

via email: aberger@mingob.gob.gt Sr. Enrique Antonio Degenhart Asturias Minister of the Interior of Guatemala	via email: fiscalgeneralmp@gmail.com carrecis@mp.gob.gt Lic. María Consuelo Porras Argueta Attorney General of Guatemala
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December 26, 2019

Dear Minister of the Interior and Attorney General:

We are appalled to learn of the current efforts to **re-open operations at the Canadian-owned Escobal silver mine near San Rafael Las Flores in Santa Rosa Department**. In July 2017, the Supreme Court suspended mine operations because of discrimination and failure to consult with the indigenous Xinka peoples. The Constitutional Court (CC) ratified this decision in September 2018 and ordered the Ministry of Energy and Mines (MEM) to undertake a consultation.

Since development of the mine began in 2011 (then owned by Canada- and US-based Tahoe Resources and operated in partnership with Guatemala-based Minera San Rafael, S.A.), the Xinka people have peacefully opposed it because of the environmental damages that threaten their way of life: the contamination of water used for their crops, the drying up of some water wells, harmful impacts from heavy trucks and explosives. Their opposition has been shown through 18 community and municipal referenda, multiple legal actions, sits-ins, encampments, and protests. As a result, opposition leaders have suffered multiple human rights abuses committed by employees and contractors of Tahoe, as well as Guatemalan security forces. Some have been forced to abandon their homes and land; other Xinka community members have been killed or jailed.


In February 2019, Pan American Silver of Vancouver, Canada, purchased the Escobal mine. They are endeavoring to fast-track reopening the mine without the court-ordered consultation or consent of the Xinka people. In October 2018, the Xinka Parliament expressed their willingness to collaborate with the Ministry of Environment and Natural Resources (MARN) in the process of reviewing the area of Xinka rights. To date, MARN has not included the Xinka people in any phase of the planning process. The Ministry of Energy and Mines (MEM) has not accepted any of the representatives that the Xinka people have appointed for the consultation process. Pan American Silver continues to tell shareholders that it is fully confident that the mine will be back up and running.

A report of September 2019 from Guatemala's Human Rights Ombudsman (PDH), which has just recently been published, states that MEM's refusal to accept the Xinka's representatives is a misinterpretation of the 2018 ruling by the Constitutional Court and a violation of international conventions.

We have written at least eight letters to Guatemalan authorities calling attention to human rights violations associated with the Escobal mine. We now **strongly urge** that you implement the following recommendations from the PDH:

- that MEM and MARN work together to uphold due process, particularly with regard to actions taken before the enforcement order was issued
- that MEM include representatives designated by the Xinka people and that their participation be guaranteed in all phases of the consultation, including definition of the area of influence
- that MARN take special care to ensure Xinka participation in all phases of the consultation, especially as it relates to the environmental instruments used to approve the area of influence of the Escobal mine.

Sincerely,


 Brian J. Stefan Szittai
 Co-coordinators


 Christine Stonebraker Martínez

copies: Manuel Alfredo Espina Pinto, Ambassador of Guatemala to the US ~ via website, email, US mail
 Luis E. Arreaga, US Ambassador to Guatemala, in care of human rights officer Rain Bian ~ via email
 Steven Kenoyer, Guatemala Desk, US State Department ~ via email
 Esmeralda Arosemena de Troitiño, Rapporteur for Guatemala, Inter-American Commission on Human Rights ~ via email
 Antonia Urrejola, Rapporteur on the Rights of Indigenous Peoples, Inter-American Commission on Human Rights ~ via email
 NISGUA ~ via email
 US Senators Brown & Portman and US Representatives Beatty, Fudge, Gibbs, Gonzalez, Johnson, Jordan, Joyce, Kaptur, Latta, Ryan ~ via email

12/18/19_NISGUA_Guatemala

The following people hereby urge you to take action on this matter as indicated in this letter: