



MiningWatch Canada

Mines Alerte

Newsletter

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Number 8: Winter/Spring 2002



The largest point source of metal pollution in North America: acidic copper, zinc, and cadmium-laden water pours out of this pipe into Howe Sound from the abandoned Britannia copper mine, 50 km north of Vancouver, B.C. (J. Kneen photo)

Canada's Auditor-General Takes On Northern Abandoned Mines

The Auditor-General of Canada's office is looking into abandoned mines in Canada's north, as a follow-up on their contaminated sites recommendations in 1996.

The team of auditors, under the direction of the Commissioner for Environment and Sustainable Development, will be looking at the federal liabilities for remediation, and management of the problems at mines like Faro, Ross River, Giant

and Colomac.

An Advisory Committee to the team includes MiningWatch Canada board member Kevin O'Reilly, and eminent biologist David Schindler.

The Auditor-General is also assessing the Natural Resources Canada Minerals and Metals Sector performance on its Sustainable Development Strategy.

Changes to Federal Environmental Assessment Act Under Review

On February 19th, Joan Kuyek presented MiningWatch Canada's brief to the House of Commons Standing Committee on Environment and Sustainable Development. The Committee is reviewing Bill C-19 – An Act to Amend the Canadian Environmental Assessment Act (CEAA).

The MiningWatch submission provides examples of problems that could have been avoided if good environmental assessment practices had been used: the Aquarius Mine near Timmins, Ontario, was finally reviewed under CEAA through a Comprehensive Study in 2000 after much delayed and misfiled information; Niocan has proposed an underground niobi-

um mine near Oka Québec which is escaping federal assessment altogether; the Lac Des Iles Mine expansion by North American Palladium, is also escaping assessment.

Meanwhile, in Tanzania, Ghana and the Philippines, the Canadian government has been actively promoting the development of large scale gold mining owned by Canadian companies, and the forcible eviction of thousands of artisanal miners who have been working the claims. In northern Canada, problems at the Diavik & Ekati diamond mines show that even "modern" projects that have gone through a full environmental assessment can not be counted on to protect the environ-

ment and investors' returns at the same time.

MiningWatch's brief emphasised seven key points:

1. Public involvement must not be discretionary in comprehensive studies
2. The new Electronic Registry is weaker than the existing system. It could be added to a paper-based system, but not replace it.
3. The Minister must be able to change Environmental Assessment Tracks if public concern or new information warrants it. The current proposal would prevent a project that is undergoing comprehensive study from being referred to a panel review.
4. The new regulations should make it impossible for deals to be worked out with proponents to avoid triggering CEAA. Currently, some federal agencies (notably Fisheries) use procedures that enable projects to avoid being subject to assessment.
5. Programs and policies should be able to trigger Environmental Assessments. So-called "strategic EA" of

federal policies and programs is currently done in secret, within Cabinet, if it is done at all.

6. There is an unrealistic reliance on mitigation measures, that frequently do not work, or are not carried out. Monitoring and enforcement are both essential to ensure that mitigation measures are implemented and functioning as required.
7. Export Development Canada, like other Crown corporations, should come under CEAA. The Environmental Review Framework developed by EDC will not be effective in protecting the environment, and it leaves EDC to police itself.

While industry groups have been complaining that the environmental assessment process is too unpredictable and adds unnecessary costs, they have been largely silent during the parliamentary review.

More background information is available from the Canadian Environmental Network's Environmental Planning and Assessment Caucus at www.cen-rce.org.

SPECIAL: Battling the Mining Industry on the World Stage

Negotiating for the planet

"At the moment, one large negotiation process is underway about how the world can achieve sustainable development. Rio+10, also known as the World Summit on Sustainable Development (WSSD), to be held in Johannesburg, South Africa, will discuss this issue and take into account the results that come out of regional, national and international consultations and multi-stakeholder dialogues. Powerful interest groups such as the mining industry are intervening in this global arena and trying hard to block any meaningful development of sustainability as they promote their interests and lobby authorities to bend regulations and standards."

