bhpbilliton

undermining the future

photo: Hugh Brown

Alternative Annual Report 2009

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Introduction

This report examines a number of BHP Billiton's operations around the world. The collection of case studies highlights the disparity between BHP Billiton's 'Sustainable Development Policy' and the reality of its operations.

A number of recurring issues are prominent in the following case studies including human rights abuses, labour rights, relocation of communities, mistreatment of Indigenous Peoples, destruction of sacred sites, devastating impacts on food and water, climate change, use of paramilitaries, health concerns, irresponsible tailings disposal procedures and questionable corporate social responsibility practices.

The United Nations Special Representative of the Secretary General on Business and Human Rights, John Ruggie, has developed a framework on business and human rights, "Protect, Respect and Remedy". The UN is now investigating how to operationalise this framework, which has been the result of the growing body of evidence that human rights, while traditionally a State responsibility, is increasingly impacted by business operations. It is a shift in accountability that will hopefully see transnational corporations – like BHP Billiton – move beyond tokenistic social and environmental policies into actually mitigating and eliminating negative impacts on environments and communities.

There are many social impacts that arise alongside mining developments including the influx of alcohol, drugs, prostitution, sexually transmitted diseases and conflict within communities over land ownership, royalties and compensation. There are many other social impacts that relate to the health of the environment (like access to food and clean water, and contamination of land and water), and access to traditional cultural sites as well as homelands, all of which can easily be affected by mining operations.

While mining companies often make deals with communities which allow them to mine, this process – generally referred to by companies as "social licence to operate" – can often be flawed. It can lead to divisions in the community and as a result, communities can be easily manipulated, often with limited or biased access to information. Indigenous Peoples have championed the principle of 'free prior and informed consent' (FPIC), which is enshrined in the 2007 UN Declaration on the Rights of Indigenous Peoples. FPIC means that consent is given (or not) free of coercion or manipulation, before the commencement of any activities, and with full disclosure of information that is understandable and accessible to communities. To date, BHP Billiton has merely noted that there are "a wide diversity of views" on FPIC, and fails to rise to the challenge needed to genuinely implement it.

While BHP Billiton has a policy on human rights, as explained within its Sustainable Development Policy, and is a signatory to a number of voluntary agreements on human rights, it is apparent from the following case studies that policy does not equate to practice. Many of the countries that BHP Billiton operate in have poor records on corruption, have poor human rights records and a high level of militarisation, and are willing to make serious compromises for desperately needed foreign investment. These are all factors that often create an environment that undermines the rights of communities when faced with a form of development they oppose.

As a result, community resistance to BHP Billiton's activities is a prominent feature in this report. In many of the following cases, BHP Billiton is identified as partnering in a joint venture with other multinational corporations, or local companies. Nevertheless, the company and implicated shareholders are not absolved from the responsibility to address the concerns raised by community members, workers and local authorities. Notably, in each profile, community members have felt BHP Billiton's role is sufficiently identifiable to launch court actions or undertake other activities to raise their concerns at local, national and international levels. The case studies in this report provide sufficient evidence that concerns about BHP Billiton's activities are being raised by local community members. The people who stand up and contest the treatment of their community are brave, and many are also scared, but the message is clear: profiting from injustice and destruction is not a legitimate business.

South Australia: Olympic Dam Mine

Western Mining Corporation first developed the Olympic Dam (Roxby Downs) Uranium Mine in 1983, despite strong and sustained opposition from Kokatha and Arabunna Traditional Owners and environmentalists. BHP Billiton purchased the underground Olympic Dam mine in 2005. In May 2009 BHP Billiton released an Environmental Impact Statement detailing plans to turn Olympic Dam into a massive open pit mine.[1] With this expansion uranium production is expected to increase from 4,000 tonnes to 19,000 tonnes per year and copper production from 200,000 to 750,000 tonnes a year. The production of gold and silver is also expected to increase.[2]

"Enough damage has been done from the Olympic Dam uranium mine, they should not expand it," protests Eileen Wani Wingfield, a Senior Kokatha Woman from Coober Pedy in South Australia. "Many of our food sources, traditional plants and trees are gone because of this mine. We worry for our water; it's our main source of life. The expansion causes many safety risks to our roads – transporting the uranium from the mine. It has stopped us from accessing our sacred sites and destroyed others. These can never be replaced. BHP never consulted me or my families, they select who they consult with. Many of our people have not had a voice. We want the mine stopped now, because it's not good for anything." [3]

The mine operates under the Roxby Downs Indenture Act, which provides overrides and exemptions from many environmental, Indigenous and occupational health and safety requirements, including the SA Aboriginal Heritage Act 1988. BHP Billiton is in a legal position to determine what consultation occurs with which Traditional Owners and the nature of any consultation.[4]

The company decides the level of protection that Aboriginal heritage sites receive and which sites are recognized. BHP Billiton claims that it fully complies with Aboriginal heritage legislation. However, the question remains why the company is unwilling to relinquish the legal exemptions.[5]

The Roxby Downs Indenture Act also allows wide-ranging exemptions from key environmental laws such as the SA Environmental Protection Act 1993, Freedom of Information Act 1991 and the Natural Resources Act 2004, including water management issues.[6]

The mine expansion plan would see the production of radioactive tailings increase seven-fold to 68 million tonnes annually. These tailings are stored above ground and contain a toxic, acidic mix of radionuclides and heavy metals, effectively a source of permanent pollution. There have been many spills and leaks since the mine began. In the mid-1990s it was revealed that about three billion litres had seeped from the tailings dams over two years. These problems have yet to be resolved.[7]

"Here you are, BHP, the biggest mining company in the world, and here we are the oldest peoples in the world. You should be listening to us about this land and the water. BHP, don't go ahead with the expansion, we all know how dangerous it is," explains Uncle Kevin Buzzacott, an Arabunna Elder from Lake Eyre South, South Australia. "When you've packed up and gone that's when the earthquakes will happen, don't go ahead with it; use your common sense. There should never be an open cut uranium mine in the desert. We don't know if you shareholders understand the impacts of what you're doing to the Arabunna people, the Kokatha people and other tribes around that area. You don't understand what you're doing to the land and the culture." [8]

Alongside the mine expansion, BHP Billiton (2009) proposes an increase in water consumption from 35 million litres daily from the Great Artesian Basin (GAB) to over 260 million litres daily.[9]

LEFT: Uncle Kevin Buzzacott, an Arabunna Elder from Lake Eyre South, South Australia. RIGHT: MoundSpring Bubbler - Mound Springs north of Olympic Dam, where ancient Great Artesian Water (GAB) is pushed up by the pressure in the Basin. Traditional Owners and many observers have noticed huge changes to the mound springs since the Olympic Dam mine has been operating and taking water from the GAB. photo: Jessie Boylan

This water would come from a combination of sources of which up to 42 million litres would come from the Great Artesian Basin and around 200 million litres a day from a proposed desalination plant near Whyalla.. That's over 100,000 litres every minute – in the driest state of the driest inhabited continent on Earth.[10]

The water already taken from the Great Artesian Basin has had adverse impacts on the health and flow rates of the GAB's natural outlet points, the precious Mound Springs.[11] The inappropriately sited proposed desalination plant threatens the fragile low flushing Upper Spencer Gulf and the breeding ground of the charismatic Giant Australian Cuttle Fish.[12]

Yet another provision of the Indenture Act means that BHP Billiton pays nothing for its water take for the Olympic Dam Mine. Despite the company recording a $17.7 billion profit in 2007-08 precious Great Artesian Basin water is taken free of charge and the groundwater system is damaged, depleted and threatened with irreversible contamination in the process.

The proposed expansion of the Olympic Dam uranium mine highlights the fallacy that nuclear power is a 'solution' to climate change. If the mine expansion proceeds, it would generate 4.5–6.6 million tonnes of greenhouse emissions annually and make it all but impossible for South Australia to reach its target of 13 million tonnes.[13]

NUCLEAR WEAPONS

Uranium production at Olympic Dam is expected to increase to 19,000 tonnes per year, sufficient to fuel 95 power reactors, which will produce 2,850 tonnes of high-level nuclear waste per year (in the form of spent nuclear fuel). That amount of spent fuel contains 28.5 tonnes of plutonium – enough for 2,850 nuclear weapons each year. Over the lifespan of the mine covered by the EIS up to 2050, it could be responsible for the production of enough plutonium for over 100,000 nuclear weapons.[14]

In 2009 the Olympic Dam Mine (ODM) has come into the limelight over a number of events including:

- A tailings leak in Dec 2008 at ODM, photo's were released by a mine worker.[16]
- Growing concern over radioactive dust from the proposed open cut mine at ODM.[17]
- The accident at the Clake shaft in the underground mine, causing the mine to operate at 25% capacity for up to 6 months.[18]

Western Australia: Yandi and Area C

Excerpted from Jan Mayman's report "Lore of the Land."[15]

Like the hedgerow priests who kept their faith alive in Ireland during the dark days of English occupation, Aboriginal elders, men and women, maintained their infinitely ancient culture and religion, travelling vast distances to perform secret ceremonies and songs in their holy places. Their spiritual strength gave the Martidja Banyjima people courage to take on the world's biggest mining company.

Miners are often granted exemption from Aboriginal Heritage Law, allowing them access to the most cherished sacred sites, like the Weeli Wolli Creek.

Once it was a sublimely beautiful oasis on Martidja Banyjima land, hallowed to the Rainbow Serpent, the Aboriginal creation deity, rich in wildlife, its delicate ecology adapted to seasonal flows, with prehistoric rock art gracing its marble-walled gorges.

Now it is a weed-ridden drain for Rio Tinto's giant Hope Downs Mine, where 110 megalitres of water is pumped out daily to expose the rich orebody. Since that project began, the discovery of ancient tools carbon-dated at 35,000 years old on their land gave them a new sense of pride and purpose, fuelled by the destruction of yet another sacred place a few months later.

