

June 20, 2022

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Catherine,

I have reviewed your open letter dated June 15th, 2022 to Terry Filbert, CEO and Chairman of Baru Gold Corporation (Baru), which owns 70% of PT. Tambang Mas Sangihe (PT TMS). As a knowledgeable shareholder of the company, I am alarmed by the vast amount of incorrect information MiningWatch Canada is distributing. I write now in the hope that you might correct your mistakes and to help you identify the source of your potential misperceptions. I am very familiar with the operations of Baru, have undertaken exhaustive due diligence, visited and observed operations, and sought local Indonesian legal advice to confirm and interpret Indonesian laws. Your allegations of significant community opposition to operations, illegality, and environmental damage are incorrect. Almost all of your claims are widely exaggerated because your references are lacking, wrong, dubious, unsupported or contradictory. I believe part of the reason for your errors is your reliance on information provided by the alleged environment group "Save Sangihe Island" (SSI). SSI membership is composed, funded and supported by illegal miners¹ with a history of irresponsible and devastating environmental damage.

Virtually all of your information is supplied by illegal miners that oppose legal ones

Virtually all your allegations and supporting references in opposition to PT TMS are either repetitive of, produced or written directly by SSI. However, SSI leadership have admitted their membership is made up of illegal miners and they receive financial and operational support from them¹! Of course the illegal miners that SSI is representing will oppose legal mining operations. It is on this organization's so-called evidence that you have based your objections to PT TMS' operations.

There are three founding leaders of SSI: Jull Takaliuang, Alfred Pontolondo and Elbi Pieter. All three have either publicly expressed support, are closely connected and/or directly supported by the profits of illegal miners. MiningWatch Canada's support and reliance on this organization threatens your own credibility.

Jull Takaliuang is an environmental hypocrite. Jull has admitted in a national newspaper that SSI's membership, funding and logistical support come from "Community" or People's Miners²." In legal filings for the Jakarta Administrative Court on July 15th 2021 in Section IX paragraph 10f³, SSI acknowledges that these "community" or "peoples" miners is another word for illegal gold miners. Jull has even been pictured alongside Pere⁴, the biggest illegal miner in North Sulawesi (of which Sangihe

^{1,2} <https://manado.tribunnews.com/2022/03/29/jull-takaliuang-akui-ada-pihak-dari-tambang-rakyat-yang-tergabung-dalam-ssi>

³ <https://drive.google.com/drive/folders/1XGdZMd4d2gawOuHTEOCfQDYWveNqRT2L>

⁴ https://www.instagram.com/p/Cbbydf1BG2w/?utm_source=ig_web_copy_link

Island is part) protesting PT TMS. Make no mistake, SSI are a group of illegal miners that oppose legal ones.

Alfred Pontolondo vocally supports illegal mining. The best evidence, Alfred revealed on Facebook that SSI prefers illegal gold mining over legal ones. On May 9, 2021 in his personal Facebook page, Alfred is summarizing SSI's April 30, 2021 meeting with the Minister of ESDM, Mr Arifin Tasrif. When the Minister asked Alfred if they reject PT TMS then "how to best use the gold resource to benefit Sangihe Island" – Alfred responded by essentially stating that **illegal gold miners should be doing the mining themselves because we can keep more of the money.**⁵ SSI claims to reject all forms of mining but it seems Alfred is driven by his own financial gain with no objection to mining at all - only who does it. Shortly after exposing Alfred's financial motivations and support of illegal mining, he resigned from SSI leadership but remains active in the organization. SSI can't have it both ways – they can't reject all forms of mining and then support the most harmful and dangerous form of it.

Elbi Pieter is a leader in SSI, the focus of the recently produced SSI documentary, the main Plaintiff in the now dismissed court case held in Jakarta and - a direct beneficiary of gold mining. Her husband is a gold-miner working for an unlicensed operator on the Island of Papua and is also pictured at a PT TMS with Pere⁴, the largest illegal miner in North Sulawesi (of which Sangihe is part).

The illegal miners that are behind, fully participate and support SSI have done tremendous environmental damage on Sangihe Island. You must have some understanding of the damage done by illegal miners on Sangihe as you cite references in your letter that includes evidence of it – specifically, many of the references in your footnote 3. The BBC video you cite indicates there are over 200 illegal mining operations on Sangihe Island and even includes video documentation for one of their mining camps¹⁵. At this one camp, there are several serious environmental violations that PT TMS are financially bonded and legally unable to commit – including shoreline vegetation removal, soil erosion, run-off directly into the ocean and tailing dumping directly on the mangroves. Although the illegal miners deny the use of mercury and claim they use cyanide in the BBC video¹⁵ (timestamp 5:05), their denial is not credible as such practices are widespread in Indonesia, including on Sangihe. In addition, the working environment is unsafe and deaths of such miners are commonplace. Unlike PT TMS which is a regulated and is legally required to undertake environmental rehabilitation (secured with a bond), these illegal miners are undertaking some of the most environmentally damaging, destructive and life-threatening mining practices in existence without any subsequent environmental remediation. These illegal miners form the membership base and provide the financial and operational support for SSI¹, and you have decided to lend them your support and rely on them for your information.

