

## **OceanaGold's Response to the Business and Human Rights Centre around allegations made about the delivery of Emergency back-up fuel to the Didipio Mine in the Philippines**

**11 May 2020**

We appreciate the opportunity to respond to allegations made about the delivery of emergency back-up fuel to our Didipio Mine on Monday 6 April 2020.

We take these allegations seriously and stand by our commitment to responsible mining. Regardless of others' views, we have been committed to ongoing engagement on an effective and genuine basis with all stakeholders of our Didipio Mine. This includes a commitment to respect the human rights of all stakeholders, including those voicing concerns.

We also take seriously our commitment to engage with all stakeholders and recently provided a substantive response to the OHCHR following a statement about the emergency back-up fuel delivery.

Our focus remains on working in partnership with all our stakeholders to recommence responsible mining at Didipio as soon as possible.

We provide below a substantive response to the issues raised.

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

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

We operate the Didipio Mine under a Financial or Technical Assistance Agreement (FTAA), which was signed in 1994 and gives the company the right and responsibility to explore, develop and operate in the Didipio area.

The FTAA does not award the company ownership of any mineral resources, rather, under this arrangement the company is essentially a contractor of the Republic of the Philippines and the mine is a national asset.

In June 2019, the FTAA became renewable for a second 25-year term under the same terms and conditions. There are currently five existing FTAA's in the Philippines and the Didipio Mine is the first to go through the renewal process. More information about the FTAA is available [on our website](#).

In March 2018, we commenced the renewal process with the responsible regulatory agencies – the Department of Environment and Natural Resources (DENR) and Mines and Geosciences Bureau (MGB). Both departments reviewed it, and in early June 2019, the DENR endorsed the renewal to the Office of the President, based on the company’s full compliance with the FTAA terms and conditions. After their initial review, the Office of the President requested further clarification on how the company will accommodate the Indigenous People’s Rights Act of 1997, to which the Company has agreed. More information about Free, Prior and Informed Consent (FPIC) and the Didipio Mine is available [on our website](#).

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

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

Upon receiving notice of the Governor’s order, and the closure of road checkpoints to company supply vehicles, we voluntarily ceased all trucking in and out of the mine to prevent any potential for escalation. We then temporarily suspended underground mining in July 2019 and processing operations in October 2019. We are only continuing with critical activities, like de-watering underground, to ensure the safety of employees and protection of the environment and this national asset.

In July 2019, we went to the Regional Trial Court in Nueva Vizcaya to challenge the legality of the Governor’s order and as part of this we sought an injunction (interim relief) to allow us to continue to operate. The Regional Trial Court denied the injunction request, so we appealed the decision to the Philippine Court of Appeals in Manila and we are waiting for a decision. Injunctive interim relief may only be granted in exceptional cases.

There has been no court order from any Philippine courts requiring the Didipio Mine to suspend operations, nor has there been any decision recognising the legality of the Governor’s restraining order. In fact, our main legal challenge about the legality of the Governor’s order is still progressing at the Regional Trial Court in Nueva Vizcaya.

Prior to reaching this point we made several attempts to engage with the Provincial Government to resolve their current position. We will always be open to engagement with the Nueva Vizcaya Provincial Government and all other stakeholders.

The Didipio FTAA area is within two provinces, Nueva Vizcaya and Quirino and the Provincial Government of Quirino has sent written support for the FTAA renewal and our operation to the Office of the President.

As we have not been able to operate normally at Didipio since 1 July 2019, OceanaGold issued Notices of Temporary Lay-Off in August 2019, to take effect in September 2019. However, given overwhelming support from employees, the host communities and various actions being taken by OceanaGold to lift restraints on our mining operations and complete the FTAA renewal, the implementation of the lay-offs was deferred for seven months, until April 15, 2020.

In light of the ongoing disruptions to operations at Didipio and the COVID-19 pandemic, we had to temporarily lay-off all staff not occupying essential roles. The health, safety and wellbeing of our employees remains our priority and this has not been an easy decision to make, nor one we take lightly.

## **2. Emergency Fuel Delivery**

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

The blockade resulting from the Governor of Nueva Vizcaya's restraining order has prevented the delivery of essential backup fuel since July 2019 and the diesel supply at Didipio reached a critically low point, jeopardising the ongoing functioning of the de-watering system.

In late 2019, the DENR and MGB granted approval for the emergency fuel delivery. The Department of the Interior and Local Government (DILG) also issued two letters to the Governor of Nueva Vizcaya taking the position that the blockade was unlawful due to the lack of required permits for the checkpoints. In January 2020, the Office of the President issued a direct order to DENR to facilitate the delivery of the emergency fuel.

Since July 2019, there have been four attempts to deliver the emergency fuel and, in all attempts, both the MGB and OceanaGold engaged with the Provincial Governor, Barangay Captain and local anti-mining activists to achieve a peaceful delivery of the emergency fuel.

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

Prior to the delivery, and as reported by the PNP, the Provincial Director of the Nueva Vizcaya PNP engaged with the Governor of Nueva Vizcaya, who approved the passage of the fuel trucks on certain conditions including the monitoring of fuel usage by the local Didipio Barangay. Before the fuel trucks arrived in Didipio, the Chief of Police of Kasibu PNP had a dialogue with the Didipio Barangay Captain who agreed to the delivery on the grounds it had been approved by the Governor of Nueva Vizcaya and Mayor of Kasibu.

OceanaGold did not participate in the fuel delivery, but we did engage with the PNP beforehand and shared our common interest for a peaceable delivery given the blockade.

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

OceanaGold was not a party to any judicial action relating to the protest, including the arrest of one man on a charge of disobedience.

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

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

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

In late 2019, members of the Didipio community and adjacent communities established the Coalition of Communities for Sustainable Development. The Coalition registered with the Philippines Securities and Exchange Commission, with the ambition of promoting further sustainable development in the region. This includes their support of the continued operation of the Didipio Mine by OceanaGold. More information about their support for the Didipio Mine (including responses to various allegations being made in the region) can be found [on their Facebook page](#). This includes a statement in response the 6 April fuel delivery [which is available here](#).

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

We have a strong focus on upholding all human rights and constantly improving our performance. In 2019 we commenced a review of our operation at Didipio against the World Gold Council Conflict-Free Gold Standard. In February this year (2020), the Didipio Mine was the venue of a public hearing by the Philippine Congressional Committee on Indigenous Cultural Communities and Indigenous Peoples to explore environmental and human rights allegations made against the operation . The Secretary of the Congressional Committee invited participation from all the concerned parties. Over 1,000 people attended the hearing, representing all groups. This hearing was public, and open to anybody who wanted to attend.

Since 2013 we have engaged the Commission on Human Rights in the Cagayan Valley Region to provide human rights training to our employees and security personnel and in 2019 we engaged with the National Commission on Indigenous Peoples (NCIP) in the Philippines to seek guidance and demonstrate how our operation protects and promotes the beliefs, customs and tradition of indigenous peoples.

We encourage all organisations who have supported a call to the Philippines Government to shut down the Didipio Mine, to engage directly and broadly with the Didipio community. We believe such engagement would provide a more balanced perspective on the reality of community support for the Didipio Mine.

**OCEANAGOLD CORPORATION**