



Indictment of PTNMR and Rick Ness

August 2005

Trial Process

The Newmont logo consists of the word "NEWMONT" in a bold, blue, sans-serif font. Above the letters "O" and "M" is a stylized blue and yellow graphic element that resembles a mountain peak or a wing.

- Trial began Friday, August 5, 2005, in the Manado District Court in North Sulawesi.
- Panel of 5 judges has been appointed.
- Trial expected to take from 6 to 8 months (one hearing per week).
- Preliminary “exceptions” expected to be resolved within one month.
- Prosecutor opens with evidence, expected to last up to 3 months; PTNMR presents defense afterwards for similar period.
- Status of 5 other employees as suspects not officially terminated. Prosecutor says there is no material evidence against them.

Indictment: Alleges Violation of Law 23 of 1997

- ❑ PTNMR and Rick Ness are charged with breaching Articles 41- 44 of Law No. 23 of 1997 on Management of the Environment.**
- ❑ Breach of only one article need be proven.**
- ❑ These articles, in general, make it a crime to intentionally or negligently engage in acts resulting in “environmental pollution.”**
- ❑ “Environmental pollution” is defined as impairing the ability of the environment to perform designated functions.**

Indictment Alleges Violation of Articles 41- 44 Based Upon the Following:

The logo for Newmont, featuring the word "NEWMONT" in a bold, sans-serif font. Above the text is a stylized graphic element consisting of a blue and yellow swoosh that curves upwards and to the right, resembling a mountain peak or a stylized 'N'.

PTNMR committed the following “acts”:

- 1. Operational exceedances of permit standards.**
- 2. Disposal of tailings without a valid STP permit.**
- 3. Disposal of tailings as hazardous waste (B3).**
- 4. Tailings were placed in the mixed layer, not below the thermocline, in violation of the ANDAL.**

These “acts” resulted in environmental pollution because:

- 1. Seawater in Buyat Bay is contaminated with arsenic (As) and mercury (Hg).**
- 2. Marine biota in Buyat Bay contaminated with As and Hg.**
- 3. Local residents contaminated with As and Hg. Residents suffer from itchiness.**

Indictment: Allegations Concerning Rick Ness

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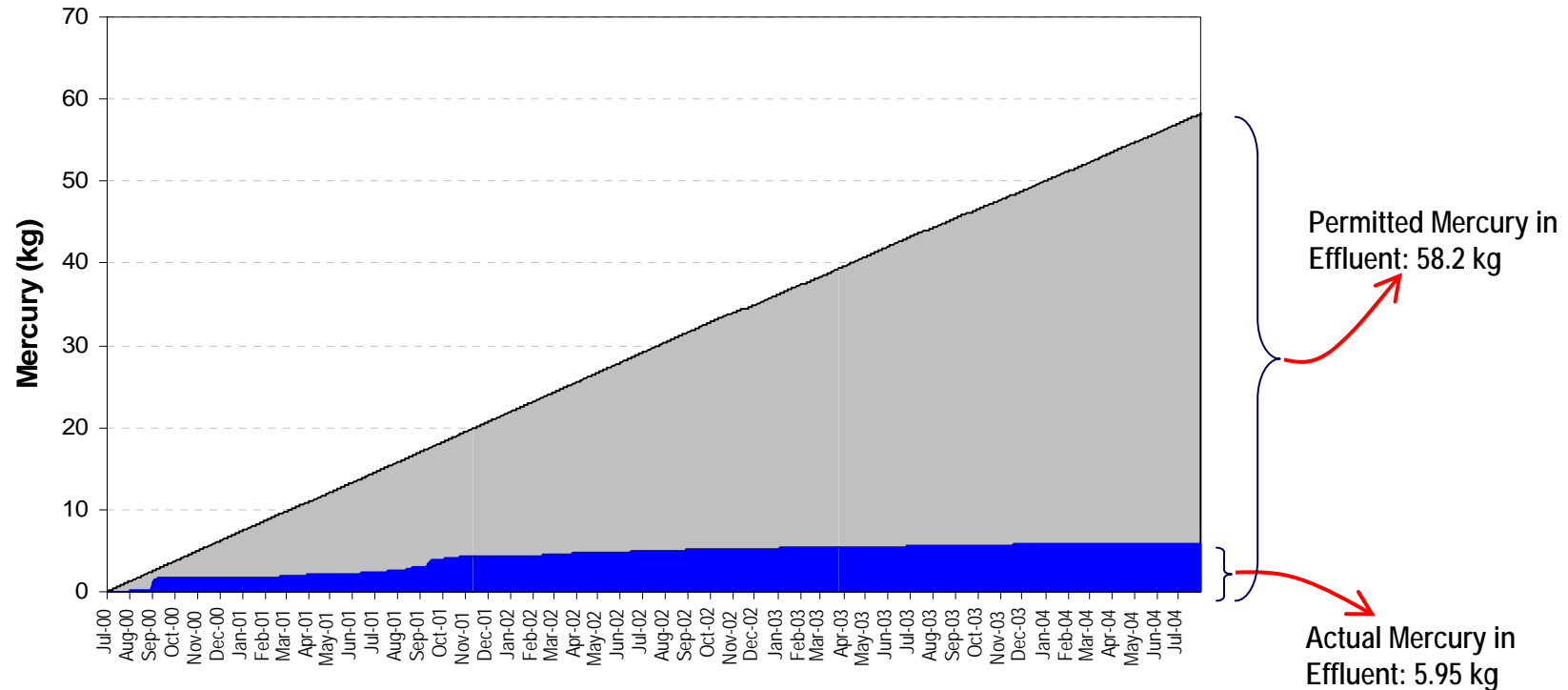
- ❑ Indictment alleges that Rick, as President Director, is responsible for “unlawful acts” committed by PTNMR.**
- ❑ Charged in his personal capacity.**
- ❑ Law provides for a sentence of up to 10 years in prison.**
- ❑ Defense: The law requires allegations of affirmative acts before a President Director can be charged with a crime. The indictment does not contain a single accusation of an affirmative act committed by Rick.**

