

12 April 2019

Ms Beatriz Balbin  
Chief, Special Procedures Branch  
OHCHR  
Palais Des Nations  
1211 Geneva 10  
Switzerland

*By email and by post*

**Confidential**

Dear Ms Balbin

**OceanaGold Corporation – Response to the Joint Communication from Special Procedures**

- 1 We refer to the Joint Communication dated 13 February 2019 sent by the Working Group and Special Rapporteurs relating to the Didipio mine in Nueva Vizcaya in the Philippines (the **Didipio Mine**) and to our letter of 21 February 2019.
- 2 OceanaGold takes the allegations described in the Joint Communication very seriously. As an organisation, we are committed to being a good corporate citizen. This commitment encompasses our respect for the environment and all internationally recognised human rights, including the rights of indigenous peoples.
- 3 Our expectations of our staff and business partners are set out in our policies and procedures, including in our [Statement of Business Ethics and Code of Conduct](#), [Human Rights Policy](#), and [Environment Policy](#) (available on our website).
- 4 Our Human Rights Policy includes a commitment to conducting our business activities in a manner consistent with the United Nations Declaration of Human Rights, the Voluntary Principles on Security and Human Rights, and the concept of Free, Prior and Informed Consent. We are working to ensure full implementation of all these commitments, including through the UN Guiding Principles on Business and Human Rights (**UNGPs**).
- 5 OceanaGold is a member of the World Gold Council and we are in the process of implementing the World Gold Council Conflict Free Gold Standard at the Didipio Mine.
- 6 We are committed to engagement on an effective and genuine basis with all stakeholders impacted by our operations, including global and local civil society groups.
- 7 These policies and commitments inform our response to the requests for information made.

**RESPONSES TO THE MATTERS RAISED IN THE JOINT COMMUNICATION**

- 8 We respond here to each of the requests for information on page 6 of the Joint Communication.
- 9 As a general observation, we are concerned that many of the allegations contained in the Joint Communication are described in broad and unspecified terms and lack any supporting evidence. We note that we have sought further information from you by letter dated 21 February 2019 but that we

have not received a response. As a result, we have responded in this letter as best as possible based on the information contained in the Joint Communication.

10 We would welcome the opportunity to meet with the Special Procedures to discuss the allegations, and to address any further questions or concerns that they may have.

#### **A. Background to OceanaGold and the Didipio Mine**

11 In relation to page 3 of the Joint Communication, we set out here further background and clarification on OceanaGold and the Didipio Mine.

##### *(a) Location of the Didipio Mine*

12 In addition to the province of Nueva Vizcaya, the Financial or Technical Assistance Agreement (**FTAA**) for the Didipio Mine extends to the Northern Luzon province of Quirino. In our responses below, we make references to the community surrounding the Didipio Mine. The relevant communities for these purposes are the 11 Barangays (including the host Barangay of Didipio) situated across two municipalities in the provinces of Nueva Vizcaya and Quirino.

13 Within these Barangays, there are residents from a range of indigenous groups, including the Bugkalot, Ifugao, Ibaloi and Kankanaey groups.

14 There has been a history of artisanal surface alluvial mining in the Didipio region, and in particular around the Didipio river.

##### *(b) The FTAA and OceanaGold's role*

15 As regards the signing and transfer of the FTAA, we would also note the following:

- (i) The FTAA was signed in 1994 between the Philippine Government and Arimco Mining Corporation. In 1995 Arimco Mining Corporation changed its name to Climax-Arimco Mining Corporation.
- (ii) In 2004, the Philippine Government approved the transfer of the FTAA from Climax-Arimco Mining Corporation to Australasian Philippines Mining, Inc.
- (iii) In 2006, Climax Mining Ltd, the parent entity of Climax-Arimco Mining Corporation and Australasian Philippines Mining, Inc., merged with the Australian-incorporated Oceana Gold Limited (**OGL**).
- (iv) In 2014, following an internal restructuring, OGL transferred its ownership interest in the Didipio Mine to OceanaGold (Singapore) Pte Ltd which is a wholly-owned subsidiary of the Canadian-incorporated OceanaGold Corporation (**OGC**).
- (v) The Didipio Mine has always been operated in the Philippines by OceanaGold (Philippines), Inc. (**OGPI**).

16 Section 3.1 of the FTAA provides that "*The initial term of this Agreement shall be twenty-five (25) Contract Years from the Effective Date renewable for another period of twenty-five (25) years under the same terms and conditions*".

