



## **LAWYERS' ENVIRONMENTAL ACTION TEAM** **(LEAT)**

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Mr. David Herscovitch,  
Manager,  
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151 O'Connor Street,  
OTTAWA, CANADA K1A 1K3

November 14, 2001

Dear Mr. Herscovitch;

### **RE; BULYANHULU GOLD MINE, KAHAMA, TANZANIA**

I write on behalf of my organization, the Lawyers' Environmental Action Team (LEAT) of Dar es Salaam, Tanzania to follow up on the meeting our Mr. Tundu Lissu had with you on Friday September 28, 2001 as regards the subject matter captioned above. I herein lay out the main points that suggest a pattern of systematic and deliberate non-disclosure of material facts; distortion or misrepresentation of key information; peddling of outright falsehoods; and attempts to cover up the serious allegations of human rights abuses or to suppress independent investigations. It is our contention that Barrick Gold Corporation and their Tanzanian subsidiary Kahama Mining Corporation Ltd. (KMCL) are primarily responsible for perpetrating these acts or omissions upon both the Multilateral Investment Guarantee Agency (MIGA) and the EDC. I also present key elements of LEAT's evidence that seems to confirm the allegations of killings of dozens of small-scale miners in August 1996.

## 1. FAILURE TO DISCLOSE THAT KMCL DID NOT HAVE ANY LICENSE OVER THE BULYANHULU AREA.

In documents submitted to the EDC and MIGA; as well as to Tanzania's Ministry of Energy and Minerals (MEM), the Division of Environment (DoE) of the Vice President's Office and the National Environment Management Council (NEMC), both Barrick and their subsidiary, KMCL, have alleged that "in August 1994, the government (of Tanzania) granted a prospecting license" over the Bulyanhulu workings to KMCL, which was then a subsidiary of Sutton Resources of Vancouver, Canada.<sup>1</sup> Elsewhere in their multi-volume environmental impact assessment reports, the two companies have claimed that "KMCL obtained an exploration license in 1992 following conclusion of an agreement between Sutton Resources and the Tanzanian Government...."<sup>2</sup> And more recently, the companies have claimed - in the media space they bought in Tanzania's leading newspapers to announce the official opening of the Bulyanhulu Gold Mine – that Sutton Resources obtained a prospecting licence over the area in 1994, through its subsidiary KMCL.<sup>3</sup>

Apart from the uncertainty as to the exact date the alleged license was issued, documentary evidence shows clearly and unambiguously that the only prospecting license granted to KMCL – the one dated 5<sup>th</sup> of August 1994 - did not confer any rights to the company to operate in the Bulyanhulu area. This evidence shows that the three-year prospecting license #216/94 - signed on September 6, 1994 by then Minister for Minerals and Energy Mr. Jakaya Kikwete – was in respect of "Butobela Area, Geita District...." Bulyanhulu area is in Kahama District, Shinyanga Region while Geita District is part of Mwanza Region! Indeed, Bulyanhulu is not even mentioned at all in the entire license.

Two subsequent renewals of PL #216/94 issued on July 24, 1997 and October 6, 1998 respectively and signed by the Commissioner for Minerals in the Ministry of Energy and Minerals Mr. Gray Mwakalukwa similarly described the contract area as being in Butobela, Geita District. In addition, a list of all prospecting licenses granted to various mining companies between 1993 and 1996 which was published by the MEM in 1996 also shows that the license granted to KMCL was in respect of Butobela area.<sup>4</sup> This list is considerably significant for it shows, among others, that a total of 39 prospecting licenses were granted in respect of various areas in Kahama District. Not a single one of these licenses was granted

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1 See *Social Development Plan for Bulyanhulu Gold Mine, Republic of Tanzania*, BGC and KMCL, August 1999, at page 4).

2 See *Environmental Impact Statement, Bulyanhulu Gold Project, Tanzania*, Volume 3, KMCL, May 1998, at paragraph 5-1).

3 See, Advertiser's Supplement, "President Benjamin William Mkapa to Officially Commission Major Underground Gold Mine in Tanzania", *Mtanzania*, Tuesday, July 17, 2001; "President Benjamin Mkapa to Commission the Country's Major Underground Mine", *Nipashe*, Tuesday, July 17, 2001; "Celebration as His Excellency President Benjamin Mkapa officially inaugurates Tanzania's largest underground gold mine", *The Guardian*, Tuesday, July 17, 2001).

4 See *Minerals Found in Tanzania*, Ministry of Water, Energy and Minerals, 1996 at pages 26-27.

in respect of the Bulyanhulu area, which is not even mentioned in the entire list. In addition, not a single prospecting license over any area of Kahama District was ever granted to KMCL during the period under consideration.

We first drew the government's and public's attention to the above evidence in our open letter to His Excellency President Mkapa on July 16, 2001. This letter was widely circulated and subsequently published in the local press. To this day our charge that KMCL entered the Bulyanhulu area illegally and without any colour of right remains unanswered. Our letter also suggested that senior officials in the Ministry of Energy and Minerals actively condoned this illegality and connived with KMCL in that, contrary to the documentary evidence in their own files, the said officials continued to make deliberately false and misleading public statements to the effect that KMCL had license to operate in the Bulyanhulu area. That Sutton Resources and KMCL appear to have acquired the Bulyanhulu concession illegally, fraudulently or through corrupt practices is a matter of great public importance that Barrick should have thoroughly and competently investigated in order to satisfy themselves that there were no criminal misdeeds involved in this matter. Barrick should also have drawn the attention of the EDC to this matter as we believe the latter had an interest in ensuring that the project it was being asked to support financially by way of political risk insurance had complied with the laws of Tanzania.

## 2. FAILURE TO DISCLOSE THAT KMCL'S ACQUISITION OF BULYANHULU WAS TAINTED WITH ILLEGALITY

We have already shown that KMCL's claim of right over the Bulyanhulu deposits was unlawful for want of a license. Notwithstanding this want of a lawful license, on 20<sup>th</sup> June 1995 the company commenced legal proceedings against the small-scale miners in the High Court of Tanzania at Tabora. In legal papers the company filed in the High Court, KMCL sought orders of the Court to evict the artisanal miners from, and permanently restrain them from interfering with, what the company claimed to be its concession area.<sup>5</sup>

In their defense and counter-claim, according to summary of the defendant miners' case as stated by the High Court, the miners claimed to have been in lawful occupation of the suit property since 1975. They claimed to not only have title to the area by virtue of customary law but also that their village had existed even before colonial days and had their ancestral graves, residential houses, livestock, farms and gold mining shafts. They also objected to being dispossessed without even being consulted and alleged that the government of Tanzania had connived with KMCL to grab land from indigenous people without compensating them or even resettling them elsewhere. The miners counter-claimed for compensation if their land and mines were to be taken over by

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<sup>5</sup> *Kahama Mining Corp. Ltd. Vrs. Maalim Kadau & 16 Others*. Civil Case No. 12 of 1995, High Court of Tanzania, Mchome, J. (Tabora) (unreported).