PTNMR Response

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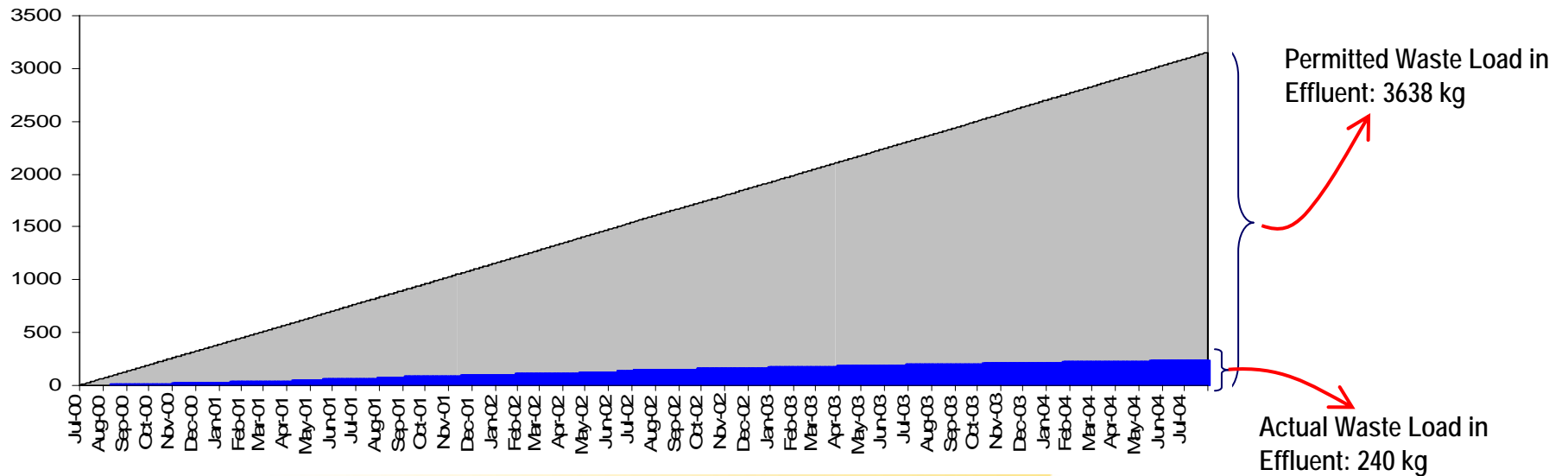
- PTNMR's operations have not harmed the seawater, the fish, or the people of Buyat Bay – there is no environmental pollution.**
- Regarding As and Hg, based upon average monthly concentration values, only one exceedance of regulatory standards occurred.**
- Exceeding a standard is not a criminal act.**
- PTNMR tailings are not hazardous waste (B3).**
- PTNMR placed tailings below the mixed layer of seawater and the thermocline.**
- PTNMR had a valid permit to place tailings on the seabed in Buyat Bay.**

