



bhpbilliton

other sides to the story



**Threatening lives,
the environment
and people's future**

An Alternative Annual Report 2010




FRONT COVER: Stockphoto.com

INSIDE BACK COVER: BHP Billiton protest. Photo courtesy of the ACE Collective, Friends of the Earth Melbourne.

BACK COVER: Mine tailings at the BHP Billiton's Olympic Dam Mine in South Australia (2008). Photo: Jessie Boylan

BELOW: Nickel laterite ore being loaded at Manuran Island, Philippines. The ore is then taken by barge to waiting ships. Credit: CT





*Case studies questioning BHP Billiton's
record on human rights, transparency
and ecological justice*

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INTRODUCTION

This report examines a number of BHP Billiton's operations around the world. The collection of case studies highlights the disparity between BHP Billiton's 'Sustainability Framework' and the reality of its operations.

In the year 2009-2010 BHP Billiton has continued its involvement in many controversial mines, is advancing risky and unwanted projects and is making advances to acquire assets in known conflict zones.

In 2010 BHP Billiton has made steps to report on the revenues it pays to host Governments but has been selective in the information it reports on, excluding important information. BHP Billiton reported the revenues (royalties and taxes) paid to Governments for many of the countries it operates in, but is involved in projects in countries on which it has refused to report. It is the revenue flows that BHP Billiton does not reveal in its reports that raise suspicion, it is these figures the public want to know, it is these figures that would be an opportunity for BHP Billiton to show real leadership in the spirit of true transparency.

There are a number of exploration activities that BHP Billiton is involved with that do not feature in its annual report. It is these operations where there are transparency issues in negotiating with Indigenous Peoples, land disturbance and the brokering of deals with local, state and federal Governments and agencies. There must be accountability and reporting of activities, spending and negotiations at the exploration stage if BHP Billiton is to demonstrate transparency and corporate responsibility.

The BHP Billiton mines, exploration projects and assets that feature in this Alternative Annual Report are those where one or more of the following issues has been prevalent; human rights abuses, labour rights, relocation of communities, mistreatment of Indigenous Peoples, destruction of sacred sites, devastating impacts on food and water, climate change, use of paramilitaries, health concerns, irresponsible tailings disposal procedures and questionable corporate social responsibility practices.

In 2007 the United Nations enshrined the rights of Indigenous Peoples to Free Prior and Informed Consent (FPIC) in the UN Declaration on the Rights of Indigenous people. In 2010 BHP Billiton still does not officially accept this principle. In 2011 the new OECD Guidelines for Multinational Enterprises will be released. Within these guidelines we can expect to see FPIC acknowledged. FPIC means that consent is given free of coercion or manipulation, before the commencement of any activities, and with full disclosure of information that is understandable and accessible to communities. If consent is not given, then proposed

activities must not take place. To date, BHP Billiton has merely noted that there are "a wide diversity of views" on FPIC, and fails to rise to the challenge needed to genuinely implement it.

Exploration prior to mining includes land disturbance. It also includes negotiating access to land. BHP Billiton did not report on exploration in its 2010 Annual Report (BHP Billiton Sustainability Report 2010) despite the gravity of its environmental and social impacts. This stage of mining also includes negotiating or brokering land deals, a process referred to in the mining industry as gaining a "social licence to operate". This is a process that can cause division in communities, making them vulnerable to manipulation by vested interests. Access to non-biased information becomes problematic, and these deals may misrepresent the true position of Indigenous and other affected communities.

There are many social impacts that arise alongside mining developments, including the influx of alcohol, drugs, prostitution, sexually transmitted diseases and conflict within communities over land ownership, gender roles, the relative power of women, royalties and compensation. There are many other social impacts that relate to the health of the environment (like access to food and clean water, and contamination of land and water), and access to traditional cultural sites as well as homelands, all of which can easily be affected by mining operations.

BHP Billiton may agree in theory on upholding human rights but in 2009-2010 there was no reporting on human rights risk assessments or 'material risk' identification, showing a lack of commitment in this area. While BHP Billiton has a policy on human rights, as explained within its Sustainability Framework, and is a signatory to a number of voluntary agreements on human rights, it is apparent from the following case studies that policy does not equate to practice. Many of the countries that BHP Billiton operates in have poor records on corruption, poor human rights records and a high level of militarisation, and are willing to make serious compromises for desperately needed foreign investment. These are all factors that often create an environment that undermines the rights of communities when faced with a form of development they oppose.

BHP Billiton, the largest diversified resource company in the world, has a unique opportunity to embrace one of the most progressive principles in human rights: FPIC as acknowledged by the United Nations. BHP Billiton also has the opportunity to begin a transition out of dirty energy minerals (oil, uranium and coal). We call on BHP Billiton's shareholders and board to consider the opportunities that exist in renewable technology and exercise the moral responsibility to lead the way on environment and social behaviour.

Within this Report we have included case studies which tell the stories which the company does not wish to tell, both about its own activities and those of joint ventures in which it is involved.

The company and its shareholders cannot be absolved from the responsibility to address the concerns raised by community members, workers and local authorities affected by its operations.

In each of the case studies included in this Report, community members have seen BHP Billiton's responsibility as sufficiently serious to launch court actions or undertake other activities to raise their concerns at local, national and international levels.

The people who stand up and contest the treatment of their communities are brave, and many are also scared, but the message is clear: profiting from injustice and destruction is not a legitimate business.



BHP Billiton Sustainability Report 2010
<http://www.bhpbilliton.com/bb/sustainableDevelopment/reports.jsp>

BHP SHADOW REPORT: *Shining a Light on Revenue Flows*

In May 2010 BHP Billiton indicated their intention to disclose all payments to governments on a country-by-country basis in support of the Extractive Industries Transparency Initiative. This is a welcome development, and if fully implemented, would demonstrate BHP Billiton is responding to global best practice.

Revenue transparency, the full disclosure by oil, gas and mining companies of all payments to government on a country-by-country basis, is increasingly recognised as an essential aspect of effective resource management and responsible mining conduct.

BHP Billiton's initiative preceded financial reform in the U.S which sets a new standard for energy and mining transparency. The new law requires all oil, gas and mining companies listed on the U.S Securities and Exchange Commission (SEC) to publicly report how much they pay governments for access to their

oil, gas and minerals. This will impact on BHP Billiton as a US listed company.

BHP Billiton has commenced country-by-country reporting of taxes and royalties in the 2010 Sustainability Report. However, BHP Billiton should have disclosed all payments to governments, including 'minor payments', as these include countries with weak regulatory governance, such as Indonesia, Guinea, Cambodia and Mozambique. It is unclear if this disclosure includes all payments to secure exploration rights.

In many of the countries where BHP Billiton is active, bribery and corruption are common and human rights violations are a very real risk. Full disclosure of all payments to governments would have assisted BHP Billiton avoid the allegations of 'Tea Money' corruption and payments of US\$3.5 million to Cambodian officials in 2010. The US Securities and Exchange Commission is investigating.

MOZAMBIQUE: *The double standards of BHP Billiton*

BHP Billiton operates the Mozal aluminium smelter located 17 kilometres from Maputo, in a densely populated area in the outskirts of Matola city. Officially opened on 29 September 2000, the joint venture includes BHP Billiton (47.1 per cent), Mitsubishi Corporation (25 per cent), International Finance Corporation (IFC) (24 per cent), and the Government of Mozambique (3.9 per cent).

Civil society groups are challenging a six-month authorisation allowing aluminium giant BHP Billiton to emit potentially dangerous fumes from its Mozal smelter into the air without treating them first.

On 5 April 2010, Mozal announced at a public meeting its intention to bypass two Fumes Treatment Centres (FTCs) for six months at its carbon plant, which re-processes and produces anodes for use in producing aluminium. This matter was already in negotiation for special authorisation with the Ministry for Co-ordination of Environmental Affairs (MICOA). No further clarification on the issue was given except that it would cause no harm whatsoever to the surrounding communities or to the environment.

On 8 April 2010, Justiça Ambiental (Friends of the Earth Mozambique) wrote a letter to MICOA with copies sent to Mozal and several other ministries and institutions, requesting further clarification. The letter also highlighted the concern that granting this authorisation would allow BHP Billiton to emit potentially dangerous fumes from its Mozal smelter into the air without treating them first.

MICOA responded on 14 June stating among other things that Mozal required a special authorisation for the bypass, and for this they would have to submit an Environmental Management Plan, prepare a contingency plan to address any problems arising from this project, and also review their social responsibility policy. A few weeks later Justiça Ambiental learned that this special authorisation was in fact already issued at the time they received the letter from MICOA. Mozal never responded to the letter.

Local groups, including Justiça Ambiental and Livaningo in Maputo and Matola, filed a court action on 14 September 2010 to reverse the government's decision, which they say is based on insufficient information about the potential impact on human health and the environment around the smelter.

Bypassing FTCs is potentially dangerous to the environment and the communities living nearby. FTCs act as a filter of the carbon plant's emissions and prevent harmful pollutants from escaping into the atmosphere. Without this filter, compounds like hydrofluoric acid and sulphur dioxide could potentially be released, causing hypocalcemia, cardiac and respiratory arrest, and possibly result in death.

The coalition of groups has drawn up a petition with over 14,000 signatures outlining health concerns. The petition, to be submitted to the government, asks that more information be made available before a decision is taken on the matter.

With close to one million residents living within two kilometres of BHP Billiton's Mozal aluminium smelter, community representatives and organisations have already complained about damaged agricultural production, which is to the detriment of their livelihoods.

The outcry that BHP Billiton's public consultation has been inadequate is compounded by the example of its operation across the border in South Africa at Richards Bay. The longest bypass of the FTCs at the Richards Bay plant lasted only 72 hours, and this resulted in objections and serious concerns about the impacts on the environment and health.

BHP Billiton says it has commissioned an independent report for its Mozal operation on the safety of the bypass proposal. The report has not been released publicly and the two authors have not been given permission to speak publicly about their findings.