– JATAM, Indonesia, introduction to International Mining Workshop, Jakarta

MiningWatch Canada, other non-governmental organisations (NGOs), communities affected by mining, mine-workers and others have found ourselves swept up in this global negotiation leading to Rio+10, because the owners of the largest mining companies in the world have chosen to engage here.

The outcomes matter: they will affect the power ordinary people have to create sustainable livelihoods for themselves and future generations.

The world of global negotiation is not our own turf. It is in communities, in the workplace, and in the regions where we have the strength to resist and change the industry. And it is law, regulation and enforcement made by provincial and national governments that change industry practice.

It is precisely because people organizing around the world are winning in their push for indigenous rights, workers rights, environmental and human rights, that the industry is choosing to invest in an enormous public relations battle at the international level.

Demystifying international fora

The world of international politics is complicated and confusing. This article will attempt to set out some sign posts.

"During the Earth Summit in 1992, the governments of the world committed themselves to take action on the global social and environmental crisis created by hundreds of years of the relentless destruction of Mother Earth at the expense of the well-being of present and future generations of the world's peoples. At the time, governments agreed to address the crisis through a number of agreements (or statements), such as: the Rio Declaration on Environment and Development, Agenda 21 (a non-binding program of action), the Convention on Biological Diversity, the Framework Convention on Climate Change, the Statement of Principles on Forests."

– Joji Carino

Since 1992, there have been a number of other international agreements. Although these agreements have strong moral suasion, they have no force in a country unless they are "ratified" and enacted into law by the national government. Canada's record on ratification of these agreements is poor.

Indigenous Peoples

In 1986, the United Nations Working Group on Indigenous Populations began to draft a Declaration on the Rights of Indigenous Peoples. The draft was finalized by the Working group in 1994, and is now in the hands of the United Nations High Commission on Human Rights (UNCHR). The only other international legal instrument on the rights of Indigenous Peoples is an International Labour Organization document (ILO Declaration 169). The draft declaration establishes an unqualified right to self-determination and the principle of prior informed consent before development can take place.

Alongside the Earth Summit, indigenous peoples from around the world united to create the Kari-Oca Declaration, upholding their rights, and established their position as a "major group" in the processes. A whole series of Forums and meetings have been held by indigenous organizations to set out their positions on sustainable development.

Nishnawbe Aski Nation in Ontario has formal accreditation for all these UN processes leading up to Rio+10.

Rio+10 a.k.a. the World Summit on Sustainable Development (WSSD)

The lead-up to Rio+10 involves a number of meetings of government representatives and other organizations to negotiate the basic statement of the conference – the “Chairman’s Report” – as well as different country reports that will be presented in Johannesburg. The most recent meeting to develop the Chairman’s report was in New York (Preparatory committee meeting #3 or ‘Prepcom 3’) at the end of March. The mining industry had a side meeting to present the report of “Mines Minerals and Sustainable Development” (MMSD), to lobby for the language they wanted in the Chairman’s report, and to show the world “how mining can contribute to sustainable development”. (The MMSD report is discussed below.)

The next Preparatory Committee meeting (Prepcom 4) is scheduled to be held in Indonesia at the end of May. A few days before this meeting, JATAM – the mining activist network of Indonesia – is hosting a meeting of communities and organizations from around the world to set out our concerns with mining and with the Chairman’s document.

At the same time, the Canadian government, like others, is developing its report on progress since 1992 for presentation at Rio+10.

Rio+10 will be held August 26 to September 7 in Johannesburg. The central meeting (of accredited participants, predominately governments) will hear the Chairman’s report and the reports from different governments and come to agreements on action. Some NGOs, indigenous groups, and of course industry, have official standing for this meeting. Most of the groundwork for the meeting is already being negotiated. At the same time as the central meeting, a number of other forums are organized, including an indigenous forum and an NGO forum, where alternative positions and reactions will be worked out.

The World Bank Extractive Industries Review

The World Bank family of organisations, including the Multilateral Investment Guarantee Agency (MIGA) and the International Finance Corporation (IFC), participate in providing loans, guarantees and political risk insurance that facilitate global companies to build mines, oil wells and logging in developing countries, as well as pushing policies that facilitate foreign investment and privatisation.