Permitted Mercury Load in Effluent, 2000-2004



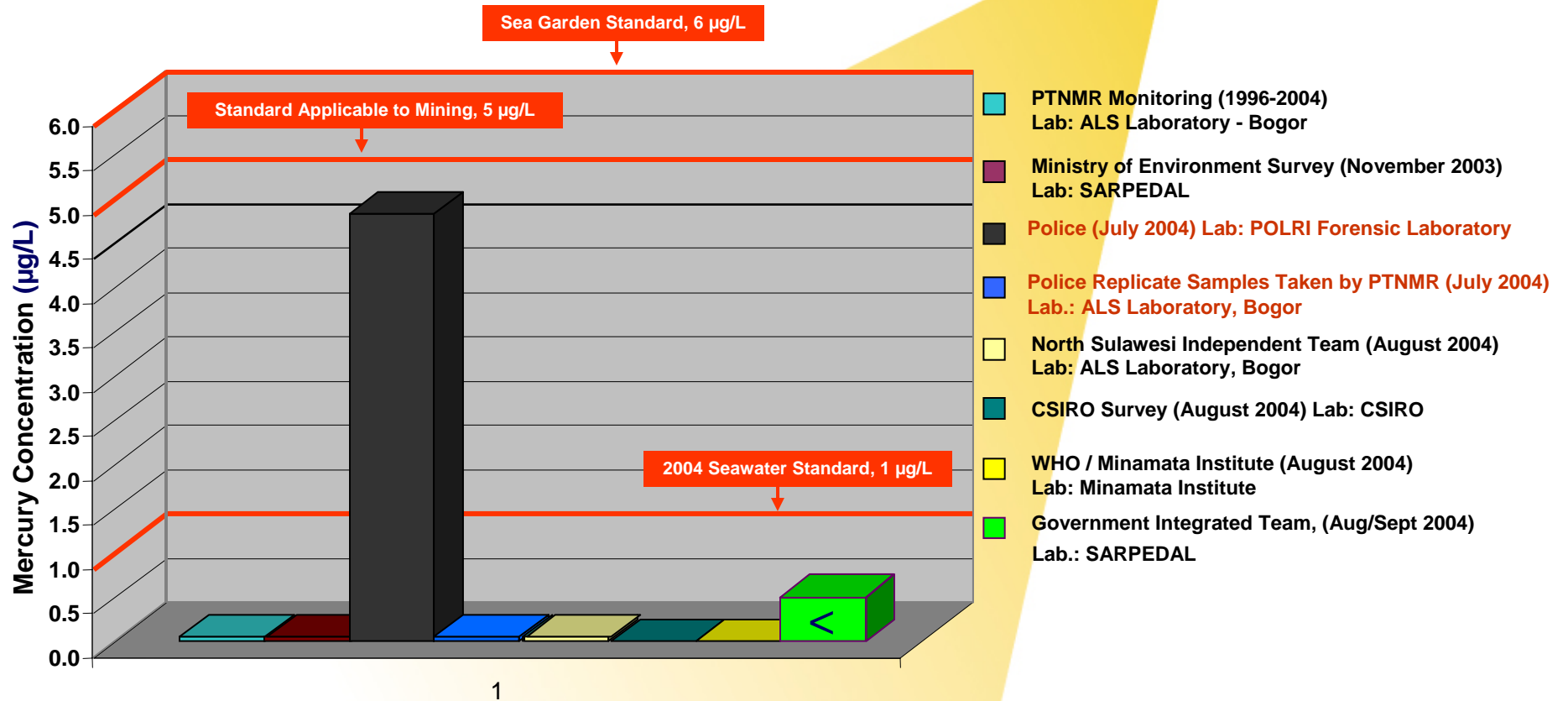
PTNMR discharged only **10.2%** of the total permitted mercury in the effluent over the period covered by the STP permit

Total Cumulative Load in Effluent— Arsenic III (2000 - 2004)

