

ATTACHMENT TWO

Introduction

The following responses have been developed specifically to address questions raised in a letter from the United Nations Human Rights Commission dated July 1, 2009 as related to the Akyem Project in Ghana.

Question # 1: *Are the facts detailed in the annex accurate?*

Response #1: No, the allegations do not accurately represent the facts. In some cases, the facts are misconstrued. Please see Attachment One for detailed responses to each allegation.

Questions #2: *Has any study on social, environmental and health impact of the open mine project been realized? If so, could you please provide us with the conclusion of these studies?*

Response #2: Yes, extensive social, environmental and health impact studies have been undertaken over the last eleven years. (These studies are referenced in the attachment "Akyem Project: Impact Studies & Assessment Bibliography). In addition, the company plans to complete further detailed socio-economic assessments of all the people that are to be directly affected by the project, either because of the loss of farmland, livelihoods or loss of homes just prior to impacts occurring. This will ensure there is a detailed understanding of the particular loss that each family will incur, how the Company can best help re-establish livelihoods and identify those at greatest risk of becoming vulnerable. It is the Company's policy to be proactive in addressing any such issues.

In addition to a detailed Health Impact Assessment, a further sero-prevalence study of HIV/AIDS in the project area will also be undertaken to establish baseline conditions. A range of impacts were clearly identified in the Environmental Impact Study (EIS) and appropriate mitigation measures have been developed for implementation when the project commences.

All the studies provide a baseline set of data which can be used to measure future positive and negative impacts. This will enable programmes to be established to mitigate unforeseen impacts or make the most of unexpected opportunities that may arise.

See Akyem EIS Tables ES-1, ES-2, ES-3, ES-4, ES-5 in Attachment, 'EIS Executive Summary Tables: Summary of Proposed Mitigations'.

Question #3: *What measures have been taken to ensure that the open mine project does not have disproportionate negative impacts on the environment and on the livelihoods of neighboring communities?*

Response #3: The primary issues associated with the proposed Project were identified through three principal means:

- (1) Public consultation processes which provided interested and affected parties opportunities to identify issues and concerns and receive Project-related information;
- (2) Consultation with a variety of government institutions and agencies; and
- (3) Analyses completed by both internal and external technical specialists.

The outcome of the public consultation process was preparation of a Scoping Report and Terms of Reference. The Terms of Reference, along with the outcomes of consultations held with government officials, resulted in the identification of primary issues associated with the proposed Project.

Guided by these identified issues and impacts, technical specialists conducted an evaluation using scientific data collected from the Study Area and reported in the scientific literature to assess and quantify (if possible) the direct, indirect and cumulative impacts associated with the Project. These assessments provided the basis from which measures to mitigate the impacts were identified.

Summary tables of the identified issues and impacts and their relevant mitigation measures are included as Attachment, 'EIS Executive Summary Tables: Summary of Proposed Mitigations'.

Question #4: What measures have been taken to ensure that water resources will be protected from risks of leakages, and to ensure that mine wastes will be disposed of appropriately?

Response #4: Watercourses draining the Akyem Project Area that flow into the Pra and Mamang rivers (including those emanating from the Ajenua Bepo Production Forest) are ephemeral and flow only during the wet seasons. The proposed Project is not located within the river course or basin of any perennially flowing streams in the area. Three ephemeral watercourses (flowing only during the rainy season) will be impacted by the Project but will be channeled via drains when flowing.

Mitigation measures are listed in the EIS and in particular, ES-19 and section 5.0. Extracted below is a summary of the mitigation measures for any potential contamination of surface or groundwater:

- Control run-on and run-off water to avoid contamination with mine areas through the use of Best Management Practices (e.g., ditch systems designed to divert water around disturbance areas; ditch systems designed to collect and manage water that contacts disturbance areas).
- Maintain capacity of sediment control structures through routine maintenance (remove sediment trapped in structure as needed).
- Implement plan to control the transport, storage, use and disposal of chemicals and reagents.
- Implement spill containment and corrective action plan.
- Implement programme to restore water supplies (e.g., installation of new wells; establishment of new or maintenance of existing fetch points) that could be lost as a consequence of mine development.

- Implement water treatment programmes where necessary.
- Implement engineered design for mine facilities to control and manage trace metals associated with waste rock and tailings (e.g., construct facilities with low permeability base; install seepage collection ditch and pond systems; install liner systems for collection of process solutions).
- Implement site-wide groundwater and surface water monitoring programme with periodic reports to EPA.

These are all measures that are in place and have been functioning successfully at the Ahafo operation for the last three years.