KMCL.

On September 29, 1995 the High Court of Tanzania ruled in favour of the miners' application. In the ruling, Mr. Justice Mchome observed that "on reading the Written Statement of Defence and Counter-claim farther and going through the contract between the government and (KMCL) ... I found no provision made for compensation and/or resettlement of the indigenous people. This court found that the basic rights and duties of the applicants/defendants had been involved ... and ... ordered that the matter be heard by the High Court sitting with three justices as required under the Basic Rights and Duties Enforcement Act, No. 33 of 1994."<sup>6</sup> The Court therefore ordered that status quo be maintained pending the constitution of the 3 judge bench of the High Court to hear the matter.

This must have been a major blow to KMCL. On October 9, 1995, the company which, according to Mr. Justice Mchome, had throughout maintained that the defendants were "... illegal miners and trespassers who deserved nothing but eviction from the 'property'", filed a notice of appeal in the Court of Appeal of Tanzania (the country's highest court) seeking to have the High Court ruling overturned. It would appear, however, that before its appeal could be heard by the highest court of the land, KMCL began to realize the courts of law were not as sympathetic to its cause as it had perhaps hoped. The company must have decided, as a result, to opt for extra-judicial processes to evict the miners. On May 22, 1996, the KMCL's lawyers wrote a letter to the Registrar of the Court of Appeal in which they stated that their clients did not "intend to prosecute the appeal" and requested that the Notice of Appeal lodged on 9<sup>th</sup> October, 1995, "... be marked withdrawn...."<sup>7</sup> KMCL's lawyers also indicated that their clients intended to "withdraw the suit in respect of which the ruling was made...."<sup>8</sup>

The letter was accepted the following day by the then Chief Justice Francis Nyalali who ordered that the notice of appeal be "marked withdrawn...."<sup>9</sup> Soon after the withdrawal of KMCL's notice of appeal, news stories with such headlines as 'Company to Evict 7,000 Illegal Miners' started to appear in the print press.<sup>10</sup> KMCL also started to skip court appearances in the High Court where, contrary to their statement to the Court of Appeal, they had not withdrawn the lawsuit against the miners.<sup>11</sup>

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6 Ibid.

7 See Letter Ref. MRK/LIT/HC-TB/12/95/VOL. 11/816/96 from Maajar, Rwechungura and Kameja Advocates to the Registrar, Court of Appeal of Tanzania dated May 22, 1996

8 Ibid.

9. See *Kahama Mining Corporation Ltd. vrs. Maalim Kadau and 16 Others* (Miscellaneous Civil Notice No. 1 of 1996) (Court of Appeal of Tanzania, Dar es Salaam, Nyalali, C.J. (as he then was), dated May 23, 1996.

10. *The East African*, (date unknown but most likely June, 1996), by J. Kithama.

11 KMCL and their lawyers did not make appearance on July 17, 1996, prompting the High Court to slap them with TShs. 700,000 for costs of the miners' attendance. See *Report of the Events at*

On July 30, 1996, the then Minister of Minerals and Energy, Dr. William Shija called a press conference in Dodoma in which he issued one month's order for the Bulyanhulu miners to leave the area.<sup>12</sup> According to contemporaneous press reports, "soon after the radio announcement of the minister's order at 1pm on the fateful July 30, Major General Kiwelu (then Shinyanga Regional Commissioner) arrived at Kakola village. Using a loudspeaker, the Regional Commissioner ordered the miners to disappear. The minister had given the miners one month to leave the place, but the Regional Commissioner cut this to seven days. He further ordered that mining activities in the area cease within 12 hours."<sup>13</sup> That same evening heavily armed paramilitary security forces were positioned in the miners' settlements and the forcible evictions started the following morning.

On or about 1<sup>st</sup> August 1996, representatives of the miners who had been defending the lawsuit in the High Court rushed to Tabora where the Court's zonal headquarters are located to consult with their lawyers. On 2<sup>nd</sup> August 1996, their lawyers filed as a matter of urgency an application in the High Court seeking a temporary injunction to restrain KMCL and the Government of Tanzania from evicting the miners before the lawsuit between the parties was determined by the courts of law. Arguing that "the affair cries haste and speed must answer it", the High Court held *ex parte* hearings of the application that same afternoon and issued an injunction order against the Government and KMCL.<sup>14</sup> In the ruling, the Court quoted with approval the miners' claims that "what the 1<sup>st</sup> respondent (KMCL) (had) failed to achieve in court he (had) decided to short-circuit the law by using the executive wing of government to get."

The Court also observed that given the fact that the suit between KMCL and the miners was still pending in the High Court, the government decision to evict the miners was "quite uncalled for." It added: "Democracy (sic!), Good Governance, the Rule of Law and Respect for Human Rights require the executive wing of government not to interfere in matters still pending in court. Natural Justice requires that even a poor peasant at least be consulted before a decision affecting his life is made. In court he deserves at least to be heard, whoever he has litigation against and deserves to have a decision made by the court on whether or not he has a right on what he claims before further action is taken against him on that matter."

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*Bulyanhulu Mine*, op. cit.

12. See "Government orders those in Bulyanhulu mines to leave", *Mtanzania*, Wednesday, July 31, 1996; and M. Kitururu, "Government orders out Bulyanhulu miners", *Daily News*, Wednesday, July 31, 1996.

13 A. Mbogora, "The day hell broke loose at Bulyanhulu", *The Guardian*, Monday, September 9, 1996; see also A. Mbogora, "Final days at Bulyanhulu", *The Guardian*, Wednesday, September 11, 1996

14 See ruling in *Kahama Mining Corporation Limited vrs. Maalim Kadau & 16 Others* (Civil Case # 12 of 1995) (High Court of Tanzania at Tabora, Mchome, J.), delivered August 2, 1996.

The Court further described the case as being the most relevant to invoke its inherent powers “to prevent abuse of the process of the court by the government.” The Court felt entitled to use these powers and issue an injunction particularly “when it is necessary for the ends of justice and to prevent abuse of the process of the court like in this case.” The order of the High Court – broadcast on national radio the same evening and later served to the police – was defied by the authorities supervising the mass evictions of the miners. Eyewitnesses agree to hearing Maj. Gen. Kiwelu stating clearly on a loud speaker that he was not an employee of the High Court and could not, therefore, take orders from the latter. He is also reported to have been waving what he described as his orders from the Prime Minister of Tanzania to ensure that Bulyanhulu was cleared of the small-scale miners.