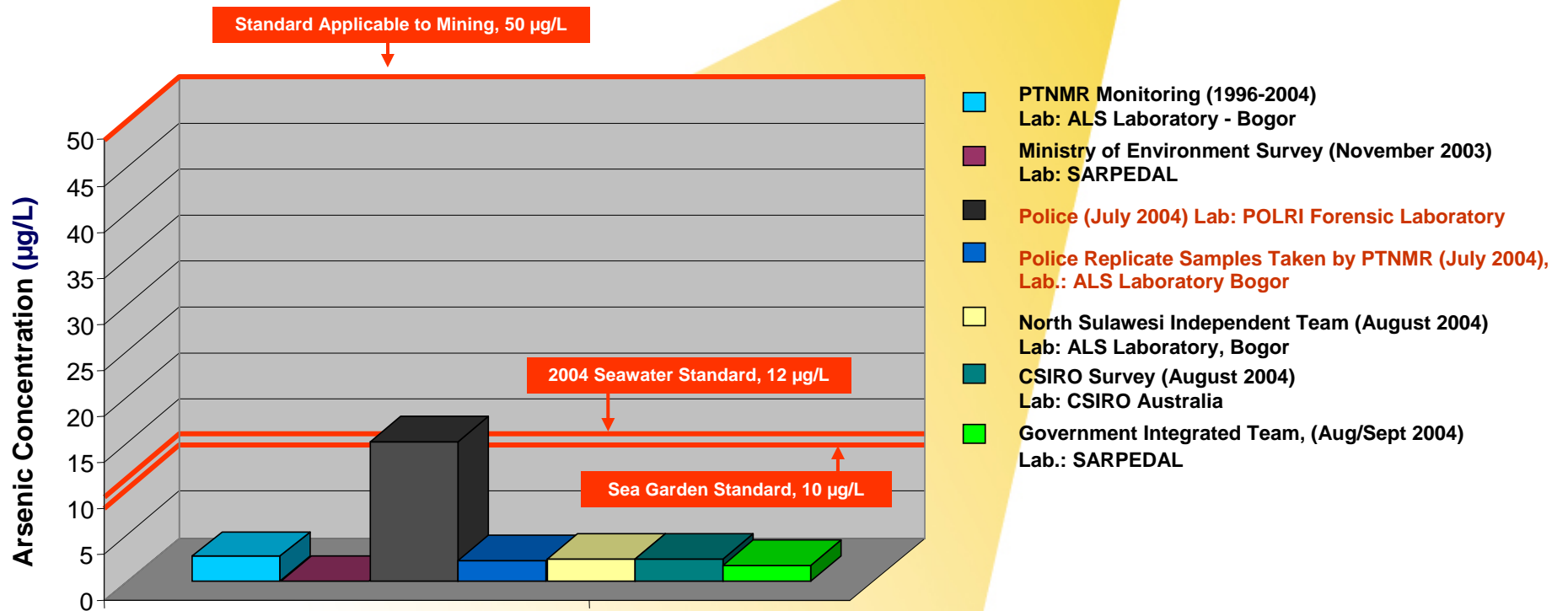


PTNMR discharged only **6.6%** of the total permitted arsenic in the effluent over the period covered by the discharge permit