#### **B. Assertion that protests resulted in delay to development and construction of the Didipio Mine**

17 It is correct that, while the FTAA was signed in 1994, commercial production at the Didipio Mine did not commence until 2013. The primary reasons for this delay were not protests of local communities or criticism from civil society organisations, but rather were as follows:

- (i) Following the signing of the FTAA, exploration and other technical studies were carried out over a number of years to further define resources, feasibility, impacts and mine plans.

- (ii) After the enactment of the Philippine Mining Act in 1995 (***Mining Act***) and its implementing rules and regulations, between 1997 and 2006, cases were filed in the Supreme Court of the Philippines challenging (*inter alia*) the constitutionality of the Mining Act and the FTAA's executed by the Philippine Government. These included a 1997 petition against the Philippine Secretary of the Department of Environment and Natural Resources (***DENR***) and a company called Western Mining Corporation Philippines, Inc. in relation to its FTAA, as well as a 2003 petition against the DENR and OGPI in relation to the Didipio FTAA. Whilst these cases were not successful, they caused significant uncertainties with respect to the Philippine mining legal regime during the period 1997 to 2006, which adversely impacted on OGPI's ability to finance the development of the Didipio Mine.
- (iii) It was a condition of the FTAA that an Environmental Compliance Certificate (***ECC***) and approval of the Partial Declaration of Mining Feasibility (***PDMF***) be obtained. While this occurred before OceanaGold was involved, we understand that the process of preparing and submitting the ECC and PDMF applications was a lengthy one. The ECC (as amended) was granted in 1999, and the PDMF was approved in 2005. A number of other permits were also required in order to commence construction and operations.
- (iv) The merger between OGL and Climax Mining Limited in 2006, and the subsequent process of integration of their respective corporate groups, required a significant amount of time and resources over a two year period from 2006-2008.
- (v) In 2008, a group of civil society organisations and individuals filed two new petitions against the DENR and a number of mining companies (including OGPI), once again challenging the constitutionality of the Mining Act. They also sought to cancel the existing FTAA's as well as another type of mining contract called Mineral Production Sharing Agreements (***MPSAs***)<sup>1</sup>. These cases further impeded OGPI's ability to obtain financing for the development of the Didipio Mine in the late 2000's and early 2010's.
- (vi) We have also been involved in a long-running contractual dispute with a Philippine syndicate concerning the minerals ownership rights.
- (vii) The onset of the global financial crisis in 2008, and the consequent lack of access to financial support, then resulted in us putting development of the Didipio Mine on hold until mid-2010.

18 It was a condition of the ECC that the Didipio Mine be endorsed by a majority of the legislative councils of the local government units within the FTAA. Barangay Didipio endorsed the development of the Mine in 2002 and the province of Nueva Vizcaya endorsed the development in 2005. Barangay Dingasan and the Municipality of Cabarroguis, both of the province of Quirino, have also endorsed the Mine.

### **C. June 2008 land access-related allegations**

#### *(a) Alleged evictions of families*

19 We are not aware of any forced evictions of 180 families from their homes in connection with the Didipio Mine in June 2008. This does not accord with our records or understanding of activities at that time at all.

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<sup>1</sup> MPSAs are mining rights granted by the Philippine government to Philippine citizens or to majority owned (at least 60%) Filipino corporations.

