

The following summary captures the key points and recommendations of the CMCA Working Group meeting held June 19-22, 2006 in Tabubil.

This document is intended for those individuals who attended the meeting and may lack the necessary context for those who were not in attendance. The following is not a comprehensive summary of the presentations, but rather a guide to the goals, objectives, and key discussion areas talked about at the meeting. Working Group members are encouraged to share this document and its content with those who are interested in an effort to feed additional perspectives into the Working Group proceedings.

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**Working Group for CMCA Review 2006
Second Meeting, June 19-22, 2006
Tabubil, Papua New Guinea**

Meeting Notes

The Working Group Requests for Attendance at the next meeting:

- Representative from the Department of Provincial Affairs
- Minister of Mines
- Director of PNG SDP
- Administrator of the Fly River Provincial Government
- Representatives from INMET
- Minister of Environment

Environmental effects and mitigation

The group discussed presentations by OTML staff on the following environmental issues:

Sedimentation

- It isn't possible to remove all of the sediment in the rivers by dredging or otherwise.
- The sands (tailings) at Bige are currently not stable and pose a future risk through sedimentation and Acid Rock Drainage.

- OTML does not believe that flooding and erosion in the South Fly is caused by sedimentation from the mine.
 - o OTML does recognize South Fly river communities as impacted communities and recognizes them as CMCA regions
- The South Fly river communities believe greater study is needed on the causes and possible future of sedimentation effects.

Water Quality and Contamination

- A key concern for the communities is whether the fish are contaminated and the water is contaminated.
 - o OTML believes that there is not currently evidence of bioaccumulation of contaminants in fish, though there is impact (decrease) in fish populations.
 - o OTML stated their tests show that the water quality of the South FLY is of drinking water quality, though that standard does not indicate free of contaminants.
- Effects of Acid Rock Drainage includes stress on vertebrates and decline in fish populations.
- Communities are concerned about copper ships washing their storage tanks off and flushing them into the river. Keith Faulkner does not believe this is a current practice of the ships.

Acid Rock Drainage: Sulphur/Iron Pyrite Extraction

- As the mine continues deeper in to the ore body, there will be a greater volume of acid rock drainage producing minerals in the mine tailings.
- OTML believes that if nothing is done to avoid and mitigate this trend that impacts from Acid Rock Drainage will be too great, and the mine should no longer operate.

OTML Plans for Environmental Mitigation

- Invest \$450 million (US) in pyrite/sulphur extraction equipment including a pipeline to Bige
- Spend \$15-20 million (US) for ongoing pyrite/sulphur extraction annually
- Add limestone as a buffer to tailings at mine as it enters the Ok Mani and in the sands at Bige
- Continue dredging downstream from Bige
- Develop a safe method for storage of sands at Bige.
 - o There are currently two technologies: capping the sands with clay or flooding the sands and constructing a dam. Both will require regular and long term maintenance and monitoring

Selection of Independent Scientist: Dr. Alan Tingay

- A committee was developed to find and review candidates for independent scientist. The committee included:
 - o Alex Maun
 - o Kenny Maba

- Stephen Wembut
- Matilda Koma
- Tim Offor
- Interviews of all candidates were conducted by the Keystone Center and results reported to the subcommittee.
- The Committee selected Dr. Alan Tingay of Perth Australia, a decision which was then ratified by the whole Working Group.
- During the meeting, a scope of work for Dr. Tingay was developed by the group. Dr. Tingay's scope of work for this project can be viewed at www.wanbelistap.com

Development Priorities for the Regions

- Education is the key to any long term development goals.
- Basic health care
- Dedicated funds for Women and Youth specific projects
- Relocation of South Fly communities threatened by flooding and erosion
- Transportation Infrastructure: roads, bridges, jetties, docks, dinghies, etc.
- Communication Infrastructure: telephones, radios
- Food Security
- Sustainable industries that can bring income to the region

Western Province Communities should be able to access some portion of the following resources:

- 10% Dividends from OTML to the Western Province Government
- Current Projects Fund from PNG SDP.
- 2.5% of the National Government budget goes to the Western Province Government
- Tax Credit Scheme Funds
- ↔ All agreed that this is not clear to the communities how to access and utilize these resources

Environmental Monitoring

- The topic of environmental Monitoring post-mine closure was again a topic of importance at this meeting.
- The CMCA delegates all requested more monitoring, especially on human health and environmental threats to human health
- It was clear to all that environmental monitoring post mine closure was the responsibility of the National Government, though they currently are not performing this task

OTML's offer to the CMCA regions

Keith Faulkner began by explaining OTML's goals:

- OTML acknowledges the significant and long lasting environmental and social impacts the mine has caused
- OTML will work with communities to include SDP and the National Government in any agreement, but can only negotiate for OTML
- OTML is interested in stable, constructive, transparent agreements and relationships