The Akyem Project as currently planned is very similar to the Ahafo Mine. The Akyem Project will design and construct its facilities with secondary piping and liners to prevent seepage into the water table. This is not done anywhere by any of the extractive industries in Ghana. The facility will meet the International Cyanide Management Code for managing cyanide with best practice as proven in the company's Ahafo operation's certification, to such an extent that the 15 million of tailings waste will be basically milled rock waste, which can be rehabilitated for agriculture at mine closure (as has been done successfully at Amansie, a responsibly closed mine in Ghana).

See <http://www.cyanidecode.org/signatorycompanies.php>

In addition, the waste will be stored in a Tailings Storage Facility (TSF), which is designed and constructed to have a zero-effluent discharge into the environment, with all the water on the dam recycled for reuse in the ore-processing circuit. At the Ahafo Mine, boreholes have been sunk close to the TSF to sample and test the ground water to ensure no pollution of groundwater. The dam is also subjected to rigorous assessment on a regular basis by independent assessors.

The majority of environmental and social monitoring programmes currently in place would be continued an/or new programmes initiated as Project operations commence. This will ensure that the mitigation measures presented above and in the Attachments are effective.

These programmes would be implemented in accordance with various plans that would receive review and approval from the appropriate Ghanaian government institutions. A summary of the monitoring programmes and the period of monitoring is presented as Attachment Four.

The Company developed a Provisional Environmental Management Plan (see Section 7 of EIS) that establishes the framework addressing company activities associated with site clearance, construction, operation and closure of the Project. This Provisional Environmental Management Plan identifies feasible and cost-effective management programmes and actions to reduce potentially adverse impacts to acceptable levels.

The monitoring aspect of the plan would be consistent with the environmental and social monitoring plan described above. This will provide a means to determine the effectiveness of mitigations implemented.

This Provisional Environmental Management Plan also provides for timely and effective implementation of mitigations by indicating the specific institutional responsibilities, an implementation schedule and commitment of financial resources to support the plan.

The Provisional Environmental Management Plan comprises a series of plans and programmes that would be prepared and implemented to ensure that potential adverse impacts to the environment and Project-affected people would be reduced to an acceptable level.

These plans and programmes include:

Environmental plans

- Site clearance management plan
- Sediment and water management plan
- Waste management plan (hazardous and solid waste)
- Fuels and hazardous materials management plan
- Spill prevention, control and response plan
- Emergency response and contingency plan

Social impact mitigation programmes:

- Compensation and resettlement
- Livelihood replacement
- Transitional vulnerability
- Influx management and community health and safety

Social investment programmes:

- Building community resilience and sustainability
- Creating opportunities for employment and training
- Creating opportunities for local economic and business development
- Creating partnerships for sustainable community development.
- Ongoing public consultation and disclosure
- Occupational health and safety management (including work environment monitoring)

Question #5: *To what extent have the concerned communities been allowed to participate in the planning to open the mine?*

Response #5: It would be difficult to involve local people in a project beyond what Newmont has done at Akyem. Newmont considers local communities primary stakeholders. They also constitute most of our employees and their families and, as such, the Company considers them as the custodians of the Project. We listen to what they say and take their inputs into account in our planning and decision-making for the Project.

In general, intensive consultation with project-affected communities has been ongoing since 2003. This has been done through a range of fora, including consultative committees; community consultative and participation initiatives such as information centers; regular visits to an operating Newmont mine; school engagements; at least quarterly engagement with key stakeholder groups; community 'durbars', capacity-building programs and events, perception surveys and focus group meetings. The engagement activities are ongoing and the company plans to maintain at least the current level of engagement throughout the life of the Project. Documentation for these events is available in the Project's database and on-line at WWW.NewmontGhana.com

Specifics include:

- Over 600 meetings and events between 2004 and early 2009 have been held, with many different local and regional stakeholders, including community leaders and members, government agencies, religious and traditional authorities, farmers groups, business associations, and the media;
- Public Hearings by Ghana EPA in 2004, 2005 & 2008 (These were all video recorded). The hearing in 2008 was attended by more than 500 Akyem residents including other stakeholders such as NGOs;
- Regular meetings, briefings and events throughout 2005, 2006, 2007 and 2008 with multiple levels of community and government stakeholders to provide information and obtain comments. These meetings are documented in a database that is publicly accessible.
- Community Consultative Committee meetings have been held regularly since 2005 (The committee has more than 40 elected community representatives.). Also fully documented.
- Crop Rate Review Committee (46 community members & 10 government representatives) has recently successfully concluded negotiations after more than 40 meetings over 15 months (There are 46 elected community members and 10 government representatives plus observers from NGOs and national government institutions.). Similarly documented.
- Community visits to see mining and rehabilitation at other Ghanaian mine sites including Amansie, Tarkwa and Ahafo;
- Further monthly trips to the Ahafo Mine are being run in 2009;
- A Grievance Office was established in 2006. All grievances and their resolution are tracked and recorded;
- Community Information Centers have been operating since 2006 providing easier access to Project related information (Centers are in all eight major communities);
- All documents are made available in bi-lingual format in a variety of media including posters, video, print, and on the Internet.