One Last Dance

Rio graciously allowed them to perform one last dance ritual at the site before it was destroyed, but the loss enveloped the community in bitter mourning. It also fuelled their determination to stop BHP Billiton's bid for mining leases on 200 square kilometres of their traditional land.

After months of community meetings and deliberation, the Martidja Banyjima decided on a new legal path via the Warden's Court, which advises the mines minister on new lease applications.

The precedent that encouraged the Martidja Banyjima was a case where the Environmental Defendee's office took action over mining plans in the pretty Perth hills. That resulted in the WA Supreme Court ruling that the Mining Warden, Magistrate Graeme Calder, could in the public interest consider environmental objections to mining proposals.

The disputed land includes important areas of the spectacular

Hamersley Range they call Karijini, sacred heartland of their culture, where they perform ancient ceremonies that they believe are vital to keep their land alive. "The country is dying today, because so much is cut off from us by the big mining leases. There are no heartbeats walking round the country, so it is slipping into a coma. The spirits of the land think no one wants them any more," says Michael Woodley, a respected elder of the Pilbara's Yindjibarndi group. He says Aboriginal leaders who failed to protect their country would be punished with death: "If this BHP claim goes ahead, the spirits will know we failed and some of us will die. We believe this is the truth.

"Our country is like our temple, our university, our Mecca, a holy place where we go to learn and collect knowledge, and connect with the land. I spend a lot of time out there with our old people, learning their stories. We can't break off so much as a leaf without permission from the spirits."

Maitland Parker, a Martidja Banyjima elder and a senior ranger in Pilbara's spectacular Karijini National Park, says: "the mining people seem to find it hard to understand that some things are more important than money to us."

The disputed area contains iron ore that could be worth billions in future. While Parker concedes that mining money has brought material benefits to his community, there are times he wishes his people could still visit all their sacred places.

"The miners just want to take more and more. It never stops. They say this is progress. We feel terrible pain, ongoing pain, when we see our country destroyed," Parker says.

Just over 200 men and women with large extended families, the Martidja Banyjima are scattered all over the Pilbara. Many still grieve for family members who worked in the infamous Wittenoon asbestos mines and with asbestos mingled with iron ore in some areas, they are reluctant to work in today's mining industry.

The stakes in the current dispute are awesome. The claimed area contains ore potentially worth many billions of dollars, depending on future prices and Chinese demand. Most of Australia's iron ore resources are in the Pilbara, with exports worth about $16 billion last year, according to the Department of Trade. The Australian Bureau of Agricultural and Resource Economics predicts this will rise to $25.47 billion this financial year.

Pilbara's spectacular landscape. photo: Hugh Brown

If the Mining Warden agrees to hear their case, they will call a series of expert witnesses, including WA's 2009 scientist of the year, Professor Jorg Imberger, a world authority on hydrology, as well as elders to explain their fears. They are especially concerned by the cumulative impact of mining on the Pilbara's water resources, and the underground aquifers that sustain the region. Its lifeline is the mighty Fortescue River, which in the wet season flows 500 kilometres from the Hamersley Ranges to the coast.

"Water is the centre of our culture - the Fortescue and all the creeks were made by the same religious being, our God," says Michael Woodley who is chairman of the Yindjibarndi Aboriginal Corporation.

"If we allow the Fortescue to be damaged, we know the spirits will kill us. Our own Yindjibarndi law and culture is hurt when the Banyjima culture is hurt. We all have to look after each other. If our country is gone, how can we pass on and teach our laws to our children? We have lost so much already."

There are already four big mines on Martidja Banyjima country: Yandi and Area C, owned by BHP Billiton, and Yandicoogina and Hope Downs, owned jointly by Rio and Hancock Prospecting. They all plan big expansion programs. As mining plunges deep below the water table, with huge volumes of water pumped out to expose the orebody, the traditional owners are profoundly disturbed by the impact on underground aquifers that feed springs, billabongs and waterholes all over the region.

Two worlds met in a recent preliminary hearing in the WA Warden's Court. As Martidja Banyjima elders looked on, Melbourne barrister Sturt Glacken, SC, argued that important public interest, human rights and environmental issues were at stake, and that his clients' indigenous culture, religion and spiritual life would be at risk if BHP Billiton were granted the leases it sought.

Counsel for the mining company, Perth barrister Peter Quinlan, argued that human rights and public interest issues were irrelevant to the mining lease applications. He said there were other legal avenues where these matters could be considered under the state's Aboriginal Heritage and Environmental Protection Act.

Greg McIntyre, SC, a member of the Mabo legal team and now an adjunct law professor at Notre Dame University, says the Martidja Banyjima action is an unprecedented move by an Aboriginal group, which could have serious legal significance. "It would be difficult to argue that the public interest should not be considered in this case," McIntyre says.

He says the WA Supreme Court ruling in favour of the Environmental Defenders office on behalf of local residents was a strong precedent.

Human rights issues

The Australian Human Rights Commission is watching the case closely. AHRC president Catherine Branson, QC, sent the Martidja Banyjima's legal adviser, Gadens Lawyers, a nine-page letter on June 26 saying that she was interested in the matter, although she had decided not to intervene "at this stage." Her letter cited international criticism of existing Western Australian laws for their failure to fully protect Aboriginal human rights, especially the way the Aboriginal Heritage Act permitted the destruction of registered heritage sites.

In particular, WA's Native Title Act had been repeatedly criticised by the UN Committee on the Elimination of Racial Discrimination and the Human Rights Committee as being discriminatory and not adequately protective of indigenous land rights.

"WA's Aboriginal Heritage Act 1972 permitted destruction of registered Aboriginal sites with the minister's consent, without setting any quotas or limits to ensure a minimum level of protection to a particular Aboriginal group's enjoyment of their culture," Branson wrote.

A spokesman for BHP Billiton declined to comment on the case while it was before the Warden's Court, but said the Martidja Banyjimas were an important stakeholder for the company, which had a long-standing agreement with the group.

"All our developments are undertaken in full accordance with all the necessary environmental and regulatory approvals. BHP Billiton Iron Ore is committed to operating responsibly and sustainably. We value the relationships we have with indigenous communities," the spokesman said.

"BHP Billiton Iron Ore is committed to reconciliation, creation of economic opportunities and improvement in indigenous well-being.

"The company is committed to indigenous development in the Pilbara and has a range of community programs in place across the areas of indigenous health, education, the arts, employment and economic development."

The Mining Warden has adjourned the matter to a date to be fixed. He is expected to take several months to announce his decision.

Western Australia: Ravensthorpe, Yeelirrie and Kimberley

BHP Billiton's reputation in Western Australia has always been controversial. This has included BHP's disastrous experiment with mineral sands in WA's South West which blew out to as much as $300 million, as big clean-up expenses added to the huge capital lost in the short-lived project.

Production at their hot briquetted iron (HBI) plant in Port Hedland, in north-west Western Australia stopped in 2004 when a gas explosion killed one worker and seriously burnt two others. It took BHP three years to build and produce the first briquette from the $2.4 billion plant. A year later, the company had to write off the entire value of the plant because of low production, low prices and expensive modifications. Hundreds of jobs were lost. The plant was eventually demolished in 2007.

In the past twelve months there have been:

- five fatalities at BHP's operations in WA,
- the closure of their Ravensthorpe Nickel mine, which not only impacted the local community but also the surrounding biodiversity,
- strong concern over the controversial proposed gas hub joint venture with Chevron, Shell, BP and Woodside to process gas from fields offshore from the Kimberley coast.

But community resistance is alive and well with Martidja Banyjima legally challenging BHP on their lands and growing resistance against BHP's Yeelirrie uranium project in the Mid West and the proposed Kimberley Gas Hub.

BHP BILLITON'S RECORD 2008-2009

28 June 2009 – A driller was trapped underground at Perseverance mine in Leinster for two and a half hours after a rock fall.

10 June 2009 - A 37-year old man was trapped underground at the Perseverance mine in Leister for 16 hours after a rock fall.

19 March 2009 – A 45-year old contractor died in hospital after he fell about 12m from machinery at Mt Whaleback mine in Newman.

24 February 2009 – A 56-year old track machine operator was killed when he was hit by a train on the Tabba line 74km south of Port Hedland.

4 September 2008 – A 19-year old truck driver was killed when a light vehicle and a haul truck collided at the Yandi mine, 140km north-east of Newman.

25 August 2008 – A 29-year old man suffered fatal injuries in a workshop accident at Yandi.

29 July 2008 – A 52-year old man was killed when a hydraulic lift fell on him at the Nelson Point operations in Port Hedland.

Source: The West Australian Thursday July 2, 2009

Boom-to-bust mining industry leaves scar on biodiversity hotspot [19]

BHP Billiton's Ravensthorpe Nickel mine highlights the human costs of the boom to bust mining economy; but beneath this lies another story, that of the environmental costs of unplanned mine closure.

The Ravensthorpe Nickel mine does not lie on any old land. The ore body sits in the Bandalup corridor, an area of remnant native vegetation connecting the Fitzgerald River National Park with the Ravensthorpe Range; and from there to the Great Western Woodlands and arid interior beyond.

The mine lies within the Fitzgerald Biosphere, an area surpassed in its biodiversity value only by the South-West's greatest gems such as the Stirling Range National Park, making it one of the most biodiversity-rich parts of the Southwest Eco-Region - Australia's only internationally recognised biodiversity hotspot. More than 700 species of plants were found on BHPB's Ravensthorpe leases during pre-mining surveys.

However, despite the slow start-up of actual mining at the site and the fact that very little ore has been processed, BHPB cleared almost 100 % of the surface of the ore body prior to mining, leaving a massive scar where remnant vegetation had thrived only a couple of years before.

