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Mr. Navdeep Bains

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•(1530)

[English]

The Chair (Mr. Navdeep Bains (Mississauga—Brampton South, Lib.)): I'd like to start today's meeting on time, so even though we are waiting for a few members, we'll start the meeting.

I would like to first of all thank the witnesses for coming.

The meeting is scheduled from 3:30 to 5:30, and the major part of the time has been allocated. Two hours have been allocated to give you an opportunity to state opening remarks, give your viewpoints, and then ultimately allow the members on the committee to ask you questions.

I'd like to welcome, from TVI Pacific, Clifford James, president and CEO; and John Ridsdel, adviser for corporate affairs. We have Pablo Bernardo and Benifacio Patoh as individuals. I'd like to welcome all of you, and I want to thank you again for taking time out of your busy schedules to be here with us today.

In terms of sequence for the witnesses, I believe, Mr. James, you'll start off.

I do want to bring to the committee's attention that unfortunately I will be parting midway through the session to run to the House to speak. I'll be back, but I might request that one of the members continue to chair the meeting if that's possible.

Mr. James, if you could, start, please.

Mr. Clifford James (President and CEO, TVI Pacific Inc): Thank you, Mr. Chairman.

My name is Cliff James and I am president and CEO of TVI Pacific. As you mentioned, I have with me John Ridsdel, who is our corporate adviser. He's also the acting country manager from the Philippines.

I also have two members of the elected leadership of the Canatuan community in which we're operating our Canatuan project. They're here, of course, at the invitation of the committee.

We've asked that you be given these picture portfolios. You'll see on the map where in the Philippines we're located.

The two individuals on my left are partners. Mr. Benifacio Patoh is the Barangay chairman of Tabayo, which is located in Siocon municipality in Zamboanga del Norte. Attorney Pablo Bernardo is here in a dual capacity: he's here as chairperson of the provincial consultative body of the province of Zamboanga del Norte for the

National Commission on Indigenous Peoples with respect to indigenous peoples' concerns and as legal counsel for the Siocon Subanon Association Inc. This is the community-based organization that represents some 6,000 individuals. These two gentlemen represent the legitimately elected representatives of the people of the community in which we work, who are partners in our project.

I've asked for permission to have my presentation filed as read into the record. I will only speak to a few salient points. I'd like to turn over a portion of my allotted time to Mr. Patoh and to attorney Bernardo to allow them ample time to speak.

I'm very pleased to be here today. It gives me an opportunity to review for you some of the significant contributions we're making to economic development, and most notably to the advancement of an indigenous people's community in a very troubled part of the world. This is located in the municipality of Siocon on the island of Mindanao in the southern Philippines.

Mineral rights in the Philippines are owned by the people in the entire country through the national government. The national government is responsible for their stewardship and their management.

At the time that TVI acquired its rights, approximately 8,000 to 12,000 migrants, who are called small-scale miners, had invaded the Canatuan area and had illegally established tunnels, shafts, and small-scale mercury and cyanide processing plants to mine and process gold. No taxes were paid by these small-scale miners. No environmental laws were adhered to. Children and women were regularly exploited as workers, with low pay, dangerous work, and long hours. The only laws that existed were the laws of the jungle—that's power and money.

Needless to say, the environmental and social destruction caused by this type of illegal mining would not be tolerated anywhere in Canada, and anyone associated with this kind of activity would be severely dealt with.

The Government of the Philippines, at all levels, has for the past 10 years or so been using the most reasonable means at its disposal to shut down these illegal operations and stop the exploitation of a public resource, the tax evasion by illegal miners, the labour exploitation of the people of the community, and the rampant despoliation of the environment caused by slipshod practices, including using toxic contaminants indiscriminately and dumping smuggled mercury and cyanide directly into the Canatuan watershed.

The small-scale miners were shut down at Canatuan under the orders of the Department of Environment and Natural Resources, enforced by the armed forces of the Philippines and carried out by the local community.

In accordance with the law of the land, after acquiring its rights from Benguet, TVI finalized its formal contract with the government—called a mineral production sharing agreement, or MPSA—in late 1996 and proceeded to evaluate the resource at Canatuan.

It should be noted that processing the MPSA is an exhaustive process that involves meeting many predetermined qualifications set out by the government and engaging in extensive community dialogue to demonstrate to the satisfaction of the government that the community is indeed behind the project.

The small-scale miners proceeded to obstruct and block our activities in an aggressive, confrontational, sometimes violent, and always completely illegal fashion. In spite of this illegal harassment, TVI concluded its studies and proposed a mining project that would be positive for the economy of the region.

Using well-known international engineering firms, we conducted three major feasibility studies at a cost of several million dollars before proceeding with our development. One of these, the bankable feasibility study, was done with a consortium of major international banks, including the U.K.-based Commonwealth Development Corporation, to very rigorous standards.

As part of this process, we prepared a comprehensive environmental impact statement. Again, this was prepared to the most rigorous international standards. We also conducted a widespread community information program to inform the various stakeholders of the advantages and impacts of the project.

On June 6, 1997, an environmental compliance certificate was duly issued by the national government on the basis of the endorsement of the local Barangay and the municipality. With this final major approval, we gained all the necessary permits and agreements to begin our development program.

I'd like to stress that each step along the way in the approval process for the environmental compliance certificate required by the Philippines government is very rigorous. It's quite similar to that required for a similar project in Canada.

● (1535)

Since that time, we've been working diligently to develop the mine, bring it into production, which we've done, and build appropriate infrastructure for the community and the workers who support the activities of the mine, gain employment, and get their first taste of real economic and personal security. We continue to manage all of the other affairs of a major, legitimate mining operation in one of the most politically risky and personally dangerous parts of the world. We have also had to clean up the unfortunate impacts of the past. The destruction of our major environmentally sensitive structures like tailings dams is done under the on-site supervision of world-renowned engineering firms. Continuous monitoring of all aspects of our project, especially the environmental aspects, to ensure ongoing compliance with existing standards and laws is done by various responsible government agencies, by ourselves, and by a multipartite monitoring committee

that represents the various stakeholders in the project. These include the various government agencies, all levels of local, municipal, and provincial governments, the indigenous community, and the company.

In the limited time I have left, let me talk about the positive benefits of our activities at Canatuan. The Canatuan project currently generates 500 full-time jobs, plus a large number of contractor jobs. Using a conservative multiplier of six, the project has created at least 3,000 jobs in the Philippines, and most of these are in the local area.

We've invested some \$24 million U.S. in exploration, development, and illegal mining cleanup. We've invested approximately \$60 million in the Philippines in all our activities to date. We expect to spend approximately \$10 million this year in ongoing operating activities, including local employment, capital investment, and operating expenditures. We have plans for expansion that will substantially increase the amount we spend annually. The project is expected to have an initial life of at least 10 years, but we fully expect that it's going to grow into a major camp with a long life.

We pay national, regional, and local taxes in an economy that has little stable tax base to fund most of the basic public needs. We pay a direct royalty to the Subanon indigenous community, the local community, of 1% of our gross revenues, i.e., off the top, before other royalties, costs, and taxes.

In respect of non-economic expenditures, we processed at a substantial net loss to ourselves some 24,000 tonnes of illegal mining waste and tailings to remove harmful pollutants such as mercury and cyanide used by the illegal mining operators. As a result, water quality in the local watershed has improved significantly.

We paid small-scale miners and labourers to haul the mercury- and cyanide-laced tailings to our plant and have ensured that they have been contained properly. We've met every environmental government regulation and cooperated in the cessation of the widespread damage caused by the illegal mining activities. We planted 17,000 new trees last year and will plant many more in the years to come as part of our ongoing reclamation program and to combat the extensive erosion caused by the illegal miners' widespread devastation of the local forests.

We have installed silt control dams to prevent siltation in activities that might affect the watershed. It should be noted that only 1% of the Siocon River watershed is impacted by our project.

We have worked with the various levels of government and the community to end the lawless mining activities and many of the socially exploitive activities that went with it in the community.

We funded existing schools and helped construct new schools. We sponsored teachers and helped supply basic aids to education. We started a free child care service for children three to five years of age. We support adult literacy classes and health and life-skills education.

We established Canatuan's only health clinic with regular doctor visits, emergency medical care services, a full-time midwife, and an on-call nurse.

We have provided agricultural training to stop the slash-and-burn cycle and build a sustainable agricultural program for rural communities.

We worked with CIDA and the Canada Fund to empower women in an indigenous community that has become more self-reliant.

We improved the region's infrastructures. We built the infrastructure needed to operate our mine. Road upgrades, bridges, electricity, water, and sewer services are more broadly available and more reliable than ever before, stimulating and facilitating local economic activity.

With our presence, we brought peace and personal security to the local community. We've worked closely with the indigenous community to develop the level of trust and cooperation necessary to sustain a long-term relationship. We're justifiably proud of our accomplishments. Economic and social development do not come easily to this area. However, this is just the beginning. We recently hired the Care Mindanao development team to work with us and the community to plan and help us execute a more extensive community development plan. We also announced the formation of the TVI Foundation, which will fund all sorts of community and social development work. Initial capital will be provided by the directors, officers, staff, and friends of the company. The foundation will supplement the assistance currently being provided directly by the company.

