



MONITOR.

Monitoring the mining industry in Australasia and the Pacific

PNG PRESSED TO OK WASTE WATER FOR RAMU RIVER

The Brisbane-based company, Highlands Pacific, is pressing the Papua New Guinea government for approval of the Kainantu gold mine, including the ability to dispose of contaminated tailings water into the Ramu River system. The proposed \$A38 million mine in the Eastern Highlands is likely to prompt opposition from the thousands of people who live downstream and rely on water for subsistence needs and irrigation.

Faced with the demise of the Ramu nickel project, Highlands Pacific has pinned its hopes on the development of the Kainantu gold project, which it touts as “one of the key assets in the company”.¹ Under pressure to establish an operating project, Highlands Pacific is attempting to simultaneously complete a feasibility study on the project and an environmental management plan.

Highland Pacific hopes to get the go-ahead for the project and obtain mine permits within the next few months and begin construction later in 2002. First it must overcome concerns about the environmental impacts of the project.

In mid-November 2001 Highlands Pacific filed a letter of intent with the PNG Office of Environment and Conservation stressing that it wanted the project to “be assessed under PNG’s earlier legislation”.² A new Environmental Act was passed in November 2000, however the development of the necessary regulations – which are likely to be stricter than those currently in place – have not been drafted. In the meantime, new mining projects can gain approval under the current standards and be exempt from future tougher standards.

The Kainantu mine – scheduled to operate for at least six years – would involve an



The proposed Kainantu mine. Adapted from a Highlands Pacific map.

underground mine with the ore trucked to a processing plant close to Baupa Creek, a tributary of the Ramu River.

The project will “be assessed under PNG’s earlier legislation”.

NSR

Highlands Pacific hired the controversial Melbourne-based consultancy company, NSR Environmental Consultants, to draft an environmental management plan to reassure the PNG government and landowners that there is nothing to fear from the mine or the cyanide based processing plant.

While the villages closest to the mine are likely to be affected by the construction of the plant and workers’ accommodation, it is water quality downstream from the tailings dam planned near Baupa Creek that is likely to be the greatest problem. NSR notes that Waterais village – downstream from the mine near the junction of Baupa Creek and the Ramu River – uses the creek “for irrigation of a large scale banana plantation and subsistence fishing”.³ Fur-

ther downstream thousands of people catch fish and work gardens in the alluvial soils of the Ramu River.

NSR claims “residual cyanide in the leach tails will be detoxified and the treated tailing will be returned to the mine and used to backfill worked out stopes. A tailing storage facility (TSF) will be constructed to contain the flotation sand tailing, with excess water discharged to Baupa Creek”.

However, with only a few months to draft the environmental plan, limited time was available for detailed field research. “Little is presently known of the fauna in the area. This will be addressed with relevant investigations during the course of the EP preparation”, NSR claims.

However, NSR acknowledges that the project will cause “elevated suspended sediment concentrations” which could affect downstream users by raising the river

IN THIS ISSUE

Reports embrace deregulation push	3
Landowner outcry on settlement agreements	4-5
BHP-Billiton outsources Ok Tedi cleanup	6
BHP advisory committee kept in dark on new law	7-8
Industry enlists WWF to back cyanide code	9-10
Dealing with the hardest issues	11

PAPUA NEW GUINEA

level and having the potential to “increase flood frequency downstream of the project area”.⁴

NSR also suggests that part of the assessment should “assess the tolerance of each fish species to elevated concentrations of suspended solids and potential contaminants as a result of the future development of the project”. Despite this, NSR proposes that the environmental assessment would only look at the impacts on aquatic species as far as the junction of Baupa Creek and the Ramu River, near Waterias village three kilometres from the processing plant. It would not assess environmental impacts further downstream.

Compounding the time constraints is a dearth of baseline information. If rainfall and evaporation data is inadequate, the ability to design a tailings dam with sufficient capacity to cope with tropical rainfall is reduced. NSR proposes to rely on, not local information, but “existing regional data sets ... to provide hydro-geological and meteorological data for the project”.⁵

To overcome the problem of the discharge from the tailings dam into Baupa Creek exceeding PNG water standards, NSR proposes a two-kilometre “mixing zone” before the standards apply.⁶ “There will be no residual cyanide in the TSF [tailings storage facility]”, NSR claims.

NSR dismisses the idea that the tailings dam be lined with clay or other impervious material, a common practice aimed at preventing tailings leaching into groundwater and watercourses. “The flotation tailing will be inert, composed primarily of quartz and waste rock sand. The flotation tailing will not contain any sulfur-

bearing minerals or entrained cyanide; the sulfides are recovered in the concentrate, which reports to the cyanide leach residue circuit”, NSR claims. NSR dismisses concern about water contamination from chemical residues. “The tailings will have been only exposed to the flotation reagents, which are organic materials that break down when exposed to sunlight and atmospheric conditions”, it claims.⁷

The proposed unlined tailings dam worries Dr Bob Moran, a US-based consultant specialising in water contamination issues. “An unlined tailings impoundment obviously can not be considered best practice”, he wrote to *MM* in an e-mail interview.

“An unlined tailings impoundment obviously can not be considered best practice”

Dr Bob Moran

Moran, who has 30 years experience on mining issues – including advising non-government organisations – believes there is cause for concern. “Even the best treatment would result in residual metals, non-metals, cyanide breakdown compounds, and process reagents being disposed into this unlined impoundment”, he wrote.

“Depending on the climate and water table depth, much of this liquid will leak into the surrounding ground water. Following treatment, there may be no residual FREE cyanide, but what about the other forms of cyanide-like compounds that will remain?” he wrote. “It is common to see such treated

effluent that comply with water quality standards, but which are still toxic to aquatic organisms when they are exposed in toxicity tests”, he wrote.

NSR suggests that community consultation about the project focus on the local Bilimoia Landowners Association (BLOA) and a broader group called the “Associates Group” including representatives from the plant site, accommodation area and the tailings dam. However, no mention is made of involving Waterias – the village directly downstream most likely to be adversely affected by reduced water quality.

Even the specifications for the project are a moving feast. In December 2001 Highlands Gold reported that exploratory drilling was still proceeding which it claimed “further demonstrates the potential to substantially increase the resource base”.⁸ While additional ore may extend the life of the mine, it also means a greater magnitude of potential downstream impacts from increased volumes of sediments and contaminated mine wastes.

Bob Burton

¹ Highlands Pacific, “Highlands Pacific Moves to Full Ownership of the Rich, high grade Kainantu Gold Project, Papua New Guinea”, *Media Release*, www.highlandspacific.com, 16 May 2001.

² NSR Environmental Consultants Pty Ltd, *Environmental Plan for the Kainantu Gold Project, Eastern Highlands Province*, PNG, 8 November 2001, page 3.

³ *ibid*, page 7.

⁴ *ibid*, page 11.

⁵ *ibid*, page 12.

⁶ *ibid*, page 12.

⁷ NSR Environmental Consultants, *Kainantu Gold Project Environment Plan, Main Report, Volume B*, Highlands Pacific, page 29.

⁸ Highlands Pacific, “Activities Report for the Quarter Ended 31 December 2001”, www.highlandspacific.com.



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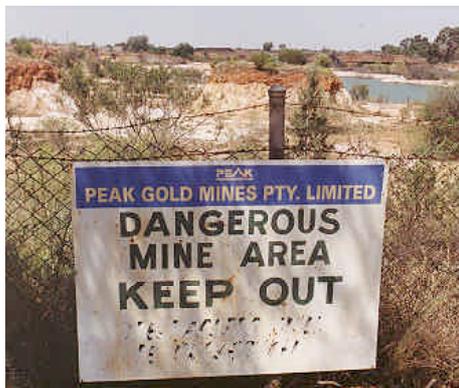
A series of draft final reports released as part of the industry sponsored Mining Minerals and Sustainable Development (MMSD) project propose a series of voluntary codes and other policies to further deregulate the mining industry.