Now the mine and associated nickel factory is closed for the foreseeable future. Biodiversity offsets in the form of research and re-vegetation were committed to, but have not been commenced. Great promises were made, and broken. The vegetation is cleared and the future uncertain.

Similar to the social and economic devastation caused to the towns Ravensthorpe and Hopetoun by BHP Billiton's mine closure, so too, in terms of biodiversity, Western Australia has gained nothing and lost a lot.

Young Wongutha community with Elder Geoffrey Stokes holding portraits from 'Inhabited' Exhibition saying 'No Uranium Mining On Our Lands'. 'Inhabited' is an exhibition which includes portraits of Aboriginal Leaders who have been impacted by the nuclear industry including BHP Billiton's Roxby Downs (Olympic Dam) uranium mine in South Australia. Wongutha Birni Cultural Day. 21 October 2009, Kalgoorlie, Western Australia. Photo: Nat Lowrey

Yeelirrie – 'No Uranium Mining On Our Lands' [20]

The first proposed uranium mine in WA is BHP Billiton's Yeelirrie project in the Mid West.

BHP Billiton says that through an on-site leaching process, the proposed mine would produce 110 million tonnes of radioactive waste. It proposes that this huge amount of rock and sludge would be stored at the mine site in an open pit or tailings dam, where it would remain dangerously radioactive for tens of thousands of years. Environment groups believe that this is a major management issue and challenge as seen at BHP Billiton's Roxby Downs (Olympic Dam) mine in South Australia where there have been numerous spills and leaks – most significantly in 1994, when it was revealed that about three billion litres had seeped from the tailings dams over two years.

There had been a strong call from an alliance of groups for an independent Public Inquiry into BHP Billiton's Yeelirrie deposit in the Mid-West. The inquiry proposal, supported by environmental, trade union, Aboriginal, public health, youth, political and civil society groups, would see an independent and comprehensive examination of controversial State government uranium mining plans.

The state government failed its first nuclear test on 9 October 2009 when it listened to BHPB rather than the wider community and closed the door on calls for a Public Inquiry into uranium mining in WA. Currently the alliance is looking at legally challenging Donna Faragher, WA's Environment Minister on her dismissal of a full Public Inquiry. The Minister's decision begs the question what do the State Government and BHPB have to hide from a full, open and transparent public inquiry?

Joining this call are the Wongutha People's whose land will be directly impacted by the proposed mine. This is a community that knows the dangers of uranium mining. They have heard the stories from other Aboriginal Elders at BHPB's uranium mine in South Australia and are making the stand by telling BHPB and the state government 'No Uranium Mining on Our Lands'.

BHPB in the Kimberley region WA [21]

BHPB along with Shell, Chevron and BP are joint venture partners in the Woodside Browse proposal to process gas from fields offshore from the Kimberley. Woodside and the WA State government are actively pushing for Browse basin gas to be processed onshore at James Price Point 50km north of Broome.

There are a range of serious direct environmental impacts should this hub site go ahead including impacts on the newly recognised calving and breeding grounds for the world's largest remaining population of Humpback whales. The Kimberley site would also act as a 'thin edge of the wedge' for industrialisation of one of the world's last great wilderness areas with proposals for strip mining for bauxite on the sensitive Mitchell Plateau, uranium mining, coal mining and river damming for irrigated agriculture all on the table.

There are other viable alternatives for gas processing. BHPB and the other JV partners have a responsibility to withdraw support for a 'greenfields' site on the Kimberley coast and to explore the other technically and economically viable alternatives.

West Papua: Raja Ampat

World Heritage under threat

Home to at least 537 species of hard coral mollusks and 1,074 species of reef fishes – with 104 new reef fish species identified since 2002 – the Raja Ampat marine environment is the "bulls-eye of marine biodiversity on the planet".[22] Above ground, the Raja Ampat archipelago is also a biological hotspot. The region's biogeography, isolation and relatively intact ecosystems have resulted in high levels of regional endemism (species found in a region are specific to that area). The richness and uniqueness of this area's biology has earned it a place at the top of the global short list of UNESCO World Heritage marine sites most deserving of protection, a claim supported by local indigenous groups, local non-government organisations, international non-government environmental organisations, and the Indonesian government. Yet, this archipelago is threatened by past, current and potential future nickel mining from within its borders.

The local village head, local villagers and BHP Billiton employees are all under the impression that BHP Billiton paid for materials used to construct this military post. The Indonesian security forces have a history of human rights violations around mining projects in West Papua and intimidation of those opposed to mining. Photo: JM

BHP Billiton's interest in Raja Ampat dates back to 1995. In 1998 the company signed a contract of work over Gag Island, arguably one of the world's most lucrative nickel laterite deposits. In 1999, the then Indonesian Minister of the Environment declared Gag Island a protected forest as part of the Forest Act. But in 2004, companies which had secured leases before promulgation of the Act were permitted to resume exploration in 13 areas, including Gag Island.[23] BHP Billiton did resume exploration. Pressed repeatedly at company AGMs to clarify BHP Billiton's intentions on Gag Island, company Chairman Don Argus pointedly refused to admit that the company should never have been on the island in the first place, and particularly not after the passage of the 1999 forest law. The company was accused of lobbying the Indonesian Government to water down the 1999 Act. BHP Billiton never developed its planned nickel mine and in No-

vember 2008 it withdrew from the Gag Island project. The decision by the company not to proceed occurred not only in the context of a global economic downturn, plummeting commodity prices and legal and financial uncertainty. In addition there was a sustained campaign by a coalition of Indigenous groups and local, national and international NGOs together with members of the marine science community to protect the Raja Ampat archipelago. The question remains as to whether the Gag Island project will be reopened by BHP Billiton or another mining company.

Little known to most people, however, BHP Billiton maintained an interest in Raja Ampat. Despite Raja Ampat's unique World Heritage values, the company's wholly owned subsidiary, QNI (Queensland Nickel) continued to buy nickel from the socially and environmentally contentious mine on Manuran Island and transport it by tanker through the Raja Ampat archipelago to the Yabulu Refinery in Townsville, Australia. In July 2009 BHP Billiton sold their interests in QNI and Yabulu to Mineralogy, a private mining company owned by Queensland mining magnate Clive Palmer.

Although BHP Billiton no longer has any interests in Raja Ampat, the company's conduct raises serious concerns. If not addressed these issues could lead to a damaged reputation and financial risk for shareholders and investors. Specific concerns include:[24]

• Insufficient attention to the fact that BHP Billiton was operating in a conflict zone. West Papua has weak political institutions, high levels of corruption and a history of human rights violations by the Indonesian government's security forces. The history of mining in West Papua has not benefited local people. Instead it has enriched a select group of political leaders and increased conflict between pro-independence groups and the Indonesian government.

• Allegations by BHP Billiton employees and local villagers that BHP Billiton paid for materials used in the construction of a military post on Gambir Village, Gag Island. If true, BHP Billiton's relationship with the Indonesian military raises concerns that the company or subsequent buyer of the project may become entangled in human rights violations that plague other resource extractive industries in West Papua, such as Freeport McMoRan.

• Failure to seek free and prior informed consent from Traditional Owners of Gag Island coupled with an unwillingness to extend the report boundary beyond the island even though those living on Gag Island are all migrants.

• Failure to reveal its proposed method of tailings disposal or how it would prevent sediment from running off into the ocean.

• Failure to release the results of the Environmental Impact Assessment.

• Sending tankers through the fragile archipelago. This practice has already been discouraged by the Asian Development Bank, which requested BP not to route its gas tankers through the Raja Ampat archipelago in order to service the Tangguh Natural Gas Project in Bintuni Bay.

Big Eye Tuna. Raja Ampat is the heart of the world's breeding ground for Tuna. It is also the most diverse marine environment of the planet. photo: Simon Foale

• Not taking sufficient responsibility for the supply chain on Manuran Island. As a major buyer of nickel, PT Anugrah Surya Pratama, the owner operator of the mine, was within BHP Billiton's sphere of influence. Concerns on Manuran Island include intimidation of indigenous communities resisting mining, destruction of the environment (including polluting fishing grounds and sediment run-off into the ocean), poor working conditions for employees, failure to obtain free and prior consent of the local community and failure to secure equitable agreements with those impacted by mining.

BHP Billiton's departure has left a framework in place that endangers Raja Ampat's World Heritage status. Specifically Gag Island, the site where BHPB had hoped to develop a nickel mine, has been excluded from the area nominated for World Heritage despite its location within the archipelago.

As commodity prices recover and the demand for nickel grows in a context of dwindling finite supply, the concerns surrounding the social and environmental impact of mining on Gag will again become contentious. Indigenous communities in Raja Ampat are asserting their customary rights over Gag Island and other parts of Raja Ampat where mining was, and is, taking place. Indigenous tribes and clans want to ensure that they can realise their own economic aspirations and be active partners in the co-management of Raja Ampat as a World Heritage Area.

Papua New Guinea: Ok Tedi

The Ok Tedi River, a tributary of the Fly River, is located in the Western Province of Papua New Guinea (PNG). Sourced in the rugged central mountain range of PNG, its water eventually flows – via the Fly River Delta – into the Gulf of Papua to the north of Australia's Great Barrier Reef. The Ok Tedi Copper and Gold Mine is situated on Mount Fubilan at the source of this river, and its practice of dumping mine waste directly into the river system has made it the centre of international controversy since the 90s, when it was the subject of four lawsuits. Meanwhile, the people living along the Ok Tedi and Fly Rivers still find it difficult to feed their families due to the effects of this mine waste on food security.

The Ok Tedi Mine started production in 1984 and is expected to continue operating until 2013, although the current management is exploring possibilities for extending its life another decade or more. Each year, 100 million tonnes of waste from the Ok Tedi mine are released into the Ok Tedi River. This waste includes 60 million tonnes of waste rock, 10 million tonnes of erosion rock and 30 million tonnes of tailings, or treated, finely-ground mine waste.[25] The mine has discharged over 1 billion tonnes of tailings and waste material into the Ok Tedi and Fly Rivers over the life of the project.