Vanessa Cabanelas from Justiça Ambiental states, "The study on the dispersion and deposition of fumes and gas is complete rubbish, it cannot even be referred to as a study as it violates the most basic concept of what a scientific study should contain; it does not have any information on authors, dates and methodology or where, when and how the data was gathered. We find it impossible to have faith in such a document. One of the self claimed authors informed us publicly, in a television debate, that the study was undertaken with data provided from Mozal."

Justiça Ambiental says that all attempts to contact BHP Billiton in the United Kingdom and Australia have proven to be unsuccessful.

"They clearly have double standards when working in Maputo, Mozambique and in Richards Bay, South Africa. The procedures undertaken to ensure no harm to the people or the environment are completely opposite."

Funded in part by World Bank financing through the International Finance Corporation (IFC), BHP Billiton is required to adhere to specific performance standards



throughout the life of the project to maintain the loan. Yet evidence is growing that the Mozal operation is violating BHP Billiton's codes of transparency, and its policies of zero harm and abiding by the strictest emissions standards.

Co-written by Vanessa Cabanelas (Justica Ambiental - Friends of the Earth Mozambique) and Natalie Lowrey (Friends of the Earth Australia)

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Vanessa Cabanelas, Justica Ambiental - Friends of the Earth Mozambique



BHP Billiton's Mozal Aluminium smelter in Mozambique. Photo: Zeca Ribeiro

WESTERN SAHARA: *Bou Craa phosphate mine*



In August 2010, BHP Billiton announced its interest in acquiring the US-Canadian fertiliser firm PotashCorp (PCS). If BHP Billiton succeeds in its possible take-over, it will be forced to either actively support or directly undermine the UN's work to decolonise the last colony in Africa. For decades, the fertiliser producer PCS has been importing phosphates from Western Sahara, a territory largely occupied by Morocco since 1975. To this day, no state or international organisation recognises Morocco's sovereignty over the resource-rich territory.

The United Nations lists Western Sahara as a so-called Non-Self Governing Territory pending the process of decolonisation. Furthermore, the UN has repeatedly stated that the illegal occupation must end and that the Saharawi population is entitled to freely exercise their right to self-determination through a free, fair and transparent referendum – something which Morocco continues to block.

The large Bou Craa phosphate deposits in the northern part of Western Sahara played a large role in triggering the Moroccan invasion of the territory. A UN delegation that visited the territory formerly known as Spanish Sahara in 1975, as part of the decolonisation of the territory, stated that “eventually the territory will be among one of the largest exporters of phosphate in the world”. According to their assessment, a free Western Sahara would become the second largest phosphate exporter, after Morocco itself. However, just a few months later, Morocco invaded Western Sahara and took control over the Bou Craa mines. Following the Moroccan take-over, almost all Saharawi workers have been replaced with Moroccan settlers. Nearly all important posts of the firm are controlled by Moroccans.

Today, the phosphate production in Bou Craa amounts to 10 % of Morocco's total production; Bou Craa's annual

production is around 3 million tonnes, contributing substantially to Morocco's national income. The sacked indigenous workers protest the plunder, or languish in the refugee camps in Algeria, dependent on foreign humanitarian aid. None of the proceeds of the phosphate industry are sent to these refugees. Some of the largest shipments that are exported to PCS in the US can be worth as much as the annual multilateral humanitarian aid to the refugees.

For over 35 years Morocco has illegally exploited Western Sahara's natural resources against the explicit will of the territory's indigenous population, the Saharawi people. The revenues are poured into furthering Morocco's brutal and illegal military occupation. By importing phosphates from the territory, PCS today supports the continuation of the illegal occupation of Western Sahara and helps to undermine the UN peace process.

PCS is the largest purchaser of phosphate from Western Sahara, a position the firm has held for many years. The money from phosphate extraction and trade goes directly to the Moroccan state-owned company located in Western Sahara, Office Chérifien des Phosphates.

“This support needs to end so that Morocco engages with the UN referendum process. The phosphate trade in Western Sahara increases the risk of further armed conflict, destabilisation and suffering in the region”, stated Sara Eyckmans, co-ordinator of Western Sahara Resource Watch.

If it acquires PCS, BHP Billiton will inherit the North American firm's trade relations with the Moroccan government-owned firm in the occupied territory. As a potential new owner of PotashCorp, BHP Billiton has the opportunity to address the issue of PCS's phosphate imports from occupied Western Sahara and thus to help end the conflict. Alternatively, should it not bring the imports to a halt after taking over PCS, BHP Billiton will be the largest private funder of the illegal and brutal occupation of Western Sahara.

On 3 November, the Canadian Government announced its intention to block BHP Billiton's acquisition of Potash Corp. BHP Billiton has thirty days to appeal before the Canadian Government makes its final ruling.

Co-written by Sara Eyckmans (Western Sahara Resource Watch), John Gurr (Western Sahara Campaign, UK), Cate Lewis (Australia Western Sahara Association)



Western Sahara has the world's longest conveyor belt: From the large Bou Craa phosphate mines, phosphates are transported a distance of more than 100 km, ending up in the El Aaiún harbour, Western Sahara's capital. Source: <http://www.bersek-productions.no>

THE PHILIPPINES: *BHP Billiton pulls out of Hallmark Nickel*



In January this year BHP Billiton cut ties with its controversial Hallmark nickel mine, selling its stake in the project to AMCOR.

Lodged between two protected areas – the Pujada Bay Protected Seascape and Mt. Hamiguitan Range, a proclaimed wildlife sanctuary – Macambol has never been the most logical site for a large-scale nickel laterite mining project.

Home to more or less a hundred hectares of “pygmy forests,” exotic plants and wild animals, the local community rely on rattan, timber and non-timber products as a source of livelihood. The community, successfully defending their lands and protected areas against large-scale logging, now stands wracked with increasing social tensions from the nickel mining operation.

Living in constant fear of displacement, loss of livelihoods and environmental degradation, the community continue to defend these two protected areas, which form part of their natural life support systems.

Extractives policy analyst Sonya Maldar, for the Catholic Overseas Development Agency (CAFOD), states, “Despite BHP

Billiton’s withdrawal from the Hallmark project, it looks like the company’s former partners will proceed with the nickel mine. Given the serious flaws in the official consent process, AMCOR and any future partners in the project cannot use this to push ahead with mining in the area. There must be a new consent process that is genuinely free and fair before any mining can proceed at Macambol.”

“BHP Billiton’s distancing of itself from this project is not the end of the story. The people and environment of the Philippines are still at risk from poor practices within the mining industry. Despite claiming to be an industry leader, BHP Billiton’s management failed to ensure that the company and its partners met the highest standards at the Hallmark project and this impacted on its licence to operate in Macambol. These issues, which are often seen as more marginal to a good business model, can develop into serious business risks if left unaddressed, leading to loss of investment to shareholders.”

The large-scale nickel laterite mining project continues to be a threat to local livelihoods, and will give little to the community in return.

Based on CAFOD press release, 7 January 2010, <http://www.cafod.org.uk/news/campaigns-news/bhp-billiton-2010-01-07>

CAMBODIA: *How “tea-money” got BHP-Billiton into hot water*

A million dollar payment made by BHP Billiton to the Cambodian Government in 2006 for the right to explore for bauxite in the northeast of the country bought the company far more than it bargained for. Although Global Witness is not accusing BHP Billiton of corruption, the fallout tells of the harsh realities companies face when operating in countries like Cambodia, with entrenched corruption and opaque revenue procedures.

BHP Billiton is one of a number of international companies recently granted exploration rights to Cambodia's booming extractive industries sector. Their concession was a joint venture with Mitsubishi. Global Witness first came across BHP Billiton's operations when investigating developments in the country's extractive industries sector for its 2009 report *Country for Sale*¹. This report exposed how rights to exploit oil and mineral resources had been allocated behind closed doors by a small number of powerbrokers surrounding the prime minister and other senior officials. The beneficiaries of many of these deals are members of the ruling elite or their family members. Meanwhile, evidence suggests that millions of dollars paid by oil and mining companies to secure access to these resources may be missing from the national accounts². Cambodia – one of the world's poorest countries – could eventually earn enough from its oil, gas and minerals to become independent of foreign development aid. However, this future is being jeopardised by high-level corruption, nepotism and patronage in the allocation and management of these critical public assets.

According to a Cambodian newspaper report, Cambodia's Minister for Water Resources told the country's National Assembly that BHP Billiton had paid US\$2.5 million to the government to secure a bauxite mining concession³. The Minister described the payment as 'tea money', a customary term for an unofficial payment in Cambodia. Global Witness wrote to the company in 2008 to ask about any forms of payment it had made to the Cambodian government or any government officials. The company's response confirmed it had set up a social development fund of US\$2.5 million which was "designed to improve the general health, education culture and welfare of the people of Cambodia"⁴. BHP Billiton also confirmed that an additional payment of US\$1 million was made by the company to the government to secure access to the mineral concession. However, the company rejected any assertion that the payment under the minerals exploration agreement was inappropriate.

Global Witness has obtained government figures which provide information on annual income to the Cambodian state in 2006. According to these, non-tax revenue from mining concessions was US\$443,866.⁵ If the money from BHP Billiton appears elsewhere in these documents, it is not clear where. This raises questions as to where BHP Billiton's US\$1 million payment has gone, and how companies manage the risk of investing in corrupt environments. BHP Billiton reportedly decided to pull out of Cambodia in 2009 because it did not find bauxite in sufficient quantities to justify extraction⁶.

BHP Billiton is not unique. Other extractive companies have made large payments to the Cambodian government which are

not showing up in the national accounts⁷. The government has recently begun to disclose "non-tax revenues" for the extractive industries. However, so far only single, aggregated monthly figures across the entire sector have been released, frequently with a reporting delay of more than 6 months, and some payments have not appeared at all. This is far from the international standard promoted through the Extractive Industries Transparency Initiative (EITI).

