

BUILDING CONSENSUS:
History and Lessons from the Mesa de
Diálogo y Consenso CAO-Cajamarca, Peru

3

MONOGRAPH 3.
INDEPENDENT WATER MONITORING
AND THE TRANSITION OF THE MESA (2004–2006)



CAO

THE OFFICE OF THE COMPLIANCE/ADVISOR OMBUDSMAN



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MONOGRAPH 3. INDEPENDENT WATER MONITORING AND THE TRANSITION OF THE MESA (2004–2006)

Monograph 1.
The Formation and First Steps of the Mesa (2000–2003)

Monograph 2.
The Independent Water Study (2002–2004)

About the CAO

The CAO (Office of the Compliance Advisor/Ombudsman) is an independent post that reports directly to the President of the World Bank Group. The CAO reviews complaints from communities affected by development projects undertaken by the two private sector financing arms of the World Bank Group, the International Finance Corporation (IFC) and the Multilateral Investment Guarantee Fund (MIGA). The CAO works to respond quickly and effectively to complaints through mediated settlements headed by the CAO Ombudsman, or through compliance audits that ensure adherence with relevant policies. The CAO also offers advice and guidance to IFC and MIGA, and to the World Bank Group President, about improving the social and environmental outcomes of IFC and MIGA projects.

The CAO's mission is to serve as a fair, trusted, and effective independent recourse mechanism and to improve the environmental and social accountability of IFC and MIGA.

For more information about the CAO, please visit www.cao-ombudsman.org

About the Mesa de Diálogo y Consenso CAO-Cajamarca

Mesa, from the Spanish word for “table,” is a dialogue roundtable: a multistakeholder system for addressing issues of common concern, and collaborating on solutions.

The Mesa de Diálogo y Consenso CAO-Cajamarca was convened to address and resolve conflicts between Yanacocha, the largest gold mine in Peru, and the surrounding communities affected by its operations. The Mesa sought consensus-based solutions under a framework of good faith, cooperation, and tolerance.

“Dialogue means: We are all different, we all have part of the answer, and together we have the solution.”

—The motto of the Mesa de Diálogo y Consenso CAO-Cajamarca

CAO Material about the Mesa de Diálogo y Consenso CAO-Cajamarca

More detailed information about the Mesa can be found in the following documents:

- Independent Commission Investigation of the Mercury Spill, July 2000
- Minutes of Mesa meetings
 - 2001 (August, September, October, November)
 - 2002 (January, February–March, April, July–August, September–October)
 - 2003 (February, August)
- Independent Water Study, November 2003
- Independent Evaluation of Mesa Effectiveness, May 2005
- Mesa Annual Water Monitoring Report, December 2005
- CAO Exit Report, March 2006

All these documents and the three-monograph series are available at http://www.cao-ombudsman.org/html-english/complaint_yanacocha.htm. There is also a 20-minute video on the water study entitled “Divided Waters: Currents of Change,” available upon request from cao-compliance@ifc.org

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FOREWORD

This series of three monographs presents more than four and a half years of work by the Mesa de Diálogo y Consenso CAO-Cajamarca in Peru. The Mesa's efforts to foster productive dialogue between the community of Cajamarca and representatives of the Yanacocha gold mine have signified many things to its diverse participants and observers. As a forum for debating environmental and social concerns, conducting participatory water monitoring, and training participants in mediation, the Mesa has at once inspired, disappointed, and perplexed. Indeed, the distinct experiences in and around the Mesa have created a rich and complex story that we hope these pages capture.

It is not easy or sufficient to say which parts of the process succeeded or failed. In a community as multifaceted as Cajamarca, solutions are difficult to obtain. Still, the process persevered while some critics hoped and worked to destabilize it. Despite the many challenges and complexities, the CAO succeeded in bringing parties together, facilitating dialogue, and introducing tools for addressing and resolving community concerns productively.

Although these monographs are not a complete catalog of all stakeholder voices, they convey a wide range of critical perspectives. Many of the quotes, collected through frank and confidential interviews, speak for themselves. It is my hope that the critiques and reflections offered here help carry forward the necessary dialogue that the Mesa has encouraged.

The CAO is proud of the Mesa's achievements and humbled by the challenges encountered. Along the way, the CAO has evolved with the Mesa, deepening our understanding of complex community-mine relationships, participatory studies, and multistakeholder dialogue. Our office carries with it many of the lessons learned from the Mesa's journey and hopes that others will consider and critique them in future dialogue efforts like the Mesa.

As we look to the future, it is evident that the challenges facing Cajamarca and other mining areas will continue to evolve. According to the Mesa's motto, "*Dialogue means: We are all different, we all have part of the answer, and together we have the solution.*" In this spirit, let this story be one guidepost on the demanding road that lies ahead for all of us who seek to promote conflict resolution, accountability, and improvements in the lives of project-affected people.

Meg Taylor

Compliance Advisor/Ombudsman, The CAO

June 2007

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The CAO also acknowledges the hard work and commitment of the Mesa’s board of directors (Comité Directivo, known as the Comité) and the Mesa Technical Commission, whose perseverance and dedication enhanced public knowledge of water quality issues in Cajamarca. We gratefully recognize the important and tireless work of the Mesa mediation team, the Mesa staff, and the water study team, whose contributions were essential to the Mesa’s progress.

Finally, we thank Nina Robertson for authoring the monograph series.

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Note: Affiliations are as of the time of publication.

a. With the CAO at the time of participation in the Mesa.

b. With Stratus Consulting, Inc. at the time of participation in the water study.

c. The first delegate was the main and only delegate to the Comité for his/her organization until the second replaced him/her to be the only delegate.

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STAKEHOLDERS

The term “stakeholder” is broadly defined as those who are affected by company activities such as mining operations, as well as those who are able to influence company activities. Stakeholders can include companies, local communities, nongovernmental organizations (NGOs), government agents, international financial institutions, and opposition groups.

Some of the main stakeholders involved in the Yanacocha gold mine operations in Peru are listed below. A list of abbreviations and acronyms for various stakeholders appears at the end of this monograph.

Yanacocha shareholders:

- Newmont Mining Corporation, a U.S.-based international mining company that holds 51.35 percent of the shares in the mine
- Compañía de Minas Buenaventura S.A., a Peruvian mining company that holds 43.65 percent of the shares
- International Finance Corporation (IFC), a member of the World Bank Group that holds the remaining 5 percent of the shares.

A branch of Newmont’s Peruvian subsidiary, Newmont Peru Limited, is the contracted managing entity of Yanacocha.

Local and Peruvian-based civil society and community groups:

- Federation of Female *Rondas Campesinas* of Northern Peru (FEROCAFENOP), which filed a complaint with the CAO
- The Defense Front of Choropampa (Frente de Defensa de Choropampa, the Frente), which filed a complaint with the CAO
- Ecovida, an environmental NGO
- The Cajamarca Chamber of Commerce
- The Autonomous Authority of the Jequetepeque Basin

International NGOs:

- Project Underground, a U.S.-based NGO that partnered with FEROCAFENOP

Government entities and agencies:

- Local mine-affected communities
- The provincial municipality
- COMOCA (Comité Técnico y Científico de Monitoreo del Agua, Scientific and Technical Committee for Monitoring)
- The National Institute for Agrarian Research and Extension (INIA)
- The Sanitation System Provider of Cajamarca (SEDACAJ)
- The Peruvian Ministry of Energy and Mines (MEM)
- INRENA (Instituto Nacional de Recursos Naturales, National Natural Resources Institute)

The CAO:

The Office of Compliance Advisor/Ombudsman, the independent recourse and accountability mechanism for two members of the World Bank Group, the International Finance Corporation (IFC) and the Multilateral Investment Guarantee Agency (MIGA). The CAO served as the convener and facilitator of the Mesa.

OVERVIEW

The atmosphere in the small, communal hall of Yanacancha Baja was energized as the presentation of the water quality monitoring program concluded. The presentation focused on waterways around the Yanacocha gold mine that lay within the town's boundaries and supplied the canals of local residents. The technical team of the Mesa de Diálogo y Consenso CAO-Cajamarca (the Mesa) stood ready to answer questions. This was the team's first public presentation of the water quality data that the Mesa team had collected in coordination with several other local institutions and the mine (Minera Yanacocha, known as Yanacocha).

A participant raised his hand and spoke: "This is the first time anyone has taken the time to tell us about our water and answer our questions." A cascade of questions and comments then followed from other listeners:

- "How do we know Yanacocha did not discharge when you were not there?"
- "What will be done about the exceedances of the permissible water standards?"
- "Your Mesa does not have enough participants from the rural areas where the real impacts of the mine are felt."
- "We do not trust what the mine and government tell us. We want independent monitoring until the mine leaves."

A lively discussion ensued about the observed changes in water quality and quantity, the credibility of the monitoring data, the Mesa and the technical team, and possible reasons for the water quality concerns. Many of the residents voiced their concerns to the team and sought to clarify parts of the presentation they did not understand. Together, the group arrived at some positive proposals for continuing the monitoring and investigation into the sources of water quality alterations that could be attributed to the mine's operations.

In many ways, the Mesa team's presentation and subsequent discussion were milestones in the history of the Mesa. Established in 2001, the Mesa's primary mission was to create a forum for dialogue between the mine and the community that would help prevent and resolve conflicts. The Office of the Compliance Advisor/Ombudsman (CAO) had supported the formation and functioning of the Mesa after receiving two complaints from local residents affected by the Yanacocha mine. Although the concerns, dilemmas, and demands brought forth in the Mesa were numerous, by all accounts, the mine's impact on water was a central source of conflict. The Mesa's participatory water monitoring program aimed to address this common concern by monitoring water quality in the mine's area of influence, providing quality assurance for the water monitoring programs conducted by other institutions, communicating the results directly to communities, and arriving at practical solutions to water quality concerns in a participatory manner. The presentation in Yancancha Baja, held in March 2005, was a step toward achieving these goals.

At the same time, although these presentations highlighted the Mesa's achievements, various factors both internal and external to the Mesa were hampering its ability to build on this progress. In a dynamic and often tumultuous political and social context, addressing and resolving

community–mine conflicts and creating a durable forum for productive multistakeholder dialogue posed a series of significant challenges.

Building on the previous two monographs, which examine the formation and first steps of the Mesa and the independent water study that it oversaw, this monograph focuses on challenges and lessons learned from 2004 to 2006, as the Mesa sought to become independent of the CAO. The perspectives of a broad range of Mesa participants and observers form the basis of the analysis. By February 2006, after several efforts to transition to independence from the CAO, the Mesa opted to discontinue—at least temporarily—until separate funding and leadership could be identified.

The monograph is divided into two chapters. The first provides background on the history and context of the mine, the community-mine relationship, and the earlier work of the Mesa. The second explores the challenges that the Mesa and the CAO team confronted at various stages of the Mesa's later evolution, the actions taken to overcome these challenges, and the lessons learned.

The information and stakeholders' perspectives that inform this monograph and the two other monographs in the series were gathered from project documentation and more than 60 interviews with stakeholders, project staff and consultants in Peru and the United States, conducted between October 2004 and March 2006 (see appendix A).¹ The recounted perspectives are not intended to be fully comprehensive; rather, they are a representative sample of the spectrum of stakeholder opinions regarding the Mesa. Without a doubt, there are more voices to be heard and understood.

TIMELINE
Important events during the Mesa's monitoring program and transition^a

2003 November	First transition plan presented
2004 Early 2004	Yanacocha contracts MFG to conduct aquatic life assessment
April	Yanacocha responds to the Stratus recommendations in a letter to the Mesa's Comité Yanacocha solicits Mesa participation in the aquatic life assessment Mesa convenes a workshop to discuss objectives and scope of a water quality monitoring and quality assurance program
May	Mesa publishes and distributes first quarterly bulletin, <i>Dialogando</i> , on the Mesa's mission and work Mesa finalizes protocol for Mesa water quality monitoring and quality assurance program
June	Mesa technical team formed to implement the water quality monitoring and quality assurance plan Mesa selects laboratory for the water quality monitoring program
July	Mesa team begins sampling for water quality monitoring and quality assurance program The technical working group (to become the Technical Commission) holds its first meeting
August	MFG/Maxim begin aquatic life assessment sampling with Mesa <i>veedores</i> (independent oversight volunteers)
September	Protests erupt in Cajamarca against the development of Cerro Quilish Yanacocha asks MEM to withdraw its approval of the license to conduct further exploration on Cerro Quilish
October	Mesa drafts a five-year strategic plan and begins enhanced communications plan
November	First presentation of the preliminary results of the aquatic life assessment and water quality monitoring at the Mesa assembly Technical Commission issues first communiqué on water monitoring results
2005 February	Evaluation team conducts an independent evaluation of the Mesa Technical Commission issues second Mesa water quality communiqué
March	Mesa facilitates meeting between community leaders from Huacataz and Yanacocha First presentation of water monitoring results in rural communities (Yanacancha Baja and Yanacocha Alta)
April	Evaluation team presents final evaluation to the Mesa assembly
July	Mesa holds round of strategic planning workshops with rural and urban participants Mesa facilitates mediation meetings between Yanacocha and owners of the Tual canal Peru-based technical expert hired as manager of technical team
September	Mesa completes "Plan for the Future Functioning of the Mesa"
October	Technical Commission issues third Mesa water quality communiqué
November	MFG/Maxim complete the final report of the aquatic life assessment and send it to the Mesa
December	Mesa publishes, distributes, and presents 2005 annual water quality monitoring report and communiqué
Dec. 2005–April 2006	Water monitoring results presented to 14 institutions and 14 communities
2006 March	CAO issues exit report and closes FEROCAFENOP complaint
April	Mesa office closes
May	Technical Commission issues fifth Mesa water quality communiqué

^a For events in 2000–2004, see monographs 1 and 2.

Map 1. The Yanacocha Mining District and Regional Watersheds





CHAPTER 1. BACKGROUND

The Yanacocha Gold Mine and its Economic and Social Context

The Yanacocha mine, the largest gold mine in Latin America, began operations in northern Peru, in the department of Cajamarca, in 1993. The mining company is a consortium of three shareholders: U.S.–based Newmont Mining Corporation, which holds 51.35 percent of the shares; Compañía de Minas Buenaventura S.A. of Peru, which holds 43.65 percent of the shares; and the International Finance Corporation (IFC) of the World Bank Group, which holds the remaining 5 percent. A branch of Newmont’s Peruvian subsidiary, Newmont Peru Limited, is the contracted managing entity of Yanacocha.

Yanacocha was conceived as a relatively short-life mine, projected to operate for 10 years. Because of tremendous exploration successes, however, the company’s output has increased substantially, from 81,000 ounces in 1993 to more than 3.3 million ounces in 2005.

The Yanacocha mining complex comprises six open pit mines, four leach pads, and three processing facilities. The mine property covers a total land area of approximately 1,600 square kilometers (160,000 hectares, or 600 square miles). The mine property lies at the continental divide at an altitude ranging from 3,700 to 4,100 meters and spans four major watersheds (the Chonta, Honda, Porcon, and Rejo) (see map 1). The southern mine boundary is located 15 km north of the city of Cajamarca, the capital city of the department of Cajamarca.²

For Peru, Yanacocha was a landmark mining investment that paved the way for foreign direct investment in the country’s mining sector after nationalization of the industry in the 1970s and nearly 15 years of armed internal conflict. Peru’s gold exports totalled \$2 billion in 2003—35 percent more than in 2002—and Yanacocha alone accounts for about half that production. Yanacocha’s gold exports represent between 8 and 11 percent of total Peruvian export earnings, and the company is one of Peru’s most significant taxpayers.

