

**Submission to the EGM Closure Negotiating Committee
in support of the Vatukoula Communities**

19 January 2007

This submission is made by members of the communities surrounding the Vatukoula mine and by supporters of the rights of these communities. We thank the EGM Closure Negotiating Committee for providing us the opportunity to make this submission.

EXECUTIVE SUMMARY

Importantly, this submission emphasises that those immediately affected by the sudden closure by Emperor Gold Mining Ltd (EGM) of the Vatukoula mine on 5 December 2006 include not only the 1760 employees retrenched on that date. Affected community members also include contracted workers; the families dependent on their income; the women, children and extended families living on and around the Emperor Gold Mine's land; the striking workers of 1991; and native title and historical land claimants. All of these sectors of the Vatukoula communities require immediate and ongoing assistance.

The closure of the mine has had immediate impacts on the situation of each of these sectors of the Vatukoula communities. These impacts will be far reaching and may affect different community members in different ways. Nevertheless, there are some very commonly held concerns that have been voiced by all. This paper outlines some of the unique concerns of different sectors of the Vatukoula communities before considering in more detail some of their common issues. The key concerns and recommendations to address these issues are summarised below.

Key Concerns of Vatukoula Community Members

Issue 1: Until now, the needs of the majority of the Vatukoula communities has been ignored by the company and the Government, which have focused almost exclusively on the workers made redundant on 5 December 2006.

Recommendation: Address needs of all sectors of Vatukoula communities

Immediate (in the next 2 weeks)

- Broaden the Government survey so as to identify the true impact of the mine closure using the community-established Consultative Committee as a contact point. The needs of Indo-Fijian former workers must be thoroughly assessed. Consideration of the needs of all families living on company land must be factored into plans regarding the Vatukoula communities.
- Government Departments, such as the Social Welfare Department, should make very clear exactly what services are available to the people.
- Both the Government and the company should establish clear means of directly communicating with the communities regarding developments in languages that are most understandable to them – including Bauan and Rotuman.
- Commence consultation process regarding mine closure - use facilitated process to consult with communities and others on impacts of closure and means of addressing these.

Longer Term

- Ensure that any financial packages are paid to the women of Vatukoula to avoid funds being spent on kava and other incidentals.
- Continue consultations with communities and other stakeholders to prepare for mine closure and rehabilitation.
- Engage an independent specialist assessor to review rehabilitation proposals and to verify adequate rehabilitation

Issue 2: There is a risk that supply of basic services (clean drinking water, electricity, sanitation, rubbish removal) will stop

Recommendation: Government should guarantee secure supply of basic services

Immediate (in the next 2 weeks)

- A commitment by the Government to securely provide essential services (clean drinking water, electricity, rubbish collection and sewerage removal) if the supply of these services is threatened.
- Such services should be free until the future of the mine is clear and (if warranted) plans for mine closure and alternative employment opportunities have been developed in consultation with the communities.

Longer Term

- The Government through PWD should take on the responsibility of laying pipes and connecting houses to the treated water supply which currently by-passes the Vatukoula communities on its way to Tavua.
- FEA should take over supply of electricity using a prepaid card system for electricity supply.
- Government should take responsibility for continued provision of sanitation and rubbish removal services.

Issue 3: Children's education is threatened because parents do not have money to pay for books, school fees, uniforms, transport and other costs.

Immediate (in the next 2 weeks)

- Government should take over the Goldfields School and pay the staff salaries at least until children find alternative schools.
- Provide financial assistance to cover schooling costs.
- Require local schools to exempt children from wearing uniforms during January and February.
- Provide children from the Vatukoula communities with an official document that would allow children to travel for free to and from school.
- Allocate funds to schools to allow the purchase of text books as a library for use by affected families.

Longer Term

- Reimburse funds if pre-retirement age community members are forced to draw upon FNPF for emergency funds given the inevitable need for these funds for post-retirement.

Issue 4: People want to develop plans for alternative employment and livelihoods

Immediate (in the next 2 weeks)

- The needs of subcontractor workers must be assessed in determining the impact of mine closure.
- Many people want to know what employment opportunities may exist relating to the closure of the mine. They would also benefit from being assured that they could plant crops to sustain themselves. This would be assisted by the provision of lands to Vatukoula community members, as occurred in 1978 when retrenched workers were given land and other assistance in Koroboya and Seaqaqa. Others were assisted with the provision of alternative employment opportunities, such as planting pine in Nabou Pine Station.
- Given that community members are in desperate need of funds, community members close to retirement age have requested that they be given early access to these FNPF funds.

Longer Term

- A comprehensive closure plan detailing employment opportunities must be developed in consultation with the communities as a matter of priority. Community members from Vatukoula and recently retrenched workers should be given exclusive priority in the allocation of these employment opportunities.
- The Government should assist these highly trained workers to find alternative employment in other industries.
- Vatukoula community members should be offered re-training activities to assist in creating alternative employment sources.
- The Government should assist Fijian workers who are able to obtain employment in other countries by providing linkages, passports, visas, and other assistance.
- Government should prioritise the re-allocation of positions to Goldfields teachers and provide an exemption from the requirement that a former public servant must reapply for a new post.
- Government entities such as PWD, FEA, Fiji Sugar Corporation as well as private entities known to take on apprenticeships should prioritise the placement of Vatukoula apprentices. At the very least they deserve to be directly consulted and informed as to what is currently going on and what their options are. At present, many have been left wondering and waiting.
- Investigate the issue as to whether some of the subcontractor workers were in fact employees of EGM and determine their eligibility for redundancy packages.

Issue 5: Health Care

- Government should provide trained medical staff to open the Vatukoula clinic.

Issue 6: Housing and relocations

Immediate (in the next 2 weeks)

- Provide information and reassurance to communities regarding relocations. The issue of relocations should only occur in consultation with the communities, avoiding forced relocations at all costs. In any event, the issue should not be determined until the future of the mine is more clearly established. Nor can relocations be contemplated until people have a clear idea of what their alternatives are, whether there exist alternative employment or livelihood options in Vatukoula and so forth. Careful consideration would have to be given as to where people could be relocated.

Longer Term

- The Government and the company should jointly make a commitment to repairing and improving the state of housing in Vatukoula, including by construction of new housing facilities to which community members should be given the option of relocating.

Issue 7: Debt relief

Immediate (in the next 2 weeks)

- Community members are pleading for clemency and for financial assistance in these difficult and uncertain times.
- The situation of the Mine Workers Credit Union requires immediate investigation and steps should be taken to ensure that the assets of the Credit Union are not dissipated.

Issue 8: Payment of monies owed and resolution of outstanding claims

Immediate (in the next 2 weeks)

- Those with land claims should be part of the discussions regarding the future of the mine.

Longer Term

- Government should settle the conflicts between the four land claims.
- Both the Government and the company should take immediate steps to resolve the continuing dispute with the FMWU strikers. They should jointly establish negotiations to look for possible solutions including the establishment of a joint company-Government fund.
- All claims against the company should be catalogued, investigated, and compensated where appropriate.
- To aid the Vatukoula communities, the Government should ensure that the company is required to transparently publish payments made by the company to the Government. The Government of Fiji should also transparently publish the revenues it receives from the company.

Issue 9: Environment

Longer Term

- EGM should be required to have a comprehensive closure and rehabilitation plan as well as an obligation to undertake ongoing rehabilitation to clean up the site

and prevent further contamination. The rehabilitation requirements should be specific and be determined in consultation with the communities. Independent verification of meeting rehabilitation requirements should be a part of these obligations.

- An unconditional performance bond should also be required.

Issue 10: Recreation

Longer Term

- Employ community members to clean up sports facilities.

Issue 11: General future obligations

The company should be obliged to:

- Establish a clear communication and consultation process with communities
- Ensure that communities will not be pressured to relocate during the care and maintenance/exploration period
- Work with the Government to continue and improve provision of essential services (water, electricity, housing, etc)
- Ensure that any new employment at the mine is offered to former workers of the Vatukoula communities before any others
- Clean up the mine site – comprehensive closure and rehabilitation plan, ongoing rehabilitation, performance bond
- Commit to resolving all outstanding claims and disputes including the FMWU strikers' claim.
- Assist recently retrenched workers and others by payment of fair redundancy packages and other assistance.
- Obtain the free prior and informed consent of land claimants before undertaking exploration.

