



October 17, 2017

Kelvin Dushnisky
President
Barrick Gold Corp.
Chairman of the Board of Acacia Mining plc.

Brad Gordon
Chief Executive Officer
Acacia Mining plc

Charlie Ritchie
Head of Legal and Compliance
Acacia Mining plc

Via e-mail

Dear Mr. Dushnisky, Mr. Gordon, Mr. Ritchie,

Re: Response to September 21, 2017 letter from Acacia, regarding a reported shooting death of a villager by mine security on August 4, and ongoing concerns regarding access to remedy for such victims and their families at the North Mara Gold Mine.

Thank you for your response to our letter of August 27, 2017.¹ Your letter contains a number of misrepresentations, which we address here, and does not adequately address our concerns.

Ongoing poverty-related violence and death at the North Mara Gold Mine

In our letter we report on the shooting death of a male villager on August 4, 2017 at the hands of private mine security, based on reports we received from the field.² As both private and public mine security were reportedly involved in the violent response to local villagers and, as you indicate, public security forces are provided live ammunition, it is possible that the shot was fired by public security forces providing security at the mine under the Memorandum of Understanding (MOU) between the companies involved and the Tanzanian Police Force.³ The point of concern we raise, which you do not address, is the *ongoing use of a high level of force by mine security resulting in the death of local villagers.*

¹ MiningWatch Canada. August 27, 2017. Letter to Kelvin Dushnisky, President, Barrick Gold Corp. and Brad Gordon, Chief Executive Officer, Acacia Mining plc. <https://miningwatch.ca/sites/default/files/lettertokelvindushniskyandbradgordon2017-08-27.pdf>

² Note that we do not, as your letter of 21 September 2017, maintains, “assert” anything but rather we provide information reported to us as such: “On August 4, MiningWatch Canada (MiningWatch) received reports of another killing of a male villager, reportedly by gunshot by the mine’s private security, at the Gokona Pit.” MiningWatch Canada Letter, August 27, 2017. <https://miningwatch.ca/sites/default/files/lettertokelvindushniskyandbradgordon2017-08-27.pdf>

³ See: *Anger Boils Over at North Mara Mine – Barrick/Acacia Leave Human Rights Abuses Unaddressed. Field Assessment Brief.* Catherine Coumans. July 2017. P. 4. https://miningwatch.ca/sites/default/files/2017_field_report_final_-_anger_boils_over_at_north_mara_mine.pdf

In a public presentation made by retired Canadian Supreme Court Justice Ian Binnie on September 28, 2017, following a recent field visit to the North Mara Gold Mine, he reportedly comments on “how desperate the locals are for income” leading them to “climb the 70-foot high piles of waste rock to chisel out traces of gold”:

“What I observed, three weeks ago, was on a sheer rock incline, men and women, scrambling to find rock that looked promising,” said Binnie, who retired from Canada’s top court in 2011. He spoke in Ottawa Thursday at a conference examining Canada’s global corporate accountability measures.⁴

The desperate efforts by local men and women to eke out a living from the mine’s waste rock, or from the walls of mined-out pits, should not continue to result in their death at the hands of mine security, or through drowning when they fall into pit water, as reported by MiningWatch this year.⁵ With regard to the former, Acacia and Barrick should reconsider the use of armed security at the mine. With regard to the latter, Acacia and Barrick should consider returning the barrier wall at the Gokona pit, as the four deaths by drowning at that pit reported on by MiningWatch occurred in 2016 and 2017 after a barrier wall was removed.⁶

Ongoing concerns about access to equitable remedy

In our letter of August 27, 2017, we further express concern that the family of the man shot to death by mine security on August 4, 2017, will not have equitable access to remedy through the mine’s current grievance process.⁷ We have publicly detailed, and provided you, specific concerns and practical suggestions regarding serious flaws in the implementation of the existing mechanism based on findings from our field assessments over the past four years, including concerns regarding accessibility, transparency, independence, legitimacy, equitable remedy, and the requirement that victims sign legal waivers in return for remedy.⁸ We will not detail these concerns again here. We also have been very clear, as you recognize in your letter, that we will not provide confidential consulting services to the company. Rather, we have strongly advised that Acacia/Barrick initiate a transparent, public consultation process involving in particular the victims and community members themselves, as well as independent international human rights experts. MiningWatch has repeatedly informed you that we would consider participation in such a process.