OTML's offer consists of:

- 2.5% of Mine Dividends annually. This amount will vary year to year based on commodity prices.
- There is a guarantee of at least 50% increase over current payments to CMCA's. This is offered as a safeguard or a baseline in case commodity prices drop significantly.
- Therefore, if 2.5% of dividends is greater than a 50% increase to current payments, the CMCA's will receive 2.5% percent of dividends. If 2.5% of dividends is less than a 50% increase to current payments, the CMCA's will receive a 50% increase to current payments.
- \$450 million (US) capital investment and \$15-20 million (US) annually on environmental mitigation

OTML also offers the transition of Ok Tedi Development Foundation as a tool for the CMCA's

- OTDF is currently responsible for the delivery of Projects and compensation through the CMCA's
- OTDF can hold CMCA funds Tax Free
- OTML can work with the communities to hand of management and governance off OTDF to be a body that works independently for the CMCA regions if it is so desired.
- OTDF can be renamed.

Questions about the OTML Offer:

- Where did the 2.5% figure come from?
- Would the dividends from the 2.5% dividends be tax free?
 - o Depending on where these funds are housed, yes they can be tax free. For example, the trusts can hold these funds tax free.
- Can the currency of the new agreement be drafted using US Dollars?
 - o OTML said this is possible.
- How will the 2.5% of dividends be shared/split among the CMCA regions?

Reponses to OTML's Offer

- The CMCA regions decided to neither accept nor reject OTML's offer
- Before any decision is made by the CMCA's, they would like to speak to other stakeholders such as the National Government, PNG SDP, Fly River Provincial Government and INMET to see what they can add to the offer.
- It would be helpful for the offer to be described in terms of kina for the communities

- This offer is seen as a “settlement” with the communities, rather than “compensation” The difference between the two is that “compensation” reflects adequate payment in exchange for a taking or wrongdoing. A “settlement” indicates an offer that does not offset the damages, but offers something.

Specific Needs for Women and Youth

Representatives of Women and Youth put forward initial ideas for specific needs and considerations to be included in an agreement:

- Women and Youth Feel the waste and are the most victimized by environmental impacts;
- Women and children’s issues are cross cutting and most times are neglected because planners and negotiator think that theyse issues are well accommodated under health and educational programs and projects;
- Women and children also represent two thirds of the provincial population;
- Generally, the level of women’s education and their exposure limits their equal participation in decision making and planning and implementation of projects and programs. This lack of participation should not be sued as excuse to ignore their needs

Therefore, it is recommended that:

- A Trust Fund specifically for projects for Women and Youth should be established
- A specific percentages be allocated from:
 - o The CMCA review package,
 - o A percentage from the 10% that the national government hold in trust and
 - o A percentage from the PNG-SDPL be also allocated for women and children’s projects and programs in the province
- The funds will be used on Projects and Programs identified by women
- Priority goes to the women and children from the impacted regions
- The funds can be invested to generate interest when/if not utilized until such time the funds can be used
- That Ok Tedi Mining Limited identifies the agency to monitor and manage the trust fund

Outstanding Questions about the CMCA Review

- Is it possible to change/what would it take to change specific clauses and elements of the 8th and 9th supplemental agreements?
- Will the CMCA Review result in a 10th supplemental agreement?
- What decisions about mine ownership and equity can be made within the CMCA review, and which require changes in national law or new agreements with BHP?

PNG SDP described their role and objectives for the Western Province

- SDP is established and governed by strict and and difficult to change rules and mandates. This was done so intentionally, in order to protect against corruption or mismanagement of funds

- 2/3 of SDP funds are invested in a long term fund, to be spend over 40 years, once the mine is closed. When these funds are available, 2/3 of the long term funds will be focused on the Western Province.
- 1/3 of SDP funds are available in the Current Fund. The Current Fund is further divided so that 2/3 is available for current projects throughout PNG, 1/3 is available for current funds in the Western Province.
- CMCA regions and trusts can partner with SDP on projects by co-investing and managing projects together
- CMCA's can have representation on program decisions.
- In order to change ownership and equity in SDP, such as a transfer of the 52% ownership, a new deal would have to be struck with BHP and the government, which would then have to be passed as an amendment to the 9th supplemental agreement as an act of Parliament.

Discussion with NGO Working Group members

A small subgroup including the NGO members of the Working Group discussed how NGOs can be most effective in CMCA Working Group through post mine closure:

- Develop and distribute information about how communities can access different government and other funds and resources
- Serve as monitors/watchdogs for environmental monitoring, accountability in finance and money management, health studies and information, inclusion of Women and Youth interests in fund expenditure, etc.
- Use media and other methods to broadcast information about decisions, conditions, monitoring, etc.
- Ask hard questions of Government Officials and private companies
- Continue to work on capacity building through job and life skills training