We believe we have brought the first stable, environmentally benign, and locally responsible mining activity with substantial economic benefits to a region that has in the past known only exploitation for personal gain.

- (1540)

The point of economic development and national policy in the Philippines is to provide a brighter future for the indigenous people at Canatuan, to end the slash-and-burn subsistence nomadic life, with its malnutrition, alcoholism, wife-beating, and philandering. The alternative at Canatuan is not some romantic vision of a noble way of life. It is illegal small-scale mining with its exploitation of Subanon children and labourers, mercury pollution, corruption, and social dysfunction.

Let me conclude with one observation. Over the years, several international NGOs, the most prominent being MiningWatch, have mounted a vigorous, in our view irresponsible, campaign against our Philippine mining activities. For whatever reason, the NGOs chose to align themselves with the illegal small-scale miners of Canatuan. The small-scale miners procured the assistance of certain members of the local self-appointed indigenous leadership who were rejected by the community, and the willing assistance of a local province-based, church-related NGO that had in effect declared a no-holds-barred war against foreign development in general, new large-scale mining projects, and the Philippine Mining Act in particular. Because our project was not only the first mine to be developed in the Philippines in many years but was also the first foreign-invested mine, it became the lightning rod for local and international anti-mining sentiment.

As Canadian Ambassador Peter Sutherland put in a news report, the Canatuan project is the litmus test for new mine development in the Philippines.

In the course of carrying out its operations, the company attempted to protect itself and its rights and to fulfill its obligations under the law. Human rights abuse was alleged and an untold number of false, commonly defamatory stories were concocted and disseminated. Many of these sensational stories led to investigations by all sorts of well-meaning entities—the office of the President of the Philippines, various committees of the Philippine Senate and Congress, the province, the Philippines Commission on Human Rights, etc. In each and every case where investigations—and there have been many of them—have been conducted, TVI has been totally exonerated. This is a matter of fact.

Dissemination of these stories on the Internet and in the press was done with the assistance of the international NGOs, again, the most prominent being MiningWatch. During the course of its campaign, MiningWatch has published many completely false, unfair, and unsubstantiated allegations without any apparent objective research and certainly without any on-site balanced investigation by objective experts. The allegations have had no regard for the facts. Further, the allegations have been disseminated in a sensational tabloid fashion. These allegations have damaged our company.

As a last resort we have sought legal remedies to stop them from continuing to spread these untruths. We have a fiduciary responsibility to our shareholders to stop the defamatory information from further damaging our company. It's interesting to note that MiningWatch has refused our invitation to visit the Canatuan site to learn more about the project from us and our partners every time we have offered. The best we can do is to continue to offer, as we have most recently at our expense, to facilitate their on-site visit. We have absolutely nothing to hide. We're very proud of what we've accomplished. After two months from publicly issuing our latest invitation, we've had absolutely no response.

Let me assure you we have absolutely no objection, in principle, to responsible NGO activity. As a responsible mining company, we're held accountable every day for what we do. We do, however, object vigorously to irresponsible NGO activity. Like mining companies, NGOs must act responsibly and be held to account.

For the Philippine government and for the island of Mindanao, our Canatuan project is a model development project. It is the major engine for economic growth in the region, the type of project that is badly needed to bring about peace and prosperity in a very troubled area. As I mentioned previously, the Canatuan mine is not only the first foreign-invested mine to be built in the Philippines in many years, it is also the first mine of any substance to be built anywhere.

We have been and continue to be strongly supported by the Canadian embassy staff in Manila, who are very familiar with our work, who've spent the time over the course of the project's development to understand the issues. For their support we are thankful.

The bottom line is that the Canatuan project is a great project of which we are justifiably proud, bringing enormous economic and social benefits to a newly empowered indigenous community. I'm pleased to table a summary of these benefits and to refer you to our company website and to our project website. You'll find there the benefits and the contribution of the project more fully.

I would now like to turn my time over to attorney Bernardo. I would be happy to answer any questions you might have.

● (1545)

Mr. Pablo Bernardo (As an Individual): Thank you, Mr. Clifford James.

Honourable Chairman, honourable members of the parliamentary Subcommittee on Human Rights and International Development, good afternoon.

Let me first thank you for allowing me to speak and to probably clarify some doubts in your minds with regard to allegations of violations committed by TVI Resource Development, Philippines, as raised by Ms. Catherine Coumans of MiningWatch Canada in your hearing of March 23, 2005, after making a visit to our place in October 2004.

I will also talk about human rights violations committed against my fellow Subanons; the results of having entered into an agreement with TVI; the matter pertaining to the title of Jose "Boy" Anoy; and the aspirations for development of the Subanons of Siocon, Zamboanga del Norte.

To establish my credentials as a speaker, I humbly state that I am Pablo S. Bernardo, 52 years old, full-blooded indigenous Subano member, and a lawyer by profession. From 1998 up to the present I have acted as legal counsel for the Siocon Subano Association, administrator of 8,000 hectares of ancestral domain, within which TVI operates its gold mine, and the Council of Elders of the Subanons of Siocon, Zamboanga del Norte, the policy-making body of the tribal group. Likewise, I am the chairperson of the provincial consultative body of Zamboanga del Norte, a body that addresses the concerns of the Subanons of the province. As their legal counsel, I represent them at fora of this nature and kind.

I am here not to defend TVI—it is ably represented by its president, Mr. Clifford James—but to speak of the truth, and to fight for the good cause and interest of all the Subanons of Siocon, numbering about 6,000 plus, and other sectors in the Philippines, who would definitely be affected by the outcome of this hearing.

From our point of view, MiningWatch is interfering with our purely domestic affair and undermining our decision-making process. It has the ultimate objective of putting a stop to TVI's mining operation at Canatuan. Such an eventuality would greatly affect the lives of the Subanons of Siocon, Zamboanga del Norte, as I will elaborate later.

Judging by the transcript of what Ms. Coumans said before you on March 23, 2005, her allegations against TVI are these: that TVI had not obtained free and prior informed consent of the indigenous communities; that TVI is evicting indigenous Subanons from their ancestral domain; that TVI is engaged in military commerce; that TVI is engaged in the discrimination of women; that TVI falsely

accused Mr. Onsino Mato of inciting the ambushes on March 13, 2002, and December 26, 2002, in which 15 of our tribespeople were killed; and that TVI is engaged in irresponsible mining.

Ladies and gentlemen, the Philippine law Republic Act No. 8371, better known as the Indigenous Peoples Rights Act of 1997, which requires free and informed consent of indigenous peoples prior to the issuance of permits to corporations or individuals who desire to operate within ancestral domains, was signed into law on October 29, 1997. Accordingly, TVI, which obtained its mineral production sharing agreement on October 23, 1996, prior to the signing into law of Republic Act No. 8371, need not secure said consent. Section 56 of said law is specific: it provides that property rights within ancestral domains already existing and/or vested upon effectivity of that act shall be recognized and respected.

Nevertheless, though not required, on November 18, 2003, TVI entered into a memorandum of agreement with the Subanons of Siocon, Zamboanga del Norte, through the council of elders and Siocon Subano Association Inc. This document evidences and reiterates that the Subano communities of Siocon had given their consent and had approved TVI's mining operations within their ancestral domain.

Once that consent has been given, it is not subject to review by the Philippine government or by any non-governmental organizations, foreign or otherwise.

On the first allegation, therefore, of violation, I submit that TVI has not committed the same.

● (1550)

As to the second allegation of violation, again I respectfully submit that TVI has not evicted anyone, a Subano or a non-Subano, from its MPSA area—the mineral production sharing agreement area.

I recall that on January 9, 2005, a meeting was held by the council of elders with many non-indigenous peoples in attendance. The non-Subanon indigenous peoples, Joy Gonzaga included, were invited by Juanito Tumangkis, president of the Siocon Subano Association Inc., to join the association as privileged members so they could stay within the ancestral domain, which was titled in the name of the Subanons of Siocon Zamboanga del Norte, and enjoy similar benefits extended to its members. In short, these non-indigenous peoples, who were engaged before in illegal small-scale mining operations and are considered squatters in the area, have not been evicted. Instead, they were welcome to join.

In the Philippines, there is a need to obtain a court order before one can be legally evicted, and in their instance, the Siocon Subano Association Incorporated has not initiated any such action. It is unfortunate that Ms. Coumans did not extend her research beyond October 2004, so she could get first-hand information on the issue.

On the third issue, in addition to the statement of Mr. Clifford James, the deployment of the Special CAFGU Active Auxiliary, SCAA, was on the initiative and consensus of the IP Subano residents in the area. The Subanons were compelled to do so following two ambushes on March 13, 2002, and December 26, 2002, which claimed the lives of 15 innocent Subanons and non-Subanons and injured many more. Following the deployment of these SCAA members, under the strict control of the Philippine army, no similar incident occurred.