Many of these projects have had devastating consequences, and the World Bank has now been pressured into establishing a review of their investments in extractive industries. This review is headed up by Elim Salim, an “eminent person” from Indonesia. Salim has a secretariat and some funding to investigate and hear submissions about the relationship between the World Bank’s investments and the “alleviation of poverty.” His report is due in June 2003. A number of NGOs have been very critical of this review, and in January over 100 signed a letter raising these concerns.

Industry organisation toward WSSD

“For (mining companies) to put their strategies together around public relations, about how they deal with environmental relations, environmental crises, how they deal with these globally, they can bring considerable strength to their

practice if they’ve got these things integrated.”

– Marcia Smith, National Public Relations, quoted in the Vancouver Sun, 13 February, 2002

The industry lobby has been driven by the Global Mining Initiative – a grouping of the 30 largest mining companies in the world established a few years ago. It has three parts:

- a research arm called Mines Minerals and Sustainable Development (MMSD), which has recently released its draft 500 page report (a team has been established by NGOs and communities around the globe to do a critical analysis of the document);
- the creation of an on-going industry association called International Council on Mines and Minerals (ICMM);
- the staging of a conference for CEOs of the major mining companies called ‘Resourcing the Future’ in Toronto from May 12-15. Some NGOs, labour and community representatives have been invited to this meeting.

In response to a public outcry following a number of accidents involving cyanide, the mining industry has also developed and pushed a draft Cyanide Code, which sets out guidelines and a method to certify companies for responsible cyanide use. Unfortunately, the Code is voluntary and allows industry to self-certify, and NGOs fear it will be used to avoid legislation and regulation on the use of cyanide in mining.

The Mining Association of Canada has also been actively developing its own *Towards Sustainable Mining* document, which will set out guidelines for environmental and social practices for MAC members (30 mining companies).

Canadian government initiatives

The Canadian government has a secretariat housed with Environment Canada that is preparing for its role in Rio. This secretariat has made a very limited amount of funding available to NGOs through the Canadian Environmental Network to prepare comment.

Natural Resources Canada has developed a proposal that it is distributing to governments, industry and NGOs for comment.

“Since many of the critical issues facing the minerals and metals sector require action by governments, or by governments in concert with other stakeholders, there is a need to examine options for how best to provide a focus and means of follow up for the many disparate initiatives currently underway... A broad range of issues could be examined. For example, discussions could encompass public policy frameworks covering economic (e.g., transparent taxation and investment regulations), social (e.g., poverty alleviation, role of communities), and environmental (e.g., environmental standards, material stewardship and the role of sound science) aspects of mining, mineral development, and metals production, use and recycling. As well, they could encompass a review of the means for carrying out an effective sustainable development dialogue where governments, with input from industry and civil society, deal with mining/metals related issues.”

NRCAN has made \$30,000 US available to the Mineral Policy Center to comment on this proposal together with other mining activist groups and communities.

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Mexico: Building Links

Since last year, the Social Justice Committee of Montreal, Mining Watch Canada and FUNDAR are involved in a project to establish the impact of Canadian mining operations in Mexico, and to provide support to Mexican communities affected by these companies.

IDRC is funding the initiative, and the research will be done by FUNDAR.

The Mexican NGO FUNDAR Centre for Analysis and Research was founded in January 1999 by a group of high-profile leaders from diverse sectors dedicated to strengthening Mexico's transition to democracy. FUNDAR is an independent, non-partisan, interdisciplinary and pluralistic institution which emphasizes study, training, dissemination of information, experimentation and direct action. Through the program "Democracy in Theory and Practice," FUNDAR carries out research and training to enhance the transition to democracy and increase citizen participation.

Last year, the project identified and researched Canadian companies operating in Mexico, and documented their corporate behaviour and the financial support they receive from the Canadian government. On the Mexican side, after a newspaper research proved to be futile, since the topic doesn't even figure in the Mexican press, it was decided to conduct initial field research in at least two regions affected by Canadian mining activities, in order to gather local testimonies. Field investigations were carried in San Luis Potosí (Cerro de San Pedro) and Chihuahua.