It does not appear that you are heeding our advice regarding an open and transparent review process for the grievance mechanism as you state that you are currently engaged in “expert consultations” on the mechanism, which are not transparent (when did they start? who is involved?) and the documents on your web site, as of the date of this letter, remain the ones we have critiqued in the past.⁹

⁴ James Munson. September 30, 2017. Bringing Justice Home; NGOs and Miners Still at Odds. *iPolitics*. <http://ipolitics.ca/2017/09/30/bringing-justice-home-ngos-and-miners-still-at-odds/>

⁵ See: *Anger Boils Over at North Mara Mine – Barrick/Acacia Leave Human Rights Abuses Unaddressed. Field Assessment Brief*. Catherine Coumans. July 2017. P. 6.

⁶ *Idem*.

⁷ Note that we do not, as your letter of 21 September 2017 wrongly states, make any representations about a perspective on the mine’s grievance mechanism by the family of the killed man. We explicitly express our own concerns in this regard: “For these reasons, MiningWatch does not believe the family of the man killed on August 4, 2017 has access to an equitable, transparent and rights compatible grievance mechanism” [underline in original]. MiningWatch Canada. August 27, 2017. Letter to Kelvin Dushnisky, President, Barrick Gold Corp. and Brad Gordon, Chief Executive Officer, Acacia Mining plc. <https://miningwatch.ca/sites/default/files/lettertokelvindushniskyandbradgordon2017-08-27.pdf>

⁸ See for example: *In Need of Repair: Acacia Mining’s Grievance Mechanism at North Mara Gold Mine, Tanzania*. May 2016. MiningWatch Canada and RAID UK. https://miningwatch.ca/sites/default/files/memorandum_to_acacia_revised.pdf; *Letter from MiningWatch and RAID to Acacia*. December 23, 2016 and *Response from Acacia*. January 17, 2017

⁹ “Acacia Grievance Mechanism” and “Acacia Community Grievance Management and Resolution Procedure.” <http://www.acaciaminging.com/sustainability/our-material-areas/community-relations/grievance-mechanism.aspx>

You mention MiningWatch's efforts to obtain judicial remedy for victims we have interviewed over several years of field assessments at the mine, as though this effort in some way diminishes MiningWatch's credibility in engaging you on the mine's non-judicial grievance mechanism. The UN Guiding Principles on business and human rights are clear that victims should have access to both effective judicial remedy and equitable non-judicial remedy. We intend to continue to work on both fronts in regard to access to remedy on behalf of victims of human rights abuses related to the mine in North Mara.

Finally, as you say that new procedural documents, which are not public and have not yet gone through the current non-transparent consultation process, are already being used to address current grievances, our concerns remain regarding the non-judicial process to which the family of the man killed by mine security on August 4 may be subject.

A recent visit to the mine and the mine's management by a delegation, including retired Canadian Supreme Court Justice Ian Binnie, provides a clear indication that MiningWatch is not alone in expressing concern about the equitability of the mine's grievance mechanism. Justice Binnie is reported to have said that:

At the very least, the victims deserve better compensation.(...) The North Mara mine, which is owned by a subsidiary of Toronto-based Barrick Gold Corp., has a flawed dispute resolution mechanism (...) It's like a mini-litigation setting, where complainants are forced to gather evidence and documents — a task that often exceeds their financial abilities. (...) 'Corporations have a broader responsibility to the community they're working in and they should travel the extra mile to attempt to make the people that are being affected whole, and not to be the losers'¹⁰

We have been clear that corporations that have caused or contributed to harm should not require legal waivers of victims in return for remedy provided through a company-led non-judicial project-level grievance mechanism. This is particularly the case when, as you indicate, the grievance mechanism itself is under review and it does not meet basic standards of transparency.

We look forward to your reply.

Sincerely,



Catherine Coumans

Electronic copy provided:

John Thornton, Executive Chairman of the Board
Peter Sinclair, Chief Sustainability Officer
Peter Geleta, Acacia, Head of People
Suzanne Spears, Volterra Fietta
Others (this letter should be considered a public document)

¹⁰ James Munson. September 30, 2017. Bringing Justice Home; NGOs and Miners Still at Odds. *iPolitics*. <http://ipolitics.ca/2017/09/30/bringing-justice-home-ngos-and-miners-still-at-odds/>