In April 2010 the U.S. Securities and Exchange Commission (SEC) announced it had launched an investigation into potential anti-graft violations by BHP Billiton. The country in which the alleged activities took place has not been named, but was widely reported in the press to be Cambodia⁸.

The mystery surrounding the destination of the US\$1 million paid by BHP Billiton and the linking by the media of this figure and the SEC investigation underlines the vulnerabilities for companies operating in countries such as Cambodia. Despite pressure from international organisations, Cambodian civil society and its international donors, the government so far refuses to endorse EITI or adopt equivalent measures for disclosure of revenue transparency. The question is therefore, what can companies like BHP Billiton do in order to protect themselves from these vulnerabilities?

One potential solution is the provision within the recently passed U.S. Dodd-Frank financial reform bill obliging U.S.-listed companies engaged in oil, gas or mineral extraction anywhere in the world to report how much they pay to governments in their annual filing to the SEC. This includes all royalties, taxes and payments, project by project and country by country. This bill not only creates a level playing field for all U.S. registered companies, but also enables civil society in countries with inadequate transparency procedures to call their government to account on missing revenue.

A second solution is for companies to proactively agree to publicly disclose such information. In Cambodia BHP Billiton acted more responsibly than other companies involved in the extractive industries sector: it was the only company to disclose information to Global Witness about payments made to the government.

BHP Billiton has also taken the lead internationally through its announcement in May 2010 that it will disclose all payments to governments on a country-by-country basis. Although the company's disclosures in their most recent annual report do not yet achieve this goal, Global Witness welcomes this commitment and hopes it will be followed by similar announcements from other international companies operating in the mineral and petroleum sectors.

This article was written by Global Witness, <http://www.globalwitness.org>





The Ok Tedi River in 1998. Each year 100 million tonnes of waste from the Ok Tedi mine are released into the Ok Tedi River. Photo: Stuart Kirsch

PAPUA NEW GUINEA: *Ok Tedi – a legacy of destruction*

The Ok Tedi River, a tributary of the Fly River, is located in the Western Province of Papua New Guinea (PNG). Sourced in the rugged central mountain range of PNG, its water eventually flows – via the Fly River Delta – into the Gulf of Papua to the north of Australia’s Great Barrier Reef. The Ok Tedi Copper and Gold Mine is situated on Mount Fubilan at the source of this river, and its practice of dumping mine waste directly into the river system has made it the centre of international controversy since the 1990s, when it was the subject of four lawsuits. Meanwhile, the people living along the Ok Tedi and Fly Rivers still find it difficult to feed their families due to the effects of this mine waste on food security.

The Ok Tedi Mine started production in 1984 and is expected to continue operating until 2013, although the current management is exploring possibilities for extending its life another decade or more. Each year, 100 million tonnes of waste from the Ok Tedi mine are released into the Ok Tedi River. This waste includes 60 million tonnes of waste rock, 10 million tonnes of erosion rock and 30 million tonnes of tailings, or treated, finely-ground mine waste⁹. The mine has discharged over one billion tonnes of tailings and waste material into the Ok Tedi and Fly Rivers over the life of the project.

The disposal of tailings into the Ok Tedi and Fly Rivers has caused environmental problems including more than 1,500 square kilometres of deforestation.

Deforestation is expected to increase to at least 3,000

square kilometres, and to

last for more than 50 years along

some parts of the river. Much of this area will not return to tropical rain forest, but permanently transform into savannah grasslands. Fish populations have declined by 95% in the Ok Tedi River, 85% in the upper middle Fly River and by 60% in the lower middle Fly¹⁰. The number of fish species in the Ok Tedi and Fly River system, which included many endemic species, has also declined by 30%¹¹.

In recent years the mine has suffered problems of Acid Mine Drainage (AMD), allowing acidic waste and environmentally



toxic metals to leach into the river. The ore body currently exploited by the mining operation is high in pyrites, which become acidic when exposed to oxygen. AMD can render large areas inhospitable to organic life for decades or centuries. In response to this problem, the mine's management has investigated plans to store the hazardous material in cells along the lower Ok Tedi River¹².

A number of the owners and operators of the mine, including BHP and Inmet, have acknowledged the detrimental impact of riverine tailings disposal into the Ok Tedi and Fly Rivers, and have actively researched alternative tailings management plans.

"While there have been ongoing studies to assess the environmental impact, Ok Tedi believes that these effects will likely be greater and last longer than previously thought, based on current findings from its monitoring program," reads the Inmet Mining 2007 Annual Report¹³.

Trials and investigations into alternatives had cost BHP A\$100 million as of 1999. Over ten years later no alternative to riverine tailings disposal has been developed at the Ok Tedi Mine. Pollution from the Ok Tedi Mine affects approximately 50,000 people, most of whom are subsistence farmers, fishers and hunters¹⁴.

"Before the mine, we had plenty of food. We inherited gardens along the river from our parents. Bananas and taro from the gardens fed our family. Game was plentiful and we ate wild pig, cassowary and cuscus meat. The river was clear and it was easy to catch fish and prawns," explains Andok Yang, of the Yonggom people. "But by 1984 our lives had changed. The river became muddy and the fish and prawns died. At the same time, the sand banks that later covered our

gardens began to form. By 1986 the plants and trees along the river began to die. Their leaves turned yellow and fell off. Gradually the effects of the mine spread into the swamps where our sago palms grow, and into the surrounding forest as well. The creeks filled with mud, killing the sago trees. The sand banks along the river grew higher. Today (1996) it is hard to find sago. There are no fish in the river and the turtles no longer come to lay their eggs. The animals have all gone away and we do not know where they are living, I worry about the future: will we continue to face these problems or will the mine clean up the river?"

Despite millions of dollars in legally mandated compensation, the people living along the Ok Tedi and Fly Rivers still find it difficult to feed their families. In many areas, it is difficult to access potable water during the dry season. Access to health care and basic services in rural areas has not improved downstream from the mine, and in some cases has declined. Very few of the compensation and development programs sponsored by the mining company have proven successful.

Only a small portion of the funds from the PNGSPDL (the fund established when BHP Billiton withdrew its shares from the mine) actually reach the communities along the river affected by the mining project; the rest of these funds are used by the Papua New Guinea government to supplement its development budget elsewhere in the country.

The impact of waste disposal from the Ok Tedi Mine into the Ok Tedi and Fly Rivers may constitute a violation of human rights according to Article 25 of the UN Universal Declaration of Human Rights which states: "everyone has the right to a standard of living adequate for the health and well being of himself and of his family, including food, clothing, housing and medical care." The existence of the Ok Tedi Mine has decreased the standard of living for those nearby.

A meeting of the Yonggom community. Despite millions of dollars in legally mandated compensation, the people living along the Ok Tedi and Fly Rivers still find it difficult to feed their families. Photo: Stuart Kirsch



Pollution from the mine has violated the villagers' rights to adequate amounts of food and water, and exposure to heavy metals in the food supply has been detrimental to their health.

BHP Billiton was responsible for the initial development of the Ok Tedi Mine. Despite BHP's divestment in the project and compensation packages to affected communities, the legacy left by BHP is dramatic and will have lasting impact felt well into the future. Currently there is limited accountability for human rights violations committed by multinational corporations. Traditionally individual states are expected to regulate corporate activity within their borders.

The UN is developing strategies around multinational commerce and human rights where there will be greater accountability for the negligent behaviour of corporations like BHP, who abandoned their responsibilities to those affected by the Ok Tedi Mine. However, some legal action has been taken to attempt to hold the mine's owners responsible.

In the mid 1990's Ok Tedi Mining Limited (OTML), a company in which BHP held majority shares, was the subject of four legal actions: a damages claim followed by a class action lawsuit in the Supreme Court of Victoria and two

constitutional references in the Supreme Court of Papua New Guinea.

The damages claim, handled by Melbourne law firm Slater and Gordon, was resolved out of court in 1996 resulting in a settlement of approximately US \$500 million for tailings containment and compensation. However, by 2009 BHP had only paid out \$32.5 million in compensation to 30,000 villagers who had suffered from the environmental impact of the Ok Tedi Mine's waste disposal.

When OTML continued dumping tailings and other mine wastes into the river system, Slater and Gordon filed a class action lawsuit against the mine in 2000¹⁵. The class action was settled out of court on January the 16th 2004¹⁶ after BHP Billiton divested its 52% majority shares in OTML by transfer to the Papua New Guinea Sustainable Development Program Limited (PNGSDPL). The mine's management now pays additional compensation to the affected communities through the Mine Continuation Agreement, but continues to discharge more than 100,000 tonnes of tailings and other mine wastes into local rivers daily, although a dredge in the lower Ok Tedi River removes slightly less than half of the tailings for on-land storage¹⁷.

BORNEO: *Exploiting mining rights in Heart of Borneo*



BHP Billiton holds seven mining concessions covering 355,000 hectares in Central Kalimantan¹⁸. The company is also exclusive marketing agent for PT Arutmin Indonesia, which operates six mining locations in South Kalimantan.

The company announced it would sell off the Central Kalimantan project in late 2009, but reversed the decision earlier this year. Then, in March 2010, BHP Billiton announced an agreement to create a new

joint venture for its Indonesian Coal Project with a subsidiary of PT Adaro Energy TBK. Adaro will hold a 25% interest in the joint venture with BHP Billiton retaining 75%¹⁹.

According to press reports, the project is expected to start commercial production in 2014, with output reaching six million tonnes of both thermal and coking coal within five years²⁰. Allegedly high proportions of metallurgical grade coal could well be a major attraction for BHP Billiton.

What will be the impact of the project? There is scant public information about the Indigenous and local communities

living in and around the concession area. Instead, the attention has been on the biodiversity impacts.

In 2007, the UK's Sunday Times newspaper reported that BHP Billiton planned to exploit mining rights in the Heart of Borneo conservation area and that it had lobbied for the protected status of some of its concession areas to be lifted²¹. Previously, a study for WWF confirmed that BHP Billiton's concessions overlapped with the Heart of Borneo area²². Meanwhile, the company's Sustainability Report for 2008 painted a benign picture of BHP Billiton, working to protect biodiversity in its concessions areas, (without referring to the Heart of Borneo).