The centrepiece of the MMSD's global report "Agenda for Change" is the proposal that the mining industry adopt a "Declaration on Sustainable Development" containing a commitment to the later development of a voluntary code. The code would "be a unilateral action by industry" with NGOs and other groups relegated to involvement in unspecified "appropriate roles" in its development.¹

In a sweetener for the World Wide Fund for Nature (WWF), one of the few NGOs involved in the process, the report flags the prospect of "company-wide certification or verification" of compliance with the code. While NGOs would have limited input into the code itself, the report suggests greater involvement in the implementation of a code. "Interest group participation in management of the process would be deepened at this stage", the report states.²

The report suggests that the code include subsidiary voluntary codes – such as those on human rights and corporate reporting – and other elements such as the UN Global Compact and some elements of UN and OECD conventions. Complaints over breaches of the code would be dealt with by a "dispute resolution mechanism" – but not through citizen access to the courts underpinned by a legislative framework.

"The focus would be on problem solving and getting the complaint addressed in a way satisfactory to the complainant and the company, not on adjudicating rights and wrongs", the report states.³ The suggestion may be an attempt to incorporate Oxfam Community Aid Abroad's proposal to MMSD that it support a Mining Ombudsman.



Industry wants abandoned mines cleaned up – at public expense. Photo: Bob Burton.

The report also flags the possibility of establishing an Abandoned Sites Facility to identify and commence the clean-up of at least some of the thousands of abandoned mines. However, the report makes clear that financial liability lies not with the industry but governments. "Once it is clear that the social or environmental problems at sites that are no longer operating is a public rather than a private responsibility then funding becomes a responsibility of governments", the report states.⁴

"The report feels bland and does not provide much of a challenge to industry"

*Kristina Ringwood,
Manager Environmental
Policy, Rio Tinto.*

While conceding – for the present time – that environment groups will not support mining in the most highly protected categories of conservation reserves, industry gained some concessions. Those environment groups – mainly British – selected to discuss mining in protected areas have conceded support for the development of "better practice" guides for existing mines in protected areas, considering mining potential in the development of new reserves and

examining the scope for "offsets and trade offs" in protected areas.⁵

In a section addressing possible tasks for for the World Bank, in carefully coded language the report embraces the major mining companies' quest for privatisation and liberalisation of foreign investment. Countries "could... undertake reviews of the adequacy of their policy frameworks to ensure that investment is catalysing development effectively", the report suggests.⁶

The Australian regional MMSD report, while largely unremarkable, frankly acknowledges that support for voluntary codes bolsters industry arguments for further deregulation. "If voluntary codes of practice are to reduce the need for government regulation, they must remain responsive to changing social conditions and stakeholder expectations", the report states.⁷

However, even industry leaders found it bland. "The report feels bland and does not provide much of a challenge to industry. It certainly does not seem to reflect any strong debate that may have occurred around some key issues", Rio Tinto's Manager of Environmental Policy, Kristina Ringwood submitted.⁸

Bob Burton

¹ International Institute for Environment and Development & World Business Council for Sustainable Development, MMSD Draft Report for Comment, www.iied.org/mmsd, 4 March 2002, chapter 16, page 8.

² *ibid*, chapter 16, page 9.

³ *ibid*, chapter 16, page 11

⁴ *ibid*, chapter 16, page 16.

⁵ *ibid*, chapter 16, page 26.

⁶ *ibid*, chapter 16, page 19.

⁷ Australian Minerals, Energy, and Environment Foundation, *Facing the Future: the report of the Mining, Minerals and Sustainable Development Australia Project, Final Draft Report*, www.ameef.org.au, March 2002, page 8.

⁸ Kristina Ringwood, www.ameef.org.au, 22 February 2002.



LANDOWNER OUTCRY ON SETTLEMENT AGREEMENTS

Steven Wikenkru, a wiry 39-year-old man from Kokonda village, knows the Ok Tedi mine and its impacts on the communities downstream well. One thing he did not know was that signing a legal agreement – called a Community Mine Continuation Agreement – would clear the way for BHP-Billiton to bail out of the Ok Tedi project. “Nobody explain, we never knew that”, he told *Mining Monitor (MM)*.

In 1981 he started work as a labourer with Ok Tedi Mining Limited [OTML] just when the project was being developed. A few years later – after working with an earthmoving company – he was working once more for OTML’s surveying section at the Ok Tedi mine site itself.

In 1992 while visiting Kokonda on leave, he discovered the damage to the village gardens and water supply caused by 80,000 tonnes of tailings dumped into the Ok Tedi river system daily. “I came down to live in 1992, that is when I saw my land destroyed, that is when I decided to quit”, he said.

Each year, he says, the river – which he travels on each day – gets higher as tailings builds the bed of the river up closer to the riverbanks. According to Wikenkru in July 2000, an OTML representative visited urging the villagers to elect a representative to discuss a compensation package. Wikenkru – the only one living in the village full time with an education – was selected by the villagers to represent them.

Another landowner, Andrew Daung from Yenkenani village on the Ok Tedi River, had also watched as the environmental damage along the river escalated to the point that the water was undrinkable and gardens could not be grown.

Wikenkru, Daung and other village representatives were invited to a series of meetings to discuss OTML’s plans to withdraw from the mine. The landowners insist that while requests for advice from NGOs and lawyers went unanswered by OTML, it reassured the landowners that the negotia-



Steven Wikenkru, from Kokonda village

tions would not affect the class action proceeding before the courts in Victoria.

According to Wikenkru, OTML funded the Melanesian Peace Trust to run workshops in Kiunga for landowner representatives on people skills and how to negotiate on behalf of their community. However, when asked if it was suggested they

“when I saw my land destroyed, that is when I decided to quit”

*Steven Wikenkru,
Kokonda village*

get legal advice, Wikenkru was emphatic. “No, no, they told us about negotiations”, he told *MM*.

Daung said that after the workshops whenever he attempted to raise concerns about negotiations that were narrowly confined to compensation amounts he would be cut off and told that he should have learnt from the negotiations course that he could not

raise whatever issues he wanted.

Landowners suddenly found themselves in the midst of discussions on final compensation packages to enable the withdrawal of BHP from the troubled OTML Ok Tedi project but without access to independent legal advice.

Their dilemma was further compounded when OTML told the landowners that they would have to choose between agreeing to a settlement with OTML or continuing with the class action. Suddenly time became an issue, Wikenkru says, with OTML representatives stressing that the Community Mine Continuation Agreements had to be signed before Christmas 2001.

When time came time for the final meeting at which the Mine Continuation Agreement would be signed, Wikenkru still had not had any legal advice. “We requested for it [from OTML]...I was scared when I went to sign it”, he said.

Wikenkru was torn, knowing that most people in his village were against signing the MCA, but uncertain if and when any compensation would be forthcoming because of the class action. “OTML said you

PAPUA NEW GUINEA

cannot stand in two canoes”, he said. “Most of them were against us signing ... OTML were saying the court case was not going ahead, don’t worry about it”, Wikenkru said.

Against the wishes of most of the people in his village Wikenkru decided he would sign the agreement. “I took a choice ... the people who wanted the MCA were old people, the old people in the village who were going to die, so I signed it so they would get some benefit”, he said.

It was an action Wikenkru, who faced a backlash from villagers, now regrets but insists he was trying to do the right thing by the village elders. “I never forced my people to sign an MCA”, he said.

“I signed it [even though] most of the people in my village went for the court [case against BHP] and less went for the MCA, so I signed it knowing that they [the village elders] could benefit”, he said. “But after all I see now I sort of have betrayed my people, I say ‘no I haven’t done that, I didn’t know about the bad side’, I wanted to help my people”, he said.

“Those old people, when I was with my people between 1992-2000, there were these old people who died. They were not properly compensated for their land, that is why people said we want to see something before we die, I have been there with them, I feel very sorry for them”, he said.

