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Fighting back

At mines in Peru and Indonesia, Denver-based gold company Newmont faced bitter, sustained opposition and discovered

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In early September, as thousands of Peruvian peasants blocked access to Newmont Mining Corp.'s richest gold mine high in the Andes, the company's Denver-based managers scrambled for a solution. They evacuated the families of managers and dropped workers into the mine by helicopter.

As the environmental protest wore on, Newmont's stock price plunged 7 percent in two weeks.

By November, company officials had made a nearly unprecedented decision: They shelved plans to expand the Yanacocha mine into a protected zone known as Cerro Quilish, abandoning indefinitely the more than $1 billion in gold that lies beneath the mountain.

To some eyes, the peasants' victory was a key moment in modern gold mining and a major setback for Newmont, a global giant that historically could move not just mountains of rock but foreign economies as well.

"It's a nightmare for Newmont. If they don't wake up after something like this, they are really going to find themselves in a difficult situation, not only with the (environmental) community but also with shareholders," said Lauren Compere, chief administrative officer of Boston Common Asset Management, a progressive shareholder group with holdings in Newmont.

Meanwhile, the company's nightmares are spreading.

In Indonesia, claims that Newmont has polluted a bay with millions of tons of mine waste have grown from a stubborn irritant into a corporate crisis. Five mine managers were jailed for a month in September and October, and the Indonesian government recently said it would file criminal charges against the company.

Villagers say they relinquished land for the Minahasa mine under pressure from the Indonesian military and police, and were paid too little for it.

In Peru, villagers complain of fish kills and foul-smelling water that animals won't drink. In the nearby city of Cajamarca, the Yanacocha mine has brought jobs and other economic benefits, but also prostitution, crime and social ills.

For many, Newmont's decision to halt expansion at Cerro Quilish may be the clearest example yet that what mining companies call "the social license to operate" is real.

While governments can give companies legal permission to mine, angry communities, environmental scandal and anxious markets can effectively combine to negate that right.

While In Indonesia, the mine closed was closing by the time the controversy erupted, but the crisis has dramatically changed the obstacles any new project will face. Earlier this month, the government said it will apply tougher permitting standards to the tailings disposal method at the heart of the controversy, a process in which mine waste is dumped on the sea floor.

Industry experts say the move may effectively ban the method for any new project in that country.

"When somebody asks me what our biggest challenge is, I look at the technical problems, I look at how you manage the environmental impacts, that's all science, that's relatively easy for us," Newmont chief executive Wayne Murdy told the Chamber of the Americas at a Denver luncheon in October.

"We don't always get it right on the social side, because that's hard. That's very hard," he said.

Newmont's chief recognized that his company now faces a global network of increasingly sophisticated and digitally linked opponents. What happens in company mines in Indonesia and Peru now affects local perceptions of Newmont mines as far away as Turkey and Ghana.

And while the requirements of a "good mine" 20 years ago were that it produced tax revenue and foreign exchange for cash-strapped governments, communities are now demanding that those benefits be more fairly disbursed.

In Indonesia, Newmont's adversaries are squatters who have been cut out of mine jobs given to other communities and who claim the bay they live on has been polluted.

"When people see wealth taken out of the ground as it is in the case of Newmont and Yanacocha, they want to see it coming back to the region," said Kent Lupberger, who oversees mining investments for the International Financial Corp., a lending arm of the World Bank, one of Newmont's partners in the Peruvian project.

While Newmont officials say they have been stunned by some recent actions of governments and local communities, in most cases the events of the past six months have been preceded by years of protests, court cases or studies that showed mounting environmental concerns and growing community unrest.

Safrudin Wangko, an Indonesian farmer, says he was expelled more than a decade ago from land Newmont wanted for its mine by Indonesian police, who threw him into a ravine when he resisted. He and dozens of other farmers have unsuccessfully sued the company, saying Newmont paid too little for the land.