NOTE: all land claimants should be part of the discussions regarding whether the company's lease is altered or renewed.

ABOUT THOSE MAKING THIS SUBMISSION:

- **Mr Malakai Navatu, Mr Romeo Kivi, Mrs Salote Marama, Mrs Samanunu Vinakadina – members of the Vatukoula communities and elected representatives of the Vatukoula Community Consultative Committee.**

Messers Marama, Vinakadina, Navatu and Kivi are members of the Vatukoula communities who have been personally affected by the mine closure. In addition, they have been elected by members of the Vatukoula communities to convey to the Committee the serious concerns of the communities.

At a meeting on 16 January 2007, over 200 members of the Vatukoula communities gathered to discuss the serious social impacts that the decision to close the mine have already produced on them and may produce in the future. A broad cross section of the communities attended the meeting, including:

- Indo-Fijians (including some not residing on company land);
- settlements in Vatukoula – including those living in company houses and squatter settlements;
- the Nakoroboya, Nasomo and Lololevu land claimants (a representative of the Natolevu claimants was informed prior to the meeting but was unable to attend);
- Sub-contractors; including both Loloma Trading and NCL retrenched workers
- Female members of the Vatukoula communities;
- 1991 Strikers;
- Recently retrenched workers (including the General Secretary of the Mine Workers Union of Fiji);
- Former staff association members;
- Workers still employed at the mine; and
- Business people within Vatukoula (shop owners, taxi drivers, home-based businesses selling goods and vegetables).

Those gathered at the meeting elected 17 members to form a Community Concerns Committee that will act as a point of contact for consultations with both the company responsible for the mine and the Government. These 17 members include:

- an Indo-Fijian representative;
- representatives from Matanagata, Nademo, Loloma, Low Cost, Nasivi, Lololevu, Korowere, and Veiquwawa settlements;
- representatives of the Nakoroboya, Nasomo and Lololevu land claimants;
- workers retrenched on 5 December 2006, including the General Secretary of the MWUF;
- a representative of NCL subcontractors;
- two women's representatives;
- a representative of the 1991 strikers; and
- small business representatives.

A full list of the Committee is provided in Appendix A with contact details for the Chairman, Mr Malakai Navatu.

Membership of the Consultative Committee will remain open so as to encourage participation of other members of the Vatukoula communities who were not present at the community gathering.

- **Mr Poni Ravula - Citizens Constitutional Forum (CCF)**

Born and raised in Vatukoula, Mr Ravula has continued to support and defend the rights of the Vatukoula communities whilst employed at the CCF.

- **Ms Shanta Martin - Oxfam Australia Mining Ombudsman**

Oxfam is an international non-government organisation that takes a rights-based approach to development. In 2000, Oxfam Australia established the Mining Ombudsman to:

1. Assist men and women from local and indigenous communities affected by mining whose basic human rights are being threatened by the operations of Australian-based mining companies.
2. Assist men and women from local and indigenous communities that are, or might be, affected by a mining operation to understand their rights under international law.
3. Help ensure that the Australian mining industry operates in such a way that the basic rights of men and women from communities affected by mining are better protected.
4. Demonstrate the need for an official complaints mechanism within Australia.
5. Demonstrate the need for developing enforceable, transparent and binding extra-territorial controls, which would require Australian mining companies to adhere to the universal human rights standards, no matter where these companies operate.

Oxfam Australia's Mining Ombudsman became involved in the Vatukoula Gold Mine case after a formal request from the Fiji Mine Workers Union (FMWU) and CCF in May 2003. As a result of this request, the Mining Ombudsman conducted an investigation at Vatukoula and published a case report about the Vatukoula Gold Mine in July 2004. The Mining Ombudsman has continued to monitor the situation, undertaking a further case investigation in July 2006 and an extraordinary visit in January 2007 as a result of the company's decision to close the mine.

WHY THE GOVERNMENT NEEDS TO TAKE URGENT ACTION TO ASSIST THE VATUKOULA COMMUNITIES

A chronology of events outlining the history of the Vatukoula mine is at Appendix B.

Given the long history of the mine, extending back to the 1930s, the Vatukoula communities are well integrated and established. The sudden closure of the mine is having profound impacts on these communities and their members. These women, men and children, who have suffered through generations of hardship, are now in urgent need of assistance.

The company operating the mine has been the recipient of many financial assistance including grants, soft loans and generous tax concessions from the Fiji government these last many decades. The women and men of the Vatukoula communities have contributed millions of dollars in income taxes to the Government, despite living in unsanitary and over-crowded houses to which the Government has not provided basic services. They have also supported the company through their hard labour and dedication and even through salary sacrifices. The people of Vatukoula should expect immediate and favourable treatment from their Government and the company in their hour of need.

SOCIAL IMPACTS OF MINE CLOSURE ON VATUKOULA COMMUNITIES

Need to address the impacts on all sectors of the Vatukoula Communities

As at the date of this submission, the impact of the closure of the mine on people other than former mine workers has not been considered by either the company or the Government. This is evidenced, for example, by the fact that many sectors of the community were not directly informed about the mine closure, but rather, heard about it through word of mouth. Similarly, when this Committee convened a meeting in Tavua, only former employees of the mine were invited to make submissions, most of which focussed upon the issue of redundancy payments (with the exception of the broader submission made on behalf of the 1991 strikers). Further, it is understood that the Government is undertaking a survey of the needs of recently retrenched workers but may not be enquiring into the needs of other sectors of the Vatukoula communities (note that during this meeting, the CEO of the Ministry of Women, Social Welfare and Housing has indicated that they have changed the survey process to enquire into other sectors).

We strongly urge both the Government (including this Committee) and the company to accept that the mine closure is drastically affecting a much broader section of the Vatukoula communities than the recently retrenched workers. The needs of the Vatukoula communities must be identified in consultation with the full range of these sectors if their needs are to be properly catered for. This process could be assisted immediately by, for example, broadening the Social Welfare survey to all sectors of the Vatukoula communities. We encourage the Committee to make use of the grassroots-based Vatukoula Community Concerns Committee to facilitate this process.

One of the consistent complaints of Vatukoula residents is that they have not been afforded the basic respect of being kept informed and being consulted about decisions to be made in respect of the mine. This is true of both the Government and company communications. Many people feel that they have been left in the dark and are just “sitting and waiting” to find out what will happen. Most people have had to rely on word of mouth, which can also lead to the spreading of rumours and the creation of false expectations. In addition, community members state that it would be very useful if Government Departments, such as the Social Welfare Department, made very clear exactly what services are available to the people. Both the Government and the company should establish clear means of directly communicating with the communities regarding developments in languages that are most understandable to them – including Bauan and Rotuman.

As has been found with mine closures in other countries, the use of consultative processes is essential to planning for

Case Study: Timbarra Gold Mine, New South Wales

The Timbarra gold mine in New South Wales, Australia, commenced development in 1998, but was prematurely closed 6 months later. The mine was bitterly opposed by local communities for the manner in which the company operated, environmental impacts and the desecration of sacred Aboriginal sites.

When mine closure planning commenced in 2000, the company encouraged an independently facilitated engagement process with a wide range of stakeholders, including opponents, regarding mine rehabilitation. This process included two facilitated meetings where community members voiced their outrage over the company’s practices. A Timbarra Closure Focus Group (TCFG) was formed out of these processes to facilitate and communicate rehabilitation expectations and desired processes for mine closure. The TCFG included representatives of government authorities, non-government organisations, landholders, Aboriginal communities, the company and other interested parties. The CSIRO was also engaged to independently review site rehabilitation proposals.

mine closure and for seeking resolution of outstanding grievances. The Vatukoula communities have for 70 years born the burden of very poor working and living conditions with little remuneration. Many people feel they have been treated with disrespect and disregard for simple human dignity throughout that time. The Oxfam Australia Mining Ombudsman found during her follow-up investigation in 2006 that the most striking statement repeated by those interviewed was that people wanted to be treated 'like human beings'. Mine closure that fails to give community members an opportunity to be heard would make it extremely difficult to achieve reconciliation. We urge the Government and the company to immediately establish a broad-based consultation process for all stakeholders to engage in planning for mine closure even if such closure is only for a period of 2-3 years. This process should include a facilitated meeting in which community members should be allowed to voice their outrage over their experiences, to suggest means of resolving those problems and to plan for their futures.