- 20 It is correct that a number of landowners and land occupants<sup>2</sup> were asked to relocate in order for the development and construction of the Didipio Mine. For this purpose, OGPI followed the process set out in the FTAA and the Mining Act. Under this process, OGPI has acquired easement and/or surface rights relating to the land.
- 21 OGPI has entered into 609 agreements with landowners and occupants. In 26 cases where the parties did not initially reach an agreement, OGPI referred the matter to the Panel of Arbitrators established under section 77 of the Mining Act.
- 22 7 of the 26 cases were settled with landowners and occupants prior to decisions being issued by the Panel of Arbitrators. In relation to the other 19 cases, bonds posted by OGPI were approved and decisions were issued by the Panel of Arbitrators that OGPI could enter and conduct mining operations on the land.
- 23 Of those 19 decisions, OGPI enforced only 2 (though it did attempt to enforce a third decision, as per paragraphs 33-36 below). These 2 enforcements took place between February and April 2008. In relation to the other decisions, OGPI did not enforce these during the 2008-2010 care and maintenance period that followed from the global financial crisis. Following re-commencement of construction in 2010, we negotiated and agreed settlements with 13 of the 17 landowners. In each case we reclaimed our bond from the Panel of Arbitrators. We have not pursued the remaining 4 cases, since it has not been necessary for the purpose of Mine operations to enter into an acquisition of easement rights over this land.
- 24 For the 2 decisions that OGPI enforced in 2008, the enforcement process was carried out by a team of OGPI personnel and contractors who entered the land and dismantled the properties. While a company bulldozer was used for the dismantling process in February 2008, it is not correct that any homes were burned down in 2008.
- 25 OGPI personnel and contractors have not "beaten", and the company is not aware of any residents being "beaten", during any of the enforcement processes. Subject to the paragraph below, we are not aware of any residents suffering "various injuries".
- 26 During the enforcement process on 22 March 2008, there was an incident where an individual suffered a gunshot wound to the upper arm following a skirmish between himself and a security guard. OGPI provided first aid assistance and brought the individual to hospital where he received treatment and was later discharged. The Provincial Prosecutor recommended the filing of criminal charges against the security guard for less serious physical injuries but we understand that the parties settled. The individual has not made any charges or complaints against OGPI or its officers or employees.
- 27 As far as we are aware, the Armed Forces of the Philippines (**AFP**) were not involved in any of the enforcement processes, and the Philippine National Police (**PNP**) were present at one of the 2008 entries, as set out in the paragraph below.
- 28 We understand that members of the PNP were present on 22 March 2008. No members of the AFP were present. We understand that the PNP were present to ensure peace and order during the dismantling process, and were not involved in any dismantling of structures themselves.
- 29 As to the allegation that OGPI did not have court orders for these forced entries, under the Mining Act the Panel of Arbitrators (and not the Philippine courts) has exclusive jurisdiction to decide on surface rights acquisition issues. Therefore it would not have been appropriate for OGPI to seek a court order in relation to either of the enforcements described above.

*(b) Land sales by local farmers*

- 30 In relation to acquisitions carried out by OGPI from 2006 onwards, these followed a process of negotiation with landowners and occupants with the aim of reaching an agreement for each acquisition

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<sup>2</sup> "Occupant" refers to an individual residing on public land owned by the Philippine Government. It is not possible under Philippine law for a land occupant to obtain ownership or title through occupation.

of rights to the land, which is what occurred. An independent lawyer or notary public explained the terms of the agreement to the landowner or occupant in the relevant local dialect.

31 OGPI has paid all the amounts due under the agreements reached with the landowners and occupants.

32 In relation to the adequacy of the compensation paid, in its negotiations with landowners OGPI made reference to a number of factors, including (for example) assessments of value made by Philippine Government departments (such as the Municipal Assessor).

#### **D. Alleged attempted demolition in October 2009**

33 As regards the allegation of attempted demolition in October 2009, this related to a decision granted by the Panel of Arbitrators to OGPI on 2 April 2007. We understand that the reference to "several houses" is actually referring to several structures that existed on the one piece of land.

34 On 18 September 2009, the Panel of Arbitrators issued a Writ of Execution in relation to its decision, and directed the Sheriff and Philippine Mines and Geosciences Bureau (**MGB**) to seek assistance of the Regional Director of the Police Regional Office. On the same day, the Panel deputized the Provincial Sheriff of the Regional Trial Court of Nueva Vizcaya and the PNP to enforce the Writ.

35 There was an altercation between the landowner and his group and the PNP on 2 October 2009 when the Sheriff sought to enter the property. The landowner then obtained a Temporary Restraining Order from the Regional Trial Court of Nueva Vizcaya on the same day and, as a result, the enforcement did not proceed.

36 The Temporary Restraining Order was subsequently set aside on appeal by OGPI to the Philippine Court of Appeals. This decision was upheld by the Philippine Supreme Court. OGPI reached a settlement with the landowner in May 2011 and since then the landowner has dismantled the properties voluntarily and vacated the land.

#### **E. 2011 report of the Philippine Commission on Human Rights**

37 In relation to the 2011 report of the Philippine Commission on Human Rights (**PCHR**) (page 4 of the Joint Communication), the Commission conducted a public hearing in Nueva Vizcaya in November 2009. We appeared before the Commission, as requested, and responded to their various requests for information. We note that many of the allegations made in the Joint Communication are similar to the findings of the PCHR in their 2011 report.

