

<p>Lic. Alberto Pimentel Mata Minister of Energy and Mines (MEM) of Guatemala</p>	<p>Ing. Oscar Rafael Pérez Ramírez Vice-Minister of Sustainable Development of MEM of Guatemala</p>
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December 14, 2021

Dear Minister Pimentel and Vice-Minister Pérez:

We are disappointed to learn that the controversy over the El Fénix nickel mine continues in El Estor, Izabal Department. We understand that on December 10, the Ministry of Energy and Mines (MEM) announced that the community consultation process on the mine was officially completed and that mining operations could resume in January 2022. This is preposterous. The consultation—a process which normally takes at least a year to complete—was conducted in just over three months, during the majority of which the community of El Estor was under a state of siege (cf our letter of November 21, 2021).

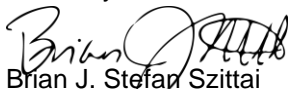
Residents of El Estor—more than 90% of whom are Indigenous Maya Q’eqchi’—have been organizing resistance to the El Fénix nickel mine for several years. The nickel mine is operated by the Guatemalan Nickel Company (CGN), a subsidiary of the Swiss-Russian consortium Solway Investment Group, which purchased the mining operation from the Canadian company HudBay Minerals in 2011. For the past 15 years, the impacted communities have reiterated that the Ministry of Energy and Mines (MEM) did not obtain their free, prior, and informed consent as required by national and international law (ILO Convention 169, the Indigenous and Tribal Peoples Convention of 1989). In July 2019, the Constitutional Court of Guatemala ruled in favor of the communities when, in response to an appeal filed by the El Estor Fisherman’s Guild in 2018, it ratified the right to consultation and suspended the mining license (and later confirmed its ruling in March 2021). The company then carried out a “consultation” but excluded several key actors, including the fishing communities and the legitimate local Indigenous authorities.

Kelvin Jiménez, a lawyer for the Xinka Parliament, explained that the rushed consultation violates the rights of the indigenous communities to meaningful consultation in “good faith,” as established by international human rights standards. The Q’eqchi’ Ancestral Council, the Defensoría Q’eqchi’, and the El Estor Fisherman’s Guild have also refused to recognize the rushed and inadequate consultation process.

We strongly urge that MEM:

- reverse its determination that the continuation of the mining project is viable
- suspend the mining license until there is a new consultation process that includes the legitimate ancestral authorities who have been elected by their communities and representatives of the Fishermen’s Guild
- instruct the police and other public officials to respect the right of the local Q’eqchi’ community to organize opposition to the mining operations and to suspend all violent acts of repression against organized resistance

Sincerely,



Brian J. Stefan Szittai
Co-coordinators



Christine Stonebraker-Martinez

copies: Lica. María Consuelo Porras Argueta, Attorney General of Guatemala ~ via email
Guillermo Castillo Reyes, Vicepresidente de Guatemala ~ via email
Humberto Matheus, Director General of the Guatemalan Nickel Company (Compañía Guatemalteca de Níquel, CGN) ~ via email
Alfonso José Quiñónez Lemus, Ambassador of Guatemala to the US ~ email, US mail
Augusto Jordán Rodas Andrade, Prosecutor for Human Rights (PDH) ~ via email
IACHR: Esmeralda Arosemena de Troitiño, Rapporteur for Guatemala, Inter-American Commission on Human Rights ~ via email and US mail
OACNUDH: Mika Kanervavuori, Oficina del Alto Comisionado de las Naciones Unidas para los Derechos Humanos en Guatemala (OACNUDH) ~ via email
Solway Investment Group ~ via email
Embassy of Switzerland in the US ~ via email
US State Department: Guatemala Desk Officers in Washington, DC: Bria Mathews, Moises Mendoza ~ via email
US State Department: William Popp, US Ambassador to Guatemala, in care of human rights officer Sarahann Yeh ~ via email
US Senators Brown & Portman and US Representatives Beatty, Brown, Gibbs, Gonzalez, Johnson, Jordan, Joyce, Kaptur, Latta, Ryan ~ via email

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