Despite millions of dollars in legally mandated compensation, the people living along the Ok Tedi and Fly Rivers still find it difficult to feed their families.

The disposal of tailings into the Ok Tedi and Fly Rivers has caused environmental problems including more than 1,500 square kilometres of deforestation. Deforestation is expected to increase to at least 3,000 square kilometres, and to last for more than 50 years along some parts of the river. Much of this area will not return to tropical rain forest, but permanently transform into savannah grasslands.

Fish populations have declined by 95% in the Ok Tedi River, 85% in the upper middle Fly River and by 60% in the lower middle Fly.[26] The number of fish species in the Ok Tedi and Fly River system, which included many endemic species, has also declined by 30%.[27]

In recent years the mine has suffered problems of Acid Mine Drainage (AMD), allowing acidic waste and environmentally toxic metals to leach into the river. The ore body currently exploited by the mining operation is high in pyrites, which become acidic when exposed to oxygen. AMD can render large areas inhospitable to organic life for decades or centuries. In response to this problem, the mine's management has investigated plans to store the hazardous material in cells along the lower Ok Tedi River.[28]

A number of the owners and operators of the mine, including BHP and Inmet, have acknowledged the detrimental impact of riverine tailings disposal into the Ok Tedi and Fly Rivers, and have actively researched alternative tailings management plans.

"While there have been ongoing studies to assess the environmental impact, Ok Tedi believes that these effects will likely be greater and last longer than previously thought, based on current findings from its monitoring program," reads the Inmet Mining 2007 Annual Report.[29]

Trials and investigations into alternatives had cost BHP A$100 million as of 1999. Ten years later no alternative to riverine tailings disposal has been developed at the Ok Tedi Mine.

Pollution from the Ok Tedi Mine affects approximately 50,000 people, most of whom are subsistence farmers, fishers and hunters.[30]

"Before the mine, we had plenty of food. We inherited gardens along the river from our parents. Bananas and taro from the gardens fed our family. Game was plentiful and we ate wild pig, cassowary and cuscus meat. The river was clear and it was easy to catch fish and prawns," explains Andok Yang, of the Yonggom people. "But by 1984 our lives had changed. The river became muddy and the fish and prawns died. At the same time, the sand banks that later covered our gardens began to form. By 1986 the plants and trees along the river began to die. Their leaves turned yellow and fell off. Gradually the effects of the mine spread into the swamps where our sago palms grow, and into the surrounding forest as well. The creeks filled with mud, killing the sago trees. The sand banks along the river grew higher.

Today (1996) it is hard to find sago. There are no fish in the river and the turtles no longer come to lay their eggs. The animals have all gone away and we do not know where they are living. I worry about the future: will we continue to face these problems or will the mine clean up the river?"

Despite millions of dollars in legally mandated compensation, the people living along the Ok Tedi and Fly Rivers still find it difficult to feed their families. In many areas, it is dif-

ficult to access potable water during the dry season. Access to health care and basic services in rural areas has not improved downstream from the mine, and in some cases has declined. Very few of the compensation and development programs sponsored by the mining company have proven successful. Only a small portion of the funds from the PNGSPDL (the fund established when BHP Billiton withdrew its shares from the mine) actually reach the communities along the river affected by the mining project; the rest of these funds are used by the Papua New Guinea government to supplement its development budget elsewhere in the country.

The impact of waste disposal from the Ok Tedi Mine into the Ok Tedi and Fly Rivers may constitute a violation of human rights according to Article 25 of the UN Universal Declaration of Human Rights which states: "everyone has the right to a standard of living adequate for the health and well being of himself and of his family, including food, clothing, housing and medical care." The existence of the Ok Tedi Mine has decreased the standard of living for those nearby. Pollution from the mine has abridged the villagers' rights to adequate amounts of food and water, and exposure to heavy metals in the food supply has been detrimental to their health.

BHP Billiton was responsible for the initial development of the Ok Tedi Mine. Despite BHP's divestment in the project and compensation packages to affected communities, the legacy left by BHP is dramatic and will have lasting impact felt well into the future. Currently there is limited accountability for human rights violations committed by multinational corporations. Traditionally individual states are expected to regulate corporate activity within their borders.

The UN is developing strategies around multinational commerce and human rights where there will be greater accountability for the negligent behaviour of corporations like BHP, who abandoned their responsibilities to those affected by the Ok Tedi Mine. However, some legal action has been taken to attempt to hold the mine's owners responsible.

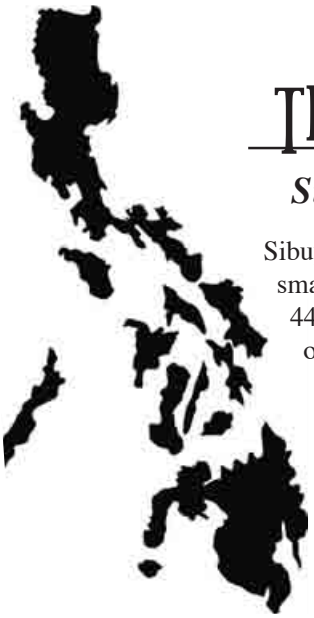
In the mid 1990's Ok Tedi Mining Limited (OTML), a company in which BHP held majority shares, was the subject of four legal actions: a damages claim followed by a class action lawsuit in the Supreme Court of Victoria and two constitutional references in the Supreme Court of Papua New Guinea.

The damages claim, handled by Melbourne law firm Slater and Gordon, was resolved out of court in 1996 resulting in a settlement of approximately US $500 million for tailings containment and compensation. However, BHP has only paid out $32.5 million in compensation to 30,000 villagers who had suffered from the environmental impact of the Ok Tedi Mine's waste disposal.

When OTML continued dumping tailings and other mine wastes into the river system, Slater and Gordon filed a class action lawsuit against the mine in 2000.[31] The class action was settled out of court on January the 16th 2004 [32] after BHP Billiton divested its 52% majority shares in OTML by transfer to the Papua New Guinea Sustainable Development Program Limited (PNGSDPL). The mine's management now pays additional compensation to the affected communities through the Mine Continuation Agreement, but continues to discharge more than 100,000 tonnes of tailings and other mine wastes into local rivers daily, although a dredge in the lower Ok Tedi River removes slightly less than half of the tailings for on-land storage.[33]

The damages claim, handled by Melbourne law firm Slater and Gordon, was resolved out of court in 1996 resulting in a settlement of approximately US $500 million for tailings containment and compensation. However, BHP has only paid out $32.5 million in compensation to 30,000 villagers who had suffered from the environmental impact of the Ok Tedi Mine's waste disposal.

LEFT: A meeting of the Yonggom community. Despite millions of dollars in legally mandated compensation, the people living along the Ok Tedi and Fly Rivers still find it difficult to feed their families. RIGHT: The Ok Tedi River in 1998. Each year 100 million tonnes of waste from the Ok Tedi mine are released into the Ok Tedi River. photos: Stuart Kirsch



The Philippines: Sibuyan and Hallmark Nickel

Supply-chain responsibility: the Sibuyan killing and Culture of Corruption

Sibuyan, dubbed the Galapagos of Asia, is a small island in the central Philippines of just 44,500 hectares. Approximately one third of it is a protected area of environmental interest. It is a biodiversity hotspot with flora and fauna threatened by extinction. It is the location of the world's densest forest and the Philippines' cleanest inland body of water.[34] Ever since mining was proposed on the island, there has been widespread opposition because of the potential ecological impacts, led by Sibuyanons Against Mining/Sibuyan Island Sentinels League for Environment Inc. (SAM/Sibuyan ISLE) and the Catholic Church.

On October 3 2007 environmental activist and municipal councillor, Hon. Armin Rios-Marin, was shot dead during a protest against mining on the island.[35] Hundreds of people had gathered in the town of San Fernando that day to rally against the activities of several mining companies in the area and the issuance of a special permit to cut 69,709 trees granted to subsidiary companies of Sibuyan Nickel Properties Development Corporation (SNPDC), All Acacia Resources Inc. (AARI) and SunPacific Resources Philippines Inc. (SRPI).

A confrontation occurred between the protestors and Mario Kingo, the head of security for SNPDC. At the time, BHP Billiton had an agreement to purchase 500,000 tonnes of nickel from SNPDC in exchange for a loan of US$250,000 for exploration activities.

Kingo was armed, despite a total gun ban imposed by the government's Commission on Elections ahead of local elections. Witnesses report that Marin tried to disarm Kingo and the resulting altercation led to the fatal shooting of Marin.[36]

Kingo, now charged with murder, is presently in jail and the family of Armin Marin reported that a representative of SNPDC offered them money in exchange for dropping the charges against Kingo.[37] But the family stressed that they want to see justice done, and this will only happen if mining ventures pull out of the island. Amazingly, 85 residents, including teachers, farmers and church workers, who joined the protest have been counter-charged with the crime of "grave coercion".

The killing of Marin has further galvanised public opinion against mining in Sibuyan, with residents and environmental NGOs now calling for the complete withdrawal of mining firms and the cancellation of all exploration and mining permits on Sibuyan Island.

During BHP Billiton's Australian AGM in 2008, after an intervention by a local leader from Sibuyan, Company CEO Marius Kloppers said that "All our supply agreements are consistent with all legal requirements. You are correct in saying that we got an ore agreement with the local party. It seems to have contraventions. That ore supply agreement is indeed suspended and we are not taking any ore from that party. We obviously are always aligned wherever we operate that justice is served and laws are obeyed."

Further, Kloppers said that, "We do have responsibility to select responsible suppliers." However, this has not stopped the company making further off-take agreements on other islands on the Philippines. Given the dire record of mining in the Philippines, and its notoriety for human rights abuses and corruption, has the company done the necessary due diligence to ensure that its local partners are operating to the standards to which BHP Billiton claims to adhere? Are there similar tragedies waiting to happen on other islands?

