dated 23 August.

²⁵ (1996). Philippines Government Proclamation No. 778.

²⁶ Willson, J. to Ramos, F. Letter dated 11 April 1996.

²⁷ Placer Dome (2005). *Placer Dome's Involvement in Marcopper*. Available: [http://www.placerdome.com/_shared/assets/Placer_Dome_and_Marcopper2691.pdf]. Accessed: 27 September 2005.

²⁸ Amador, J.D., Director of Environmental Management Bureau to Ante, R., Officer in Charge of Marcopper Mining Corporation, letter dated 1 December 2003.

Women and men of Marinduque told the Ombudsman that they have experienced loss of livelihoods and serious health impacts, which they attribute to the mine. Fish are no longer abundant or healthy and some fishermen have lost limbs, they believe as the result of long-term exposure to arsenic in the mine waste. Children have also suffered lead poisoning, which community members attribute to the mine. Several children have undergone painful blood detoxification, and at least three have died.

Company response

Placer Dome argues that they have no legal responsibility for Marcopper Mine or its legacy. Although Placer Dome maintains that it is not responsible for the mine, numerous documents and reports indicate the company actively managed Marcopper operations.²⁹ Although many local people say Placer Dome has some responsibility for the deaths of their children, health problems and environmental damage, Dr Keith Bentley, author of a Placer Dome commissioned scientific report, stated in correspondence to Oxfam Australia that:

*There is no verified evidence to support the contention that any individual has suffered illness or death from exposure to tailing materials on Marinduque. This conclusion is independently confirmed by the Futures International-USGS Final Report. A corollary arising from this incontrovertible statement is that there cannot be an additive effect between the Marcopper Mine tailing material and other community health issues.*³⁰

The case of Marinduque clearly demonstrates the need for legal standards—ranging from extraterritorial regulations to the extension of international human rights obligations—which hold companies to account, no matter where they operate.

On 4 October, 2005, the Provincial Government of Marinduque filed a law suit against Placer Dome in Nevada, USA,³¹ seeking to hold the company accountable for damaging Marinduque Island's environment, its economy, and the health of its citizens during decades of mining operations on the island.³²

²⁹ Letters to the Mining Ombudsman from Placer Dome: 5 August 2004, 17 December 2002. See also: Macdonald, I. (2005). *Mining Ombudsman Case Report: Marinduque Island*. Fitzroy: Oxfam Australia; Coumans, C. (2002). *Placer Dome Case Study: Marcopper Mines*. Ottawa: Mining Watch Canada. Available: [http://www.miningwatch.ca/issues/Placer_Dome/PD_Case_Study_Marcopper.pdf]. Accessed: 30 August 2005.

³⁰ Bentley, K. correspondence to Macdonald, I. and Bice, S. (11 May 2005). 'Response to the Oxfam comments of 11 May 2005 on the report 'Health Issues on Marinduque' by the Centre for Environmental Health, Canberra Australia. Copies of Dr Bentley's report are available via the Placer Dome web site at: [http://www.placerdome.com/__shared/assets/Analysis_of_Health_Issues2753.pdf]. Accessed: 11 October 2005.

³¹ Coumans, C. (2005). *Philippine Province Files Suit Against Placer Dome—Background*. Available: [http://www.miningwatch.ca/index.php?/188/Marinduque_suit_backgnd]. Accessed: 11 October 2005. See also: Diamond McCarthy Taylor Finley & Lee, LLP. Available: [<http://www.diamondmccarthy.com/index13.html>]. Accessed: 11 October 2005.

³² Diamond McCarthy Taylor Finley & Lee, L.L.P., press release, available at http://www.diamondmccarthy.com/pom_final_press_release.html, accessed 2 August 2006.

Campaigning for change: Face up, Clean up, Pay up

Public campaigning is an important part of Oxfam Australia's advocacy regarding mine-affected communities. In April 2005, Oxfam Australia—in partnership with LRCKsK/FoE-Philippines Luzon Regional Office and Mine Watch Canada—launched the 'Face Up, Clean Up, Pay Up' campaign for Marinduque.