The company estimates that the total 'disturbed area' within its concessions will be around 15,000 hectares, from the total concession area of 355,000 hectares. The report states the area had been under 'considerable threat from changes in land use, such as forestry and the rapid growth of palm oil plantations, plus 'poorly managed mining practices and illegal mining'. BHP Billiton does not appear to include itself as one of these threats.

The report also says that, should the project proceed, the plan is to start by creating 'small mines'. "By starting small, our aim is to develop further understanding of and experience in how to manage the environmental and biodiversity impacts within the region before large scale operations commence."²³

From 'UK - Indonesia coal connections', Carolyn Marr, DOWN TO EARTH No. 85-86, August 2010, <http://dte.gn.apc.org/85-86.pdf>

CANADA: Ekati Diamond Mine



Despite being upheld as a working model of Corporate Social Responsibility (CSR), First Nations communities near BHPB's Ekati diamond mine are concerned about the lack of good jobs, barriers to full participation in planning phases of the mine, decreases in populations of wildlife and pollution due to spills and mine waste. Now, given the evidence that global warming trends appear to be already impacting northern expanses of tundra, local Indigenous communities have raised the issue that there is no mitigation plan in place to deal with the impacts of the thawing of the ground.

USA: Resolution Copper mine



The San Carlos Apache Tribe of Arizona publicly opposes the Resolution Copper Project on their traditional lands proposed by BHPB and Rio Tinto. They assert that the proposed Resolution Copper mine at Chich'il Bildagoteel would destroy many particular ecosystems and would be a violation of their civil and religious rights. Tribe chairman Wendsler Nosie Sr. has requested that the Federal Government proceed with a full administrative review through an Environmental Impact Statement, so that they can fully analyze and discuss these impacts with the tribe.*

COLOMBIA: Cerrejon Coal Mine



BHPB is a 33% owner of Colombia's Cerrejon Coal Mine, the largest opencast coal mine in the world. Alongside a history of forced relocations of Indigenous and Afrocolombian communities, conflicts continue with communities currently facing displacement and those already-displaced. Meanwhile, Cerrejon mine workers and local communities complain of coal dust which causes skin and respiratory problems.

PERU: Antamina Mine



An Ancash Health Administration report found that mining sediment spills had led to levels of lead, copper and zinc in the Juprog River which were over the limits established by law, implying a risk for livestock and other agricultural use, as well as human health. Meanwhile, local newspapers reported that clashes with mine security seriously wounded 7 people who were protesting the company's failure to fulfill agreements concerning relocation of farming communities.**

CHILE: Minera Escondida



Since its construction in the early 1990s, there have been periodic spills from the pipeline taking copper concentrate across the Antofagasta region from the mine in the mountains to a pier in Coloso Bay south of the city of Antofagasta. Additionally, competition for scarce water sources near the mine site has led to conflicts with local farmers.

BHP Billiton Africa

~ selected cases



human rights



food security



health issues



WESTERN SAHARA: Bou Craa



August 2010, BHP Billiton announced its interest in acquiring the US-Canadian fertiliser firm PotashCorp (PCS). If BHP succeeds in its possible take-over, it will be forced to either actively support or directly undermine the United Nations work to decolonise the last colony in Africa. Following the Moroccan take-over, almost all Saharawi workers have been replaced with Moroccan settlers. Nearly all important posts of the firm are controlled by Moroccans.

SOUTH AFRICA: Samancor's Smelter



BHP Billiton's subsidiary, Samancor Manganese, owns and operates a manganese alloy plant in the Vaal Triangle in the Gauteng province. In 1999, medical tests were carried out on hundreds of Samancor workers. Most were found to be suffering from manganese poisoning, including neurological disorders, chronic dizziness, paralysis of limbs, kidney failure and cancer. Instead of publishing the results of these tests, Samancor fired 509 workers. According to the Samancor Retrenched Workers Crisis Committee, a community group organizing in response to this scandal, more than 700 smelter workers have died over the last 10 years from causes connected to the toxic manganese residues in the air, soil and water.

* Letter to Gene Blankenbaker, Forest Supervisor, April 20, 2009. Signed by Wendsler Nosie Sr., Chairman, San Carlos Apache Tribe and Vernelda Grant, Director/THPO, San Carlos Apache Tribe.

** Huaraz - San Martín, 27 August 2009, <http://www.inforegion.pe/>

*** "Aluminum in Africa: A case study for Earthlife Africa eThekweni and Friends of the Earth". JULY 11, 2007 Terri Hathaway, International Rivers Network, US/Cameroon

round the World

case studies ~



worker issues



water issues

sensitive ecosystem



Indigenous Peoples issues

DR CONGO: Inga 3 Hydro-Power Project

BHP Billiton is planning to develop a 2,000 MW aluminium smelter in the Democratic Republic of Congo, contingent upon the construction of the Inga 3 mega-hydropower site and a deep sea port. The DRC Government has neglected to fulfil its compensatory agreements with communities displaced by two existing dams at the same site for more than 40 years. Today, 9,000 people who have resided in the former construction workers' camp for decades have been threatened with eviction due to pressures for development of the Inga hydropower site. ***

MOZAMBIQUE: Mozal Aluminium Smelter

Civil society groups are challenging a six-month authorisation allowing aluminium giant BHP Billiton to emit potentially dangerous fumes from its Mozal smelter into the air without treating them first. With close to one million residents living within two kilometres of BHP Billiton's Mozal aluminium smelter, community representatives and organisations have already complained about damaged agriculture production which is to the detriment of their livelihoods and are deeply concerned about the potential health and environmental issues if BHP Billiton is allowed the 6 month bypass of there Fume Treatment Centres (FTCs) at the Mozal plant.

CAMBODIA

A million dollar payment made by BHP Billiton to the Cambodian Government in 2006 for the right to explore for bauxite in the northeast of the country bought the company far more than it bargained for. According to a Cambodian newspaper report, Cambodia's Minister for Water Resources told the country's National Assembly that BHP Billiton had paid US\$2.5 million to the government to secure a bauxite mining concession. The Minister described the payment as 'tea money', a customary term for an unofficial payment in Cambodia.

BORNEO

BHP Billiton holds seven mining concessions covering 355,000 hectares in Central Kalimantan. The company is also exclusive marketing agent for PT Arutmin Indonesia, which operates six mining locations in South Kalimantan. In March 2010, BHP Billiton announced an agreement to create a new joint venture for its Indonesian Coal Project with a subsidiary of PT Adaro Energy TBK. While information exists on some biodiversity impacts of the project there are serious concerns and little public information about the impacts on the region's Indigenous and local communities.

AUSTRALIA

BHP Billiton's reputation in Western Australia has always been controversial. In the past two years there have been five fatalities at BHP Billiton's operations in WA, the closure of the short-lived Ravenshorpe nickel mine and local resistance to their proposed Yeelirrie uranium mine in the state's Mid West, Yandi mine on Martidja Banyjima lands and the proposed gas hub joint venture with Chevron, Shell, BP and Woodside to process gas from fields offshore from the Kimberley coast. In South Australia BHP Billiton aims to dig a new open pit mine within its Olympic Dam Mine in Roxby Down, South Australia, despite opposition from Kokatha and Arabunna Traditional Owners and environmentalists. BHP Billiton proposed an increase in water consumption from 35 million litres daily from the Great Artesian Basin (GAB), to 42 million litres from the GAB and an additional 218 million litres from local aquifers and a proposed desalination plant at Point Lowley. In New South Wales farmers and communities continue to fight against BHP Billiton's proposed coal mines that threaten their agricultural livelihoods.

The PHILIPPINES

Sibuyan

Sibuyan, dubbed the Galapagos of Asia, is a small island in the central Philippines of just 44,500 hectares threatened with mining. After Armin Marin, an environmental activist, won a seat in a local council, he lobbied for the cancellation of mining permits in Sibuyan. Shortly after, he was shot dead during a protest against mining on the island. At the time of Marin's death, BHP Billiton had an agreement for a loan of US\$250,000 for exploration activities in Sibuyan, in exchange for 500,000 tonnes of nickel of the companies heading the exploration.

Pujada (Hallmark) Nickel:

In January this year BHP Billiton cut ties with its controversial Hallmark nickel mine, selling its stake in the project to AMCOR. Despite BHP Billiton's withdrawal from the Hallmark project, it looks like the company's former partners will proceed with the nickel mine.

The large-scale nickel laterite mining project continues to be a threat to local livelihoods, and will give little to the community in return.

PNG: Ok Tedi Copper

The Ok Tedi Copper and Gold Mine which BHP Billiton formerly controlled is located near the Ok Tedi River in western Papua New Guinea. Mining wastes dumped into the river have ravaged the environment and reduced access to food and drinking water for nearby communities. Several lawsuits were filed against the Ok Tedi Mining Limited Company which resulted in compensation to the affected population, though little of the money makes it there. The mine continues to operate and discharge more than 80,000 tonnes of refuse into local rivers daily.

COLOMBIA: *Cerrejon Coal mine*



BHP Billiton was part of a consortium of three multinational companies which in late 2000 bought the Colombian Government's 50% share of the massive opencast Cerrejon coal mine in the Department (province) of La Guajira in northern Colombia, one of the largest opencast coal mines in the world. The mine, operated by Exxon subsidiary Intercor (which owned the other 50% share) had a history of forced relocations of Indigenous and Afrocolombian communities, with inadequate or non-existent compensation, to make way for mine expansion²⁴.

In the late 1970s and early 1980s, Indigenous Wayuu communities were moved to make way for a coal export port at Puerto Bolivar, and for a railway built to carry coal from the mine to the port. Burial sites were desecrated and tensions caused between family groups as displaced families moved into the traditional territory of other families²⁵.