Murdy said Newmont has always had a policy of paying a fair price for land and doesn't ally itself with security forces in foreign countries. "We have always been extremely careful about not getting the army involved in our operations," he said.

Wangko was among 80dozens of villagers who met in September with Chris Anderson, Newmont's head of external relations, in a meeting arranged by Global Response, a Boulder-based environmental group.

Anderson conceded that many of the residents appeared sick, but he blamed skin rashes and other maladies on bad sanitation rather than the nearly 5 millioncq tons of mine tailings the company poured into Buyat Bay over the life of the Minahasa mine.

"Mining companies hardly ever communicate well enough. We try the best we can," said Anderson, who has a Ph.D. in anthropology. "We probably rely on science too much. We assume people know how science works. But most people don't trust science."

Many also don't trust Newmont.

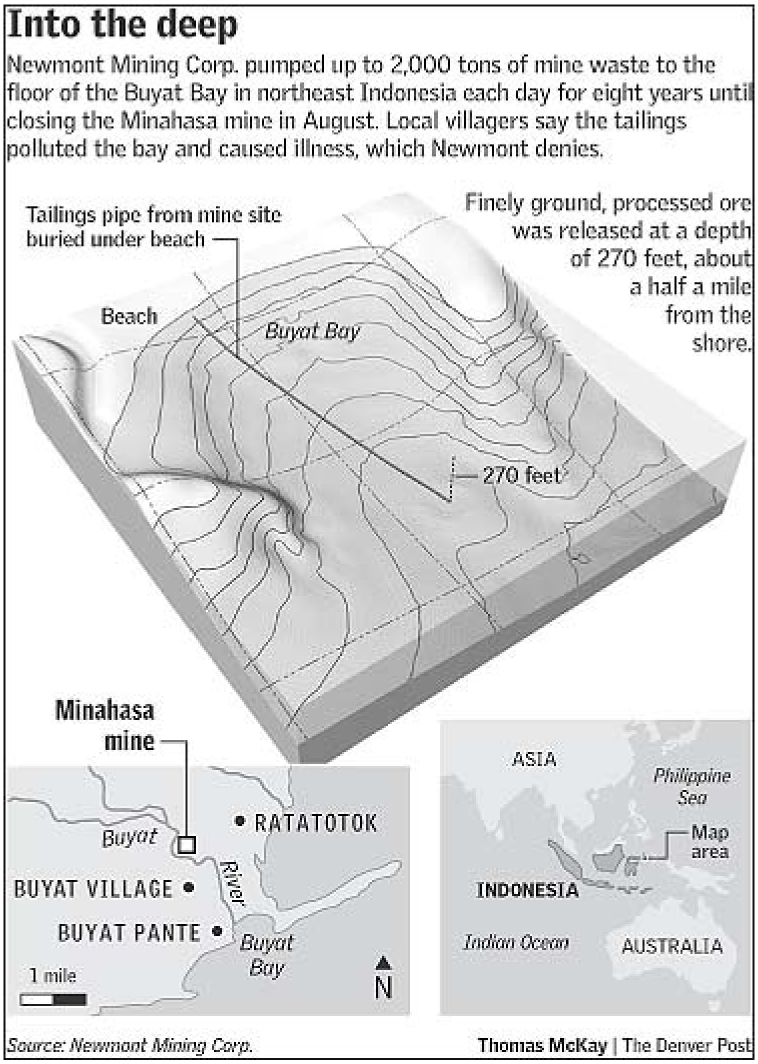
Newmont is "reaping its historical behavior. They are reaping (the results) of their lack of attention to these kinds of issues," said Compere of the Boston shareholder group.

Distrust in Peru

Newmont paid $16 million to clean up a mercury spill - and was challenged by the World Bank for its handling of the substance.

The September blowup in Peru was the culmination of almost a decade of sour relations between locals and a mine that devoured a hillside and now annually sprays millions of gallons of cyanide solution over heaps of gold-laden ore.

