

The following summary captures the key points and recommendations of the CMCA Working Group meeting held April 18–22, 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.

For any comments or questions please contact The Keystone Center

While in PNG: 548-3090 (Tabubil)

In the United States:

Peter Adler, President: (970)-513-5841, padler@keystone.org

Janesse Brewer, Sr. Associate: (970)-513-5847, jbrewer@keystone.org

Caelan Mcgee, Associate: (970)- 468-8863, cmcgee@keystone.org

**Working Group for CMCA Review 2006
First Meeting, April 18–22, 2006
Tabubil, Papua New Guinea**

Meeting Notes

Agreements in principle are highlighted in **bold and underlined**.

Meeting Goal

- Set the stage for the Working Group and get organized.

Meeting Objectives

- Review, modify, and ratify the Working Group's Terms of Reference
- Identify information and expertise needed for future meetings
- Develop an initial set of principles for compensation and benefits (first pass)
- Develop communication activities to take place between meetings 1 and 2

Key Presentations and Documents Discussed at the Working Group Meeting

- Working Group Meeting 1 Agenda
- Working Group Meeting 1 List of Attendants
- Working Group Terms of Reference—DRAFT as of March 18, 2006
- Key Themes from Working Group Meeting 1
- Presentation: CMCA Review Introduction
- Presentation: Interest-Based Negotiation
- Presentation: Ok Tedi Mining Limited (OTML) Business Structure

- Presentation: OTML Technical Overview
- Presentation: OTML Current and Future Environmental Impacts
- Presentation: Village and Regional Meeting Summary
- Presentation: Western Province Development Plan 2010

Summary Notes from Working Group Meeting 1

About the Working Group Process

- Delegates represented the 9 regions, Fly River Provincial Government, Department of Mines, Non-Governmental Organizations (NGOs), and the Papua New Guinea Sustainable Development Program (PNG SDP) Company.
- It will take a year to reach agreement on compensation and benefits.
- The Working Group has the most power if they can hold hands and build strong agreement.
- For the Working Group to build agreement there will need to be give and take. Villages will get some of the things they want, but won't get everything they want.
- **The door is open for villages, individuals, and lawsuit supporters within the CMCA region to join the CMCA's. Leaders should reach out to those who have not yet joined.**
- There will be some independent technical and legal advice.

Comments Common to Village, Regional, and Working Group Meetings

- Desire for long-term projects and investments that will serve CMCA communities beyond the operation of the mine.
- Compensation and benefits should increase.
- Project implementation and support must improve. OTML, government, and communities must work together in partnership for successful projects.
- Revenue and job-generating projects are a priority.
- Needs common to all communities: health care, education, and skills training.
- The key to a successful CMCA review is the leaders working to involve the village views and opinions.
- Concerns voiced that there has been a decline in basic services (health care, education) in the Western Province in the last 25 years, despite the revenue from OTML

Environmental information was presented to the Working Group. Some key points are:

Please see attached presentation: Current and Future Environmental Impacts

- There are big impacts to the Ok Tedi and Fly Rivers from sedimentation including flooding and dieback. Dredging is helpful to decrease some of these effects.
- Deeper in the mine pit the material has more sulfur which can cause Acid Rock Drainage (ARD). OTML may be able to find a solution to ARD. If they don't, there may be more environmental damage, or the mine may close earlier.
- Fish catches are decreasing in the Middle Fly; some types of fish are gone.
- **The group decided that independent review and advice on environmental information would be beneficial.**

- A subgroup was formed to help set the criteria and oversee the selection of independent technical experts.

Delegates raised the hard questions about:

- Money from the mine is split among government, PNG SDP, and the CMCA regions. Where does the money go?
- If there is so much money, why has the quality of life and number of services decreased in the Western Province in the last 25 years?
- We know the mine causes environmental impacts, but what are the true health risks?
- People want more say about which projects are chosen and how they are implemented.
- **Request for further discussion: How can communities be partners with PNG SDP, Fly River Provincial Government, and OTML and help choose and implement projects?**

Working Group Terms of Reference

- The Terms of Reference acts as a constitution for the Working Group, setting the scope and describing how the Working Group will deliberate and make decisions.
- The Working Group reviewed and modified the Terms of Reference throughout the meeting. The document is still in draft form.
- The Working Group will seek ratification of the Terms of Reference in Working Group meeting 2.