In August 2001, the small farming village of Tabaco, inhabited mainly by Colombians of African descent, was bulldozed by the mining company in a brutal operation accompanied by hundreds of armed soldiers and security personnel²⁶. In February 2002, the consortium of which BHP Billiton was a part bought the remaining 50% of the Cerrejon mine from Intercor. BHP Billiton now owns 33.33% of Cerrejon Coal, the mine's operator²⁷.

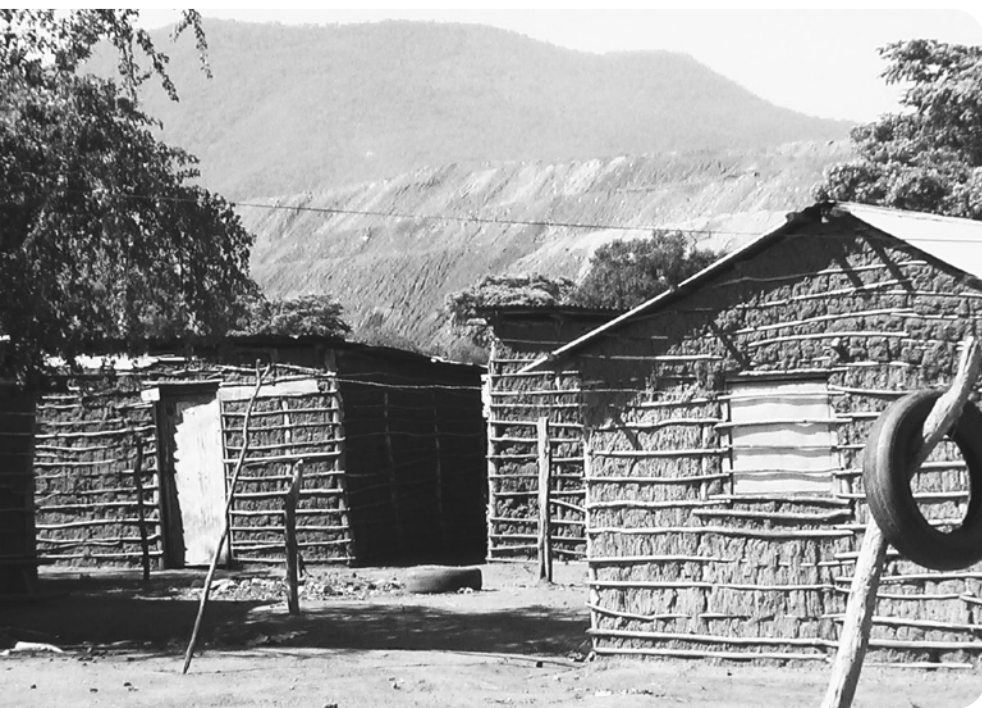
A sustained campaign of community opposition followed, supported by dissident shareholders in BHP Billiton and others around the world. Some of the former residents of Tabaco organised themselves through the Tabaco Relocation Committee, which was demanding not only compensation for the destruction of homes and livelihoods but also community relocation to farmland of equivalent agricultural value – as the World

Bank's Guidelines on Involuntary Resettlement urge²⁸. The best that Cerrejon Coal was willing to offer was family by family financial payouts based on property valuations which many in the community disputed. In 2007 a complaint against BHP Billiton was made to the Australian National Contact Point of the OECD (Organisation for Economic Co-operation and Development)²⁹.

In response to the criticism, in 2007 BHP Billiton and the other two multinational companies involved in Cerrejon Coal (Anglo American and Xstrata) commissioned an Independent Panel of Investigation to look into Cerrejon Coal's social programmes and its general impacts on local communities³⁰. The Panel found substance in much of the criticism that had been levelled at the company. It made a number of recommendations, particularly concerning a just settlement for the people of Tabaco. The Panel recommended, among other things, that Cerrejon Coal work with the Tabaco Relocation Committee as well as with other former residents of the village to ensure just compensation, buy collective land for agriculture and help construct a church and community centre for common use by former residents. The Panel also recommended that in future open, transparent negotiations take place with communities badly affected by the proximity of the mine, leading to collective relocation with community consent³¹.

Cerrejon Coal and its three multinational shareholders, including BHP Billiton, broadly accepted the Panel's recommendations³². Negotiations with the Tabaco Relocation Committee led to an agreement in December 2008 which,





ABOVE: Coal waste heap at the village of Chancleta in La Guajira, Colombia. Photo: CCAJAR, Bogota.

OPPOSITE: Residents of the village of Tabaco (La Guajira, Colombia) after the destruction of their village by the Cerrejon Coal company in 2001. Photo: Richard Solly.

according to the Relocation Committee's lawyer, contained most of what the Committee had been struggling for, including the purchase of a piece of land to which families from the former settlement could be moved, in order to continue their life together as farmers³³. Negotiations began with other small farming communities facing relocation as the mine expands – Roche, Chancleta, Patilla and Tamaquitos.

But conflict continues. There has been strong criticism of the levels of financial compensation in the Tabaco agreement. Provision of infrastructure to the new community – roads, drainage, electricity – is the responsibility of the local authority, and therefore relies on good will from the local mayor. The land being bought by the company is sufficient for housing but insufficient for farming on the scale practiced at Tabaco. It is still unclear how people will make a living³⁴.

Difficulties also remain for the communities currently facing displacement. A Peruvian research organisation, Social Capital Group, is making recommendations to company and communities about the relocation process, and some of the communities are being advised by a Colombian NGO, Indepaz, at the company's expense. But disagreements persist over the number of people subject to relocation, the need for productive land in the relocated settlements, how to compensate for the disruption to people's lives over the past decade and more, and the fact that the communities' consent to the mine was never sought in the first place. In recent years, people have found it almost impossible to support themselves as mining expansion has encroached on agricultural land, and while the relocation process is under way people will have no means at all of supporting themselves. The pressures under which communities are living cause disputes. Community

members accuse Cerrejon Coal of undermining their community leadership, taking decisions without consultation, publishing relocation timetables on the company's website without informing the communities, calling meetings at short notice and causing confusion and divisions by cancelling meetings already agreed at the last minute, informing only some of the participants and not others. Community members remain in the dark about what they will eventually receive – what kind of houses, land, work and financial compensation. The quality of negotiation has improved since BHP Billiton's last AGM, but the whole process continues to take place extremely slowly³⁵.

Meanwhile, people are living in extremely difficult conditions, with blasting from the mine causing damage to homes, coal

dust in the air causing skin and respiratory problems, land on which people used to work being swallowed up by mining activities or fenced off in readiness for mine expansion. People feel that their communities are being 'strangled'. The Independent Panel of Investigation recommended that the company do more to ensure that people could make a living – including provision of services and financing of small-scale economic projects – but the company's efforts have been inadequate. It has taken company representatives many months to accept that they need to listen to the community's own experience and suggestions. Some cattle belonging to community members have died after wandering into the mine lease area³⁶.


At the same time, Cerrejon mine workers who are members of the SINTRACARBON trade union are concerned about the inferior working conditions of non-unionised contract workers at the mine. SINTRACARBON is also worried about exposure to coal dust. The union says that coal dust is a hazardous substance under Colombian law and that because of this the company is legally bound to pay higher social security contributions than it is currently paying, in order to facilitate earlier retirement for mine workers. The union reports little progress on these matters since last year's BHP Billiton AGM³⁷.

Mine workers and representatives of communities affected by the Cerrejon mine are agreed that international pressure on the mine's owners – including BHP Billiton – is crucial if progress is to be made.

Richard Solly, Colombia Solidarity Campaign

AUSTRALIA

SOUTH AUSTRALIA: *Olympic Dam Mine*



Western Mining Corporation first developed the Olympic Dam (Roxby Downs) Uranium Mine in 1983, despite strong and sustained opposition from Kokatha and Arabunna Traditional Owners and environmentalists. BHP Billiton purchased the underground Olympic Dam mine in 2005. In

May 2009 BHP Billiton released a draft

Environmental Impact Statement (EIS) detailing plans to turn Olympic Dam into a massive open pit mine³⁸. This new open pit mine is intended to operate alongside the existing underground mine and to increase uranium production from 4,000 to 19,000 tonnes per year and copper production from 200,000 to 750,000 tonnes a year³⁹.

“Enough damage has been done from the Olympic Dam uranium mine, they should not expand it,” protests Eileen Wani Wingfield, a Senior Kokatha Woman from Coober Pedy in South Australia (SA). “Many of our food sources, traditional plants and trees are gone because of this mine. We worry for our water: it’s our main source of life. The mine causes many safety risks to our roads – transporting the uranium from the mine. It has stopped us from accessing our sacred sites and destroyed others. These can never be replaced. BHP never consulted me or my families, they select who they consult with. Many of our people have not had a voice. We want the mine stopped now, because it’s not good for anything.”⁴⁰

The existing mine operates under the Roxby Downs Indenture Act 1982, which provides overrides and exemptions from key state legislation including the SA Aboriginal Heritage Act 1979 and 1988. BHP Billiton is in a legal position to determine what consultation occurs with which Traditional Owners and the nature of any consultation⁴¹. The Company decides the level of protection that Aboriginal heritage sites receive and which sites are recognised. BHP Billiton claims that it fully complies with Aboriginal heritage legislation. However, the question remains why the company is unwilling to relinquish the outdated legal exemptions⁴².

The Roxby Downs Indenture Act 1982 also allows wide-ranging exemptions from key environmental laws such as the SA Environmental Protection Act 1993, Freedom of Information Act 1991 and the Natural Resources Act 2004 – including on critical water resources and Great Artesian Basin (GAB) management issues⁴³.

BHP Billiton should agree that this outdated Indenture Act be repealed by the SA Parliament and should withdraw their request to the SA state government that the Indenture Act be amended to apply and extend these exemptions and legal privileges to the proposed new open pit mine for decades to come.

The new open pit mine would see the production of radioactive tailings increase seven-fold to 68 million tonnes annually. These tailings are stored above ground and contain a toxic, acidic mix of radionuclides and heavy metals, effectively a source of permanent pollution. There have been many spills and leaks since the mine began. In the mid-1990s it was revealed that about three billion litres had seeped from the tailings dams over two years. These problems at the existing underground mine have yet to be resolved⁴⁴.