38 OceanaGold does not agree with the findings of the PCHR. Nevertheless, when we commenced operations in 2013, we endeavoured to do so in a manner that evidenced our commitment to human rights and the environment. For example, in addition to the environmental and human rights commitments set out at the start of this letter, we formalised our grievance management procedure in a written policy owned by our Community Relationship and Communications (**CRC**) team (see further section 3 below).

39 In addition, since the commencement of development and construction of the Mine we have worked with the MGB to reduce the numbers of illegal artisanal miners in Didipio. We have done this primarily by seeking to arrange employment or service contract opportunities with the Mine. As a result of these efforts, we have seen the number of small-scale mining operations in Didipio fall from in excess of a hundred to only a handful whose numbers vary over time.

#### **F. 2014 reports of civil society organisations**

##### *(a) Environmental management systems*

40 By way of background, the Didipio Mine operates pursuant to the following environmental management and monitoring systems:

- (i) Since 2014, the Didipio Mine has operated pursuant to an ISO-certified Integrated Management System (**IMS**). The current IMS is dual certified under ISO 14001:2015 (Environmental Management) and OHSAS 18001:2007 (Occupational Health and Safety).
- (ii) The Didipio Mine has an Environmental Performance and Enhancement Program (**EPEP**) which sets out the environmental management plan for the Mine and which includes environmental management objectives and criteria, including those relating to the protection and rehabilitation of the environment. Under the EPEP, OGPI implements an Annual Environmental Protection and Enhancement Program (**AEPEP**) which is an environmental management work plan based on the EPEP. OGPI also undertakes periodic noise and air quality monitoring at the Mine and in the surrounding environs, as well as periodic assessments of the water quality of the Didipio river and at groundwater level.
- (iii) It is a condition of the ECC that we carry out an annual Ecological and Biodiversity Assessment, and a Health Impact Assessment (**HIA**) every two years.
- (iv) We are subject to regular monitoring and inspection by the MGB, the Environmental Management Bureau (**EMB**) and the DENR.
- (v) The Didipio Mine is also audited on a quarterly basis for environmental compliance (amongst other things) by the Multipartite Monitoring Team (**MMT**). The Mine Rehabilitation Fund Committee (**MRFC**) monitors and evaluates the performance of the MMT. Both the MRFC and MMT are comprised of representatives from the national and local Government and non-governmental organizations from the host provinces of Nueva Vizcaya and Quirino.
- (vi) The Didipio Mine has in place a Final Mine Rehabilitation and Decommissioning Plan, and a trust fund established for the purpose of implementing this Plan.
- (vii) In 2017 the Didipio Mine received "Best Practices in Sustainable Mineral Development (Mineral Processing)" at the ASEAN Mineral Awards.

41 OceanaGold engages in a number of initiatives and partnerships aimed at promoting positive environmental impacts in Didipio. These initiatives include:

- (i) Sponsorship of the International River Foundation to assist the Philippine Government and community in developing integrated river basin management;
- (ii) The deputization of forest rangers in the municipality of Kasibu;
- (iii) Collaboration with PHD students at the Nueva Vizcaya State University in carrying out studies of local riparian zones and related biodiversity and vegetation; and
- (iv) The mass propagation of endemic plant species.

(b) *Deforestation*

42 On 30 November 2006, OGPI was granted a permit by the DENR to cut 17,071 trees in Nueva Vizcaya and Quirino for the purpose of the construction of the Mine, including the improvement of the access road (the **Permit**). The Permit was valid for the period of one year and expired in November 2007. OGPI commenced the tree-cutting, and in August 2007 applied for an extension to the Permit in order to complete the work. The DENR granted the extension on 24 April 2008.

43 Development was then put on hold during the 2008-2010 care and maintenance period. As a result, OGPI did not cut the remainder of the 17,071 trees, as allowed under the Permit, and subsequently applied to the DENR for a further extension so that the tree-cutting could be completed.

44 The Permit contained conditions relating to replanting of trees and OGPI reported to the DENR on compliance with those conditions.

(c) *Reforestation*

45 As of the third quarter of 2018, OGPI has planted a total of 2,075,411 trees and reforested a total of 1,258.30 hectares.