Recommendation:

Immediate – Broaden the Government survey so as to identify the true impact of the mine closure by assessing the needs of the full spectrum of the Vatukoula communities, using the community-established Consultative Committee as a contact point. Address these issues in consultation with the Vatukoula communities

Concerns of specific sectors of the Vatukoula communities

Women

Women of the Vatukoula communities are very worried about the impact that closure of the mine will have on their families, particularly their children. Several women have expressed concern that if final packages and financial relief are paid to men in the communities, some men will spend the money on kava and other items, leaving insufficient money for food, school costs and other living expenses. They have requested that financial payments be directed to the women of the communities.

Children

Children are affected in a variety of ways by the mine closure. In addition to feeling the stresses placed on their parents to make ends meet, children will be immediately

“It’s the family that is affected. The men – they get money, they go and drink and have a good time. But the women have to worry about the food. If help comes it should go to the woman.”

Esipeli Vakasalimi
President, Catholic Women’s League

impacted by insufficient money to cover school costs. In particular, parents have said that they do not have enough money to cover school uniforms, books, school fees and bus fares. The future of the children previously attending the Goldfields school is also very uncertain, with the great majority not having alternative placements for the school year commencing Monday 22 January.

Land claimants

There are three unresolved land claims over the Vatukoula Gold Mine land, each of which may entitle the claimants to royalty or compensation payments by the company and/or the Government. These claimants require assistance from the Government to settle their land claims so that they can pursue compensation.

- The Nakoroboya – the Nakoroboya have a native title claim to the area including the Vatukoula mine. They have documentation extending back to the 1870s which

demonstrates prior recognition of their claim. However, the failure of the Nakoroboya claim to be progressed and formally acknowledged has impeded their claim to royalties from the Vatukoula mine. The Nakoroboya are also aggrieved by the impact of the mine on their traditional fishing grounds, removal of gravel from the river bed without compensation, and the impact of sulphur emissions. They have photos of fish kills which they claim were a direct result of the mining operations. The Nakoroboya say that the Nasomo have illegally been given a portion of their land.

- The Nasomo people– the Nasomo people have been granted freehold title to an area of land that includes the Phillip Shaft. However, payments of royalties to the Nasomo have been inconsistent. Further, the Nasomo complain that the company has not complied with a contractual arrangement under which they were obliged to pay \$500 per week. The Nasomo also claim that company drilling activities have caused the Kaunikula Creek to dry up – this is their main water supply. The Nasomo are also aggrieved that they were not consulted in the Government decision to renew the company’s licence in 2004.
- Natolevu Landowning Unit - Representatives of the Natolevu Landowning Unit allege that in 1948, part of their land was taken by servitude to the Colonial Sugar Refinery. The land was then transferred to Emperor in 1996 and is now used by the company for gold mining and the removal of gravel from the river. The land comprises 7,549 acres and the land claimants allege that they received no payment or compensation for the land. In support of their claim, the representatives have NLC Record Number 183, which is a background paper for the Native Lands Title that records the community’s ownership over the land.
- Lololevu Village – the residents of Lololevu have documentation showing that the land where they reside was legally given to them by the Methodist minister Reverend A D Lelean in the 1930s and it has since been bestowed ‘village’ status by the local provincial administration. The company however continues to insist that the Lololevu people are on company land and wants them evicted from the site.

It is not in the interest of any economic entity to have unresolved land claims and conflicts hovering over it. Land and resource owners’ agitation is not good for business and continues to be a major source of conflict within the region. It is therefore incumbent on Government and the relevant authorities to immediately resolve all land disputes and claims over Vatukoula, four of them mentioned above. Investors feel more secure when the land question is sorted out. The various Vatukoula communities represented in this submission also believe that these historical land claims should be resolved once and for all. The Government of Fiji, workers and landowning and other Vatukoula communities can only realise the full potential of Vatukoula when these land claims are resolved. Our elders used to say one day Vatukoula will be closed. When it reopens again, this will be the new beginning: *“Sogo mada, wa-bosucu, qai dola tale, l’a sa na qai koya oqo na Gauna”*

Recommendation: Government should settle the conflicts between these land claims. All land claimants should be part of the discussions regarding whether the company’s lease is altered or renewed.

Employees and apprentices

Recently retrenched workers claim that the salary package offered to them is insufficient. This submission will not go into detail regarding this claim as the Mine Workers Union of Fiji has already made a submission to this effect. However, we do wish to point out that workers retrenched just prior to 5 December 2006 were promised redundancy packages of 3 months pay plus 2 weeks for every year worked. Copies of documents detailing such a package can be provided if the Committee wishes to see these.

We are also concerned to highlight the position of some workers whose interests may not have been addressed by the MWUF submission. In particular, we wish to raise the impact of the mine closure on the staff of the Goldfields School and on the 47 apprentices previously employed by the mine.

Up until the sudden announcement of the closure of the mine, the Goldfields school had 76 children from 50 mining families, with salaries of staff being paid for by Emperor. The Principal of the school, Mrs Dominika Lutua, reported that she was “stunned” when

“I was in tears. These innocent children!”

Mrs Dominika Lutua,
Principal of Goldfields School,
describing her reaction when told on 6 December
2006 that the mine would provide no funds to the
school beyond the end of January 2007.

she was told by an Emperor representative on 6 December that “the mine has no interest in the school” and that she could do with it what she likes. Despite her appeals to the mining company regarding the need for the school to have time to find new placements for the children, the company representative reportedly dismissed her concerns out of hand. Mrs Lutua reports that at least two thirds of the children are yet to seek alternative placements, despite the school year starting on 22 January 2007. She says that other local schools are reluctant to accommodate her students who are taught to international standards. She has requested that the Government take over the Goldfields School and pay the staff salaries at least in the short term. She says that in all other respects, the school is well resourced. She has also requested that the Government prioritise the re-allocation of positions to Goldfields teachers and provide an exemption from the requirement that a former public servant must reapply for a new post.

The situation of the 47 apprentices previously engaged at the Vatukoula mine needs attention. Many of these apprentice boilermakers, electricians, fitters, carpenters, mechanics and plumbers are in their final years of training and need new placements to complete their qualifications. They were engaged by the mine under special agreements approved by the Government that allowed them to be paid far lower wages than other workers on the understanding that they would receive training in their chosen fields so as to become fully qualified. Given the special conditions applying to apprentices, both the company and the Government have a responsibility to look after them in the current difficult circumstances. It is important to note that Vatukoula trained apprentices are generally very highly regarded due to the calibre of training they receive at the mine; many former Vatukoula apprentices now train others at the Fiji Institute of Technology, the Training and Productivity Authority of Fiji, and the Land Transport Authority. Government entities such as PWD, FEA, Fiji Sugar Corporation as well as private entities known to take on apprenticeships should prioritise the placement of these apprentices. At the very least they deserve to be directly consulted and informed as to what is currently going on and what their options are. At present, many have been left wondering and waiting.

Contractors

It appears that the calculation of the number of workers affected by the closure of the mine does not take into account the many sub-contracted workers. During the Mining Ombudsman's investigations in 2006, community members reported that sub-contracted labourers employed through Loloma Trading were being used by the mine at the same time that Emperor was laying off workers doing the same type of work.

Sub-contracted labourers received no benefits, no security of employment and even poorer wages than Emperor employees – women were reportedly contracted for F\$1.30 (AU\$0.99) per hour and underground workers for less than F\$2 per hour (AU\$1.50). Sub-contractors were only supposed to be on contracts for six months, and should then have been employed by the company. However, the Mining Ombudsman received numerous reports of sub-contractors working for periods well in excess of this without being transferred to more secure employment with the company. For example, one worker reported to the Mining Ombudsman that he worked as a sub-contractor for more than 18 months.