BHP Billiton have designed the proposed new open pit mine to leak on average some 3 million litres of liquid radioactive waste a day from the tailings piles and to dump radioactive tailings on the surface to be left there forever. They do not intend to rehabilitate the proposed new open pit at closure of the mine but to leave this radioactive scar on the landscape forever.

BHP Billiton should have to prevent leakage and to agree to isolate tailings from the environment for at least the minimum 10,000 year regulatory standard applied by the Australian Federal government at the Ranger uranium mine. Is the proposed new open pit mine only ‘economic’ because BHP Billiton do not intend to responsibly manage their radioactive mine wastes or to properly dispose of these tailings into the void of the pit at closure?

“Here you are, BHP, the biggest mining company in the world, and here we are the oldest peoples in the world. You should be listening to us about this land and the water. BHP, don’t go ahead with the expansion, we all know how dangerous it is,” explains Uncle Kevin Buzzacott, an Arabunna Elder from Lake Eyre South, South Australia. “When you’ve packed up and gone that’s when the earthquakes will happen, don’t go ahead with it; use your common sense. There should never be an open cut uranium mine in the desert. We don’t know if your shareholders understand the impacts of what you’re doing to the Arabunna people, the Kokatha people and other tribes around that area. You don’t understand what you’re doing to the land and the culture.”⁴⁵

Integral to the 2009 open pit mine plan BHP Billiton proposes an increase in water consumption from 35 million

NUCLEAR WEAPONS

Uranium production at Olympic Dam is expected to increase to 19,000 tonnes per year, sufficient to fuel 95 power reactors, which will produce 2,850 tonnes of high-level nuclear waste per year (in the form of spent nuclear fuel). That amount of spent fuel contains 28.5 tonnes of plutonium – enough for 2,850 nuclear weapons each year. Over the lifespan of the mine covered by the EIS up to 2050, it could be responsible for the production of enough plutonium for over 100,000 nuclear weapons.⁵¹



Uncle Kevin Buzzacott, an Arabunna Elder from Lake Eyre South, South Australia.

litres daily from the GAB to over 260 million litres daily to be turned into liquid radioactive wastes in processing the ore⁴⁶. This water would come from a combination of sources of which up to 42 million litres would come from the GAB and around 200 million litres a day from a proposed desalination plant near Whyalla. That's over 100,000 litres every minute – in the driest state of the driest inhabited continent on Earth⁴⁷. The water already taken from the GAB has had adverse impacts on the health and flow rates of the precious and unique Mound Springs⁴⁸. The proposed desalination plant is also inappropriately sited and threatens the fragile low flushing Upper Spencer Gulf and the breeding ground of the charismatic Giant Australian Cuttle Fish⁴⁹.

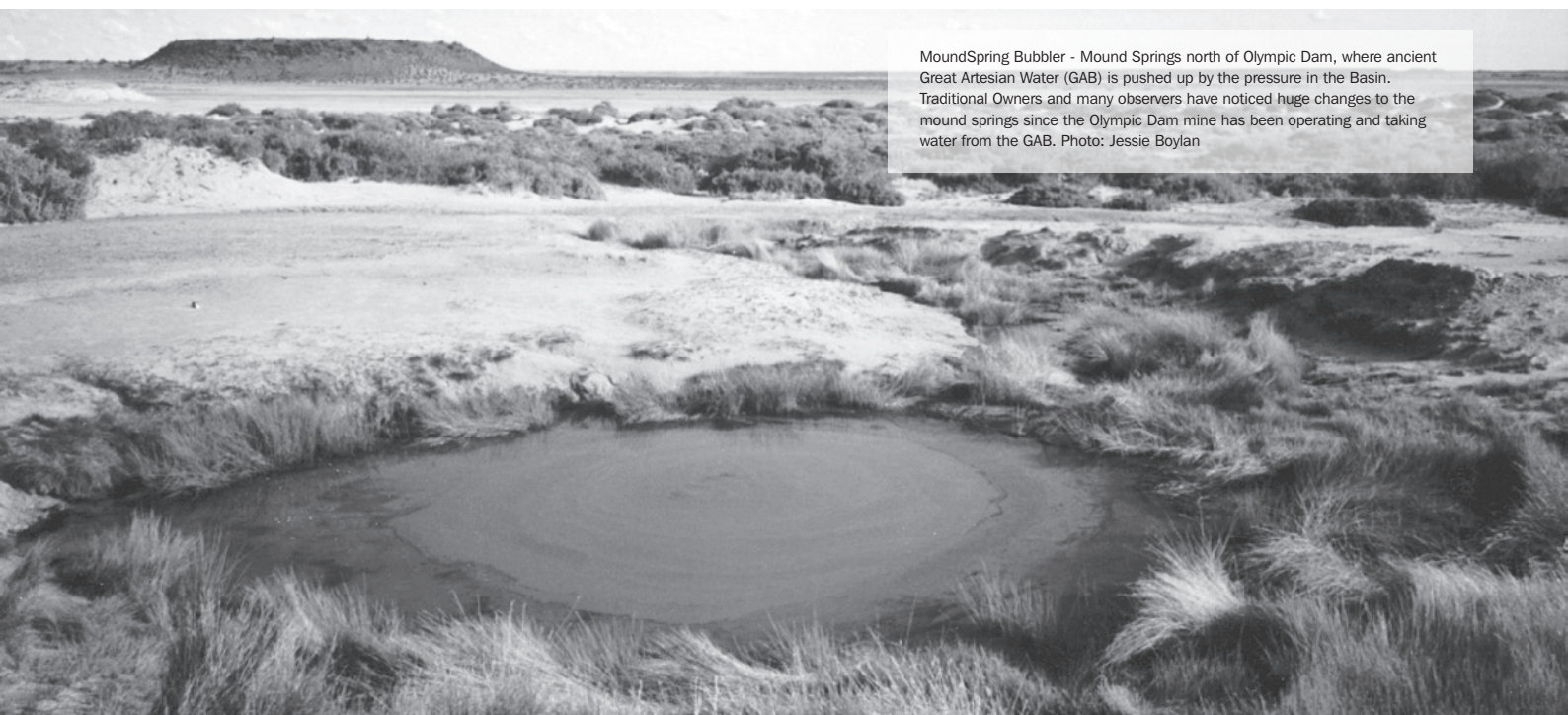
Yet another provision of the Indenture Act means that BHP Billiton pays nothing for its water take for the Olympic Dam Mine. Despite the company recording a US\$12.7 billion profit in 2009-10 precious Great Artesian Basin water is taken free of charge while the groundwater system is damaged and depleted.

The proposed expansion of the Olympic Dam uranium mine highlights the fallacy that nuclear power is a 'solution' to

climate change. If the mine expansion proceeds as proposed Olympic Dam would generate 5.3–5.9 million tonnes of greenhouse gas emissions annually, increasing South Australia's total greenhouse gas emissions by 12 to 14 per cent and undoing the state's efforts to reduce greenhouse pollution⁵⁰.

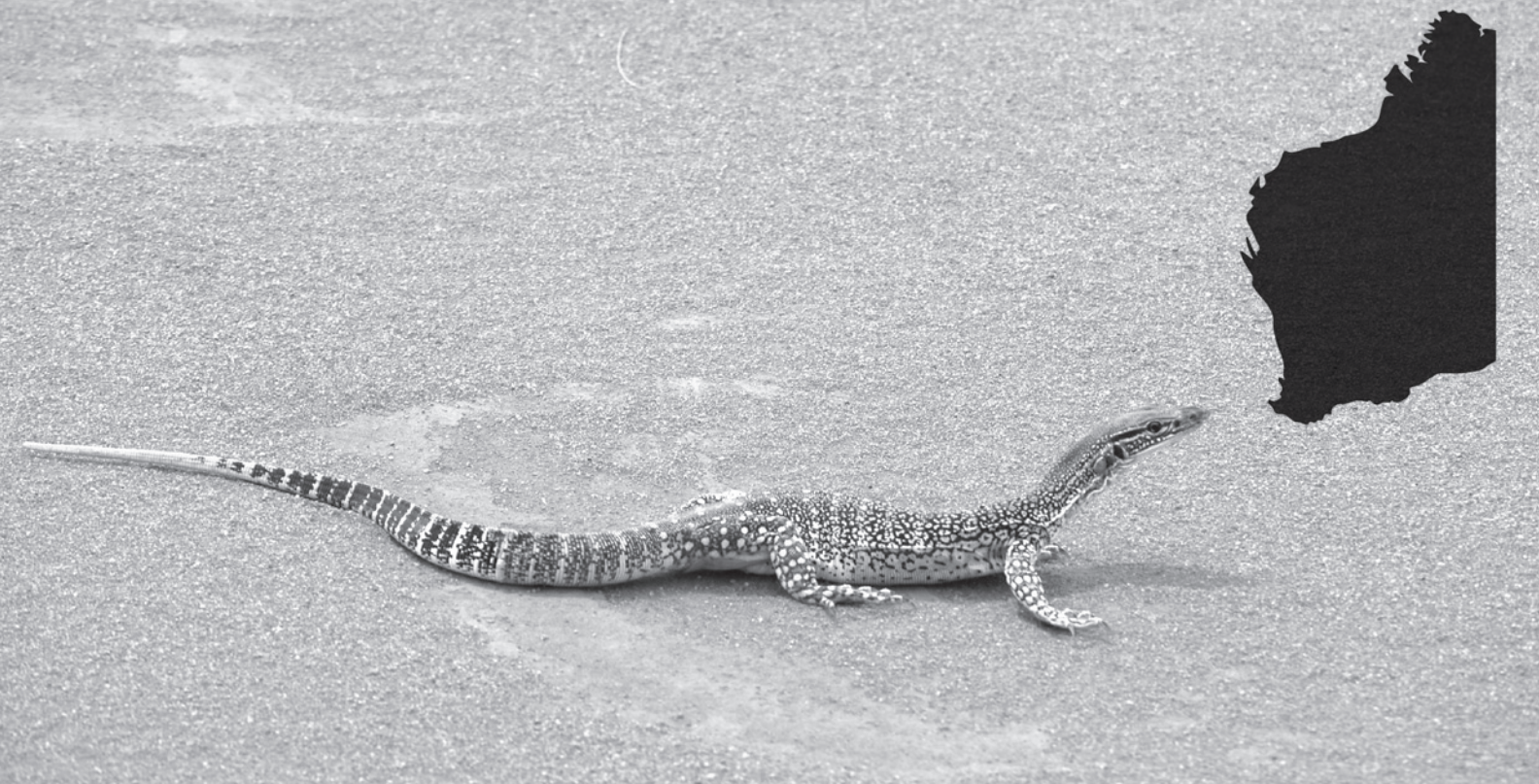
If the new open pit goes ahead BHP Billiton proposes that the majority of copper production occur in China rather than the current practice of processing all copper on site. The company intends to export a uranium infused copper concentrate, some 1.6 million tonnes a year containing a few thousand tonnes of uranium and some 400 000 tonnes of copper. China is the sole market for this radioactive concentrate. This highly contentious plan would see BHP Billiton dumping some 1.2 million tonnes of long lived radioactive mine wastes in China every year and would require an amendment to Australia's uranium export treaty with China to provide for the unprecedented sale of Australian uranium in concentrates.

