



SAGITTARIUS MINES, INC.

24 March 2009

Joanne Bauer
Business and Human Rights Resource Center

Dear Ms. Bauer:

Thank you for giving us the opportunity to respond to the concerns raised about the Tampakan project in the report "Mining or Food" presented by the Working Group on Mining in the Philippines (WMGP).

Consistent with our Business Principles, we have worked openly with all our stakeholders, respecting and listening to their views.

We have had two engagements with one of the report's authors Mr. Clive Wicks – the first on 27 February 2008, and the most recent last 5 February 2009 in our Manila office to discuss the minerals development industry in the Philippines.

We firmly believe that collaboration and genuine partnerships are necessary to enable the sustainable and beneficial development of the Tampakan project as a model of responsible minerals development in the Philippines.

While we fully respect everyone's right to express their views on the potential impact of our operations, we would like to express our concern over some of the points raised in the report.

Our approach to ensuring the long term viability of our business activities has always been through an adherence to the principles of Sustainable Development. We are investing in the Tampakan project for the long term, and although the lifespan of our activities is finite, we aim to invest in skills, employment, social development, and economic benefits that will outlive our operations and leave a positive legacy for the local population. Since Xstrata Copper assumed management control of Sagittarius Mines Inc (SMI) as the operating vehicle for the Tampakan project in 2007, SMI has successfully integrated Xstrata's global industry-leading standards and systems into its management framework.

To follow are our responses to some of the concerns raised by WMGP in the Tampakan Case Study:

1. The report alleges that there have been political pressures which led to the declaration of the Financial and Technical Assistance Agreement (FTAA) as constitutional.

- Consistent with our Business Principles and Practices, we work responsibly and ethically, respecting the laws of the host countries and communities where we operate. We adhere to the Philippine mining law and other relevant Philippines laws which govern our activities.
2. The case study states that the “company has now ruled out submarine tailings disposal and the use of mercury to extract the gold from the ore, both of which were once proposed, but it is still considering using cyanide to do so.”
- We would like to clarify that at this time, SMI is not considering deep sea tailings disposal as an option. We also have no plans on the use of mercury or cyanide in our mine processes.
 - In line with our commitment to employ the best possible options to mitigate the environmental impact of our operations, intensive and leading technical studies are being conducted as part of the full feasibility studies at the Tampakan project.
3. The report states that the base camp is located in an area with highly unstable topography.
- The natural geological faults both in and around the project area are being investigated in great detail by professional geologists to determine the likelihood and magnitude of future seismic events.
 - Detailed landslide hazard assessments are also being undertaken across the site by experienced engineering geologists to accurately determine the risk to the project from potential slope failures.
 - Results from the geotechnical and seismic investigation work will be incorporated into the design and construction of the mine and associated civil-engineering structures. Excavation and construction at the Tampakan Mine will follow the most modern engineering standards and practices such that all structures will withstand the largest natural hazards expected.
 - Geo-technical engineering as a subject has developed considerably in the past three decades along with major advances in earthquake science, improved understanding of how structures perform during earthquakes, and enhanced construction practices.
 - Numerous large mining and other civil engineering projects exist in seismically active parts of the world and have been designed with appropriate factors of safety. Examples are available where these have withstood extremely high magnitude earthquakes.

4. The report states that the mine overlaps an area that is supposed to be protected from mining, and this area contains many indigenous people whose lives are being detrimentally impacted by the mine.
 - Our tenements – the FTAA and the related exploration permit areas – do not overlap with any protected area. Our base camp is 13 km north of Mt Matutum and is not within the Mt Matutum protected landscape.
 - SMI has always respected the rights of Indigenous Peoples (IPs), and all other stakeholders. SMI is systematically conducting a consultative Free Prior Informed Consent (FPIC) process as required by the National Commission on Indigenous Peoples (NCIP) to ensure their sustainable welfare.
 - We are coordinating with the NCIP for the conversion of Blaan indigenous ancestral claims to titles.
5. The report claims that SMI is involved in the training of local people as "paramilitaries," and the alleged use of militarization to influence communities to support mining activities.
 - We are clearly deeply concerned by the unsubstantiated allegations or suggestions implicating SMI in militarizing our project area. SMI is fully committed to upholding the human rights of community members within its sphere of influence.
 - SMI's security strategy had been based upon working in partnership with host communities to ensure the safety and security of our staff, facilities and local communities. Following the attack of the communist-led New People's Army (NPA) on our base camp on 1 January 2008, the host tribal communities and local government units expressed their support for the project and criticized the attack. They also formally requested that the government enhance military presence in their communities to protect both the company and the communities in the project area.
 - We adhere to the internationally-accepted Voluntary Principles on Security and Human Rights (VPSHR). In May 2008, SMI staff and representatives from contractors took part in VP training conducted by the Business for Social Responsibility (BSR), a co-secretariat of the VP. We also co-organized VP training with the Minerals Development Council, Chamber of Mines of the Philippines and the Philippine Business for Social Progress (PBSP) for external stakeholders from the government and business sectors, NGOs and

other mining companies in order to generate awareness within the region of the Voluntary Principles. Further training will be delivered to contracted security guards and other working in security-related tasks within the SMI project area.