Each day that passes SSI grows increasingly complicit in environmental crimes. In some areas on Sangihe Island, illegal miners have literally increased mercury concentration to 4500x above safe levels and permanently destroyed water sources. Why have SSI leadership never condemned, protested or said anything negative on their social media, news outlets or press conferences about illegal mining on Sangihe? Never, not once; their leadership even supports the practice. Why does SSI protest only legal mining? It's obvious - SSI has never condemned illegal mining operators because they **are** the illegal miners!

⁵ <https://www.facebook.com/alfred.pontolondo/posts/2129788263888075>

The symbiotic relationship between SSI and illegal miners should shock the conscious of MiningWatch Canada. With this information now available to you, will you condemn the actions of illegal miners that form the foundation of SSI membership? Will you likewise demand accountability and transparency from SSI leadership or will you choose to support their actual and perceived conflicts of interest? Will you question the allegations and evidence provided by the clearly conflicted SSI upon which you rely? Will you continue to support this community of illegal miners that are undertaking the very mining practices across 200 mine concessions using methods you claim to oppose?

Alleged Community Opposition to the Operations of Baru Gold Corporation

In your letter of June 15th, you repeatedly claim significant community opposition to PT TMS. This is not accurate. PT TMS has wide community support and opposition comes from the illegal miners. PT TMS directly supports over 80 local employees, the landowners that have granted land use rights, and the local government (including the Regent) has approved the project⁶

Beyond the actions, allegations and material created by SSI you provide no such evidence of community opposition. In fact, the references you rely on for your allegations of community opposition show SSI's objections are contradictory, not legally acceptable and in one case – morally reprehensible.

Specially, the references in your footnote 3:

1. An article dated April 29, 2022 by Mongabay⁷. This article outlines the dismissal of SSI's court case filed against the Ministry of Energy and Mineral Resources' approval of PT TMS Operational permit. The only statements in opposition against PT TMS come from the SSI lawsuit participants themselves with their lawyer even indicating that SSI plaintiffs weren't surprised by the loss.
2. An article from Mining Journal dated August 30, 2021⁸. In this article, Terry Filbert comments on the lawsuit calling it "baseless, as the claims are frivolous and unfounded, which will eventually be brought forward in court." This was correct as the court case being referenced was dismissed. The release also discusses the rampant illegal mining and environmental damage done by such operations. Again, there is no mention of community opposition to PT TMS except from the illegal-supported mining group SSI. Specifically, the article references the video "documentary" called 'Sangihe Not For Sale' produced by SSI and an online petition created by them. Not only are both widely inaccurate but prompted a response from the local government saying they had given their blessing to the mine's development⁶.
3. An article from Reuters dated June 21, 2021⁹. In this article Baru Gold is forced to deny the allegations made by the leadership of SSI that they murdered and assassinated Helmud Hontong on an airplane. A subsequent autopsy (despite the strong objections and protests from the

⁶ <https://www.cnnindonesia.com/ekonomi/20210422155227-85-633496/kementerian-esdm-tambang-emas-sangihe-dapat-restu-gubernur>

⁷ <https://news.mongabay.com/2022/04/court-setback-doesnt-sway-indonesian-villagers-fighting-a-mining-firm/>

⁸ <https://www.mining-journal.com/gold-and-silver-news/news/1416735/baru-%E2%80%98vigorously-supporting%E2%80%99-ministry-in-lawsuit-over-sangihe-mining-permit>

⁹ <https://www.reuters.com/world/asia-pacific/indonesia-police-investigate-death-politician-who-opposed-remote-gold-mine-2021-06-14/>

family¹⁰) found a natural cause of death¹¹. Although SSI claims that Helmud Hontong was in “perfect health” SSI knew¹² that Helmud had a long history of asthma, diabetes, ulcers and heart problems¹⁰ and the family didn’t want and objected to the autopsy –yet SSI insisted¹⁰. If SSI is willing to lie about the health records of an obviously unwell man, and insist on the dissection of a loved political leader over the objections of his family I wonder what else they are willing to lie about to further their agenda? Like SSI, although Helmud opposed PT TMS’ operations in his letter of objection he promoted “Peoples mining¹³” which SSI have previously defined as illegal mining. In contradiction to your claims of broad community opposition, Helmud’s superiors supported PT TMS operations¹². SSI’s creation of this lie and your continued reliance on this reference is irresponsible and morally reprehensible. A civic-minded organization would issue an apology.