Principally, the SCAA is there to maintain peace and order, and it is effective, ladies and gentlemen. It is unfortunate, however, that Jose "Boy" Anoy and Onsino Mato, who claim to be tribal leaders, and the non-governmental organizations that used both as tools for their cause, had not come to assist relatives of the victims in their quest for justice. Instead, it was TVI that came to provide assistance. We do not see how TVI, which helps maintain peace and order, could be liable for human rights violations.

On the fourth issue of discrimination against women, the goat dispersal was limited to those who were qualified. It is a program for the IP Subanon women, initiated by the Canadian International Development Agency. Certainly only indigenous people women are qualified to receive the goats, and not the Visayans, the non-indigenous people. TVI merely facilitated it, and we know it helps by administering it. Again this is not a human rights violation.

On the fifth issue, notwithstanding the resolution of the regional state prosecutor's office in dismissing the complaint for multiple murder against Onsino Mato et al for the March 13, 2002, and December 26, 2002, ambushes, as I mentioned earlier, because of insufficiency of evidence, Onsino Mato, Jose "Boy" Anoy, and Fernando Mudai, who were charged in the prosecutor's office, are still believed by the majority of the Subano residents of the area to be the persons behind this.

First, a certain Ernesto Goon, a witness, had sworn an affidavit pointing to Onsino Mato as the one who gave the money in February, 2002, to a certain MILF Commander Puti—this is the Moro Islamic Liberation Front—as consideration for staging an ambush.

Second, only they, together with the small-scale miners, had the motive to do the criminal act, following the demolition of 17 cyanide plants on January 15, 2002. I add that the resolution I referred to is now a subject for a motion for reconsideration and may be appealed by complainants Adolfo Dalman and many others to the Philippine highest court. Therefore, the resolution of dismissal is not yet final.

Likewise, the Siocon Subano Association recently asked the Philippine Commission on Human Rights and the National Commission on Indigenous People to make the proper investigation.

As to the issue against TVI on irresponsible mining, I would like to refer you to the recent statement of the Secretary of the Department of Environment and Natural Resources, who said that as far as their records were concerned, TVI had not violated mining and environmental laws with respect to their operation at Canatuan. Further, TVI's operation is closely monitored by multi-sectoral groups—IPs, NGOs, and local government included. Of course, should there be any violation, we would be the first to know. I assure

you that we would be the first to put a stop to TVI's operation if they committed any violation. But TVI was responsible for cleaning up Canatuan of toxic mine waste left by the illegal small-scale miners in 2002. To us, this is not an example of irresponsible mining.

● (1555)

I would like to state that there were indeed violations of human rights committed against the IP Subanons of Siocon, Zamboanga del Norte. These included: allowing and conspiring with small-scale miners to illegally mine the ancestral domain and dump their toxic waste at Canatuan Creek for almost 10 years, from 1991 to 2001; allowing IP Subano children to work with the small-scale miners from 1991 to 2002; allowing IP Subanons to receive salaries way below the legally mandated minimum wage; and serving the cause of non-governmental organizations who work for the disunity and the deprivation of gainful employment of IP Subanons.

Members of this honourable committee, for the record, I am pointing at Onsino Mato and Jose "Boy" Anoy, and those using them as tools, as the culprits responsible for these violations of the human rights of IP Subanons.

The Subanons of Siocon, Zamboanga del Norte, through the Siocon Subano Association and its council of elders, have been proven to be right when they entered into a memorandum of agreement with TVI Resource Development (Phils) Inc. The development of their ancestral domain and the immediate benefits they receive are the best evidence showing that fact. To enumerate some, they include: improvements to the roads connecting Canatuan to Siocon Poblacion, some 20 kilometres away, and to R.T. Lim, Zamboanga Sibugay, some 30 kilometres away; and cleaning up the toxic mine waste left by the small-scale miners in 2002. By the way, this mine waste went to Canatuan Creek and down to the major rivers of Siocon, Zamboanga del Norte.

The benefits also include: construction of four steel bridges, which now facilitate the easy travel of people within the area; construction of a school building and clinic, and the payment of school teachers' salaries; free electricity and water to adjacent Subano villages; the planting of 17,000 trees; the employment of more than 250 IP Subanons; and the payment of royalties to the IP Subanon community.

The above were not realized when Jose Anoy, then president of the Siocon Subano Association, allowed the illegal small-scale miners to operate within our CADT area from 1991 to 2002. By the way, Jose Anoy, as per the sworn statement of his elder brother, Vicente Anoy, is not a legitimate Timuay, as the NGOs claim, because their late father, Lumuyod Anoy, was not a Timuay. By Subano custom and tradition, which I am aware of, the title of Timuay is transferred by a father to a son by anointment. Jose Anoy had left Canatuan following the demolition of the illegal cyanide plants in 2002. He did so because he was with the small-scale mining operators before.

The IP Subanons belong to the marginalized sector, and only through the development of their ancestral domain do they become economically and socially stable. They want to eat good food, have gainful employment, and send their children to school. They want to be freed from the bondage of hunger, ignorance, and isolation. They aspire to be equal to their Christian Filipino brothers. They want to establish a tribal community of their own, complete with the usual infrastructure. It is for that reason they entered into a contract with TVI, which is committed to its mandated obligation—and has in fact initiated it—to develop the ancestral domain of the IP Subanons of Siocon, Zamboanga del Norte. Denying them these basic necessities is simply violating their human rights. Jose Anoy and Onsino Mato, plus their NGO supporters, are moving in such directions.

• (1600)

On behalf, therefore, of the IP Subanons of Siocon, Zamboanga del Norte, I invite those from MiningWatch Canada and other NGOs to please respect the desires and aspirations of the IP Subanons of Siocon, Zamboanga del Norte.

They have spoken in favour of TVI. Let that decision remain. And to the members of this honourable committee, you should be proud of TVI, your company. TVI has proven to be more responsible—more Filipino—than other Filipino companies in protecting the interests of the indigenous peoples.

Thank you again. *Molongas glolabong*.

The Acting Chair (Hon. Paddy Torsney (Burlington, Lib.): Thank you, Mr. Bernardo.

I will now turn to Mr. Goldring for questions. Just to explain, each member will have an opportunity to ask questions. There will be seven minutes for the round. The question and the answer should both happen within the seven minutes.

Mr. Goldring, go ahead, please.

Mr. Peter Goldring (Edmonton East, CPC): Thank you, Chairman.

Thank you for your presentation, gentlemen.

Mr. James, it has been mentioned that there has been some work done in cooperation with CIDA and the Canada Fund for various projects in the community. What types of projects have those been? Have they been specifically identified? How much funding, in total, are we talking about here on an annual basis for the various projects?

Mr. Clifford James: I'd like to turn this over to John Ridsdel, the country manager. He can give the details on that.

Mr. John Ridsdel (Advisor, Corporate Affairs, TVI Pacific Inc): The project is funded by a CIDA program called the Canada Fund for Local Initiatives. It is a program that funds a number of direct activities around the Philippines.

The Subanon women of Canatuan put an application in for funding to acquire a number of goats. The funding was for training in livestock development, including the provision of a number of goats for people to learn livestock husbandry techniques, and also for the growing of upland rice, including training in upland agricultural techniques.

You may be aware that in that part of the world previously the Subanons were nomadic people who survived by slash-and-burn agriculture, meaning they would come into an area and burn the hillsides and then try to farm the land with upland rice or various kinds of vegetables until the surface eroded away, and then they would move on to another part of the province. This particular fund was established to try to get particularly the women to understand the techniques of stable agriculture.

I think the amount was three million pesos, which is about \$50,000, over two years.

• (1605)

Mr. Peter Goldring: Over how many years?

Mr. John Ridsdel: It was over two years. Initially it was going to be one year, but for practical reasons, the whole project didn't get done in the first year, so it's been extended for a second year.

Mr. Peter Goldring: I've been reviewing some of the pictures from the area here and they specifically say "then" and "now". There are a couple pictures here of what it was. There was a picture apparently for the 1990 issue. Was that to indicate that at that time that was the population? Over how many years had that population evolved and been in that location? Did that mean that in 1990 that was the population?

Mr. Clifford James: Just quickly, Mr. Goldring, what happens in the Philippines in many areas of the country is that gold is discovered and you get a huge influx of migrants coming from all over the country to go into what we call a gold rush. In Canatuan in 1991 there was a gold rush. It's been estimated that anywhere from 8,000 to 12,000 migrants came into the area to mine the area as small-scale miners.

Mr. Peter Goldring: But according to the other picture, this seems to be in the location of the mine. So that's the same location?

Mr. Clifford James: That's correct. In the "before" picture there were a number of shanties and little operations. These were little pockets of small-scale mining on Canatuan mountain.

And then the picture after is of our own operation, in the same area, with the small-scale miners gone because the Department of the Environment and Natural Resources removed them since they were operating illegally there.

Mr. Peter Goldring: There have been many observations that there is a problem with erosion of the area and with chemicals getting into the water stream and other pollutants getting into the water stream. It would seem to me that the one picture on the left would indicate foliage in place. The foliage would indicate a more stable environment that perhaps would not have pollutants and runoff from it, and the mine site here would indicate more of an open area. Experience in other mining areas, even in Canada, shows that under heavy rainfall conditions you get a substantial amount of runoff even from the site itself.

