

Recent Toguraci Events – Background and Key Facts

Summary

- *PT Nusa Halmahera Minerals (PTNHM) has permits to construct the Toguraci mine, which are valid and current.*
- *PTNHM has consulted extensively with local communities and provides a range of assistance to these communities.*
- *Recent incidents at the site related to illegal mining activity by outsiders and not ‘protests’ by local communities on other issues as claimed by some groups.*
- *PTNHM has no authority over the Police of Indonesian Republic – Mobile Brigade (BRIMOB) who have been sent to the site by the Indonesian Government to uphold the law.*
- *PTNHM is required to contribute to the upkeep and expenses of the police on site. This is a fee-for-service agreement and is common practice in Indonesia (and many Australian states).*

Background

PTNHM has been involved at Halmahera since it commenced exploration there in 1992. It commenced its first mining operation there in 1998.

The Gosowong and Toguraci mines are owned 100 percent by PTNHM, which is itself owned 82.5 percent by Newcrest Mining Limited and 17.5 percent by PT Aneka Tambang (a publicly listed Indonesian mining company).

Between 1999 and 2001 through the period of religious civil unrest between the ethnic religious populations PTNHM maintained relationships with all local communities and continued its commitment to the project and the region. Over that period, the Company maintained a neutral stance, which was recognised and respected by community groups on both sides of the conflict. This policy of neutrality remains a key feature of the Company’s policy today.

Permitting Status of Toguraci

PTNHM was granted a Contract of Work (COW) by the Indonesian Government for the Gosowong area in April 1997. The COW is a contract between the Indonesian government and the Company setting out the rights and obligations of each party from the commencement through to the closure of all mining operations in the area. Since that date the Gosowong mine area has operated continuously under this COW. Mining of the Gosowong pit was completed in 2003 and the new Toguraci open pit, utilising the existing Gosowong mill, will extend the life of the Gosowong project. The Toguraci mine is within the COW area.

An issue confronting mining companies operating in Indonesia has been Law 41 of 1999 on Forestry. PTNHM had been operating within the COW which allowed uninhibited mining access to all parts of the COW, however Law 41, imposed in 1999, excluded mining in certain areas within the valid COW. By specifically denying open-cut mining in Protection Forest and omitting any grandfather clause for pre-existing contracts, this law immediately created direct conflict with PTNHM's COW agreement.

The changes created by Law 41 affected many mining companies operating in Indonesia. PTNHM has been at the forefront of efforts to resolve these inconsistencies through negotiation with the Government of Indonesia.

In May 2003, upon Presidential instruction, the Minister of Forestry issued an interim approval for the Toguraci development. This was necessary until legislative changes are made to Law 41/1999. In July 2003, the Minister of Mines approved the Feasibility Study and Environmental Impact Statement (AMDAL) for the Toguraci mine and gave PTNHM approval for its construction.

Construction of roads, settlement ponds and mining has proceeded, based upon these two approvals. Recently, the President of Indonesia restated that PTNHM operations could continue until the Presidential Decree on Protection Forest is issued, which is expected to exclude pre-1999 COW holders from Law 41/1999 restrictions in Protection Forest.

At all times PTNHM has acted in consultation with the Indonesian government and associated ministries and has adhered to and respected the legal processes prescribed for such mining activities in Indonesia.

Community Consultation and Contribution

A structured program of consultation with the local community began at the time of initial development at Gosowong in 1998 as part of the mine development plan. The consultation process was extensive and conducted both before and during the period of religious civil unrest between the ethnic religious populations

Consultation after this initial period has been via PTNHM's management of its local community development program.

This intensive, structured local community development program has been operating since 1998 and has demonstrated PTNHM's ongoing commitment to the local region. As well as direct employment at the mine, PTNHM has provided the local communities with health care, educational support, accommodation and food, worth well in excess of US\$2 million.