The campaign outlined the Marinduque case, asking Placer Dome to accept its responsibility for Calancan Bay, the Mogpog River and Boac. Through the campaign, the people of Marinduque asked Placer Dome to face up to its responsibility, clean up its mess and pay up what it owes.

The campaign launch included the presentation of scientific reports, including an Oxfam Australia-sponsored report by Dr Emelina Regis, Director of the Institute for Environmental Conservation and Research, Ateneo de Naga University. Dr Regis' report found that acid mine drainage—where chemical reactions cause the release of toxic heavy metals, sometimes for thousands of years, which contaminate water, soil and plants—is occurring in the Mogpog River.³³

The 'Face Up, Clean Up, Pay Up' campaign used evidence presented in the *Mining Ombudsman Case Report: Marinduque Island* as a starting point. Pamphlets with sample letters that concerned members of the public could send to Placer Dome's CEO were distributed to Oxfam Australia supporters. The outcome of this campaign and ongoing advocacy work concerning Marinduque will be communicated to supporters in 2006.

More information

- *Oxfam Australia Mining Ombudsman Case Report: Marinduque Island* available online at <http://www.oxfam.org.au/campaigns/mining/ombudsman/2004/cases/marinduque/marinduque.html>
- Read the *personal stories of Marinduque residents* at <http://www.oxfam.org.au/campaigns/mining/ombudsman/2004/cases/marinduque/stories.html>
- *Marinduque scientific report* available online at <http://www.oxfam.org.au/campaigns/mining/ombudsman/2004/cases/marinduque/index.html>
- MiningWatch Canada's campaign about the Marcopper Mine in Marinduque, see http://www.miningwatch.ca/index.php?/marcopper_mine
- Report by Dr Emelina Regis, Director of the Institute for Environmental Conservation and Research, Ateneo de Naga University, *New methods for detecting heavy metals in mining sites developed*, available online at <http://www.adnu.edu.ph/Institutes/Inecar/newmethod51706.asp>

³³ Regis, E. (2005). *Assessment of the Effects of Acid Mine Drainage on Mogpog River Ecosystem, Philippines, and Possible Impacts on Human Communities*. Ateneo de Naga University: Institute for Environmental Conservation and Research.

Didipio Gold and Copper Deposit:

Didipio, Philippines

Resource: Gold and Copper

Mine Location: Barangay Didipio, Kasibu Municipality, Nueva Vizcaya Province, North-central Luzon, Philippines

Mine Operator: Australasian Philippines Mining Inc.

Mine Owner: Climax Mining Ltd (which merged with Oceana Gold in July 2006).

Affected Communities: Ifugao, Kalanguya, Ibaloi, Tagalog, Ilocano and Bugkalot tribes and other Visayan settlers

Community Support Groups: Didipio Earth Savers Multipurpose Association (DESAMA), Diocesan Social Action Centre (DSAC), Task Force Detainees of the Philippines (TFDP), Legal Rights and Natural Resources Centre—Kasama sa Kalikasan (LRCKsK/Friends of the Earth Philippines) Luzon Regional Office

2006 Note: On 11 July 2006, Climax Mining announced a merger with Oceana Gold, a mining company listed on the Australian and New Zealand stock exchanges.

Background in brief

The Didipio case highlights the need for communities who will be affected by mine operations to give their free, prior and informed consent to mining operations – at all stages of mining exploration, operation and rehabilitation. The case also demonstrates the importance of providing communities with accessible, timely and correct information about the potential impacts of mine activities from a social and environmental point of view, and allowing communities to decide if mine operations should go ahead in their community. It further illustrates how mining can have significant social impacts even before operations begin.