(d) *Harvesting*

46 Historically, OGPI has, in certain circumstances, prevented members of the community from accessing the Mine site. This has been for safety reasons, given the nature of the machinery and vehicles involved in our operations. We are also under an obligation to ensure that no timber poaching or tree cutting takes place in the FTAA area unless it is done under a permit from the Government.

**G. Allegations regarding air pollutants**

(a) *Air pollution*

47 We are aware of complaints (including some made through our grievance procedure) relating to dust arising from activities at the Didipio Mine. These complaints relate mainly to trucks traveling on the access road to and from the Mine and are more common during the dry season.

48 In response to these complaints, we have taken a number of measures to limit dust lift-off, including:

- (i) Concreting parts of the Quirino Provincial Road from Barangay Dibibi to Barangay Didipio,
- (ii) Sprinkling water along the roads (with increased sprinkling during the dry season),
- (iii) Implementing a speed reduction policy, and
- (iv) Planting dust-inhibiting foliage along the Mine perimeter.

49 We have installed dust monitoring gauges at various points at the perimeter of the Mine and within the community, and we conduct monthly air quality monitoring. The results of this monitoring show that we are in compliance with DENR standards.

**H. Allegations regarding agricultural productivity**

50 We have not seen any evidence that the Didipio Mine has had a negative impact on agricultural productivity (including crop yields). In fact, we have seen reports that suggest that a decline in agricultural production in Nueva Vizcaya pre-dates the operation of the Mine and is due to factors such as unregulated use of chemicals, pests and unfavourable weather.

51 We would be happy to discuss any specific concerns that have been raised with you on this point.

**I. Allegations regarding water contamination**

(a) *Contamination by heavy metals*

52 It is correct that the Didipio river is contaminated and generally unsafe for drinking. However, this contamination pre-dates the operation of the Didipio Mine.

53 Prior to the operation of the Mine, the Didipio river was classified by the DENR as Class D under the Philippine River Classification System. Pre-operation studies conducted for OGPI by the Nueva Viscaya State University and external consultants at GHD showed the river containing elevated total suspended solids (**TSS**) and suffering from increased turbidity levels. This was attributed to local artisanal mining operations and other anthropogenic activities such as inadequate sanitation facilities.

54 Due in part to the implementation of water management technologies by OGPI and efforts to halt illegal mining in Didipio, we have observed a steady decline of TSS in the Didipio river.

55 In addition to the environment management systems described above, we have a number of controls in place to protect against water contamination. These include regular water quality monitoring in line with DENR requirements and quarterly toxicity leaching testing.

56 In 2018 the Dinauyan river, which is a tributary of the Didipio river and the main discharge point for the Didipio Mine, was classified by the DENR for the first time. The DENR classified the Dinauyan river as Class B (recreational water suitable for swimming and bathing).

57 The water that is discharged from the Didipio Mine meets water discharge limits pursuant to the relevant Philippine rules and regulations. OGPI treats water released from the tailing storage facility in its water treatments facility prior to discharge.

*(b) Concentration of copper*

58 In our periodic quality testing of the Didipio river, we have not observed copper concentration levels above the allowable range for Class D water under the DENR standard.

*(c) Risks posed by any contaminants from the Mine*

59 We have worked with a number of organisations, such as the International River Foundation and the Adalam River Basin Council, on projects for integrated river basin management in the region and on other aspects of safe and healthy river management. We politely consider that generalised speculative statements such as "*contaminants from the Mine could potentially put at risk millions of livelihoods and critical ecosystems*" are ill informed and misleading and as a result could hinder our efforts to work with local communities on water management.

**J. Allegations regarding toxic chemicals**

60 Given the nature of the Didipio deposit, it is not necessary to use cyanide or mercury and OGPI does not use cyanide or mercury in any of its operations at the Didipio Mine. This is formalised in the 2013 Memorandum of Agreement with the Barangay of Didipio.

61 Waste produced in Mine operations which is classified under Philippine law as hazardous (such as used oils, rags and fluorescent lamps) is reported to the EMB, together with information on OGPI's waste treatment procedures and contractors.

**K. 2017 land access-related allegations**

*(a) Allegation of forced eviction of families*

62 We do not know to what the allegation of the forced eviction of 133 families in 2017 relates and question if it relates to the Didipio Mine at all (page 5 of the Joint Communication). The FTAA does not cover the Barangays of Kakiduguen or Biyo and OGPI does not have any presence in those Barangays. A small part of the FTAA falls within Barangay Dine but OGPI has not undertaken any exploration or other activities in Barangay Dine.