Two scoping meetings were hosted by the EPA to obtain formal comments on the EIS; The EPA also held three public hearing to solicit the views, comments and concerns of adjoining communities. The EPA also organized a peer review and Agency Liaison Group to oversee and review the 2008 draft EIS.

Petitions of support for the Akyem project have been signed by more than 150 community leaders and were lodged with government and media earlier this year (and can be viewed at <http://www.newmontghana.com/>).

Question #6: To what extent has the land subject to expropriation been duly evaluated? To what extent have measures of compensation been put in place for all concerned persons, with due assessment of the loss of their farming activity? What measures have been taken to ensure that those that may be losing their land are offered alternative sustainable means to access sufficient and adequate food?

Response #6: We wish to state categorically that no land has been or would be expropriated in the process of developing the Akyem Project. Newmont is and will be following the laws and regulations of Ghana in order to access the required land. All parties directly impacted by the project within this process will be compensated in a fair and transparent manner.

The company has undertaken a baseline study of the land use and identified all farms in the mine area. The company will meet the requirements of Ghanaian law; and the International Finance Corporation (World Bank) standards on resettlement and economic displacement, including restoring livelihoods. Newmont will do this primarily by assisting farmers to re-establish their farms: helping them to find and acquire land, pay for clearing, labor, tools, fertilizer and seedlings required to replace lost cash and food crops; building a new village for displaced people or providing cash compensation for immovable property provided residents can establish to the community's satisfaction that they have alternative housing. The resettlement village will include replacement for loss of all social infrastructure and amenities and will include a number of house improvements.

The company will also establish a 'vulnerable peoples' program to ensure that people who may be at risk prior to the project or who experience some kind of vulnerability – for instance, being unable to meet family obligations (pay school or medical fees; buy food, etc) - will be catered for while they are in the process of restoring their livelihoods. A documentary was recently shown on national television in Ghana detailing how this program works and its success.

The company will ensure the Project-impacted people have access to their own land valuer for professional expertise and advice during the negotiation process, as required by Ghanaian law, to agree on compensation rates for crops, deprivation of land use and immovable structures.

The Compensation Negotiation Committee has elected representatives from all affected communities and observers from a range of government agencies and other interested stakeholders.

Question #7: *Is there any ongoing consultation with the persons threatened with eviction? If so, please give details, dates and outcomes of these consultations.*

Response #7: Once again, no persons have been or will be ‘threatened with eviction’ or ‘evicted’.

The company has been consulting and engaging for the last six years with all affected communities and has outlined how it plans to assist and compensate all those who will lose their farm land and their homes. The company has been running a pilot livelihood restoration program since early 2007 with a small group of farmers who lost farm land as the result of the construction of a local communications tower. The company has not received the Mining Lease (ML) nor had the Mine Area (MA) declared. When the government approves the company’s application for the ML and MA the formal process of consultation and negotiation with all project-affected people will commence in earnest. (See EIS Chapter 9; and Annex F Guide to Land Acquisitions and Compensations).

Question #8: *What has NGGL foreseen as compensation for the persons threatened with eviction?*

Response #8:

No persons will be evicted as a result of the Akyem Project.

Newmont has always compensated people if mining activities have deprived them of land, crops or structures. We are bound to do so by Ghana’s laws, and by our own guiding principles. We have open and transparent negotiations with property owners, and these discussions are based on informed participation, fairness, openness, mutual respect, and a series of laws and international best practice standards. Typically, Newmont has given compensation that is substantially higher than the rates dictated by Ghana’s Land Valuation Board.

In Akyem, where we are yet to commence mining, the company has been working collaboratively with the Compensation Negotiations Committee (CNC) to establish the principles which will guide rate negotiations for the revised rates which are evaluated yearly. The CNC is made up of 56 members. All nine communities elect a representative who has a one-year mandate. The Ghana Commission on Human Rights & Administrative Justice (CHRAJ) is represented, as are the National Commission on Civic Education, the Office of the Administrator of Stool Lands and other bodies. The CNC has formed three sub-committees – Land, Crops and Immovable Property -- and the affected farmers and communities have engaged the services of their own external valuers to guide them in the negotiations and compensation determination process. In addition, all agreements reached during the negotiations are affirmed by the individuals and communities affected. This is a public and transparent process that has been going on for several years at Akyem.