“OTML told me the court case will go on and on, I signed it. If I had understood then I wouldn’t have signed for my people, I would never have done it ... my land is my history, I get something from it, my land is my industry, I cannot sell it. If I had known I would never ... my land is my mother, why should I give it away”, he said angrily.

At the final meeting in November 2001, an OTML representative read the agreement to those present but, according to Wikenkru, they were not given a copy to review. “They gave us a copy after we had signed”, he told MM. Even with a copy, Andrew Duang admits he found it hard to understand. “The MCA I can read it but it is in legal words”, he said.

No sooner than they had signed the Mine Continuation Agreement than OTML staff presented the landowner representatives with boxes of forms they wanted those



Ok Tedi landowner, Andrew Daung.

present to sign and take back to their village and get signed. The forms – referred to as ‘opt out’ forms – would authorise their name to be withdrawn from participation in the class action against BHP that had been before the Victorian Supreme Court seeking damages from the company for the environmental damage.

Under the terms of the agreement and the legislation, the signature of one person from a village would be taken to mean that the whole village had consented to the actions of their representative.

“If I had understood then I wouldn’t have signed for my people, I would never have done it ... my land is my mother, why should I give it away?”

*Steven Wikenkru
Kokonda village*

“They were delivered after we had signed the agreement”, Duang told MM. He insists that they were not told before they signed the MCA that it would be a requirement of the agreement. “I signed the MCA and opt out knowing that my people would get benefit”, Wikenkru said.

While he was initially happy to sign both the MCA and the opt-out form he thought that those who did not sign would be able to gain compensation when the class action was settled.

Nor was he aware that there was a possibility that the environmental impacts afflicting his village could get worse but that under the terms of the agreement, they would forfeit their rights to compensation for any

damage beyond general forecasts of future damage. If damage escalated dramatically, landowners’ only recourse would be to approach OTML cap in hand.

BHP defends the process. “The process was legitimate, it was done with understanding from all sides, all stakeholders concerned and it was independently observed”, OTML’s Manager of External Relations, Atimeng Buhupe said.¹

By the end of 2001 OTML claimed the process of gaining agreement of landowners “has been going on for many months, and 138 or 93% of the affected villages have now signed the MCA’s”.

BHP was pleased. “The MCA’s are an expression of the informed consent of the affected communities to the mine’s continued operations, and acceptance of an integrated set of measures to compensate them for the mine’s impact on their communities” BHP-Billiton’s Investor Relations Manager, Dr Robert Porter claimed.²

However, since then a number of other villages – believed to be between twenty and thirty – have changed their minds and joined ten villages that refused to sign the agreements. In February 2002, Wikenkru and Daung travelled to Melbourne for a hearing before the Victorian Supreme Court challenging the Community Mine Continuation Agreements.

However, rather than be subject to what was expected to be damning evidence from landowners, supported by documents obtained under legal discovery, BHP conceded defeat before the hearing even started. (see “Ok Tedi retreats on mine agreements” on page 6).

As for BHP – now freed from the liabilities of the Ok Tedi mine – Wikenkru has only one piece of advice. “Put back what you have destroyed”, he said.

Bob Burton

¹ “Ok Tedi latest”, In Focus Pacific Archive, http://www.goasiapacific.com/focus/pacific/GoAsiaPacificFocusPacific_483736.htm, 19 February 2002.

² Dr Robert Porter, “BHP Billiton Background Briefing on Ok Tedi”, www.bhpbilliton.com, 12 December 2001.



OK TEDI RETREATS ON MINE AGREEMENTS

In a win for landowners, OK Tedi Mining Limited (OTML) agreed to refrain from enforcing the provisions of Community Mine Continuation Agreements (CMCAs) to finalise compensation for damage caused by the Ok Tedi mine.

The CMCAs contained a provision that compensation benefits could be withheld from signatories and others in the village unless they gained signatures from villagers "opting out" of a class action against BHP over mine-induced damage.

After the agreements were signed – with many landowners subsequently complaining that they had not been properly informed of the consequences – Slater and Gordon launched a contempt of court action against BHP-Billiton in the Victorian



The landowners turned up, but BHP did not. Photo: Slater & Gordon.

Supreme Court. They alleged the CMCAs constrained landowners legal rights in continuing with the class action.

Faced with controversy over how the agreements were obtained, OTML agreed to a settlement with the landowners' lawyers. OTML agreed they would give no-

tice if they sought to enforce some of the key provisions of the CMCAs against those landowners pursuing the class action. A group of fifteen landowners had travelled to Melbourne for the court case including eight landowners who had signed CMCAs but who claimed they did not realise that by signing the CMCAs they would be preventing others in their village from continuing with the court case.

The next legal development will be the April 2002 hearing before the Supreme Court of Papua New Guinea of a constitutional challenge against the legislation giving effect to the CMCAs that was pushed through the PNG Parliament in late December 2001.

Bob Burton



BHP-BILLITON OUTSOURCES OK TEDI CLEANUP

In a move to smoothe its exit from the environmental and social liabilities associated with the Ok Tedi mine in Papua New Guinea (PNG), BHP-Billiton has established a company to fund "sustainable development" projects in PNG.¹

Under the deal approved by the PNG Government, BHP-Billiton transferred its 52% shareholding in Ok Tedi Mining Limited (OTML) to a new Singapore-registered company, the PNG Sustainable Development Program Limited. The company will be governed by a board of seven directors – three nominated by BHP-Billiton "in consultation with its Forum on Corporate Responsibility", three by PNG government agencies and one "independent director".²

The company is to be established with a total of \$US260 million from BHP-Billiton for investment in projects. Only

one-third of the funds will be available for use on "current" sustainable development projects while the mine continues to operate. While the funding base appears superficially generous, the new company will face tough choices.

While the damage to the Ok Tedi has been severe – according to BHP-Billiton's own scientific advisers it is likely to continue for at least decades – the new company will only spend one-third of its funds in the Western Province.

The new company is also restricted by the requirement that two-thirds of its proceeds be set aside in a special fund for funding projects beyond the end of the mine. However, these funds can only be allocated at a rate of interest plus 2.5%.³ With limited prospects for funding of projects to overcome the long-term damage done to the traditional economic base of the Ok Tedi

River, local communities are reliant on either winning a better payout from a class action or agreeing to BHP's paltry compensation offer.

As part of the proposed agreements with the communities, BHP-Billiton says, "OTML shareholders past and future to be released from all demands and claims associated with future environmental impacts".⁴ According to the lawyers for landowners, estimates of the value of the compensation for surrendering any future claims would be less than as low as 14 kina to 62 kina – approximately \$A7 to \$31 – for each person in the villages per month.

Bob Burton

¹ Dr Robert Porter, "BHP Billiton Background Briefing on Ok Tedi", www.billiton.com, 12 December 2001, page 1.

² *ibid.*, page 3.

³ *ibid.*, page 2.

⁴ *ibid.*

BHP ADVISORY COMMITTEE KEPT IN DARK ON NEW LAW

Almost four thousand kilometres away from Papua New Guinea's dying Ok Tedi River a handpicked BHP-Billiton advisory committee — including Australian two overseas aid and an environmental group — has regularly met to discuss how the company should handle its exit from the Ok Tedi project. Despite this the committee was not informed of impending PNG legislation to facilitate BHP-Billiton's exit from the Ok Tedi project.

The Forum on Corporate Responsibility (FCR) was established in 2000 by BHP "to provide advice and challenge the views of our senior management on broader sustainable development and corporate social responsibility issues".¹ (BHP later merged with Billiton to become BHP-Billiton).

BHP-Billiton does not disclose the membership or what topics the forum canvasses while the passing mention in its voluntary social and environmental report is cryptic to all but insiders. Director Public Policy and Outreach at Oxfam Community Aid Abroad, James Ensor agrees the FCR itself lacks transparency. "Yes that's fair comment", he told *Mining Monitor (MM)*.

