



**OceanaGold's Response to OHCHR April 30 Press Release: Philippines mine standoff: Indigenous and environmental rights must be respected, say UN experts.**

**1 May 2020**

Victoria Tauli-Corpuz, Special Rapporteur on the rights of indigenous peoples  
Clément Nyaletsossi Voule, Special Rapporteur on the rights to peaceful assembly and of association  
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To the Special Rapporteurs:

We have reviewed your 30 April 2020 press release titled: Philippines mine standoff: Indigenous and environmental rights must be respected, say UN experts. In the spirit of our commitment to constructive engagement around our human rights approach, including in the past with Special Procedures of the UN Human Rights Council, we would like to offer further context to the allegations contained within the press release.

As mentioned in the release, OceanaGold received a Joint Communication from several UN Special Procedures in February 2019. As a general observation, we were concerned that many of the allegations contained in the Joint Communication were described in broad and unspecified terms and did not provide clear supporting evidence. Nevertheless, we wanted to respond fully and meaningfully to the allegations and to engage with the Special Procedures to provide further background. Therefore, we responded with a comprehensive written letter followed up by face-to-face meetings in Geneva in June 2019, led by a member of the company's leadership team. Unfortunately, we were not able to meet with any Special Rapporteurs during the June visit, but we did appreciate the time and welcome given to our representative by OHCHR staff.

During those meetings, OHCHR representatives explained how the Special Procedures Branch of the OHCHR worked and the purpose of the Joint Communications. Two learnings we took from those meetings were that first, Joint Communications present allegations, not judgements, based on information shared from civil society, individuals and communities; and that second, the Special Rapporteurs desired and appreciated engagement with companies in response to the communications. In addition, we were informed that resources are limited for conducting due diligence on the information used to establish the basis of the allegations presented in the communications.

During those meetings in June 2019, in response to the OHCHR request for engagement, our senior manager shared OceanaGold's commitment to engage and our willingness to provide any information requested. Unfortunately, despite the commitments to engagement expressed to the company last year by various staff at OHCHR, we were not offered the opportunity to respond to the allegations in the April 30 press release prior to its publication.

We are also concerned that we received only two hours' notice of the press release, made more challenging by the fact that this notice was provided late at night in Australia, impacting our ability to prepare a timely response. We hope that, if further allegations are made against the company in the future, the Special Rapporteurs involved will reach out to us for context before the allegations are made public, and regardless provide reasonable notice of allegations to be made.

We take these allegations seriously and stand by our commitment to responsible mining and, regardless of their position, have been committed to engagement on an effective and genuine basis with all stakeholders of our Didipio Mine. This includes a commitment to respect the human rights of all stakeholders, including those voicing concerns. Our focus remains on working in partnership with all our stakeholders to recommence responsible mining at Didipio as soon as possible.

We provide below a substantive response to the issues raised in the April 30 press release incorporating content already provided by Ms Liang Tang on 30 April 2020.

### **The FTAA Renewal and Suspension of Didipio Operations**

This section provides background on the blockade ordered by the Governor of Nueva Vizcaya in 2019 and context on why the emergency fuel delivery was required.

We operate the Didipio Mine under a Financial or Technical Assistance Agreement (FTAA), which was signed in 1994 and gives the company the right and responsibility to explore, develop and operate in the Didipio area. In June 2019, the FTAA became renewable for a second 25-year term under the same terms and conditions. The FTAA does not award the company ownership of any mineral resources, rather, under this arrangement the company is essentially a contractor of the Republic of the Philippines and the mine is a national asset. More information about the FTAA is available [on our website](#).

In March 2018, we commenced the renewal process with the responsible regulatory agencies – the Department of Environment and Natural Resources (DENR) and Mines and Geosciences Bureau (MGB). There are currently five existing FTAA's in the Philippines and the Didipio Mine is the first to go through the renewal process. In early June 2019, both departments endorsed the renewal to the Office of the President, based on the company's full compliance with the FTAA terms and conditions. After their initial review, the Office of the President requested further clarification on how the company will accommodate the Indigenous People's Rights Act of 1997, to which the Company has agreed.

In June 2019, recognising the Office of the President required additional time to review the renewal application, the MGB issued a formal letter confirming OceanaGold's right to continue to operate while the renewal is finalised. The FTAA renewal is currently with the Office of the President.

In early July 2019, the Governor of Nueva Vizcaya directed Local Government Units (Barangays) to restrain any operations of OceanaGold at the Didipio Mine. The Governor does not recognise the authority of MGB to authorise the continuing operations at the Didipio Mine. This order prevented the delivery of mining supplies to the mine and transportation of the processed minerals for shipment.

Upon receiving notice of the Governor's closure order, and the closure of road checkpoints to company supply vehicles, we voluntarily ceased all trucking in and out of the mine to prevent any potential for escalation. Didipio ceased underground mining in July 2019 and processing operations in October 2019. However, the operation of an underground water pumping system continues.