Seawater: Mercury Levels Within Standard



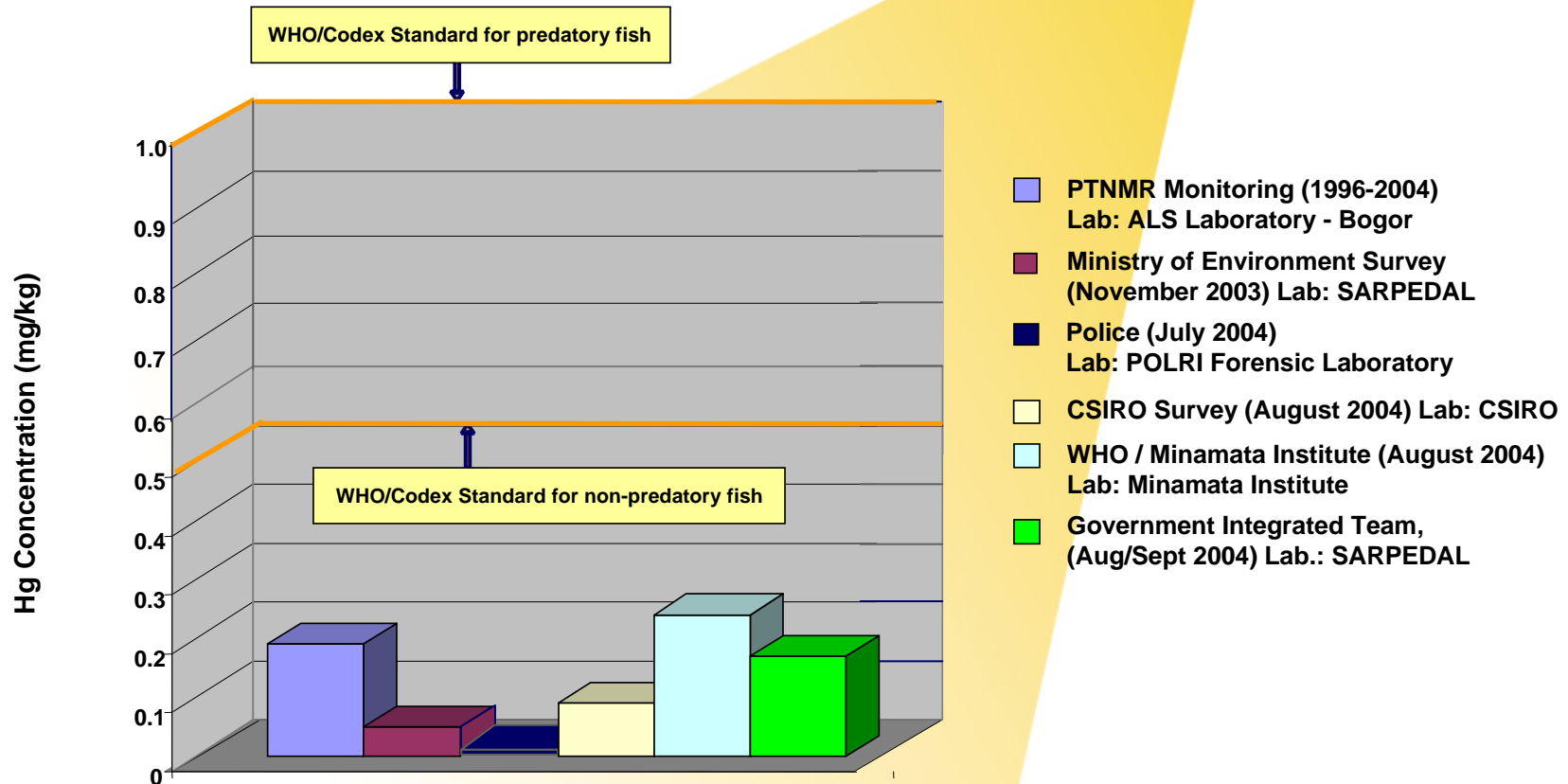
Seawater: Arsenic Levels Within Standard