The Sibuyan killing demonstrates the importance of applying social, environmental and human rights standards to joint venture partners, suppliers and contractors, however difficult. A vital challenge for BHP Billiton is how to ensure all partners and actors in the supply chain meet the highest standards of corporate behaviour.[38]

LEFT: More than 8,000 people marched to the mining site of SNPDC during an island-wide protest. RIGHT: The last moments of Hon. Armin Rios-Marin on October 3 2007. photos: SAM/Sibuyan ISLE

Pujada (Hallmark) Nickel Laterite Project:

Threatening Lives, the Environment and the People's Future

Lodged between two protected areas - the Pujada Bay Protected Seascape and Mt. Hamiguitan Range, a proclaimed wildlife sanctuary - Macambol is not the most logical site for a large-scale nickel laterite mining project. However, with the Philippine government agressively promoting mining this area is under threat along with the protected areas themselves. Meanwhile, the residents are facing serious environmental threats, specifically the destruction of these adjacent protected areas and consequently the sources for their sustenance and livelihoods.

The barangay (village) of Macambol has a population of at least 3,454 people and 667 households. These people have been living with uncertainties ever since the Philippine government declared the Pujada (Hallmark) nickel laterite project as one of its top priority mining projects under its 2004 Mineral Action Plan. They live with the constant fear of displacement, loss of livelihoods and environmental degradation.

Two local companies, Hallmark and Austral-Asia, hold permits to conduct exploration activities at the Hallmark project. Hallmark and Austral-Asia are corporations formed under a Shareholders Agreement between Asiaticus Management Corporation (AMCOR) and QNI Philippines, Inc (a BHP Billiton subsidiary). BHPB and AMCOR have been in dispute over how to implement the project, which has ended up in both the Philippine courts and international arbitration. The news that BHPB and AMCOR may be patching up their legal differences makes the community in Macambol even more worried about the future.

Some 4,778 hectares of mining permits overlap with five major drainage systems and watersheds, which either drain towards Pujada Bay or the Davao Gulf.[39] These bodies of freshwater are the main water supply for the communities living within and around the area, and the bays host endangered species such as dugongs (sea cows), sea turtles and stingrays.

These permits overlap with the Mt. Hamiguitan Range, a protected area under Mt. Hamiguitan Range and Wildlife Sanctuary Act (Republic Act No. 9303 - July 28, 2004). It is home to more or less a hundred hectares of "pygmy forests," exotic plants and wild animals. Rattan, timber and non-timber products, which are the sources of community livelihood, are also found here.

The community, led by the Macambol Multisectoral Alliance for Integral Development (MMSAID), opposes the mining project. They educate and organize to avoid the environmental and social damage caused by mining in the region. Yet BHP Billiton has not properly taken their opposition into account. The company has dismissed calls for a new Free, Prior and Informed Consent process.[40]

"I feel that we have to go on with our work to inform more people to protect Mt Hamiguitan watershed and the Pujada Bay because they are the source of our water, food and air and the only forest we have now," reflected MMSAID officer Lita Cutanda following a climate change information sharing workshop.[41]

The defence of these two protected areas, which form part of their natural life support systems, is the community's primary and immediate concern.

Within the community, there are also serious concerns regarding the large-scale strip-mining extraction of nickel and the high levels (and unpredictable nature) of rainfall in the Philippines. These weather patterns are expected to only get more intense alongside predicted climate change. Additionally, the Pujada region is

Some 4,778 hectares of mining permits overlap with five major drainage systems and watersheds, which either drain towards Pujada Bay or the Davao Gulf.

situated on the "Pacific–Cordillera" fault line. Two branches of the active Philippine fault flank the watershed on the southwest and southeast of the project area,[42] which has been subject to intense seismic activities.[43] The 2008 report Philippines: Mining or Food, recommended that no mining should take place on Mount Hamiguitan or near Pujada Bay which are centres of biodiversity, with high ecotourism potential.[44] Under these conditions it may be almost impossible to mine the area.

Being a protected area, by law, Mt. Hamiguitan Range is closed to mining. However, with the National Minerals Policy, the government is revising its laws in favour of mining. As of now, portions of the contract area – covered by the Mt. Hamiguitan Range Wildlife Sanctuary, and within the municipalities of Governor Generoso and San Isidro – have been temporarily excluded in the actual operations of the mine. However, these temporarily excluded areas can be re-included in the contract area without any further agreement or amendment to the MPSA.

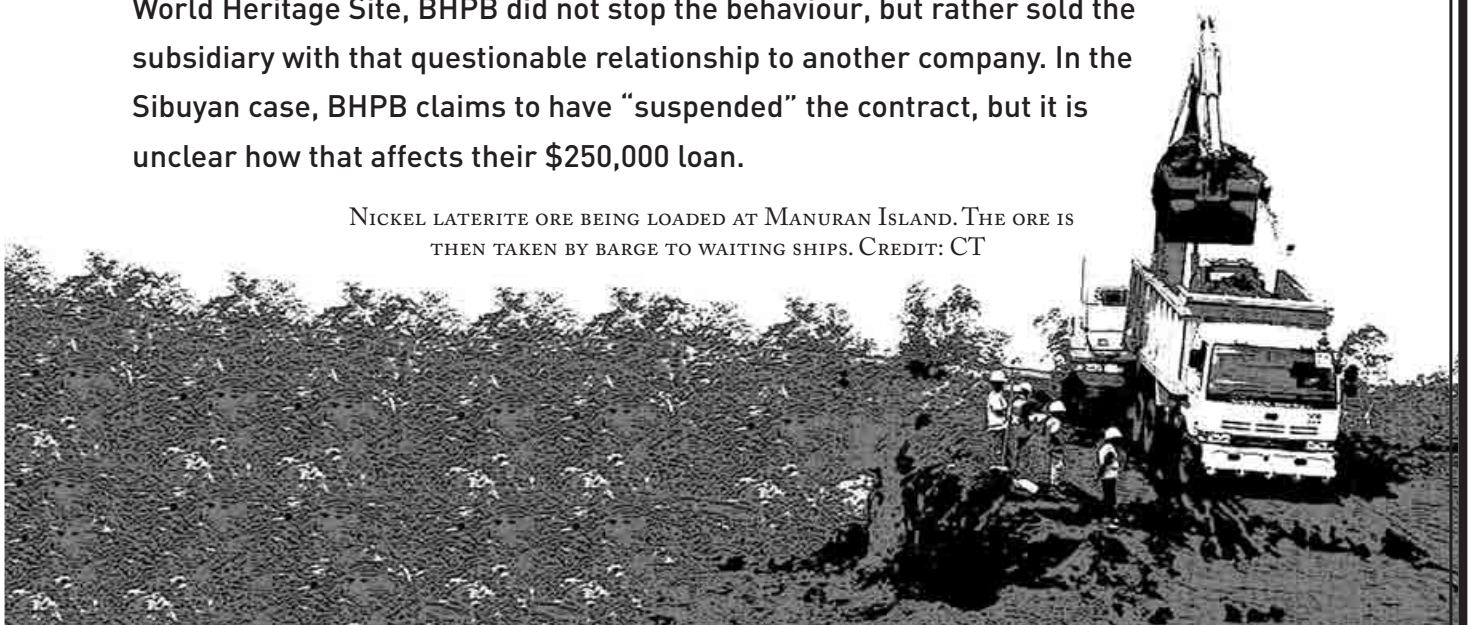
Aside from the failure to consider the existence of the Pujada Seascape and the fault lines, the mining agreements deny the presence of rich biodiversity in the area. The contract says, "There are also no rare or unusual wildlife species, which can be affected by the project" or that "no rare or unusual plant species, which can be affected by the exploration activities. However, the general vegetative cover will unavoidably be affected due to the removal of topsoil and overburden to reach the mineral deposits. The vegetative cover shall be restored during the implementation of the rehabilitation works."

The community, led by the MMSAID, is fighting to protect the resources of both Pujada Bay and the Mt. Hamiguitan Range. The defence of these two protected areas, which form part of their natural life support systems, is the community's primary and immediate concern. The large-scale nickel laterite mining project is perceived as a threat to their livelihoods, that will give little to the community in return.

However, propaganda and community projects of BHP and AMCOR are causing increasing conflict within the community, even to the point of families splitting apart. The community, which has already successfully defended their lands and protected areas against large-scale logging, now stands wracked with increasing social tensions.

SUPPLY CHAIN JUSTICE

The Raja Ampat and Sibuyan situations are cases of supply chain injustice, aided by lucrative business arrangements with BHP Billiton. While BHPB did not directly cause the harm produced by the destruction on Manuran Island, or the nickel company ostensibly responsible for Councillor Armin Marin's death, their monies enabled the behaviour. Additionally, their reaction to the damage caused by their counterparts in these situations has been minimal. Regarding the Manuran Island Mine, which is polluting a World Heritage Site, BHPB did not stop the behaviour, but rather sold the subsidiary with that questionable relationship to another company. In the Sibuyan case, BHPB claims to have "suspended" the contract, but it is unclear how that affects their $250,000 loan.



Nickel laterite ore being loaded at Manuran Island. The ore is then taken by barge to waiting ships. Credit: CT

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CANADA: Ekati Diamond Mine

Despite being upheld as a working model of Corporate Social Responsibility (CSR), First Nations communities near BHPB's Ekati diamond mine are concerned about the lack of good jobs, barriers to full participation in planning phases of the mine, decreases in populations of wildlife and pollution due to spills and mine waste. Now, given the evidence that global warming trends appear to be already impacting northern expanses of tundra, local Indigenous communities have raised the issue that there is no mitigation plan in place to deal with the impacts of the thawing of the ground.