IFC’s Involvement in the Mine

In addition to holding a 5 percent share in Yanacocha and providing an initial loan in 1993, IFC has supported several of the mine’s expansion projects. In 1993 IFC approved a loan for the Carachugo pit expansion. In 1994 IFC approved a second loan for the expansion of the Maqui Maqui pit, and in 1999 IFC supported the creation of a credit facility for a variety of Yanacocha’s capital expenditures, one of which was expansion of the La Quinua pit. Yanacocha fully repaid all these loans in December 2005, and IFC maintains its equity share. Yanacocha has been one of IFC’s most profitable equity investments.

For Peru, Yanacocha was a landmark mining investment that paved the way for foreign direct investment in the country’s mining sector and has become a major source of export revenues.

Yanacocha has been one of IFC’s most profitable investments.

Many profound questions and concerns emerged in Cajamarca regarding the mine's impacts and the government's capacity to regulate Yanacocha.

Cajamarca and the Arrival of Yanacocha

The department of Cajamarca, with a population of about 1.5 million, lies in northern Peru bordering Ecuador. The capital city and surrounding areas, also with the same name, have roughly 85,000 and 290,000 residents, respectively. The arrival of Yanacocha in 1993 led to profound economic, social and environmental changes to the region, and a complex relationship has developed between the affected communities and the mine as a result. Many profound questions and concerns emerged in Cajamarca regarding the mine's impacts and the government's capacity to regulate Yanacocha (see monographs 1 and 2).

When a truck contracted by Yanacocha spilled mercury along a stretch of highway in June 2000, public apprehension increased tremendously.³ Little information was made available to local people about the specific nature of the spill and its potential effects on human health. In light of this growing concern, the Yanacocha shareholders called for an independent commission of experts to conduct an investigation. The CAO managed the investigation (see monograph 1).

The rift between community and mine widened when Yanacocha announced in 1998 its plans to exploit Cerro Quilish, a hill close to the city of Cajamarca that some regarded as a sacred site. Because many residents believed the hill was a key source of water for the region and that its exploitation would cause significant adverse impacts, the plans were met with staunch opposition. In 2000, the municipal government of Cajamarca declared the hill a protected area, and Yanacocha immediately challenged the declaration in court. The issue of Quilish continued to emerge as a symbol of community-mine conflict (see p.27).

The Formation and Evolution of the Mesa de Diálogo CAO–Cajamarca

Over time, the CAO sought to adjust its role at the Mesa from that of central, proactive convener and mediator to one of more peripheral advisor to Mesa leadership.

In early 2001, two groups, the Frente de Defensa de Choropampa (the Defense Front of Choropampa, the Frente) and the Federation of Female *Rondas Campesinas* of Northern Peru (FEROCAFENOP)⁴ filed complaints with the CAO. The Frente alleged that Yanacocha had violated its commitments to victims of the mercury spill for which the company was responsible. The FEROCAFENOP complaint alleged broader adverse impacts and violations of IFC environmental and social policies.

The CAO's initial assessment of the conflict identified widespread local demand for a mediated process that could comprehensively address community concerns over the long term. In September 2001, the CAO convened a series of well-attended public workshops to discuss community–mine disputes. As a result of the high interest in continuing the dialogue process, workshop participants formed the Mesa de Diálogo y Consenso CAO-Cajamarca (the Mesa) with over 50 institutional members (see monograph 1).

Given the complex nature of the community–mine conflict, the Mesa chose to focus on the most salient concerns, which included the mine's impacts on water quality and quantity, socioeconomic development, and the health effects of the mercury spill. While the issue of Cerro Quilish was also a salient source of

tension, the Mesa decided not to make it a priority while it remained in the Peruvian courts.

To build participants' capacity to engage with one another on these sensitive issues, throughout 2002 the Mesa convened a series of dialogue and mediation trainings led by the CAO mediation team.

In 2002 the Mesa refined its operational protocols and created a board of directors (the Comité), to guide the Mesa process and set the agenda for the bimonthly assembly meetings. Mesa members also defined the Mesa's key objectives to:

- Prevent and resolve conflicts between the community of Cajamarca and the Yanacocha mine
- Assure broad participation of urban and rural organizations representing civil society, government, the private sector, NGOs, and academia, among others, in the process of community dialogue, and
- Promote values of transparency, openness, independence, and participation in the way the Mesa performs.

To establish a more durable forum for dialogue and mediation, the Mesa acquired an office and hired a coordinator in mid-2003. As attendance at Mesa assemblies fluctuated in terms of number of attendees and their representative social base, the Mesa continued its efforts at community outreach (see table 1). On average, the number of institutions engaged in Mesa assemblies hovered around 20, while over 40 remained inscribed as members. Twelve key institutions were represented on the Comité and formed the core group of consistent Mesa leaders. To ensure independence of the Mesa process, the CAO established an independent bank account to which Yanacocha contributed a significant amount of funding for the Mesa. All funds were managed by the CAO. All budget information was annexed in the assembly reports, and total Mesa costs (averaging approximately \$300,000 per year) were reported in the CAO's annual reports.

Over time, the CAO sought to adjust its role at the Mesa from that of central, proactive convener and mediator to one of more peripheral advisor to Mesa leadership. While Mesa staff assumed many organizational responsibilities and the Comité made many key decisions, the Mesa often looked to the CAO for support, facilitation, and resources.

The Independent Water Study

When the Mesa began, the mine's impact on water was a source of intense debate and division in Cajamarca. Recognizing that it warranted immediate attention, the Mesa called for an independent, unbiased scientific investigation that could move the water discussion forward and propose solutions substantiated by facts. An independent water study thus became the first priority on the Mesa's agenda.

In early 2001, the Mesa and the CAO contracted a U.S.-based environmental consulting firm, Stratus Consulting, Inc. (Stratus), to conduct the study with a high level of community participation. After more than a year of community engagement and assessment, Stratus completed and presented the water study in October 2003. The study made a series of findings and recommendations, which are described in monograph 2.

The Beginning of the Mesa’s Transition to Independence from the CAO

Since the Mesa’s inception, the CAO sought to strengthen Mesa leadership, technical capacity, and governance structures to ensure that it would sustain its work beyond the finite period of CAO intervention. In late 2003, the Mesa drafted an initial transition plan that outlined Mesa strategies and the components needed for the future success of the Mesa, independent of the CAO financial and technical support. Over the following two years, this plan was revised on several occasions.

At the same time, the Mesa chose to focus on implementing the water study recommendations, which demanded substantial resources, expertise, and time. In 2004 and 2005, the Mesa initiated a participatory monitoring and quality assurance program in collaboration with various public institutions and participated in an aquatic life study led by Yanacocha. Because concerns over water quality and quantity were central to affected communities, this monitoring work was seen as vital to addressing and resolving conflicts between the community and the mine.

As these efforts were underway, the Mesa confronted new community–mine conflicts, along with serious questioning about its legitimacy, effectiveness, and role in Cajamarca. At the same time, within the Mesa, significant governance weaknesses emerged. While the CAO planned to conclude its direct involvement, the numerous internal and external challenges made a transition to independence difficult. Recognizing the need for flexibility, the CAO did not establish a defined exit plan with benchmarks for Mesa progress that would affect the level and length of the CAO’s intervention. The challenges that arose around these issues are explored in chapter 2, along with lessons learned from the perspective of a wide range of stakeholders.

The Mesa confronted new community–mine conflicts, along with serious questioning about its legitimacy, effectiveness, and role in Cajamarca. Meanwhile, within the Mesa, significant governance weaknesses emerged.

Table 1. Mesa Assembly Meetings

2001	2002	2003	2004	2005
September 14	January 29	February 25	January 20	January 25
October 15	March 5	April 2	March 3	April 26
November 26	April 30	June 3	April 20	October 4
	August 1	August 7	June 22	
	October 3	October 20	August 17	
	December 3		November 16	



CHAPTER 2. CHALLENGES, ACTIONS, AND LESSONS LEARNED

During the transition of the Mesa, stakeholders faced numerous obstacles that can be grouped into eight overarching challenges:

1. Setting up the participatory monitoring and quality assurance program
2. Targeting the reporting and disseminating monitoring results quickly and effectively
3. Moving from recommendations to implementation
4. Ensuring meaningful participation in studies and assessments
5. Addressing other emerging community conflicts and critics of the Mesa
6. Preparing for a successful transition
7. Upholding good governance for the Mesa
8. Encouraging continuity while concluding the CAO's intervention

The sections below explain these challenges, the actions taken to overcome them, and the lessons learned, as perceived by Mesa participants, conveners, staff, consultants, and observers, as well as the CAO.

CHALLENGE 1.

Setting up the Participatory Monitoring and Quality Assurance Program

After the publication and dissemination of the Mesa water study results in late 2003 (see monograph 2), the Mesa chose as a priority the creation of an independent, participatory water monitoring program that aimed to provide quality assurance for the water monitoring programs conducted by other institutions. The Mesa sought to design and implement a program and communicate results through a participatory approach, in a way that would empower national and local institutions and stakeholders to respond to and take responsibility for the monitoring results. These efforts posed a central challenge for the Mesa, and constituted a significant part of the Mesa's work in 2004 and 2005.

“The work of the Mesa in terms of gaining local trust in the data is unique in Peru and worth emulating. It has been a great contribution to Cajamarca.”

—A national government official

Designing the program in collaboration with other institutions

With the experience of the water study still fresh on the minds of participants, the Mesa decided to maintain a high level of independence and community participation for the water monitoring, while working to enhance and strengthen existing monitoring programs. Three other public institutions were monitoring water quality in the mine's area of influence: the Scientific and Technical Committee for Monitoring Water (COMOCA, in its Spanish abbreviation), the Sanitation System Provider of Cajamarca (SEDACAJ, in its Spanish abbreviation), and the Executive Authority for Environmental Health (DESA, in its Spanish abbreviation). However, it was largely recognized that these programs, were not comprehensively addressing the public's central concerns about water, either individually or collectively. The Mesa sought to fill these gaps.

In April 2004, the Mesa convened a meeting of more than 30 institutions to discuss potential collaboration among water monitoring programs and what role the Mesa—with its expertise, independence, and participant base—could play in coordination with other institutions. Each of the three public institutions presented its respective monitoring program, which varied in geographic scope, level of citizen participation, and technical details (such as methods and analyses, and the laboratory used). COMOCA Sur and COMOCA Este⁵ monitored canals in all four basins (primarily in the Chonta and Porcon basins, where population and water use are highest) with canal owner participation. SEDACAJ monitored waterways in the Porcon basin, the source of the city of Cajamarca's water. DESA monitored various points far from the mine site. In addition, Yanacocha had monitoring systems for waterways in and near the towns of Llaucan, Yanacancha, and Granja Porcon in the Honda and Rejo basins.

After these presentations, the group collectively identified opportunities for collaboration and gaps in the existing monitoring programs that the Mesa could fill. The evaluation of water quality data for the 2002–03 water study determined that data collected by other institutions were generally reliable. Therefore, rather than creating a completely independent monitoring program that would compete with existing programs, the working group chose to focus on quality control, statistical analysis, and synthesis of all data collected by participating institutions, building local capacity and increasing participation in data analysis, and communication of monitoring results to local communities. Table 2 summarizes these key elements of the monitoring program.

With technical input provided by the technical consultant to the CAO in charge of the original 2002–03 independent water study, the Mesa technical staff developed a plan for the monitoring program, based on the framework established in the interinstitutional meeting. The plan was approved by a technical working group (later to become the Technical Commission) comprised of representatives from Cajamarcan institutions that chose to play an active role in the water monitoring program. The plan was then presented to and approved by the Mesa in June 2004.

In contrast to the 2002–03 monitoring program, the new monitoring program took a long-term view that focused on cooperating with other institutions that collected water data and building capacity within Peru to sustain the program without outside expertise. Table 3 compares the key features of the water study and the monitoring program.

Table 2. Value Added by the Mesa Water Quality Monitoring Program

Gaps identified in existing institutional monitoring programs	Mesa contribution/value-added
Quality control/quality assurance	Conduct double sampling at a subset of points
Data analysis and interpretation	Analyze spatial, temporal, and statistical trends
Data synthesis	Summarize the results and recommendations of the program in an annual report Establish a publicly available database of credible information and interpretation of the data
Participation in sampling	Enable representative observers from Mesa member institutions (<i>veedores</i>) to participate in sampling missions
Participation in data interpretation and public communication	Work with the Mesa Technical Commission to analyze monitoring data and communicate to the public
Presentation of monitoring results to communities	Utilize the technical team and Mesa representatives to present results in local communities

Table 3. Key Features of the Mesa Water Study and Monitoring Program

Parameter	2002–03 water study	2004–05 water monitoring/quality assurance program
Funding	Yanacocha, managed by the CAO	The CAO
Sampling protocol	Occasional unannounced sampling and sampling at night	No unannounced or night sampling because 2002–03 water study showed no differences between unannounced/night sampling and scheduled sampling. Planned sampling in coordination with established programs.
	Samples collected by Stratus, with oversight of <i>veedores</i>	Samples collected by Mesa technical team, with oversight of <i>veedores</i>
	Dissolved and total metal samples collected and analyzed	Participating institutions collect only total metal samples. The Mesa collects both total metal and dissolved metals samples
	Sampling points chosen by Stratus	Sampling points overlapping with other institutions
Laboratory	Lab in Washington state, U.S.A.	Lab in Peru
Data scope	Completely independent data set of 278 samples collected between September 2002 and April 2003	Data set of 120 duplicate samples collected with other institutions between July 2004 and August 2005. Duplication enabled leveraging data of other institutions to expand the analysis to the full set of 1,044 samples.
Data analysis and interpretation	Conducted by Stratus	Conducted by Mesa technical team, with participation from the Technical Commission
Communication of results	Conducted by Stratus	Conducted by the Mesa technical team and Technical Commission

The objective: As stated in its plan, the objective of the monitoring program was “to ensure, in a continuous and participatory manner, that the quality and quantity of the surface and groundwater of the watersheds adjacent to the Yanacocha mine provide water adequate for different uses (human consumption, agriculture, and aquatic life) and to ensure that each institution assumes responsibility.” The program also sought to show other institutions how to improve their data collection and data analysis and presentation methods. Over time, the program intended to incorporate the evaluation of potential water quantity impacts into the program. Because water *quantity* was not a focus of the participating institutions, incorporating a quantity assessment into the program remained a long-term goal to be met after capacity was built to address the monitoring of water *quality*.

Funding: The CAO agreed to fund the monitoring program for the first phase, to build confidence in the program’s independence.

The technical team: The Mesa technical team was comprised of three Peruvians and a technical expert from the United States. The Peruvians led the data collection, analysis, and communication process, in close collaboration with *veedores* and the Technical Commission. The project manager from Lima was charged with conducting data analysis and interpretation and communicating the results to the communities, including the drafting of the communiqués. Two technicians, local to Cajamarca, collected the water samples, maintained the database, coordinated with the *veedores*, and helped present the results to the communities. The U.S.–based expert provided technical advice and project oversight, and was responsible for preparing the annual monitoring report. He had limited oversight over the day-to-day activities of fieldwork.

The search for a Peruvian manager for the technical team took longer than expected because few candidates met the Mesa requirements for technical capacity, communication and management skills, and lack of previous employment with Yanacocha. In July 2005, the Mesa hired a chemist who had worked for the Ministry of Health, an analytical laboratory in Lima, and a private environmental consulting firm.