That KMCL and the Government of Tanzania defied a lawful order of the High Court of Tanzania was utterly illegal. Equally unlawful were the forced evictions of the hundreds of thousands of small-scale miners who were not compensated for the property rights they held in the Bulyanhulu area. Both the Constitution of the United Republic of Tanzania, 1977 as amended from time to time and numerous other laws guarantee property rights and prohibit acquisition of the latter without just, fair, adequate and prompt compensation.

These illegalities were not disclosed to both MIGA and the EDC and they are, indeed, not even acknowledged in the multi-volume project documents that Barrick submitted to the two institutions. Given the fact that MIGA policies prohibit issuance of political risk guarantees for projects that are associated with forced relocation of indigenous communities and that violate the laws of the recipient countries, failure to disclose the various illegalities that tainted the companies’ acquisition of the Bulyanhulu workings was a material non-disclosure that precluded both MIGA and the EDC from making more informed decisions as regards Barrick’s application for political risk guarantees for its Bulyanhulu gold mine.

### 3. FAILURE TO DISCLOSE WIDESPREAD ALLEGATIONS OF SERIOUS HUMAN RIGHTS ATROCITIES COMMITTED AGAINST ARTISANAL MINERS

On September 26, 2001, KMCL issued a press release in Tanzania denying the allegations of a massacre of the Bulyanhulu small-scale miners.<sup>15</sup> This was followed a day later by another press release issued in Canada by Barrick Gold Corporation.<sup>16</sup> More recently, a Michael Kenyon who claims to have been President of Sutton Resources during the events of August 1996 has written in

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15 See KMCL, “False claims at Bulyanhulu: Kahama Mining outlines what Really Happened”, *Statement by Kahama Mining Corporation*, Issued 26<sup>th</sup> September 2001; “Claims about Bulyanhulu not true – report”, *Nipashe*, Thursday, September 27, 2001; “No miners killed at Bulyanhulu – Kahama Mining Corporation”, *The Guardian*, Thursday, September 27, 2001.

16 See A. Robinson, “Barrick rejects allegation of human rights abuse”, *The Globe and Mail*, Thursday, September 27, 2001.

the local press that there is “no truth” to the allegations that miners were buried alive.<sup>17</sup> Together, these two press releases constitute the first time ever that the two companies have issued a public statement as regards the events of July and August 1996. This is extremely significant.

Within days of the forced removals of the Bulyanhulu miners detailed press reports of the killings of the miners had started to hit the newsstands. One of the first reports named the mine pits and its license-holders where 23 miners were feared buried.<sup>18</sup> A day later the death toll was reported to have hit 52.<sup>19</sup> There were survivors too who reportedly gave grisly first hand accounts of the carnage inside the mine pits as back-filling began.<sup>20</sup>

As more details of the killings began to emerge, it soon became clear that the police and KMCL employees were actively collaborating to obstruct or hinder the efforts to exhume the bodies of the buried miners.<sup>21</sup> In one incident, press reports claimed that while the digging for bodies was continuing, KMCL employees continued to level the other pits where more miners were feared buried, thus making the digging exercise even more difficult. For instance, in Reef #1 where the greatest number of the dead were reported to be in, KMCL had reportedly built a road over the pit to make the digging impossible.<sup>22</sup>

There also were reports of the miners and relatives of the dead organizing voluntary efforts to continue to exhume the bodies but in the face of the hostility from the police these efforts came to a standstill too.<sup>23</sup> Then on August 21, 1996 the efforts to exhume the bodies were stopped altogether by the police who reportedly said they had orders to that effect from their superiors. Weeks later, an eyewitness would tell a press conference in Dar es Salaam that exhumation of the dead bodies was discontinued after terrible smell of rotting bodies started to waft through from the pits. "When the bad smell started coming out, I went out to

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17 See “No truth to charge miners buried alive”, by Michael Kenyon, *The Guardian*, Thursday, November 8, 2001.

18 A. Swilla, "23 feared buried by 'graders' in Bulyankulu", *Majira*, Monday, August 12, 1996.

19 M. Islam and M. Rweyemamu, "Uncertainty reigns over the Kahama Killings: The number of those dead in the mines feared to reach 52: Photos of the dead sent to Dodoma: They were allegedly buried by graders", *Mtanzania*, Tuesday, August 13, 1996.

20 S. Thani, "The Bulyankulu survivor names the dead: claims four colleagues died", *Majira*, Friday, August 30, 1996.

21 Islam and Rweyemamu, "Uncertainty reigns..." op cit.

22 S. Thani, "Exhumation of dead bodies stops in Bulyankulu", *Majira*, Tuesday, August 20, 1996.

23 S. Thani, "Miners volunteer to exhume the Bulyankulu pits", *Majira*, Sunday, August 25, 1996.

try and get a compressor machine to blow fresh air into the pit, but when I returned I found the digging had stopped and the pit was being filled in again.”<sup>24</sup>

Although it took a long time and its position was at best contradictory, the government did respond to the widespread reports of the killings.<sup>25</sup> On September 17, 1996, Shinyanga Regional Commissioner, Maj. Gen. Kiwelu denied the allegations of the killings and described those making the allegations as "liars and rumor-mongers"!<sup>26</sup> KMCL, however, does not appear to have been in the least perturbed by these serious allegations. Our meticulous search of the newspaper archives does not reveal any single instance of KMCL publicly denying the very serious allegations of a massacre of the miners in spite of the widespread press coverage that directly linked the company with the alleged killings.

Indeed, documentary evidence prepared by both Barrick and KMCL and submitted to MIGA and the EDC reveals that KMCL was unwilling to publicly deny the allegations even when asked to do so by officials of the Government of Tanzania. For instance, during the first quarterly update meeting for the project held at the British Council premises in Dar es Salaam on October 11, 1996, one of the issues raised included “negative press concerning the removal of artisanal miners from the Bulyanhulu concession by the government. Views were expressed that KMCL should make a statement refuting that the company had been responsible for the evictions.” There is, however, no indication that these views were taken seriously since they were, as a senior official of KMCL present argued, “a product of ignorance”!<sup>27</sup>

But if Barrick and KMCL hoped that these serious allegations would somehow fade away they were clearly mistaken for as plans to build the mine gathered momentum so did the allegations of the killings hit the international stage. In 1997, Amnesty International published the allegations for the first time in its Annual Report for that year.<sup>28</sup> AI would publish follow up information on the allegations in its flagship publication for three consecutive years, submitting a

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<sup>24</sup> See “Miners Allegedly buried in Bulyankulu” *Mtanzania*, Friday, September 13, 1996.

<sup>25</sup> Islam and Rweyemamu, ‘Uncertainty reigns...’, op. cit.

<sup>26</sup> S. Thani, "No one was buried in Bulyankulu - Kiwelu", *Majira*, September 17, 1996.