Comments Regarding Previous CMCA Decisions and Process

- Previous decisions and negotiations around CMCA were not transparent.
- Villages and representatives did not have adequate information about environmental impacts or the nature of CMCA agreements before they signed.
- Some are very concerned about whether certain clauses of the 8th and 9th supplemental agreements limit constitutional rights.
- There was no common formula for deciding on benefits or compensation. Each region negotiated separately. Each negotiation resulted in different agreements.

Goals for the 2006 CMCA Review

- A thorough, transparent process, where the nature of all agreements around compensation and benefits is clear to all parties.
- OTML wants to shape agreements that maximize benefits to CMCA regions. Part of maximizing value is shaping agreements that allow the mine to continue to operate as a successful business.

Regarding the 10% “Goodwill Payment” in 2006

- OTML acknowledged mistakes in published figures about vegetation dieback.
- As a statement of goodwill, and an attempt to show that OTML strives to be transparent and forthcoming with their environmental information, OTML paid a one-time payment to the CMCA regions.
- The one-time payment was calculated as 1/10 of the total money paid to each of the CMCA regions so far over the last five years (since CMCA payments began).

- This payment was not taken from funds allocated to CMCA agreements; this money came from revenues outside of the CMCA agreements.
- Information about this payment was distributed through trustees, but in many cases this information was not widely distributed.
- Trustees agreed to this payment, but also insisted that future dieback be compensated for.
- Mine villages were not included in 10% goodwill payment because they do not see any vegetation dieback impacts.

About the Scope of the 2006 CMCA Review

- There were many questions asked about whether or how the CMCA review will:
 - Operate under the framework of the 9th supplementary agreement, or is a renegotiation of the 9th supplemental agreement.
 - Review, edit, or suggest changes to the Restated Eighth Supplemental Agreement (RESA), especially certain clauses.
 - Influence the decisions of PNG SDP and/or the Fly River Provincial Government regarding development projects in the Western Province and CMCA regions.
- The scope of the review and the range of issues discussed are in part determined by the Working Group itself. However, thus far it is clear that:
 - Provisions for this CMCA review are included under the 9th supplemental agreement. This framework allows for flexibility and responsiveness.
 - Any changes to the RESA and 9th supplemental agreement can only come through an act of Parliament.
 - The Working Group may decide to offer recommendations or guidance regarding other decision-making bodies such as Parliament, PNG SDP, or the Fly River Provincial Government.
 - The more the Working Group can reach consensus agreements, the greater influence the agreements will have.

Key Points from Interest-Based Problem Solving Workshop

- Interests vs. Positions
 - A “position” is someone’s first idea about how to get their needs met. For example, “My neighbor needs to get rid of his barking dog” and “I’m not getting rid of my dog”.
 - An “interest” is a statement about what someone’s needs and wants truly are. For example, “I want peace and quiet around my home” and “I need my dog to protect my house”.
 - Focusing on positions often means one person’s benefits trade off versus another’s. For example, either the dog goes or the dog stays. Only one person wins.
 - Focusing on interests can lead to more options that meet a greater range of needs. For example, the dog stays, but the neighbor must bring the dog inside when it barks.
- In order for the Working Group to successfully use interest-based problem solving, *all* participants should:
 - Work to be very clear on their interests—what is most important to them. Ask for what you need.

- Listen to the interests of others.
- Present solutions that meet your own needs, and meet the needs of other participants.

Preliminary Ideas for Principles to Guide Compensation and Benefits Decisions

It is noteworthy that some of the preliminary ideas for principles to guide compensation are not compatible or are in conflict. This reflects the complex nature of the problem and the many and varied needs of the people living in the CMCA regions. In order for the Working Group to agree on a final set of principles, there will need to be give and take. Delegates will need to give up some things in order to get other things that are important to them and their people.

Compensation (Cash and Benefits):

- Compensation in the form of cash payments and benefits (projects and services) should increase.
- Compensation should be distributed equally, based on population.
- Compensation should be based on environmental impact.
- Compensation should be based on birth right.
- There should be consideration of those who have left the region or migrated due to environmental impacts.
- It is important to find compensation and benefits which extend beyond the life of the mine.
- CMCA regions should be shareholders of the mine.