Data collection: The Mesa technical team, led by the same local Cajamarcan coordinator for the 2002–03 independent water study and local observers, or *veedores*, collected double samples while accompanying the other institutions (COMOCA, SEDACAJ, Yanacocha, and the participating communities) on all sampling missions. Analysis of these double samples enabled the Mesa to provide quality assurance to the larger dataset, and thus leverage the results of a small data set into the larger dataset collected by the participating institutions. The Mesa team sampled at a subgroup of the 108 points that the other institutions monitored, covering about 10 percent of the total samples collected by the other institutions.

By comparing the lab results collected by the Mesa with those collected by the other institutions at the same place and time, the Mesa sought to provide independent quality assurance for the data that these other institutions were collecting, and thus generate trust in the larger data set if results compared favorably. This approach, combined with rigorous data analysis and quality control procedures, improved the data quality for all participants.

Trust building measures for data collection were carefully considered. As had been the case for the 2002–03 water study, the presence of the *veedores* helped to establish trust in the integrity of the methods of the monitoring program. At the same time, at least one methodological change from the water study—the lack of unannounced sampling—raised concerns for those who suspected that Yanacocha could discharge higher levels of contaminants when the sampling teams were not present. There was general interest in conducting occasional unannounced sampling missions, but no institution took the initiative to establish them. According to the chief scientist of the technical team, such sampling was probably not technically necessary, as night and unannounced sampling during the 2002–03 water study had not shown any differences from announced sampling. As discussed below, this issue would remain a source of skepticism for some Mesa members and observers.

The Commission's focus on reporting monitoring results rather than interpreting risk became a significant source of tension.

The independent laboratory: The Mesa's selection criteria for the independent lab were almost identical to those used for the selection of the independent water study lab in 2002 (see monograph 2). They included cost, professionalism, ability to engage with Mesa members, and lack of current contracts with Yanacocha. The latter requirement was important for many Mesa members, who feared that Yanacocha, if it were a client of the same lab, could influence the Mesa lab results in the mine's favor. As one participant explained, "Money can buy you many things here. We wanted to make sure the mine was as far from the lab as possible." To find an acceptable Peruvian lab, members of the Mesa Comité, *veedores*, and the Mesa technical team visited various labs in Lima to review their credentials. After visiting three labs and interviewing their management, the group decided that the Catholic University lab was the most appropriate.⁶

Data analysis: The Mesa technical team analyzed the data against the water quality standards used in the 2002–03 water study and also looked for trends in the data over time. In the program plan, determination of the adequacy of the water for human consumption was stated as a goal. Although this was agreed to by all participating parties, including Yanacocha, the issue of which standards to use in the analysis of water quality would emerge as a significant source of conflict when the data were presented.

Launching the Technical Commission

Several months after the monitoring program began, the technical working group evolved into a Technical Commission. More than a dozen public institutions participated, as well as Yanacocha. Institutions that were not Mesa members had to receive approval from the Comité to participate in the Technical Commission. Formal members included:⁷

- ADEFOR (Civil Association for Forest Development Research)
- ASPADERUC (Association for the Rural Development of Cajamarca)
- The Collective of Users of the Chonta River
- The Collective of Users of the Mashcón River
- COMOCA Sur
- COMOCA Este

- CORECAMIC (Regional Coordinator of Watersheds Affected by Mining in Cajamarca)
- DREM (Regional Authority for the Ministry of Energy and Mines)
- INIA (National Institute for Agrarian Research and Extension)
- INRENA (National Natural Resources Institute)
- IUDER (University Institute for Regional Development of the National University of Cajamarca)
- The Municipality of Cajamarca
- SEDACAJ (Sanitation System Provider of Cajamarca)
- Solidarity International
- UNC (National University of Cajamarca)
- Yanacocha

Building trust and knowledge within the Technical Commission

The high demand for water quality information led to consistent participation of a core group of local institutions at the Technical Commission beyond the core Mesa groups. For some groups, participation was attributable to their interest in the locally important data, rather than a commitment to the broader mission of the Mesa. As one Technical Commission member explained, “[My NGO] is not a member of the Mesa, but we joined the Technical Commission because we work with people in the mine’s area of influence and are very interested in the water quality data. Water is a primary local concern, and the Technical Commission analyzes and makes public the relevant data directly to the people. This is an obvious benefit to all of us.”

According to most Commission members, the process of interpreting and communicating data was both demanding and edifying. On the whole, the group remained committed to maintaining a technical focus by disseminating to the public new and useful information, respecting diverse perspectives, and improving group collaboration and consensus during the formulation of recommendations. For many participants, the commission provided a neutral and productive space for learning about water quality issues and debating possible solutions to the identified problems. One member emphasized, “The Technical Commission was one of the only places in Cajamarca where we could get together and just talk about the facts rather than about all of the other complicated social and political issues.” Another participant added, “We learned a lot as individuals and as a team. Each person brought a different technical base of knowledge to the meetings and taught others. The consensus process was long, but we eventually got through it because we worked as a team and listened to one another’s points of view.”

Maintaining an effective *veedor* network

The Mesa team sought to enhance and expand the *veedor* network that had been formed for the water study in 2002. Several new institutions interested in the water quality results joined the program. As one new participant explained, “My institution started to participate in the monitoring when we saw the value and integrity of the water study. We wanted to make sure the monitoring continued with participation so that it was honest and credible.”



At the same time that new institutions joined the *veedor* network, the Mesa struggled to maintain the committed participation of others. Such consistency was often illusive, as changes in leadership of some participating institutions led in certain cases to decreased support for and affiliation with the Mesa process. Indeed, this lack of consistency was a broader issue for Mesa participation in general, as explained in monographs 1 and 2. In addition, *veedores* who were not compensated for their time and effort could not participate on a consistent basis.

Social dynamics also affected the way in which the *veedores* were received in some towns. For example, FEROCAFENOP, a central Mesa member, had strong backing among some rural sectors, but did not enjoy such support in other regions. In some of these regions, rural residents were reluctant to allow the Mesa team to sample water in their canals when FEROCAFENOP *veedores* were present. As a result, the Mesa team had to adjust its rotation of *veedores*.

One member of the Mesa technical team recounted, “I had to explain very clearly to local people what the Mesa was and clarify that it was not allied with any particular group—neither FEROCAFENOP nor the mine. It was difficult to overcome this perception. COMOCA, which is widely trusted by local people, helped with this.”

People local to the sampling sites also demanded that their community representatives be part of the *veedor* network. As was the case with the water study, coordinating with local *veedores* was difficult, principally because of communication challenges. The Mesa team sought to enhance the network by encouraging member institutions to designate *veedores* and inviting local people to accompany the team during sampling missions. The sampling team took the opportunity during these trips to educate rural residents about the Mesa’s mission and work.

CHALLENGE 1.

Setting up the Participatory Monitoring and Quality Assurance Program

LESSONS LEARNED

- **Establishing trust in the process of conducting monitoring, and in the institutions that will implement the monitoring, is as important as ensuring technical rigor.** Trust building measures should be based on local participation throughout the life of a monitoring program, and at various levels of program development and implementation. This should include:
 - Selection of independent, trusted technical experts and advisors
 - Development of the program's terms of reference
 - Data collection
 - Review of data analysis and interpretation, including the application of quality standards
 - Development of recommendations that specify appropriate corrective actions if problems are identified
 - Public communication of data results and recommendations
 - Follow-up supervision and reporting.
- **A technical working group, commission, or panel that has decisionmaking authority can greatly improve a monitoring program's efficiency, ownership, credibility, and effectiveness.** Such a group can serve the functions outlined above. It should include the following key elements:
 - A broad representational base
 - Clear terms of reference that do not extend beyond its technical capacity and responsibilities
 - Commitment from members to accept, act on, and monitor the response to recommendations, and
 - Conveners and/or mediators with clearly defined roles, who are given the authority by stakeholders to make certain types of process decisions.
- **Local observers to data collection activities should include participants local to the region, as well as those local to specific sampling sites, to the extent possible.** Although more logistically demanding, site-specific participatory systems can ensure that local residents are informed of and incorporated into the monitoring program. If local residents choose not to participate, program leaders should periodically brief them on the program's activities.
- **Collaboration on technical issues often creates new opportunities for cooperation among politically divergent groups.** Technical endeavors can thus forge new allegiances and build trust among participants that can be transferred to other areas.

CHALLENGE 2.

Targeting the Reporting and Disseminating Monitoring Results Quickly and Effectively

Interpreting data and communicating with the public

At the end of each quarter of monitoring, the Mesa technical team analyzed the data, put it into table and graph form, and distributed it to Technical Commission. With guidance from the Mesa technical team, the Technical Commission met to discuss the data and determine:

- Whether data quality was sufficient to allow interpretation
- What type of potential water quality concerns existed within the mine's area of influence
- What the spatial and temporal trends suggested
- How Yanacocha was addressing the identified problems
- How to communicate the water quality information to the public, including both rural and urban regions, and
- The appropriate recommendations for addressing issues of concern that the data analysis identified.

Many participants and observers agreed that the most significant contribution of the Mesa monitoring program was the targeted reporting to local communities and canal users.

The Commission chose to list the sample points where exceedances of various water quality standards and guidelines had been detected, rather than conduct a risk assessment, recognizing that it did not have the capacity or responsibility to conduct such an assessment. Indeed, most members believed that interpretation for the public about which exceedances were of concern was the responsibility of the competent agencies of the Peruvian government.



As the chief scientist of the Mesa technical team emphasized, “The Commission was very clear about what its role was and was not: It was to report the data systematically and pass them on to government officials to interpret for people; it was *not* to take the role of the government and overstep its capacity.” The Commission’s focus on reporting monitoring results rather than interpreting risk became a significant source of tension, as described below.

The Technical Commission thus deliberated and agreed upon the interpretation of the data and appropriate recommendations. It then crafted quarterly communiqués, published in the local newspaper.

Presentation to local communities

After analyzing and interpreting the data, the Mesa technical team presented the findings directly to local communities. These presentations provided the opportunity to explain to each community results relevant to their waterways and canals. The Mesa aspired to make presentations on a quarterly basis for most communities and on a monthly basis for others in critical areas where water quality concerns were persistent. Such a system was intended to serve as an “early warning system” if there were water quality problems that warranted immediate action. However, over time the system was not established because of resource constraints and institutional weaknesses within the Mesa.

Reporting monitoring results and addressing mischaracterizations

Although the Technical Commission sought to focus on technical issues and practical solutions, the political context and various public mischaracterizations and misinterpretations of the communiqués influenced the broader discussions of the water quality data and their implications.

As with the 2002–03 water study, the results of the water quality monitoring data did not support either of the extreme “yes” or “no” contamination positions. The monitoring results suggested that some concerns identified in the 2002–03 study persisted in specific regions at certain times of year and for certain types of water uses, such as human consumption, irrigation, and aquatic life. Monitoring data confirmed that water consumed in the city of Cajamarca met the appropriate drinking water standards. In rural regions, drinking water guidelines were exceeded at some times in some streams and canals, but not to a level that posed an immediate health risk. Exceedences of guidelines for aquatic life and irrigation were also detected at some points at some times. Also similar to the 2002–03 study, the quality assurance efforts suggested data collected by other institutions was credible.

Despite the lack of results and conclusions that could support an extreme position, different groups and the media mischaracterized the data on several occasions. For example, in October 2005, when the Mesa Technical Commission issued a communiqué listing points where the monitoring program had detected exceedances of both national and international water quality standards and guidelines for different uses, a local nongovernmental organization critical of

Mischaracterizations of the findings of the annual monitoring report abounded in local and national media.

Yanacocha used the information in its broader public criticism of the mine. Yanacocha then challenged the Commission's approach to data interpretation and the communiqué's reference to international water quality guidelines. The company issued a separate communiqué in the newspaper denying that any contamination existed and criticizing the work of the Commission. Many of these same exceedances had already been reported in the 2003 independent water study report and in other communiqués—and as with all previous communiqués, this one was the product of a group consensus that included a participant from Yanacocha.

As one Commission member recounted, "It was very surprising how the NGO's spark started a fire in the media, the company, and then the Mesa. It just shows in terms of public attention, so much is about *how* the data are presented and then who will read the data and interpret it to their convenience, whether factual or not."

According to some observers, such a public reaction in Cajamarca was not surprising. One Mesa observer reflected, "The extremes often run the discussions here, and they use anything to fuel their own campaigns—so of course they would use the information incorrectly." One Yanacocha representative maintained that a risk assessment should have been employed to properly convey the results: "Since there was just a list of exceedances without any explanation about what the actual risks were and what people really needed to worry about, the communiqués appeared inflammatory—especially because of the NGOs interpretation—and they caused a lot more public concern than was really warranted."

Disagreement among Mesa members over the application of international guidelines intensified as the monitoring program continued. When the Mesa technical team completed the annual monitoring report of the water quality data in December 2005, representatives from Yanacocha and the Ministry of Energy and Mines (MEM) resisted its release because they disagreed with the application of international guidelines that were not enforceable in Peru and the way in which those guidelines would be presented to and potentially misinterpreted by the public. Yanacocha, MEM, and some other Comité members also took issue with the process through which the monitoring report was released. Expecting an opportunity to review and comment on a draft report, they objected to the release of the report in final form, with only a preliminary presentation. This lack of opportunity to review and comment on the draft added confusion to the already controversial findings and led to additional contentiousness among some Mesa members.

One Mesa member noted, "On the whole the annual monitoring report was solid, but there was a mismanagement of process in its publication. The disputes over process could have been avoided. There needed to be a much clearer shared understanding over whether or not the draft would be available for comment. It was not at all unreasonable for Yanacocha and others to request this, and the Mesa should have allowed it to build trust and avoid unnecessary arguments."

Although the procedural issues were ultimately resolved and the report was released, mischaracterization of the findings of the annual report abounded in local and national media. For example, one headline in the local paper read: "The waters of Cajamarca are not contaminated," while a separate national paper headline read, "Study finds water unsafe to drink in Cajamarca."

"In terms of public attention, so much is about *how* the data are presented and then who will read the data and interpret it to their convenience, whether factual or not."

—A member of the Technical Commission

Neither article reported the results comprehensively, or qualified which “Cajamarca” region it was referring to: the city of Cajamarca, where the water was found to meet appropriate guidelines, or the larger region of Cajamarca, where some exceedances were found. To prevent further confusion and polarization, the team sought to explain the general findings and pinpoint specific points of concern through a series of presentations to the media and to public institutions and communities.

The process and debate over reporting the findings of the monitoring program underscored the importance of clear and consistent communication and the establishment of clear protocols for forging consensus and making decisions.

Presenting water quality results to communities and canal users

In March 2005, the Mesa technical team began presenting the results of the monitoring program to rural communities in the mine’s area of influence. Presentations continued through April 2006, when the Mesa concluded operations. The vast majority of the presentations occurred after the release of the annual monitoring report in early December 2005. Over the following four months, the Mesa technical team presented the results to 14 public institutions and the newly formed municipal dialogue roundtable. In total, roughly 300 attendees heard these presentations. The team also presented the results to 12 different rural communities and groups of canal users, with attendance totaling approximately 300 community members and canal users.

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As with the water study, presenting the results in a format understandable to different audiences was challenging and required significant adaptation of the presentation format and contents. In many instances, the technical team had to explain more general concepts (such as the significance of a standard exceedance and the meaning of the graphs and maps) so that audience members understood the results and their implications.