<sup>27</sup> See *Environmental Impact Statement, Bulyanhulu Gold Project, Tanzania*, KMCL, May 1998, at paragraph 12-1. According to the minutes of that meeting, a representative from the Tanzania Central Freight Bureau (TCFB) “raised concern that in the light of the negativity and bad press that was being raised by members of the press, Kahama Mining Corporation Limited ... ought to come out and raise a counter-offensive of educating the public on the positive aspects of mine development program in Tanzania.” In response, a Mr. Antoine Luteijn, Vice President, Development for KMCL stated that “the information put out by the press was a product of ignorance”! (ibid., Appendix 12-1).

<sup>28</sup> See Amnesty International, Annual Report, 1997 at pages 306-7.

recommendation for the establishment of an independent commission of inquiry into the allegations.<sup>29</sup>

Amnesty International's publication of the allegations was taken up by other international news media. On November 26, 2000, *The Observer* newspaper of London in the United Kingdom published the allegations;<sup>30</sup> followed in April 2001, by a Canadian satirical magazine.<sup>31</sup> In Tanzania, the public furore about the 1996 massacre also continued to grow as the construction of the mine neared completion. On the day the mine was officially commissioned by Tanzanian President Mkapa, newspapers carried stories of an open letter written to the President by LEAT, requesting him to form an independent commission of inquiry to investigate the allegations of the massacre.<sup>32</sup>

By the time the mine was officially inaugurated, the press was loudly asking "what was wrong with the mining industry" and demanding answers from His Excellency, President Mkapa.<sup>33</sup> LEAT's letter would also be published in its entirety a day following the opening of the mine.<sup>34</sup> *Rai*, a well-known weekly newspaper, wondered aloud whether – by going to grace the commissioning of the Bulyanhulu Gold Mine - President Mkapa was even aware of what Bulyanhulu really stood for.<sup>35</sup>

Again, neither Barrick nor KMCL issued any public statements to deny these serious allegations. Instead the two companies chose to take an uncompromising and hard-line approach, using libel actions in law courts or threats thereof to silence its critics and anyone who published or investigated the allegations. As regards the *Sunday Observer* story, Barrick commenced legal proceedings for libel in the High Court of England in early 2001.<sup>36</sup> As regards the *Frank* magazine's story, Barrick reacted swiftly with a letter from its lawyers that demanded that *Frank* magazine not only publish a retraction and apology in respect of its article but also produce a firm commitment to do so within one

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<sup>29</sup> See Amnesty International, Annual Report, 1999 at page 328.

<sup>30</sup> See G. Palast, "Best democracy money can buy", *The Observer*, November 26, 2000.

<sup>31</sup> See "Did 50 die at Bulyanhulu? Barrick's Tanzanian adventure", *Frank*, No. 351, dated April 30, 2001, 12; see also "Thank God that's over", *Frank*, August 22, 2001, 16-17, on the impacts of Barrick's strong-arm tactics.

<sup>32</sup> See H. Lyimo, "Mkapa to open Bulyanhulu mines today: But lawyers cry foul", *The Guardian*, Wednesday, July 18, 2001; "Mkapa asked to investigate burials at Bulyanhulu mine", *Mtanzania*, Wednesday, July 18, 2001. See also an *Associated Press* newswire "Tanzania now 3<sup>rd</sup> gold producer in Africa", dated July 18, 2001.

<sup>33</sup> See editorial titled "Mining activities: What is wrong?", *The Guardian*, Thursday, July 19, 2001; Nshala, "President, What do you about Bulyanhulu", op. cit.

<sup>34</sup> See R. Nshala, "President, What do you know about Bulyanhulu?", *Rai*, Thursday, July 19, 2001; see also *Rai*'s editorial entitled "Minerals: We do not benefit, we do not care and we laugh", op. cit.

<sup>35</sup> Nshala, "President, What do you know about Bulyanhulu", op. cit.

<sup>36</sup> See *Barrick Gold Corporation and 2 Others versus The Guardian Newspapers Ltd.*, Claim # HQ 000 7227, High Court of Justice, Queen's Bench Division (unreported).

week! Short of this, Barrick would commence legal proceedings for libel against *Frank* and other unspecified persons.<sup>37</sup>

Even individuals and organizations that were independently investigating these allegations have not been spared the threats of libel lawsuits. On April 26, 2001 barely two days after visiting the Bulyanhulu facility and talking to the mine managers about the allegations, a LEAT lawyer who has investigated these allegations since April 1999 and an American journalist who accompanied him to Bulyanhulu were served with letters that indicated Barrick would not hesitate to take legal action against them should they publish the allegations of the killings.<sup>38</sup> This was followed a week later by a savage letter to the journalist and her editor in which Barrick threatened to sue for libel should the allegations ever be published.<sup>39</sup>

Documentary evidence shows, however, that Barrick and KMCL have been selective in intimidating journalists and publishers. For a company that has not hesitated to sue or threaten to sue anyone publishing the allegations of the Bulyanhulu killings in Europe, the United States and Canada, it has completely left the Tanzanian press alone. The latter, as we have shown, has been publishing the allegations of the killings ever since August 1996. Our investigation has not come up with any instance of even a single lawsuit or threat of a lawsuit for libel that may have been preferred against any of the Tanzanian newspapers and journalists who have published stories of the Bulyanhulu killings. This is significant as it raises doubts about the true intentions of Barrick's lawsuits and threats of lawsuits. In other words, Barrick's lawsuits or threats thereof seem to be intended to ensure that the information concerning the killings does not reach public agencies and citizens of the Western countries where Barrick has raised the funds for its Bulyanhulu facility as well as where its corporate headquarters and shareholders are located.

Barrick's campaign of intimidation and arm-twisting through the use of libel laws appears not to have worked though. On the contrary, the campaign has provoked greater calls for an international investigation of the allegations of the 1996 killings involving elected officials, NGOs and the media Western Europe, United States and Canada.<sup>40</sup> In our view, it is the growing calls for an independent

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<sup>37</sup> See letter from Barrick Gold Corp.'s lawyers Davies Ward Phillips & Vineberg to the publisher of *Frank* magazine, dated May 24, 2001.

<sup>38</sup> See letter from Patrick J. Garver, Barrick Gold Corporation's Executive Vice President and General Counsel, to Tundu A. Lissu and Danielle Knight of Inter Press Service (IPS) dated April 26, 2001.

<sup>39</sup> See Letter by Patrick J. Garver to Jim Lobe and Danielle Knight, dated May 3, 2001.