Cash Payments:

- Cash payments should be made quarterly.
- The census needs to be updated, maintained, and accounted for along with cash payments.
- Cash payments need greater accountability and management.
- Landowners should receive more payment than land users.

Projects and Services:

- Projects are more important and lasting than cash payments.
- Cash payments are more important than projects.
- Projects that generate more income over the long term should be favored.
- Projects need adequate support, training, and follow-up in order to be successful.
- Food, health care, and education projects are a priority in all CMCA regions.

Decision-Making, Leadership, and Administration of Monies:

- Decisions about which projects are selected should be made at least partly at the local level, such as through Village Planning Committees (VPCs).
- Delegates and leaders need support to talk with those they represent about Working Group proceedings.
- Women are mostly left out of decision-making, but are good money managers and face unique burdens and challenges. The interests of women and youth should be included and considered specifically in compensation and benefits.

Information about OTML Business Model, Structure, and Ownership

Please see attached presentation: OTML Business Structure

- The group discussed the different stakeholders and beneficiaries of the mine, including PNG government (30%), PNG SDP (52%), and Inmet (18%).
- The group reviewed how profits were distributed in 2005.
- Request for information: There were requests by some participants to see how much money has been spent on different projects in the Western Province and all over PNG by OTML, Fly River Provincial Government, and PNG SDP.

PNG SDP's Mission and Division of Funds

- Representatives from PNG SDP, including Board Chairman Dr. Ross Garnaut, explained the mission of PNG SDP: to implement long-term development projects in Western Province and all of PNG, and expressed his support for the Working Group process.
- Two-thirds of PNG SDP resources are to be saved for use after the mine has closed. These funds have a priority focus on the Western Province
- One-third of PNG SDP resources are current project funds. Two-thirds of the current funds are to be used PNG-wide. One-third of current project funds are for the Western Province.

OTML Board Support for the Project

- General Manager Keith Faulkner provided comments and a letter of support from the OTML Board that stated the following:

“The Board of Directors of Ok Tedi Mining Limited endorses the CMCA review process and commends the Working Group in its efforts to work through the issues relating to the appropriate balance between Ok Tedi mine’s social and economic benefits, and its environmental and social impacts.

The issues are complex and difficult, and your consensus advice as a Working Group will help guide the Board in our deliberations when we make decisions about the future of the mine’s operations.”

Regarding Census and Migration

- A clear message from the group is that population census upon which cash compensation is based is out-of-date.
- OTML is planning to conduct a new census this summer and fall (2006).
- Many are concerned about those that have migrated, perhaps due to environmental impacts. Many South Fly villagers have moved to Daru. Many suggested that meetings should be held in Daru to discuss the CMCA review.

Logistics, Fees and Housekeeping

Sitting Fees:

- OTML is paying delegates for your time, not for agreement.
- OTML has never supported leader’s fees.

- Delegates will be paid 300 kina for three days of meetings and 45 kina per day for each additional day.
- Regional and village meetings in the service of CMCA review work will also get sitting fees; this will be supported as long as you are bringing good information back to the villages.
- NGOs and churches: need to have a similar discussion for payment of work in support of the CMCAs.
- PNG SDP and government representatives will not receive sitting fees.
- Village leaders that come to formal regional meetings (includes facilitation) will receive the same 300k/day for first three days + 45k/day for each additional day.

Logistic Support:

- OTML will work to support most travel logistics for leaders, including accommodation and food when at Working Group meetings.
- If there are communications to bring to the communities, OTML will generally support the logistics.
 - Radios in villages, requests like this, should be talked about within CMCA discussions.

Insurance:

- If you are working on CMCA review, and there is an accident. That will be covered. Working to discover what the limits are.

First Aid:

- If you need medical assistance, the hospital is in Tabubil. If you are injured on the road in CMCA review service, will help get you to the hospital.

Loss of Income/Hardship Allowance/Patrol Allowance:

- These should all be considered as one payment, the sitting fee. No additional fees for this.

Remuneration for Time Negotiating:

- No payment for this.

Information Materials:

- Clarification: this is a part of the communication plan.
- Stationery: will give you some stationery for your work giving information to communities.

Termination Payments:

- No termination payments.