Fish: Mercury Levels Within Standard



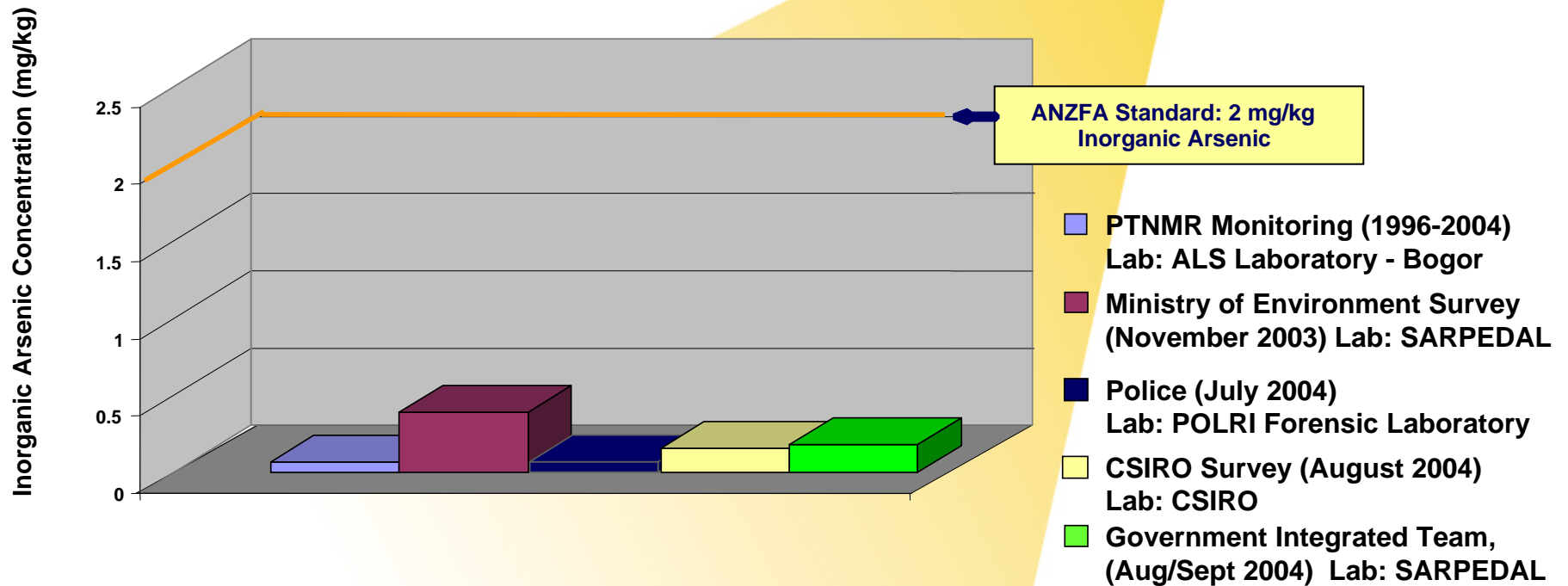
Mercury in Fish Tissue



Fish: Arsenic Levels Within Standard



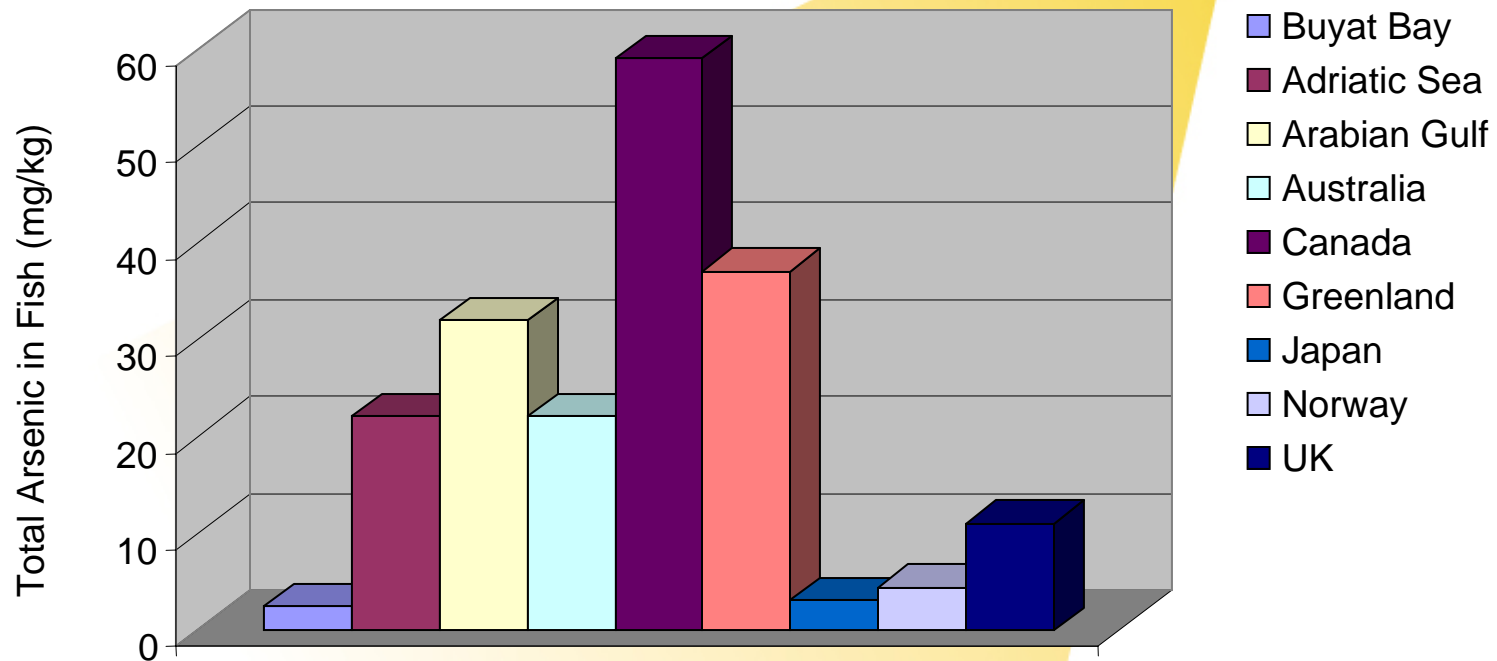
Arsenic in Fish Tissue



Note A: WHO does not have a standard for arsenic in fish