6. The report notes that the area is rich with biodiversity which may be impacted by SMI's operations.
 - SMI has always taken environmental and social responsibilities very seriously and we consider issues such as biodiversity, land rehabilitation and other environmental impacts at all stages of our project planning.
 - As part of the technical studies for the Environmental and Social Impact Assessment (ESIA), we are developing a Biodiversity and Land Management Plan. Our sustainable development policy states our objective to avoid net losses or degradation of natural habitats, biodiversity and landscape functions.
7. The report raises several concerns on the constitutionality of the Mining Act of 1995 and the FTAA granted to the former operator of Tampakan project, WMCP, which SMI inherited.
 - The Supreme Court of the Philippines determined its constitutionality 'with finality' in January 2005.
 - Historically, the Philippine minerals industry has had a less than positive reputation in protecting the environment. Following intensive assessment, evaluation and rectification of practices and the gaps of the old mining law, the new Philippine Mining Law was passed in 1995. This new law is considered to be one of the most socially and environmentally-sensitive legislations in the world.
 - The new mining law promotes the principles of responsible minerals development and has specific provisions for social and environmental protection, recognition and protection of Indigenous People (IPs), and requires endorsement of host local government units (LGUs). Also, the law does not allow mining in virgin forests, proclaimed protected areas and watershed, and NIPAS (National Integrated Protected Areas System) areas. Mining can only be conducted in ancestral domains when there is consent from the host IP communities; a consent that must be gained through the Free Prior Informed Consent (FPIC) process.
8. The report alleges that if a mine is built, it will affect five major river systems that provide vital water for the region.
 - We have always recognized the importance of responsible water management to ensure the long term beneficial and equitable use of water resources. In line with this, we have been conducting

intensive studies on water quality, flows, volume, biology and sediment quality in all major catchments to provide for a detailed surface water model. SMI has been conducting these water studies openly, involving community volunteers. We are aware of the many questions on how we will manage water resources, and we believe that the answers have to be sought with diligence, science, honesty and care.

- In close consultation with the government and community stakeholders, the water management plan will be developed in the context of climate change, water stress and demands of the communities and the environment within and surrounding the project area.

9. The report raises concerns over the non-requirement of an ESIA to be publicly disclosed.

- The Philippine Environment Impact Assessment (EIA) System requires an Environmental and Social Impact Assessment for all environmentally critical projects (ECPs) or projects in environmentally critical areas (ECAs). As mandated by the minerals development law, all mining projects in the country, being environmentally-critical projects, are required to undergo an environment and social impact assessment process before they are granted an Environmental Clearance Certificate (ECC) by government.

This year, SMI will embark on the Environmental and Social Impact Assessment (ESIA) process. The ESIA will entail intensive consultations with stakeholders and will be subject to an independent review in line with international best practice. An executive summary of the ESIA will be made publicly available.

We trust that our response to your enquiry has been comprehensive and will shed light on the concerns raised by the report about our operations. We believe these concerns can be resolved through constant dialogue and open communication with organizations such the WGMP whose concern for environment and IP communities is laudable.

Finally, we would like to express our own concern on the report's recommendation that mining at Tampakan be banned. We believe that responsible mining development can bring tangible benefits to the communities that surround the Tampakan project and to the Philippine economy.

- In 2008 we implemented the Tampakan Social Involvement Program (SIP), which was formulated following an extensive stakeholder consultation process. The SIP identifies and defines the projects that best respond to the key social challenges and opportunities in the host and neighbouring communities. By focusing on education, health, skills training and enterprise development, we aim to help communities establish sustainable

economies that can survive long after operations end. To demonstrate this commitment, in 2008 the Tampakan project's social responsibility program included:

- Free education to over 16,000 students at elementary, secondary, and tertiary level;
 - About 30,000 project community residents benefitted from health-related activities; and
 - Over 100 local farmers were provided training on agricultural production and organic farming, while 275 became beneficiaries of advanced corn production technology.
- o Our ongoing reforestation program has been recognized in the context of broad-based responsible mining. SMI received the Best Mining Forest Award 2008 – our second – from the Philippine Mine Safety and Environment Association (PMSEA), in recognition of our reforestation program which encourages the involvement of local communities.
 - o We have successfully developed and integrated into our day-to-day operation, an Environmental Management Systems (EMS) which sets internationally high standards.

The Tampakan project, even at the current exploration and study stage, has already made a significant contribution in the Mindanao and the Philippine economy. The project generates employment opportunities and supports local businesses. Our preference has always been local suppliers in sourcing goods and services where they are technically capable and commercially competent. Over 90% of our workforce (regular and contractual) is gleaned from the host communities.

As we move into the next phase of the Tampakan project, we will continue to give highest regard to excellence in safety performance, environmental management and social responsibility.

We believe that this commitment will enable us to demonstrate a new model for responsible minerals development in the Philippines.

Sincerely,

Mark Williams
General Manager - SMI