Contractors NCL were also employed to undertake work for the mine particularly in the area of transportation including underground. About 200 in total NCL employees have not been offered any redundancy packages although some of them have worked for the NCL for more than 20 years. They have not been paid nor receive any assistance since the closure of the mines on 5th December 2006. Some have been promised work with the NCL highway department along the Wainibuka section of the Kings Road but to date nothing has materialised. The 200 employees wants their employer NCL, Emperor and the Government to urgently work together to ensure the provision of emergency relief, appropriate redundancy packages including owed allowances and every other assistance necessary to secure alternative livelihoods and successful relocations for those who wish to do so. Like other members of the affected mining community they are pleading for clemency and for financial assistance on unpaid loans and HP arrangements.

The lack of security for the Loloma Trading employees has now been realised. They report that they have not been promised any redundancy packages and are not guaranteed any consideration by the company. The impact of mine closure on these workers is as bad as those who were officially employed at the mine, if not worse given they received even lower wages than employees. The needs of these workers must be assessed in determining the impact of mine closure. Moreover, the issue as to whether some of these workers were in fact employees of EGM should be investigated and their eligibility for redundancy packages determined.

Strikers

The position of the 1991 strikers requires special consideration. These former-workers who went on strike to protest unsafe working conditions and poor wages have been treated with disdain by the company and been given little support by the Government. Since 1991, the strikers have endured extreme financial hardship and living conditions and have suffered humiliation at the disrespect accorded to them by both the company and the Government.

The legitimacy of the strikers' complaints has been investigated numerous times and has been upheld by the 1995 GP Lala Commission of Inquiry as well as a 2004 Ad Hoc Senate Select Committee Inquiry. Similarly, in 1996, the International Labour Organisation's Expert Committee on the Application of Conventions and Recommendations criticised practices that Emperor had engaged in as forms of employer

interference in trade union activities. While the legality of the GP Lala Commission report was successfully challenged, it must be recognised that the Government remains free to implement any of the recommendations of the report irrespective of the High Court decision.¹ One of the recommendations of the report also supported by the Ad Hoc Senate Select Committee in 2004, was that a fund or grant should be made to the strikers on humanitarian grounds.

The strikers continue to claim their eligibility to payment of an amount of \$48million as demonstrated by their submission to this Committee. The validity of their claim remains an open issue as evidenced by the recent letter of support issued by the Human Rights Commission. Closure of the mine and the potential departure of Emperor from Fiji will severely impede the ability of the strikers to pursue their claim against the company and might force them to seek the entirety of their claim from the Government.

Both the Government and the company should take immediate steps to resolve the continuing dispute with the FMWU strikers. They should jointly establish negotiations to look for possible solutions including the establishment of a joint company-Government fund.

Other unresolved claims against the company

There are a number of outstanding claims against the company which are yet to be resolved. While the full scope of these claims would need to be catalogued, they include, for example:

- Mrs Vilisi Guivalu – Mrs Guivalu worked in the milling department of the mine until she was retrenched on 14 August 2006. She had worked at the mine for 12 years. She received a letter detailing her redundancy package as 3 months wages plus 2 weeks wages for every year worked plus the cash value of any leave entitlements. According to her payslip she receives \$145.20 per week and is therefore entitled to at least \$5350. However she has only received \$4943.68. She has been told that the remainder will be paid but this has not yet happened.
- Mr Mikaele Kawai - Mr Kawai believes that he has been victimised by the company since he sustained a serious injury while working in the mine. On 20 May 2005, Mr Lailai of Emperor wrote to Mr Kawai stating that company records indicated Mr Kawai would reach 55 years of age on 26 August 2005 and would therefore be required to retire. Mr Kawai has original documentation including his birth certificate, proving that he is only 48 years of age. Mr Kawai also has copies of company documents which record his correct date of birth. Mr Kawai has shown these documents to Mr Lailai, who has refused to accept the inaccuracy of the records upon which he relies. Mr Kawai felt that the company dismissed him as a result of his workplace injuries.
- 1977 workers who were denied reimbursement of their 5% pay reduction - In 1977 the company was in a difficult financial position. Workers were asked to sacrifice a portion of their pay on the understanding that when the mine picked up again, they would receive a reimbursement. However, just one year later, 700 workers were retrenched (including those who had sacrificed 5% of their salaries) and never received a reimbursement. It appears that even those who remained at the mine did not receive a reimbursement for this deduction. This case is also indicative of the fact that when the mine has struggled in the past, the Vatukoula communities have made sacrifices from their own pockets to assist the mine and the economy

of Fiji - now these people need the assistance of Fiji and the mine to ensure that they are not neglected.

All claims against the company should be catalogued, investigated, and compensated where appropriate.

To aid the Vatukoula communities, the Government should ensure that the company is required to transparently publish payments made by the company to the Government. The Government of Fiji should also transparently publish the revenues it receives from the company.

The need for revenue transparency

The Publish What You Pay (PWYP) coalition calls for mandatory measures to require companies to 'publish what you pay' as a first step towards a more accountable system for the management of natural resource revenues paid by extractive industry companies to governments in resource-rich developing countries. There is also a need for governments to 'publish what you earn'. If companies disclose what they pay in revenues, and governments disclose their receipts of such revenues, then members of the community will be able to compare the two and thus hold their governments accountable for the management of revenues. The PWYP coalition also believes that countries such as Australia should have extraterritorial regulations which require their extractive companies to publicly report aggregate taxes, fees and other payments made to all governments, on a country-by-country basis. For more information on PWYP, see www.publishwhatyoupay.org

The Extractive Industries Transparency Initiative (EITI) is a government-led proposal which calls on governments of resource-rich developing countries and mining, oil and gas companies to be transparent in the monies paid and received. The aims of the EITI are similar to PWYP.

For more information on the EITI, see www.eitransparency.org

Indo-Fijians

The needs of Indo-Fijian former workers must be thoroughly assessed as the situation of many is reportedly quite distinct to that of Fijian nationals. For example, many Indo-Fijians may not have available to them the option of relocating to villages should this become necessary. Some Indo-Fijians may have sugar-cane fields available for their use, while others will be in the same precarious situation faced by the rest of the Vatukoula communities.

Others living on company land

Some families living on company land have continued to reside in houses that were initially provided to or constructed by their forefathers who worked at the mine. These people fear that they may be evicted without any resources for relocation. Consideration of the needs of these people therefore needs to be factored into plans regarding the Vatukoula communities.

COMMONLY HELD CONCERNS

- **Secure supply of basic services - clean drinking water, electricity, sanitation, rubbish removal**

The position of community members living on company land has been grave for many years, as reported in the 1995 GP Lala Report, the 2004 Ad Hoc Senate Select Committee Inquiry, the 2004 Mining Ombudsman report and follow-up Mining Ombudsman investigations. In all settlements, the great majority of housing on company land is overcrowded, deteriorating, and unsanitary. Families share bathroom and toilet facilities – with as many as 20 families sharing a single working toilet. The Vatukoula settlements are not connected to the Public Works Department's reticulated treated water system that supplies Tavua – this system runs directly past the Vatukoula communities. Community members are therefore forced to wash in water supplied by the company which is pumped directly from the river and is muddy after heavy rains. Further, while some settlements have tanks which are filled by the company with potable drinking water and are provided with electricity, other settlements are constituted by slum-like iron shacks with no treated drinking water and no electricity.

Dr Chand, the Sub-divisional Health Inspector, reports that water is very bad in the area. The untreated water is 'sometimes like mud' and people must boil the water for their use. He says that even when families bathe in untreated water, it can produce health problems, such as diarrhoea, skin diseases, scabies, sores – especially in children.

