

VIA EMAIL

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November 13, 2017

United Nations
Office of the High Commissioner for Human Rights
Palais des Nations,
1211 Geneva 10
Switzerland

Attn: Surya Deva, Chair-Rapporteur of the Working Group on the issue of human rights and transnational corporations and other business enterprises

David Kaye, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

We received your letter of September 19, 2017 raising allegations of arbitrary detentions and misuse of criminal process against Ms. Jennifer Moore and Mr. John Dougherty while in Peru in April 2017.

In your letter you ask for our observations on four matters:

1. Any additional information or observations that we may have in relation to the above-mentioned allegations and concerns.
2. Information about the measures that Hudbay Minerals has taken, or is considering to take, to ensure that its human rights policies (including the Code of Conduct), processes and practices are in line with the UN Guiding Principles on Business and Human Rights.
3. Information as to what human rights due diligence has been undertaken by Hudbay Minerals and its subsidiaries operating in Peru to identify, prevent, mitigate and address adverse human rights impacts related to this case.
4. Information about the implementation of the Community Response Mechanism at the local level and whether this mechanism satisfies the effectiveness criteria of Principle 31 of the Guiding Principles, to redress adverse human rights impacts.

The attached note presents our responses to these questions.

We have tried to balance completeness with conciseness – if you would like any further information or to discuss any aspect of our response please contact me or David Clarry, Hudbay's Vice President, Corporate Social Responsibility (David.Clarry@HudbayMinerals.com).

Yours Truly



Alan Hair
President and Chief Executive Officer

cc *Beatriz Balbin, Chief, Special Procedures Branch, OHCHR*
David Clarry, Vice President, Corporate Social Responsibility, Hudbay

Attachment: Responses to September 19 Joint Communication from Special Procedures

1. Additional observations in relation to the allegations and concerns

It is our understanding that in April 2017, Ms. Moore and Mr. Dougherty were in Peru to participate in the screening of Mr. Dougherty's video "Flin Flon Flim Flam". The video was paid for by a company opposed to Hudbay's proposed Rosemont mine in Arizona, which believes the construction of the mine will affect the water supply to its pecan agribusiness, which has been proposed for redevelopment into a master-planned community. These same interests previously funded a similar video targeting the prior owners of the project in a similar presentation style.

With respect, we reject in the strongest possible terms any insinuation that Hudbay was involved in the decision by the Peruvian immigration authorities to detain or charge Ms. Moore and Mr. Dougherty. We are unaware of any participation or involvement by Hudbay personnel in the events giving rise to this decision. Further, by the time Ms. Moore and Mr. Dougherty were questioned by police in Cusco the video had been shown in the communities nearest Hudbay's Constancia mine - Cusco is over five hours by road from the Constancia mine. We invite you to consider that if Hudbay actually had the inclination and capacity to interfere in this situation as alleged, why then would the video have already been shown in the communities nearest the mine?

Before traveling to Peru, Mr. Dougherty had shown his video across Canada and in the other local communities in which Hudbay operates (including, Toronto, Winnipeg and Flin Flon in Canada and Tucson in the United States). Hudbay never sought to interfere with any screenings of, or discussions about, the video. Indeed, while he was in Toronto promoting a screening of his video in May 2016, Mr. Dougherty attended and asked questions at Hudbay's annual general meeting of shareholders. During his remarks he also promoted the Toronto showing of his video. We are also aware that the video had been available on YouTube in English, Spanish and Peruvian Quechua since before their visit to Peru

For a sense of the tone and perspective of this film we invite you to read and consider the accompanying article "[Local Angle: Anti-Hudbay film lacks consistent skepticism](http://www.thereReminder.ca/opinion/local-angle/local-angle-anti-hudbay-film-lacks-consistent-skepticism-1.2105276)", written by a Flin Flon journalist familiar with the video when it was released in November 2015. Among his observations, the writer notes: "In an interview about the film, I asked him (John Dougherty) if he attempted to talk to anyone with a positive take on Hudbay or its projects. Given that thousands of people have worked for the company, often for decades, surely he could have found someone? Dougherty's agenda is clearest when he examines Hudbay's proposed Rosemont Mine. Incredibly, in the entire state of Arizona (pop. 6.73 million), he could not find a single person in favour of the mine." <http://www.thereReminder.ca/opinion/local-angle/local-angle-anti-hudbay-film-lacks-consistent-skepticism-1.2105276>

Based on the source of funding and the obvious lack of objectivity in the video, it has never been a concern to Hudbay if or where the video is shown. Further, we understand its previous showings had attracted very limited attention.

