UNDERSTANDING THE "SOCIAL LICENSE TO OPERATE": THE CASE OF BARRICK MINING AND THE PASCUA LAMA PROJECT

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Abstract: The Barrick Gold Company of Toronto is currently seeking to develop one of the largest gold reserves in the world. The project is called "Pascua Lama" and rather dramatically contrasts Barrick's interests against a coalition of environmental and community activists. This paper describes the basics of gold mining, the Barrick Gold Company, the primary arguments in favor and against the Pascua Lama project. These elements are instructive examples of critical concepts such as stakeholder engagement, legitimacy and sustainability. In addition to reviewing these elements some "sense-making" will be offered.

Keywords: mining, social license to operate, South America

BACKGROUND ON GOLD MINING

Gold has a long history as a highly desirable and elusive resource. The search for gold drove much of the European colonization of the New World. Throughout the nineteenth and much of the twentieth centuries gold was an important anchor to most countries' currencies. Today demand for gold remains strong due to its popularity in jewelry, industrial applications and as a financial investment that can hedge against uncertainty. Jewelry accounts for about two-thirds of the annual demand for gold (World Gold Council, 2010).

Gold mining operations take place on every continent with the exception of Antarctica. Annual mining output has remained relatively stable during the 2004 – 2008 period (approximately 2, 485 metric tons). In 2008 China was the world's leading gold producer (288 mt) followed by the United States (234 mt), South Africa (232 mt), Australia (225 mt) and Peru (175 mt) (Goldsheet Mining Directory, 2010).

The days of finding large nuggets of gold with a shovel or mining pan are a distant memory. The vast majority of gold reserves may be concentrated in certain locations, but the gold itself is highly dispersed with other minerals and soil. Mining operations involve six core activities: finding the ore body; creating access to the ore body; removing the ore by mining or breaking the

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ore body; transporting the broken material from the mining face to the plants for treatment; processing; and refining (World Gold Council, 2010).

The Pascua Lama project is an example of open pit mining. This form of mining removes or “strips” a layer of earth to gain access to material containing gold. Drilling and blasting operations are sometimes required to break up mined material and prepare it for transport. At Pascua Lama materials are transported about three kilometers via an overland conveyor for processing. A key process element is cyanidation, where cyanide is used as a leeching agent to help extract gold from embedded earth. (AngloGold Ashanti, 2008). This type of mining obviously presents a particular range of risks.

BARRICK GOLD COMPANY

Barrick Gold Corporation, based in Toronto Canada, is the largest gold producer in the world (www.hoovers.com). In 2008 Barrick had $C 1.396 billion in operating income in on revenues of C$ 7.913 billion. Though sales increased to US$ 8.1 billion in 2009, Barrick took a US$4.3 billion loss due to the cancellation of multiple hedge contracts. Its annual gold production totals almost eight million ounces a year. Barrick also has silver and copper mining operations. Barrick operates mines in several countries in North America, South America, Australia and Africa.

According to Barrick’s website its vision is …”to be the world’s best gold company by finding acquiring, developing and producing quality reserves in a safe, profitable and socially responsible manner.” In 2009 the Dow Jones included Barrick in its Sustainability World Index for a second consecutive year. The company provides an extensive list of reports and other disclosures in accordance with the Global Reporting Initiative’s (GRI) G3 standards. Barrick has also been a member of the U. N. Global Compact since 2005.

Barrick is not a stranger to criticism about its operations. In 2008 a book entitled <u>Noir Canada</u> claimed that Barrick was at least partially responsible for the deaths of mining activists in Tanzania. Barrick sued the publisher, Écosociété of Québec. Barrick is also the principal company involved in a mining joint venture in Papua, New Guinea. The mine has aroused significant opposition in Canada and New Guinea with claims of forced evictions and violent suppression of opposition (Koven, 2010).

THE PROJECT: PASCUA LAMA

In 1994 Barrick acquired another Canadian gold mining company, Lac Minerals Ltd. With this acquisition came the rights to the Pascua Lama reserves. At first Barrick did not aggressively pursue development. But as price of gold and the estimated available reserves began to rise, Pascua Lama became increasingly attractive.