USA: Resolution Copper mine

The San Carlos Apache Tribe of Arizona publicly opposes the Resolution Copper Project on their traditional lands proposed by BHPB and Rio Tinto. They assert that the proposed Resolution Copper mine at Chich'il Bildagoteel would destroy many particular ecosystems and would be a violation of their civil and religious rights. Tribe chairman Wendsler Nosie Sr. has requested the the Federal Government proceed with a full admininstrative review through an Environmental Impact Statement, so that they can fully analyze and discuss these impacts with the tribe.[45]

COLOMBIA: Cerrejon Coal Mine

BHPB is a 33% owner of Colombia's Cerrejon Coal Mine, the largest opencast coal mine in the world. Alongside a history of forced relocations of Indigenous and Afrocolombian communities, conflicts continue with communities currently facing displacement and those already-displaced. Meanwhile, Cerrejon mine workers and local communities complain of coal dust which causes skin and respiratory problems.

PERU: Antamina Mine

An Ancash Health Administration report found that mining sediment spills had led to levels of lead, copper and zinc in the Juprog River which were over the limits established by law, implying a risk for livestock and other agricultural use, as well as human health. Meanwhile, local newspapers reported that clashes with mine security seriously wounded 7 people who were protesting the company's failure to fulfill agreements concerning relocation of farming communities.[46]

CHILE: Minera Escondida

Since its construction in the early 1990s, there have been periodic spills from the pipeline taking copper concentrate across the Antofagasta region from the mine in the mountains to a pier in Coloso Bay south of the city of Antofagasta. Additionally, competition for scare water sources near the mine site has led to conflicts with local farmers.

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Indigenous Peoples issues

The PHILIPPINES

Sibuyan

Sibuyan, dubbed the Galapagos of Asia, is a small island in the central Philippines of just 44,500 hectares threatened with mining. After Armin Marin, an environmental activist, won a seat in a local council, he lobbied for the cancellation of mining permits in Sibuyan. Shortly after, he was shot dead during a protest against mining on the island. At the time of Marin's death, BHP Billiton had an agreement for a loan of US$250,000 for exploration activities in Sibuyan, in exchange for 500,000 tonnes of nickel of the companies heading the exploration.

Pujada (Hallmark) Nickel:

The residents of Macambol are facing serious environmental threats, specifically the destruction of adjacent protected areas and their source of sustenance and livelihoods, due to mining exploration initiated in part by a BHPB subsidiary.

DR CONGO: Inga 3 Hydro-Power Project

BHP Billiton is planning to develop a 2,000 MW aluminium smelter in the Democratic Republic of Congo, contingent upon the construction of the Inga 3 mega-hydropower site and a deep sea port. The DRC Government has neglected to fulfil its compensatory agreements with communities displaced by two existing dams at the same site for more than 40 years. Today, 9,000 people who have resided in the former construction workers' camp for decades have been threatened with eviction due to pressures for development of the Inga hydropower site.[47]

WEST PAPUA: Raja Ampat

Raja Ampat's biology has earned it a place at the top of the global short list of UNESCO World Heritage marine sites, but Gag Island, the site where BHPB had hoped to develop a nickel mine and a site previously listed as within this area, was excluded –under BHPB's watch – from this nomination. Additionally, destructive small-scale mining on Manuran Island within the Raja Ampat archipelago has been rewarded by BHP through import sales.

PNG: Ok Tedi Copper

The Ok Tedi Copper and Gold Mine which BHP Billiton formerly controlled is located near the Ok Tedi River in western Papua New Guinea. Mining wastes dumped into the river have ravaged the environment and reduced access to food and drinking water for nearby communities. Several lawsuits were filed against the Ok Tedi Mining Limited Company which resulted in compensation to the affected population, though little of the money makes it there. The mine continues to operate and discharge more than 80,000 tonnes of refuse into local rivers daily.

SOUTH AFRICA: Samancor's Smelter

BHP Billiton's subsidiary, Samancor Manganese, owns and operates a manganese alloy plant in the Vaal Triangle in the Gauteng province. In 1999, medical tests were carried out on hundreds of Samancor workers. Most were found to be suffering from manganese poisoning, including neurological disorders, chronic dizziness, paralysis of limbs, kidney failure and cancer. Instead of publishing the results of these tests, Samancor fired 509 workers. According to the Samancor Retrenched Workers Crisis Committee, a community group organizing in response to this scandal, more than 700 smelter workers have died over the last 10 years from causes connected to the toxic manganese residues in the air, soil and water.

WESTERN AUSTRALIA: Yandi and Area C

In Western Australia, conflict has developed between Aboriginal people and BHPB regarding land use. Rio Tinto constructed the Hope Downs mine on a site sacred to the Martidja Banyjima people, which has also impacted the region environmentally. Now BHPB plans to lease 200 square kilometres of their traditional land. In response, the Martidja Banyjima launched a legal campaign to protect remaining land.

SOUTH AUSTRALIA: Olympic Dam Uranium Mine

BHP Billiton aims to dig a new open pit mine within its Olympic Dam Mine in Roxby Down, South Australia, despite opposition from Kokatha and Arabunna Traditional Owners and environmentalists. BHPB proposed an increase in water consumption from 35 million litres daily from the Great Artesian Basin (GAB), to 42 million litres from the GAB and an additional 218 million litres from local aquifers and a proposed desalination plant at Point Lowley.

Canada, NW Territories: Ekati mine

The Ekati Diamond Mine, owned and operated by BHP Billiton, is located 350 kilometres north of the city of Yellowknife in Canada's Northwest Territories. Construction began on the mine in 1996 with operations at the open and underground pits beginning two years later. This remote site is accessible by air and seasonally by a 475 kilometre ice road. With the implementation of a multi-stakeholder "Independent Environmental Monitoring Agency" (funded by BHP Billiton) and community monitoring programmes that involve affected communities of Indigenous Peoples, Ekati is one of the most closely monitored mine sites in Canada [48] and has been upheld as a working model of corporate social responsibility (CSR). However, as demonstrated by testimonials from affected peoples and ecological indicators, this large scale mine appears to have had highly concerning social, micro-economic, cultural and ecological impacts.

Initially, BHP Billiton negotiated impact-benefit agreements with four affected communities of Indigenous Peoples: the Kitikmeot Inuit Association, the Dogrib Treaty 11 Council, the Akaitcho Treaty 8 Council, and the North Slave Metis Alliance. However, these agreements were made on a tight time frame and Aboriginal negotiators reported feeling pressured, overwhelmed, ill-informed and confused about the process.[49] This disadvantageous negotiation position has been of ongoing concern during not only the expansion process of the mine, but also currently in the planning phases for mine closure and land reclamation. Barriers to the full participation of Indigenous community negotiators include inequitable positioning in terms of access to resources, technical expertise and time, as well as divisions between indigenous and non-indigenous understandings of the land.[50]

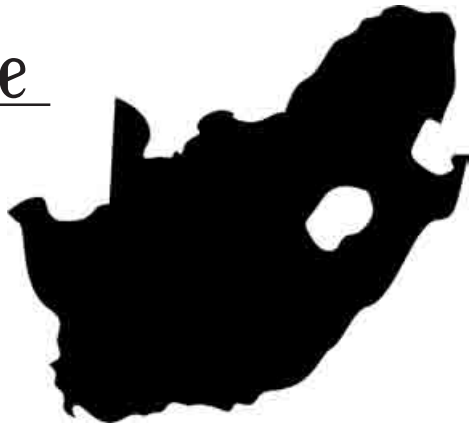
At the current time, waste rock and tailings are being stored under permafrost barriers, rock ice caps and frozen core dams. However, given the evidence that global warming trends appear to be already impacting northern expanses of tundra, local Indigenous communities have raised the issue that there is no mitigation plan in place to deal with the impacts of the thawing of the ground.

Few financial benefits from the mine remain within the communities, as local royalty earnings add up to less than 1% of the mine's annual profit.[51] First Nations communities also raise the concern that they are generally not considered for higher paying technical positions that require training and educational backgrounds to which they have had little access. Instead, they are generally concentrated in lower income jobs such as truck driving.[52] With housing prices skyrocketing due to the mining-based economy, this income disparity has disastrous social impacts. Meanwhile, the rotation of fly-in/fly-out short term work shifts has reportedly created social and family instability amongst workers and contributed to an increasing rate of drug and alcohol abuse.[53] Though Ekati workers are unionized, they have faced stiff opposition from BHP Billiton during negotiations of collective agreements.[54] In the past, workers have had to go on strike in order to win minimal concessions.

Significantly, Ekati is located in an environmentally fragile zone, and impacts on the wildlife populations—including caribou, wolverine, bears, ptarmigan and fish—and the land, have been noted by elders of the Indigenous communities. For instance, decreases in the caribou population, grizzly bear population and fish diversity have been observed,[55] and are understood as a likely consequence of mine blasting operations and surface water drainage in the region. Furthermore, residents of the region can no longer hunt in traditional grounds, as wildlife migration patterns—particularly those of the caribou—have shifted. Not only are the animals integral to a sustainable ecosystem balance, but they also are an important basis of physical and cultural survival for Indigenous communities.

