

The Northern Miner

Commentary: Taking on PBS and the New York Times

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The Public Broadcast System's *Frontline* special on "The Curse of Inca Gold," which will air on Oct. 25, 2005, and the accompanying *New York Times* investigative series, will put the gold mining industry under heightened levels of scrutiny. While the PBS program is focused primarily on the experience of Newmont Mining in Yanancocha, Peru, the publicity will create new pressures for all gold mining companies.

One of the chief architects behind this new campaign is veteran *Frontline*/*New York Times* correspondent Lowell Bergman, famously played by Al Pacino in the movie *The Insider*. Bergman is known not only for sensationalist television programs but also for his ability to use these programs to directly bring about change in industry behavior. His programs have led to massive lawsuits and major changes in government policies towards companies, costing firms billions of dollars.

Why is this story being told now? It's a question that many executives are pondering, particularly given the investment that the gold mining industry has made in addressing social and environmental issues in recent years. Although there is no definitive explanation, there are a number of factors that provide insight into the timing of this campaign:

* **the high gold price** -- with gold prices hovering at record-highs and companies aggressively expanding globally in search of new quality assets, the industry is uniquely vulnerable to activist pressure.

Companies in this environment have money to spend on social and environmental issues, and are looking to minimize all obstacles to growth. Media and advocacy groups are aware of these dynamics and are looking to exploit them.

* **The Peruvian elections** -- the presidential elections in Peru, which will take place in April 2006, will have an enormous impact on the business climate in the country, particularly for mining companies.

By creating a public outcry about one of the best-known gold mines in Peru, activists hope to keep the pressure on mining companies in the pre-election period. They also want to make it difficult for whoever prevails in the election to take a more pro-business attitude afterwards.

* **Newmont's Indonesian troubles** -- a Newmont executive, Richard Ness, is currently on trial in Indonesia for allegations of environmental pollution, and the trial is expected to conclude within several months. The contextualization of the program/campaign around the trial will result in higher levels of visibility and public attention.

How does this campaign differ from those before it? This one aims to be a "total supply-chain" attack that will incorporate pressure from customers and consumers.

Unlike previous campaigns which have focused directly on gold mining companies, this initiative is looking to change industry behavior by also targeting consumers' and jewelry merchants' sourcing practices.

Today, most of the social and environmental concerns related to gold mining are not well known outside of the industry. This strategy, often called "End User Market Campaigning," has been applied by non-governmental organizations in industries like diamond mining, pulp & paper, and footwear/apparel.

The goal is to create new levels of public awareness that will influence consumers' buying practices and in turn exert pressure on mining companies to alter their operating practices or risk losing valuable customers.

End User Market Campaigns look to steer consumers away from products that, according to advocacy groups, have social or environmental issues. After securing purchasing practice commitments from industry leaders, NGOs would use that leverage to obtain similar commitments from competitors in the industry.

With jewelry production accounting for the largest share of final gold demand -- worth around US\$35 billion at the annual average gold price in 2004 -- the impact to the industry could be significant.

Ultimately, from the activists' perspective, a campaign here will be deemed successful when the term "Dirty Gold" becomes as ubiquitous as references to "Nike and sweatshops" and "Conflict Diamonds."

There are a number of direct operational implications that firms should expect from this campaign in the short to medium term.

Heightened levels of NGO campaigns and community opposition will put significant pressure on new ventures, projects being permitted, and existing assets.

The upcoming PBS program/*New York Times* series will create new levels of negative visibility for the industry which will make it an even greater target for advocacy groups.

Groups like Oxfam America and Earthworks, who have been at the core of the "No Dirty Gold Campaign," should see a boon in media attention and increased funding. This campaign will make both groups even more formidable opponents in the marketplace. We expect other local, national and international groups to join the campaign given the rising momentum. NGOs will have more resources to mobilize communities and communities will have an even greater incentive to voice their opposition in light of the media coverage.

New litigation from activists and their own shareholders will emerge leading to unforeseen costs, permitting delays, and new pressures on management teams.

The risk of litigation will come from two directions. On the one hand, activists and NGOs will attempt to use the courts in order to slow down or stop projects in frontier areas. On the other, shareholders may sue management teams and boards for violations of their risk management responsibilities under Sarbanes-Oxley and other laws if large investments are lost due to "predictable" environmental or social challenges.

Thus, boards and CEOs will have to revamp their due diligence processes in order to protect shareholders and themselves from legal action.

We believe that it is also important for companies to consider the potential structural implications of this campaign -- along with other geopolitical trends -- on host country regulatory regimes, government negotiations, and industry competition in the medium to long term timeframes.

Below are a number of operating environment scenarios that we believe management teams should evaluate:

* Companies working in emerging democracies may face new regulatory pressure resulting in higher costs of doing business and longer permitting timetables.

Companies operating in countries such as Ghana, Peru and Indonesia should prepare for potential new regulations around environmental and social practices. This may include calls for independent, external monitoring and verification of operating practices at mine sites -- not unlike those in the diamond, paper, and apparel industries.

NGOs have long sought to influence government officials in order to change host country agreements and affect environmental and other regulations governing the mining industry in these countries. With increased NGO activism and the availability of an enormous international media spotlight, it will be more difficult for governments to resist these changes.

Particularly given the high price of gold, many governments may find little justification (if they seek one at all) to avoid a review of revenue-sharing agreements and the implementation of new regulations. Such actions will no doubt increase the cost of doing business and permitting timeframes.

* New environmental and social issues may be exploited by some governments as a pretext for changing contract terms and potentially re-nationalizing assets.

We believe that companies may face risks around property rights and contract terms both in emerging democracies and authoritarian regimes such as those in Central Asia. Countries that are interested in changing revenue-sharing agreements or re-nationalizing assets may begin using environmental regulations as a pretext for changing the rules "in the middle of the game."

This process has already begun in Kazakhstan. The Kazakh government is using environmental regulations to create problems for companies whose assets were privatized in the early 1990s because the government believes those assets were privatized on the cheap and must now be "re-sold" at true market prices.

* The playing field may become more uneven for Western gold mining companies competing with emerging players from the developing world.

Competitors from China, India and Turkey who may not be subject to the same ethical and social pressures as their western counterparts will have significant cost and operational advantages in frontier areas.

These players may use the increased reluctance of western firms to invest in frontier countries to carve out their own areas of influence. The result may be increasing challenges in replacing reserves for Western firms.

The *Frontline* documentary on the "Curse of Inca Gold", the associated NYT investigative series, and the planned protests will create new operational and reputation challenges for the industry.

There is certainly the potential for a "perfect storm" against the industry with heightened pressure from NGOs, customers, host governments and shareholders.

While companies have been investing significant resources in addressing social and environmental concerns around their operations for some time, the response to these new challenges will be a seminal event for the industry.

The key question that will be asked by many executives is whether there is any advantage in one company taking the lead in how it responds to this campaign, or whether individual companies are better off waiting for a broad industry consensus to develop and responding as an industry.

Two examples are worth noting. In response to calls for the delivery of cheap HIV/AIDS medications to the developing world, the pharmaceuticals industry waited with no individual player taking a lead. As a result the entire industry suffered heavily in terms of its brand and reputational damage.

In the diamond industry, De Beers took the lead in supporting the Kimberley Process certification scheme designed to prevent conflict diamonds from entering the global diamond trade. It gained significant market leverage as many of its smaller competitors were not able to offer the same type of assurance.

Regardless of the course of action they choose, CEOs and boards of directors must proactively mobilize their organizations to prepare for the coming challenges.

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