In Peru, our community relations team is in regular contact with communities at all levels. If the video prompted any questions or concern in the local communities, Hudbay believes these could be easily addressed through engagement, particularly in Peru where Hudbay has a strong track record of environmental responsibility and community engagement. However, we did not receive any questions or concerns from local community members regarding the film.

We believe our positive relationship with local communities has been supported through a number of measures to increase the presence of national and regional government programs in the areas of our mines and support the capacity of local communities to govern their affairs and pursue their development ambitions. These have included:

- Funding a multi-year program with the Canadian organization Global Indigenous Development Trust (GIDT) harnessing Canadian mining investments and community governance best-practices to advance large-scale, locally driven economic empowerment in Peru. This program has included several trips that bring people from communities near Constancia to Canadian towns, particularly mining communities, to hear directly from Canadian community, municipal and business leaders about their experiences. Further information on this program is available on the GIDT website at the link below

<http://globalindigenoustrust.org/current-projects/>

- With the two communities adjacent to our Constancia mine we have established Multi-sectoral committees for development (CMDs), comprising Hudbay and community representatives. These joint committees approve and oversee the projects being carried out using the proceeds of the life of mine land use agreements signed with each community for use of community land by our mine.
- We've signed co-operation agreements with nine communities and districts in our indirect area of influence, committing to work together on social development projects within a specified budget provided by Hudbay. In fulfilling these agreements, we also engage with various levels of government and implement some projects as public-private partnerships. We've completed four projects under the Peruvian Works for Taxes program, which allows a company to pay up to half of its income tax through contributions to public infrastructure projects.
- We have established a Technical Assistance Office to act as an advocate for the communities to facilitate local governments' access to private and Peruvian National Government funds. This office acts as a lobby group for local municipalities, helping them to complete legal and technical requirements to qualify for public and/or private funding of public investment projects.

Our work with local communities in Peru has been recognized through 3rd party awards, including:

- A Sustainable Development Award from the Peruvian Mining Society in 2013 for Hudbay's approach to sustainable development and the progress made through CMDs (described above).
- A Business Creativity Award granted by the Peruvian University of Applied Sciences (UPC) in 2014 for Hudbay's work creating the Technical Assistance Office (described above).
- A Community Relations Award at the third annual Community Relations International Conference in Peru in 2016 for Hudbay's work in the construction and management of the Cullahuata dairy plant serving communities in the region of our Constancia mine.

Our general approach to working with local communities and stakeholders is summarized in our 2016 Annual and CSR Report at the link below

<http://s1.q4cdn.com/305438552/files/2016/en/social-our-approach.html>

As a final observation regarding the allegations, we note that your letter states that Ms. Moore and Mr. Dougherty had come to Peru to "raise awareness about [the] human rights impacts of Hudbay Minerals' operations in Peru". With respect, we do not believe that Mr. Dougherty's video presents any new information. The topics and events related to Hudbay's operations in Peru that are raised in Mr. Dougherty's video are already well established in the public domain and are disclosed in our annual CSR reports. We believe we have an established and ever improving track record of addressing concerns and tangibly improving the lives of local stakeholders in Peru. While we question for what purpose Ms. Moore and Mr. Dougherty were

revisiting issues that have been previously disclosed and addressed with communities, we did not have particular concerns with them doing this.

2. Information about the measures that Hudbay Minerals has taken, or is considering to take, to ensure that its human rights policies, processes and practices are in line with the UN Guiding Principles on Business and Human Rights.