Twice a year forum members meet for a day to discuss issues relating to company policy or any one of hundreds of projects in which BHP-Billiton is involved in over 35 countries around the world. "While the Company is not bound by its advice, the FCR does provide a means for direct and open dialogue with members of the wider community", BHP-Billiton says.²



Oxfam CAA Director of Public Policy, James Ensor. Photo: Ponch Hawkes.

According to Ensor the FCR has discussed issues as diverse as HIV/Aids, risk management with petroleum production, the implications of a merger between BHP and Billiton, social impacts associated with large scale infrastructure projects and the Ok Tedi project.

The FCR — which includes overseas aid groups Opportunity International, Oxfam-Community Aid Abroad (CAA), and the World Wide Fund for Nature (WWF) — convened a special third meeting in 2001 to specifically discuss BHP-Billiton's planned exit from the Ok Tedi project.

What was discussed at the meeting remains a mystery to many affected landowners from along the Ok Tedi River. "Never known that group", said Steven Wikenkru, a landowner dismayed by BHP-Billiton's

plans to deal with the environmental and social impacts of the Ok Tedi mine. Nor had he ever heard of groups such as Community Aid Abroad-Oxfam or Opportunity International who participate in the group.

Ensor acknowledges that without the resources to liaise with local people, they find it difficult to know what is happening on the ground. "We can't wander up and down the river and get an accurate handle on landowner's views", he said.

Without detailed knowledge of projects — even ones in countries close to Australia, let alone those scattered across the world — participants are left in a position of being asked to comment about specific projects of which they may have little understanding, let alone direct knowledge of.

NGOs such as CAA that have prided themselves on avoiding speaking on behalf of others — especially without consultation — suddenly find themselves in a difficult position. CAA has tried to sidestep the dilemma by concentrating on bigger picture policy issues. "We have tried to ... make clear [is] that our advice is an in-principle advice and that we are not purporting to represent the views of communities from [the] Santa Isabella dam in Brazil to Ok Tedi", he said.

Ensor acknowledges that participating in a forum that discusses Ok Tedi issues raises questions about exactly who they are representing. Lack of transparency has also led to muted criticism about their role from

WHO'S WHO IN THE FCR

The members of BHP-Billiton's Forum on Corporate Responsibility are: former High Court judge, Sir Ninian Stephen, who is Chairman of the forum; Executive Director of Global Sustainability at the Royal Melbourne Institute of Technology, Trish Caswell; Chief Executive Officer of World Wide Fund for Nature (WWF), David Butcher and its Program Leader for Resource Conservation, Michael Rae; Opportunity International — a Christian development group — Chief Executive Officer, Dennis Perry, and its Victorian Network Manager, Paul Jennings; Oxfam-Community Aid Abroad Executive Director, Andrew Hewitt and Director Public Policy & Outreach, James Ensor; and; Mary Lou Morris, the principal of Morris and Associates, a Hobart-based "environmental communications" company.

PAPUA NEW GUINEA

within PNG. "It is a very valid question ... People are going to make judgements on whether that is good enough or not, and we'll wear that... I'm aware that we are open to that criticism and that it's floating around", he said.

Participation in the FCR has created dilemmas for other organisations too. The Australian Conservation Foundation (ACF) was a forum member until after a vigorous internal debate. The ACF's elected council resolved that it should withdraw from the forum until a proper evaluation of the benefits and the "likely impacts on members, supporters and our status in the community" and the "risks to campaign goals of ACF and allies in Australia and overseas" had been undertaken.³

On occasion, BHP-Billiton requests that discussion of topics be held under the Chatham House rule (see below) requiring members not to disclose detail of the discussion to others. "We have made it clear to BHP-Billiton that ... we will be passing on information coming from the forum to partner organisations, field staff or whatever unless there is an explicit agreement that information is under Chatham House rule", Ensor told MM.

"There has been one or two instances where that has been invoked, we have had an option of whether we leave the room or participate in that particular discussions. In both instances we didn't think the issues being discussed warranted leaving the room. That's a judgement call we make",

he said. One of those instances related to discussions on the Ok Tedi project.

"For us it comes down to what policy and practice change we can achieve through that forum. Though it doesn't go as far as we would like we think we have made some advances", Ensor said.

While BHP-Billiton was keen to get input from the group on some issues, others were kept out of its view. According to a December 2001 briefing note by BHP-Billiton, its majority owned subsidiary OTML had been seeking approval from Ok Tedi landowners "for months" for an extraordinary settlement proposal.

"For us it comes down to what policy and practice change we can achieve through the forum."

*James Ensor
Oxfam - CAA*

One provision in the legislation that specifies that "the signature ... by a person representing or purporting to represent a community or clan, or that person's delegate, binds all of the members of that community or clan".⁴

According to Ensor, the first he knew about the legislation on the Ok Tedi settlement

and the provisions enforcing the Community Mine Continuation Agreements (CMCA's) was after it was introduced into the PNG parliament.

It is a provision Ensor acknowledges sets a terrible precedent for informed consent of local people. "We think the language used in those [the CMCA's] is grossly inadequate and in particular the reference any individual representing or purporting to represent a community", he said.

CAA says it is planning "to independently test informed consent amongst the communities to ascertain how they consent or otherwise was obtained". While some landowners have won a temporary reprieve from enforcement of the CMCA's as a result of a legal action in the Victorian Supreme Court, CAA may have missed its opportunity to raise its concerns within the forum, as BHP-Billiton has now exited from the project

For Ok Tedi landowners the distant Forum on Corporate Responsibility remains far removed from their problems.

Bob Burton

¹ BHP-Billiton, *Health, Safety, Environment and Community Report 2001*, www.bhpbilliton.com, page 11.

² *ibid.*

³ Mike Steketee, "Of the gold and greens", *The Weekend Australian*, 7 April 2001, page 24.

⁴ Mining (Ok Tedi Mine Continuation (Ninth Supplemental) Agreement) Bill 2001, section 8, page 7.



THE CHATHAM HOUSE RULE

Commonly mining company advisory committees – including BHP-Billiton's Forum on Corporate Responsibility (FCR) – are held in part at least under the 'Chatham House rule' named after the London meeting house of the Royal Institute of International Affairs (RIIA). According to the RIIA, the rule was introduced to make a meeting "conducive to free discussion".

According to the RIIA, "when a meeting, or part thereof, is held under the Chatham House Rule, participants are free to use

the information received, but neither the identity nor the affiliation of the speakers, nor that of any other participant may be revealed; nor may it be mentioned that the information was received at a meeting of the Institute".¹

Agreement by NGOs to participate in advisory committees – advocated as a mechanism to ensure greater corporate transparency and accountability – under the Chatham House rule raises issues about the accountability of NGOs. While participants can relay general information to outsiders,

many mistakenly view the rule as requiring strict secrecy.

Even so, if participants are unable to discuss with others outside the meeting details of specific proposals that have impacts on the lives and advocacy work of partner organisations, exactly whom are they representing?

Bob Burton

¹ Royal Institute of International Affairs, "The Chatham House rule", www.riia.org.

INDUSTRY ENLISTS WWF TO BACK CYANIDE CODE

An industry-dominated and funded process has finalised a voluntary code to set standards for cyanide management in mining. While the code has been rejected as too weak by a number of environmental groups, it has gained qualified support from the World Wide Fund for Nature (WWF).

The environment groups— including the Mineral Policy Institute – dismissed the code as being “*riddled with gaps*” and allowing pollution of waterways with toxic cyanide by-products. They claim that the credibility of the United Nations Environment Program (UNEP) – which hosted the development of the code – will be damaged if it supports the code.