<sup>40</sup> For coverage in the Canadian media see S. Schmidt, "Unearthing the truth", *The National Post*, Thursday, September 27, 2001; S. Schmidt, "Ottawa won't ask EDC to pull insurance for Tanzanian mine", *The National Post*, Friday, September 28, 2001; S. McCarthy, "Tanzanian mine furor grows: NDP joins call for probe into alleged atrocities at site now owned by Barrick", *The Toronto Globe and Mail*, Friday, September 28, 2001; and S. Anderson, "Appeal for mine murder probe made: Rights group asks Canada to study Tanzanian deaths", *The Toronto Star*, Friday,

investigation coupled with greater press coverage internationally that have forced Barrick and KMCL to issue their recent press releases belatedly denying the allegations. This deliberate non-disclosure of material information concerning serious human rights abuses was intended and had the effect of precluding both MIGA and the EDC from making an informed decision regarding Barrick's applications for political risk guarantees.

#### 4. FAILURE TO DISCLOSE EVIDENCE ALLEGEDLY DISPROVING ALLEGATIONS OF HUMAN RIGHTS ABUSES

In a recent flurry of letters and statements concerning the allegations of a massacre of the Bulyanhulu small-scale miners, Barrick has claimed that the allegations have repeatedly been investigated by various institutions and found to be untrue. Indeed, Barrick now claims that KMCL has been in possession of "far more complete videotapes of the investigation ... since 1996." The tapes, according to the claims, have been reviewed by Barrick and representatives of the World Bank group. "They have also been available to anyone else choosing to conduct a thorough investigation of this matter."

The letters and statements from Barrick have also alleged that investigations into the allegations of the killings of artisanal miners were conducted by local officials of the ruling party CCM; a local government official; the Criminal Investigation Division of the Tanzania Police Force; Sutton Resources; Amnesty International; the former Canadian High Commissioner to Tanzania; International Finance Corporation (IFC); and by Barrick itself. Barrick has also stated that "further inquiries were made by MIGA, the Export Development Corporation of Canada and others who could not find no credible facts supporting the initial allegations that appeared in the Tanzanian media."

These claims raise several issues. First, if indeed Barrick, Sutton Resources and KMCL thought the allegations of the killings were serious enough to warrant all these investigations why, then, have these companies failed to even acknowledge the existence of the allegations in the project documents they submitted to the general public and to public agencies such as MIGA and the EDC? Second, if indeed these companies have had these exculpatory investigations since 1996 why, then, have they never even acknowledged, let alone made public, the reports and the evidence that allegedly proves their innocence? Why have they had to wait for five long years to acknowledge the existence of this evidence and the investigations and then only after being forced out into the open by public disclosures of the evidence confirming the allegations of the massacre?

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September 28, 2001. For reports in the Tanzanian press see "Bulyanhulu Saga Continues", *Mtanzania*, Friday, September 21, 2001; J. Mapinduzi, "The Bulyanhulu video: Mrema rejects police interrogation", *Majira*, Monday, September 24, 2001.

Third, the so-called investigations were conducted by institutions whose impartiality cannot even be assumed, let alone guaranteed. Barrick itself has a heavy financial stake in the Bulyanhulu mine and could not be expected to conduct thorough and independent investigations that could affect its considerable financial interests in the mine. So does MIGA and IFC before it. In fact, claims of an IFC investigation have been challenged by accounts of the very people that Barrick, KMCL and MIGA allege were consulted by the IFC team. A LEAT investigator visited Bulyanhulu on April 24, 2001 and met with, among others, the local government leaders at Kakola, Bulyanhulu's main settlement that survived the 1996 evictions. When asked if the World Bank mission ever visited Kakola in connection with the allegations of killings of small scale miners, four local government leaders – all of them long-term residents at the settlement – emphatically stated that they never saw or heard of anybody from the World Bank who visited Kakola to investigate the allegations of the killings.

Interestingly, it is representatives of the Miners' Committee who recalled a visit by the World Bank team. According to one Committee member, "in 1998, the World Bank specialists came to talk to us. They were staying at the Kahama Mining Corporation's campsite. We told them about the burials and what had happened but they never really asked questions about the killings. They asked how much gold we were getting from the mining area and how much money we were making." This version is supported by the accounts of the former Vice Chairman of Shinyanga Regional Miners Association (SHIREMA) and a prominent member of the Miners' Committee who emphatically stated that "the Bank never asked us anything about the killings." When told that the Bank officials had said they had had discussions with local community leaders who told them the allegations of killings were untrue he stated: "The Bank officials were staying at the Kahama compound; they were sleeping and eating there; they were moving about in their vehicles. It is not surprising that they should say something like that!"

These denials are further reinforced by the fact almost all community leaders the Bank team claims to have consulted and who LEAT interviewed maintain that police investigations were greatly hampered by severe time constraints and want of appropriate equipment to be of any use. These officials were also doubtful of the independence and integrity of any police investigations because of the obvious interest on the part of the police force, the latter having been heavily implicated in the events complained of. They also called for an independent and more thorough investigation of what really happened that fateful August 1996.

As far as the alleged investigations by Sutton Resources and KMCL are concerned, these companies are themselves accused of being the principal perpetrators of the massacre. They are also accused of collaborating with the security forces and regional and district administrations to thwart efforts to rescue survivors and later to exhume the bodies. They could not, therefore, be expected to be judges in their own cause. And so are the various agencies of the

Tanzanian government and the regional and district administrations. As for the former High Commissioner Edelstein's "inquiries", she has herself admitted that these were limited to "the regional authorities and Kahama company officials"! In other words she inquired from the very institutions and persons accused of directly participating in the alleged crimes. What else did she expect from these sources?

As far as Amnesty International is concerned, Barrick has consistently and deliberately distorted and misrepresented Amnesty International's statements as regards the allegations of the killings. This is what AI's Pierre Sane said in June of 1999 as regards fresh investigations: "We recognize the difficulty of reexamining the incident three years later, with no new evidence on the deaths of the miners and with no civil cases against the government having proceeded. Under these circumstances, we agree that it would not be useful to proceed further." Nothing in this statement can be construed to mean that AI had investigated the allegations and concluded that "it would not be useful to proceed further" as Barrick has deliberately misrepresented. In its Annual Report for 2000, AI states that "the government denied there had been any deaths and rejected AI's call to open an independent judicial inquiry." AI, however, "maintained its criticism of local officials who had violated a court injunction by ordering the mines to be filled, but it was unable to substantiate the allegations of deaths."

Amnesty International's most recent public statement states clearly that it "sent a mission to Tanzania in 1998 to attempt further investigation into the allegations. The mission found that local officials had violated a court injunction by ordering the mines to be filled but it was clear that a transparent and impartial investigation by the government was required to establish the full facts of the case. Amnesty International called on the Tanzanian government for this inquiry but this request was refused with the government denying that any deaths had occurred."