David Noonan, Nuclear Free Campaigner, Australian Conservation Foundation



MoundSpring Bubbler - Mound Springs north of Olympic Dam, where ancient Great Artesian Water (GAB) is pushed up by the pressure in the Basin. Traditional Owners and many observers have noticed huge changes to the mound springs since the Olympic Dam mine has been operating and taking water from the GAB. Photo: Jessie Boylan

WESTERN AUSTRALIA: *Yeelirrie 'Wanti - Uranium leave it in the ground'*



Baanga on the road to Yeelirrie 26th Oct 2010. Photo: Mia Pepper

Yeelirrie is in a small valley south of the Montague ranges in mid west Western Australia around 500 kilometres north of Kalgoorlie. The area experiences some of Western Australia's most extreme weather, temperatures can rise above 45 degrees and drop below zero. Among the spinifex, breakaways and gnarly Acacia woodlands live a wide variety of marsupials, reptiles, birds, and bugs. Below the surface is a clean water aquifer and an ancient and little studied ground water dependent ecosystem that has evolved over millions of years.

In the 1970s Western Mining Corporation (WMC) operated a trial uranium mine that left 35,000 tonnes of uranium ore on the surface at Yeelirrie. This material was un-fenced and exposed to the environment for 20 years until WMC was forced to clean up and fence the site in 2003. In 2005 BHP Billiton's acquisition of WMC saw it acquire the Yeelirrie deposit and the massive Olympic Dam uranium mine in South Australia. This started BHP Billiton's disappointing move into the contested and contaminating uranium sector.

The consultation and consent process for the proposed Yeelirrie mine has been limited and inadequate and the project has been criticised and opposed by both Traditional Owners and pastoralists.

The Wongutha people have formally directed their representative body the Central Desert Native Title Service not to discuss Yeelirrie with BHP Billiton. Local Indigenous people have requested the company to release studies and

details of the health and radionuclide content in animals in the region. They are concerned about hunting animals that have grazed on contaminated sites.

BHP Billiton's failure to release any of these reports has led many to distrust the company. This has been further heightened by a litany of accidents and workplace fatalities at other BHP Billiton operations in Western Australia in recent years. These new concerns build on a long history of deficient environmental performance and management, unnecessary radiation exposure and poor relationships with the Wongutha people and the Koara tribal group.

The Yeelirrie project is surrounded by a high level of uncertainty and remains a risky investment for BHP Billiton. There is continuing political uncertainty around uranium mining in Western Australia and no bi-lateral support for the sector, with strong opposition to uranium mining in Western Australia among the opposition Labor party, the Greens and many civil society groups, including the trade union movement. There is also growing community opposition to the proposed transport of yellow cake across the state.

Yeelirrie is a controversial mine in a contested political climate and the project remains uncertain. What is certain is that BHP Billiton's uranium ambitions are unnecessary, unsafe and increasingly unwanted.

Mia Pepper, Conservation Council Western Australia



Wongutha kids with Elder Geoffrey Stokes holding portraits from the Inhabited Exhibition and saying "No Uranium Mining on our Lands". Wongutha Cultural Day, Kalgoorlie, October 2009. Inhabited portraits by Jessie Boylan. Photo by Nat Lowrey.

“Within the Wongutha Tribal group I am the leader of my clan, the Koara people. Yeelirrie is in my tribal boundary. One of the things BHP has not done, and what it’s supposed to do it, its law actually for them to do a heritage survey with me and my people. They’ve never consulted with me to do that. What I need to say to you is this.... before we ever knew about nuclear anything that place Yeelirrie was a no go zone for my tribal people. The name of it, in my native language, the place Yeelirrie means ‘death’. BHP Billiton has never done a heritage survey with me. I’m happy that while uranium is in the ground it’s safe, I’m concerned what it’s going to do when it comes out of the ground. Now if it’s going to start killing off people in another country, destroying their lives, I’m concerned about that, because it’s my land that could be doing this stuff. It concerns me, it concerns my tribal group, it concerns the surrounding people.”

- Richard Evans, Koara Traditional Owner,

WESTERN AUSTRALIA: *Boom-to-bust*

BHP Billiton’s Ravensthorpe Nickel mine highlights the human costs of the boom to bust mining economy; but beneath this lies another story, that of the environmental costs of unplanned mine closure.

The Ravensthorpe Nickel mine does not lie on any old land. The ore body sits in the Bandalup corridor, an area of remnant native vegetation connecting the Fitzgerald River National Park with the Ravensthorpe Range; and from there to the Great Western Woodlands and arid interior beyond.

The mine lies within the Fitzgerald Biosphere, an area surpassed in its biodiversity value only by the South-West’s greatest gems such as the Stirling Range National Park, making it one of the most biodiversity-rich parts of the Southwest Eco-Region - Australia’s only internationally recognised biodiversity hotspot. More than 700 species of plants were found on BHPB’s Ravensthorpe leases during pre-mining surveys.

However, despite the slow start-up of actual mining at the site and the fact that very little ore has been processed, BHPB cleared almost 100 % of the surface of the ore body prior to mining, leaving a massive scar where remnant vegetation had thrived only a couple of years before.

Now the mine and associated nickel factory is closed for the foreseeable future. Biodiversity offsets in the form of research and re-vegetation were committed to, but have not been commenced. Great promises were made, and broken. The vegetation is cleared and the future uncertain.

Similar to the social and economic devastation caused to the towns Ravensthorpe and Hopetoun by BHP Billiton’s mine closure, so too, in terms of biodiversity, Western Australia has gained nothing and lost a lot.

Tim Nicol, Mining Spokesperson, Conservation Council of Western Australia. “Boom-to-bust mining industry leaves scar on biodiversity hotspot”. Edited article from The Greener Times, Summer 2009

BHP BILLITON’S RECORD WESTERN AUSTRALIA 2008-2010

12 April 2010: A 45 year old booger operator died at the Leinster Perseverance mine after his truck fell almost 20 metres down a mine shaft. It took 18 hours to retrieve his body.

28 June 2009: A driller was trapped underground at Perseverance mine in Leinster for two and a half hours after a rock fall.

10 June 2009: A 37 year old man was trapped underground at the Perseverance mine in Leinster for 16 hours after a rock fall.

19 March 2009: A 45 year old contractor died in Hospital after he fell about 12m from machinery at Mt Whaleback mine in Newman.

24 February 2009: A 56 year old track machine operator was killed when he was hit by a train on the Tappa line 74km south of Port Headland.

4 September 2008: A 19 year old truck driver was killed when a light vehicle and a haul truck collided at the Yandi mine, 140km north-east of Newman.

25 August 2008: A 29 year old man was killed when a hydraulic lift fell on him at the Nelson Point operations in Port Hedland.

Source: The West Australian Thursday 2, 2009, with updates.

WESTERN AUSTRALIA:

Hero or destroyer?

BHPB is in a joint venture partnership with other fossil fuel giants to build an industrial gas processing facility at James Price Point, north of Broome in the Kimberley region of Western Australia.

The development of heavy industry and a deepwater port on the pristine Kimberley coast would have severe local impacts in the middle of the world's largest Humpback whale nursery, and facilitate wide scale industrialisation of one of the world's last unspoiled areas.

Coal, uranium, bauxite and copper mining companies are lining up to develop their projects in anticipation of approval being given for the industrial gas site.

According to a recent United Nations global study, northern Australia including the Kimberley has the most pristine coastline in the world after the polar regions.

The north Kimberley is one of the very few regions in Australia to have no recorded native animal extinctions since European settlement.

There are viable alternative sites for processing the gas from the Browse field and BHPB has a responsibility to withdraw support for a 'greenfields' site on the Kimberley coast and explore other technically and economically viable sites.

Indeed, BHP Billiton Petroleum chief executive Michael Yeager has previously stated that BHPB is concerned about the choice of James Price Point because there are existing LNG plants elsewhere on the Western Australia coast that could be used instead.

Renae Williams, Kimberley campaigner, The Wilderness Society

Whales, Kimberley, Western Australia. Photo: Courtesy of Environs Kimberley

NEW SOUTH WALES:

Farmers triumph

In January 2010 farmers in Carroona, from the Liverpool Plains northwest of the Hunter Valley in New South Wales, Australia, lost the battle to block BHP Billiton from exploring for coal in fertile agricultural land. Chief Justice Brian Preston found that there were no grounds to rule the licence invalid.