As the code was being finalised, the coalition of environment groups wrote to UNEP’s Chief of Production and Consumption, Fritz Balkau, urging he withdraw his support for the code. “*The ‘code’ fails to address, or adequately address, issues such as truly independent mine audits, the integrity and construction of tailings facilities and waste heaps, discharge of most of the contaminants in cyanide process fluids, adequate bonding, and mine closure standards*”, they wrote.¹ The flaws detailed overlapped substantially with issues identified in 2001 by WWF. The coalition of environmental groups received no response from Balkau.

Instead in January 2002 the chair of the Steering Committee established to oversee the code, Homestake Mining executive, Harold Barnes, responded to their letter. “*We must act to gain incremental improvements. Strong rhetoric alone does not generate improved performance*”, Barnes wrote.² The letter listed Steering Committee members including WWF’s Melbourne-based Program Leader on Resource Conservation, Michael Rae. The letter was not signed by the other NGO representative, Glenn Miller of the Sierra Club.

Rae told *Mining Monitor (MM)* “*I have some sympathy for*” the issues raised by the coalition of environment groups. Rae



Rio Tinto's Chief Environmental Advisor, Kathryn Tayles, helped UNEP with the cyanide code. Photo: Bob Burton.

said his main concern is the absence of an organisation with responsibility for implementing the code. Rae confirmed Barnes had drafted a letter on behalf of Steering Committee members. “*I'm not sure that I have the final draft ... our email system has*

“We must act to gain incremental improvements. Strong rhetoric alone does not generate improved performance”.

Harold Barnes letter listing WWF as a co-signatory

been completely stuffed for the best part of the last three months and has only just come good. I'm not sure whether there has been a final, final sent by Harold or what I have seen has been sent by Harold but he is saying ‘Look this is what I view to be the situation from where we sit as a committee’ and at that point you get into Chairman’s prerogative to write such letters”, Rae told MM.

Momentum for stricter regulation of cyanide management emerged after the collapse the tailings dam at the Baia Mare gold mine in Romania, which was managed by the Perth-based Esmerelda Exploration. The spill prompted global media coverage and protests from environmental groups. In Europe, WWF Hungary was one of the groups that led demands for tougher regulatory standards for mining operations. Faced with possible legislative initiatives, the International Council on Metals and the Environment (ICME) – the mining industry’s global umbrella group – approached the UNEP and proposed a voluntary code.

UNEP agreed. In May 2000, UNEP and ICME hosted a meeting in Paris of 40 selected stakeholders with three representing non-government organisations – WWF consultant, Frank Almond, Mineral Policy Center consultant, Dr Bob Moran, and US Sierra Club representative, Glen Miller.

However, cash-strapped UNEP sought funding from the gold mining industry and cyanide producers for the code. To overcome staffing constraints, UNEP seconded Rio Tinto’s Chief Environmental Advisor, Kathryn Tayles, to oversee the initial stages of the code and other mining projects. (See “UNEP seconds Rio Tinto adviser for mining review”, *Mining Monitor*, July 2000).

At the Paris meeting Almond sketched WWF’s expectations of the code. Noting the possible long-term impacts of cyanide, he urged a precautionary approach to its use. Almond argued there were also many unmanaged abandoned mines. Nor did he consider hazardous operations should be allowed in the most highly protected areas or areas of high bio-diversity value.³

By the end of the two-day meeting, it was agreed a voluntary code should be developed by the end of 2001 and UNEP and ICME should form a Steering Committee “*to ensure the code development process remains responsive to the concerns and expectations of all stakeholders*”.⁴ The summary of the workshop set the tone for

FORUM: CYANIDE MANAGEMENT

what was to follow. The code, it declared, “is first and foremost an industry code”.

The first meeting of the Steering Committee was chaired by Tayles but subsequently passed to President of the Gold Institute and Homestake Mining executive, Harold Barnes. “It was agreed to be entirely appropriate that an industry person take on this leadership role”, Tayles wrote in a UNEP memo welcoming industry involvement in the process.⁵

“The fact that the industry has agreed to fund the process was highly appreciated. It is necessary of course, if this work is to be done properly and expeditiously”, she wrote. Industry sponsors raised \$US800,000 for the development and promotion of the code. The dozen contributing companies formed the ‘Industry Advisory Group’, which became a key player with issues referred to it by the Steering Committee.

At its second meeting, the twelve member steering committee agreed the code mission was to “to assist the global mining industry to continuously improve its cyanide management”. Another objective was “to dispel community concerns by providing accurate information regarding the use, risks, and management of cyanide at operations”.⁶

To manage the process, Arizona-based consultant, Norm Greenwald, was appointed as code manager. Prior to becoming a consultant Greenwald had worked for Woodward-Clyde Consultants, Newmont Mining Corporation, and the Magma Cooper Company.

The Sierra Club’s Glenn Miller gamely raised the concept that there were some locations where cyanide use would be inappropriate altogether. After initial discussion the idea disappeared without trace. At the next meeting, key concerns of NGO’s were dumped one after the other. “There is no way to impose sanctions so this will be dropped at this point”, the minutes noted.⁷ Soon after the critical issue of heavy metals mobilised by cyanide went too. “This issue needs to be considered later along with cyanide degradation products”, the minutes noted. By the final meeting – which Miller was unable to attend – the tenor of the discussion became even more pragmatic. “Periodically review best practice, **not pie in the sky**”, [emphasis in



WWF Program Leader for Resource Conservation, Michael Rae.

Photo: Bob Burton.

original] the minutes noted.⁸

Appalled at the failure of the code to deal with issues they considered critical, in December a coalition of NGOs sent a scathing letter to Balkau. “UNEP should not compromise its credibility by backing a ‘code’ such as this, one that fails to advance protection in a significant way and one that is riddled with gaps”, they wrote.⁹

“There is no way to impose sanctions, so this will be dropped at this point.”

Minutes of Cyanide Code Steering Committee

The insistence by the mining industry to ensure the code proposed levels for only one form of cyanide – referred to as “WAD cyanide” – while ignoring other cyanide breakdown products stunned the groups. “Many of these are known to be toxic to aquatic organisms at concentrations routinely found in mining wastes and process waters ... Each of these constituents should be determined on a routine basis, (particularly total cyanide), because they can have a serious and detrimental effect on receiving ground and surface water”, they wrote.

Nor, they argued, did the code deal with a host of issues from mine siting issues, engineering standards, mine closure or that mining and cyanide use was inappropriate in some areas. Worse still, the code provided for “mixing zones” where regulatory standards could be exceeded until a point downstream from the discharge point where they would comply with the standards.

The letter was relayed to the final meeting of the Steering Committee held in Chile in early December. While the minutes of the meeting make no reference to the letter, they record WWF’s representative, Michael Rae, telling the meeting, that the view of NGO groups working on mining was that they were “underwhelmed” by the code draft.¹⁰ When it came time to review the final draft, most present were satisfied that, with minor changes, the code should proceed to be launched and promoted through an extensive communications plan.

A month later Barnes – listing as signatories the Steering Committee members with the exception of the Sierra Club’s Glenn Miller – urged Balkau to support the code. “We believe that the implemented Code will significantly improve the way the gold industry handles cyanide ... This Code, we believe, should be seen as a model for the development of future voluntary codes by other industry sectors and should be promoted by UNEP, rather than UNEP withdrawing from such industry efforts”, Barnes wrote.

Bob Burton

¹ Amigos Bravos, Center for International Environmental Law, Citizens for a Better Environment, Coecocceiba-Amigos De La Tierra, CSGM-Greece, EMCBC, Indigenous Mining Campaign Project, JATAM, Mineral Policy Center, Mineral Policy Institute, Friends of the Earth International, Friends of the Earth US, PNG EWG, and Western Organization of Resource Councils, Letter to Fritz Balkau, unpublished, 3 December 2001.

² Harold Barnes et al, letter to Fritz Balkau, 10 January 2002.

³ UNEP/ICME, A Workshop on Industry Codes of Practice: Cyanide Management Report, www.natural-resources.org/environment, 25-26 May 2000, page 8.