Peasants say fish have disappeared from streams that animals now avoid. They claim that some irrigation canals fed by rivers and streams leading from the mine have dried up.



Probably the most comprehensive study of the mine's impact on the area's water was done by Stratus Consulting Inc., a Boulder-based hydrology firm, at the request of the World Bank.

One stream leaving the mine, Quebrada Honda, showed consistently high levels of arsenic, lead and selenium, according to the Stratus study. Ann Maest, the study's co-author, said those levels would be prohibited under the Clean Water Act if the mine operated in the United States.

The contamination isn't at a level that would immediately kill people or make them sick, according to the Stratus report, in part because contaminants were diluted by surrounding streams. It is enough to kill fish, the report concluded, and investigators found that drinking the water over the long term could cause harm to humans.

Though water concerns were at the heart of the explosion of unrest in September, critics say they were also part of a long- running pattern of suspicion and distrust between locals and Newmont, which has been inflamed at intervals by company mistakes.

In June 2000, a Newmont contractor carrying containers of mercury spilled 330 poundscq of the chemical over 25 miles of roads and towns. The mercury was picked up by locals who thought it was valuable. Some of them boiled it on kitchen stoves looking for gold.

The spill affected 1,100 people and required a massive, multimillion-dollar cleanup effort by Newmont that included digging up streets and the floors of homes.

A later World Bank investigation found that Newmont had stopped using an Environmental Protection Agency-approved container for the mercury; that the mercury had been loaded incorrectly on an open truck; and that company officials initially misrepresented the size and seriousness of the spill, hampering emergency response efforts.

"We didn't meet our standards, and we would be the first to tell you that," said Doug Hock, Newmont's spokesman. The company has since spent $16 million on cleanup and health care for those affected.

Though ultimately Newmont's response to the spill may show the company's willingness to correct errors, the 11-year history of Yanacocha reveals a company by turns aggressive and conciliatory. The apparent inconsistencies are the result of differences among the mine's major partners, insiders say, but also a difference of opinion within Newmont itself over how much opponents should be accommodated.

Before the protests, the company had begun two dialogues with local opponents, but each has foundered. A main sticking point was whether the mine would allow - and pay for - independent monitoring of streams and rivers.

When the opponents were invited to discuss objections to the exploration of Cerro Quilish - a mountain that the nearby town of Cajamarca had declared off limits to mining - they arrived to find the doors of the meeting spot locked, said Martin Scurrah, regional director in Lima for Oxfam, an environmental and social activist group. Neither the company nor the Peruvian government showed up.

"Whether there was a fear the moment was not right to negotiate, or whether there was a hope that if they just froze them out, nothing would happen, I'm not sure. But there was an opportunity missed to resolve the issue before it got confrontational," Scurrah said.

Newmont has spent millions of dollars on community projects over several years to repair soured relations. It has set up small-loan programs, taught residents jewelry making and funded soccer teams.

It also paid $154 millioncq to the Peruvian government in taxes last year, but the central government's shortage of cash and bureaucratic inefficiencies mean that little of that money helps locals.

Even for the World Bank, which owns a 5 percent stake in the mine, Yanacocha has moved from a lauded example of Third World development to a model of what not to do.

The mine was among the first to open after Peru's liberalization in the early '90s. It was seen as a critical source of tax revenue and foreign exchange and led the way for the World Bank's renewed investment in gold mining.

But by 2002, the mine was brought up in a closed-door World Bank meeting as a negative example of community relations, meeting notes obtained by The Post show.

"They made mistakes and we made mistakes not bringing these things up sooner," said Lupberger, the World Bank administrator. "But clearly one of the things we've learned about mining projects is that their success is increasingly dependent on the support of the broad community."

A firestorm in Indonesia

The swell of negative opinion stuns Newmont officials, who say their mine-waste disposal method can't harm humans.