The discussions surrounding the data were lively and productive. Community members and canal owners expressed a wide range of concerns about the integrity and implications of the data, the Mesa’s legitimacy, and ways to address the problems identified; clarified their questions; and requested that the monitoring program continue. Key community concerns included the need for the following:

- Increased local capacity building to understand the results
- An early warning system that would inform residents quickly if problems were detected
- Unannounced and night sampling to ensure that the mine was not withholding its discharges until after samples were taken

- Certification of lab results to confirm that reported data were credible
- Local community participation in the sampling
- Clear and enforceable solutions for addressing problem areas, and
- Assessment of water quantity impacts.

In response, the Mesa technical team sought to address community questions directly and take note of community suggestions for improvements in the program's methodology and presentation. For example, the team improved its adaptation of the presentations to different audience levels and began to design a more comprehensive system for analyzing and addressing the problems. However, the Mesa was unable to implement an early warning system or to systematically track the response to recommendations.

Despite this inability to fulfill some local requests, local residents reported a high level of satisfaction and appreciation for the water monitoring program and the local presentations. One canal owner from an impacted canal stated, "This was the first time anyone had bothered to come to our far-off community to tell us what was going on in our canals, with our fish, with our crops. We knew there were negative impacts and the mine would have to own up to it or even visit us. That is why we would protest. Now at least we have some facts to move forward that we all trust."

One member of the technical team reflected, "If the results had been communicated sooner to the communities, community support for the Mesa would have been much stronger." On a related note, a community member lamented, "It is too bad we don't have more constant visits. And too bad that it took the city people so long to visit us and tell us what the labs were saying."

Indeed, that the monitoring results were not reported more consistently before December was cited as a significant shortcoming—precisely because the results were so important to communities and canals, and bolstered the credibility and demand for the continuation of the Mesa program.

Nevertheless, by all accounts, the dissemination and explanation of this information was a positive contribution to public understanding of water quality issues. In addition to providing the public with a general overview of the water quality in the region affected by the mine, the results were also specific enough to identify concerns in the canals and streams that were most affected. Many participants and observers agreed that the most significant contribution of the Mesa monitoring program was the targeted reporting to local communities and canals. For example, a Yanacocha representative summarized, "The major strength of the Mesa program was that it got to the communities. This was extremely important. All of us, public and private institutions alike, have not communicated well enough with rural communities about water."

Similarly, an official from the national government also applauded the work and called for its continuation in other mine areas: "The work of the Mesa in terms of gaining local trust in the data is unique in Peru and worth emulating. It has been a great contribution to Cajamarca."

CHALLENGE 2.

Targeting the Reporting and Disseminating Monitoring Results Quickly and Effectively

LESSONS LEARNED

- **Political climate and media coverage can significantly influence a program's processes and findings, and their implications.** Participants should uphold established agreements, develop a long-term communications strategy, engage proactively with local representatives and the media on issues of concern, and respond quickly to doubts and misinformation that surface.
- **Monitoring results should be reported to people in a timely and systematic way.** A streamlined system for data collection, analysis, interpretation, and reporting can provide such information.
- **To ensure that affected people receive and understand technical findings and recommendations, direct outreach to local communities is key.** Regular dialogue with affected people can help ensure their concerns are addressed adequately. Communication with their local representatives is necessary but not always sufficient for affected people to understand information completely.
- **Tailor formal communication procedures to different audiences to build a base of public knowledge.** Parties interested in technical results often vary widely in their technical knowledge, and presenters should acknowledge and plan for such differences. Approaches could include:
 - Conducting a basic technical orientation for local stakeholders before reporting results
 - Tailoring technical presentations to the capacity and expertise of each audience
 - Directly responding to key questions and concerns to establish local relevance and understanding
 - Partnering with local experts, who can communicate complex findings in culturally appropriate ways, and
 - Continuously reporting results over time to the public to ensure broader understanding.
- **Presentations and summary handouts should directly address central concerns and questions** (such as the potential long- and short-term health consequences of exceedances of water quality standards or guidelines). Such directness can prevent misinterpretations or curtail doubts that the monitoring program's critical findings are being diluted or distorted.

CHALLENGE 3.

Moving From Recommendations to Implementation

Recognizing the need to directly address the locations where water quality concerns were identified, the annual monitoring report and each communiqué emphasized the need for the competent government institutions to respond to the issues identified as problematic. The December 2005 annual monitoring report presented a series of specific recommendations for Yanacocha and governmental institutions to implement (see box 1). At the same time, several of these institutions did not formally recognize the results. For example, DESA maintained that the results had no legal standing because the Mesa's institutional standing was unclear. This argument was also used to criticize the Mesa's 2003 independent water study; it frustrated local residents, who demanded a constructive government response to the critical findings that were generally believed to be scientifically valid and uncontested.

Yanacocha responded in general terms to the findings and recommendations of the monitoring report. However, it did not offer specific responses or plans for addressing the problem areas identified and the recommendations for further studies. Instead it reiterated that it was not contaminating and was supporting rural development projects and constructing several sediment control dams in critical areas.

One member of the Technical Commission commented, "The mine always likes to say that in 98 percent of the cases, the water is fine. Well, what about the cases where they are not in compliance? What about those people? What will they do? This is not about numbers; it is about people." In a similar vein, one community member emphasized, "We really were disappointed that we didn't have an immediate answer to the problems. It is one thing to tell people that you have a problem, and another is to say, you have a problem and this is what we are going to *do* about it. Why didn't the mine provide an answer or a plan?"

To move toward implementing the annual report recommendations, the Technical Commission prioritized certain issues. In response to some of the findings of persistent and significant exceedances in some areas, the Commission brainstormed methods for addressing some of the problems, including further investigation of causes. In late 2005, the Mesa coordinator wrote a letter to Yanacocha requesting additional studies be undertaken in critical points so the nature of the problem could be understood and addressed. Although Yanacocha participated in the Commission sessions where these issues were discussed, it never responded formally, and the suggestions were not implemented. Indeed, despite periodic requests from the Mesa for updates from Yanacocha on the implementation of recommendations, the Mesa did not establish a systematic approach for holding Yanacocha accountable and measuring outcomes.

As will be discussed below, the cessation of the Mesa, combined with a lack of initiative from the government and the mine to follow through on the recommendations, prevented the formation of a robust system for their implementation. This outcome, disappointing for affected communities, highlighted the importance of a well-resourced Mesa forum to carry out the monitoring work and follow up on recommendations.

A well-resourced forum is needed to carry out the monitoring work and follow up on recommendations.

BOX 1. The Mesa Technical Team's Recommendations, based on the 2004-05 Annual Monitoring Report

The report stated:^a

Recommendations for Specific Water Quality Concerns

"We have also seen improvements in water quality since the previous Mesa study was completed in 2003. Based on the results of this annual monitoring report, we recommend that the following specific water quality concerns be addressed:

Quality of water for agriculture:

1. Evaluate water quality concerns in streams and canals in the upper Rio Grande in the Porcón Basin. This would include a more frequent evaluation of water quality in the mine's discharge point, Punto Descarga La Quinoa, as well as an evaluation of other potential sources.
2. Evaluate water quality concerns in streams and canals in the upper Quebrada Honda. This would include a more frequent evaluation of water quality in the mine's discharge point, Punto Descarga Pampa Larga, as well as an evaluation of other potential sources of metals.
3. Evaluate water quality concerns in the upper Rio San Jose and Canal La Shacsha in the Chonta Basin.
4. Determine if manganese is a significant concern for irrigation. This evaluation could include:
 - Determination of manganese concentrations in agricultural soils and soil chemistry
 - Determination of whether crops grown in the region are sensitive to manganese.
5. Develop procedures to mitigate and improve water quality if necessary.

Water quality for human consumption:

1. Survey rural populations within the four basins to determine which people do not have access to potable water sources.
2. If a potable water source is not available, determine whether water quality in specific canals and streams that may be used for human consumption meet water quality standards and guidelines (including those for fecal coliform bacteria).
3. If water quality does not meet standards and guidelines, determine alternative sources.

Recommendations for future water monitoring:

1. Because water quantity is a major concern, develop precise standards and procedures for measuring stream flow that are adhered to by the sampling teams. Overall, there needs to be more focus on water quantity issues.
2. Evaluate trends in data from month to month and incorporate graphics that show changes in water quality over time into the presentation of results.
3. Improve disclosure and dissemination of information to the public in urban and rural areas.
4. Encourage the active participation of veedores, especially people living in the areas where water monitoring occurs. Possible ways to encourage participation include:
 - Developing a schedule for monitoring that better accommodates participants.
 - Telling people in the field about the purpose and procedures for the monitoring.
 - Telling people in the field where and when they can find out about monitoring results.
5. Develop standardized data quality control procedures between monitoring programs, including criteria for collecting and analyzing duplicate, blank and standard reference samples and reporting the results.
6. Improve coordination and cooperation between institutions that monitor water."

a. The full report can be obtained at www.cao-ombudsman.org/html-english/complaint_yanacocha.htm

Overall, the Mesa water monitoring program and the work of the Technical Commission represented a significant achievement for the Mesa. It provided the Cajamarca public with new knowledge and an opportunity for various institutions and stakeholders to discuss and collaborate on water issues. A wide range of stakeholders lauded the program's focused attention on communication of the results to communities, and local requests for the program to continue increased with public outreach. Indeed, other institutions in Cajamarca have discussed emulating the program by adopting similar methods and procedures. At the national level, the government is encouraging replication of participatory water monitoring programs at other mine sites.

At the same time, the data review and communication process exposed difficulties in upholding a consensus-based approach for determining how water quality standards and guidelines should be applied and how exceedances should be characterized, communicated, and addressed. The debate that arose around these issues highlighted the importance of creating clear rules for multistakeholder consensus building, upholding members' commitments and ensuring implementation of recommendations from the monitoring program.

CHALLENGE 3.

Moving From Recommendations to Implementation

LESSONS LEARNED

- **Participants in a dialogue process should agree to clear and specific protocols for reviewing draft reports, submitting comments, and finalizing reports.** Upholding such protocols can help build trust and ensure efficiency of process and focused discussions on reporting results.
- **Parties to a monitoring process should agree upfront to adapt their approach if monitoring results suggest that adjustments are appropriate.** This commitment can ensure that recommendations will be addressed and boost confidence in the program's relevance and utility to local interests.
- **Participants should agree from the outset to accept results and uphold a participatory mechanism for implementing the recommendations of the monitoring program.** In the absence of an assurance mechanism, local people often fear their health and safety are at risk when potential problems are reported. The mechanism should include protocols for:
 - Directly addressing identified issues through mitigation measures and/or additional analysis as recommended
 - Establishing verifiable benchmarks
 - Supervising the implementation of recommendations, and
 - Informing local people of progress toward implementation.
- **Achieving meaningful participation and effective communication of a monitoring program require considerable time and resources.** Complex social contexts require significant time for communicating with diverse and geographically dispersed local stakeholders, as well as with trained communications and technical staff. The resource and time requirements often exceed those of standard, nonparticipatory technical studies.
- **Independent studies and monitoring should not replace the regulatory responsibility of government.** To prevent the creation of parallel and competing monitoring programs, programs should work together with regulatory agencies to define the legal status of monitoring program findings and recommendations, as well as the mechanism through which the government will (or will not) take them into account.

CHALLENGE 4.

Ensuring Meaningful Participation in Studies and Assessments

A key recommendation of the Mesa's 2002–03 water study was to study the aquatic life in the area of influence of the mine, especially in the areas where the report identified exceedances of water quality guidelines for aquatic life that they determined could be attributable to the mine (see monograph 2).

The health of the aquatic life in streams is important to local residents, who believe it is an indicator of the water's safety for human use, and who harvest fish for consumption and as a source of supplemental income. As a member of the technical team explained, "In all watersheds, we have heard a common theme: For many people, the aquatic life issue is central to their concerns about water quality. They believe that if the fish are okay, the water is okay for them to consume. It is much easier to observe fish as an indicator of water quality than analyze complicated lab data and drinking water standards."

In early 2004, Yanacocha hired a consulting firm, MFG, to manage an aquatic life risk assessment. A separate consulting firm, Maxim, conducted the data collection. Yanacocha's selection of MFG/Maxim and the drafting of the terms of reference occurred without input from local stakeholders and the Mesa. The choice of consultant was disconcerting to some observers and Mesa members, both because the selection process was not participatory and because Maxim was also conducting the environmental impact assessment (EIA) for Cerro Quilish.⁸ For many observers, the consulting firm's association with Yanacocha and the controversial Quilish project called into question the credibility of the aquatic life assessment.

Because the aquatic life study was led by a consulting firm contracted directly to Yanacocha, adapting to a model in which the Mesa had less control was a major challenge for the Mesa. The Mesa struggled to achieve meaningful participation and communicate the study's design and findings in an understandable format.

Achieving meaningful Mesa involvement

Yanacocha solicited the Mesa's participation in the aquatic life assessment in early 2004. The initial reaction of Mesa participants to this proposal was mixed. On one hand, Mesa members expressed reluctance because they did not believe MFG and Maxim were sufficiently independent from Yanacocha. On the other hand, Mesa members recognized that additional independent technical oversight and Mesa participation in the assessment could ensure its credibility and usefulness to local residents who had a strong interest in its results. The Mesa decided to participate, designating *veedores* from the Mesa to go on the sampling missions and providing a forum for the study to be presented. However, the Mesa stipulated that it would discontinue its engagement if it found that the assessment lacked transparency or credibility.

Yanacocha and MFG had already determined the preliminary study design when the Mesa began to engage. Because the study was technically complex, the Mesa decided that experts selected by the Mesa should provide independent input and oversight throughout the assessment process. The Mesa designated the chief scientist of the Mesa technical team as its expert reviewer. At the same time Yanacocha requested the involvement of a panel of scientists, mostly experts in marine biology, from the Lima-based National Agrarian University-La Molina (UNALM). Though the selection of UNALM was not deliberated in the Mesa assembly, the Mesa believed the UNALM scientists were sufficiently independent to form a trustworthy panel.

Coordination among the Mesa, UNALM, and Yanacocha consultants proved a significant challenge because of logistical complications, diverse technical backgrounds, and the differing approaches of each institution to the study. The Mesa technical expert and university panel provided comments on the study's initial design and the draft of the final study. These comments were reviewed on four occasions in meetings among the independent technical reviewers, MFG, and Yanacocha. The reviewers offered critiques and suggestions on the scope, methodology, analysis, and presentation of results. The Mesa and university reviewers agreed on several areas where the study design and methods needed improvements: a format that responded directly to local questions and concerns, fish tissue sampling, improved timing of sampling, and analysis of water quality. However, they did not agree on other areas.

Despite this review process, there was no clear system for achieving consensus on how to resolve the many substantial differences in expert opinion. As the Mesa technical expert reflected, "Coordination among the three groups was very difficult when there were entrenched differences in opinion on the study. Increased facilitation and clearer rules about how to proceed when disagreements were encountered would have been helpful."

In response to the independent expert comments from the Mesa and university, MFG changed the study design in some areas but continued with its original design in most areas. According to the Mesa technical expert, "In many ways the Mesa participation in the review of the study was tacked on rather than integrated from the beginning. This offers some good insights for future mine-led studies that want to have some level of local participation and independent expert review." Table 4 compares the key components of the aquatic life assessment and the Mesa water study.