Mr. Clifford James: It's true that in an open pit mining operation there is runoff. What we do for that, like everybody else in the world does professionally, is we put in siltation control devices.

Perhaps I could draw your attention to the picture called "Watershed Impacts". That's a blow-up of that area you saw on the hill. You can see a whole series of what look like little paddies, if you like. These are small-scale mining tailings containment areas. When the rains come, the tailings areas overflow. The material is laced with cyanide and with mercury, and it runs down into the creeks and gets into the watershed. There's absolutely no siltation control.

Mr. Peter Goldring: Is that from this same area or from an area that is close to it?

Mr. Clifford James: No, it's part of the area.

Mr. Peter Goldring: I'm looking at your mine site area. It obviously wouldn't be there. It would be outside, at another part in the region or in a region close by.

Mr. Clifford James: No. This is the picture. This is a blow-up of that same picture you have. It's on the next page, I think. Is it earlier?

Mr. Peter Goldring: It's a little confusing. They jump around a bit here.

I suppose the point I'm trying to get to is there is a substantial number of complaints. I want to refer to one in particular that comes from the Philippine national police, where they're saying they have concerns, and there are other concerns that have been raised.

I suppose my question is this. From your mine site, you have the tailings pond. Has there been overflow? Does that overflow in heavy rainfall conditions? Is it absolutely contained there?

I notice on another picture in here where you're developing a dam structure. Is that to increase the security of the tailings pond, or is that for some other purpose? In other words, have there been known breaches of the tailings pond into the community water supply?

Mr. Clifford James: Number one, the answer is no. Number two is yes, there are three tailings dams. There are two small dams. This is all part of our developing sequence. The third dam is being built right now, and it's a major dam. It's being built by professionals. Knight Piésold from Vancouver is overseeing the development of that. It's being built professionally, as were the others. The other two were designed by Knight Piésold and a firm out of Denver called Smith Williams Consultants, and they were designed to rigorous professional standards.

• (1610)

Mr. Peter Goldring: All right. Thank you.

The Acting Chair (Hon. Paddy Torsney): We'll have you on the next round.

[Translation]

Ms. Bourgeois, for seven minutes.

Ms. Diane Bourgeois (Terrebonne—Blainville, BQ): Thank you, Madam Chairman.

Mr. James, you mentioned the positive effects that the mining project would have on the region. Could you tell me what kind of mining project would have some positive effects? You talked about that at the beginning of your presentation. You stated that you focused on an undertaking that would have positive effects.

[English]

Mr. Clifford James: Yes, I think I've tried to give you the positive effects of the mining project when I gave my presentation. There are numerous benefits that we have—the hiring of people. We employ all these people in the area. We've generated employment. We're doing all kinds of things on the social and the economic front for community development. I would refer you to my presentation, which has been tabled.

We're pumping about \$10 million U.S. this year, minimum—in fact, it'll be greater than that—into the local economy.

[Translation]

Ms. Diane Bourgeois: I understand that, sir.

Mr. John Ridsdel: Isn't it more a matter of the translation? The project is already having some positive effects. We can't say that the effects will be positive. They already are positive.

Ms. Diane Bourgeois: That's what I'm trying to get at, sir.

You maintain that the project is having a positive impact, but we have all kinds of documents telling us that there is little, if anything, that is positive about this project. Therefore, we're trying to find out what benefits it has produced. That is why I asked you what you thought was positive about this whole initiative.

Secondly, Mr. James mentioned that water quality has begun to improve as a result of this mining project. He stated that measures had been put in place to prevent the water from being polluted. However, we have studies reporting that residents have observed on several occasions that water in local streams had a reddish tinge to it and smelled of cyanide. This brings to mind some questions. Mining operations are being carried out on a mountain top. Mr. James indicated to us earlier that the watershed was safe. Why then do we have reports of reddish water smelling of cyanide and of contaminated fish and vegetation? What are these reports all about?

[English]

Mr. Clifford James: As far as I know, there has been no discharge, and I stand by that statement. We monitor every day the discharge from the tailings dams; these are the pilot dams.

[Translation]

Ms. Diane Bourgeois: The fact remains that we have a report indicating that some discharge has occurred.

[English]

Mr. Clifford James: I don't care. There are so many bloody reports that come out of the so-called community at Canatuan, and they're worth about as much as the paper they're written on. They're designed to—

A voice: They're bull.

Mr. Clifford James: Yes, that's my comment. That would be my answer to that.

I can tell you, from the company's perspective...we monitor this every day. We have a multipartite monitoring team that consists of many members of the community, and they monitor this. I tell you, if there was a discharge, they would be screaming at us, and they're not.

Mr. John Ridsdel: Perhaps I could add to this. One of the reports I've seen comes from the remnant community of small-scale miners who were at the base of the mining area. If I can refer to the photograph the honourable member was showing earlier, you will see in the large photograph...

In fact, I have a set of correspondence I might table, with the permission of the committee, that refers to the question of the alleged eviction of people from the area.

If I can just get this photograph here.... In the 1990s, when the gold rush happened...what you see here are a number of tunnels and shafts, and the small-scale mining community lives around here. Some of the rod mills and the cyanide plants are here. Now, if you look at the photograph of it today, you see what has happened is that there are about 51—actually, about 69—families who still live around this area here. Three families who have declined the invitation, who in fact have not upheld their agreements to move, are living right under here. The reports of the encroachment of the mine really come from that.

Now, these are people who are living right where the mining operation is taking place, and one of the things that's happened there is that they have argued they're concerned for their safety. We are also concerned for their safety, which is one of the reasons they were supposed to move some time ago, and it's one of the reasons we would like them to move right now. As attorney Bernardo indicated, they've been invited to join the indigenous people's community, and we hope they do that very quickly.

So those are the people those reports come from.

•(1615)

[*Translation*]

Ms. Diane Bourgeois: I have a question for you, Mr. Ridsdel. I'll also have one for Mr. Bernardo later.

Mr. Ridsdel, I want to discuss the issue of land occupation. Recently, your company has asked to have some people removed from land that the mining company supposedly owns. The people are resisting the attempts to have them evicted from the land. Moreover, according to a report from the office of the President of the Republic of the Philippines, the government is opposed to any attempt to have them evicted from their land. According to the report, you do not appear to be concerned by the fact that the land in question is ancestral land.

What justification can you provide for asking these people to leave ancestral land? You claim further on in your letter to have the support of the Republic of the Philippines, when in fact, the government is opposed to the removal of these people from this land. Can you explain this to me?

[*English*]

Mr. John Ridsdel: I'm afraid I didn't quite understand. You have a document from the Government of the Philippines that says what?

[*Translation*]

Ms. Diane Bourgeois: The Office of the President of the Republic of the Philippines, through its attorney, Mr. Lingating, advised us that you had asked for permission to remove the people living on this famous mountain. You mentioned that three people still live on the

mountain. What justification do you have for seeking the removal of these individuals from ancestral land?

The Acting Chair (Hon. Paddy Torsney): Do you have the document?

Ms. Diane Bourgeois: In any event, so as not to lose any time, you can give this matter some thought and provide a response later. My second question is for Mr. Bernardo.

Sir, what are...

[*English*]

The Acting Chair (Hon. Paddy Torsney): Excuse me,

[*Translation*]

but you have already used up eight minutes.

Ms. Diane Bourgeois: The witness's response was quite lengthy. Can't I ask one last question?

The Acting Chair (Hon. Paddy Torsney): Perhaps during the next round.

Mr. Khan.

[*English*]

Mr. Wajid Khan (Mississauga—Streetsville, Lib.): Thank you.

We've had a presentation made pretty aggressively and very passionately here by a lawyer.

I have a couple of little questions, and you can answer them in any order you choose to.

If you're doing such a wonderful job over there, then why are there problems? You have social responsibilities, and if you're doing a wonderful job in the whole area, the people should be grateful for your services over there rather than be putting in petitions to halt your mining.

There's also a letter here from an organization written to Ambassador Peter Sutherland in the embassy. It says it has received a report that "TVI has taken measures to evict local residents against their will. We have seen copies of formal eviction notices that were issued and delivered by TVI..." It says TVI demanded they vacate company premises, and it mentions legal action, 110 people, some of whom are the local indigenous people and the governor.

Can you explain the situation? Here you are, doing such a great job over there, and other people are saying you are evicting them from their ancestral lands.

They also understand article 16 of the International Labour Organization convention concerning indigenous and tribal peoples, ILO 169, which stipulates "Where the relocation of these peoples is considered necessary as an exceptional measure, such relocation shall take place only with their free and informed consent." Do you have their free and informed consent, sir?

•(1620)

Mr. Clifford James: Let me answer part of that, and then I'd like Pablo Bernardo to answer the other part of it.

We're talking about a community of about maybe 6,000-plus members here. It's interesting that the remnants of the small-scale miners number approximately—this is husbands, wives, and kids—300. We're talking about 300 people who are, as I say, remnants of the small-scale miner group that was there, those 8,000 to 12,000 people. These people are not indigenous people, the 300. You have 6,000-plus who are, you have about 300, plus or minus, who are not, and it's the 300, plus or minus, who are the issue here.