⁴ United Nations Environment Programme, Accident Prevention in Mining: environmental regulation for accident prevention: tailings and chemicals management; Summary Report, Perth Western Australian 26-27 October 2000, page 20.

⁵ Kathryn Tayles, Senior Consultant (Mining), letter to Mr Paul Bateman, President The Gold Institute, www.cyanidecode.org, 11 December 2000.

⁶ Cyanide Code Steering Committee, “Minutes of 2nd meeting: 1-2 March 2001 held in Napa Valley Ca.”, www.cyanidecode.org, page 2.

⁷ Cyanide Code Steering Committee, “minutes of 4th meeting, 23 July 2001 held in Vancouver BC”, www.cyanidecode.org, page 5.

⁸ *Ibid*, page 3.

⁹ Amigos Bravos, *op cit*.

¹⁰ Cyanide Code Steering Committee, “Minutes of the 5th Meeting, December 3-5, 2001, held in Santiago, Chile”, www.cyanidecode.org, page 5.



DEALING WITH THE HARDEST ISSUES

Two things happened in February that highlight how, despite all the rhetoric about improved performance by the mining industry, real change lags.

Firstly, BHP-Billiton staged its walkout from the Ok Tedi mine in Papua New Guinea (PNG) without effectively resolving the problems caused by the tailings dumped in the Ok Tedi river system. The corporation's exit was facilitated by legislation rammed through the PNG Parliament just prior to Christmas 2001. Secondly, the Mining, Minerals and Sustainable Development (MMSD) project report fails to provide effective measures to regulate the mining industry.

The PNG legislation allows the mine to continue operating with ongoing waste disposal into the Ok Tedi River. The new law also provides BHP-Billiton with legal indemnity from future claims for environment and social harm, and allows the company to take as 'informed consent' any person claiming they can speak for a whole village.

BHP-Billiton claims to have a set of values that is inconsistent with the on-going pollution at Ok Tedi. However it is not willing to match its values with dollars. It claims it argued long and hard for early closure of the Ok Tedi mine, but understandably the PNG Government and local communities opposed this, fearing economic hardship.

BHP-Billiton could have granted the billions of dollars compensation to the PNG government and local communities to fund the disruption and transition forced by early closure. Instead BHP offered as a 'poisoned chalice' its 52% equity which has been passed over to the ironically-named Sustainable Development Project Company, designed to provide long-term benefit to local communities but whose income is dependent on the very mine which is killing the local environment.

MPI has been working vigorously with landowners affected by the Ok Tedi mine



The deforested river banks of the Ok Tedi. Photo: MPI.

and local NGOs supporting them. We will continue to do so, ensuring communities affected by the Ok Tedi mine have access to independent information and advocacy.

One might have hoped that the much flouted MMSD project, which recently released its international and Australian reports, might offer some solutions. After all MMSD is charged with "*identifying how mining and minerals can best contribute to the global transition to sustainable development*".

For credible dialogue to happen the rhetoric of MMSD and industry must be backed up by significant changes on the ground

Many NGOs were sceptical of the project because they thought it was more about the industry keeping in sweet with investors, lenders and insurers than it was about strengthening the rights of communities and government to enforce environmental justice. The MMSD report contains many recommendations, but essentially promotes market-based solutions, based on voluntary self-regulatory regimes.

Sadly BHP-Billiton's actions in PNG suggest our fears are justified and that there is a need for mandatory requirements. The report calls for the development of an inter-

national *Sustainable Development Code*. Environment, labour, human rights and indigenous organisations will campaign for this Code to comply with international conventions and standards, and be mandatory for all mining companies – as a condition of companies having a 'licence to operate'.

The report calls for development organisations and international government agencies, such as the World Bank and UNEP, to assist capacity building in developing countries. As Peter Colley, Research Director of the Australian miners' union, the CFMEU, says "*it is both intriguing and contradictory that a company-sponsored initiative is saying this*" – given that the mining industry has led the charge for small government and lower taxes, reducing the very funds required to support effective development programs and to pay for national and international agency action.

MMSD calls for ongoing dialogue through a "Mining and Minerals Forum", bringing together industry, government and community sector and operating at international and regional levels. The Mineral Policy Institute welcomes dialogue with industry or governments on sustainability. However, for credible dialogue to happen the rhetoric of MMSD and industry must be backed up by significant changes on the ground.

As well as mandatory commitments to international environment, labour and environmental conventions, and a new level of corporate accountability, there needs to be a fundamental shift from investing in ever-expanding mining to a minerals future based on curbing consumption through resource conservation, re-use and recycling.

Only then will minerals use be truly sustainable.



*Geoff Evans,
Director, MPI.*



USA

SHELL TO FACE COURT OVER NIGERIAN ABUSES

A US Federal Court has ruled against an attempt by Shell to end legal action brought against the company by the families of Ken Saro-Wiwa and eight others executed by the Nigerian military dictatorship in November 1995.

In early March 2002 a US Federal Court ruled that Shell Transport and Trading Company and Royal Dutch Petroleum Company can be held liable in the US for cooperating in the persecution and execution of environmental activists in Nigeria. The court also refused to dismiss similar claims against Brian Anderson, the former head of Shell's Nigerian subsidiary, and claims by a Nigerian woman that she was beaten and shot while peacefully protesting against the bulldozing of her land by Shell.¹

EarthRights International and a coalition of legal groups supporting the action have welcomed the decision to allow the case to proceed to the next stage where lawyers gain 'discovery' of documents. "In denying Shell's motion to dismiss the case, the court found that the alleged actions of Shell and Anderson constituted participation in crimes against humanity, torture, summary execution, arbitrary detention, and other violations of international law", they said in a statement.²

"The court also found that Anderson could be sued under the Torture Victim Protection Act, which allows victims of torture to sue the perpetrators in federal court. Finally, the ruling allows the plaintiffs' claims under the Racketeer Influenced and Corrupt Organizations (RICO) Act to proceed, finding that plaintiffs' allegations that Shell acted in concert with the Nigerian military would constitute racketeering", they said.

MPI WEBSITE

Whether it is to find back copies of *Mining Monitor*, copies of MPI reports or updates on latest projects drop in to the MPI website www.mpi.org.au

Nigerian environmentalist and writer Ken Saro-Wiwa and eight other Ogoni activists – who opposed Shell's pollution and oil development in the Niger Delta – were hanged by the Nigerian military government on 10 November 1995.

In his closing statement to the military tribunal that sentenced him to death, Saro-Wiwa said "Shell is here on trial. The Company has, indeed, ducked this particular trial, but its day will surely come."



Ken Saro-Wiwa. Photo:Greenpeace.

Shell's Media Relations Manager from its New York office, Mike McGarry, told *Mining Monitor* (MM) the company intended to continue to defend itself against the charges. "We are disappointed that this case will proceed, since it was a former Nigerian Government, and not Shell, that committed the acts alleged in this claim", McGarry wrote in an e-mail interview. "We are very confident that the evidence will show that Shell is simply not responsible for these tragic events".

McGarry told MM the legal action – which was commenced in April 1997 – has been omitted from Shell's last three voluntary social and environmental reports because the company believes "the allegations are without foundation".

According to EarthRights International attorney, Richard Herz, the court victory has broader implications. "Other multinational companies ... cannot participate in egregious human rights abuses with impunity", he said.³

¹ A copy of the original legal complaint is available at <http://www.earthrights.org/shell/complaint.html>

² EarthRights International, "Lawsuit Against Shell for Human Rights Violations in Nigeria to Proceed", *Media Release*, www.earthrights.org, 5 March 2002.

³ *ibid.*

PLACER DUCKS ON SUSTAINABILITY

At a meeting in March 2001 initiated by Canadian gold mining company Placer Dome on its 'sustainability' program, non-government organisations (NGOs) tabled a list of questions they wanted the company to answer, seeking Placer's policy on ocean and river dumping of mine wastes and mining in protected areas.