The first sampling event was conducted in August 2004. Sampling was then conducted bi-annually in all four major basins within the area of mine influence. *Veedores* were briefed on the study methods before going to the field. Many *veedores* reported both positive and disappointing experiences in the field. One *veedor* recalled, "I learned about the sampling techniques both before the missions and in the field. But there were still many questions we had that we didn't have the time or space to discuss with the team. The language barrier was difficult." Another *veedor* recalled, "Many of the issues were quite complicated: which streams had fish before the mine, which did not, how the chemicals affect the fish differently than people. It was complicated, but at the same time it was good to see that there were fish in areas and that they had not all died off, as some people said."

As was the case with the water study, the *veedores* often faced attacks on their credibility because of their collaboration with Yanacocha and the Mesa. One *veedor* recalled, “When I went on the radio and told people there were trout in some streams, the radio host asked me how much the mine was paying me. It was totally wrong! I told him I wasn’t being paid anything as a *veedor* and many people didn’t believe me! It was difficult for all us *veedores*.”

Adding to the complexity of the issues, to conduct the sampling, fish were shocked into a state of temporary paralysis by running electric currents through water with electrodes. This procedure concerned many local residents, who feared the fish would be killed or displaced. As a result, some local residents initially opposed the sampling because they did not understand its objectives and feared its impact on fish. On three occasions, residents blocked passage of the sampling team on the road and demanded an explanation of their work and affiliation. Residents maintained that they had not been apprised of the sampling protocols, objected to Yanacocha sampling water in their region, and did not want the fish to be harmed. The discussions at the roadblocks were tense, reflecting the high level of distrust of the mine. The sampling team members explained their credentials and invited concerned residents to accompany the team to the sample sites. On all occasions, local people agreed to allow sampling with observation, though some suspicion and resentment remained.

One *veedor* recounted, “We were extremely worried when the local people stopped us. They were very angry and resentful. They wanted to be sure that no one was directly an employee of Yanacocha because they were angry at the mine for other reasons and didn’t want them harming their fish.” Thus for some observers, the lack of clear and consistent communication with some local residents was a significant shortcoming of the aquatic life assessment—as with the water monitoring program.

Table 4. Components of the Aquatic Life Assessment and the Earlier Mesa Water Study

	Aquatic life assessment	Mesa 2002–03 water study
Consultant/study team	MFG contracted by Yanacocha	Stratus selected by Mesa, paid with funds from Yanacocha and the CAO, managed through the CAO
Study format and design	Based on U.S. EPA risk assessment format	Based on stakeholder questions
Data collection	Consulting firm staff, along with technical experts chosen by Mesa, and <i>veedores</i>	Consulting firm staff, <i>veedores</i> , local mayor notification
Data analysis	MFG, with review by Mesa-designated expert reviewer/chief scientist and UNALM	Stratus
Data interpretation	MFG, with review by lead Mesa technical expert/chief scientist and UNALM	Stratus
Presentation of results	Proposed to be presented at the Mesa. A nontechnical summary was presented during biomonitoring program sampling in April 2005.	Stratus and Mesa presented to communities. Nontechnical summaries and brochures were also distributed.



Presenting the aquatic life assessment results in an understandable format

The MFG scientists presented the results of the first round of aquatic life sampling at the November 2004 Mesa assembly. Most participants recalled that the presentation was highly technical and difficult for nonscientists to understand. As one listener recalled, “We could not comprehend or comment substantively on what they were saying because it was too scientific. Many people can’t read, much less understand, graphs. It is too bad because aquatic life is so important to most people there.” As a result, discussion of the results and local concerns was limited.

Although by many accounts the MFG consultants later improved their presentations to local audiences, they were not able to present the final study at the Mesa in early 2006 because the Mesa was no longer meeting in assembly. In addition, the final report did not systematically respond to the observations and recommendations of the independent expert reviewers. In May 2006, MFG, together with some participants from the Mesa, presented a nontechnical brochure describing the work to some local residents who had observed work on the biomonitoring program, and at a separate meeting with some institutions in Cajamarca. For Yanacocha, the lack of a Mesa forum for presenting the results was disappointing. According to one Yanacocha representative, “The participation of the Mesa *veedores* was really important to giving it credibility, even though some people were against some of the Mesa *veedores*. It is unfortunate that the Mesa is no longer serving as a neutral forum where we can present it to a wider audience.” As a result, the overall methods of communication of the aquatic life assessment disappointed many Mesa members and local residents who were waiting for the results. Because the level of Mesa participation was less comprehensive than during the 2002–03 water study, few people fully understood and trusted its findings.

One Mesa member stated, “The Mesa never felt much ownership over the aquatic life assessment. It was mostly led by Yanacocha. Their process was not as participatory as the Stratus study, and they did not respond to all our observations about technical and communications issues.”

According to the Mesa’s technical expert, “The aquatic life assessment has generally good data and data interpretation, but the social side was a significant gap. People didn’t feel involved or prepared to understand the methods and results. The assessment wasn’t formatted to directly answer people’s questions.”

CHALLENGE 4.

Ensuring Meaningful Participation in Studies and Assessments

LESSONS LEARNED

- **For participatory studies, local knowledge, questions, and concerns should form the basis of assessment design and scope.** Directly addressing local questions, regardless of how technically irrelevant they may seem, is essential to establishing the legitimacy of the assessment in the eyes of local stakeholders. The assessment design and format of the final report should clearly address these questions.
- **Protocols for participation in company-led studies should be agreed upon and upheld from the outset, and should include clear requirements for:**
 - Responding to and incorporating the comments of outside experts systematically and transparently
 - Participatory decision making about data interpretation, and
 - Comprehensive and understandable communication of results to local stakeholders.
- **Local forums and networks can be a foundation for effective communication of monitoring results.** Although direct communication with individuals is important, presenting and discussing the assessment in community settings can build additional trust and collective understanding of the results and their implications.

CHALLENGE 5.

Addressing Other Emerging Community Conflicts and Critics of the Mesa

As the Mesa focused its energy on water quality monitoring and the aquatic life assessment, several disputes flared in the Cajamarca region, which the Mesa addressed with varying degrees of success. The complexity of each conflict and the hesitation of the stakeholders to fully accept intervention by the Mesa made successful mediation formidable.

Cerro Quilish and the challenge to the Mesa's legitimacy

In late 2004, when the issue of Cerro Quilish came to a head, the Mesa struggled to counter attacks to its legitimacy as a forum for conflict resolution. Yanacocha did not fully inform the Mesa of its plans for Quilish, and neither the company nor its critics solicited Mesa intervention as the conflict escalated (see box 2).

During nearly two weeks of roadblocks, strikes, and protests in Cajamarca, the Mesa issued a statement calling for peace and dialogue. At the same time, Mesa critics called for the Mesa's disbandment, alleging that it had failed to mediate the conflict and instead served the interests of Yanacocha. In public debates, Mesa leaders were confronted with attacks to their credibility and the Mesa's legitimacy.

After the protests ended, Mesa members reflected on the conflict and the lessons learned for the Mesa as it looked forward. Many Mesa members expressed concern that Yanacocha had not upheld its previous commitment. One CAO facilitator emphasized the critical importance of Newmont's original commitment and the consequences of its perceived breach: "Newmont's commitment to gain a social license was extremely significant to the public. When Yanacocha proceeded without fully securing this license, it breached the public trust. The failure to uphold this commitment was a shortcoming of the company and IFC."

BOX 2. The Last Straw? The Cerro Quilish Controversy

Cerro Quilish, a prominent hill clearly visible from the central square of the city of Cajamarca, has become a powerful symbol of community-mine conflict. The proposed expansion of mining activity to Quilish brought the potential impact of the mine closer to home for many Cajamaricans. Many believe the mountain is an important source of water as well as a spiritually significant cultural site (see photo, p. 29).

Responding to growing public opposition to the mining of Quilish, the municipal council of Cajamarca approved a city ordinance in October 2000 declaring Quilish a protected area that could not be mined. Yanacocha already had secured some governmental permits to conduct exploration activities on Quilish. The company and the national government filed suit to overturn the ordinance, arguing that only the central government had the authority to designate protected areas. Public apprehension over Quilish remained high as the case progressed. Critics of the mine continued to stress their opposition to the exploitation of Quilish.

In 2002, Yanacocha announced it would not exploit Quilish for at least another five years and only if it could be shown that it would not have a detrimental impact on the water supply of the city of Cajamarca. A Newmont representative stated publicly that Yanacocha had to gain a “social license to operate” in order to continue to expand its operations. IFC declared that, although it had made no decision to invest in the Cerro Quilish expansion, it would require any expansion to meet IFC requirements. The Mesa did not focus on the Quilish issue in 2002 and 2003 because the court ruling was still pending and because of the company’s stated commitments.

In late 2003 the Constitutional Court of Peru ruled that Yanacocha could continue the exploration, but needed to submit an environmental impact assessment (EIA). Soon after, Yanacocha submitted an EIA for exploration of Cerro Quilish. Protests ensued in Cajamarca in April 2004. When Yanacocha moved exploration equipment to Cerro Quilish in July 2004, local residents, environmental NGOs, and church leaders raised concerns about the potential for conflict to the company and the government. A series of protests and violent clashes ensued between the military, the police, and protestors, leading to some severe injuries and an escalation of the conflict. Several efforts at dialogue were made without success. In September 2004, thousands of Cajamaricans participated in mass protests. Roads in the city and surrounding areas, including roads to the mine, were shut down for over a week.

For many Cajamaricans, the issue of Cerro Quilish had become the “last straw,” symbolizing Yanacocha’s arrogance, power, and apparent disregard for community concerns. The public indignation, combined with concerns about hydrological impacts and incendiary rhetoric by some mine opponents, combined to deepen substantial rural and urban opposition to the exploitation of Quilish.

Only after several mediation attempts by the government and the Catholic Church did the protests cease. In September 2004, Yanacocha requested that MEM withdraw its exploration license, which it did immediately. The company then issued a public apology, published in the local paper, and committed to engage in meaningful dialogue on the Quilish issue. In response to demands of local groups, Yanacocha agreed to participate in a mesa convened by the municipal government. In addition, Yanacocha removed Quilish from its registered mineral reserves.

Many acknowledged that the Mesa's focus on technical water issues had involved some level of trade-off: It was also apparent that the Mesa's capacity to mediate complex conflicts needed to be enhanced.

Several Mesa members believed that because Yanacocha did not fully inform the Mesa or the public of its Quilish plans, the Mesa was unable to help prevent or resolve the conflict. At the same time, various Mesa members emphasized that many of the groups leading the Quilish protests sought to gain power by fomenting opposition and even conflict. According to many Mesa members, these groups did not solicit Mesa mediation because they opposed the Mesa's efforts to encourage dialogue between the community and the mine. One Mesa member said, "The groups that led the protests wanted mediation that they dominated; they always saw the Mesa as a competitor because they did not control it."

As members considered the Mesa's future strategy, many acknowledged that its focus on technical water issues had involved some level of trade-off: The Mesa addressed community concerns about water but had not focused on their concerns about perceived company aggressiveness and disrespect. In addition, it was apparent that the Mesa's capacity to mediate complex conflicts like Quilish needed to be enhanced. According to one CAO facilitator, "Mediating Quilish was so complex and high-stakes that it was probably beyond the capacity of local Mesa leaders at the time to lead a mediation process. In such cases, outside expert mediators are needed until local mediation skills are sufficiently developed."

Based on these insights and the growing public demand for water monitoring, members decided to maintain the Mesa's focus on water monitoring while clarifying its relationship with Yanacocha and enhancing the Mesa's mediation capacity and public communication activities. To improve communications, Mesa staff created a Web page, a quarterly bulletin called *Dialogando*, and radio and television spots. The communications material explained the Mesa's mission, the findings of the 2002-03 water study, and the goals and results of the ongoing water monitoring program and aquatic life assessment. Throughout late 2004 and early 2005 the spots were broadcast frequently and *Dialogando* was distributed widely throughout Cajamarca.

The need for a defined dispute resolution mechanism to which key parties could agree became increasingly apparent.

Mediating specific community–mine disputes

On three occasions in 2005, leaders from Huacataz, San Cirilo, and the Tual canal requested a mediation by the Mesa to help resolve community–mine disputes. Central issues of concern included development support and employment from the mine in the case of Huacataz and Tual, access to water in the case of Tual, and Yanacocha's mineral exploration activities in the case of San Cirilo. Community members wanted support from the Mesa in asserting their grievances to the mine and ensuring that clear and fair agreements were reached and upheld. Though each dispute was distinct, community leaders generally believed that Yanacocha had not upheld previous commitments and/or had failed to disclose requested information.

In response to these requests, the Mesa coordinator convened meetings between the concerned community members and Yanacocha staff. In one case, an agreement was reached, while in another the mine rejected the Mesa intervention. In yet another, community members decided to pursue resolution options through the local prosecutor and municipal government. The Mesa coordinator reflected on these outcomes: "Sometimes local people chose other



channels [besides the Mesa] when they presented themselves or when it appeared more expedient or beneficial. Yanacocha did not request Mesa support at the key discussions and sometimes expressed that private meetings directly with community groups would result in a solution more quickly.”

At the same time, an observer familiar with one of the cases questioned the legitimacy of one of the community leaders and suggested, “They approached the Mesa to start rather than resolve conflicts.”

Several Mesa members and some community members expressed concern over the lack of a defined protocol for dispute resolution. According to one observer, “It was not clear what the process was—who would mediate? Would Yanacocha agree to the Mesa intervention? Would the agreements be binding and public? How would the government be involved if at all?”

These cases, though few in number, highlighted the central challenge of managing the complex motivations and interests of diverse community actors and Yanacocha to achieve successful mediation. The need for a defined dispute resolution mechanism to which key parties could agree became increasingly apparent.

Community demand for the Mesa’s intervention in some mine-related disputes demonstrated a growing trust in the Mesa as a mediating body in some sectors of Cajamarca. At the same time, the mixed outcomes of the mediation and the Mesa’s limited ability to intervene in the Quilish conflict reaffirmed the importance of mediation training for Mesa members, and of formalizing a commitment from Yanacocha to enter into mediation. The Quilish controversy also underscored the importance of upholding previous commitments and maintaining clear channels of communication among members and with the public.

CHALLENGE 5.

Addressing Other Emerging Community Conflicts and Critics of the Mesa

LESSONS LEARNED

- **To build and maintain community trust, companies should uphold public commitments regarding potentially controversial plans or projects.** Steps by the company to modify commitments and plans without securing public support can damage trust and communication and exacerbate existing tensions.
- **Agreements or ground rules for engagement, functioning, and accountability should be established and upheld.** Initial general agreements to engage in a dialogue process can lay a foundation on which more formal mediation agreements can be built. A system for measuring progress can ensure that expectations are realistic and that members are held accountable. Agreements should include the following elements:
 - Commitments to engage in dialogue from leadership or key representatives of relevant stakeholder groups
 - Commitments to principles of collaborative processes, such as transparency, integrity, and mutual respect
 - Definition of roles and responsibilities of all participants
 - Definition of facilitator/mediator roles, expectations, and benchmarks
 - Definition of what will and will not be addressed during the process
 - Benchmark indicators for success, including timelines and consequences for unfulfilled commitments, where appropriate
 - Participatory mechanisms for assessing success and improving procedures at key moments throughout the process
- **Mediators should continually encourage adherence to goals and ground rules.** In the event that participants repeatedly fail to uphold previously agreed upon commitments, facilitators should consider concluding their involvement.
- **Participants in a mediated process should communicate with appropriate parties about the issues and ideas being discussed.** Open communication can ensure that opportunities for agreements are maximized. Formal agreements may be appropriate to ensure such coordination over the long term.