This very poor situation is at risk of worsening. There is a serious and immediate risk that families living in all of these settlements will be forced to live in unsanitary conditions, with no access to clean drinking water or electricity. Emperor Mines Limited has informed the Oxfam Australia Mining Ombudsman that the precarious financial position of the company and the uncertain status of the mine may lead to fuel supplies to the main generator running out very shortly. This would result in the cessation of electricity supplies and water to local communities as well as the operation of mine pumps. Similarly, the company has indicated that it is disinclined to transfer funds to Fiji while the military remains at the mine. This could lead to the cessation of drinking water supplies, sanitation and rubbish services. Some community members report that their tanks are already running low and have not been refilled, which requires immediate attention. The potential impact of these conditions on human health and development should not be underestimated.

While the company has emphasised that it intends to ensure that the communities would be the last affected by the diminishment of fuel, this would require prioritising supply of electricity to communities over the mine pumps. However, the military presence at the powerhouse has reportedly impeded company access and could prevent the company from ensuring that the last reserves of fuel are made available to the communities. We urge the Committee to guarantee the continued supply of essential services so as to ensure that the vulnerable situation of the communities is not used as a pawn in the current negotiations between the company and the Government.

Beyond this immediate threat, community members have reported that they are very concerned about the ongoing supply of essential services when there is no certain means of future income. Community members are pleading for an assurance that they will be granted some relief in the present difficult and uncertain circumstances. The community requests the supply of essential services without fee until there is greater certainty regarding the future of the mine and the potential for means of income.

We note that the mine powerhouse is connected to the FEA electricity grid and supplies excess power to the grid. We submit that it should not be difficult for FEA to take responsibility for continued supply of electricity to the communities should there be an immediate need.

What the communities are asking for:

Immediate - A commitment by the Government to securely provide essential services (clean drinking water, electricity, rubbish collection and sewerage removal) if the supply of these services is threatened. Such services should be free until the future of the mine is clear and (if warranted) plans for mine closure and alternative employment opportunities have been developed in consultation with the communities.

Longer term - Connection to the reticulated treated water supply that currently by-passes the Vatukoula communities – the Government through PWD should take on the responsibility of laying pipes and connecting these settlements to the treated water supply. FEA taking over supply of electricity using prepaid card system for electricity supply. Continued provision of sanitation and rubbish removal services.

- **Children's Education**

Despite the operation of the mine for over 70 years, Vatukoula community members have consistently reported that low wages and poor working and living conditions were threatening their futures and those of their children. As detailed in the 2004 Mining Ombudsman report and in follow-up investigations, community members stated that inadequate incomes made covering school fees and supporting their children's education very difficult. Young people were also reported to be dropping out of school to look for work to help support their families. This has contributed to a cycle of poverty where young people are prevented from gaining a higher education to enable them to obtain better paying jobs.

With the closure of the mine, community members are extremely concerned about being able to send their children to school. Many report that they have no means of covering the costs of books, uniforms, fees, and transport costs to and from school unless they receive financial assistance. Further, the children of the Goldfields School, whose staff have also been retrenched by Emperor, are left in a very uncertain situation. The principal of the school informed the Mining Ombudsman that most of these children do not have a placement in alternative schools despite the fact that the school year begins next week on Monday 22 January.

As referred to above, the company has indicated that it will not continue to transfer funds to Fiji unless the military is withdrawn from the mine. This may mean that salaries to recently retrenched workers will be discontinued. The continuation of these salaries in the first weeks of the school year will be essential to allow families to cover immediate costs. It is also important to note that some of the 1991 strikers who have previously relied upon advances from the Fiji National Provident Fund have unexpectedly been denied access to these funds in recent weeks. Although the strikers should not dissipate their pension funds, their desperate financial position means they have little choice but to use these finances. Other recently retrenched workers report that they too might be forced to access their FNPF monies as an emergency source of funds.

Given the uncertainty regarding continuation of payments to retrenched workers, the refusal of FNPF to make payments and the impending commencement of the school year on Monday 22 January, the communities have requested assistance to cover schooling costs and to be given exemption from such costs. In addition to financial assistance, the

Government could require local schools to exempt children from wearing uniforms during January and February. Community members have also requested that the Government provide children from the Vatukoula communities with an official document that would allow children to travel for free. The allocation of funds to schools to allow the purchase of text books as a library for use by affected families would also be of assistance. Further, if pre-retirement age community members are forced to draw upon FNPF for emergency funds and given the inevitable need for these funds for post-retirement, the communities request that these emergency funds be replaced by government.

Health care

Vatukoula community members are concerned that their access to health care has drastically declined given the closure of the mine health clinic. Community members are required to travel to Tavua, which takes time and is inappropriate for emergency care and also requires communities to incur the costs of transport. We note that there is now an idle dispensary with medicines in the Vatukoula area – all it needs is nurses and a doctor. The communities request that trained medical staff be provided by the Government to open the Vatukoula clinic.

Housing and the issue of relocation

Over 10,000 people live in Vatukoula on company land or on previously owned company land. There are approximately 450 company houses, plus there are squatters settlements, the settlements at Nasivi, and at Nasomo. Many people own their own houses, which were sold to them by the company, but not the land. These people are unsure of what options they have for remaining on the land.

The Oxfam Australia Mining Ombudsman who visited the housing of the Vatukoula communities on several occasions has described the housing conditions for many as ranging from 'barely adequate to appalling'. While expatriate workers were housed in decent quarters (reportedly with air-conditioning or fans), some Fijian families are living in slum-like iron shacks with no treated drinking water and no electricity. Department of Health doctors report that the overcrowded conditions of the great majority of houses are unsanitary and unhealthy. Families share deteriorating and dirty bathroom and toilet facilities. These conditions require immediate attention. The Government and the company should jointly make a commitment to repairing and improving the state of housing in Vatukoula, including by construction of new housing facilities to which community members should be given the option of relocating.

It must be recognised, however, that many of the people living in Vatukoula are third or fourth generation residents who do not wish to relocate. To date, however, company documents show that relocation of residents appears to be the only option contemplated by the company. The issue of relocations should only occur in consultation with the communities, avoiding forced relocations at all costs. In any event, the issue should not be determined until the future of the mine is more clearly established. Nor can relocations be contemplated until people have a clear idea of what their alternatives are, whether there exist alternative employment or livelihood options in Vatukoula and so forth.

It should also be pointed out that careful consideration would have to be given as to where people could be relocated. For example, when questioned on this issue, many community members state that they could not imagine returning to village life and would clearly prefer to live in major centres such as Latouka, Suva, and Nadi. The potential for stresses on existing services in areas to which people would be relocated is also significant. Further, relocation would not necessarily assist people to find alternative

sources of employment. Community members point out that if they choose to relocate, they should be provided with significant assistance to relocate and establish themselves, including by provision of land, financial assistance and so forth.

Jobs and livelihoods

One of the fundamental uncertainties facing all Vatukoula community members is the issue of employment or alternative livelihoods. Many people want to know what employment opportunities may exist relating to the closure of the mine. They would also benefit from being assured that they could plant crops to sustain themselves. This would be assisted by the provision of lands to Vatukoula community members, as occurred in 1978 when retrenched workers were given land and other assistance in Koroboya and Seaqaqa. However these lands should be closer to markets and have basic infrastructures like water and good roads. Others were assisted with the provision of alternative employment opportunities, such as planting pine at the Nabou Pine Scheme. However, this time around, employment opportunities that maximise the skills of these former Vatukoula workers should be encouraged.

It is noted that the mine does not have a comprehensive closure plan that details the employment opportunities for Vatukoula residents. Nor is there information relating to the need to undertake ongoing rehabilitation of areas no longer used by the company, such as the long-abandoned slime/tailings dam. One community member has also suggested that workers could be employed to keep areas such as the rugby field from being overgrown by vegetation.

A comprehensive closure plan detailing employment opportunities must be developed in consultation with the communities as a matter of priority. Community members from Vatukoula and recently retrenched workers should be given exclusive priority in the allocation of these employment opportunities.

Community members have also raised the issue that many of the retrenched workers are close to retirement age, yet have no access to FNPF funds. Given that community members are in desperate need of funds, these community members have requested that they be given early access to these FNPF funds.