This year, the relationships with Mexican partners will be maintained, nurtured and deepened. The project will link communities and NGOs up with similar groups, getting them to know and share similar experiences, and create the space for concerted action among them. A seminar on the impact of mining activities in Mexican communities will take place as well as two additional case studies.

Tanzania: International Fact-Finding Mission Blocked from Bulyanhulu

In late March, MiningWatch Canada and other NGOs sent an international fact-finding mission hoping to visit the villages at Bulyanhulu, listen to the stories of the people, observe the general living conditions and small-scale mining sites, and gain first-hand information about the 1996 evictions. Paula Butler represented MiningWatch Canada on the mission. The other Canadians were Rights and Democracy Chair Kathleen Mahoney and Steve Kerr of the Varsity.

The visit was at the invitation of the Lawyers Environmental Action Team in Tanzania.

The team all obtained visa through the appropriate channels, and met in Dar Es Salaam on March 25. The next day, accompanied by lawyer Vincent Shauri of LEAT, they flew to Mwanza and then proceeded by road to Geita, a small town one hour's drive from Bulyanhulu. They were nine persons altogether.

Shortly after their arrival in Geita, a police officer delivered a letter from the Shinyanga regional police director informing the team that he had received instructions from the Director of Criminal Investigations in Dar es Salaam to deny them access to Bulyanhulu, inform them that they had not obtained proper authorization to carry out their work and order them to return immediately to Dar to obtain proper authorization from the Attorney General.

There is no such authorization for travel throughout the country required by any law of Tanzania.

Later that evening, the police erected an armed roadblock on the road to Bulyanhulu, and a large number of police had

been deployed in the villages at Bulyanhulu.

The next day despite calls to the powers that be, the team continued to be directed to return immediately to Dar es Salaam and the police roadblock was not taken down. The LEAT lawyers phoned the people at Bulyanhulu and invited them to come to meet with the team at Geita. Fifteen people managed to come through by minibus, arriving at the guest house around 1:00 pm. The team was able to get hours of audio, video-tape and notes from these witnesses.

Late in the afternoon, maybe around 5:30 pm, the local police officer and the Shinyanga regional police officer, accompanied by a couple of other armed officers, arrived at the guest house, clearly very angry that the team had managed to meet with leaders of the Bulyanhulu small-scale miners and had disregarded their orders. The team was forced to agree to return promptly to Dar es Salaam.

Once there, they met with Judge Bomani, a former Attorney General and advisor to Nelson Mandela on the Burundi peace talks. Bomani expressed his embarrassment at how he had been treated by the police, re-iterated his opinion that there needed to be an independent inquiry, and talked with us about his views about the composition of an inquiry.

Says Paula, "Although we were not able to reach Bulyanhulu, the fact that we were blocked from going there reinforced and indeed, increased, our sense that there was something being covered up. There may have been other aspects to the police decision to block our access, but we remain convinced that that was the main motive."

Abandoned Mines Working Group Formed

In June 2001, a workshop was held in Winnipeg to review the issue of orphaned/abandoned mine sites and identify processes for moving forward. The 63 attendees represented 12 provinces and territories; 7 NGO groups; 5 First Nations; 5 Federal Government Departments, Offices and Boards; 7 mining companies; 5 mining industry associations; 3 communities; 3 consultants and 1 academic.

The group developed consensus guiding principles and recommendations for the 2001 Mines Ministers Conference. In September, the Mines Ministers agreed to the workshop recommendations, and a multi-stakeholder committee has now been established to implement them.

MiningWatch Canada sits on the committee, which held its first face-to-face meeting on March 12.