Note B: Assumes 10% of total Arsenic is inorganic

Fish: Arsenic Concentrations Reported In Global Studies



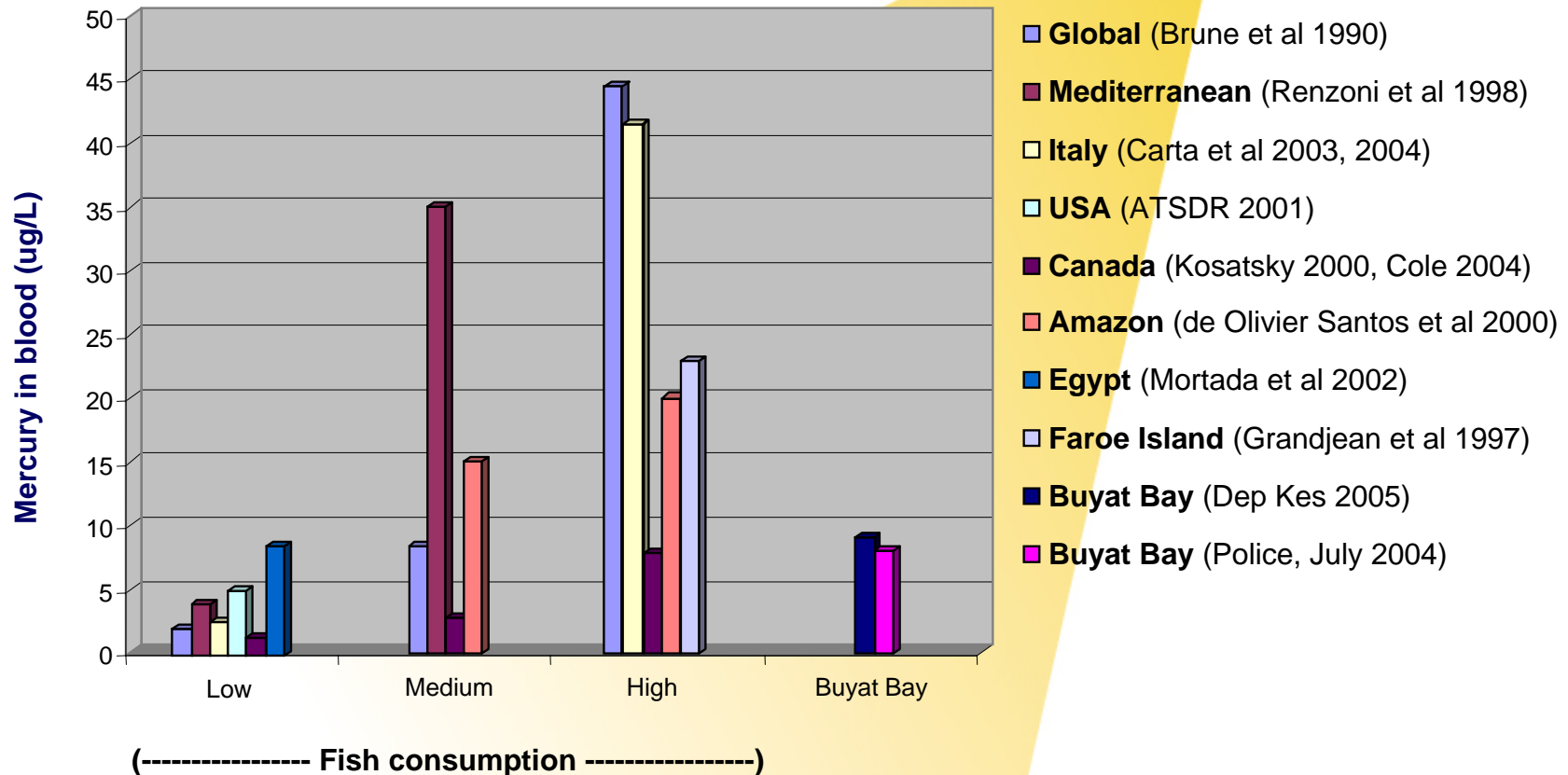
Human Health: No Evidence of Arsenic and Mercury Contamination