Fiji has an important resource in the workers of Vatukoula, which should not be wasted. In addition to the highly skilled tradespeople, the long experience of Vatukoula miners has frequently proven to be very valuable. For example, experienced mine workers have often been able to more accurately predict the location of gold than trained engineers and geological specialists. Many former workers from Vatukoula now hold high posts in other industries – for example, a former fitter at Vatukoula was trained as a personnel officer at the mine and now is the Human Resources Manager at the Sofitel Hotel in Nadi, a former underground miner was promoted to supervising ventilation, then the rescue department and now is the Human Resources Manager at the Outrigger Hotel, a former apprentice at Vatukoula is now an engineer and the Maintenance manager at the Outrigger Hotel. The Government should assist these highly trained workers to find alternative employment in other industries. Further, Vatukoula community members should be offered re-training activities to assist in creating alternative employment sources. For example, some women have suggested that small business training would assist them to set up and manage businesses selling produce, cakes and other goods.

In addition to the potential for these workers to contribute significantly to other industries in Fiji, they could gain employment in the mining industries of other countries such as Australia and Canada, which are suffering from a shortage of skilled mine workers. By

comparison to the closure of other businesses in Fiji, the Vatukoula workers are in a unique position in that no other significant mining employer exists in Fiji to make use of their considerable skills. For this reason they require special assistance in regaining employment. The Government should assist Fijian workers who are able to obtain employment in other countries by providing linkages, passports, visas, and other assistance. Vatukoula workers overseas could then remit money back to their families in Fiji. Remittances now rank second to tourism in terms of foreign currency earnings and should be further encouraged during difficult financial times.

In addition to these employment opportunities, Vatukoula community members should be given the option provided to other workers during major redundancies in 1977 and 1980. During that time, roughly 700 miners were laid off and were relocated to areas (Nakoroboya and Seaqaqa in Vanua Levu) and were given land. Others were assisted with the provision of alternative employment opportunities, such as planting pine at the Nabou Pine Scheme. They were provided with a travelling grant and transportation assistance, with some allowances for rebuilding. People were given a choice as to whether they wanted to return to their villages or accept land packages at Seaqaqa and Nakoroboya. Similarly, in 1997, ALTA (sugar cane) leases started expiring. In response to the hardships faced by the cane farmers including relocation needs the government paid \$28,000 to each farmer. Some of these leases were being worked by second and third generations of cane worker families. In a similar way, at the Vatukoula mine many of the current workers and families are third and fourth generation and need significant assistance from Government. We believe similar or better assistance should be given to the people of Vatukoula today.

Debt relief

Debt has long been an issue for the mine's workers. During the Oxfam Australia Mining Ombudsman investigation in 2006, she found that a common deduction from payslips was from the Credit Union, which issues loans, then makes automatic deductions from employees' pay. Workers were reportedly not given regular statements, and were unsure whether the loans incurred interest or how much exactly was owing on their account. This made it difficult for workers to manage their finances or verify whether debts have been repaid.

The reliance of many community members on the Credit Union, bank loans and other forms of credit such as hire-purchase arrangements has already caused distress. Several community members report that their belongings have been repossessed or will be seized as their regular wages cease. Community members are pleading for clemency and for financial assistance in these difficult and uncertain times.

There is also an issue regarding the manner in which the Credit Union will be finalised. The founding members of the Credit Union contributed their own funds to establish the Credit Union. However, the Vice President of the Credit Union (who is also a senior company manager) has reportedly claimed that only those who are current members of the Credit Union will be entitled to a division of its assets if it is wound up. Given that only current workers may be members, the recent redundancies will provide the manager and the few remaining workers with an unjust gain at the expense of those who contributed to the Credit Union since its formation. This situation requires immediate investigation and steps should be taken to ensure that the assets of the Credit Union are not dissipated.

Clean up the environment and stop further pollution

Over the long history of the operation of the mine, EGM has failed to take adequate measures to protect the environment. In 1981, the United Nations Economic and Social Commission for Asia and the Pacific (ESCAP) produced a Report on the Environmental Impact of Gold Mining at Vatukoula which confirmed the existence of significant environmental hazards at Vatukoula and recommended that Emperor's lease should not be renewed in 1983 unless the company prepared a satisfactory programme for monitoring the environmental impact.² In 1994, EGM commissioned an environmental audit of operations at Vatukoula.³ The audit confirmed higher than safe levels of mercury and cadmium in water samples taken from the Nasivi River. It also found that the non-chlorination of drinking water was probably the main reason behind the prevalence of gastro-intestinal disease in the community. In 2003, EGM commissioned a study of the impact of sulphur dioxide, which recommended ongoing assessments of the impact of SO₂ and the development of means of significantly reducing and ultimately eliminating the impact of SO₂ on surrounding communities. These recommendations were not implemented.

In addition to the environmental impact of the operations, it is clear that EGM has not undertaken ongoing rehabilitation of disused mine areas. The tailings/slime dam does not appear to have been rehabilitated and continues to collect water, which may lead to contaminated water seeping into the ground and water sources. Further, the rusting equipment of abandoned mine shafts remain in various parts of the mine. EGM should be required to have a comprehensive closure and rehabilitation plan as well as an obligation to undertake ongoing rehabilitation to clean up the site and prevent further contamination. The rehabilitation requirements should be specific and be determined in consultation with the communities. Independent verification of meeting rehabilitation requirements should be a part of these obligations. An unconditional performance bond should also be required.

Recreation

Community members have noted that recreational facilities such as rugby fields are becoming overgrown. These facilities are important to the health of the community. They have suggested that cleaning up these facilities could be undertaken as paid employment by Vatukoula community members.

General future obligations

Community members are very sceptical of the reasons given by EGM for the closure of the mine. Many have queried whether the decision to halt production was not a means of removing the current workforce and the surrounding communities prior to reopening. In addition to requiring compliance with the obligations of the company referred to above, it is recommended that if the company's request for an exemption to the lease is granted, it should be conditional on the following:

- that communities will not be pressured to relocate during the care and maintenance and exploration period;
- that the company and Government will continue provision of essential services (water, electricity, housing) at least until a final decision as to mine closure is made;

- that any new employment at the mine be offered to former workers of the Vatukoula communities before any others;
- that a clear communication and consultation process with communities is put in place;
- Clean up of the mine site – comprehensive closure and rehabilitation plan, ongoing rehabilitation, performance bond
- Commitment to resolving all outstanding claims and disputes including the FMWU strikers' claim.
- Assisting recently retrenched workers and others by payment of fair redundancy packages and other assistance.
- Obtain the free prior and informed consent of land claimants before undertaking exploration.

NOTE: all land claimants should be part of the discussions regarding whether the company's lease is altered or renewed.

Role of NGOs

Many NGOs and Church groups will want to assist the communities of Vatukoula and should be encouraged to do so in a coordinated approach. The Government should assist these processes and ensure that consultations with communities include their supporters.

Appendix A – Vatukoula Community Consultative Committee

with names of Committee members and contact details of Malakai Navatu, Chairman of the VCCC.

	Name	Settlement/constituency
1	Malakai Navatu (Chairman)	Veiquwawa
2	Romeo Kivi (Secretary)	Matanagata
3	Tomasi Nabogi	Nakoroboya Landowners
4	Dhirend Kumar	Indo Fijian/small business
5	Waisea Bainivalu	Nademo
6	Opeti Naika	NCL Subcontractors
7	Jone Veibau	Nasomo/Landowners
8	Samanunu Vinakadina (Treasurer)	Women's Rep
9	Joseva Kenatale	Loloma/small businesses
10	Mac Peckham	Low Cost Housing
11	Kevueli Nasedra	Nasivi
12	Etonia Temo	Nasivi/small businesses
13	Filipe Sadranu	Lololevu/Korowere
14	Salote Marama	Women's Rep
15	Josefa Sadreu	1991 Strikers
16	Sakeo Waqa	Loloma

Correspondence Address:

Mr Malakai Navatu

Chairman – Vatukoula Community Consultative Committee

P. O. Box 120

Vatukoula.