In addition to this direct financial assistance PTNHM pays 1.0 billion rupiah per month in local wages and has paid US\$38M in taxes. US\$6M of these taxes is in the form of royalties, 80 percent of which is returned to the Ternate regional government. The operation directly employs around 700 people and indirect employment is estimated at 1,000 people.

November Illegal Mining Occupation

Between 23 October and 2 December 2003, approximately 2000 illegal miners occupied the Toguraci mine site. They came from three locations: Pulau (island) Obi to the south of Halmahera, Pulau Sangir to the north of Halmahera and North Sulawesi to the west of Halmahera. All three areas have long histories of artesian gold mining, particularly in the use of mercury as an amalgam to recover gold. Trommels remain in use in Manado and Gorontalo in North Sulawesi.

The illegal mining activity concentrated on the Toguraci orebody and involved the illegal miners felling trees and clearing of jungle cover to establish digging sites over a broad area. The illegal miners dug small pits and some cross-cuts (tunnels) filling ore bags that were then carried to trommel sites near the minesite and to nearby local villages.

The illegal miners are well organised, have significant financial backing and often use local community issues as a shield to promote discontent and disinformation, while in the background undertaking their illicit mining activities.

As a result of the occupation, PTNHM ceased operations immediately to ensure the safety of both its own staff and the illegal miners, and adopted a peaceful approach to resolving the issue. The operation remained closed for approximately five weeks.

Resolution Process

As a result of the occupation, PTNHM approached both the provincial government and the Indonesian central government to seek ways to address the situation. The Government appointed a committee to independently investigate the issue. The committee, Team TP3 PETI, is a standing Indonesian committee set up to address the illegal mining issue generally in Indonesia. It conducted a four-week review, interviewing all groups involved, visited the minesite and the region and determined that the site occupiers were acting illegally by removing gold bearing ore from site. A recommendation was made to Government that PTNHM's right to operate be endorsed and that the illegal activities be stopped by the eviction from the Toguraci site of the illegal miners. As part of its review

Team TP3 PETI re-examined and validated all the permitting and tenure issues relating to the PTNHM Toguraci mine.

Following the Team TP3 PETI recommendation in December 2003 police were sent to site by the Indonesian Government to restore the situation and uphold Indonesian law. The Government acted unilaterally in ordering the police action. No request for police assistance was made by PTNHM. After an extended period of peaceful ‘socialisation’ by the police, through which it was communicated to the occupiers that their activities were not legal, the illegal miners left the site without any major incident. PTNHM then resumed operations.

PTNHM observed the initial discussions between police and the illegal miners about their activities and then their peaceful departure from site. Video footage suggests the police were calm and polite, to the extent of regularly offering to help carry the occupiers’ personal effects.

The police unit that attended the occupation is a mobile brigade appointed and controlled by the Indonesian Government. The police unit’s role is to ensure maintenance of law and order, and in particular to address illegal mining. When Team TP3 PETI determined that the actions of the Toguraci occupiers were illegal, the government considered that the enforcement requirement was automatic. This police action is not specific to the Toguraci mining operation and has been utilised elsewhere in Indonesia. The police unit used was not part of PTNHM’s security force and PTNHM has no authority over its activities.

PTNHM is required, on a fee-for-service basis as is standard practice in Indonesia, to contribute modestly to the upkeep and expenses of the police force whilst on site.

PTNHM’s daily contribution to the upkeep of on-site police personnel is up to \$700 per day for around 100 people and is consistent with rates paid to employees at PNTHM.

January 7 Site Incursion

Police reported that at 4.00am on 7 January 2004, approximately 200 illegal miners armed with knives, machetes, spears and crowbars attacked a six-man police security post in the vicinity of the Toguraci mine. Police indicated that many of the group carried mining implements with the clear intention of resuming illegal mining activities. It was dark at the time and daylight on that day occurred around 7.00 am. During this early morning interchange three warning shots were fired by police and one illegal miner was hit and subsequently died. No PTNHM personnel were present at the time of the attack.