We didn't ask these people to vacate. Yes, there were three letters sent at the request of the Subanons. This is the local Subanon tribe here. They asked us to send these letters to the three families who were in question because there was concern with respect to their well-being.

I want to answer your first point, which is if this project is doing so well, why is there such a huge amount of outcry and all that?

It's funny. We have 6,000-plus who are really happy with what we're doing; that's the Subanon community, as represented by these two gentlemen. And we have 300 who are not Subanons, who are squatters, who are there and should not be there, according to the Subanon tribe; they don't want them there. It would be the same in our country if you had first nations and you had people coming in from the outside and basically setting up their homes and all that.

As attorney Bernardo has already said, the Subanon have asked these people to leave their lands. These are the tiny vocal minority who are making all the noise, who are coming up with all the stories that are negative about our project. The vast majority of people at Canatuan are in favour of our project.

Mr. Pablo Bernardo: Thank you.

Now let me correct the mistaken impression that TVI or SSAI or a council of elders are in the process of evicting more than a hundred... or any Subano.

As I said earlier, we had in fact invited them to join the Siocon Subano Association Inc. The reason for the invitation was that they are not Subanons. They are squatters over the area, and they were engaged before in illegal small-scale mining operations.

Now, nevertheless, we had invited them. As I said, we met them on January 9, 2005. The reason for that meeting was to tell them to join us and to let them know we had a place for them. It is very unfortunate that, until today, they had not responded positively to our invitation.

Now, there is no such eviction. As a lawyer, I am aware that we have to have a court order in order to evict anybody from the area. There was an invitation for them...there were three persons, who were not Subanons, who were asked to leave the area because they were staying in a hill that was within the MPSA area. It was for their protection.

As I said, and I reiterated this fact, we are not evicting them. What we did for them was to invite them to join us in the relocation site, which we are going to build for everybody. This is an integrated community site. Subanons and non-Subanons would be placed in that area.

I think there has been a wrong report given by these persons, one or two or three of them. They are saying to the NGOs that they were evicted, and they are even writing letters to the office of the chairperson of the National Commission on Indigenous Peoples to say this. There is no such eviction, and in fact, as I said, we are inviting them to join us so that they could live within the ancestral domain. To tell it frankly, these people who are complaining are not Subanons.

● (1625)

The Acting Chair (Hon. Paddy Torsney): Thank you.

Mr. Khan, you have one minute.

Mr. Wajid Khan: It appears to me that they have some documentation. Obviously, I can't prove, sitting here, whether they are or they are not. It seems to me they're saying, join us or we're going to evict you. That's the impression I'm getting so far.

I'll go to the next question. Are there any regulations as far as the mining itself is concerned? Are there any rules you follow to ensure that these people are not affected so that the community is protected from environmental damage? Who monitors that? Are there any rules laid down for that? Do you monitor this yourself, or are there any government agencies? What process is followed for that, as far as mining is concerned?

Mr. Clifford James: Do you want me to answer that?

Mr. Wajid Khan: Yes.

Mr. Clifford James: There are very strict rules, as far as all of that is concerned. The rules are laid out in detail, and the company must be compliant with those rules. Compliance is maintained in a variety of ways.

One is through the existence of what is known as the MMT, the multipartite monitoring team or committee that's set up. It consists of a number of different individuals drawn from, basically, all the stakeholders in the project. It consists of various technical people from the Mines and Geosciences Bureau, the Department of Environment and Natural Resources, the Environmental Management Bureau. There are a whole slew of people. There are people representing the province, the municipality, the Barangay, the SSAI—the local people—and there are a few company people on that committee as well. Their job is to monitor what is going on.

We are continually visited by the Environmental Management Bureau and the MGB, the Mines and Geosciences Bureau. They are making darn good and sure that we are onside. Because we are such a high-profile project—the first mine in the Philippines in many years—this project has been studied to death. It's being monitored to death—and I'm quite happy with that.

So to answer your questions, sir, yes, there are very strict rules, we are in adherence with those, and they are being monitored very carefully by the community and other people.

The Acting Chair (Hon. Paddy Torsney): Thank you, Mr. Khan.

Mr. Broadbent.

Hon. Ed Broadbent (Ottawa Centre, NDP): Thank you, Madam Chair.

Mr. James, I have some questions related to the human rights situation. Rudolpho Stavenhagen is a man I'm sure you know. I know of his work in other parts of the world and he has a good reputation. He was a special rapporteur for the United Nations, looking into the area where your mine is located. He did a report in 2002, and he had this to say. Please excuse my pronunciation:

The Subanon people in Sitio Canatuan, Siocon, Zamboanga de Norte in Mindanao, have also complained of various human rights violations associated with the operations of TVI Pacific, a Canadian mining company. A mineral production sharing agreement signed between the company and the government of the Philippines covers around 508 acres within the 6,500-hectare area of the Certificate of Ancestral Domain's Claim acquired by the Subanon people. It has been reported that the company's presence on their ancestral land has caused militarization and acts of violence by the company's security guards and other armed units, such as rape, the establishment of checkpoints and the maintenance of blockades, the barring of food and essential commodities, blocking health services and religious practices, desecration of the sacred sites, and breaking the ritual requirements of the sacred ground. They further allege that the presence of TVI Pacific has led to the destruction of hunting grounds and herbal medicine areas, the disruption of education, and divisions between indigenous peoples.

Would you comment on this?

Mr. Clifford James: First of all, I think it's a bunch of garbage. That's what it is, and I'm going to call it what it is. I'm going to ask my partners here to comment on this. This is a repeat of what was said by Oncino Mato at a UN conference.

I want to point out, Mr. Broadbent, the following fact: we did not even start operations until after that report was done. What is fascinating to me is that when this man did his report, TVI was in what we call a "care and maintenance" mode. We did a lot of exploration up until about 1997. We did nothing from 1997 until the end of 2002. So I find it fascinating that a report like that would be written. You have to look at the history of this project, at what has been going on with the thing. Talk to the local people, the representatives of the local people, and ask them whether they have witnessed any of the things that have been alleged in that report.

Please, Mr. Bernardo.

• (1630)

Mr. Pablo Bernardo: May I answer?

Hon. Ed Broadbent: Yes, certainly.

Mr. Pablo Bernardo: Since September 2001, I have practically spent my life in the area as legal counsel for the Siocon Subanon Association and the council of elders. In 2002, the date when that report was made, or the visitation of whoever that guy is, TVI was not in operation. The small-scale mining operators were at work, though, and these are illegal mine operators. They are supported by José "Boy" Anoy, the first president of Siocon Subanon Association, and Oncino Mato. I believe the report was taken from Oncino Mato and José "Boy" Anoy, because they do not want TVI to operate there.

In the house of José "Boy" Anoy, there was a large banner posted, reading, "No To Large-Scale Mining Operations". In other words, he was afraid that TVI, which has an MPSA, would operate in the area. Why? Because it would affect his personal interests—to protect and receive money from the operation of the illegal small-scale mining operators. It is not surprising that José "Boy" Anoy and Oncino Mato would make such reports to, say, NGOs. I can understand that.

Hon. Ed Broadbent: This is not an NGO. It's a special rapporteur of the United Nations.

Mr. Pablo Bernardo: Yes. Whoever it is, the fact is that if he had only talked to the real people in the area, especially the Barangay captain here, I don't think he would make such a report. If he had gone to the area and seen it, he would have noticed for that particular time in 2002, there were plenty of small-scale mining operators.

As a matter of fact, on January 15, 2002, I personally led a thousand Subanons to dismantle the cyanide plants of these small-scale mining operators. I pleaded to the Department of Environment and Natural Resources to please implement the order to dismantle the cyanide plants. Why? Because they were causing pollution to Canatuan Creek.

It was on January 15, 2002, and I have to tell you frankly that I was the one who led the marching and dismantling, together with the Department of Environment and Natural Resources, the police authorities, and of course some residents in the area. Do you know who was stopping us? It was Onsino Mato who was stopping the demolition and dismantling of these illegal plants.

Hon. Ed Broadbent: Thank you very much.

I'd like to come back to a serious question for us as outsiders, as Canadians outside your country. It's a question on the legitimacy of representation. Who represents the local people? For example, is it you or Mr. Onsino Mato? There's a clear conflict.

I'd like to come back to that, but before I do, I'd like to return to the security operations. Mr. James, does your company have its own security forces in the area?

Mr. Clifford James: No, we do not have our own security, Mr. Broadbent.

Basically, what happened is the Philippine government responded to the needs of the community and put in what they call an SCAA. It's a special auxiliary army unit that is under the command of the local military division, which is located nearby in Ipil.

Hon. Ed Broadbent: Okay. Has your company ever supported, in straightforward language, terrorist organizations anywhere in the Philippines?

• (1635)

Mr. Clifford James: Absolutely not.

Hon. Ed Broadbent: Well, I have a very specific question with reference to that. Your company was in joint operations at Kingking Mines, in the 1995-1997 period. I have a statement here by Mr. Allan Laird, who was the director of operations for that project, in which he contends your company was a minority partner.