4. A press release from Baru responding to false allegations of murder, polluting the environment, underpaying locals for their land, illegally pushing the Sangihe mining project ahead, and endangering the habitat of a certain breed of flycatcher bird¹⁴. In fact, this single article answers literally every question you have posed at Baru and indicates their legal and corporate commitment to the community, environmental protection, and accordance with all laws, rules and regulations. The press release also notes that illegal operations are primarily from non-residents and are currently rampant on the Island. It is these illegal miners who have been heavily polluting the environment, including dumping their mine tailings into the ocean, on the reefs, destroying the mangroves, and polluting the river and ocean with mercury. These illegal miners (which form the membership and logical\financial support of SSI) have a vested interest in keeping their operations going and continue to employ tactics to protect their own interests at the cost of the environment and the well-being of local residents.
5. A BBC video¹⁵ produced following the false allegations of murder and assassination made by SSI. Notably in this video, the BBC reports that a change in Indonesian mining law allows the development of mines on small Islands (timestamp 00:48). Although concerns are raised about a forest songbird and mining in protected forest, Terry Filbert explains no such mining will occur in the forest (timestamp 3:12). In addition, the approved mining area is 65 HA, already the site of illegal mining operations and is nowhere near the protected forest¹⁶. In addition, the area of land covered by the forest is not on the workplan and is very far from all future work plans¹⁶. As there will be no mining at or anywhere near the forest, concerns around forest mining and impacts on the flycatcher bird are unwarranted. Notice once again, Elbi Pieter (leader of SSI and spouse of an illegal miner) and the illegal miners themselves are the only ones that speak in opposition of PT TMS on the video.

¹⁰ <https://www.liputan6.com/news/read/4581145/polri-jenazah-wabup-sangihe-helmud-hontong-sudah-diautopsi>

¹¹ <https://coconuts.co/jakarta/news/no-foul-play-in-death-of-sangihe-deputy-regent-helmud-hontong-police/>

¹² <https://coconuts.co/jakarta/news/autopsy-underway-to-answer-suspicious-surrounding-death-of-sangihe-deputy-regent-helmud-hontong/>

¹³ See Helmud Hontog letter dated April 28, 2021 point 3): “Dimohon kiranya Wilayah pertambangan yang ada di Kabupaten Kepulauan Sangihe dapat dijadikan Wilayah pertambangan rakyat.” Translation: “It is requested that the mining area in the Sangihe Islands Regency can be used as a people's mining area”

¹⁴ <https://www.juniorminingnetwork.com/junior-miner-news/press-releases/2203-tsx-venture/baru/101552-baru-gold-responds-to-false-allegations-and-rumours-on-sangihe-gold-project.html>

¹⁵ <https://www.bbc.com/news/av/world-asia-57902815>

¹⁶ <https://barugold.com/projects/sangihe-gold-project/>

6. Various references an online petition and an SSI-featured video “Sangihe Not For Sale”¹⁷. As mentioned, this material is all produced and developed by SSI. The material is not only inaccurate and refuted throughout my letter but clearly self-serving as SSI is a collection of illegal miners that oppose legal ones. The local government issued a response to the petition in support of PT TMS⁶.
7. You have additionally referenced in point 3) of your letter a physical petition produced by SSI that indicates local opposition. Again, not only is this produced by SSI but I would encourage you to share this petition to understand what the petition actually says and who actually signed it. Given SSI’s history of lies, self-interest, exaggeration and false accusations of murder and assassination I have significant doubts of an unseen, unsupported alleged petition.

Alleged breaches of law and regulations

MiningWatch Canada has made serious allegations of illegality against Baru. Your allegations are almost all based on contradictory and previously disproved or dismissed allegations made by SSI.

Your first claim is that PT TMS has a CoW that has been cancelled and is therefore invalid and should be converted into an IUP. This is a position not supported by law. A CoW can only be cancelled by mutual agreement between the parties of the Contract or following arbitration in Singapore; neither have ever happened. Indeed, SSI challenged the validity of the CoW in the Jakarta Administrative Court using the same argument MiningWatch Canada now presents. SSI sought to invalidate the CoW and insist on an IUP because the Jakarta Administrative Court has the legal authority to adjudicate an IUP (permit) but not a CoW (contract). In fact, the validity of the CoW is exactly why the Jakarta Administrative Court dismissed the case filed by SSI - the Court ruled they had no authority to adjudicate the case because it was a valid CoW. Despite the repeated and tired allegations made by SSI and MiningWatch Canada, the dismissal of the court case is an explicit acknowledgement of the validity of CoW.