Compensation entitlements are discussed with the active involvement of each affected community member. Negotiations take into consideration loss to farmers and to the community as a whole, and this is reflected in the spectrum of representatives who are involved in the negotiation process.

Affected community members elect representatives to negotiate on their behalf, while the chiefs also elect traditional representatives (who may not be affected by the project) to be part of the process. These elected representatives, together with representatives from government ministries, departments and agencies as well as from Newmont, comprise the Compensation Rate Review Committee (CRRRC). The CRRRC's primary objective is to reach agreement on fair and adequate compensation rates applicable for various crops during a particular year.

The company cross-checks with each affected community member for his or her approval before any form of negotiation takes place between the company and the elected representatives.

The company has, on a yearly basis, negotiated with the affected communities and elected representatives of the affected individuals for fair and adequate compensation for their crops. The most recent compensation rates that were collectively agreed upon and paid to affected farmers were the result of rigorous and lengthy negotiations. All parties involved agreed that a fair and adequate rate had been established.

Concrete plans, including a comprehensive and publicly-available Resettlement Action Plan and a Guide to Land Access & Compensation, will be drawn up along the lines of the Ahafo project, once the project is given the go-ahead. The same wide-ranging consultation with affected community members at Akyem will be undertaken at the appropriate time for this planning.

Question #9¹: What measures have been foreseen to ensure that the persons threatened with eviction will not become homeless? What has been foreseen in terms of relocation? If locations have been designated for the relocation, please provide details on the exact location, including details of the area and quality of land, access to public services and livelihood sources.

Response #9: The company will replace the homes of all people who are identified as permanent inhabitants living within the mine area. The location of the replacement village will be chosen by the affected people in consultation with Stool Land Authorities and the District Administration. All social infrastructure and amenities will be replaced. The quality of housing to be provided will be an improvement upon existing homes and will meet all requirements of Ghanaian law. Three viable locations for resettlement have been identified out of a total of 18 that were evaluated. Two are within the stool land (Ahausena) of the affected people, adjacent to existing villages and one is in a nearby

¹ Please note, the original letter to Newmont did not include a Question #9. This Question 9 is in response to Question #8 in the letter to the Government of Ghana (which in turn, did not have Question 10 in the Newmont letter. We here endeavor to answer both.

stool land (Ofosu), adjacent to a village. Both existing villages in the alternative relocation sites are larger and have more infrastructure and public services than the hamlets that are currently within the Mine Area. All three locations are in the vicinity of land that has been identified as replacement farmland if the project-affected farmers chose to take up these options. Farms will not be 'replaced, rather people will be incentivized to go back to farming and we will be assisting them to do so. People will be exercising their right to decide their future given a range of choices and options (e.g. resettlement or relocation; farming or alternative livelihoods).

(See EIS: Annex F Guide to Land Acquisitions and Compensations; Ahafo Resettlement Action Plan on WWW.NewmontGhana.com; a similar RAP will be developed for Akyem.)

Question #10 (N.B. original letter did not present a question #9): Please provide details on measures taken by NGGL to ensure that the right to health of the neighboring communities is respected.

Response #10:

A preliminary health baseline and impact study has been undertaken and within this, a further study, the 'Community Health Mitigation Opportunities, Akyem' has been completed by Newfields USA in conjunction with the Ghana Health Service (GHS). The purpose of the latter was to develop means to monitor, evaluate and potentially mitigate potential health impacts identified within the Health Impact Assessment (HIA). These impact descriptions, both positive and negative, were developed based on the interaction between eleven environmental health areas (EHAs) and Project-specific, potentially affected communities (PACs), e.g., communities along significant transportation corridors, resettlement/relocation communities, etc. A series of proposed mitigation strategies have been developed around seven defined elements including a description of the issue and the impact; recommended mitigation measures; analysis; timing; principle responsible party/group for implementation; in-house training requirements; and performance indicators.

The study includes examination of existing respiratory diseases, malaria and other vector-borne illnesses such as schistosomiasis and buruli ulcer prevalence, prevention and management, STDs including HIV/AIDS; issues around soil, water and environmental sanitation; influx management; food & nutrition; accidents and injury management; hazardous materials toxicology; psychosocial aspects; cultural health practices; health system infrastructure; and non-communicable diseases. This study also explores the possibility and advantages of developing Akyem as a Demographic Surveillance Site (DSS) to best monitor and evaluate health impacts and issues. This would be done in conjunction with GHS and the In-Depth Network.

Once the Project goes ahead, Newmont would move to more detailed planning and implementation based on these studies.

Newmont has run an employee and community based HIV/AIDS awareness program and peer educator program for several years in the Akyem Project area.