Meanwhile, accidental spills and seepage of tailings as well as sewage from the site, acid mine drainage, increases in uranium and aluminium residue in the air, and elevated levels of dissolved solids, potassium, ammonia, nitrates and molybdenum in local water bodies [56] have kept local people on alert. Though cumulative impacts are unknown, water and air contamination are also of concern to communities located downstream (and downwind) from Ekati. At the current time, waste rock and tailings are being stored under permafrost barriers, rock ice caps and frozen core dams.[57] However, given the evidence that global warming trends appear to be already impacting northern expanses of tundra, local Indigenous communities have raised the issue that there is no mitigation plan in place to deal with the impacts of the thawing ground.[58] With the prospects of the future uncertain, those advocating for healthy communities—and the recognition of the fragile web of life upon which we all base our survival—continue to struggle to have their perspectives heard.[59]

South Africa: Samancor Manganese



BHP Billiton's office in Johannesburg has become the site of frequent energized protests by labour, community, health and environmental rights activists. South African civil society groups have also nominated BHP Billiton as amongst the most consistent corporations committing environmental injustices in the country, particularly for a notorious record of neglecting the health and safety of workers.[60] There are a number of coal, manganese and titanium mining operations which have claimed the lives of workers, contaminated air, soil and water upon which entire communities rely, and have displaced local populations. One particular case that has sparked discontent and anger amongst affected communities concerns a manganese alloy plant owned by BHP Billiton's subsidiary, Samancor Manganese, operating in the Vaal Triangle in the Gauteng Province. Samancor's production lines have enabled South Africa to become one of the world's largest producers of manganese materials.[61] However, this economic success has come at a tragic cost.

Samancor workers consistently report that information about the health and safety risks of handling manganese is not readily available to them. In 1999, medical tests were carried out on hundreds of Samancor workers. Most were found to be suffering from manganese poisoning,[62] including neurological disorders, chronic dizziness, paralysis of limbs, kidney failure and cancer. At the time, government agencies recommended that Samancor inform workers about their results. Refusing to do so, company representatives kept the medical records confidential and developed a proposal for a system of voluntary retrenchment for workers who were ill. When workers collectively rejected this offer, Samancor implemented forced retrenchments of 509 workers.[63] In the meantime, sections of the medical report were leaked to the workers. In response, they formed the Samancor Retrenched Workers' Crisis Committee (SRWCC) to serve as a platform to demand reasons for their retrenchment, access to medical documentation and compensation for their occupational illnesses. Today, the SRWCC acts as an advocacy group mobilizing for the rights of retrenched smelter workers and their families. Members also include current Samancor workers as well as widows of deceased workers, all of whom are concerned about their health, and that of their community.

According to Bafana, one of the coordinating community organizers in SRWCC, "We are openly fighting for Samancor to compensate us. Families are going hungry, and the children are either too sick or cannot afford to go to school, and people are dying. That is why we are still fighting." [64] From records compiled by the committee, it is apparent that more than 700 smelter workers have died over the last ten years from causes connected to the toxic manganese residues in the air, soil and water. Common problems include respiratory illnesses, cardiac arrest, brain haemhorrages, malignant tumours, pneumonia, meningitis, tuberculosis, limb paralysis and cancers of the lung, chest and liver.[65]

Johannes, another key SRWCC organizer, explains that at a minimum, "Workers must be educated before we work at the plant. If we had known about the dangers of working at Samancor, I don't think we would have agreed to work there for that long. Now we know that if you are exposed to manganese for more than eight years, it is fatal to your health. But we worked for many years, and the government and company kept quiet about these risks." [66] Due to being stricken by debilitating illnesses, former and current workers know they "will never be healthy enough to get a job anywhere else." [67]

SRWCC continues to demand BHP Billiton's subsidiary:

- publicly release complete results of medical examinations carried out on workers in 1999;
- cover the health expenses of retrenched and currently employed workers;
- pay living wages to workers;
- provide decent compensation for retrenched workers;
- compensate families of deceased workers;
- allow working conditions to be inspected by the Ministry of Labour, Health and the Environment; and
- disburse previously promised subsidies for housing loans.

Based on these concerns, the SWRCC is calling on Samancor to undertake negotiations with them. At the time of writing, Samancor representatives had not agreed to engage in discussions with members of the SWRCC. Now past and present Samancor workers are seeking to intensify pressure on the company. Articulating their plans for future strategic mobilization, Bafana and Johannes explain, "We are taking the company to the courts, we are liaising with workers at other company plants, and we also want to engage people from outside this country to let them know about what is going on here. We need their support." [68 69]

It is apparent that more than 700 smelter workers have died over the last ten years from causes connected to the toxic manganese residues in the air, soil and water.

Colombia: Cerrejon Coal mine

BHP Billiton was part of a consortium of three multinational companies which in late 2000 bought the Colombian Government's 50% share of the massive opencast Cerrejon coal mine in the Department (province) of La Guajira in northern Colombia, one of the largest opencast coal mines in the world. The mine, operated by Exxon subsidiary Intercor (which owned the other 50% share) had a history of forced relocations of Indigenous and Afrocolombian communities, with inadequate or non-existent compensation, to make way for mine expansion.[70]

In the late 1970s and early 1980s, Indigenous Wayuu communities were moved to make way for a coal export port at Puerto Bolivar, and for a railway built to carry coal from the mine to the port. Burial sites were desecrated and tensions caused between family groups as displaced families moved into the traditional territory of other families.[71]

People have found it almost impossible to support themselves as mining expansion has encroached on agricultural land.

In August 2001, the small farming village of Tabaco, inhabited mainly by Colombians of African descent, was bulldozed by the mining company in a brutal operation accompanied by hundreds of armed soldiers and security personnel.[72] In February 2002, the consortium of which BHP Billiton was a part bought the remaining 50% of the Cerrejon mine from Intercor. BHP Billiton now owns 33.33% of Cerrejon Coal, the mine's operator.[73]

A sustained campaign of community opposition followed, supported by dissident shareholders in BHP Billiton and others around the world. Some of the former residents of Tabaco organized themselves through the Tabaco Relocation Committee, which was demanding not only compensation for the destruction of homes and livelihoods but also community relocation to farmland of equivalent agricultural value – as the World Bank's Guidelines on Involuntary Resettlement urge.[74] The best that Cerrejon Coal was willing to offer was family by family financial payouts based on property valuations which many in the community disputed. In 2007 a complaint against BHP Billiton was made to the Australian National Contact Point of the OECD (Organisation for Economic Co-operation and Development).[75]

In response to the criticism, in 2007 BHP Billiton and the other two multinational companies involved in Cerrejon Coal (Anglo American and Xstrata) commissioned an Independent Panel of Investigation to look into Cerrejon Coal's social programmes and its general impacts on local communities.[76] The Panel found substance in much of the criticism that had been levelled at the company. It made a number of recommendations, particularly concerning a just settlement for the people of Tabaco. The Panel recommended, among other things, that Cerrejon Coal work with the Tabaco Relocation Committee as well as with other former residents of the village to ensure just compensation, buy collective land for agriculture and help construct a church and community centre for common use by former residents. The Panel also recommended that in future open, transparent negotiations take place with communities badly affected by the proximity of the mine, leading to collective relocation with community consent.[77]

Cerrejon Coal and its three multinational shareholders, including BHP Billiton, broadly accepted the Panel's recommendations.[78] Negotiations with the Tabaco Relocation Committee led to an agreement in December 2008 which, according to the Relocation Committee's lawyer, contained most of what the Committee had been struggling for, including the purchase of a piece of land to which families from the former settlement could be moved, in order to continue their life together as farmers.[79] Negotiations began with other small farming communities facing relocation as the mine expands – Roche, Chancleta, Patilla and Tamaquitos.

But conflict continues. There has been strong criticism of the levels of financial compensation in the Tabaco agreement. Provision of infrastructure to the new community – roads, drainage, electricity – is the responsibility of the local authority, and therefore relies on good will from the local mayor. The land being bought by the company is sufficient for housing but insufficient for farming on the scale practiced at Tabaco. It is unclear how people will make a living.[80]

Difficulties also remain for the communities currently facing displacement. There are disagreements over the number of people subject to relocation. The company refuses to acknowledge the need for productive land in the relocated settlements, even though it is essential for the communities to continue their agricultural activities. In recent years, people

have found it almost impossible to support themselves as mining expansion has encroached on agricultural land, and while the relocation process is under way – a process which may take two years – people will have no means at all of supporting themselves. Community members accuse Cerrejon Coal of undermining their community leadership, taking decisions without consultation, publishing relocation timetables on the company's website without informing the communities, calling meetings at short notice and causing confusion and divisions by cancelling meetings already agreed at the last minute, informing only some of the participants and not others. The company has not succeeded in creating a relationship of trust with the communities and community leaders. Community members remain in the dark about what they will eventually receive – what kind of houses, land, work and financial compensation.[81]

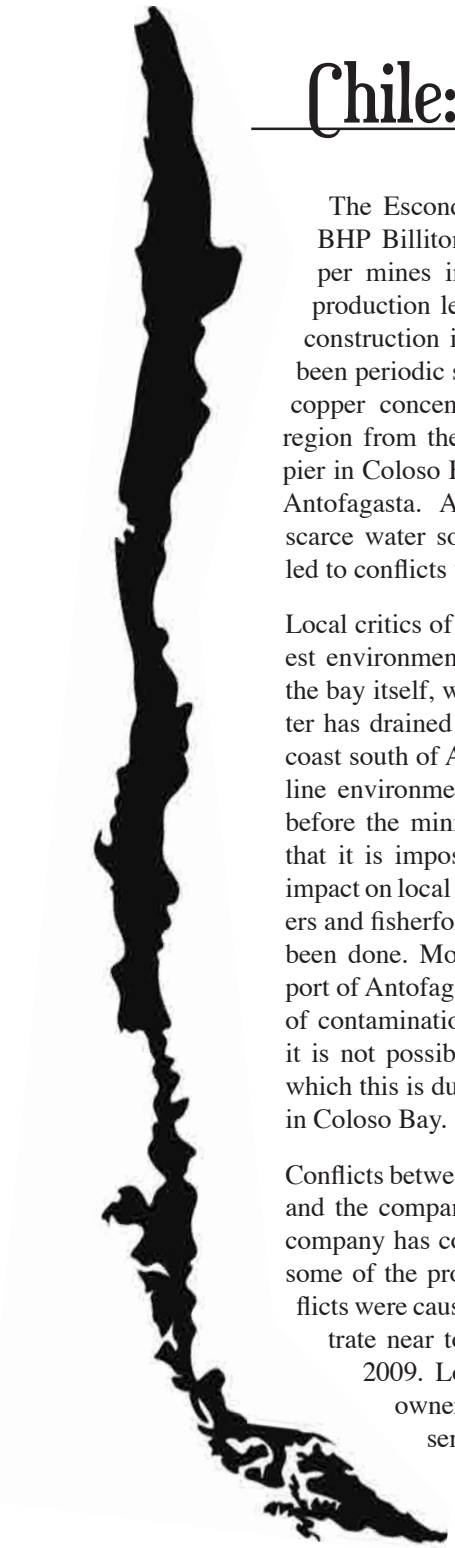
Meanwhile, people are living in extremely difficult conditions, with blasting from the mine causing damage to homes, coal dust in the air causing skin and respiratory problems, land on which people used to work being swallowed up by mining activities or fenced off in readiness for mine expansion. People feel that their communities are being 'strangled'. The Independent Panel of Investigation recommended that the company do more to ensure that people could make a living – including provision of services and financing of small-scale economic projects – but it has not done so to date.[82]

The company has not succeeded in creating a relationship of trust with the communities and community leaders.