Pascua Lama’s gold reserves are now estimated at 17.8 million ounces, up from 2.3 million at the time of its acquisition. Silver and copper deposits are also prominent. Pascua Lama is a high-elevation (3800- 5200 meters) project site situated in the northern Andes Mountains and straddles Chile and Argentina. Construction costs are estimated at $3 billion (this figure comes from Barrick's web site, it is unclear if this amount is expressed in Canadian or U.S. currency). Annual extraction is expected to be 750,000 – 800,000 ounces of gold and 35 million ounces of silver. This mine could be among the most cash efficient in the world with costs expected to be about $20 – 50 per ounce.

The majority of the mineral reserves lie in the Chilean jurisdiction ("Pascua"), whereas most of the mining operations will take place in Argentine territory ("Lama"). The shared nationality of this project site was a matter of considerable difficulty and heighten risk for Barrick. Bi-national approvals for environmental permits and tax treatment needed to be negotiated (Knowledge @ Wharton, 2009).

THE CASE AGAINST BARRICK AND PASCUA LAMA

This project has engendered considerable opposition from several organizations and the local farming community. One of the central objections to Pascua Lama is the impact on three nearby glaciers. Access to principal gold sources must go through, around or under these glaciers. In a low precipitation area these glaciers represent a critical watersource for residential and agricultural purposes. Barrick's original plans called for the partial destruction of some glacial areas, and even moving others (Santiago Times, 2009). The company changed these plans in response to concerns from the Chilean government.

There are also reservations about the use of cyanide in this location. The elevation of this mine brings some challenges on the workers and equipment. Hence there may be an increased risk of spills, leaks and accidents and several operational stages (Fields, 2006).

Impact on the neighboring communities has provoked the vituperative condemnation of Pascua Lama. According to one anti-Barrick activist:

> …. the execution of Pascua Lama mining project is illegal because it violates human rights guaranteed by the international and national system of law. In the particular case of the Diaguita Agricultural Community Los Huascoaltinos, the Pascua Lama project is executed *against the will of this indigenous community*, (emphasis added) who has turned to the Inter-American Commission on Human Rights to ensure the protection of their rights. (protestbarrick.net, 2009)

THE CASE SUPPORTING BARRICK AND PASCUA LAMA

Barrick has provided a vigorous defense to charges that Pascua Lama will be damaging to local interests and that the company has been unconcerned to those interests. There is a series of online reports (very colorful and professionally-designed) entitled "Beyond Borders" available on their website. A few years ago an online petition, highly critical of Barrick and Pascua Lama, circulated via email ("Say 'No' to Pascua Lama"). Barrick's response to the assertions in this petition was rapid and, apparently credible.

The Canadian Mining Journal, an industry publication, recently ran a five-article series entitled "Special Report on Pascua Lama". Naturally the series is quite favorable to Barrick. This series credits the Barrick with several strong engagement actions. These actions include:

- Establishing community offices in local towns and villages to engage local residents.
- Holding "nearly 1000 meetings and dozens of open houses in the affected areas".
- Seeking input from the "world's leading glaciologists". There will be "the most detailed, localized glacier measurement system in the world".
- Using "engineering advances and design improvements" to address community concerns.
- Designing a sophisticated "multiple-barrier water management system" to limit downstream effects. Wastewater from ore-processing will be "captured, recycled and reused to minimize withdrawal of fresh water". Barrick is estimating a 0.5% diversion rate from the Huasco River (which flows into Chile) and 6% from the Las Taguas River in Argentina.
- Investing in a nearby wind farm.
- Establish an "Atacama Commitment", an alliance with the U.N. Global Compact and three Chilean NGOs. The program is focused on improving "… housing, technology, education and health services.. " in an area that struggles with economic development issues (White, 2009).

Barrick's responses appear to represent a good-faith effort at constructive, proactive stakeholder engagement. Still, there are questions. Of what value are "offices", "meetings" and "reports" if a firm has a pre-determined set of intentions? Are "advanced monitoring", "design" and "sophisticated systems" effective responses to genuine issues of community concern?

CONTEXTUALIZING THE CONTROVERSY: LESSONS FROM PASCUA LAMA

At its heart, the Barrick/Pascua Lama controversy is neither unique nor new. For centuries developed nations have sought access to resources in Latin America. The legitimacy of these efforts has varied considerably. Sometimes these efforts were based on mutual respect and benefit; oftentimes they focused on enriching the narrow interests of distant and elite groups. The region is not unfamiliar with violence and brute force as tactics for resource extraction. Explanations are complex and beyond the scope of this paper. It remains important to keep in mind that Latin America has a unique history of economic, social and political turmoil. This history has often been driven by persons and circumstances outside their own sphere of influence.