The injured man, Mr Rusly TungKagi from North Sulawesi, was admitted to the PNTHM’s Gosowong clinic at 4.30 am and treated by the PTNHM site doctor, who reported that the miner was wounded in the crown of his head. This is confirmed by police reports which also highlight that the shooting was accidental.

PTNHM personnel assisted with the emergency evacuation of the wounded man to Ternate via PTNHM helicopter. The man's family was contacted and also transported to Ternate as a gesture of respect. PTNHM then transported the family and the man's body to North Sulawesi for a burial service.

Alleged eyewitness accounts were recently published by the human rights groups KONTRAS and WAHLI in relation to the incidents on the morning of January 7th at Toguraci/Gosowong. PTNHM rejects key elements of these accounts, which have not been independently verified, vary significantly from police and where applicable, PTNHM accounts and are weakened by the fact that WAHLI is an environmental activist group opposed to PTNHM's mining of the Toguraci deposit.

On 9 January 2004, Kao community elders, who represent the communities around the mine, issued a signed statement that the illegal miners do not represent the Kao people and that the Kao people do not claim traditional ownership rights over the Toguraci/Gosowong area. They stated that the Kao people support the measures taken by the Government to allow ongoing operations by PTNHM at Toguraci/Gosowong.

At all times following both the November and January incursions, PTNHM has acted in accordance with the findings of the Indonesian Government's independent review and has accepted and adopted the recommendations of the report by Team TP3 PETI.

Environmental Issues

The illegal mining activity that has taken place ranges from small-scale manual excavation operations through to use of heavy equipment and is unregulated and often conducted in an unsafe manner. It is usually externally funded.

The illegal mining at Toguraci was extensive and included shafts to 15 metres deep with 40-metre crosscuts (tunnels). The damage to the site and surrounding forest was extensive and exceeded PTNHM's planned areas of forest disturbance.

It is understood that the process for illegal mining at Toguraci was that miners were paid to remove bags of gold-bearing ore from the site which were manually carried to processing plants in the local region. These processing plants consist of series of trommels, totalling up to 300, in which the gold-bearing ore is mixed with mercury to recover the gold.

At the completion of the process, the mercury is discarded at these trommel sites and this can contaminate the soils and local waterways.

There is no environmental monitoring or rehabilitation undertaken by illegal miners, which is of particular concern to PTNHM. To the extent possible, the company will endeavour to rectify environmental damage caused by illegal mining activities as normal rehabilitation process takes place on site.

A longer-term environmental and health issue may arise for the local villages from the ongoing use of mercury. While this is outside the ability of PTNHM to assess, manage or rectify, the Company has advised the provincial government of the potential for long term harm.

It is assumed that NGOs are aware of that environmental damage and longer-term health issues. PTNHM is concerned that they have failed to acknowledge this important issue and, by their lack of action, are giving implicit support to ongoing use of the artesian method of gold extraction.

Discharges at the Toguraci/Gosowong site as a result of PTNHM's operations are minimal. All discharges from retention ponds and the Gosowong pit are monitored for compliance with environmental requirements. At all times, discharges from site have been in compliance with Indonesian environmental regulations, PTNHM's Code of Conduct and are well within accepted international standards.

PTNHM has a policy at site of progressively rehabilitating disturbed areas. This is achieved through landform establishment and planting with local species. This activity is conducted immediately following final use of a particular area. At present all disturbed areas on the mine site not expected to be utilised in the future has been revegetated. The Gosowong pit has not yet been fully rehabilitated as there is a potential of future use for this area.

PTNHM - Code of Conduct

In any country in which it operates Newcrest, the managing company in the PTNHM consortium applies, the same rigour to safety, environmental responsibility and respect for local communities as it does in Australia. PTNHM has adopted the Newcrest standards and Code of Conduct.