In 2005

The Mining Ombudsman became involved in the Didipio case in 2002 in response to community requests. During investigatory trips in 2002 and 2005, community members raised several grievances. Many in the Didipio community state that the proposed mine – which is due to begin production in 2008 – is not acceptable to them. They say that they believe it will cause environmental damage, endanger health, displace them from their lands and may destroy agricultural economic opportunities.



Many community members have painted signs publicly showing their disapproval of a large-scale mine at Didipio.
Photo: Ingrid Macdonald/OxfamAUS.

According to both community members and their political representatives, Climax has not gained their free, prior and informed consent. Consent has not been gained on a number of levels, including:

- Community members allege that the company has not presented information about the proposed impacts of the mine in an accessible way or language, including failing to explain technical aspects of the proposed mine in an accessible form.
- The Didipio Barangay (or local council) has expressly refused consent to mine operations going ahead.
- Community members allege that they have not been given information about proposed relocations.
- Community members allege that they have not been given adequate and accessible information about the potential environmental impacts of the proposed mine.

Community members report that, although the mine is not yet operational, they are already feeling its impacts. Support for the proposed mine is spilt within the Didipio community, with those who want the mine to go ahead and those who oppose it. This has created tensions within and between communities.

On 22 August 2005, the Philippines government announced that Australasian Philippines Mining Inc, a subsidiary of Climax Mining, had been granted a Financial and Technical Assistance Agreement (FTAA) to go ahead with its Didipio mining project. This FTAA is the first permit of its kind to be granted since a December 2004 Supreme Court ruling declared that FTAA's are *not* in violation of the Constitution.³⁴ The decision reversed a January 2004 ruling, which declared that FTAA provisos for 100 percent foreign equity of natural resources projects were unconstitutional.

The Philippines Government states that the decision has 'paved the way for a more business-friendly investment climate and reduced the risks and apprehensions of investors'.³⁵ It also means, however, that the company can proceed with mining in an area where community representatives report the majority of the community is opposed to further exploration and operations.³⁶

Company response

The Ombudsman has attempted to raise community concerns with the company Climax Mining through several letters, however the company has not responded.³⁷



Community members and representatives sit above the valley where the tailings dam is proposed to be built. Photo: Ingrid Macdonald/OxfamAUS.

³⁴ This represents a reversal of the January 2004 decision, reported in the *Mining Ombudsman Annual Report 2004*, which declared provisions of the *Philippines Mining Act* and FTAA's to be unconstitutional. See: Climax Mining Ltd. (2004). *Philippine Supreme Court Declares FTAA's Legal Uncertainties Removed from Climax Mining's Didipio FTAA*. December.; Philippines Government (2005). *Didipio Copper-Gold Project Gets New Government Approval*. 22 August. Available: [http://www.gov.ph/cat_environment/newscontent.asp?newsid=12534]. Accessed: 31 August 2005.

³⁵ Defensor, Michael (Secretary, Department of Environment and Natural Resources). (2005). *Revitalizing the Philippine Mining Industry: What Can Mining Companies Expect in 2005 and Beyond?*. Paper presented to the Asia Mining Congress. 21-24 March.

³⁶ Solmerin, F. (2004). 'Neuva Vizcaya townsfolk oppose Aussie mining operations'. 21 December. Regions. In: *The Manila Times*. Available: [<http://www.manilatimes.net/national/2004/dec/21/yehey/prov/20041221pro1.html>]. Accessed: 31 August 2005.

³⁷ Letters from the Mining Ombudsman to Climax Mining Ltd were sent on 18 December, 2002; 5 March, 2003; 16 June, 2003; 1 March, 2005.

More information

- A full case investigation of Didipio will be published in 2006, and will be available on the Oxfam Australia website. In the mean time, read more about the Didipio case in previous Oxfam reports, available online at:
<http://www.oxfam.org.au/campaigns/mining/ombudsman/2003/cases/didipio/index.html>
- Read more about the concept of free, prior and informed consent on our website at:
<http://www.oxfam.org.au/campaigns/mining/ombudsman/consent.html>

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