Perhaps nowhere does Newmont face more opposition than in Indonesia, where the government is preparing to file a criminal lawsuit against the company.

Newmont faces potentially hefty government penalties, possible jail terms for its employees and an uncertain future for its massive Batu Hijau gold and copper mine.

The problems stem from Newmont's now-closed Minahasa mine, located on the Buyat Bay in a remote region of north Sulawesi island.

The firestorm erupted last summer after residents of a small fishing village on the bay filed a $543 million lawsuit against Newmont.

Newmont used a controversial method called submarine tailings disposal to get rid of its mine waste, pumping nearly 5 million tons of the tailings to the ocean floor about a half-mile from shore during the mine's eight-year life.

Local fishermen and environmental groups say the waste polluted the bay, causing rashes, headaches and tumors - allegations that Newmont staunchly denies.

Recent studies by the World Health Organization and the Indonesian Environmental Ministry confirmed Newmont's assertion that metals were not migrating to the water or fish. But arsenic and mercury levels in the bay's sediments, also confirmed in the studies, have alarmed Indonesian officials.

In Denver, Newmont's executives are dumbfounded by the turn of events in Indonesia.

"As the facts have come out in that case, they're so overwhelming that it just makes the claims look ludicrous," CEO Murdy said. "Not only did we meet the standards, but we far exceeded the standards."

Murdy maintains that the tailings disposal system performed well and that the company is being persecuted by environmentalists determined to drum Newmont out of Indonesia.

But company documents show that the system hasn't always worked as Newmont predicted. The pipe that delivered the tailings to the sea floor burst in 1998, Newmont said. And in a study earlier this year, Newmont found that tailings had settled in an area of the bay 100 feet higher than anticipated.

Meanwhile, regulations in the U.S. and Canada make the kind of system Newmont used to dispose of waste in Buyat Bay very difficult, if not impossible, to deploy in North America.

The Indonesian government approved Newmont's plan for Minahasa in 1994. Newmont said the disposal system was the best solution where rainfall and seismic activity were high. At Buyat Bay, it maintains that because the water and fish in the bay aren't contaminated, the system has worked.

No countries have enforceable standards on metal contaminants in marine sediments, said Newmont environmental chief David Baker. It's what gets into the water and fish that matters, he said.

But environmental regulators in most developed nations have identified threshold levels at which contaminant levels in sediments are considered dangerous to marine life. Newmont's own research found arsenic levels in the tailings in Buyat Bay at levels 15 times the U.S. thresholds.

Indonesian environmental groups, and now the government, say that these harmful metals are getting into the food chain through worms and other deep-sea bottom-dwellers known as benthos.

The study by the Indonesian Environmental Ministry says that mercury levels in benthos in Buyat Bay are higher than in the surrounding sediments, indicating that the metal is accumulating in the organisms.

Newmont officials reject the notion that metals can migrate from the tailings to marine life.

But a company study in 2001 determined the risk of arsenic and mercury passing from the tailings to humans from benthos "could not be eliminated."

Baker said the company has since done new research that determined there is no danger of the metals getting into the human food chain.

Newmont isn't alone in characterizing scientific research to its own advantage.

Environmental groups first attacked the company's Buyat Bay operation for allegedly causing Minamata disease, a central nervous system illness related to mercury poisoning. The World Health Organization study discredited those claims.

Nonetheless, the Environmental Ministry's study determined that consuming fish from Buyat Bay is risky for local villagers.

That study did not find higher arsenic levels in fish and water than the World Health Organization did. Instead, it based its conclusion on an estimate of average daily fish consumption among villagers of nearly 1 pound.

That's roughly eight times the amount of fish the average Indonesian eats, according to United Nations figures, and more than double the average per- capita consumption in fish-loving Japan.

Still, the Environmental Ministry study, which remains unpublished, is likely to cause big problems for Newmont as it fends off rising legal challenges.

