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**PRESS RELEASE**

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**Appeal of Buyat Bay Case is Prohibited by Indonesian Law;  
Local Prosecutors Expose Richard Ness and PTNMR to Double Jeopardy**

JAKARTA (22 May 2007) -- Yesterday (Monday, 21 May 2007), local prosecutors in the Buyat Bay case filed a memorandum of appeal in an attempt to overturn the verdict in the Buyat Bay case. Indonesian law does not allow the prosecutors to appeal the Manado District Court's judgment of acquittal. The appeal has, therefore, been filed in violation of the law.

On 24 April, a panel of five judges exonerated PT Newmont Minahasa Raya and President Director Richard Ness in a comprehensive decision finding them innocent of all charges and suggesting the case should have never come to trial. Indonesian law is specific in prohibiting an appeal when the defendant is acquitted of all charges as was the case with PTNMR and Ness.

"Indonesian law states appeals are not permitted when the defendant is acquitted," said Luhut M.P. Pangaribuan, lead counsel for PTNMR. "This appeal has been filed in violation of the laws of Indonesia. If the laws can be ignored in this manner, this poses a threat to all who are subject to Indonesian law - both Indonesian citizens and foreigners."

Articles 67 and 244 of the Law on Criminal Procedure (KUHAP) clearly specify the circumstances in which an appeal is not permitted:

*Article 67: A defendant or public prosecutor shall have the right to appeal against a decision of a court of first instance except against a decision of acquittal, a dismissal of all charges related to a matter of inappropriate application of law and a court decision under express proceeding.*

*Article 244: The defendant or the public prosecutor may file a request for an examination of an appeal to the Supreme Court against a decision on a criminal case rendered at the final instance by a court other than the Supreme Court, except with regard to an acquittal.*

In addition, article 14 paragraph (7) of the International Covenant on Civil and Political Rights (ICCPR), ratified to become part of the law of Indonesia with Law No. 12 of 2005, outlaws "double jeopardy":

*Article 14 paragraph (7) ICCPR: No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country.*

"Considering that the Manado District Court spent nearly two years reviewing the evidence and found the charges without merit, and that the Court further concluded that the prosecution's case had no business being in court in the first place, this appeal is a complete

For further information, please visit our website [www.newmont.co.id](http://www.newmont.co.id) or [www.BuyatBayFacts.com](http://www.BuyatBayFacts.com)

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waste of everyone's time and Indonesian taxpayers' money. More importantly, this appeal is against the law," said Rick Ness. "The people of Buyat Bay, my family and I have suffered long enough from this hoax."

In their 279-page verdict, the panel of judges in the Buyat Bay criminal trial concluded that the police improperly handled evidence. Moreover, the judges took care to review several studies by respected, independent institutions--among them the UN's World Health Organization and Australia's CSIRO--showing that residents did not suffer any adverse health impact from the mine, that the water was clean and unpolluted and that the fish population is healthy in number and safe to eat. During the trial, the judges ordered their own sampling of the water by an independent, certified laboratory, and the results showed the water quality well within applicable standards. The judges also ruled that PT NMR had all the necessary permits and operated safely and appropriately.

"The Manado District Court's verdict could not have been more thorough, more decisive and more in line with the law in its complete exoneration of Rick Ness and PT NMR," Pangaribuan continued. "We're puzzled as to why the prosecution thinks an appeal will yield a different result, especially an appeal that is in contradiction to law."

Under the ICCPR (quoted above), Indonesia has guaranteed that a person who is finally acquitted will not be tried again over the same matter. The concept – no double jeopardy – is recognized around the world. The effect of this improper appeal is to violate the principle of no double jeopardy. As the Buyat Bay case has been finally determined and cannot be appealed, the effect of the appeal is to start a new – and prohibited -- trial in the Supreme Court.

"I am confident that the Government of the Republic of Indonesian will follow the law and its international commitments to human rights," said Ness. "Upon review, the Attorney General will surely instruct the local prosecutors to withdraw an appeal that is prohibited by the law."

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