Telephone: 669 5039

Appendix B - Chronology of events

1908

Mining ordinance provides Fiji landowners with the right to compensation for exploitation of mineral wealth beneath their land.⁴

1932

Payable gold deposits discovered at Vatukoula (Lololevu creek), 14 km inland from Tavua.⁵

1933

Production begins at Vatukoula gold mine, under various operators.⁶

1934

New mining ordinance introduced which removes the right of landowners to the subterranean value of their land.⁷

1935/6

Emperor Gold Mining Company Limited (EGMC) is incorporated in Victoria and gains control over most of Vatukoula gold fields.⁸

1956

EGMC gains complete control of mining operations at Vatukoula.⁹

1966

Confidential Report produced on EGMC – Request for Assistance from the Government of Fiji. (The report has not been publicly released).¹⁰

1973

EGMC acquires Colonial Sugar Refinery, becoming the largest company in Fiji.¹¹

1974

Fiji Board of Inquiry Report released on a dispute between the Fiji Mine Workers Union (FMWU) and EGMC.¹²

18/04/1977

Siwatibau Inquiry begins into the economics of the gold mining industry at Vatukoula following an industrial dispute between the FMWU and EGMC.¹³

1978

Mass layoff of hundreds of miners as EGM pleaded inability to pay for wages. Miners' families left for their villages leaving only a few employees.

1980

Fiji Government gives \$2.3 million to salvage company as a soft loan with low interest. Jobs readvertised.

1981

United Nations Economic and Social Commission for Asia and the Pacific (ESCAP) produces Report on the Environmental Impact of Gold Mining at Vatukoula which confirmed the existence of significant environmental hazards at Vatukoula and

recommended that Emperor's lease should not be renewed in 1983 unless the company prepared a satisfactory programme for monitoring the environmental impact. (The report has not been released publicly).¹⁴

1983

EGMC and Western Mining Corporation (WMC) form the 80/20 Tavua Basin Mining Joint Venture partnership at Vatukoula and are granted a 21-year lease over 1000 acres of Nasomo land, despite reported objections from local people.¹⁵

1986

The Tavua Basin Mining Joint Venture opens a new ore-body south of Vatukoula.¹⁶

30/07/1986

Emperor Gold Mine (EGM) is formed taking up assets and holdings of EGMC. The new company is domiciled on Isle of Man for tax purposes but listed on the Australian Stock Exchange.¹⁷

03/09/1987

ESCAP review of the gold policy and development options in Fiji is handed to the Fiji Ministry of Energy and Mineral Resources.¹⁸

1991

Tavua Health Inspectorate carries out a survey of the housing situation at Vatukoula.¹⁹

01/1991

WMC divests from the joint venture with EGM.²⁰

27/02/1991

Miners from the Phillip Shaft at Vatukoula withdraw their labour, alleging low pay, negligent health and safety conditions and sub-standard company housing. EGM records \$20 million loss as a result of the strike in 1991-1992.²¹

04/03/1991

Fiji police enforce an eviction notice on strikers, resulting in violent confrontation in which a court sheriff (bailiff) is killed.²²

March 1991

High Court ruling finds that a Trade Dispute exists and that workers were acting in furtherance of that Trade Dispute. A few days later, EGM obtains a separate High Court ruling declaring the strike to be illegal on the grounds that striking employees breached their contracts of employment by not turning up for work and were also therefore illegally occupying company houses. Fiji Mine Workers Union members refuse to vacate their homes as they consider the strike legitimate.

May 1991

The Howard Board of Inquiry appointed to inquire into the Vatukoula Trade Dispute. Inquiry commenced in September 1991.

May 1991

Ministry of Labour accepts that there is a Trade Dispute. EGM files for judicial review against this acceptance. The case was finally heard in September 1991 and judgment

given in June 1992. The Ministry of Labour lost the case and there was no attempt to appeal.

28th May 1991

Mr Kavekini Navuso, General Secretary of the FMWU wrote to the Permanent Secretary for Labour to request the appointment of a Conciliator or Mediator consistent with the Trade Disputes Act. No response was given as EGM filed for a Judicial Review regarding the acceptance of the Trade Dispute.

8th July 1991

The Ministry of Labour formed the Voluntary Mediation and Arbitration Committee. The FMWU attended the meeting to try to resolve the Trade Dispute. EGM refused to attend. No action was taken by the Ministry against EGM for its refusal. The General Secretary of the FMWU writes a letter to the General Manager of EGM asking for voluntary recognition. No response is received from the Company.

June 1992

EGM wins Judicial Review over the Ministry of Labour's acceptance of the Trade Dispute filed by the FMWU in May 1991. Judgment given in favour of the company, yet the Ministry did not care to appeal the Judgment.

11th September 1992

The Ministry of Labour permitted the registration of the Vatukoula Mine Workers Council – a company union to rival the FMWU that had just gained government recognition by the Ministry of Labour and Industrial Relations.

11/09/1992

The Permanent Secretary for Labour and Industrial Relations issues a Compulsory Recognition Order on behalf of the FMWU.²³

02/04/1993

EGM successfully challenges the FMWU Compulsory Recognition Order in the Fiji High Court.²⁴ No appeal is launched.

10/1994

EGM commissions an environmental audit of operations at Vatukoula. The audit confirmed higher than safe levels of mercury and cadmium in water samples taken from the Nasivi River. It also found that the non-chlorination of drinking water was probably the main reason behind the prevalence of gastro-intestinal disease in the community.

31/07/1995

GP Lala Commission of Inquiry into the Vatukoula Trade Dispute Report 1995 is handed to Minister for Labour and Industrial Relations. The Report is highly critical of EGM/WMC, highlights problems at Vatukoula mine and makes recommendations including that a Social Justice Fund be established to care for the needy sections of the community. The Report is not debated in the Fiji Parliament due to the institution of judicial review proceedings by EGM.²⁵

1996

EGM files for judicial review of the GP Lala Report. The *Health and Safety at Work Act 1996* is enacted, but excludes the Fiji mining sector. Occupational health and safety in the

mining industry remains under the *Mining Act 1966*, which is enforced by the Mines Inspectors in the Ministry of Lands and Mineral Resources.

2000

EGM begins exploration at Tuvatu, 50 km south of Vatukoula.²⁶

14/9/2000

The Fiji Government announces the provision of F\$4.4 million concession package for EGM on condition that Vatukoula Tax Agreement is re-negotiated and current employment levels are maintained.

5/1/2001

EGM repays a \$286,000 debt to Macquarie Bank (Australia), leaving the company debt free.²⁷

2001

FMWU writes to the President of the Republic of Fiji to question why the Judicial Review filed in 1996 by the EGM had not been heard.

2001

The Solicitor General applies for EGM's Judicial Review action against the GP Lala Commission of Inquiry to be struck out.²⁸

2002

EGM completes the transfer of its domicile from the Isle of Man to Australia.²⁹

15/06/2002

Emperor Mines Limited (Emperor) is listed on the Australian Stock Exchange.³⁰

19/06/2002

Emperor announces \$27.6 million expansion of mining activities at Vatukoula (Phase 2 Long Term Operating Strategy) which is expected to increase output by 40 per cent over 3 years to 800,000 tonnes and gold production by 35 per cent to 180,000 ounces.³¹

2002

A court judgement on the Nasomo case grants the Nasomo people \$1 million compensation for the 1000 acres of land lost to EGM/WMC in 1983.³²

2003

The Solicitor General's application to have EGM's Judicial Review struck out fails.³³

15/1/2003

Durban Roodepoort Deep (DRD) Limited acquires 14 per cent of Emperor.³⁴

03/2003

The Fiji Parliament defeats a motion brought by Senator Atu Emberson-Bain to establish a Senate select committee to investigate the mining industry, particularly operations in Vatukoula.³⁵

05/2003

The Oxfam Australia Mining Ombudsman receives a formal request to investigate grievances at Vatukoula from the FMWU.

05/2003

The Fiji Cabinet announces that they will decide whether to incorporate the Vatukoula Mine, which is currently under the *Mining Act 1966, under the Health and Safety at Work Act 1996*.³⁶

10/2003

Oxfam Australia Mining Ombudsman conducts investigation at Vatukoula.