*(b) Allegation of protection by the PNP*

63 Neither the AFP nor the PNP provide any special assistance to OGPI as regards "protecting the company" or preventing protest. The Mine has its own security team which consists of OceanaGold employees and personnel provided by a private security contractor. Our agreement with the security contractor contains provisions relating to (inter alia) personnel being properly trained and qualified and in possession of the correct licences issued by the Philippine Government.

64 Since 2009, we have arranged for the Philippine Regional Human Rights Commission to provide training to our security personnel at the Didipio Mine (both employees and contractors). We also use a third party specialist to provide bi-annual training on conduct and weapons handling. Our Human



Rights Policy also focuses on conducting our business in line with the Voluntary Principles on Security and Human Rights.

65 In relation to page 5 of the Joint Communication, there has been an increased AFP presence in Didipio since 2017. This is due to an increase in activity by the Philippine New People's Army and is not at the request of OceanaGold.

#### **L. 2017 report of the Nueva Vizcaya Provincial Government**

66 We do not yet have a copy of the February 2017 report of the Nueva Vizcaya Provincial Government referred to on page 5 of the Joint Communication. We are in the process of requesting this report from the Nueva Vizcaya Provincial Government.

67 We have received a copy of an audit carried out by the MGB in February 2017 in response to concerns raised by the Governor of the Province of Nueva Vizcaya regarding a five year extension of the exploration period of the FTAA. It is not clear whether this is the same document as the February 2017 report of the Nueva Vizcaya Provincial Government. The MGB audit concluded that "*given all the facts and supporting documents gathered by the MGB Assessment Team, there is no sufficient ground to suspend or cancel the 5-year extension of the Exploration Period of FTAA No.001*".

#### **M. Suspension order issued by the DENR in 2017**

68 It is correct that in February 2017, following an audit of the Didipio Mine, the then-Secretary of the DENR issued an order for the suspension of OGPI's mining operations under the FTAA (***Suspension Order***).

69 The audit took place from 2 to 11 August 2016 and was carried out by a team composed of DENR-MGB technical personnel and third party experts (***DENR Audit Team***). The DENR Audit Team concluded that "[m]ost of the parameters in the checklist used for the Mine Audit w[ere] met and complied [with] by OGPI."

70 Among the DENR Audit Team's findings were that (a) the decrease in production of citrus trees was not attributable to OGPI's mining operations; (b) the turbidity and degradation of water quality was caused by small-scale mining activities; and (c) OGPI's blasting operations could not have caused damage to houses (since no damage was found).

71 OGPI submitted a list of commitments to the DENR to address the minor concerns identified by the DENR Audit Team and to prevent and mitigate potential risks.

72 On 8 November 2016, the DENR Secretary issued Special Order No. 2016-655 creating a Technical Review Committee (***TRC***) to review the results of the Mine audit. The results of the TRC review were published on 8 February 2017. The results indicated that OGPI was not among those companies recommended by the TRC for suspension and that the TRC merely recommended the imposition of a fine of PHP65,000 on OGPI, which OGPI paid.

73 On 14 February 2017, OGPI received the Suspension Order dated 8 February 2017. The Suspension Order does not contain any finding of violations by OGPI, and does not acknowledge the factual findings of the DENR Audit Team or the results of the TRC.

74 Accordingly, on 14 February 2017 OGPI appealed the Suspension Order to the Office of the President.

#### **N. 2018 renewal of the FTAA**

75 We are working with the Government to implement the renewal of the FTAA. Please note that renewal does not include a request for an expansion in the size of the area of the FTAA.

76 In 2018, during community engagement activities, we learnt that the Barangay Council had submitted a petition to the DENR requesting a suspension of the Mine's operations. We have seen a photograph of the petition but we have not yet received a copy from the DENR in formal correspondence. Since

learning of the petition, we have set up meetings with the Barangay Council to discuss and seek to address their concerns.