Mr. Clifford James: We were a passive interest-holder.

Go ahead. I'm sorry.

Hon. Ed Broadbent: Okay. In this statement, he reveals reports that he claims were sent to shareholders and company directors, including your company, and documentation. He was amazed to find out that money was being illegally paid to local terrorist organizations. He brought it to the attention not only of your corporation but to his own. When this was done, he was told that it was a cost of doing business.

Furthermore, in reference to where this money was going, in the same document, he says that he reported to the head of the company, the chairman of Echo Bay Mines:

There was little or no control over community development funds and inappropriate payments were made to regional terrorist organizations, including those supported by Osama bin Laden. It was known and reported in 1995 within Echo Bay's internal security reports received from various "outside security firms" that some of the local groups were being funded by Middle-Eastern interests.

The point I'm raising is that he is contending that your company was aware of this and the partnership, but nothing was done about it.

Mr. Clifford James: I was on the board of that company. I can tell you that I never received any report from anybody, including Allan Laird, that there was anything like that going on.

This was an ABC documentary, as I remember it, a year or so ago. When this first came up, we were asked to provide information based on various questions. I went back and pulled out all the board minutes. I looked at all the board minutes, internal budgets, reports, budgets, and all that. There was absolutely no record of any of this.

I can tell you that we, TVI Pacific, as an organization, have not and will not ever support any terrorist organization. We very strongly believe in the whole business of not making any kind of contribution to anything like that.

The Acting Chair (Hon. Paddy Torsney): Thank you.

Thanks, Mr. Broadbent.

Mr. Day.

Mr. Stockwell Day (Okanagan—Coquihalla, CPC): I have some questions. I came late to this particular presentation, so if I'm asking a question that's already been dealt with, just say so and we'll spare the time.

There's a mention here that TVI has funded schools and helped construct new schools. Are those operations still ongoing, the schools?

Mr. Clifford James: Yes, they are.

Mr. Stockwell Day: Thank you. Also, there's a reference here to a health clinic. Is that still in place and operational?

Mr. Clifford James: Yes, a brand new health clinic, and it's operational, you bet.

Mr. Stockwell Day: I'm a big believer in democracy and living with the democratic vote, whatever it is—and believe me, around here we have to live with a lot of democratic votes we don't like. There's a reference here that the indigenous community voted in favour of this project. Is that accurate?

Mr. Clifford James: That's very accurate.

Mr. Stockwell Day: There's also a reference here that two of the individuals, Onsino Mato and "Boy" Anoy, were defeated in one election and did not stand for election in the second one.

Mr. Clifford James: That's correct.

Mr. Stockwell Day: Did they say why they didn't stand for election the second time?

Mr. Pablo Bernardo: Let me answer that.

The first election was held in November 25, 2001. Please take note that the first president of the Siocon Subano Association Inc. was Jose Anoy. In the 10 years after 1991, he did not call for any election, or there was no election. So there was a clamour for the election, because this was properly registered with the Securities and Exchange Commission. In their bylaws, there was supposed to be an election of officers annually, and that would be in the first or second week of October of each year.

"Boy" Anoy did not call for an election. He held the position as president from 1991 to 2001. In 2001, there was a clamour for an election. They were complaining that he was siding with and allowing small-scale mining operations in his area. He was actually personally benefiting from his connection with the small-scale mining operators to the detriment and sacrifice of the association—the association was receiving nothing. When they had an election, "Boy" Anoy did not participate. It was obvious, because in that election of 2001 there were proper notices given, and it was upon the resolution of the board of trustees. He was there, but he did not participate.

The election came again in 2004. In that election, neither "Boy" Anoy nor Onsino Mato participated. So in the 2001 and 2004 elections, Juanito Tumangkis was duly elected as the new president of the Siocon Subano Association Inc. Let me emphasize that indeed "Boy" Anoy was the one who organized the Siocon Subano Association. When the election was held in 2001, what he did was file a petition for a court order before the regional trial court in Siocon. The result was that his petition was dismissed.

In other words, the issue regarding the legitimacy of the election of the officers for the Siocon Subano Association Inc., per the decision of the court, which was released a couple of months ago, was dismissed. Therefore, all the officers who were elected in 2001 were considered duly elected.

● (1640)

Mr. Stockwell Day: Thank you for that background.

For your information, for the information of the people here, I'm not sure how this whole situation arrived before this committee, but I believe it arrived here legitimately. I believe the concerns were well intended. I'm not saying well informed; I'm saying well intended. What I want to see happen, just to let you know as you leave....

I'm not even sure what jurisdiction we have here. I don't minimize any of the problems that either you're talking about or the other side of the issue is talking about. These are human problems; I don't minimize those. There are some giant issues in the world that we're trying to deal with, Darfur being one.

I will be making recommendations for us to somehow as a committee be able to decide our priority in terms of what issues we bring forward. I'll also be asking this committee that if they deem there have been violations by the company, we state that and we state it clearly and sign our names to it. Also, if we deem these allegations cannot be proven, then as committee members we state that very clearly, and we sign our names to that. We know in the business of politics, allegations are sometimes just as bad as convictions.

So you have my commitment as we sort through this that I will want this committee to state very clearly how we view the matter, whether there's wrongdoing or not. We will state that in the clearest of ways and also look at our priorities in terms of what issues we bring before this committee.

The Acting Chair (Hon. Paddy Torsney): Do you want to comment?

Mr. Clifford James: I would like to comment on Mr. Broadbent's comment—it's very important here—on the human rights abuse.

I just want to state for the record that if you go back and look at the human rights commission and the various investigations—and there have been a number of them because there have been these allegations—you're going to find that each and every time an allegation was investigated by the human rights commission in the Philippines, we were exonerated. I just want that on the record.

The Acting Chair (Hon. Paddy Torsney): Thank you.

Madame Bourgeois pour cinq minutes.

[Translation]

Ms. Diane Bourgeois: Mr. Kilgour was next in the rotation. Will you recognize Mr. Kilgour?

[English]

Hon. David Kilgour (Edmonton—Mill Woods—Beaumont, Ind.): I didn't think we had two goes for people before we got to other members, Madam Chairman.

The Acting Chair (Hon. Paddy Torsney): I'm sorry, but I have other people who wanted to be on this committee. Normally if you're not a member of the committee you can ask questions at the end, after all the members have asked questions.

Hon. David Kilgour: She has asked questions.

The Acting Chair (Hon. Paddy Torsney): Right, but she has another question to ask. I'm not doing anything....

Hon. David Kilgour: I've never seen it done before, Madam Chair, until your arrival today.

The Acting Chair (Hon. Paddy Torsney): I have, on other committees I didn't chair, so I apologize, Mr. Kilgour. There was no intention—

[Translation]

Ms. Diane Bourgeois: Madam Chair, I have two questions, but I will be splitting my time with my colleague, if you have no objections. I'll let Mr. Kilgour go first.

Hon. David Kilgour: That's all right. You can continue.

Ms. Diane Bourgeois: Fine, let's not waste any time them. First of all, I'm curious as to the exact nature of the ties between Mr. Bernardo and TVI Pacific.

• (1645)

[English]

Mr. Pablo Bernardo: I have no relation with TVI. I am the legal counsel for Siocon Subano Association Inc. I am also the legal counsel for the council of elders of the Subanons. I am the chairperson of the provincial consultative body of Zamboanga del Norte. I'm a lawyer by profession.

[Translation]

Ms. Diane Bourgeois: You do not work for TVI? You did not handle the TVI file outside the community?

[English]

Mr. Pablo Bernardo: No.

[Translation]

Ms. Diane Bourgeois: Mr. Bernardo, earlier you listed the benefits associated with the presence of TVI on Subanon land. These include the cleanup of toxic mine tailings, the construction of roads and personal commitments. Firstly, I want to know the number of Subanon and foreign workers who are employed by this company. If possible, I'd like you to give me these figures.

Secondly, given that the company needs workers and passable roads for its trucks and that it had to clean up some domestic waste in order to set up operations, do you not think it's normal for the company to provide some benefits to the region? These are my two questions.

[English]

Mr. Pablo Bernardo: We'd like to believe it's a normal activity, but what is strange here is these were left by small-scale mining operators, and I believe it's part of their obligation. But the idea is that we are really in need of improvements over the area. I think it is fortunate that TVI was in the area. Even if it is their obligation, we are very thankful to them.

As we said, we were able to have a memorandum of agreement with TVI. Part of that agreement is priority of employment for the Subanons. Of course, we have to recognize the fact that there is a limitation in the employment of the Subanons because of their lack of education, so they do not land in the managerial-level positions. But today I'm happy to note and report that more than 250 Subanons are gainfully employed with TVI. I'm also happy to report that they are receiving about 220 pesos a day, which is beyond the 185 pesos daily minimum wage imposed by the Philippine government.

Although they are not obligated to do this, TVI are now employing additional teachers, because the Philippine government apparently cannot afford to hire teachers. So TVI is paying the salaries of about three teachers in the area.

We are also happy to note that we are receiving a monthly royalty from TVI that we are spending to protect our ancestral domain. We are planting trees and guarding the area. On our own we are taking the initiative to do what is best for the ancestral domain.