18/12/2003

Fiji Senate passes a motion to establish an Ad-Hoc Senate Select Committee to Review the Mining Industry in Fiji.³⁷

03/2004

DRD launches a takeover bid for Emperor of 1 DRD share for every 5 Emperor shares. The bid is rejected by Emperor's independent directors.³⁸

04/2004

Emperor's 21-year mining lease over 1000 acres of Nasomo land near Vatukoula is renewed for a further 21 years.³⁹

05/2004

Emperor's Judicial Review action concerning the GP Lala Inquiry is heard in the Lautoka High Court.

10/06/2004

DRD revises takeover bid to five DRD shares for every 22 Emperor shares. Emperor's independent directors recommend the revised offer to shareholders.⁴⁰

11/06/2004

The Latouka High Court ruled the GP Lala Commission of Inquiry report and its recommendations were null and void as the inquiry had breached its terms of reference and had continued to take evidence and submissions after its time period had expired.

06/06/2004

The Ad Hoc Senate Select Committee reviewing the Fiji mining industry returns its findings to Parliament and recommends a grant to resettle these members either in Vatukoula or elsewhere based on humanitarian grounds.

07/2004

The Oxfam Australia *Mining Ombudsman Case Report: Vatukoula Gold Mine* is published.

08/2004:

Solicitor General's Office request for Judgment of 11/06/2004 to be taken to Fiji Court of Appeal approved.

07/2005

Oxfam Australia's Mining Ombudsman conducts a follow up investigation and undertakes a preliminary gender impact assessment (GIA) on and around the site of the Vatukoula Gold Mine. The Mining Ombudsman requested a meeting with Emperor Management, which was declined via a fax sent to Melbourne on 26 July 2005.⁴¹

21/3/2006

DRD acquires an 88 per cent interest in Emperor, later diluted to 78.82 per cent.

24/03/2006

President of the FMWU sends a letter to the Minister of Labour (Fiji) requesting compensation payments for striking workers.⁴² Fiji Court of Appeal dismisses the appeal filed by the Solicitor General's Office.

28/04/2006

Brad Gordon appointed new Chief Executive Office (CEO) of Emperor.

23/06/2006

President of the FMWU sends a letter to Prime Minister Qarase, Government Ministers, the Opposition and some Senators, requesting them to find an amicable solution and to move a motion in Parliament to establish a \$43.52 million "ex-gratia" compensation payment for FMWU members consistent with the recommendation of the 2004 Senate Ad-Hoc Select Committee Report.

07/2006

Oxfam Australia Mining Ombudsman conducts follow up case investigation at Vatukoula Gold Mine.

07/2006

More than 120 workers at the Vatukoula Gold Mine are laid off by Emperor as part of a planned temporary shut down of the mine.

14/10/2006

A mine shaft lift failure occurs in the Philip Shaft at Vatukoula Mine, with no serious injuries reported. Philip Shaft produced approximately 50 per cent of the total gold produced by Vatukoula. The shaft was closed for repairs and an investigation into the failure.⁴³

14/11/2006

Emperor announces that production at the Philip Shaft has recommenced (earlier than anticipated).⁴⁴

28/11/2006

Union members go on strike over a new work roster, with about 300 members picketing the mine with placards.

5/12/2006

Amid heightened tension and speculation of an impending military coup, Emperor announces the Vatukoula Gold mine will cease production from 5/12/2006,⁴⁵ leading to lay-offs of an additional 1700 workers. The military coup is announced later the same day.

¹ Judgement from the Court of Appeal, Fiji Islands, on Appeal from the High Court of Fiji, between Commission of Inquiry Report by Commissioner GP Lala and Emperor Gold Mining Company and Josefa Sadreu, p.5. Hearing 16 March 2006; Judgement 24 March 2006.

² Hansard, *Fiji Senate*, 20 March 2003.

³ GP Lala Report 1995.

⁴ Hansard, *Fiji Senate*, 20 March 2003.

⁵ See Emberson-Bain 1994, Emperor 2002 and Lyday 2001.

⁶ Lyday 2001.

⁷ Hansard, *Fiji Senate*, 20 March 2003.

⁸ Emberson-Bain 1994 and Lyday 2001.

⁹ See Emberson-Bain (1994), www.fiji.gov.fj and Emperor website at www.emperor.com.au (last accessed November 2006).

¹⁰ Hansard, *Fiji Senate*, 20 March 2003.

¹¹ See Emberson-Bain 1994 and Grynberg, Fulcher and Dryden 1997.

¹² Hansard, *Fiji Senate*, 20 March 2003.

¹³ Hansard, *Fiji Senate*, 20 March 2003 and Siwatibau 1977.

¹⁴ Hansard, *Fiji Senate*, 20 March 2003.

¹⁵ Hansard, *Fiji Senate*, 20 March 2003.

¹⁶ ASX announcement, see www.asx.com.au

¹⁷ Grynberg, Fulcher and Dryden 1997, page 13.

¹⁸ Pintz (1987), p iii.

¹⁹ GP Lala Report, 1995.

²⁰ ASX announcement.

²¹ Emberson-Bain 1994 and 1992.

²² Emberson-Bain 1992.

²³ CEACR: Individual Observation concerning Convention No. 98, Right to Organise and Collective Bargaining, 1949 Fiji (ratification: 1974) Published: 1994.

²⁴ CEACR: Individual Observation concerning Convention No. 98, Right to Organise and Collective Bargaining, 1949 Fiji (ratification: 1974) Published: 1993.

²⁵ See Hansard, *Fiji Senate*, 20 March 2003 & GP Lala Report (1995).

²⁶ Lyday, 2001.

²⁷ Lyday, 2001.

²⁸ Mining Ombudsman interview with Solicitor Generals Office, 2003.

²⁹ ASX announcement 'Incorporation in Australia', 30 July 2002, see www.emperor.com.au

³⁰ ASX announcement see www.asx.com.au

³¹ ASX announcement, see Emperor website www.emperor.com.au (last accessed November 2006).

³² Hansard, *Fiji Senate*, 20 March 2003.

³³ Mining Ombudsman interview with Solicitor General Office, 2003

³⁴ Emperor letter to the ASX, 15 January 2003.

³⁵ Hansard, *Fiji Senate*, 20 March 2003.

³⁶ Hansard, Fiji House of Representatives, 8 May 2003.

³⁷ Hansard, *Fiji Senate*, 18 December 2003.

³⁸ “DRD takeover offer” 8 March 2004 and “Independent Directors of Emperor recommend rejection of the DRD Offer” April 22, 2004, Emperor website, http://www.emperor.com.au/abouteml/news_centre.html (last accessed November 2006).

³⁹ Cabinet Releases – Fiji Government Online, March 24, 2004, http://www.fiji.gov.fj/publish/page_2142.shtml, (accessed June 2004.)

⁴⁰ “Majority of Independent Directors Recommend Acceptance of Increased DRD Offer” June 10, 2004, Emperor website, http://www.emperor.com.au/news/EMP_Increased_DRD_Offer_100604.pdf

⁴¹ Fax from Emperor Gold Mining Company Limited (in Fiji) sent to the Mining Ombudsman, 26 July 2005.

⁴² Letter to Minister for Labour (Mr Kenneth Zinck) from Interested Party, Mr Joseva Sadreu, President of the FMW, dated 24 March 2006.

⁴³ Emperor Mines Limited (2006), ‘Mine shaft lift failure at Vatukoula Mine’, press release, 16 October 2006, available online at http://www.emperor.com.au/news/EMP_Mine_Shaft_Lift_Failure_at_Vatukoula_161006.pdf, (last accessed November 2006.)

⁴⁴ Emperor Mines Limited, News Release: ‘Philip Shaft mining resumes at Vatukoula Mine’, 14 November 2006.

⁴⁵ Emperor Mines Limited, ‘Vatukoula Gold Mine To Cease Production’, 5 December 2006, http://www.emperor.com.au/news/EMP_Vatukoula_to_Cease_Production051206.pdf