

Otto Pérez Molina
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June 13, 2013

Re: Revocation of concession of exploitation license for Escobal project

Dear President Otto Pérez Molina:

The below-signed organizations write to you calling for the revocation of the Guatemalan Ministry of Energy and Mines' April 3, 2013 approval of the mineral exploitation license for the Escobal project, number SEXT-015-11, operated by Minera San Rafael, Guatemalan subsidiary of Canadian and US owned, Tahoe Resources. We believe the irregular manner in which the license was granted undermines Guatemala's rule of law, and is another example of the government's consistent disregard for Indigenous rights and community participation in decisions that will impact their lives, livelihoods, lands and territories. Goldcorp, already well known for abuses associated with the Marlin mine, owns 40% of Tahoe shares. The Escobal project threatens to follow the same trajectory of human rights and environmental violations.

We are concerned that this license comes amidst a climate of increasing violence that recently culminated in the declaration of a state of siege in four municipalities surrounding the mine site. For months leading up to this measure, local communities, human rights and environmental organizations denounced the involvement of armed, clandestine groups in provoking destabilization and violence around the mine site. A petition signed by 4,300 individuals from 43 countries condemned the human rights violations and called on the Attorney General of Guatemala to solicit that the International Commission Against Impunity in Guatemala (CICIG) investigate these events.

Instead of pursuing an investigation into the root causes of the violence, the state has reacted with increased militarization, the suspension of constitutional guarantees and repression against community leaders who are engaged in legitimate and peaceful resistance to the Escobal project. Four independent verification commissions sent to the region denounced human rights abuses committed during the state of siege. Community leaders have been targeted with arrest warrants, threats of arrest warrants, and persecution by police and military deployed to the region. Twelve local activists deeply involved in the organization of eight community referenda in the municipality of San Rafael Las Flores had their homes raided by police.

Contrary to statements by government officials conflating the peaceful resistance with violent acts, in particular the killing of a national police officer on April 29, investigations and arrests by the Public Prosecutor's office indicate that it is mine personnel, rather, who are key suspects in these crimes. We call on the President and the Ministry of the Interior to refrain from making statements demonizing those involved in the peaceful mine resistance, which puts local activists at risk.

We ask that the source of this increased violence and instability be determined through a full and impartial investigation and that those responsible be legally prosecuted. Likewise, we urge that the violence around the mine site not be used as an excuse to militarize these areas nor to criminalize

community leaders or their allies.

Despite this climate of increasing violence, intimidation and provocation, the communities in the departments of Santa Rosa and Jalapa continue to engage in legal and peaceful forms of resistance to the mining project. In December 2012, 16 elected leaders representing more than half of the communities of the municipality of San Rafael Las Flores formally presented their opposition to the Escobal mining project. Individual villages located in the municipality of San Rafael Las Flores began carrying out a series of 26 referenda to determine whether community members support the development of extractive industry projects. In four municipal consultations carried out in Santa Rosa de Lima, Casillas, Nueva Santa Rosa and Mataquescuintla, more than 35,000 people voted against mining in their territory.

Since December of 2011, more than 250 administrative objections have been filed with the Ministry of Energy and Mines by individuals who stand to be directly impacted by the Escobal mine operations. According to Guatemalan mining law, each of these objections must be individually resolved before a license may be granted. On April 3, the Ministry of Energy and Mines dismissed all 250 objections without addressing them, less than one hour before the press conference announcing the approval of the exploitation license. This lack of due process is a violation of Guatemalan law and a violation of the fundamental rights of the affected citizens, calling into doubt the legality of the exploitation license.

In addition to the hundreds of individual objections to the project, Minera San Rafael, the wholly owned Guatemalan subsidiary of Tahoe Resources, is under criminal investigation for the industrial contamination of the Los Esclavos River. The charge was filed before Minera San Rafael obtained their license to operate and is being investigated by the Public Prosecutors' Office of Crimes Against the Environment in the department of Santa Rosa. That the government of Guatemala granted the exploitation license while this investigation is ongoing further calls into question its ability and willingness to prevent, mitigate and sanction contamination caused by mining operations throughout the country.

The communities opposing the Escobal project have demonstrated their commitment to pursuing legal and peaceful forms of resistance that respect the rule of law and the Constitution of the Republic. The Xinca people have the right to free, prior and informed consent based on the International Labour Organization Convention 169 and the United Nations Declaration on the Rights of Indigenous People. Likewise, the non-indigenous population affected by mining in Santa Rosa and Jalapa have demanded their right to consultation based on Guatemala's Municipal Code and their right to live in a healthy environment. The approval of this license and the subsequent state of siege in the region, a measure that was never ratified by Congress, undermines the government's commitment to equality under the law, demonstrating once again a clear bias toward transnational corporations, with little regard for their impacts on local communities.

We call on the State of Guatemala to immediately revoke the Minera San Rafael exploitation license SEXT-015-11 given the lack of consultation, the broad local opposition to the project, the irregularities in the approval process, the pending criminal investigation against Minera San Rafael for industrial contamination, and the context of violence, intimidation and criminalization against human rights and environmental defenders, which has steadily increased in the months leading up to the approval of this license.

We appreciate your time and consideration of this appeal and look forward to your response.

Signed:

Atlantic Regional Solidarity Network (ARSN) – Canada
BC CASA – Canada
Breaking the Silence Maritimes-Guatemala Solidarity Network – Canada
Canada-Philippines Solidarity for Human Rights (CPSHR) – Canada
KAIROS: Canadian Ecumenical Justice Initiatives - Canada
CAREA - Germany
Center for International Environmental Law (CIEL)- USA
Church in Mission Unit, The United Church of Canada – Canada
Coalition québécoise sur les impacts socio-environnementaux des transnationales en Amérique latine (QUISETAL) - Canada
Collectif Guatemala - France
Comité Danés en Solidaridad con Centroamérica (CDSC) - Denmark
Comité pour les droits humains en Amérique latine (CDHAL) – Canada
Guatemala Human Rights Commission (GHRC) - USA
Guatemala Partnership Committee, Congregational Church of Needham - USA
Heart of the Sky Fair Trade - USA
La plataforma de solidaridad con Chiapas y Guatemala de Madrid - Spain
Latin American and Caribbean Network, Toronto - Canada
MiningWatch Canada - Canada
Mining Justice Alliance - Canada
Mining Justice Action Committee, Victoria BC - Canada
Mining Working Group, Maritime Conference, United Church of Canada
Mining Injustice Solidarity Network, Toronto - Canada
Network in Solidarity with the People of Guatemala (NISGUA) – USA
OXFAM
Peace Watch Switzerland (PWS) - Switzerland
Projet Accompagnement Québec Guatemala (PAQG)/Projet Accompagnement Québec Guatemala (PAQG) - Canada
Solidaridad de Austria con Guatemala - Austria
Social Justice Committee of Montreal - Canada
UNBC Guatemala Research Group – Canada

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