The terms of reference for the committee are as follows:

Guiding principles:

- The remediation of orphaned/abandoned mine sites must be based on concern for public health and safety, respect for ecological integrity, and sustainable development;
- All work currently on-going with respect to inventorying and remediation must continue based on sound science and good communication among all parties;
- Work toward eliminating future abandonments must continue, including the tightening of regulatory approaches;
- Implement the "polluter pays" principle;
- Targeted end-use and reclamation standards must be acceptable to local communities;
- Although the objective must be comprehensive reclamation of all sites, the approach must be cost-effective and based on an acceptable method of prioritizing sites;
- Transparency and disclosure must be present in all decision-making processes;
- Encompass the notion of "fairness" in all endeavours;

Recommendations:

That the national multi-stakeholder advisory committee address the following issues/initiatives and report back to Mines Ministers in 2002:

- Developing capacity for a national inventory of active, closed, and orphaned/abandoned mine sites based on compatible inventories in each province and territory, and including a nationally acceptable categorization and priority-ranking system;
- Engaging other relevant federal, provincial and territorial departments and ministries;
- Developing a plan to foster community involvement in decision-making about closure and reclamation standards, and to ensure that targeted end-use and reclamation standards are acceptable to local communities;
- Developing a plan to foster transparency and disclosure in all processes
- Developing a plan for shared responsibility and stewardship where ownership cannot be established
- Evaluating the efficacy of approaches including: "Good Samaritan legislation", "permit-blocking", "non-compliance registries", "allocative" vs. "joint & several" liability;
- Evaluating models and mechanisms to pay for the remediation of orphaned/abandoned sites, including insurance options and contingency funds;
- Securing appropriate funding for the above, at a level to be determined by IGWG and other stakeholders by November 2001.

Inco's Goro Project Faces Environmental Challenges

On February 4th, 2002 the French government released INCO's Installation Classée (IC), which includes the Environmental Impact Assessment for the Goro project, for a one month public consultation period. The 800+ page document was not publicly available until the evening of the 7th, and then only in French. Scientific reviewers that MiningWatch Canada had lined up at the request of our partners in New Caledonia were not able to work in French. We are currently working with francophone scientists to do the review (see Toronto Globe and Mail article, March 9, 2002).

The formal response from the highest body of the indigenous Kanak (the Senat Coutumier) read: "Aware of the economic opportunity that an industrial project such as the one presented by GORO-NICKEL represents for New Caledonia, the Customary Senate of New Caledonia, as an autonomous Institution, CANNOT ACCEPT AND APPROVE THE GORO-NICKEL INDUSTRIAL PROJECT as presented, particularly with regards to the protection of the environment and of the health of the inhabitants of New Caledonia."

Just in time for the February 1 deadline, efforts by New Caledonian environmental activists and the leadership of the indigenous Kanak paid off when the French Environment Minister submitted a nomination for the entire coral reef system of New Caledonia to the World Heritage Centre for consideration for World Heritage listing. The Centre accepted the nomination in principle but determined that the nomination was inadequate in that it lacked some of the scientific and technical data necessary, and requested the French government to refine the nomination. That work is now being done by the Natural History Museum of France.

Now that the Centre has accepted the nomination in principle it is incumbent on the relevant State party not to allow

any activity that could potentially jeopardise areas proposed for listing. Local activists consider INCO's coastal mine to be a major threat to the reefs. The provincial government of New Caledonia opposes the World Heritage proposal as it fears it will interfere with nickel mining.

There is a question of whether the French Government has put itself in a conflict of interest position as it also has a 15% stake in the proposed nickel mine. Perhaps this explains France's hesitation to provide funding for the project.

In February, Inco's Scott Hand confidently announced that Inco has an "agreement-in-principle" with the French government for \$350 million of "very favourable tax assisted financing" for the Goro project. The public consultation period on Inco's Installation Classée ended on March 6th, 2002. But to date, Inco has not received its permit to start building the facilities for the mine. New Caledonian sources claim that the French government has decided to suspend its financing deal for the project until the EIA has been improved. Inco's Bill Napier (V.P. Environment) says that while it's true that Inco has not yet received its permit based on the Installation Classée (IC), it has not been asked to redo the IC. He denies that France has decided to suspend its financial agreement-in-principle with Inco. Napier also pointed out that the IC only represents about 5-7% of the engineering for the project and that further critical data on dams etc. will be provided later. In the meantime, Inco has already moved heavy equipment onto the site and is starting to build the infrastructure for the mine. Napier says this work is being done under a regular permit.