The Acting Chair (Hon. Paddy Torsney): Thank you.

Just to clarify, Mr. Kilgour, after Mr. Day it was supposed to be a Liberal round. I went to the next person who asked for a question, Madame Bourgeois. The other two people who have asked for questions are Mr. Broadbent and Mr. Goldring. If it's okay with them, I'm perfectly happy to give you a five-minute round.

Hon. David Kilgour: Yes, but don't take your clerk too seriously, Madam Chairman.

The Acting Chair (Hon. Paddy Torsney): Mr. Kilgour, I'm just clarifying what the normal committee practice is. It's not about the clerk or anybody else.

Hon. David Kilgour: Don't give me a lecture on normal committee practice, Madam Chair, okay?

The Acting Chair (Hon. Paddy Torsney): Mr. Broadbent and Mr. Goldring, are you okay with Mr. Kilgour going ahead of you in a five-minute round?

Hon. Ed Broadbent: Of course.

The Acting Chair (Hon. Paddy Torsney): Thank you.

Hon. David Kilgour: Thank you, Mr. Goldring and Mr. Broadbent.

The President of the Philippines, on November 12, 2004, asked for an environmental forum at which the townspeople could express their opinions on TVI. Were you present, Mr. Ridsdel?

•(1650)

Mr. John Ridsdel: Yes.

Hon. David Kilgour: And a thousand members of the community were present?

Mr. John Ridsdel: No.

Hon. David Kilgour: How many were present?

Mr. John Ridsdel: In the actual forum, there were maybe 200 people.

Hon. David Kilgour: Well, my information was 1,000.

In any event, Mr. Ridsdel, can you describe the demonstrations you witnessed on November 12? Is it fair to say that your company does not enjoy a high level of social acceptability among the people of Siocon?

Mr. John Ridsdel: Sir, can you repeat the question?

Hon. David Kilgour: I can't make it any simpler, sir.

Is it fair to say that your company doesn't have a high level of acceptability among the people of the community?

Mr. John Ridsdel: At the time, during that meeting, there was a demonstration outside with a number of people carrying placards. There were something in the order of 18 representations made.

I would like to incorporate an element of Mr. Broadbent's question, which was about the special rapporteur, and give you a bit of context. The special rapporteur reported allegations, and those allegations had been made by individuals who, as Mr. Bernardo has described, had particular interests of their own.

A Canadian reporter came over some time ago and posed the following question: if your project is so socially acceptable, why are all the angels against you? There are some specific reasons for demonstrations in Siocon and for the variety of organizations, who were actually orchestrated by the mayor to make presentations.

You want me to give you a shorter answer?

Hon. David Kilgour: Yes, please.

Mr. John Ridsdel: The community immediately affected by the project is overwhelmingly in support of it. The Philippines lie in an area where people actually listen to their politicians and believe

them. There have been a number of politicians who have organized vocal support or opposition to the project.

Hon. David Kilgour: How about it, Mr. Clifford James? How do you respond to the many petitions and resolutions filed by the various organizations of this town in opposition to your operations?

Mr. Clifford James: I think we have to consider the source. That's how I would respond.

Hon. David Kilgour: Well, my time's probably up, and my friends have been very courteous to allow it.

A statement by Allan Laird says, "The amount paid to the insurgent/terror groups between the project's start date"—I think we're talking about the same project—

Mr. Clifford James: No, we're not. We're talking about a vastly different project.

Hon. David Kilgour: —"in August 1996 was \$1.7 million."

Mr. Clifford James: The amount paid?

Hon. David Kilgour: Yes.

Mr. Clifford James: As I told Mr. Broadbent before, there's no indication of any money like that being paid to anybody.

Hon. David Kilgour: How much was paid by you?

Mr. Clifford James: By us?

Hon. David Kilgour: Yes, to some of these groups on the list here.

Mr. Clifford James: First of all, there was no money, to my knowledge, paid to any of those groups, period.

Hon. David Kilgour: Any meetings?

Mr. Clifford James: Not to my knowledge.

Hon. David Kilgour: When you say "not to my knowledge", sir

Mr. Clifford James: As a member of a board of directors who met, as I recall, about quarterly on this project, management gave us reports, as they always do. Management gives us budgets and budget reviews and all that sort of thing. I can tell you that the amount that went into CDO, as we call it, community development and all that, was peanuts. We're talking about \$40,000, \$50,000. There was no such number as a million seven or anything like it. These are allegations by a disaffected employee, a guy who didn't like his severance package, apparently.

Hon. David Kilgour: But have you made an inquiry to see if any of these allegations were accurate or inaccurate?

Mr. Clifford James: I said what I said before. I went back through all of the minutes we had. I discussed it with a number of the employees who were there, and none of the employees who were there at the time recall anything like this.

Hon. David Kilgour: We're not naive here, sir. Maybe some of these people didn't go into the minutes. Is that possible?

•(1655)

Mr. Clifford James: Allan Laird is saying he reported it to management and reported it to the company. I would have thought that he would have made it very clear to the company and would have made sure it was minuted somehow.

Hon. David Kilgour: Okay.

Thank you, Madam Chair, Mr. Broadbent.

The Acting Chair (Hon. Paddy Torsney): Thank you. That was a good five minutes.

Mr. Broadbent, then Mr. Goldring.

Hon. Ed Broadbent: Since we have come back to this project, the same gentleman who, as you will recall, was actually in charge of the operation says it was reported. He also mentions here that Echo Bay Mines, which is the principal operating company, as I understand it, had a corporate vice-president sitting on TVI's board of directors, and he's saying it was reported. He also says he was instructed to destroy all the records when they got out of the business. He claims he kept enough records to confirm what he had said, which, to repeat, was that at one point it was \$1.7 million. He got on to this because these were missing funds, he claims.

By the way, he's described as a whistle-blower, not a disaffected employee. There are two ways of looking at the same person, I know. He got out of it because he thought something was going seriously wrong and he claims up to \$2 million was being illegally channelled into terrorist organizations.

I was going to drop it and go on to other things, but because of what you said, I just want to say he's prepared to do this in a court. In fact, he's offered to come to this committee and swear under oath, and he has documentation proving what he says here. That's his claim.

You're making a counter-claim. I understand that.

Mr. Clifford James: All I can tell you is that we had nothing to do...certainly we had no knowledge of any of this kind of thing, and given the organization of Echo Bay and how it was run at the time, I very much doubt anything like that ever occurred.

Hon. Ed Broadbent: Okay.

One last question from me is on general operations. As you know, there are OECD guidelines for corporations operating abroad. Does your company function according to these guidelines, consciously?

Mr. Clifford James: We certainly do, and we have a check sheet that we use for corporate and social responsibility, and this is the best practice as far as we're concerned. This is what we're measuring our operation against.

Hon. Ed Broadbent: Since we're probably winding up here, I just want to be very clear with you that those of us on the committee are here to try to understand the situation. We haven't prejudged it—I want to be very clear about that. In fact, everyone on this committee has a record for being impartial about these things. We've had serious accusations made about your company by some people. You are here to offer your perspective. I just want to assure you that our obligation is to try to understand what's going on.

Mr. Clifford James: Well, that is refreshing. I thank you.

The Chair: Mr. Goldring.

Mr. Peter Goldring: Thank you very much.

Mr. James, on the indigenous rights, or the squatters' rights, or the monetary claims we've been seeing in some of the reports, is that more up to the government of the country to face those claims, or did

you have to contract that in your overall mining contract to somehow settle and to come to terms with such claims that have been made?

Mr. Clifford James: No. The way it works, Mr. Goldring, is that when we are issued our environmental clearance certificate, one of the conditions of that certificate is that we are to recompense or to assist the people who are affected by the mining operation to relocate, and we are to provide funds to do that.

What the government does and what the municipality of Siocon does is they have a way of determining what would be proper and fair compensation. This is where the problem that we're talking about with these people really lies.

The people described by Pablo Bernardo as squatters are welcome to stay if they want to be in this new village that's being created, that we're building together. We're actually financing the building of this new village that will be the home of the various residents there. The various squatters, as they're called, who are still there have been invited to go into that village, but they are choosing not to stay there because they're not indigenous people. They don't feel comfortable staying there. So what they're doing, like squatters do in the Philippines, is waiting, and they've put very high amounts of money on the little plots of land they've been occupying illegally. They're saying that if we pay them the money, then they're prepared to move. It becomes a matter of negotiation.

One of the ladies who is affected wants 70 times the amount the municipal appraiser has said she should be paid, in fairness.

• (1700)

Mr. Peter Goldring: Your pictures here would indicate, and you said before, that some of them are operating small-scale mining operations in that very area too.

Mr. Clifford James: No, they're not, not any more. That's all gone. They were shut down by the Department of Environment and Natural Resources.

Mr. Peter Goldring: A lot of the claims where they seem to be pointing a finger are about what's depicted in pictures such as this one. I look at your own pictures here too and see that the photo shows the same colour of water that is in your very own tailings ponds. You said it isn't your water, or there haven't been any breaches of your tailings ponds, but there have been complaints made that say—for example, this one—that the water is muddy; there's red water, it smelled of cyanide, and only TVI uses cyanide.