Your second set of concern relate to the permitting related to a set of regulations around “Small Islands.” Specifically, Article 35(k) of Constitution Law UU 27/2007 (later amended by Constitution Law UU 1/2014) concerning the Management of Coasts and Small Islands, and you have requested proof of a permit from the Minister of Oceans and Fisheries. First, the BBC video you cite indicated a change of law that allowed mining on “small islands.”¹⁵ Regardless, these set of regulations do not apply to PT TMS because the CoW was agreed to and signed before the passage of these rules. You should be very aware of this legal reality because in 2005 at the invitation of the Indonesian mining activist network JATAM, MiningWatch Canada testified before the Indonesian Constitutional Court as an expert witness about the impacts of mining. JATAM and other groups had filed a court petition stating that mining in protected forest areas violated the Constitution. JATAM lost this case, of course, because the Constitutional Court ruled that the 13 companies, which included local and foreign mining companies, be allowed to mine in protected forests because they all had signed their Contracts of Work before a

¹⁷ <https://newswwc.com/world/singapore/not-for-sale-locals-protest-indonesias-controversial-sangihe-island-gold-mine-project-via-documentary-film-the-online-citizen-asia/>; https://www.youtube.com/watch?v=1Qm68ioCt1Y&ab_channel=SangiheDocumentaryFilm; <https://www.facebook.com/noMiningonSangihe/>; <https://www.change.org/p/jokowi-sangihe-is-a-beautiful-small-island-we-reject-its-exploitation-savesangiheisland-2>

1999 law banned the practice¹⁸. You are now knowingly repeating the same failed argument but on the basis of a “Small Island.”

You have alleged PT TMS lacks *approval under the Spatial Usage Plan because* in 2018 the Sangihe Island’s Regency Government refused to grant its consent to the company's proposed location of business. However, what you fail to mention is that indeed approval was granted in 2019. In fact, your own references produced by the anti-mining organization KontraS¹⁹ indicated such approvals. Indeed, such approvals were also widely reported in the media⁶. You should be praising PT TMS for following the necessary legal and environmental practices to gain the necessary approvals.

In reference to the lawsuit in Manado SSI has filed against the Provincial Government, you have listed all claims against the Provincial Government and reported that the “court found in favour” of the plaintiffs. In fact, this is misleading as only 1 of 3 claims was found in favour of the plaintiffs. Although the Letter that was challenged was postponed, the reasons for doing so were largely administrative²⁰ and there was no serious regulatory violations as you allege. As you further allege, Baru has never said they will ignore the court’s findings and I would invite you to disclose the source of such information. Regardless, the outcome of this court case has no impact on the validity of any of PT TMS mining permits. In fact, the passing of the 2020 “Job Creation Law (*RUU Cipta Kerja*, commonly known as the “Omnibus Law”), explicitly removed the requirement of a valid environmental permit (which was the one challenged in the Manado Courts) with the validity of the Business or Operations permit. In other words, the revocation or postponement of the letter in the Manado’s court does not affect any of the Operations or Business permits of PT TMS. I reference the specific law²¹ and a related interpretation in plain language but focussed on forestry²² for your review.

Finally, you allege that PT TMS does not have the necessary permits to transport heavy equipment. There is no “transportation of heavy equipment” or similar permit. I would invite you to indicate where you found this information. The reference you cite²³ does not make mention of such a permit. However, once again the only people in attendance in the reference you cite opposing PT TMS is SSI – a group representing illegal miners that are threatening violence.

Best,
David Webb²⁴

¹⁸ https://miningwatch.ca/sites/default/files/mwc_annual_report_2005.pdf

¹⁹ See, "Laporan Penelitian Investigasi Kabupaten Kepulauan Sangihe 27 Juni - 1 Juli 2021" by kontraS. Pages 11 - 13 document that extensive permits PT TMS has received – including the Spatial permit.

²⁰ There was a signature that was missing; The public consultation wasn’t wide enough. Although the judges acknowledge that there was consultation they didn’t feel it was sufficient; There was a day between submission and signing. There is nothing legally wrong with this and the judges don’t point to any law that prohibits this.

²¹ Article 37 of Law 32/2009 amended by Law 11/2020

²² <https://www.globalcompliancencenews.com/2020/11/14/indonesia-omnibus-law-impacts-on-environment-and-forestry-12102020/>

²³ <https://manado.tribunnews.com/2022/03/05/pt-tms-kecewa-alat-berat-tak-bisa-menyembrang-ke-pulau-sangihe-kepolisian-siap-kawal-keamanan?page=all>

²⁴ I am a proud shareholder of Baru Gold Corporation and have never received any remuneration from Baru Gold Corporation, including for this response to Miningwatch Canada

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