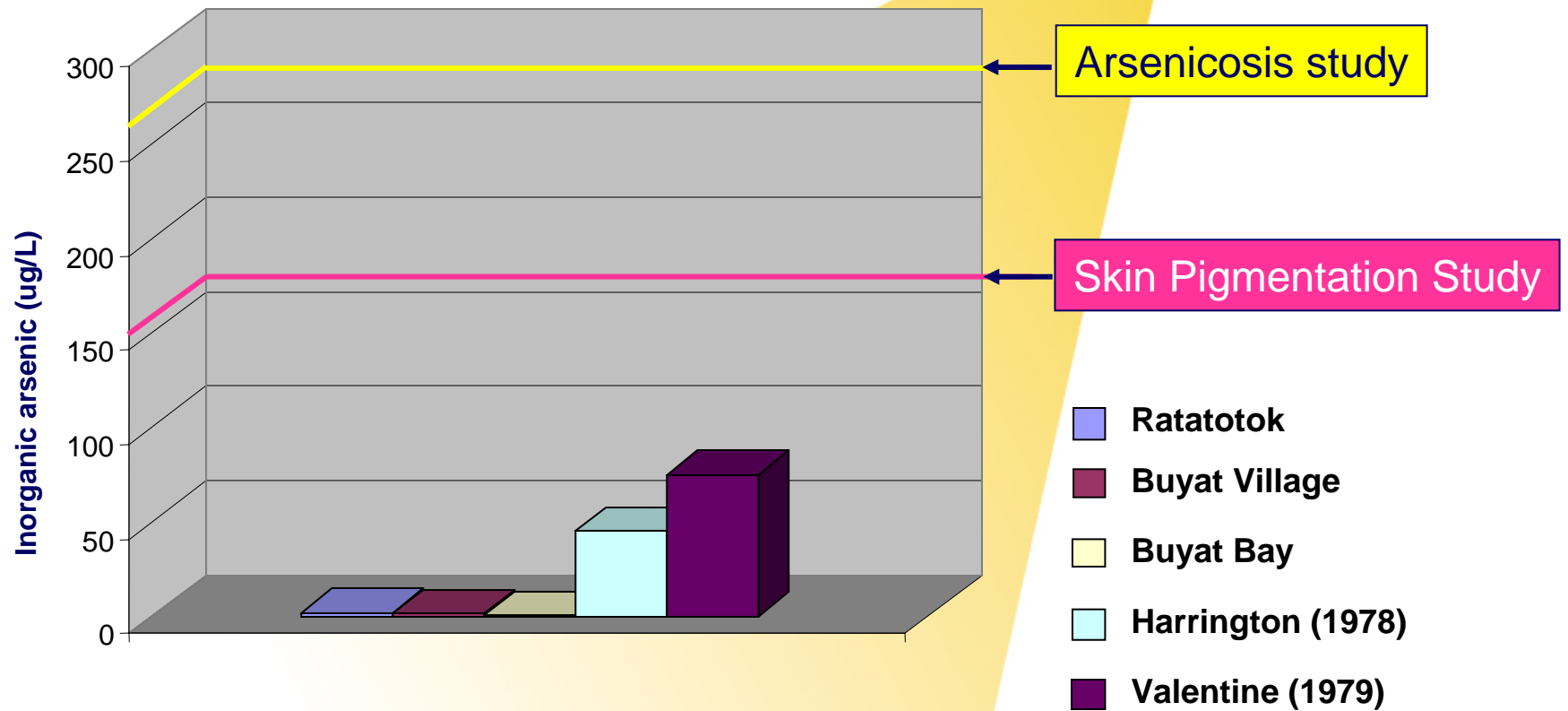
There is no pathway (i.e. seawater, fish) for As and Hg in the tailings to get into the bodies of Buyat Bay villagers, but even so:

- Medical surveys show area residents have no health symptoms associated with As and Hg exposure**
- The levels of As and Hg in area residents are within internationally recognized reference ranges**
- The levels of As and Hg in area residents present no human health concerns (WHO, Ministry of Health/UI, UNSRAT)**

Human Health: Buyat Bay Residents Within Normal Ranges (Hg in Blood)



Human Health: Buyat Bay Residents Well Below Health Effect Levels (As in urine)



Summary



- ❑ The facts show there is no harm to the environment or the people from PTNMR's operations.
- ❑ The people, the fish, and the seawater are not contaminated by arsenic or mercury.
- ❑ There has been no degradation of the function of environment, and therefore no environmental pollution.
- ❑ PTNMR has committed no crime.