#### **ENGAGEMENT WITH LOCAL COMMUNITIES ON RENEWAL OF FTAA**

- 77 We have robust and continuous engagement with the residents of Didipio and the communities in the surrounding areas. A major component of this is the implementation of our Social Development and Management Program and the commitments made under the Memorandum of Agreement with the community. Engagement takes place through regular meetings with community leaders and collaboration with residents on projects relating to education, health and agriculture.
- 78 We hold quarterly community meetings in the Didipio Barangay town hall. At those meetings, we update the community on topics such as operations at the Mine and our social development programs, and we respond to any questions or concerns. We present a separate quarterly update to the local government on operations at the Mine.
- 79 OGPI also publishes a quarterly community newsletter called “Bimmoble” where the community is provided with updates on the mining operations, the company’s environmental scorecard, and the progress of community development projects and initiatives.
- 80 In relation to the renewal of the FTAA, we have been in regular contact through the CRC team with both our employees (many of whom come from the surrounding communities) and the residents of and communities around Didipio. The CRC team has two walk-in offices within the community, one in Didipio and one in Bayombong, the provincial capital of Nueva Vizcaya.
- 81 In addition, last year the CRC team began carrying out consultations with various community leaders and groups on the renewal. Most recently, a meeting with residents from the Didipio community took place on 26 March 2019 in the Barangay hall. This was another opportunity for community members to ask questions and raise concerns with us directly.
- 82 The majority of the concerns raised to date relate to employment arrangements in the event the FTAA is not renewed by June 2019.

#### **PROCESS OF HUMAN RIGHTS DUE DILIGENCE AND ENVIRONMENTAL IMPACT ASSESSMENT CONDUCTED BY OCEANAGOLD**

- 83 As set out above, we are committed to respecting human rights and the environment at all our operations, and we strive to operate the Didipio Mine in accordance with those commitments.
- 84 As part of the application for the ECC, the Climax group carried out an Environmental Impact Assessment and produced an Environmental Impact Statement in 1994. This considered the impacts of the project on the environment and local communities, and proposed various measures for managing and monitoring those impacts. The EIA was updated and amended in 2004. A number of additional standalone social baseline studies and impact assessments have been conducted since 2004.
- 85 In 2014 we introduced our Human Rights Policy. In 2018, we commenced a two-year program to further embed our Human Rights Policy in our business and operations by the end of 2019. The program includes a Human Rights Impact Assessment (*HRIA*) by an external consultant of our operations including in the Philippines, and it involves engagement with rights holders. The HRIA has sought to identify our salient human rights risks and impacts by reference to the UNGPs and the Voluntary Principles. We are also developing and delivering human rights training for our leadership and management teams, including the OGC Board.
- 86 At the same time, last year we began work with a third-party consultant to further develop our understanding of the contribution of the Didipio Mine to social change and livelihood impacts in the surrounding communities. This research has involved reference to a number of social baseline studies and is being carried out through surveys and focus groups with local residents. The assessment will

link the previous baseline studies and will also involve a further independent study. We propose to use this work to further assist us in identifying future livelihood impacts on the community.

- 87 Finally, following the introduction of the new Australian Modern Slavery Act, we are in the process of developing our approach for assessing and addressing any risks of modern slavery and human trafficking in our operations and supply chains. We will report publicly on this work in our modern slavery statement due to be published by 30 June 2020.

#### **GRIEVANCE MECHANISMS AVAILABLE AT COMPANY-LEVEL INCLUDING FOR COMMUNITIES**

- 88 OGPI has a grievance management procedure in place at the Didipio Mine (the ***Didipio Grievance Mechanism***). The Didipio Grievance Mechanism applies to all community stakeholders of the Mine and is overseen by the CRC team.
- 89 The Didipio Grievance Mechanism sets out the process for receiving, recording and investigating complaints, and for taking corrective action as required. The outcome of each investigation is reported to the complainant as part of this process.
- 90 As part of the Human Rights Policy program described at paragraph 85, we are auditing the Didipio Grievance Mechanism against the UNGPs, and in particular against the effectiveness criteria set out at UNGP 31.
- 91 We also operate a confidential whistle-blower hotline service for employees, managed by Deloitte, through which anyone may report a concern. The hotline is open 24/7 and for 365 days a year. Training on our Whistle-blower Policy is given to employees every year and there are posters and cards distributed at the Didipio Mine that set out how our employees may access the whistle-blowing service.

#### **NEXT STEPS**

- 92 We very much hope that the information we have provided will assist the Working Group and Special Rapporteurs in their consideration of the issues set out in the Joint Communication.
- 93 We politely request that we be afforded an opportunity to meet with the Working Group and Special Rapporteurs at their earliest convenience to discuss our responses and to answer any further questions.

Yours sincerely

**OCEANAGOLD CORPORATION**



**Mick Wilkes**

*President and Chief Executive Officer*