Is that not a substantiated claim at all? Are you the only operator in the area utilizing cyanide in your process?

Mr. Clifford James: We are the only operator in the area using cyanide. That is correct. But let me say a couple of things here.

First of all, the picture I just saw you holding up there for a minute—yes, that one—is a picture of the water that's in a tailings dam. You would expect the water in a tailings dam, which is a contained area, is going to contain—

Mr. Peter Goldring: But there's a breach in the wall on this one.

Mr. Clifford James: Yes, but that's not a tailings dam. That is a siltation dam that was taken down as a part of normal maintenance. We have a rainy season down there. We get a lot of silt that comes behind these dams. We go in periodically and take it out.

Mr. Peter Goldring: In the interest of timing here too, I can appreciate that, but you also have an inspection team, you said, that's made up of community—

Mr. Clifford James: Right.

Mr. Peter Goldring: —and corporate people, and other people too. Have complaints like this been addressed to that committee, and have they responded to individual complaints, this one in particular, and the other affidavits that were sent? Are you responding, through that committee, to these individual complaints?

Mr. Clifford James: We haven't had complaints to the committee. The kinds of complaints you're talking about...and I get frustrated about this, and you can tell it in my voice, excuse me. I get quite passionate about this project and what we're doing there.

We have a member of the committee sitting here. You ask him whether he's had any complaints.

Mr. Peter Goldring: We're on limited time here. What I'm trying to do is have us try to explore this and ask the questions on it. A substantial amount of the information being put forward is all on pollution and who has been doing the polluting and why. You have a team there that can answer and respond to it, and the other community that's making the accusations haven't gone to the local authority that could possibly answer this. So why is it brought here, when we can't get answers from the community?

Mr. Clifford James: That's a good question.

Mr. Peter Goldring: And if this is the case, that it hasn't been taken in that direction, then I would have to agree, certainly in the area of pollution, that it's impossible for us to decide or get to the bottom of who is polluting what, where, when, how, and why, because your own authority isn't responding to it, and even the complainants aren't interested in going to that authority, for one reason or another.

Mr. Clifford James: I told you before that the Environmental Management Bureau personnel come in routinely and do checks on discharge waters and all the rest of it.

If we were in violation, I can assure you that we would be getting a cease and desist order. We'd have our operation shut down.

Mr. Peter Goldring: I'm looking at where they're specifically saying they know you're processing. If, as I gather from what you're saying, no other miners in that area, or projects, are using cyanide in their processing, then is this letter legitimate? Is this possible?

Mr. Clifford James: I don't even know what letter you're talking about. I don't know the date on it.

Mr. John Ridsdel: Is this the letter...?

Mr. Peter Goldring: This is a signed affidavit, and it's going through, of course, such things as the water is red, and it's mixed, and we're seeing a lot of that, but it's saying they know this, that it's waste from TVI, and they know it because it's muddy red water, it smelled of cyanide, which isn't a definitive test by any means, and only TVI uses cyanide.

Mr. Clifford James: And who is the man?

The Chair: I'm sorry to interrupt.

Mr. Goldring, we can come back to you. Your time is up. We will go to the next member, and we will come back to you, if you'd like to continue the questioning, please. Thank you very much.

Would you like to respond to that, very briefly?

Mr. Clifford James: The man in question—I don't know the man, but I'm being told here by these two fellows from the community—is a small-scale miner. He is one of the disaffected group there. It's he said, she said, exactly, but it's somebody who has every reason, every motivation, to make up a story like that.

• (1705)

The Chair: Thank you.

Ms. Torsney.

Hon. Paddy Torsney: Thank you.

I feel like I'm watching someone's divorce, and it's pretty unpleasant.

The opportunity is for us to look beyond this project to making sure that Canadian companies operating internationally are following the highest standards—at least I think.

I think the other issue that brought this project before us did relate to CIDA and to the CIDA project. I just wanted to clarify, because there was an earlier question, that so far CIDA has put \$14,238.21 into the project, with goats and governance and agriculture.

In the summary of information we have from our researcher, it suggests at the very end that TVI executed a memorandum of agreement with the Subanon council of elders and the SSAI, led by Juanito Tumangkis. It says, "Note: The SSAI has been divided into 2 factions: that of Juanito T. Tumangkis and the other of Jose Anoy and Onsino Mato."

So my question to you, Mr. Bernardo, is this. When it says two factions, could you identify whether they are roughly equal, or is it small versus large? Is that what's creating the bigger problem? Is there a way for the community to be brought together in some fashion? Is there a way to increase the support amongst the people who are clearly upset?

Mr. Pablo Bernardo: Thank you for asking that question.

There is a misconception that there is such a thing as SSAI 1, Siocon Subano Association 1 or Siocon Subano Association 2. There is only one Siocon Subano Association.

It is very unfortunate that "Boy" Anoy and the rest of his group, including Onsino Mato, made up a story that the group of Juanito Tumangkis belongs to Siocon Subano Association 2 when they filed a petition questioning the election of Juanito Tumangkis and the others. They are the regional Siocon Subano Association 1.

I think under Philippine laws we cannot divide one corporation to become two, unless of course the other separately registers with the Securities and Exchange Commission.

I would like to make the clarification that there is only one Siocon Subano Association and this is under the leadership of Juanito T. Tumangkis. In fact, "Boy" Anoy is stopped from questioning the legitimacy, because he personally, together with the others, filed a petition before the regional trial court of Siocon. In other words, he himself admitted there is only one Siocon Subano Association.

Regarding the issue of leadership, we have to state for the record that after the dismantling of the 17 cyanide plants in Canatuan, Jose "Boy" Anoy left, together with some small-scale miners. What he did was associate himself with some NGOs, church-based and otherwise. He is no longer staying in the area. What he is doing now is questioning, questioning, questioning the leadership of Juanito Tumangkis, and of course the operation of TVI. What he has in mind is to stop the operation of TVI so that the illegal mining operators can come back and he can associate himself with these people.

Hon. Paddy Torsney: That raises the issue of whether there is a need for a better process of hearing complaints. Does the Philippine government—to your satisfaction, Mr. James and Mr. Ridsdel, and to yours as well—have a process that would establish better community support in the beginning, so that we don't end up with factions, so that these complaints can be heard and resolved in a satisfactory manner? If you have people laying complaints and they are going to a committee, how do we clear through this process so that we're not faced with he said, she said?

Mr. Clifford James: I'd like to address one thing that wasn't answered by my partner, and that is the numbers. I think they're very important. You've got 6,000-plus Subanon who are in the Canatuan area. Juanito Tumangkis, the council of elders—all of them represent the 6,000-plus.

How many of the original 30 council of elders do Onsino Mato and "Boy" Anoy have?

• (1710)

Mr. Pablo Bernardo: About five?

Mr. Clifford James: Yes, that's five out of 30. So what it boils down to is they represent about 300 people, most of whom are not Subanon. They're the squatters we were talking about. You're looking at 300 out of, say, 6,000-plus, so the numbers are very small.

It's unreal to think you're going to get everybody in a community voting in favour of a given project. This is a democracy. The Philippines has been described as a hyper-democracy, and there is going to be a vote at the end of the day, whether we like it or not.

The majority wins. In this case the vast, vast majority has approved our project and supports it. We've got a tiny vocal minority that's sitting out there not supporting us.

Hon. Paddy Torsney: But the effect of the claims that the vocal minority is making is significant. If these claims are not dealt with in an expeditious manner, if there isn't an environmental department, if there isn't a follow-up, if there isn't a process where the committee has to seek out the claims being made elsewhere and deal with them, then they just sit there and fester rather than being considered, resolved, improved, or dismissed. If they are never dealt with, it creates ambiguity about whether there is support.

Mr. Pablo Bernardo: I'd like to respond to that. There is a process for deciding these matters. It is provided for under the Indigenous Peoples Rights Act of 1997. If there is a conflict among Subanons, or IPs, it should be resolved in accordance with their customs and traditions. It is unfortunate that "Boy" Anoy and Onsino Mato do not recognize or use consensus.

For the record, they had filed a similar petition before the National Commission on Indigenous People regarding the legitimacy of the council of elders. It is unfortunate that "Boy" Anoy, who was named as part of this council, together with his lawyer, questioned his appointment, his designation as part of the council of elders. This is one person who will not stop until he gets himself chosen as president.

The Philippines is a very democratic country and there should be a process. Whoever is decided on by the consensus of the IPs should be the one to administer the affairs of the IPs. It is unfortunate that "Boy" Anoy and Onsino Mato do not accept their defeat.

The Chair: Thank you.

I would like to conclude today's meeting. I want to thank the witnesses. I was told by the acting chair that there was a nice exchange of views, and I appreciate that.

As Mr. Broadbent said, we're not here to prejudge anyone; we're here to collect the facts. We appreciate the fact that you took valuable time out of your schedule to be with us here today.

We're going to go in camera to deal with a motion on Darfur, so I'd ask the members to stay here while the visitors leave.

Thank you.

[Proceedings continue in camera]

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