For the NGO's, the answers to these questions would determine whether they were making headway on some of the key concerns about Placer Dome's activities. One year on, Placer Dome has still not responded to the letter.

Steve D'Esposito, the President of the Mineral Policy Centre, a Washington-based mining advocacy group, argues that the silence is in part a result of a change of CEO. "We were making progress, a number of things were on the verge of becoming company commitments, and then nothing happens in this new kind of financial merger climate", he told *Inter Press Service* (IPS).¹

Placer Dome's Vice-President of Sustainability, Keith Ferguson, argues that Placer has decided to progress these issues through the Mining Minerals and Sustainable Development process rather than its sustainability forum. "Some of the issues that were discussed within the Denver Group are progressing. It's just not necessarily (happening) within that group", he said.

Ferguson told IPS that Placer really only plans to address company specific issues with NGOs and leave other areas – such as mining in protected areas – to other industry groups. "If they're of a more generic nature, then it might be better for several companies or an association to look at it with the NGOs. If it's a specific community, it's probably better off to have a particular company dealing with an NGO".

¹ Marty Logan, "Gold Industry Consolidation Seen as Threat to Locals", *Inter Press Service*, 14 January 2002.

MOVING MOUNTAINS: communities confront globalisation

A collection of essays on the impacts of mining on communities and public policy. Available from the Mineral Policy Institute PO Box 21 Bondi Junction NSW 2022 for \$34 (Aust) (including postage).

TAILINGS

CANADA

FIRST NATION WINS ON TAKU MINE



The British Columbia Court of Appeals has ruled that the proposed Tulsequah Chief mine did not adequately take into account the impact of the project on the local Aboriginal people.

The proposed Taku River gold, copper and silver mine (see "Taku mine stalls" MM, September 2000) had been approved in March 1998 by the British Columbia government. However, the Taku River Tlingit First Nation appealed against the decision on the ground that the provincial government had not taken their views into account. The Supreme Court ruled in favour of the Tlingit, a decision appealed by the government of British Columbia.

The proposed mine would have involved the construction of a 160-kilometre road through the heartland of the Tlingits First Nations pristine wilderness. The Tlingits argued before the court that the road would ruin the Tlingit way of life and affect their Aboriginal rights and title.

In early February 2002, the Court of Appeal delighted the Tlingits by ruling in their favour. "This is a great victory for the Tlingits", said John Ward, External Spokesperson for the Taku River Tlingit First Nation.

"The Court of Appeal has confirmed our place in the fabric of British Columbia. Finally the government must recognise that 'business as usual' means doing business with us in a way that sustains our way of life, not without us [and] in a way that destroys us. First Nations are here to stay. We expect now that the government of B.C. will do the honourable thing and respect our rights and act accordingly", Ward said in a statement.¹

¹ Taku River Tlingit First Nation, "BC Court of appeal refuses to let Tulsequah mine to go ahead", Media Release, 1 February 2002.

GREECE

TVX MINE PERMIT RULED ILLEGAL

In a landmark ruling the Greek Conseil d'Etat – the Council of State – ruled that permits issued by the Greek Government to TVX Hellas for the Olympias gold project are illegal.

The ruling – by a twenty to seven margin – has the effect of a law and can be neither appealed nor overturned. Spokesperson for Hellenic Mining Watch, Maria Kadoglou, welcomed the decision as setting "a precedent for all proposed gold projects in the country".

"The court judged that the government approval for the Olympias gold plant was contrary to the laws and the constitution because 'the environmental devastation which is threatened by the construction and operation of this gold plant is far greater than the projected benefits and violates the principle of sustainable development'", Kadoglou said.



*The Olympias mining area.
Photo: Hellenic Mining Watch.*

The Toronto-based TVX Gold said it was "very disappointed with the decision". In December 1995 TVX bought the Olympias mine and rights to 31,000 hectares of land from a government agency for \$US46 million. The government undertook to issue mining permits and absolve the company from liability for environmental damage from earlier mining.¹

While the company bought the rights to the Olympias mine for a song, analysts consider the venture a disaster for TVX. "The Greek development projects have been an unmitigated disaster for TVX as the company has been mired in red tape and court rulings for four years", an analyst for Spratt Securities noted.²

No sooner had the legislation been pushed through parliament in a summer sitting – when many members were away – than community

opposition emerged. In an attempt to crush on-going protests, the Greek government sent riot police to the area, and at the height of protests in 1997 placed the local township under martial law.

Opponents of the mine have also been targets for legal actions by government authorities.³ Early in March 2002 a local court acquitted charges in one case on the grounds that they were opposing illegal activities. However, hundreds of cases remain pending.

¹ TVX Gold, "Olympias project permit denied", Media Release, www.tvxgold.com, 1 March 2002,

² Lesley Wroughton, "Greek court annuls permits for TVX Olympias mine", Reuters, 4 March 2002.

³ For more information see Hellenic Mining Watch <http://antigoldgreece.tripod.com/>.

PHILLIPINES

PROVINCE BACKS 20 YEAR MINING BAN

The Philippine island province of Oriental Mindoro has placed a 25-year moratorium on all major mining projects in the region.

The ordinance declares that it is "unlawful for any person or entity to engage in land clearing, prospecting, exploration, drilling, excavation, mining, or transport of mineral ores preparatory to all forms of mining operations for a period of 25 years". The new moratorium in Mindoro exempts excavation of ordinary stones, sand, gravel, earth and other materials, which are operated by small-scale miners.

The Island of Mindoro is located south of Manila to the west of southern Luzon. The ordinance makes it impossible for the Canadian-owned Crew Development Corporation, to develop a large-scale nickel and cobalt mining project in the area.

In July 2001 the central government cancelled Crew Development's permit to develop the mine. In November 2001 Crew appealed but the government upheld the original decision. The proposed mine faced staunch opposition from the Catholic clergy and local environmental, fishing, and Indigenous Peoples' organisations.

AUSTRALIA

CLIMATE CAMPAIGN WILTS SHALE OIL

The financial viability of the Rundle shale-to-oil project in Queensland by Southern Pacific Petroleum (SPP) and Central Pacific Minerals (CPM) is wilting in the face of a corporate campaign by Greenpeace. Greenpeace is opposing the project on the grounds that oil from shale contributes four times the volume of greenhouse gases than conventional oil.

The consortium – which has longer-term plans to mine within part of the Great Barrier Reef World Heritage Area – has been beset with problems. Last year one of the founding partners, Canadian company, Suncor, withdrew from the project following direct action protests by Greenpeace in Canada.



Caltex has been dubbed the “climate cowboy” by Greenpeace.

Greenpeace then lobbied major oil refiners in Australia to refuse to buy production from the Rundle project, thereby depriving it of local markets. In November 2001, BP announced that it would not buy oil from the project.

In late February 2002, Shell wrote to Greenpeace announcing that it too would not buy the project's output. Shell Australia Chairman, Dr Alan Parsley, wrote that Shell has “not purchased this product nor do we expect to do so” even though the consortium had approached it.

The Australian Government is underwriting the financial viability of the project with an exemption on excise on part of its product that it sells in Australia. The subsidy is believed to be in

the order of \$300 million so far.

“There shouldn't be any more taxpayer's money wasted” said Greenpeace climate campaigner Gareth Walton. *“The Government wouldn't save Ansett, how could it even consider bailing out the Stuart Project – a thirty year old white elephant that is contaminating the community? ...The time has come for the Federal Government to stop providing handouts to SPP”*, Walton said.¹

Greenpeace is now lobbying the only company that has bought shale oil – Caltex – to announce it will follow BP and Shell's lead.

SPP and CPM are looking to attract another partner to allow it to expand the project. Dogged by controversy, the share price of SPP has crashed – from a high of \$2.20 in 2001 to 35 cents in early April 2002.

¹ Greenpeace, “Oil shale project could face closure without government bail out”, *Media Release*, www.greenpeace.org.au, 8 March 2002.