Social license to operate

"Social license to operate" (SLTO) is a compelling concept, suggesting that a firm's legitimacy depends on a varied and complex web of actors. The face value of this phrase should appeal to scholars and practitioners with an interest in issues such stakeholder engagement, social responsibility and public policy.

Social license to operate is a concept closely associated with the mining industry. The nature of mining presents an array of vexing environmental challenges such as resource extraction, land-use management and pollution. Other challenges include impacts on surrounding communities and industries (such as agriculture). For these reasons mining operations tend to be very regulated in most countries. However regulatory compliance is likely to fall far short of meeting a minimal and necessary level of stakeholder expectations. An alternative orientation is necessary.

Watson (2008) describes "social license to operate" as the "… the global pressure imposed on multi-national companies to meet at least minimum standards in their operations around the world." Responsible mining companies meet these pressures through strategies such as good community relations, water management, energy use, waste management, and reclamation.

Gunningham, Kagan and Thorton (2004) emphasize "going beyond compliance" as firms consider the extent and nature of their social obligations. They interviewed managers in fourteen paper mill/pulp processing facilities (U.S., Canada and Australia/New Zealand), asking them about how a social license creates a margin of safety for their firms, how the terms of such a license are established, and how the process interacts with legal and regulatory compliance. Going beyond compliance can be an advantageous posture in a number ways, in particular as part of risk management strategies. Firms that effectively listen, engage and respond to community concerns as less likely to encounter expensive and more hostile constituents.

Two other articles analyze cases of Canadian gold mining companies establishing gold mining operations in Latin America. Fulmer, Goday and Neff (2008) review Goldcorp's Marlin mine in Guatemala through four perspectives: Guatemalan mining laws, local participation, international law (in particular I.L.O. convention number 169) and CSR. Despite notable opposition from some sectors of the community the mine was approved, built and operates today. The process led the authors to conclude that none of the four legal or social controls "… has the combination of coherence, political will and the ability to ensure compliance that would make for a dependable source of rights protection" (p. 113). They are particularly skeptical of CSR's ability to provide such protection. Systemic imperatives inclined toward increasing financial rewards are too likely to overwhelm any noble intentions.

Collins (2009) analyzes Pacific Rim's El Dorado mine in El Salvador. Initially the mine received the necessary authorizations from the El Salvadorian government, but these were rescinded in the face of continued opposition. Collins concludes that Pacific Rim .. "became a symbol for everything that was wrong with MNCs threatening the local culture, no mater how socially responsive the company or economically impoverished the local population." (p. 263).

Together these analyses suggest an important implication for Barrack: a social license can be fragile and fluid.

Legitimacy and embeddedness

The struggles between north and south, between capital and labor have been at the center of extensive discussions. Can these different chasms coexist, even prosper with one another? At one extreme we have what has been termed the "resource curse" perspective, suggesting that natural resources endowments found in Latin nations are the seeds of exploitation. This perspective is portrayed in a rather grim manner by Uruguayan scholar Eduardo Galeano (1973) in his well-known treatise, The Open Veins of Latin America. According to Galeano,

> the history of Latin America's underdevelopment is, as someone as said, an integral part of the history of world capitalism's development. Our defeat was always implicit in the victory of others; our wealth has always generated our poverty by nourishing the prosperity of others." (p. 12).

Galeano's words are likely to inflame almost all neo-liberal, pro-market scholars (which are well represented within IABS), and deliberately so. The value of his words here lies not in an abandonment of our principles, but in our acknowledgement that, on occasion at least, our interests (meaning the interests of those who directly benefit from the growth of developed economies) and the principles upon which they have been based have provided very skewed benefits.

Historian Warren Dean provides another bleak view of the unintended consequences of mineral endowments. In With Broadax and Firebrand Dean (1994) takes an historical perspective on the extensive changes to the Brazilian Atlantic rain forest. Mining interests contributed to the extensive displacement of natural and indigenous systems.

> The installation of a mining economy had direr consequences than the fire and sword of war. The mines required a great displacement of people and dislocated agricultural communities; they took countless lives through forced labor, but also indirectly destroyed the collective farming system. The Indians were taken into the mines, were forced to submit to the service of the *encomenderos,* and were made to surrender for nothing the lands which they had to leave or neglect. On the Pacific coast the Spaniards destroyed or let die out the enormous plantations of corn, yucca, kidney and white beans, peanuts, and sweet potato; the desert quickly devoured the great tracks of land which the Inca irrigation network had made abundant. (p. 55)

My purpose here is neither to endorse nor discredit the perspectives offered by Galeano or Dean, but rather to note a rather strongly held view that this part of the world has often suffered at the whims of economic expansionism from outsiders.