In the meantime, INCO has privatised a public road that leads through the mine site and has stationed a guard post at the end of road. Napier says that there are plans to build a new road to go around the site. Ω

Placer Dome's Ongoing Problems in the Philippines

During the visit of Philippine President Gloria Macapagal Arroyo to Ottawa, she raised with Prime Minister Chretien the issue of Placer Dome's sudden departure from the Philippines without fulfilling commitments made by the company to the Philippine Office of the President to clean up a Philippine river following a massive tailings spill in 1996 (see press release and backgrounder package on our web site).

Placer Dome suddenly left the Philippines in December 2001 leaving \$13 million in an account under a secret agreement with former partner F Holdings who is to finish the river clean up. Now that partner is operating illegally by sandbagging tailings in the river without a permit. Placer's deal disre-

spects the wishes of the people of Marinduque who have been granted, by their Environment Department, the right to choose an independent scientific team (the United States Geological Survey) to assess the various clean up options for the river before any further work is undertaken.

Following her visit to Canada, President Arroyo agreed that the Philippine government would provide the money for the independent assessment by the USGS. Congressman Reyes, who accompanied President Arroyo, has written two letters to Placer Dome's CEO Jay Taylor outlining the province's grievances.

MiningWatch Annual General Meeting Held in Vancouver

MiningWatch held its Annual General Meeting and spring Board of Directors meeting in Vancouver, BC, on March 1-3, 2002. In addition to the regular business meetings, workshops were held on the legal and technical issues at the abandoned Britannia copper mine, remediation of abandoned mines, and the pros and cons of map staking vs. claim staking for mineral claims in different jurisdictions.

A March 1 field trip to the abandoned Britannia copper mine 50 km north of Vancouver (formerly Anaconda and ARCO property) allowed the MiningWatch Board and staff to see the magnitude of the problems at the site, listed by Environment Canada as the largest single point source of metal

contamination in North America. Hundreds of tonnes of copper, zinc and cadmium flow untreated into Howe Sound every day, and the legal complexities around ownership, liability and clean-up are staggering.

As part of the visit, MiningWatch representatives got to meet with long-time community activists Ralph and Ron Fulber and tour the community.

Two members retired from the Board. The Board expressed thanks to Yves Rochon (Hull, Québec) and Ken Traynor (Toronto, Ontario) for their work and generous sharing of their time and expertise as founding members of MiningWatch Canada.

The current Board of Directors comprises:

- Alan Young (Victoria, British Columbia)
- Brennain Lloyd (North Bay, Ontario)
- Sue Moodie (Whitehorse, Yukon)
- Kevin O'Reilly (Yellowknife, NWT)
- Will David (Akwesasne Mohawk Territory)
- Richard Nuna (Sheshatshiu, Labrador)
- Ken Luckhardt (Toronto, Ontario)
- Jean Symes (Ottawa, Ontario)
- Sarah Johnnie (Ross River, Yukon)
- Serge Ashini Goupil (Sept-Îles, Québec)
- Evelyn Baxter Robinson (Thunder Bay, Ontario)
- Lorraine Michael (St. John's, Newfoundland)
- Yasmin Jiwani (Montréal, Quebec)

The 2001 Annual Report is also available on request from the MiningWatch office or for download on our web site at www.miningwatch.ca.



EMCBC legal counsel Bill Andrews explains the complex legal web of jurisdiction, ownership and liabilities around the abandoned Britannia mine. (J. Kneen photo)

Monitoring Your Mine...

The Mine Monitoring Manual: a Resource for Community Members has recently been published by the Yukon Conservation Society and Project Underground.

Written by Sue Moodie, MiningWatch Canada board member, the manual is designed to monitor the water quality impacts from mining. It is used for "spot check testing... to detect levels of water contamination at certain sites around the mine that is affecting your community today."

User friendly, the booklet explains common causes of contamination, goes step by step through how to take samples, and explains how to read them.

Copies can be obtained from our office, or from YCS - e-mail ycsmining@polarcom.com, telephone (867) 668-5678, fax (867) 668-6637, or write to 302 Hawkins Street, Whitehorse, Yukon Y1A 1X6