CHALLENGE 6.

Preparing for a Successful Transition

In 2003 the CAO began discussing its plans for a phased withdrawal from Cajamarca. With the water monitoring program successfully underway, the CAO began to solidify plans to ensure the Mesa could operate without CAO support. To assist in the transition, the CAO commissioned an independent evaluation of the Mesa in February 2005. Processing the evaluation's key findings and implementing its recommendations required substantial self-reflection on the part of both Mesa members and the CAO.

Undertaking the independent evaluation

The CAO saw the independent evaluation as a means of strengthening the Mesa and enabling it to function without CAO support. The evaluation's main purpose was to assess the Mesa's effectiveness in terms of meeting its main objectives. Its secondary aim was to recommend improvements and strategies for a successful transition to independence from the CAO. The evaluation analyzed the Mesa's representative base, governance characteristics, and ability to resolve conflicts.

The evaluation team, comprised of four experts in environmental management and conflict mediation, interviewed more than 70 people, including Mesa participants, government functionaries, and local stakeholders and Mesa critics who did not participate in the Mesa. Based on these interviews and a review of Mesa records, the evaluation team made a series of findings and issued a set of recommendations for enhancing the effectiveness of the Mesa (see box 3). In general, the evaluation found that the Mesa had met its objectives to some extent, but that significant changes in its mandate and structure were needed for it to become a full-fledged dispute resolution body for community-mine conflicts and to achieve full community support.

The independent evaluation process, findings, and recommendations elicited strong reactions of both acceptance and criticism from many Mesa members. Several members agreed with the main findings and recommendations, recognizing the need for significant change at the Mesa. Indeed, throughout 2004 and especially when the Quilish controversy erupted, the Mesa had struggled to define its role in Cajamarca and meet the disparate expectations of its members and Cajamarca residents. One Comité member declared: "The evaluation confirmed it: The Mesa as it stands does not have the capacity to mediate conflicts, and that expectation should not exist. We need to be realistic in what we can and cannot do."

Various Mesa members concurred with the evaluation's finding that the commitment of Yanacocha to the Mesa was ambiguous and needed to be more clearly defined in writing.

Other Mesa members disagreed with some of the evaluation's methods and key findings, arguing that the Mesa had never strived to mediate and prevent all conflicts, and judging it against that standard was unfair. Others argued that the sample of interviewees was not representative.

BOX 3. The Independent Evaluation of the Mesa: Findings and Recommendations

Findings

The evaluation found the Mesa had been successful in implementing its technical strategy, which focused on providing a transparent process for collecting and disseminating technical information about issues in dispute. In terms of transparency and inclusiveness, the team found that the Mesa conducted itself in an open and participatory manner that engendered a “culture of dialogue” among its members.

The team also found that the Mesa lacked clarity in the role it was actually playing in the context of Cajamarca–Yanacocha relations. According to the findings, the Mesa had not established a formal system or program for mediating disputes, as it focused more on reporting about ongoing activities—usually of a technical nature—rather than on airing new issues and bringing them to the attention of Yanacocha.

Recommendations

Based on these findings, the evaluators recommended that the Mesa pursue one of two options to meet a defined set of realistic objectives:

Option 1: Transform the Mesa into a forum for conflict resolution. If the Mesa opted for this path, the evaluation team recommended new leadership with solid mediation skills, reconfiguration of the Comité, more representative participation in the general assembly, an institutional agreement with the regional government ombudsman, development of a network of conflict resolution specialists and volunteers, enhancement of the content of assembly meetings toward a more consensus-based approach to decision making, and clearer definition of the types of conflicts the Mesa would address.

Another recommendation called for a memorandum of understanding with senior Yanacocha management to include an agreement to participate in a meaningful and transparent manner to resolve conflicts within the community, the designation of an oversight process to ensure execution of the specific agreements reached, and increased levels of participation and representation in the Comité and assembly.

Option 2: Convert the Mesa into an environmental observatory. If the Mesa chose this approach, it would continue to finance studies of the environmental impact of the mine’s activities, conduct these studies using its participatory methodology, and disseminate the results of the studies widely for the general use of the entire community.

For such a conversion to be effective, the evaluation team suggested the Mesa reevaluate its mission and work plan to reflect this new focus. Concrete changes would include: reconfiguring the board of directors to include representation of technical experts from government, industry, academia, and NGOs; and revamping the Technical Commission and Mesa staff to include technical experts as well as people experienced in communicating environmental information.

The Role of the CAO during the Mesa Transition

The evaluation team found that the CAO had an important role to play in encouraging the Mesa to undertake a serious process of strategic reflection and ensuring that local leaders considered the Mesa’s future. At the same time, the evaluators urged the CAO to avoid direct involvement in planning or implementation. They emphasized that the CAO should only facilitate the Mesa’s efforts to secure funding for its medium-term implementation, while continuing to pursue its exit strategy. They stressed that the Mesa’s legitimacy and credibility must be derived from its own performance rather than the presence and reputation of the CAO.

a. The complete report can be found at www.cao-ombudsman.org/html-english/complaint_yanacocha.htm

Other participants and observers agreed with the findings but not the recommendations for a more limited scope for the Mesa. One CAO mediator, although concurring with many findings, believed the binary nature of the two options was too restrictive: “The technical work of the Mesa was integral to conflict resolution. It was a classic issue of data conflict that required joint technical fact finding. Over time the process built public acceptance around both the nature of the water quality and quantity problems that existed as well as the recommendations for how to resolve the issues. The role of joint fact finding around technical issues in this complex environmental conflict was not fully appreciated in the evaluation.”

Creating a new strategic plan for the Mesa’s future

In response to the evaluation, the Mesa held a series of strategic planning workshops to discuss the findings and recommendations. With the CAO’s imminent departure, the Mesa sought to solidify these objectives in a two-year strategic plan that could be used to gain funding and support from other entities beyond the CAO. In May and June 2005, the Mesa Comité members participated in a strategic retreat and subsequently convened four workshops for both rural and urban participants. Rather than opting for Option 1 or Option 2, as recommended by the evaluators, participants chose a hybrid of the two options. They set four main goals for the Mesa:

1. Implement a system of water monitoring and other recommendations of Stratus Consulting that would support efficient and useful decision making by relevant institutions and be regarded as legitimate by the population
2. Convene discussion forums for issues relevant to mining and sustainable development in Cajamarca
3. Establish oversight of Yanacocha’s compliance with promises to communities and its response to citizen concerns regarding mining impacts
4. Consolidate the Mesa as an open and participatory institution oriented toward consensus and the capacity building of its participants.

Based on these four goals, the Mesa in late 2005 issued a “Plan for the Future Functioning of the Mesa 2006-2008.” The CAO reviewed the draft plan and provided critical comments that it requested the Comité to address in a final version of the plan. In addition, the Mesa coordinator wrote to Yanacocha management regarding the recommended memorandum of understanding. Yanacocha requested the Mesa first finalize its strategic plan. However, as the following sections describe, the plan was not completed as the Mesa concluded.

Beginning the CAO phased withdrawal

As the Mesa created its strategic plan, the CAO envisioned a phased withdrawal that would ensure that the Mesa was equipped with the tools it needed to continue. The CAO explored various possible funding mechanisms, including the establishment of a trust fund with resources from Yanacocha and IFC. Recognizing the value and importance of the monitoring work and the



Technical Commission, both IFC and Yanacocha agreed in principle to support the water monitoring program. Under such a funding arrangement, the CAO planned to conduct periodic audits of the Mesa's financial management.

The CAO suggested various withdrawal dates that then changed as complications emerged, including external threats to the Mesa by groups that wanted it to dissolve, as well as demands for additional capacity building and strengthening of the water monitoring program. For example, the need for outside facilitation (rather than from the Mesa coordinator) was identified, and the CAO hired a Peruvian expert to lead Mesa discussions in late 2004.

According to the head of the CAO, "There was always a set of complicated reasons to continue supporting the Mesa to ensure that it was on solid footing. Mostly it was because of the need to continue supporting the successes of the Technical Commission and disseminating the findings of the water monitoring program, which we felt compelled to guarantee."

Mesa members viewed the changes in withdrawal dates as both necessary and confusing. One Mesa member, reflecting a general sentiment among most Mesa members, stated: "It was not clear to many people what the exit plan of the CAO was because it kept changing as different challenges came up. This flexibility of the CAO was key to adjusting to local realities. But it also meant Mesa members and leaders didn't always have to fully step up and assume full responsibility." Indeed, during the months following the drafting of the Mesa's strategic plan, the lack of Comité capacity to lead and manage the Mesa effectively became apparent, and the CAO chose to continue its withdrawal as planned.

Laying the groundwork for a successful Mesa transition proved difficult for both Mesa members and for the CAO, which sought to build local capacity and empower Mesa leaders in preparation for CAO's departure from the process. By identifying the Mesa's weaknesses and recommending significant changes to its mandate, structure, and composition, the independent evaluation underscored the need for a successful transition to self-governance. However, the subsequent divergence in approaches to planning the Mesa's future, combined with a lack of trusted leadership, made the CAO withdrawal difficult.

CHALLENGE 6.

Preparing for a Successful Transition

LESSONS LEARNED

- **Outside evaluations of a process can offer invaluable, neutral perspectives on mandate, progress, and effectiveness of a formal dialogue process.** Constructive criticism can help participants reflect systematically on the scope and mandate of their work, and enable them to restructure appropriately.
- **Participants should agree from the outset on a systematic process for addressing the findings and recommendations of an external evaluation.** Such an agreement can ensure that the evaluation is used to promote positive change when improvements are recommended.
- **To empower local leaders and avoid dependency, external facilitators should focus time and resources on local capacity building in mediation and consensus decision making.** Though employment of outside expertise may be more expedient in the short term, responsibility for mediation and technical analysis should be transferred to local actors as soon as possible.
- **Facilitators should establish clear parameters and benchmarks for their involvement.** While flexibility is needed to adapt to local realities, facilitators should uphold these requirements and have a clear procedure in the event that process leaders and participants fail to uphold previously agreed commitments.

CHALLENGE 7.

Upholding Good Governance for the Mesa

As the Mesa's new strategic plan was completed and the CAO sought to reinforce the Mesa's leadership role in the community and establish potential future funding management and oversight, several factors converged that weakened Mesa unity. Complex political dynamics, combined with concerns over some members' potential conflicts of interest (resulting from alleged bilateral agreements with the mine) led to a decrease in the representative base of some key Mesa members. While Mesa attendance and interest in the monitoring program grew, overcoming these divisions and changes proved impossible.

In early 2005, the president of the Comité submitted his resignation, citing personal reasons and the independent evaluation's recommendation that Mesa leadership change. At the same time, some representatives within the Comité expressed opposition to the CAO's plans to periodically review the Mesa's budget management. This position concerned participants and observers, who feared some members might try to direct Mesa resources according to their preferences.

Tension over the leadership and funding issues came to a head in October 2005 when a Mesa meeting was called to elect a new president and Comité. The vice president departed from Mesa protocols and, after an intense discussion among members, brought the meeting to an abrupt conclusion before a new president could be chosen.

As one long-time Mesa member summarized, "Really, it was this meeting that was the beginning of the end of the Comité and the hope of the Mesa to keep the members united. The struggle for power was visible and counter to all that we had learned in the years of the Mesa."

Without a president and other unifying leaders, divisions within the Comité grew. This standstill, coupled with the CAO's decision to end its intervention, led many members to conclude the Mesa would not continue. The CAO's March 2006 exit report summarized the progress of the Mesa toward addressing the issues originally prioritized in

September 2001 (see appendix B). The Mesa office closed in April 2006. As of April 2007 no additional assembly meetings had been held, but many Mesa members hope the process can be reinitiated. The Mesa remains a registered, legal entity in Cajamarca.

While the Mesa made substantial strides in water monitoring and participation in the aquatic life assessment, some weaknesses in Mesa leadership hampered its transition to independence. The lack of transparency on the part of some Mesa leaders made improvements difficult and deflated Mesa morale. At the time of this publication, the Mesa has not been reopened.

CHALLENGE 7.

Upholding Good Governance for the Mesa

LESSONS LEARNED

- **Skilled, representative, and trusted leadership is needed to sustain effective dialogue processes.** Leaders must constantly demonstrate integrity and commitment to positive change that goes beyond direct personal gain. If leaders cannot carry a process forward and assume responsibility for meeting their respective commitments, it is unlikely that a process can be sustained.
- **Clear checks, balances, and rules for decision making should be collaboratively established and upheld throughout a process.** Formal dialogue groups should be mindful that special interest groups may seek to co-opt a process. Ground rules should seek to ensure that no party has the ability to block agreements other than for strongly principled reasons, or to avoid previously established responsibilities.
- **Participants should periodically review the extent to which members have met their stated responsibilities and commitments.** Defining benchmarks, timelines for fulfilling commitments, and consequences for unfulfilled commitments can enable participants to measure progress and ensure accountability of members. Facilitators should seek to ensure that this system is integrated into group process and upheld over time.
- **A mechanism for identifying members' potential conflicts of interest should be developed.** In dialogue processes, there is often tension between participants' stated and unstated objectives. Facilitators should seek to enable participants to explore perceived and real conflicts of interest, and to help members determine appropriate remediation.
- **Members should establish guidelines for ensuring the representational legitimacy of participants.** If the motives of certain members and/or their status and standing in the broader local context is of sufficient concern to the collective, adjustments in participation design may be appropriate.

CHALLENGE 8.

Encouraging Continuity while Concluding the CAO's intervention

As the Mesa concluded, members, staff and the CAO sought to facilitate transition of the successful components of the Mesa's work to local entities. They hoped that helping create continuity would further enhance community knowledge and understanding of water issues and create new opportunities for dialogue. They also recognized that much of the long-lasting effects of the Mesa's work would be indirect and diffuse.

Supporting continuation of water monitoring

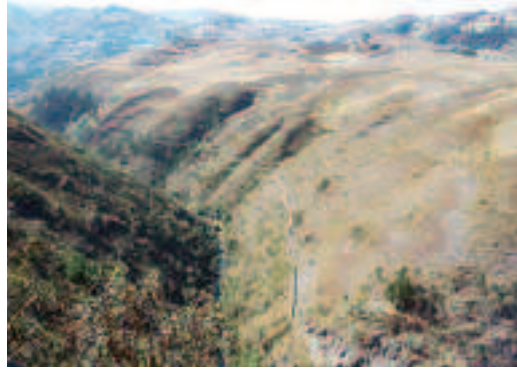
The Mesa's water quality monitoring and quality assurance work sparked the interest of many other local organizations interested in water. For example, the Regional Environmental Commission for Cajamarca (CAR, in its Spanish acronym) sought to include water monitoring in its portfolio of work on the environmental aspects of mining. Mesa staff sought to transfer Mesa knowledge of water issues and orient the CAR effort to help ensure its effectiveness. Some members of the Mesa Technical Commission participated directly in the CAR and brought to it the knowledge and skill acquired at the Mesa. Similarly, during its institutional transition, the Mesa sought to support COMOCA to ensure that its key role in water monitoring would be recognized. Finally, in response to a request from the new municipal mesa for CAO support, the CAO offered in-kind facilitation and technical support.

An official MEM document highlighted the value of the Mesa water monitoring program's independent collection and interpretation of credible data and involvement of local communities.