At the same time, Cerrejon mine workers who are members of the SINTRACARBON trade union are concerned about the inferior working conditions of non-unionised contract workers at the mine. SINTRACARBON is also worried about exposure to coal dust. The union says that coal dust is a hazardous substance under Colombian law and that because of this the company is legally bound to pay higher social security contributions than it is currently paying, in order to facilitate earlier retirement for mine workers.[83] [84]

ABOVE: A coal truck kicks up dust at the Cerrejon mine. photo: CCAJAR, Bogota LEFT: Residents of the village of Tabaco (La Guajira, Colombia) after the destruction of their village by the Cerrejon Coal company in 2001. photo: Richard Solly. RIGHT: Coal waste heap at the village of Chancleta in La Guajira, Colombia. photo: CCAJAR, Bogota.

Chile: Escondida Copper Mine



The Escondida Mine (57.5% owned by BHP Billiton) is one of the largest copper mines in Chile and has the highest production levels in the country. Since its construction in the early 1990s there have been periodic spills from the pipeline taking copper concentrate across the Antofagasta region from the mine in the mountains to a pier in Coloso Bay to the south of the city of Antofagasta. Additionally, competition for scarce water sources near the mine site has led to conflicts with local farmers.

Local critics of the mine allege that the gravest environmental impacts have occurred in the bay itself, where contaminated waste water has drained into the sea and polluted the coast south of Antofagasta. The lack of baseline environmental studies in the area from before the mining activity began has meant that it is impossible to determine the exact impact on local ecosystems. According to divers and fisherfolk, severe damage has already been done. Monitoring of the waters in the port of Antofagasta has indicated a high level of contamination by heavy metals, although it is not possible to determine the extent to which this is due to the Escondida operations in Coloso Bay.

Conflicts between the residents of Coloso Bay and the company have come and gone. The company has contributed to the resolution of some of the problems. The most recent conflicts were caused by spills of copper concentrate near to the bay in early September 2009. Local fisherfolk and restaurant owners say that they have suffered serious economic loss as a result of the repeated spills because customers fear that fish from the bay will be contaminated – even when a spill has not in fact reached the sea. One restaurateur, Violeta Vargas, told local newspaper El Mercurio de Antofagasta that she lost more than half her customers after the most recent spill. Around 85 families live around the bay and all of them rely on the extraction and sale of marine products. They are calling for compensation from the company and action to ensure that spills do not occur again.

The mine has also been a source of tension with farming communities, because the area is extremely dry and the large quantity of water needed by mining operations conflicts with agricultural and residential use. In October 2007, the Regional Environmental Commission of Antofagasta (COREMA) rejected BHP Billiton's Pampa Colorada project, which entailed the drilling of 35 new freshwater wells in northern Chile, to meet the water requirements of the Escondida Mine. The campesino communities of San Pedro de Atacama, Toconao, Socaire and Peine finally breathed a sigh of relief, after a year-long battle with the company. The Chilean Government is investigating plans to import water from the province of Salta in Argentina to provide for mining companies. There is opposition in Salta to the export of water to Chile.[85]

MINING IN NEOLIBERAL CHILE

In spite of the generous institutional framework put in place by Pinochet's dictatorship, investment was slow during his term, due to shaken investor confidence and the debt crisis of the 1980s. It was not until the 1990s – spurred by rebounding prices and technological transformations – that neoliberal policies resulted in an explosion of mineral investment and production in Chile, halving the price of copper and costing Chile billions.[86]

In 1990 private companies accounted for only 13.9 % of mining production. By 2000, however, that figure had risen to over 55 per cent; and in copper, foreign control by 2000 was even higher, at 65 percent. As a result private companies were able to instigate massive overproduction, driving down world prices to benefit the parent companies that purchase their exports. Chile alone accounted for 77 % of the increase in world copper output during the 1990s. Overproduction, however, led to the collapse of world copper prices: they fell from $1.40 per pound in 1995 to $0.71 per pound by 1999, the lowest real levels since the 1930s . It is estimated that price declines between 1996 and 2000 alone cost the Chilean government over $16 billion in revenues.[87]

Conclusion

BHP Billiton boasts of a strong reputation for corporate responsibility. We believe that the cases described in this short report demonstrate that this reputation is undeserved. There is a growing gap between the company's rhetoric and the reality on the ground.

Indigenous rights

BHP Billiton says that it is committed to Indigenous Peoples and has a good record in its relationships with them. But, BHPB refuses to apply the high standards set out in the recently adopted UN Declaration on the Rights of Indigenous Peoples. It has benefited from operations which have ignored indigenous rights in Colombia and the Philippines and it is pushing through projects in South Australia and Western Australia despite Aboriginal opposition. **BHP Billiton needs to accept and respect Indigenous Peoples' right to Free, Prior and Informed Consent. It needs to accept that 'No' means 'No'!**

Community removals

At the Cerrejon Mine in Colombia, it promised a better deal for communities facing relocation as the mine expanded. However, community members still complain of being kept in the dark about the progress of relocation arrangements, of bad faith on the part of negotiators from Cerrejon Coal, and of the inability to make a living as the mine has swallowed up agricultural land. **BHP Billiton needs to ensure at a very minimum that the World Bank standards on involuntary removals are maintained in all operations in which it is involved. That means that if farming communities are moved off their land they must receive land of equivalent or greater agricultural value. It would be better if the company avoided projects where involuntary removals are necessary.**

Socioeconomic costs and benefits

Agreements with First Nations communities around the Ekati mine in the Canadian Northwest Territories were hailed as a fine example of corporate respect for Indigenous Peoples' rights. But, unequal bargaining power put First Nations negotiators at a disadvantage from the beginning, and benefits hoped for have not materialized, while social change has disrupted community life. **BHP Billiton must ensure that, where communities do accept a mine project in their area, economic benefits go to local people and social and cultural disruption are avoided.**

Zero harm

The company aims for 'zero harm' for its workers. However, Samancor workers in South Africa report that information about the health and safety risks of handling manganese is not readily available to them, and that they will never be healthy enough to get a job elsewhere because of debilitating illnesses contracted at work. **BHP Billiton must not only work to avoid deaths at work, but also to eliminate sickness caused by work in operations in which it is involved. Where it happens, the company must deal justly with those who are ill.**

Human rights

The company claims to follow the highest human rights standards, but the Sibuyan killing in the Philippines shows that it is falling short. Additionally, BHPB's contribution to the possible forced displacement of thousands in the Congo due to the mega-hydropower site necessary for its operations there deserves scrutiny. **BHP Billiton must ensure that all partners and actors in the supply chain respect human rights and avoid any form of violence or intimidation against opponents to its projects.**

Ecological damage

BHP Billiton withdrew from the Gag Island project partly because of the controversy over the project's potential ecological impact. But, it has bought ore from destructive operations elsewhere in the Raja Ampat archipelago and it has shipped that nickel through this ecologically sensitive area to supply its Yabulu Refinery in Queensland, Australia. It plans to open the world's biggest open-pit uranium mine at Olympic Dam in Australia despite the problem of radioactive waste disposal and the danger that radioactive dust may be carried by wind storms over centres of population on the Australian east coast. It plans to reduce the 'carbon intensity' of its operations but not its overall carbon emissions. **BHP Billiton must live up to its ecological rhetoric, pull out of uranium mining and reduce its overall carbon emissions, not just their 'intensity'.**

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* This is an updated version of the report launched in October, 2009 at BHP Billiton's Annual General Meeting in London.

London Mining Network

Holding the mining industry to account

Friends of the Earth

PIPLINKS

indigenous peoples links

ATM

COLOMBIA SOLIDARITY CAMPAIGN

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COVER, LEFT: The Ok Tedi River in 1998. photo: Stuart Kirsch. TOP RIGHT: The Emerald Halo with the Mauran Island mine site behind it. Up until July 2009 BHP Billiton bought nickel laterite ore on-site from the Manuran Island Mine. BHPB used tankers like the Emerald Halo to transport the ore through the fragile Raja Ampat archipelago en route to the Yabulu refinery in Townsville. The Asian Development Bank has requested that Beyond Petroleum not transit its tankers through the Raja Ampat archipelago because of the damage ships could cause to Raja Ampat's environment. photo: AK. BOTTOM RIGHT: Pilbara's spectacular landscape in Western Australia. photo: Hugh Brown.

BACK COVER, TOP LEFT: Mine tailings at the Olympic Dam Mine (2008). photo: Jessie Boylan. BOTTOM LEFT: Kokatha and other Indigenous supporters at the Australia Nuclear Free Alliance (2009) holding a banner "Save Point Lowly." Point Lowly is where BHPB is proposing to build a desalination plant to provide water to the Olympic Dam Uranium Mine.


IS THIS TH
FUTURE OF
POINT
LOWLY ?