PAPUA NEW GUINEA

MISIMA OCEAN OUTFALL BURSTS

The Misima mine outfall pipe, used to dump mine tailings into the ocean, burst before Christmas 2001.

Advocates of marine disposal of tailings tout Misima – owned by the Canadian owned Placer Dome – as the best example of the technique. *“Misima is an example that has worked very well”*, the BHP Manager of Environmental and Community Affairs, Ian Wood, told *MM* in November 2000.

The accident was confirmed when Mining Watch Canada Research Coordinator, Catherine Coumans, asked Placer Dome in February 2002 about whether it had problems with the ocean outfall. In an e-mail to Coumans Mine General Manager Noel Foley confirmed that the outfall pipe buckled and split on Christmas eve over a ten-metre length at a depth between thirteen and twenty-three metres. *“A further thirteen meters was deformed but not holed”* Foley wrote to Coumans.

To overcome the problem of how to dispose of its waste, Placer reversed the operation of the

system so that it disposed of its waste at a depth of 60 metres through the water intake pipe and drew water in through the outlet pipe. NSR, the Melbourne based consultancy company that promotes the use of ocean dumping of mine tailings, argued at a conference in late 2001, that tailings should only be disposed of at depths greater than 80 metres.

The repair of the damaged pipe took until March 2002. Placer says that sampling of the ocean indicates only ‘normal levels’ of mine pollutants in the seawater.

“As to what has caused the damage to the pipe, this is still the subject of an investigation into the integrity of the pipe material, movement of the pipe causing twisting and stresses to develop, right through to ‘was it damaged as it was installed, so that it has finally failed at this point?’”, Foley wrote.

¹ Noel Foley e-mail to Catherine Coumans, unpublished, 18 February 2002.

TURKEY

DEFEAT ON OVACIK FOR NORMANDY

Normandy Mining – now owned by the US mining company, Newmont – has lost the latest in a series of legal skirmishes over its proposed Ovacik gold mine in Turkey.

In late February 2002, the Izmir Third Administrative Court ruled that the gold mine in the town of Bergama should be closed immediately. In 1998 a Council of State ruling banned the use of cyanide for health and environment reasons. However, after a major lobbying campaign, Normandy gained permission from the Turkish government to conduct a one-year test operation, due to expire in April 2002.

Villagers opposing the mine operation are urging the Turkish Government to implement the latest ruling and close the mine.¹

¹ SOS Pergamon, “Izmir Third Administrative Court decides the Bergama mine should close”, *Media Release*, 6 March 2002.



RESOURCES

BOOKS



Benedict Y. Imbun and Paul A. McGavin, *Mining in Papua New Guinea: analysis and policy implications*, University of Papua New Guinea Press, Waigani, 2001, 302 pages.

This report is something of a first in the debate about the appropriateness, impacts and benefits of mining in Papua New Guinea (PNG). The editors have brought together fifteen academics, six of whom are Papuans, from diverse disciplines to describe and critique the major aspects of mining in PNG.

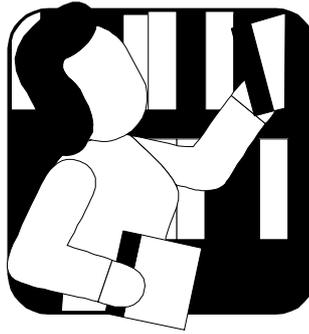
The book features discussion on indigenous communities and the perennial question of whether exhaustible resources can be mined sustainably.

While a useful contribution on the PNG experience of mining and future policy directions, the book has its problems. The long, unedited chapters mean repetition within and between chapters and unclear, excess text. Shorter, sharper chapters with extracted case studies, an index and a directed introduction could have contributed to a more accessible read.

For a detailed review see the MPI website www.mpi.org.au.

Available from University of Papua New Guinea Press, c/o UniSearch PNG PTY LTD, P.O. Box 320, University National Capital District, PNG.

Nina Lansbury



Hal Turton, *The Aluminium Smelting Industry: Structure, market power, subsidies and greenhouse gas emissions*, The Australia Institute, Discussion Paper no 44, January 2002, 60pp.

This report details the level of subsidies enjoyed by the Australian aluminium industry – dominated by Rio Tinto, Alcoa, WMC, Pechiney and VAW – at the expense of electricity consumers.

The paper scrutinises the claim by the aluminium industry that if Australia adopted measures to reduce greenhouse emissions – such as a carbon levy – the industry would be forced to relocate to developing countries outside the Kyoto protocol. Turton rejects this claim arguing that it is unlikely the industry would move, or if it did move it would be to countries offering similar advantages to Australia – countries which are predominantly those countries that have agreed to greenhouse reduction targets.

This booklet is especially for those with an interest in the technical details of greenhouse and the aluminium industry.

The executive summary of the discussion paper is available from: www.tai.org.au or the full paper can be purchased for \$A21 including postage from The Australia Institute, Garden Wing, University House, Australian National University, Canberra ACT 0200 Australia. Tel +61 2 6249 6221, Fax +61 2 6249 6448, mail@tai.org.au.

Anna Reynolds, *Warnings from the Bush*, Climate Action Network, February 2002.

This is a collection of papers reviewing the likely impacts of climate change on the Australian natural environment, including some of the iconic protected areas such as the Great Barrier Reef. The

report also reviews some likely adverse impacts of climate change on tourism, fishing, forestry and agricultural industries in regional Australia.

If you would like to better understand the changes we are likely to see in our lifetime because of climate change, these papers are well worth reading.

The report is available at:
www.climateaustralia.org/bush/

Larry Lohman, *Democracy or Carbocracy?: intellectual corruption and the future of the climate debate*, The Corner House, Discussion Paper Number 24, October 2001, 52 pages.

This report sets out to challenge the idea that the solution to making the cuts to greenhouse gases necessary to stabilise the world climate will be achieved through technical arguments over sinks and credits in a carbon market. Lohman argues that the faith placed by industry, government and many NGOs in trying to come up with market-based mechanisms for implementing the Kyoto Protocol is misplaced. If you are interested in greenhouse policy, this is a paper for you.

This paper is available free from: <http://cornerhouse.icaap.org> or for £2 via cheque only made out to Corner House Research, PO Box 3137, Station Rd, Sturminster Newton, Dorset DT10 1YJ, UK.

MPI E-MAIL LIST

The Mineral Policy Institute invites you to join MineAction. MineAction is an e-mail discussion list on mining in Asia and the Pacific.

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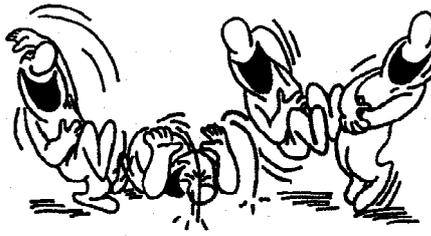
NUGGETS

HE KNEW NOTHING

"I had no idea the company was in any-thing but excellent shape".

Jeffrey Skilling explaining his departure as Chief Executive of Enron three months before the company collapsed with a \$120.9 billion debt.

(Luke Collins, "Former Enron chief says panic to blame", *Australian Financial Review*, 9-10 February 2002, page 18.)



ANDERSON CLEARS THE AIR

According to Australia's Deputy Prime Minister, the Rundle shale to oil project – which is a massive new contributor to greenhouse gas emissions – is "a promising sunrise clean oil industry".

(John Anderson, "Greenpeace condemned for political attack on shale oil project", *Media Release*, 8 March 2002.)

IT'S OK TO BE A LOSER

"For the electricity market to be efficient ... electricity prices must not be related to cost of production – that is not the way business operates anywhere now..."

David Coutts, the former head of the Australian Aluminium Council, defending the subsidised power prices for Australian aluminium smelters.

(Cited in Senate Environment, Communications, Information Technology and Arts References Committee, *The Heat is On: Australia's greenhouse future*, November 2000, page 161.)

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