The upshot, as far as AI is concerned, is that as a result of the Tanzanian government's refusal to undertake impartial and transparent investigations "the matter of the deaths remains unresolved." "In this case the facts will not come to light conclusively without a full and open enquiry. We, therefore, recorded that, at this stage, we were unable to substantiate the allegations of deaths reported to us", according to an AI official. He adds that "this does not mean that human rights abuses have not taken place. It certainly does not mean that the government or any other parties should ignore the situation and Amnesty International continues to call for a thorough investigation by the Tanzanian authorities." To state, as Barrick has done, that AI was unable to substantiate the allegations of deaths "after more than 4 years of investigations" is, therefore, a complete and deliberate misrepresentation of the facts by Barrick which reveals a desperate effort to try and hide the truth from public purview.

To conclude on this part, it is obvious that – just as they withheld information concerning the allegations of the killings - Barrick Gold Corporation and their local subsidiary KMCL deliberately withheld reports of any so-called investigations or evidence deriving from the investigations. This was presumably intended to preclude members of the public and public agencies such as the EDC and MIGA from obtaining information regarding the allegations of the killings of the artisanal miners which would have endangered the company's chances of securing political risk guarantees for its Bulyanhulu venture.

## 5. SUBMITTING ERRONEOUS, FALSE AND MISLEADING INFORMATION

Barrick Gold Corporation acquired Sutton Resources and KMCL in March 1999. In August or September of that year it submitted to MIGA and the EDC the Environmental Impact Statement (EIS) for the Bulyanhulu Gold Project in 3 weighty volumes, the Environmental Management Plan (EMP) and Social Development Plan (SDP). The EIS was prepared in May 1998, months before Barrick's acquisition of Sutton Resources and KMCL, but Barrick adopted the documents without change. The two other documents were prepared in June and August 1999 respectively well after Barrick had acquired Sutton Resources and KMCL. All these documents are, therefore, Barrick's own project documents.

These documents provide information that is deliberately contradictory, deceptive and, consequently, unreliable. For instance, the English version of the Executive Summary of Volume One of the *Environmental Impact Statement* (EIS) for the project estimates the population of Kakola, Bulyanhulu's principal village, at approximately 1000 based on data collected in April 1997.<sup>41</sup> However, the Swahili version of the same Executive Summary puts the total population for Kakola at 3,500 people!<sup>42</sup>

Unfortunately, that is not all. Volume Two of the same EIS also provides different figures. For instance, the population at Kakola is variously put at about 1,500;<sup>43</sup> but elsewhere the same report quotes figures from the National Population Census showing a population for Kakola at 9030, the highest in the entire Bulyanhulu area!<sup>44</sup> That of Buluswangiri village, some 15km southwest of Kakola, is put at 12,396 people<sup>45</sup>, but the national census figures quoted in the same document show the population as 1585, an almost eight-fold difference! The *Social Development Plan* for its part puts the number of people currently living in Kakola variously at 943, or 1973, both figures based on the 1988

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41 See paragraph E-1.

42 Paragraph E-17.

43 Paragraph 5-3.

44 See Table 5-1.

45 Paragraph 5-4. It is claimed in the report that that village has 406 households thus making an average household of over 30 people!

population census!<sup>46</sup> No explanation is offered for these widely and wildly divergent statistics in the same documents.

It is with regard to the analysis of the post-eviction socio-economic impacts that deceit and misrepresentations are most pronounced. For example, according to the English version of the Executive Summary for Volume 1 of the EIS, “after cessation of artisanal mining at Bulyanhulu in August 1996, the income of the majority of people declined significantly, the populations in Kakola and other villages in the Ward of Bugarama decreased, and services either decreased or disappeared.”<sup>47</sup> However, this conclusion is nowhere found in the Swahili version of the same Executive Summary!

Likewise, referring to the problems associated with the artisanal mining, the Swahili version of the Executive Summary claims that “after August 1996 these bad impacts were seen to decrease as a result of the removal of the small-scale miners from the Bulyanhulu areas as a result of the government decision (to remove the miners).”<sup>48</sup> However, this version does not mention the fact of the decline in the local economy or the disappearance of social services admitted elsewhere. It is therefore, misleading for it gives the wrong impression that the removals of the small-scale miners yielded only positive results!

Equally misleading and deceitful is the information submitted by Barrick and KMCL concerning the forced evictions. The issue of the evictions emerged again during the fourth quarterly update meeting held at the Kilimanjaro Hotel in Dar es Salaam on September 11, 1997, and attended by both government and KMCL officials. The contradictory – and, at times, evasive - answers given to questions concerning the removals are revealing. For example, when asked whether the Project was involved in the dislocation of people, Sutton Resources’ Antoine Luteijn replied that “there were no people living where we will have operations or buildings.”<sup>49</sup> A short while later, a Mr. Hyera from the Meteorology Directorate asked how could KMCL co-exist with people who already had prospecting licenses in the area. Mr. Luteijn replied that “there were artisan miners and other people there when we started.”

## 6. DESTRUCTION OF LOCAL ECONOMY AND LIVELIHOODS AND IMPOVERISHMENT OF LOCAL COMMUNITIES

Although the EIA reports leave a lot to be desired as we have shown, there, nevertheless, are important revelations. For example, the importance of the artisanal gold mining to the local economy and the local communities and the

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<sup>46</sup> KMCL (1999, *ibid.*, Tables 3.4.1.1 and 3.4.1.3, pp.22-23).

<sup>47</sup> Paragraph E-6.

<sup>48</sup> Paragraph E-24.

<sup>49</sup> See Appendix 12-1, *ibid.*

negative impacts of the forced evictions could not have been rendered more indisputable: “The artisanal mining activities had the positive effect on local households of providing additional income-earning opportunities, increasing disposable income and the number of income generators, and improving services such as transportation and shops.... The closure of small-scale mining had a major negative effect on economic activity, population and social development, which has been felt beyond the immediate mining area.” Likewise, “... it is believed that before the closure of small-scale mines, the average income in the study area was the highest in the Shinyanga region. These have fallen since the closure of small-scale mining.”<sup>50</sup>

Elsewhere in these project documents submitted to MIGA and the EDC it is readily admitted that “the closure of illegal small-scale mining activities and related works at Bulyanhulu had an extensive impact on the socio-economic aspects of local people’s lives. The mine was a source of income to a majority of people, both genuine and ‘illicit’ activities and made life different for many. (These) economic (activities) stopped after the closure.”<sup>51</sup>

Barrick claims that its Bulyanhulu investment has helped to create 1500 direct and indirect jobs. It further claims that these jobs “are among the most coveted in the country” in view of the salary, benefits, training and experience associated with a job with KMCL. These claims have to be taken cautiously as, according to press reports conveniently forgotten by Barrick, hardly five days after the mine was officially commissioned by President Mkapa, close to two thirds of the 26 qualified engineers quit the company citing “low wages, discrimination and mistreatment of local professionals.”<sup>52</sup> The reports had it that the local engineers, all university graduates, had undergone internship training in South Africa but upon returning they were deployed as manual workers at a monthly salary of \$245. In contrast, “artisans from (Great) Britain, Canada, Australia and South Africa with lower qualifications earn \$4,400 per month, besides better housing.”<sup>53</sup>

In any case, 1500 jobs amount to nothing when compared to Barrick’s own estimates of 400,000 jobs and livelihoods that were destroyed as a result of Barrick’s and KMCL’s investment. As the latter’s project documents admit, as a result of the artisanal mining operations, “the lives of the majority of the people in Kakola and the whole of Bugarama Ward became closely linked to mining activities at Bulyanhulu.” According to these documents, “significant sums of money spent in local villages, various markets and businesses also greatly stimulated the development of a local cash economy. There has been a

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50 Paragraph 8-2.