Beyond the local level, the transfer of Mesa knowledge and experiences was also evident at the national level within the Peruvian government. In an internal memo to the General Directors of Mining Environmental Issues, a MEM official highlighted the Mesa water monitoring program's independent collection and interpretation of credible data and the involvement of local communities in the process. Citing the success of the Mesa program, the MEM official described the participatory water monitoring model as a proven tool that should be gradually introduced as part of the environmental management for all mining operations in Peru. In addition, some local and national NGOs that are typically critical of mining have acknowledged—though often indirectly—the value of the Mesa's technical work, as occurred in late 2005 when some local NGOs publicly cited water quality data presented in the communiqués of the water monitoring program.

Facilitating information sharing between Yanacocha and canal users

In February 2006, 18 canal users in Yanacocha's area of influence submitted a request to the CAO for information about the mine's impact on water quantity in the region's waterways and canals. Because monitoring efforts had focused more on water quality than on quantity (including the Mesa's 2004-05 water monitoring program), data on water quantity were less abundant. In response to the request, the CAO convened and facilitated a two-day information sharing workshop attended by about 30 canal users and Yanacocha's two principal technical



staff in charge of water management. The Yanacocha representatives presented the company's current water quantity monitoring systems, a summary of the data collected to date, and a description of a pending hydrological study scheduled for completion in November 2006. Participants shared concerns, asked questions specific to their individual canals, and collectively requested that Yanacocha make copies of the hydrologic study available to them upon its completion. The CAO released a summary report of the workshop that included several recommendations for next steps.⁹

Following the meeting, CAO urged the canal users to read the hydrology report and communicate directly with Yanacocha technical staff regarding questions and concerns and for updates on the status of projects being implemented by the mine. CAO concluded its involvement in the original request and reiterated its availability to help parties explore collaborative solutions to specific social and environmental conflicts or concerns (see appendix B, CAO exit report).

Examining indirect and diffuse impacts of the Mesa' work and role

In evaluating the Mesa's work and ultimate impacts, Mesa stakeholders reflected on the evolution of the issues addressed at the Mesa and the indirect and diffuse ways in which the Mesa experience influenced participants, observers, and Cajamarca society more generally. For example, the importance of the Mesa's focus on water issues was reaffirmed in mid-2006 when the mine's potential impact on water quality and quantity became a central source of tension between Yanacocha and the town of Combayo. Protests and violent clashes erupted, and the agreement that eventually ended the conflict included provisions for enhanced water monitoring and expansion of potable water systems. The agreement highlighted the centrality of the water issue in the community-mine relationship and the critical importance of collecting and communicating accurate and trustworthy information about water to the public. For many Mesa members and staff, the value of the Mesa's technical focus on water and the public awareness of systems for participatory monitoring and information sharing were reaffirmed.

On the socioeconomic front, Mesa members and staff considered the improvements in company initiatives an indirect response to the community concerns expressed at the Mesa. Specifically, new initiatives included the enhancement of Yanacocha's development foundation, the Cajamarca Los Andes Association (ALAC, in its Spanish acronym), the Small and Medium Enterprise (SME) initiative, and improved community development projects such as provision of potable water systems in towns near the mine.

Beyond these initiatives, Mesa facilitators noted an improvement in the disposition to dialogue by key mine managers and members of the community. In the case of Yanacocha, this progress was apparent in managers' work with communities that were not participants at the Mesa and, in some individual cases, at other mining projects. One incident in particular exemplified the change in community disposition to dialogue: During a protest against Yanacocha in the central plaza of Cajamarca in August 2006, some protestors held signs declaring "*Dialogue, yes! Violence, no!*" This simple statement, novel in Cajamarcan protests, suggested to Mesa facilitators that the advantage of dialogue over violent conflict is now recognized beyond the Mesa, in dispersed sectors of the Cajamarcan community.

As the Mesa concluded, members and staff were able to facilitate continuation of the Mesa's most valued work by transferring knowledge and offering support to local institutions. At the same time, the importance of the Mesa's focus on water issues and the indirect effects of the Mesa's work were underscored as the community-mine relationship continues to confront significant challenges.

CHALLENGE 8.

Encouraging Continuity while Concluding the CAO's Intervention

LESSONS LEARNED

- **As a third-party intervention concludes, process leaders should seek to facilitate continuity at many levels.** Focused engagement over how local entities can carry forward dialogue initiatives can help ensure that knowledge and capacity are transferred.
- **Progress toward positive change in complex community disputes is often not linear or consistent.** Change often occurs only through repeated attempts and in fits and starts. Such a dynamic requires clear commitments from key players to invest in long-term change and to continue to evaluate the successes and shortcomings of the dialogue process.
- **The ultimate positive effects of a dialogue process are often apparent in diverse forums that are not directly linked to the process itself.** Often dialogue efforts spark ideas and improvements in capacities and attitudes that develop over time. Such improvements may not manifest into positive actions until well after a process has concluded.

CONCLUSION

The transition of the Mesa to independence from the CAO involved achievements as well as setbacks. As the Mesa focused on implementing recommendations from the 2002–03 independent water study, it also sought to build local technical capacity, effective communication, and commitment from the mine to implement the recommendations. The Mesa was largely successful in establishing an innovative process for water quality monitoring and quality assurance, enhancing the credibility of the aquatic life assessment, and creating a new space for dialogue and capacity building. Despite various obstacles, the Mesa worked toward creating a systematic approach to ensuring that recommendations were implemented.

At the same time, the Mesa was hampered by an absence of strong Mesa leadership and a clear commitment from Yanacocha to fully support Mesa processes. Also absent was active encouragement and involvement of IFC, which in some ways minimized the Mesa's importance as a venue for constructive dialogue and participation (see box 3). As a result, maintaining a group of participants that represented a broad sector of Cajamarca society proved difficult, and the Mesa was not able to fully develop the potential of its technical work. Despite a strong local demand for continuation of the Mesa's participatory water monitoring program, these institutional shortcomings prevented the Mesa's successful transition to independence from the CAO.

BOX 3. Strategies for Shareholders and Financiers

Engagement in community dialogue processes by financiers (such as IFC and MIGA) and shareholders can help:

- Improve the positive development impacts of projects
- Encourage full community participation in the monitoring and evaluating of projects
- Encourage incorporation of recommendations or agreements reached by consensus through dialogue
- Establish accessible and robust grievance mechanisms
- Promote clearer institutional understanding of conflicts or tensions surrounding a development project, thus encouraging deeper reflection on investments and strategies for ensuring that local concerns are adequately addressed.

Accordingly, shareholders and financiers should:

- Clearly define their own role or the extent of their involvement in ongoing dialogues between the project sponsors and the community: whether they will be participating as a separate party at the table, as part of the project sponsor's team, or as observers.
- Ensure that their clients maintain the commitments they have made on issues that are of critical importance to the community.

APPENDIX

APPENDIX A. PEOPLE INTERVIEWED FOR THIS MONOGRAPH SERIES

Each person was interviewed at least once: in late 2004 (October–December), in 2006 (March), or in both years. Affiliations are as are of the time of the first interviews, which for some individuals is different from their affiliation during their involvement with the Mesa. Individuals are listed alphabetically by organization.

U.S.-based organizations	
World Bank Group	
CAO (Office of Compliance Advisor/Ombudsman)	Meg Taylor
	Ana María Aguilar
	Rachel Kyte ^a
IFC (International Finance Corporation)	Mauricio Athie
	Doug Lister
	Shawn Miller ^b
Yanachocha	
Newmont Corporation	Chris Anderson
Consultants	
CDR Associates	Susan Wildau
DPK Consulting	Bill Davis
Stratus Consulting, Inc.	David Atkins ^c
	Kate LeJeune
	Josh Lipton
	Ann Maest
	Connie Travers
NGOs	
Project Underground	Erica Etelson
	John Gilber
External reviewers	
CAO 2003 External Review Team	Ben Dysart, Dysart & Associates
	Tim Murphy, Independent consultant

Continued on next page

Peruvian-based organizations

Mesa

Mesa staff	Laura Alarcón
	Carlo Calderón
	Elizabeth Morales
	Luis Ara Valera
Mesa Comité (board of directors) ^d	José Marchena Araujo, SEDACAJ
	César Briones, Mesa Technical Commission
	Segunda Catrejon, FEROCAFENOP
	Marieta Cervantes, INIA
	José Delgado, Private University of Cajamarca
	Carlos Díez, Solidaridad International
	Ramón Huapaya, Minera Yanacocha (second delegate)
	Ismael Linares, Town of Combayo
	Julio Marín, CORECAMIC
	Gil Paisic, Town of Yanacancha Grande
	Segundo Sandoval, Cajamarca Chamber of Commerce
	César Torres, COMOCA

Yanachocha

	Nick Cotts
	Alejandro de Bary
	Brant Hinze
	Carlos Sanchez

Government groups

Regional Fisheries Directorship	Rebecca Iglesias
Ministry of Energy and Mines (MEM)	María Chappuis
	Ricardo Giesecke
MEM Regional Office	Elmer Portilla
Municipality of Cajamarca	Rodolfa Orejuela

Catholic Church

Vicaría de Solidaridad	Padre Efraín Castillo
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Community groups and NGOs

ALAC	Violeta Vígo
ASPADERUC	Pablo Sánchez
Cajamarca Chamber of Commerce	Horacio Gálvez
	Victor Gutiérrez
CONAM	Eduardo Dios
Ecovida	Nilton Deza
Frente de Defensa de Cajamarca	Reinard Scheiffer
Futuro Sostenible	Antonio Bernales

Canal users

Manuel Carrasco
Rafael Castrejon
Luís Gilberto
Daniel Heras Flores
José Enemesio Ilman
Leonides Taica Valdivia

Veedores (independent oversight observers)

Alfredo Chávez, SEDACAJ
Gilberto Cruzado, IUDER
Ulises Pajares Gallardo, ADEFOR
Zenaida Mirez Gallardo, FEROCAFENOP
Humberto Marín, CORECAMIC
Fanny Rimarachín, Municipality of Cajamarca
Cesar Torres, COMOCA
Cleotilde Villanueva, FEROCAFENOP

Conflict resolution students

Anita Araujo
Ronnie Ruben

- With the CAO at the time of participation in the Mesa.
- With the IFC until 2004.
- With Stratus Consulting, Inc. until 2005.
- The first delegate was the main and only delegate for his/her organization until the second replaced him/her to be the only delegate

APPENDIX B. The CAO Exit Report^a

Regarding two complaints filed with the CAO in relation to Minera Yanacocha Cajamarca, Peru

Introduction

Since September of 2001, the Compliance/Advisor Ombudsman (CAO) has supported the *Mesa de Diálogo y Consenso* (henceforth referred to as the Mesa) in Cajamarca, Perú. The CAO is issuing this exit report of its ombudsman intervention, in accordance with its procedures for assessing complaints from project-affected people and mediating project-related disputes. Since 2004 the CAO has made public its plan to conclude its direct support of the Mesa while helping create a durable Mesa that works to improve dialogue and resolve issues of concern to the communities of Cajamarca and Minera Yanacocha, SRL (henceforth referred to as Yanacocha).

This exit report provides background information regarding the original complaints filed with the CAO in 2001, the formation of the Mesa and a summary of the Mesa's accomplishments, shortcomings and remaining challenges. The CAO emphasizes both its satisfaction with the hard work and dedication of the Mesa members and its continuous support for transparent and substantive dialogue between Cajamaricans and Yanacocha.

Background of the Mesa

In July of 2000, the CAO responded to the June 2000 mercury spill in the towns of Choropampa, Magdalena and San Juan that occurred when a truck contracted by Yanacocha spilled elemental mercury along a section of road that passed through these three villages. The CAO commissioned an independent investigation of the spill that was made public in October of 2000. The report contains various findings and recommendations regarding the causes of the spill, the response of Yanacocha, and the mine's management of hazardous materials and emergency preparedness and response.

After the mercury spill, the CAO received two complaints within a relatively short time period. At the end of 2000, the *Frente de Defensa de Choropampa* (the Defense Front of Choropampa, henceforth referred to as the *Frente*) filed a complaint with the CAO, which expressed concerns about the aftermath of the mercury spill. The complaint raised issues regarding the follow-up to the spill including ongoing concerns about the long term impact on the environment, the health situation in Choropampa, compensation claims, the program of public works as well as the mine's failure to treat the communities with respect, or respond to concerns about health and environmental risks.

In March 2001, the *Federación de Rondas Campesinas Femeninas del Norte del Perú* (FEROCAFENOP) filed a complaint with the CAO, prepared by the United States-based non-governmental organization Project Underground. The complaint alleged that Yanacocha was adversely impacting the water, air, and livelihoods of surrounding villages and that the mine development was occurring without adequate community consultation, as required by IFC policies.

a. The report can be obtained at <http://www.cao-ombudsman.org/html-english/documents/Exitreportenglish02-07-06-final.pdf>

The CAO accepted both complaints and, as part of its assessment, held a series of meetings with various stakeholder groups in the region. Local groups conveyed a wide range of concerns about the mine, and many suggested that a forum for transparent dialogue between the community and Yanacocha was needed in order to adequately address these issues over the projected 30-year life of the mine. Though the written complaint outlined specific areas where the mine may have violated IFC policies, the issue of IFC compliance was not a primary concern of affected communities and thus was not the focus of the CAO intervention.

In September 2001, the CAO convened a series of three public workshops to explore the feasibility of establishing some type of forum for ongoing dialogue. Participants representing a broad spectrum of stakeholders from government, civil society and Yanacocha attended, in addition to the original two CAO complainant groups. At these workshops, participants decided to form a roundtable for dialogue (a Mesa) and prioritized a list of issues and concerns to be addressed as well as a plan of action for building problem-solving and conflict resolution skills. Given the expressed local demand for a durable dialogue forum, the CAO supported the formation of what would become the *Mesa de Diálogo y Consenso-CAO Cajamarca*.

The agenda of issues developed by participants in the first Mesa workshops outlined concerns similar to those raised in the two complaints submitted to the CAO. The central goal of the Mesa became the creation of a mechanism for multi-stakeholder dialogue which could effectively address current community concerns as well issues that emerged over time. Its focus was forward-looking and proactive rather than retrospective.

The Mesa sought to establish two processes to underpin its work: a water study and a health study. The water study, organized by the CAO with participation by the Mesa, began in January 2002, and the findings of the study were made public in October 2003. In response to concerns from members of the communities of San Juan, Choropampa and Magdalena, the Mesa also requested that the CAO agree to commission an independent health study to evaluate the health effects of the mercury spill. Though the terms of reference were drafted and agreed to by the Mesa and some local groups in 2002, the study was not completed for various reasons including on-going litigation in Peruvian and U.S. courts, community divisions and lack of government support for the study.

Mesa Issues, Actions, and Outcomes

Over the past four years, the Mesa has addressed various issues and concerns raised at Mesa assembly meetings and workshops. There are also issues of community concern that the Mesa has not addressed. Table 1 summarizes the scope of issues identified by stakeholders at CAO sponsored public workshop sessions held in Cajamarca, September 13-15, 2001. These workshops resulted in the decision by the community and Yanacocha to establish the Mesa to address the issues raised at the September 2001 public workshops. Table I describes the issues and the extent to which they have been addressed both at the Mesa and, in some cases, through other channels.

To train community members in conflict resolution and problem-solving skills, the Mesa organized and oversaw a series of capacity building workshops for community members and mine staff from late 2001 to early 2003.