- i. Our human rights policy is available on our website ([HudbayMinerals.com/Responsibility/Ethics and Human Rights](http://HudbayMinerals.com/Responsibility/Ethics%20and%20Human%20Rights)). In line with the UN Guiding Principles, our policy states:

While the issue of human rights is most often dealt with by, and is primarily the responsibility of, the nations of the world, Hudbay understands that the issue of human rights can also be impacted by the way businesses conduct themselves. Hudbay supports the principles of, and will promote respect for, the Universal Declaration of Human Rights and we affirm our commitment to respecting human rights

The five components of the policy are commitments to:

- Ethical Business Practices – including prohibitions on conflict of interest and bribery and corruption
 - Fair Labour Practices and Relations – including commitments to fair labour practices at our workplaces and respectful and transparent labour relations
 - Community Participation – including respect for the culture, customs and history of communities in the regions of our activities
 - Security Measures that respect Human Rights – including a commitment to adhere to the Voluntary Principles on Security and Human Rights
 - Provision of Community Response Mechanisms – including a commitment to maintaining site level mechanisms to provide recourse to individuals impacted by non-compliance with our policies and standards (as described below)
- ii. Our Human Rights Policy commitments are underpinned by several subsidiary documents and processes, including:
- a) Our Code of Business Conduct and Ethics and Supplier Code of Conduct and Ethics, copies of which are available on our website. These documents include more detailed expectations of management, employees and suppliers in areas including:
- Ethical business conduct
 - Anti-corruption and anti-bribery
 - Compliance with laws
 - Conflicts of Interest
 - Reporting illegal and unethical behaviour

The processes supporting implementation and adherence to our codes of conduct (including associated compliance training programs) are described in our 2016 Annual and CSR Report at the link below

<http://s1.g4cdn.com/305438552/files/2016/en/business.html>.

- b) Corporate standards defining more detailed expectations regarding
- Stakeholder and community engagement, including evaluating the situation of vulnerable groups and special rights holders

- Community giving and investment, including considerations of the social and economic context of local communities and ensuring we are making a positive contribution to their well being
 - Community response mechanisms (grievance mechanisms), including the requirement that all operating locations have in place mechanisms that are available and publicized to the public to allow concerns and claims to be raised and a process for resolution
- c) Our Whistle-blower process, that allows allegations of wrong-doing to be anonymously brought directly to the attention of the Audit Committee of our Board of Directors through a third-party service. The contact information for our whistleblower process is provided in the “[Contact Us](#)” section of our website and this information is also explained and contact information provided in our CSR Report each year (both sources are in English and Spanish)

Our overall approach to Human Rights, which does particularly focus on security and human rights, is summarized in our 2016 Annual and CSR Report at the link below <http://s1.g4cdn.com/305438552/files/2016/en/human-rights.html>

3. Measures providing Human Rights Due Diligence

Corporate measures

- i. The Hudbay Corporate office carries out regular audits of the adherence of Hudbay Peru to the Voluntary Principles on Security and Human Rights. These audits are carried out by Hudbay’s Vice President, Corporate Social Responsibility and an outside security consultant experienced in the Voluntary Principles at approximately 4 month time intervals. Since 2016 these audits have been structured around an audit planning checklist developed by a number of companies¹ and guidance developed through the UN Global Compact Canada organization². The results of these audits are reported to the Hudbay CEO, COO, and the Vice President in charge of our Peru business unit.
- ii. We are currently working to better define and provide more guidance on integrating the risk assessments and risk management processes related to human rights, social risk and security risks. We believe this will provide our operations with improved and practical guidance on expectations on human rights risk assessments and how to link human rights risk management to our business success.
- iii. We believe our grievance and whistleblower processes, described further below, form part of our due diligence by providing mechanisms for immediate notification of unacceptable acts by Hudbay personnel or suppliers.

¹ Audit Protocol To Assess Compliance With Key Performance Indicators, June 2013, “developed by a group of Volunteer Member Companies with input from VPs Government and NGO members together with other external experts. The basis for these KPI’s was the Voluntary Principals on Security and Human Rights Initiative reporting criteria” <https://business-humanrights.org/sites/default/files/media/documents/voluntary-principles-audit-protocol-jun-2013.pdf>

² “Auditing Implementation Of Voluntary Principles On Security And Human Rights, A Guidance Document to Assist Companies and their Auditors Assess Implementation of the Voluntary Principles on Security and Human Rights”, Global Compact Canada, Business for Peace, <http://www.globalcompact.ca/auditing-implementation-of-the-voluntary-principles-on-security-and-human-rights/>