51 See EIS, Vol. 3, paragraph 5-1.

52 See, F. Rwambali, “17 Engineers Quit Tanzania’s Giant Kahama Mines”, *The East African*, Friday August 23, 2001.

53 Ibid.

significant decline in such benefits since the departure of the artisanal miners.”<sup>54</sup> Furthermore, Barrick’s and KMCL’s jobs are out of reach of the local communities whose livelihoods and jobs were destroyed in the first place. According to the *Social Development Plan* prepared by Barrick, “low levels of skills and literacy possessed by the local population will restrict their ability to realise employment opportunities offered by the mining development and will also reduce their ability to seize entrepreneurial opportunities.”<sup>55</sup>

Barrick also claims that its investment is making “a major contribution” to sustainable economic growth and generates income and export earnings which is the key to breaking the cycle of dependency and unsustainable levels of debt in Tanzania. While the company does not give any data to substantiate these claims, evidence exists elsewhere which suggests that the Bulyanhulu investment may in fact be an economic calamity for the country. According to MIGA, the Bulyanhulu project will pay approximately \$75 million in taxes, royalties and duties to the government during the initial 15 years and procure some \$10 million in local goods and services per year.

However, what MIGA does not admit as readily is what the Bulyanhulu investors will reap in return for their investment. Bulyanhulu is considered one of the richest deposits in the world and one of the most profitable with total cash costs estimated at less than US\$130 an ounce.<sup>56</sup> With production slated to increase in the near-term to 500,000 ounces a year from 400,000 ounces originally projected Randall Oliphant, Barrick’s President and Chief Executive Officer has stated: “This property is proving to be a great acquisition, exceeding our high expectations.... These low-cost, high margin ounces will contribute significantly to the bottom line.”<sup>57</sup>

According to Mr. Oliphant, the Bulyanhulu property fits right in with Barrick’s “high margin / high return philosophy.”<sup>58</sup> It is a high margin project because, “taken together, the cost to acquire, develop and produce gold is extremely low at \$185 an ounce.”<sup>59</sup> It is a high return venture because “even at spot gold (prices) of \$260 an ounce, you can see this is a high margin project. And that is without the benefit of higher reserves and lower costs....”<sup>60</sup> All of which, according to

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54 See EIS Vol. 1 paragraph E-6).

55 See SDP at page 36.

56 See, “Barrick gold reserves rise 40% at Bulyanhulu: Expanding potential seen at low-cost operation”, press release by Barrick Gold Corporation, October 4, 2000.

57 Ibid.

58 See, *Speech of Randall Oliphant, Barrick’s President and Chief Executive Officer, to Annual Meeting of Shareholders, May 8, 2001:*

59 Ibid.

60 Ibid. On the basis of these numbers, the total of what Barrick expects to make, comes to

Oliphant, “is what brought Barrick to Buly (sic!) in the first place – as an acquisition that adds value in any gold price environment.”<sup>61</sup> It could not be otherwise since the hundreds of thousands of small-scale miners were forcibly driven off their lands and their artisanal workings without any compensation and since the government is not expected to receive any more than a measly \$5 million a year for the next 15 years as royalties, taxes and other charges!

In conclusion, since Barrick has itself admitted that the small-scale mining operations that were undertaken prior to August 1996 “raised incomes, increased population, and stimulated services, such as transportation and shops”; since this company also admits that these benefits have significantly declined since the forced eviction of the miners and its subsequent acquisition of the Bulyanhulu property, these are matters that both MIGA and the EDC should have critically examined prior to making their decision to support the project with political risk guarantees.

## 7. CONTINUING VIOLATIONS OF HUMAN RIGHTS OF LOCAL COMMUNITIES AT BULYANHULU

In their *Social Development Plan for the Bulyanhulu Gold Mine*, Barrick and KMCL have boasted that there is “currently no apparent conflict between KMCL and customary land holders in the area.”<sup>62</sup> Typically, this claim is also not borne out by the facts on the ground. In just about the time the 3 volume EIS was being concluded in 1998, legal proceedings were commenced in the High Court of Tanzania, at Tabora.<sup>63</sup> The record of the Court describes the sixteen plaintiffs as “peasants engaged in subsistence farming and cattle-rearing at Kakola Village, Bulyankulu Area in Kahama District.” The defendant – Kahama Mining Corporation Ltd. - is described as “a corporation ... engaged in prospecting for and mining gold at the same area.”

In their plaint, the plaintiffs alleged that the defendant company had acquired a mining concession over an area that included their village and had “decided to evict the plaintiffs from their village and grazing lands covering some 10,000 acres.” The villagers also alleged that KMCL wanted to evict them and to dump gold mining waste in their village “which is a violation of their right to health (sic) and unpolluted environment.” The ruling and order of the Court that dismissed the suit for not being properly before the Court are dated June 28, 1999 and July 28, 1999 respectively, barely a month before KMCL published their *Social Development Plan for Bulyanhulu Gold Mine*! These legal proceedings that both Barrick and KMCL must have been aware of are not acknowledged at all in the

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\$2,730 million which, after the \$130 per ounce costs are deducted, brings the figure to some \$2,415 million, or over 32 times what the Government will receive as taxes and royalties from the mine!

61 Ibid.

62 See SDP at pages 11-12.

63 See *Mathias Masalisengwa and 15 Others versus Kahama Mining Corporation Limited*, Civil Case #15 of 1998, High Court (Tabora) (unreported).

Social Development Plan that must have been under preparation during the same period of time. Again this omission appears to have been deliberately intended to preclude both MIGA and the EDC from making a more informed decision regarding Barrick's applications for political risk guarantees.

