

KOMOKPIN VILLAGE
(LOWER OK TEDI)
P O Box 13
KIUNGA
Western Province
PAPUA NEW GUINEA

DATE: JANUARY 7, 2004

The Prothonotary
Supreme Court of Victoria
Level 2, 436 Lonsdale Street
Melbourne

Fax: 61 3 9603 9400

YOUR HONOUR,

Subject: OBJECTION- RE: OTML KOMMUNITI NIUS- Volume 3: Issue # 1
December 2003

Your Honour, we the representatives of the Komokpin Village (Lower Ok Tedi region) hereby responding to the subject matter that is contained in the OTML KOMUNITI- Volume 3: Issue # 1 December 2003 attached herewith.

As a matter of courtesy we treat this subject as of critical importance and therefore we pray Your Honour would treat our objections and concerns as of Paramount Contention.

Firstly, Your Honour, we have been informed that our lead Plaintiff Rex Dagi was purported and pressured by circumstances at the advise of our Lawyers (Slater & Gordon) to file in the Proposal Document to Withdraw the Class- Action Case at the Melbourne Supreme. Moreover, we are also very much aware that the matter is subject to the final verdict of the same Honourable Supreme Court due January 16, 2004.

In this regard Your Honour is well versed in the subject matter that was brought a second time to the Supreme Court on the basic premises that BHP/B/OTML failed to honour on a particular clause in the 1996 Out of Court Settlement Agreement. Clause 3 of the agreement that required the Company OTML/BHP and its conjoin parties to "Build a Tailings Pipeline" to avert the catastrophic environmental degradation.

Following "1996 Out of Court Settlement Agreement", the Government of Papua New Guinea did not initiate and or appoint an Independent Commission of Inquiry

to determine the feasibility of Constructing a "Tailings Pipeline". This is due to the fact that the Government of Papua New Guinea is a partner and shareholder of Ok Tedi Mining Ltd. This raises an issue of Papua New Government collaborating with BHP and other shareholders to conspire into engaging the World Bank to do the review.

Evidently the World Bank found the mining impact destructive to the environment and condemned the mining operation and recommended its immediate closure. However the fear that Papua New Guinea government has that to close the mine on the other hand would have an adverse negative effect on the social and economic sector of the nation. Since then BHP insisted to pullout without any responsibilities and liabilities. BHP's desperate insistence to pull out led to conspire with Papua New Guinea Government to come up with the legislation to strike out the environmental issue. Therefore BHP conspired and forced the Papua New Government to pass the 9th Supplementary Agreement as legislation to pave way for the Community Mine Continuation Agreement (CMCA) to be reached without addressing the environmental issue.

Secondly, Your Honour, in the case that followed suit in the Honourable Supreme Court the Company (OTML/BHP/B) has continued to deny that they had breached the Agreement.

Our objection therefore is- Where is the evidence that the Company (OTML/BHP/B) have complied with all environmental standards of the state of Papua New Guinea and the International standard? Where is the evidence of the physical construction of the "Tailings Pipeline"? Where is the evidence that the water is safe to drink? Where is the evidence that there is no factual or scientific proof of environmental degradation and the aftermath endangerment by "Acidic Rock Drainage"?

Your Honour, unless the company provide those evidences before your Honourable Supreme Court, we will not be deemed intimidated by the Company nor to succumb to their bully tactics. Your Honour we hereby reiterate that we will not succumb to the company's wishes, even in the event that the Honourable Supreme Court makes final verdict to dismiss the Class-Action Case by Rex Dagi on January 16 2004.

Your Worship, we beg you to bear in mind that from the beginning, we have never agreed to signing "Opt out Notice Forms". And we have always stood our ground, due to the fact that we will never sell out our divinely imputed customary land rights for a mere CMCA package of PGK160 Million. Of what good is that package when the mine is finally closed in 2010, while our environmental problem remains unattended to for the last 28 years?

Therefore we can never and will never agree to that any formidable attempts by OTML/BHP/B in-pursuant to appease our concern for the total destruction of our

environment, livelihood and total existence. Precisely we have NO CONFIDENCE in the Company's propaganda.

Hence, should in the event that the Honourable Supreme Court sets the final verdict and dismiss the Dagi case on January 16 2004, we have nothing to say. We have no DEEDS; we've never agreed to it and will never agreed to it. Should OTML/BHP/B go ahead with "Out of Court Settlement Agreement" as predetermined by their propaganda cited above. It is their DEED, and they must comply with their DEED.

Finally, Your Honour we wish to draw inference to the statement made by OTML cited above. The message from OTML reads:

a. "The case brought by Rex Dagi has been DISMISSED".

Has the Dagi case really been formally dismissed by Your Honourable Supreme Court prior to January 16 2004? Precisely when was the case finally and formally dismissed?

Your Honour, we feel this statement is erroneous, traumatic and intimidatory. It has caused so much anxiety among us. This statement is contemptuous. Because this statement sets the pace and predetermines the course of the Honourable Supreme Court's jurisdiction, independence and fair judgement on January 16 2004.

We think this statement is contemptuous, a Mockery by OTML/BHP/B, it undermines your very capable independent, fair and due professional judgement.

We look forward to you highly learned and fair judgement on January 16 2004

Yours faithfully
Komolpin Village Representatives

~~David Dakop~~
David Dakop
Village Councilor

KARUNG,
Karung Dumun
Witness


Jacob Aron
Witness