In order to disseminate information about its work, the Mesa enhanced its communications program in 2004. The Mesa has visited various communities to report the results of the water study and has created publications and a webpage to inform the broader public.

Mesa Funding and Evaluation

Through its life, the Mesa has received financial and technical support from the CAO and, in the case of the water study, from Minera Yanacocha. All funds from Yanacocha for the study were managed by the CAO in order to ensure independence. The management of the Mesa's budget has been independently audited.

In early 2005, the Mesa underwent an independent evaluation, commissioned by the CAO, that found various strengths and weaknesses of the Mesa and proposed the Mesa focus on environmental monitoring or general conflict resolution. The Mesa created a Strategic Plan that included both of these aspects.

Challenges for the Mesa

The Mesa has confronted a number of serious challenges during its life. These challenges are shared by many other similar tables, which the CAO believes can inform future dialogue efforts between communities, companies and governmental entities. Challenges include building trust and transparency among stakeholders, gaining broad participation of affected communities, communicating the findings of complicated technical studies, and achieving an effective mechanism to hold participants accountable to their commitments.

CAO conclusion

Since the Mesa began in 2001, the CAO has sought ways for the Mesa to become an organic, fully Cajamarcan entity. The CAO has supported the Mesa financially and technically since 2001. The CAO has agreed to support the water monitoring program of the Mesa until February 2006, after which it will no longer be involved in the process. Through training, local hiring, and coordination with local universities, the CAO has sought to ensure that the Mesa can continue sustainably. Ultimately, whether and how the Mesa sustains itself in the future will depend upon the presence of a strong social demand for the Mesa's mission and activities, representative and effective leadership and sufficient resources to support future work. The decision to continue as a Mesa or evolve into something else is now squarely in the hands of the people and institutions of Cajamarca. The CAO believes that water monitoring can and should continue given the positive results of its first years of functioning. The CAO also believes that a transparent dispute resolution mechanism(s) is/are needed in order to ensure that community concerns are addressed fairly and effectively. In the four years of the Mesa's life, it has made great strides while also bringing to light the continuous challenges that exist in constructing a transparent and effective forum for dialogue between Yanacocha and the communities that are affected by its operations.

CAO Exit Report, Table 1. Community Concerns Expressed at the Mesa, Actions, and Outcomes to Date

Community Concern expressed at the Mesa	Action	Outcome(s) to date
Water Quality and Quantity	Independent and participatory evaluation of Yanacocha's impacts on water quantity and quality	<p>An 18-month independent and participatory study by Stratus Consulting was published and presented in October 2003.</p> <p>The study made several findings on water quality and quantity. Ten recommendations were issued subsequently (listed below).</p>
	<p>Independent Water Study Recommended Actions:</p> <p>1. Continued participatory monitoring in coordination with other entities (i.e. COMOCA and SEDACAJ and Yanacocha)</p>	<p>Water monitoring every month with seven participating institutions and <i>veedores</i>. Monitoring began in July of 2004 and ended in August 2005</p> <p>Dissemination of findings will occur through March of 2006.</p>
	2: Continuous verification and communication of monitoring results	<p>Mesa staff and the Mesa's Technical Commission have reported monitoring results quarterly in the newspaper and on the Mesa's webpage. In addition, monitoring results from July 2004 to August 2005 were presented in an Annual Monitoring Report of the Mesa that was presented to institutions, communities, and stakeholder groups in December 2005. It is available at http://www.mesadialogocajamarca.org/principal.html</p> <p>Planned establishment of a permanent system of participatory monitoring and technical review and reporting of findings.</p>
	3.Improved erosion and sediment control	<p>Sediment control dams constructed by Yanacocha in 2005 in the upper parts of the Rio Rejo and Rio Grande.</p> <p>Planned measurement of sediment levels in affected streams through the monitoring systems mentioned above</p> <p>Increased erosion control is also a recommendation of the Annual Monitoring Report on Water Quality prepared by the Mesa's technical team in December 2005</p>
	4. Study of water use in communities near the mine	This recommendation was specific to potable water availability and use. To the best of the Mesa team's knowledge, the recommended study has not been conducted.
	5. Additional assessment of aquatic life	<p>"Study of Aquatic Life in the River Basins around Minera Yanacocha" began in August 2004 and is still in progress. The study was commissioned by Yanacocha with participation and technical review by the Mesa.</p> <p>Results are expected to be disseminated in the first half of 2006.</p>

CAO Exit Report, Table 1. Community Concerns Expressed at the Mesa, Actions, and Outcomes to Date, *continued*

Community Concern expressed at the Mesa	Action	Outcome(s) to date
Water Quality and Quantity	6. Protection of canals that cross the mine property	<p>Yanacocha reports that it assisted in providing structural support for roughly nine major canal.</p> <p>Yanacocha has engaged in negotiations with at least four different canal groups to arrive at agreements regarding canal protection, replacement of altered water sources and development projects. Negotiations are ongoing.</p>
	7. Evaluation of mine closure plans	<p>Mine closure plans were updated in 2005, but the Mesa team has not reviewed the mine closure plans to date.</p> <p>Peruvian mine closure laws and regulations currently under revision on a national level.</p>
	8. Minera Yanacocha support for community water systems near the mine that are contaminated by bacteria	<p>The Mesa has not specifically addressed this issue. Yanacocha has supported the creation of gravity potable water systems for 11 towns surrounding the mine. The water is not treated. Systems for eight additional towns are planned and/or underway.</p>
	9. Improvement of water quality in specific locations that were identified as impacted by the mine	<p>Yanacocha has installed a reverse osmosis water treatment system for the water discharged to Quebrada Pampa Larga in the upper part of Quebrada Honda.</p> <p>Yanacocha has also closed and reclaimed the San Jose waste dump and continues to attempt to treat the water problems that remain.</p> <p>Monitoring groups that involve some community members continue to evaluate water quality in the upper part of Quebrada Honda, Rio Grande and Rio San Jose.</p>
Issues concerning Choropampa, Magdalena, San Juan – health impacts from the mercury spill	The CAO agreed to commission an independent health study at the request of affected communities and the Mesa. Due to lack of cooperation from government authorities and desire by some complainants to seek remedies through litigation, health study was not implemented. (see further explanation in Background section)	The court case against Yanacocha is still being deliberated in US courts
Land, Soil, Air – impacts on air and soil quality around the mine	In November 2001, the President’s Office for the Government of Peru convened the Comisión Transitoria de Administración Regional (CTAR) Mesa in Cajamarca. In an effort to coordinate the two Mesas, representatives from both Mesas decided that the CTAR Mesa would conduct a comprehensive social and environmental audit of Minera Yanacocha that included air and soil issues while the Mesa would initially focus on water issues in the four water sheds and health study related to the mercury spill.	<p>The CTAR Mesa oversaw an environmental audit by the Colombian consulting firm INGETEC which produced over 300 findings and recommendations, some of which included air and soils impacts.</p> <p>The CTAR Mesa is no longer operating; however, recommendations from the INGETEC study have been provided to Minera Yanacocha. The current implementation status of these recommendations is not known by the CAO.</p>

CAO Exit Report, Table 1. Community Concerns Expressed at the Mesa, Actions, and Outcomes to Date, *continued*

Community Concern expressed at the Mesa	Action	Outcome(s) to date
Flora and Fauna— impacts on medicinal plants and wildlife.	<p>The Mesa has participated in the aquatic risk study, mentioned above.</p> <p>The Mesa has not investigated impacts on other types of wildlife, primarily due to the focus on aquatic life.</p>	<p>As mentioned above, the study on aquatic life will be published in January 2006.</p> <p>The INGETEC audit of the CTAR mesa also made findings and recommendations regarding flora and fauna</p> <p>As mentioned above, the findings of the aquatic study will be published in January 2006.</p>
Hazardous Material and Emergency Response	<p>The July 2000 Report of the Independent Commission to the CAO: Investigation into the Mercury Spill of June 2, 2000 in the Vicinity of San Juan, Choropampa and Magdalena, Peru made several findings and recommendations regarding hazardous materials management</p>	<p>Minera Yanacocha has revised its Hazardous Material and Emergency Preparedness plans.</p>
Cerro Quilish expansion— impacts to local water supplies	<p>The Mesa did not mediate the 2004 conflict over Quilish due to a lack of knowledge of Yanacocha's current expansion plans and a lack of capacity to conduct the mediation</p>	<p>After more than a week of large protests by local residents (in September 2004) over the proposed expansion of Minera Yanacocha to Cerro Quilish, Newmont Mining Corporation asked the Peruvian government to revoke the company's permit to explore on Cerro Quilish.</p> <p>In late 2004 Yanacocha announced that it will not exploit Quilish in the short or medium term</p>
Additional mine expansions and additional explorations	<p>The Mesa facilitated discussions between Yanacocha and the communities around San Cirilo where Yanacocha has conducted some exploration.</p> <p>The Mesa has not formally addressed issues related to future mine expansions.</p>	<p>After two meetings, the parties did not request additional mediation from the Mesa about San Cirilo.</p>
Negative socio-economic impacts, including little employment of local people.	<p>The Mesa has not comprehensively addressed the issue of employment and contractors, though it has helped to mediate a dispute between a contractor's supplier and the contractor. In addition, the Mesa has facilitated two separate discussions about concerns between Yanacocha and the communities of Tual and Huacataz, which focused on finding development support and employment opportunities at the mine for residents of the two communities.</p> <p>The Mesa has held discussions about the Canon Minero, the formation of Yanacocha's Asociación los Andes and efforts to improve small and medium enterprises. However, economic issues have not been a focus of Mesa activity.</p>	<p>Yanacocha has committed to increasing the percentage of local employees to 60% of the workforce.</p> <p>Yanacocha has created the Asociación los Andes to support local economic development initiatives.</p>

NOTES

1 Because of the sensitivity of some of the issues discussed, the CAO will not attribute quotations to individual interviewees.

2 Mine facilities expand and close on a regular basis. This description of the mine was accurate when the technical studies described in these monographs were conducted, but may be different now.

3 On June 2, 2000, a truck contracted by Yanacocha spilled 151 kg of mercury along 40 km of road in Cajamarca, about 120 km from the mine site. Mercury was found in at least 22 points in three towns: Choropampa, San Juan, and Magdalena. Believing the mercury to be valuable, many local residents collected it from the road. When the public became aware of the incident several days later, controversy erupted on a local, national, and international scale. The mercury exposure resulted in hundreds of people exhibiting various degrees of poisoning. Grievances against Yanacocha that had been accumulating over nearly a decade came to the forefront of public debate. Tensions heightened. Monograph 1 provides additional detail on the mercury spill, the CAO independent investigation of the spill, and the aftermath of the spill.

4 The network of *Rondas Campesinas* is an important component of Cajamarcan society. Originally formed in the 1970s as local neighborhood watch groups to prevent cattle theft, the network's mission has since grown to encompass economic development and political advocacy for its constituencies. In Cajamarca there are various subgroups of *Rondas*, one of which is FEROCAFENOP.

5 COMOCA was established in 1999 by the governmental irrigation district (the Distrito de Riego, in Spanish) to address the concerns of canal owners about the mine's impacts. It is divided into two groups—COMOCA Sur and COMOCA Este—that include canals to the south and east of the mine, respectively, within the mine's area of influence.

6 In mid-2005, the technical team opted to change laboratory to ALS, a new Canadian-owned lab in Lima because it was dissatisfied with quality control measures and detection limits that could be achieved by the Catholic University lab. The team used ALS during a trial period to evaluate quality and credibility. Because ALS conducted some analyses for Yanacocha, it was important to establish their credibility before shifting analyses completely over to the new laboratory. Based on its assessment of ALS during the trial period, the Mesa technical team determined it would produce high-quality, credible data.

7 Institutions participated with differing degrees of commitment and consistency. Some withdrew over time for reasons ranging from lack of interest to changes in affinity to and support of the Mesa.

8 The final EIA for Cerro Quilish was not completed because the exploration permit was cancelled following the protests in September 2004 (see box 2).

9 See http://www.cao-ombudsman.org/html-english/complaintyanacocha_canalusers.html

ABBREVIATIONS

ACEPAMY	Asociación de Centros Poblados Menores Afectados por Minera Yanacocha (Association of Smaller Population Centers Affected by Minera Yanacocha)
ADEFOR	Asociación Civil para la Investigación y Desarrollo Forestal (Civil Association for Forest Development Research)
ALAC	Asociación Los Andes de Cajamarca (Cajamarca Los Andes Association)
ASODEL	Asociación para el Desarrollo Local (Association for Rural Development)
ASPADERUC	Asociación para el Desarrollo Rural de Cajamarca (Association for the Rural Development of Cajamarca)
CAO	Office of the Compliance Advisor/Ombudsman
CAR	Comisión Ambiental Regional (Regional Environmental Commission)
CARE	Cooperative for Assistance and Relief Everywhere
CDR	CDR Associates
COMOCA	Comité Técnico y Científico de Monitoreo del Agua (Scientific and Technical Committee for Monitoring Water)
CONACAMI	Coordinadora Nacional de Comunidades Afectadas por la Minería (National Coordinator of Peruvian Communities Affected by Mining)
CONAM	Consejo Nacional del Medio Ambiente (National Environment Council)
CORECAMIC	Coordinadora Regional de Cuencas Afectadas por la Minería en Cajamarca (Regional Coordinator of Watersheds Affected by Mining in Cajamarca)
CTAR	Consejo Transitorio de Administración Regional (Regional Transition Administration Council)
DESA	Dirección Ejecutiva de Salud Ambiental (Executive Authority for Environmental Health)
DIGESA	Dirección General de Salud Ambiental (General Directorate of for Environmental Health)

DREM	Dirección Regional del Ministerio de Energía y Minas (Regional Authority for the Ministry of Energy and Mines)
EIA	Environmental Impact Assessment
FEROCAFENOP	Federación de Rondas Campesinas Femeninas del Norte del Perú (Federation of Female <i>Rondas Campesinas</i> of Northern Peru)
IFC	International Finance Corporation
INGETEC	Ingenieros Consultores (Engineering Consultants)
INIA	Instituto Nacional de Investigación y Extensión Agraria (National Institute for Agrarian Research and Extension)
INRENA	Instituto Nacional de Recursos Naturales (National Natural Resources Institute)
ITDG	Intermediate Technology Development Group
IUDER	Instituto Universitario de Desarrollo Regional de la Universidad Nacional de Cajamarca (University Institute for Regional Development of the National University of Cajamarca)
MEM	Ministry of Energy and Mines (Peru)
MIGA	Multilateral Investment Guarantee Agency
MY	Minera Yanacocha (Yanacocha Mining Company)
NGO	Nongovernmental organization
SEDACAJ	Empresa Prestadora de Servicios de Saneamiento de Cajamarca (Sanitation System Provider of Cajamarca)
SME	Small and medium enterprise
UNALM	Universidad Nacional Agraria–La Molina (National Agrarian University–La Molina)
UNC	National University of Cajamarca
US EPA	U.S. Environmental Protection Agency
WHO	World Health Organization

Further Information about the CAO

The CAO aims for maximum disclosure of reports and findings of the CAO process by reporting results on our Web site. Our Operational Guidelines and all other public publications are available in print and online. Most Web content is in English, French, and Spanish. The guidelines are available in these languages as well as Arabic, Chinese, Portuguese, and Russian. The guidelines and Web site include a model letter to the CAO's office to assist people in filing a complaint.

For more information about the CAO, please visit www.cao-ombudsman.org

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