There is also evidence that both the government and KMCL have continued to use illegal coercion or threats of coercion to evict more people from the Bulyanhulu lands. For example, on May 12, 2000, in a chilling reminder of the removal order that led to the alleged 1996 massacres, the then Kahama District Commissioner, Hawa K. Mchopa issued the following notice:

"NOTICE  
TO THE BARIADI AND NAMBAMBILI VILLAGERS  
NOTICE TO VACATE KMCL PLOTS BY 13/5/2000  
YOU ARE HEREBY ORDERED THAT YOU SHOULD HAVE VACATED FROM  
THE PLOT BELONGING TO KAHAMA MINING CORPORATION LIMITED  
(KMCL) BY 11.00 AM SATURDAY 13/5/2000 WITHOUT FAIL OR DELAY. IF  
YOU DO NOT HEED THIS ORDER YOU WILL BE EVICTED BY THE  
GOVERNMENT WITHOUT FURTHER NOTICE"

The notice was given over a year after Barrick had acquired Sutton Resources and KMCL and consequently the Bulyanhulu Gold Mine. Two issues arise in this regard. Firstly, Barrick has itself admitted - in information made public by its subsidiary Sutton Resources - that it "does not hold interests in land, or any other form of property interest in the Bulyanhulu concession..."<sup>64</sup> In view of this, one wonders why Barrick's subsidiary has been bearing on the Tanzanian authorities to evict the villagers from the latter's lands or to otherwise interfere with the villagers' peaceful enjoyment of their property rights. Secondly, in view of these facts at the companies' possession, why is it that Barrick has not made the information public by disclosing it to both MIGA and the EDC in view of its importance in enabling the two agencies from making a more informed decision regarding Barrick's application for political risk guarantees.

#### 8. LEAT'S EVIDENCE ESTABLISHES PRIMA FACIE CASE FOR INDEPENDENT INQUIRY OF THE ALLEGATIONS OF THE KILLINGS

After over two years of its own investigations, LEAT has collected not only the documentary background not publicly disclosed by Barrick and KMCL, but also the following information from eyewitnesses and family members of the dead miners and from other documentary sources:

1. A list of 36 names of the miners who were allegedly buried alive in mine pits in the course of the events of August 1996.<sup>65</sup> Four other miners were allegedly shot dead by the police while resisting their forcible eviction while

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<sup>64</sup> See Sutton Resources Ltd., Annual Information Form, January 31, 1997

<sup>65</sup> See Appendix 1.

others were allegedly buried alive in pits when shaft filling took place. Apart from these, there are eyewitness accounts that allege that about 22 other miners whose identities remain unknown were also killed inside the mine pits. Then there are eyewitness accounts to the effect that an indeterminate number of other miners who were inside the pits when back-filling took place and who are feared to have died.

2. The numbered pits where the miners died and the names of former owners of those pits as well as names of surviving family members and their whereabouts. Indeed, we have names of survivors, eyewitnesses and family members of the dead miners who are prepared – if an open and independent investigation were allowed – to show investigators where their loved ones perished and lie buried.
3. Copies of written testimony of survivors, eyewitnesses and family members of the dead miners both contemporaneous and more recent. However, given the heightened intimidation and threats against persons who have supplied information to LEAT and recent attempts to buy off potential eyewitnesses on the part of the Tanzanian government officials and KMCL employees, agents and operatives that have occurred since LEAT first made its evidence public, we are not prepared to release these names unless and until we are firmly assured that these acts of intimidation and threats and attempts to tamper with potential witnesses have ceased and their personal safety is guaranteed.
4. Names of government officials from the Ministry of Minerals and Energy, senior police officers, senior regional and district administrators and senior officials from KMCL and Sutton Resources who are alleged to have had a hand in the events that led to the alleged killings and in the ensuing cover up of the crimes. The names and identities of these individuals have already been made public in a recent open letter to the Tanzanian President sent by LEAT.
5. Eyewitness accounts that suggest that the information given by artisanal miners to the police and KMCL officials once back-filling began to the effect that there were other miners still inside the mine pits was dismissed and that subsequent attempts to rescue those trapped underground - some of whom were said to still be alive and crying out for help - were thwarted by the police and KMCL officials present.
6. Videotapes shot during the eviction operation and subsequent to the emergence of the allegations of the killings in the Tanzanian press. The videos show, among other things, the process of eviction and widespread destruction of property that was occasioned by KMCL and the Tanzanian government agencies. They also reveal senior police officers from the national police headquarters who were sent to investigate the allegations moving from pit to pit where they are told information about the number and

identities of the miners allegedly buried in particular pits. They also show the police viewing the remains of dead bodies and in fact the former Kahama District police chief is shown indicating the remains of a dead body that had "just been exhumed." Even more revealing, the videos show bodies of dead miners being pulled from one pit and another miner being pulled alive but instead of being given medical care he is subjected to intense interrogation by police officers with the result that he is said to have also died a short while later.

7. Numerous photographs of over a dozen dead bodies taken in various localities of the Bulyanhulu mines immediately after the evictions and eventual sealing of mine pits by KMCL. As well as these there are photographs that indicate widespread damage to property that occurred during the evictions.

We believe that in view of this new evidence and in view of the deplorable conduct of the companies involved, there is every reason for the EDC to suspend, with immediate effect, the political risk guarantees that it issued to Barrick last year until the following actions have been taken:

1. An international commission of inquiry composed of persons of undoubted integrity and independence is established to thoroughly inquire into, and make recommendations upon, the facts and circumstances of the events of August 1996.
2. An international panel of experts has been formed to undertake a thorough and unhindered exhumation of all the mine pits that are known or alleged to contain the bodies of the dead miners.
3. Proper and dignified burials befitting of human beings have been carried out without let or hindrance.
4. Reparations and full, fair and adequate compensation is paid to the families and relatives of all those who were killed or maimed; and to all those who lost property and whose sources of livelihoods were destroyed without recompense.
5. Decisive and immediate legal measures are taken by the Governments of Tanzania and Canada to bring to book all those who are known, or may be known, to have directly, or indirectly, been responsible for the deaths that occurred in Bulyanhulu that fateful August 1996 or for subsequent attempts to cover up the deaths. This would also include the Canadian and Tanzanian officials of Barrick Gold Corporation, Sutton Resources and KMCL who held, or continue to hold, positions of authority in the companies named above both before, during or after the period in question.

6. A public and unreserved apology be given and widely published by the government of Tanzania, Barrick Gold Corporation and their Tanzanian subsidiary KMCL to all the families and relatives of the dead miners, to the maimed and to the individuals and communities that lost property and their livelihoods as a result of the events of August 1996.

These are the minimum demands that we submitted to President Wolfensohn of MIGA and the World Bank Group on August 23, 2001. We remain steadfast in our belief that they constitute the basic framework for resolution of the serious allegations of human rights abuses in Bulyanhulu.

We remain truly yours,

Rugemeleza A.K. Nshala  
PRESIDENT

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Canadian High Commission

Dar es Salaam

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