### **Emergency Fuel Delivery**

In 2018 the Didipio Mine transitioned from an open cut to an underground mine and has an advanced underground de-watering system that safely removes groundwater from the mine. The system requires constant power to continue operating. If the power grid supply at the mine is disrupted (e.g. due to brown-outs which are frequent) and there are insufficient diesel reserves on hand to generate back-up power, the underground pumping station will not operate, flooding the underground mine. If the underground mine floods there is a significant risk of environmental damage and the material loss of existing underground infrastructure, resulting in a significant loss of a national asset that belongs to the people of the Philippines.

The blockade imposed by the Governor of Nueva Vizcaya has prevented the delivery of essential backup fuel since July 2019 and the diesel supply at Didipio reached a critically low point, jeopardising the ongoing functioning of the de-watering system. In late 2019, the DENR and MGB granted approval for the emergency fuel delivery. The Department of the Interior and Local Government (DILG) also issued two letters to the Governor of Nueva Vizcaya taking the position that the checkpoints were deemed unlawful due to the lack of required permits for the checkpoints. In January 2020, the Office of the President issued a direct order to DENR to facilitate the delivery of the emergency fuel. Since July 2019, there have been four attempts to deliver the emergency fuel and, in all attempts, both the MGB and OceanaGold engaged with the provincial Governor and local anti-mining activists to achieve a peaceful delivery of the emergency fuel.

On March 10, 2020 and in a letter to the DILG, the Nueva Vizcaya Governor stated their position recognising the authority to deliver diesel at the Didipio Mine in five fuel tank trucks at a time. On Monday April 6, 2020, three fuel tankers delivered approximately 100,000 litres of emergency back-up diesel to the Didipio Mine. The Philippine National Police (PNP) assisted in the fuel delivery to ensure the trucks were not stopped at checkpoints.

Prior to the delivery, and as reported by the PNP, the Provincial Director of the Nueva Vizcaya PNP engaged with the Nueva Vizcaya Governor, who approved the passage of the fuel tank trucks on certain conditions. These included allowing the local Didipio Barangay to monitor the usage of fuel and prohibiting OceanaGold from dispensing fuel without the presence of barangay officials. Before the fuel trucks arrived in Didipio, the Chief of Police of Kasibu PNP had a dialogue with the Didipio Barangay Captain who agreed to the delivery on the grounds it had been approved by the Governor of Nueva Vizcaya and Mayor of Kasibu.

OceanaGold did not participate in the fuel delivery, but we did engage with the PNP beforehand and shared our common interest for a peaceable delivery given the blockade. According to reports from the PNP and community members, a group of approximately one dozen local individuals occupied the road to prevent the passage of the fuel trucks, and the PNP moved those individuals off the road in accordance with Police Operational Standards. This included an individual who had climbed under the tyre of one of the trucks. The PNP did not prohibit individuals taking videos of their engagement with the community on the road with their mobile phones. The PNP did not issue a formal statement around the delivery however, they did make a statement to the Sun Star newspaper in the Philippines. That statement is [available online](#).

In relation to the arrest and charges against a community leader mentioned in your statement, OceanaGold is not a party to any judicial action relating to the protest.

We are not, and would not, violate the current enhanced community quarantine in the Philippines nor take advantage of COVID-19 to ramp up our operations. Information about how we are responding to COVID-19 in full compliance with all government measures across the company including the Philippines, is available on the COVID-19 [page on our website](#). We are committed to supporting the communities where we work in this crisis and some recent coverage of the work we're doing in the Philippines is [accessible online](#).

### **Commitment to Human Rights and Indigenous Peoples**

Most of the residents in Didipio are Twalis with some members who self-identify as Kankana-eyes and Ibalois. While there are a small number of local people who are not supportive of our operations or the renewal of our FTAA, the OHCHR press release seems to imply that the whole community of Didipio is against the mine and that the company is disregarding the views of Indigenous Peoples. To the contrary, it is our understanding that the majority of the community, who self-identify as Indigenous Peoples, support the renewal of the FTAA and continued responsible mining.

In late 2019, members of the Didipio community and adjacent communities established the Coalition of Communities for Sustainable Development to promote sustainable development. The Coalition registered with the Philippines Securities and Exchange Commission, with the ambition of promoting further sustainable development in the region. This includes their support of the continued operation of the Didipio Mine by

OceanaGold. More information about their support for the Didipio Mine (including responses to various allegations being made in the region) can be found [on their Facebook page](#). This includes a statement in response the 6 April fuel delivery [which is available here](#).

We are deeply concerned by the implication in the press release that we do not consult with affected peoples, and that this comment was made without engaging with us on our current practices to consult with local communities, including Indigenous Peoples.

We are committed to conducting our business activities in a manner consistent with the UN Guiding Principles on Business and Human Rights, the Voluntary Principles on Security and Human Rights, and the concept of Free, Prior and Informed Consent. This is all stated in our Human Rights Policy. We fully support Indigenous Peoples rights across all our operations and we respect the Philippines Indigenous Peoples Rights Act. Here is the [link to our Human Rights Policy](#).

Finally, we encourage the Special Rapporteurs to engage directly and broadly with the Didipio community. We believe that such engagement would provide a more balanced perspective on the reality of community support for the Didipio Mine.

OceanaGold always looks to improve our performance and these engagements provide us with a better understanding from which we can continue to improve the way we make information available.

**OCEANAGOLD CORPORATION**