Legitimacy, again, is a central construct in stakeholder relationships (Mitchell, Agle and Wood, 1997). Assessing the desirability or moral appropriateness of a particular set of claims is not a straightforward task. From the firm's point of view there is probably a different standard for addressing certain claims, such as those coming from NGOs, community activists or indigenous groups, than from those groups themselves. For such stakeholder groups their claims may be rooted in matters of cultural or historical significance, matters where common appreciations are not likely to be shared. As in the case of Barrick it may be difficult to address the suspicions that come with their investments, since their presence is sudden and dramatic in it consequences.

One crucial characteristic of the Pascua Lama project is the dual jurisdiction of Chile and Argentina. Barrick has already navigated a complex, sometimes conflicting set of tax and environmental requirements. The political risk of such projects is naturally much higher (Knowledge @ Wharton, 2009). In a corollary way the social risks may also be greater; over time stakeholder pressures on one side of the border may diminish but increase on the other. At this point my review of the social activism associated with this project does not reveal strong association with nation (although admittedly such associations may exist and I have yet to discover them). The political and legal interplay with social activism over the life of the Pascua Lama project is another matter that may be instructive.

As construction of the mine is now underway and operations will soon begin, the Barrick case will be a good one for continued attention. Its success, and failures, will be particularly instructive for other firms. These lessons will be particularly useful for firms whose operations have significant natural resource implication, and especially in cases involving foreign direct investment.

REFERENCES

AngloGold Ashanti. 2008. Report to Society: 2008. http://www.anglogold.com/subwebs/InformationForInvestors/Reports08/ReportToSociety08/a/gold.htm accessed January 19, 2010.

Barrick Gold Corporation. www.hoovers.com accessed October 9, 2009.

Barrick's Pascua Lama project denounced as illegal. http://www.protestbarrick.net/article.php?id=456 accessed October 15, 2009.

Chile: Pascua Lama mine gets final approval. 2009 *Santiago Times*, September 24.

Collins, D. 2009. The Failure of a socially responsive gold mining MNC in El Salvador: Ramifications of NGO mistrust. *Journal of Business Ethics,* 88: 245- 268.

Dean, W. 1994. *With Broadax and Firebrand.* Berkeley: University of California Press.

Fields, S. 2006. The Price of gold in Chile. *Environmental Health Perspectives*, 114(9): 536-539.

Fulmer, A. M.; Godoy, A.; & Neff, P. 2008. Indigenous rights, resistance and the law: Lessons from a Guatemalan mine. *Latin American Politics and Society*, 50(4): 91-121.

Galeano, E. (1973) *Open Veins of Latin America*. New York: Monthly Review Press.

Gold Mining Sheet. http://www.goldsheetlinks.com/production.htm accessed March 17. 2010

Gunningham, N.; Kagan, R.A.; & Thorton, D. 2004 Social license and environmental protection: Why businesses go beyond compliance. Law and Social Inquiry, 29: 307- 341.

Knowledge@Wharton 2009. Pascua Lama: A Lesson for Future Cross-border Mining Project. http://www.wharton.universia.net/index.cfm?fa=viewArticle&id=1645&language=english January 21, 2009.

Koven, P. 2010. Don't mention Avatar. *Financial Post*. March 5.

Mitchell, R., Agle, D. and Wood, D. 1997. Toward a theory of stakeholder identification and salience: Defining the principle of who and what really counts. *Academy of Management Review,* 22: 853- 886.

Pascua Lama: A Lesson for Future Cross-border Mining Projects. 2009 Universia: Knowledge @ Wharton. http://www.wharton.universia.net/index.cfm?fa=viewArticle&id=1645&language=english accessed January 15, 2010.

Pascua Lama. http://www.infomine.com/suppliers/minedevelopments/pascualama/welcome.asp accessed February 2, 2010.

Watson, A. 2008. Incorporating sustainability into mining services. *Engineering and Mining Journal*, September.

White, N. J. 2009. Special report on Pascua Lama (Parts II- V). *Canadian Mining Journal*, September 27- October 7.

World Gold Council. (2010). Why Gold? http://www.invest.gold.org/sites/en/why_gold/demand_and_supply/#mine_production accessed February 6, 2010.