Among its findings, the study concludes that Newmont operated the underwater waste-discharge system without a proper permit between 1996 and 2000. Newmont officials say they obtained permission in 1994 but had to reapply in 2000 when the government added new permitting requirements.

The government study determined that Newmont's detoxification process for the tailings sometimes failed to lower contaminant levels. Even though this showed up in Newmont's own monitoring data, the report alleges, Newmont did nothing to fix the problem.

Newmont maintains that there has been no contamination of water or fish in Buyat Bay. Anderson, Newmont's external relations chief, said some of the company's problems in Indonesia are a result of poor community relations.

Though Newmont has worked closely with a handful of villages around the bay area and maintained the support of their leaders, it largely ignored the squatters' village where the problems have arisen.

Had Newmont been able to supply jobs and infrastructure in the village, the issue may never have gotten to this point, Anderson said.

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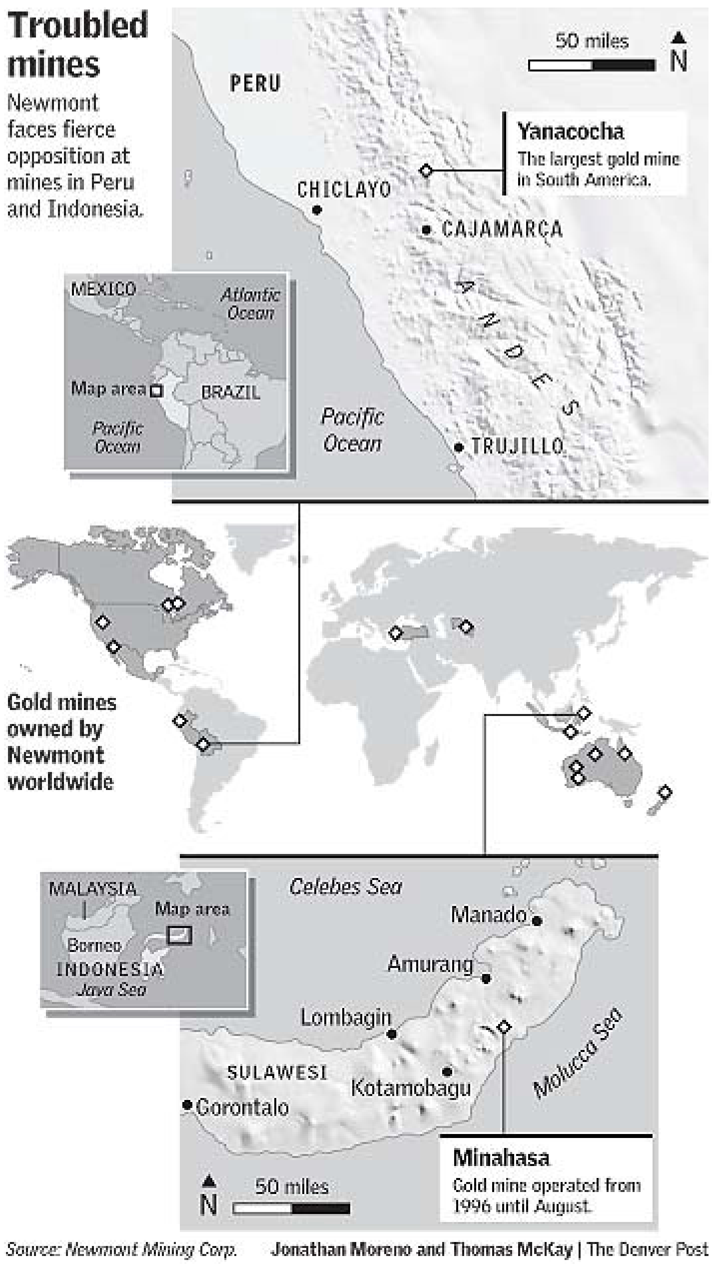

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