- iv. Our internal audit process includes supplier due diligence and testing for corrupt practices, including with respect to relationships with public security.
- v. We make information available on our website and in our CSR reports to encourage people to report concerns through any of
 - Our community response mechanisms
 - Our Whistleblower system
 - The Government of Canada Office of the CSR Counsellor
 - The Government of Canada National Contact Point

Examples of this information in our 2016 Annual and CSR Report and on our website are at the links below

<http://s1.q4cdn.com/305438552/files/2016/en/business.html> ("To Report an Issue")

<http://www.hudbayminerals.com/English/Utilities/Contact-Us/default.aspx>

Peru Business Unit measures

- vi. In 2014 through 2016 Hudbay Peru engaged a local NGO which is involved in the Voluntary Principles Initiative to carry out
 - a gap analysis of our implementation of the Voluntary Principles on Security and Human Rights,
 - a Security and Human Rights risk analysis
 - development of proposed relationship strategies for Hudbay Peru with respect to public and private security to address these gaps and risks
 - present these conclusions as well as additional training in the Voluntary Principles to senior management at Hudbay Peru

These reports were also shared with and reviewed by the Hudbay corporate office and relevant conclusions included in the subsequent corporate audit activities.

- vii. On any occasion that a significant police presence has been necessary at our mine site to maintain peace during social disturbances, we have provided and recorded police participation in training on the Voluntary Principles on Security and Human Rights, and the UN Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.
- viii. We also regularly participate in multi-stakeholder initiatives. For example, in the ongoing Dialogue Roundtables in the area conducted by the Prime Minister's office with participation of the Peruvian Ombudsman, local authorities and local leaders, the role of Hudbay is to facilitate local authorities and community members to get closer to regional and national level authorities, promoting that local concerns and public problems are attended by the Government.

Another example is the document "Toward a Vision for the Peru Mining Sector 2030" elaborated with the contribution of the United Nations Development Programme (UNDP) and the technical assistance of The University of Queensland. This document was a result of a multi-stakeholder initiative as a proposal of a vision for the future of mining in Peru using 2030 as the reference point, to align with the target date that the UN has set for meeting the Sustainable Development Goals (SDGs). Hudbay has been participating in this effort, as well as other mining companies such as Sociedad Minera Cerro Verde, Antamina, MMG, Goldfields - La Cima, and Los Quenuales. Hudbay's support included acting as the spokesperson for the group with the Peruvian government and civil society.

In general, our due diligence approach is through a combination of risk assessment, audit and assurance processes, as well as ensuring multiple pathways for concerns to be raised from within or outside Hudbay. Using a risk lens, our due diligence has been most focused on corruption risks and risks related to local security and Hudbay related police activities. We

have not attempted to extend this process to independent activities of police or other authorities that are not specific to Hudbay incidents and do not involve Hudbay personnel, nor issues in locations (such as Cusco) that are distant from our activities.

4. Information about the implementation of the Community Response Mechanism at the local level

- i. According to the Hudbay Community Response Mechanism (grievance mechanism) standard described above, Hudbay Peru has implemented a community grievance mechanism that accepts and addresses grievances related to company activities, including security practices and actions of contractors. Grievances are accepted through our community relations offices in the adjacent communities of Chilloroya and Uchucarco, or via email or mail.

This mechanism has been used by community members to submit their concerns or complaints since 2012, and so far has been a useful and reliable way to reach a stable level of understanding with the surrounding communities. We report the number and nature of grievances annually in our Annual and CSR Report - in the past 3 years 159 complaints have been addressed through this system, the majority of which have related to local commercial and employment activity. The Manager of Community Relations is responsible for the mechanism and reports to the Hudbay Peru Director of Corporate Affairs and Social Responsibility. The people and families around Constancia are keenly aware of the existence of this mechanism, not only because our offices are located close to them, but also because we regularly report to their community steering committees on the status of grievances submitted, and exchange information on this with them. There is also regular reporting to senior management of the Peru business unit summarizing complaints that have been received and their resolution as part of the quarterly business unit review meetings and to ensure senior management awareness.

The process to review a grievance is designed to be fair, independent and impartial. Complaints are submitted through the community relations group and entered into our incident management system (viewable only by a limited number of employees). Each complaint is then assigned to the relevant department (e.g. procurement for a complaint from a local contractor) for resolution, which resolution is then reviewed by a community relations specialist.