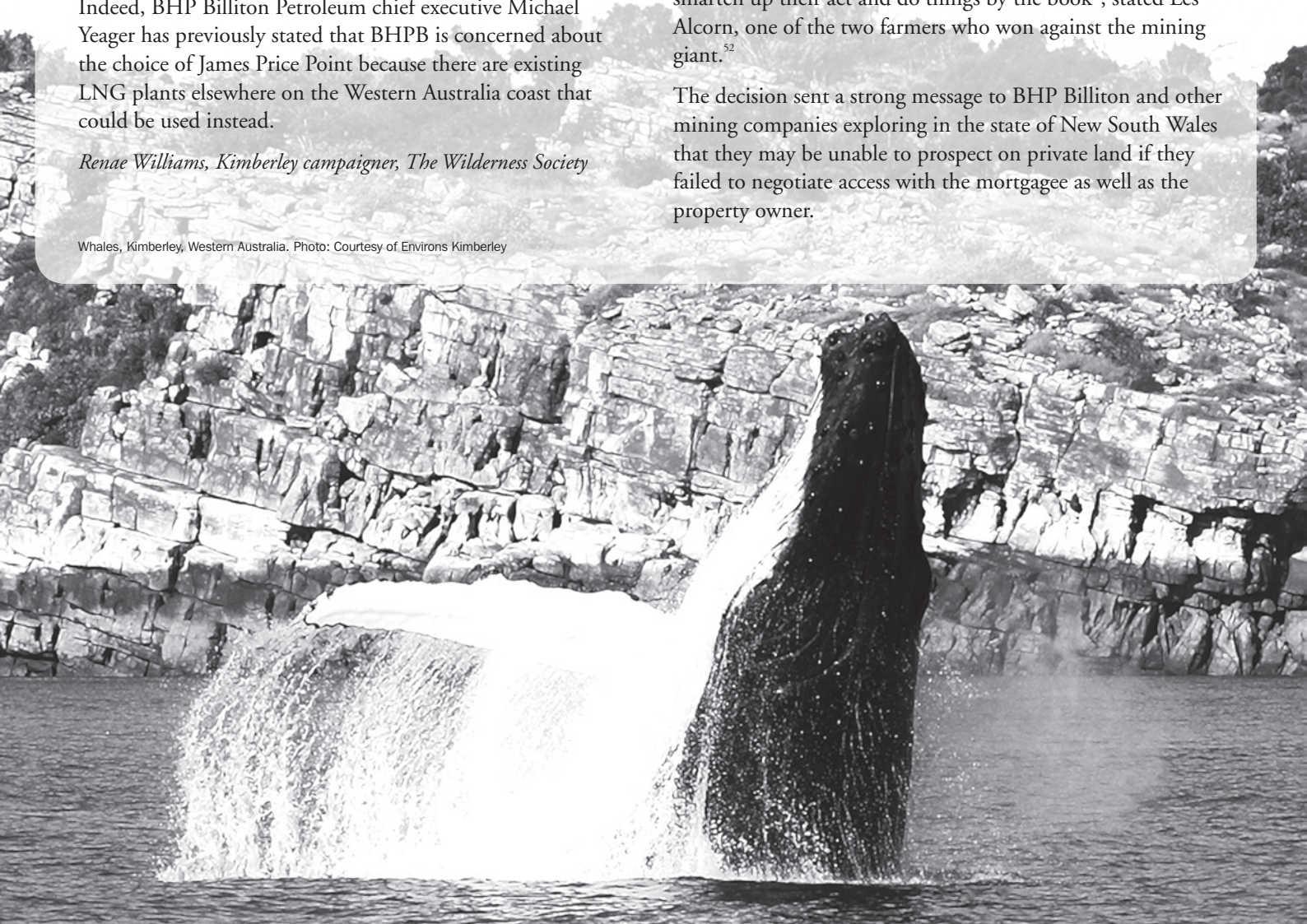
Preston stressed that the court was not judging whether the licences should have been granted in the first place.

Stating that the government had failed to follow due process when it issued BHP Billiton's exploration licence farmers had blockaded against BHP Billiton's exploration, fearing that the development of coalfields would damage their livelihoods and the water that they rely on.

Despite losing this legal battle the farmers united said they would continue to fight. And so they did. Two months later farmers savoured a landmark decision handed down by the Supreme Court finding that BHP Billiton's licences to explore for coal on two farms in the region were invalid.

"It sets precedents and says that mining companies have to smarten up their act and do things by the book", stated Les Alcorn, one of the two farmers who won against the mining giant.⁵²

The decision sent a strong message to BHP Billiton and other mining companies exploring in the state of New South Wales that they may be unable to prospect on private land if they failed to negotiate access with the mortgagee as well as the property owner.



CONCLUSION

Last year, BHP Billiton's response to the many concerns raised in our alternative annual report, *BHP Billiton: undermining the future*, was dismissive. The company simply stated:

'The "Alternative" report ... contains numerous outdated and erroneous assertions about BHP Billiton's environmental and social performance. Stakeholders interested in the Company's performance should refer to our independently verified sustainability report at www.bhpbilliton.com/bb/sustainableDevelopment.jsp. We would also be happy to respond to any specific issues raised in the alternative report.' (See <http://www.business-humanrights.org/Links/Repository/949446>.)

This response was wholly inadequate, and confirmed the company's reputation among its critics for failing to discuss detailed, evidence-based criticism of its operations. Its Sustainability Report did not deal with the matters being criticised.

The fact that this year's alternative annual report contains so much of the same material as last year's is sad testimony to the fact that company is slow to change its ways. **There remains a wide gap between the company's rhetoric and the reality on the ground.**

Indigenous rights

BHP Billiton says that it is committed to Indigenous Peoples and has a good record in its relationships with them. But it refuses to apply the high standards set out in the UN Declaration on the Rights of Indigenous Peoples, it has benefited from operations which have ignored Indigenous rights in Colombia and the Philippines and it is pushing through projects in South Australia and Western Australia in the teeth of Aboriginal opposition. **BHP Billiton needs to accept and respect Indigenous Peoples' right to Free, Prior and Informed Consent. It needs to accept that 'No' means 'No'!**

Community removals

At the Cerrejon mine in Colombia, BHP Billiton and its partners promised a better deal for communities facing relocation as the mine expanded. The mine's management has certainly improved its behaviour in the face of continuing community demands supported by an international campaign; but community members complain about the painfully slow pace of relocation arrangements, of bad faith on the part of negotiators from Cerrejon Coal, and of inability to make a living as the

mine has swallowed up agricultural land. **BHP Billiton needs to ensure at a very minimum that the World Bank standards on involuntary removals are maintained in ALL operations in which it is involved and that it treats communities with respect.** That means that if farming communities are moved off their land they must receive land of equivalent or greater agricultural value, and not be left without the means to make a living while new accommodation is prepared. The company should avoid projects where involuntary removals are necessary.

Economic benefits

Agreements with First Nations communities around the Ekati mine in the Canadian Northwest Territories were hailed as a fine example of corporate respect for Indigenous Peoples' rights. But unequal bargaining power put First Nations negotiators at a disadvantage from the beginning, and benefits hoped for have not materialised, while social change has disrupted community life. **BHP Billiton must ensure that, where communities do accept a mine project in their area, economic benefits go to local people and social and cultural disruption are avoided.**

Zero harm

The company aims for 'zero harm' for its workers, but over a two year period, ending in 2010, five workers died in fatal injuries at BHP Billiton's operations in West Australia. Samancor workers in South Africa report that information about the health and safety risks of handling manganese is not readily available to them, and that they will never be healthy enough to get a job elsewhere because of debilitating illnesses contracted at work. **BHP Billiton must not only work to avoid deaths at work but to eliminate sickness caused by work in operations in which it is involved – and where it happens, the company must deal justly with those who are ill.**

Human rights

The company says it intends to follow the highest human rights standards. It has pulled out of the Sibuyan project in the Philippines, where the murder of a prominent opponent of mining caused an outcry. But it is now bidding to buy Potash Corporation of Saskatchewan, which is heavily involved in Western Sahara, much of which is under Moroccan occupation and is deemed by the United Nations and the African Union to be a country in need of decolonisation. **BHP Billiton must avoid profiting from colonisation, military occupation and oppression.**

Ecological damage

BHP Billiton's legacy at Ok Tedi in Papua New Guinea is one of grave and lasting damage to the Ok Tedi and Fly Rivers. Despite millions of dollars in legally mandated compensation, the people living along these rivers still find it difficult to feed their families. It plans to open the world's biggest open-pit uranium mine at Olympic Dam in Australia despite the problem of radioactive waste disposal and the danger that radioactive dust may be carried by wind storms over centres of population on the Australian east coast. **BHP Billiton must live up to its ecological rhetoric, stop endangering fragile ecosystems, make good the damage it has already caused, and work for a 'just transition' out of uranium mining.**

Climate change

BHP Billiton says it is concerned about climate change and believes that it may adversely affect its operations and markets. But it continues to expand both its oil production and its coal mining. Its planned open cast coal mining project on the edge of the Heart of Borneo conservation area will cause massive destruction to a fragile ecosystem. But the expansion of coal mining in itself will exacerbate destructive climate change. **Instead of boasting about rising production of fossil fuels, BHP Billiton must begin now to make a just transition away from production which hastens climate catastrophe.**

Honesty and openness

BHP Billiton's involvement in Cambodia has caused it grave embarrassment because of the lack of clarity over payments to government bodies. It says it is committed to revealing all payments made to national governments. It has not yet done so. BHP Billiton needs not only to avoid any and all forms of corruption in its dealings with authorities, but to be seen to be avoiding them. It is accused of failing to make information available to people affected by its aluminium smelter in Mozambique, even though across the border in South Africa the law would force it to be more open. It has also failed to report on exploration activities despite the known social and environmental impacts of such activities and controversy over land use. **BHP Billiton needs to be open and honest, not only in financial matters, but also about its exploration activities and in every case where communities affected by its operations want to know what it is doing.**

BHP Billiton's Olympic dam mine (Roxby Downs) in South Australia. Photo: Jessie Boylan.



FOOTNOTES

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credits

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