Also, the company has established a process for approving remediation (compensation) in certain circumstances (for example in the case of the resettlement process that was put in practice before starting the construction phase of our mine). In complex situations involving human rights we have drawn on external experts to help verify that we are meeting appropriate standards.

We believe that this overall combination of processes provides a mechanism that meets the effectiveness criteria of Principle 31 of the Guiding Principles.

- ii. Our Whistleblower system provides a backstop to the local grievance mechanism, providing a second line of access to the company if there are instances in which someone does not feel the local mechanism is adequate or does not want to raise their issue locally.



Local Angle: Anti-Hudbay film lacks consistent skepticism

Flin Flon Reminder

November 7, 2015 09:00 PM

He was composed and approachable, his smooth white hair belying his youthful appearance. John Dougherty sat at the restaurant table across from me, eager to pick my brain.

It was August 2014, and I had agreed to provide the American documentary filmmaker with background information that might help him with his upcoming film on Hudbay and its past and proposed projects.

It was an off-the-record meeting, so I won't get into the details of what we discussed over lunch. I will say I did my best to ensure Dougherty understood the full context of the issues he was documenting.

I left the lunch with confidence that Dougherty sought to explore the controversies around Hudbay – fair enough – but did not have an agenda. Then, last week, I viewed an advance copy of the film.

Flin Flon Flim Flam is the name, and based on that title it's what you'd expect. Dougherty casts no discernable suspicion on what his interview subjects tell him, but is quick to use words such as "alleges" and "claims" to describe Hudbay's positions.

He uses over-the-top language. A study found up to 66 per cent of soil samples taken from Flin Flon-Creighton tested high for one or more heavy metals, with the health risk believed to be low. Dougherty's translation: "the community was contaminated."

Dougherty interviews Hudbay opponent after Hudbay opponent. Seemingly his only criteria for screen time is to bear an allegation – proof not always necessary – against the company.

Hudbay refused to be interviewed for the film, citing concerns it was funded by a known opponent of its proposed Rosemont Mine in Arizona. Dougherty, to his credit, used published statements and third-party footage to try to present the company's viewpoints.

But Dougherty hides behind his "they wouldn't talk to me" excuse a little too much. In an interview about the film, I asked him if he attempted to talk to anyone with a positive take on Hudbay or its projects. Given that thousands of people have worked for the company, often for decades, surely he could have found someone?

Dougherty's agenda is clearest when he examines Hudbay's proposed Rosemont Mine. Incredibly, in the entire state of Arizona (pop. 6.73 million), he could not find – or did not try to find, rather – a single person in favour of the mine.

He did find a whole lot of people with environmental fears, which is fair. But just as environmentalists failed to kill Hudbay's Reed Mine near Snow Lake – they simply lacked popular support – I find it hard to believe Arizonians' disdain for Rosemont is absolute.

I asked Dougherty how a film funded by Rosemont opponents has legitimacy. He assured me that no one from that opposing group, Farmers Investment Co. (FICO), shaped or saw the film before its completion.

I believe him. But with FICO being the sole funder listed in his film (other forms of media rarely depend entirely on a single funding source), could he afford to produce something other than a Michael Moore-style project that would placate his financiers?

This isn't about defending Hudbay, but decent journalism. I've heard journalists say, "If you have both sides upset with you, you must be doing something right." Neither FICO nor opponents of Hudbay / Rosemont will be upset with this film.

Where I compliment Dougherty is in his aggressive look at past smelter pollution in Flin Flon. For too long, I believe residents shrugged off heavy metals in our environment with statements like, "I breathed in that air for 60 years and I'm fine."

In reality, injecting heavy metals into a sensitive environment such as the human body can be really bad news. Yes, a peer-reviewed study found the remnants of those metals pose a low to negligible health risk, but kudos to Dougherty for doing what journalists should do: being skeptical and questioning authority.

It's just unfortunate that throughout much of the film, Dougherty seems far more willing to question his target than the people helping him paint the bull's eye.

Flin Flon Flim Flam is due for a web release next month.

Local Angle is published on Fridays.

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