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| <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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April 16, 2022

Dear Minister Pimentel and Vice-Minister Pérez:

We are deeply saddened by recent events in El Estor, Izabal Department, in connection with the El Fénix nickel mine. We have been following the developments regarding El Estor and the resistance to the nickel mine since 2009, and we are disappointed to see that despite efforts by humanitarian organizations and local human rights defenders, operations at the El Fénix nickel mine continue. The mining operations are damaging the environment in El Estor by contaminating Lake Izabal and other local water sources, threatening fishers' source of income. Local communities (more than 90% of El Estor's 82,500 inhabitants are indigenous Maya Q'eqchi') have become victims of land grabbing, arson, and repression.

On March 22, **Julio Toc Mucu**, son of a member of the Fishermen's Guild, was apprehended by police near his home and taken to the Penitentiary Center in Puerto Barrios, where he was beaten in custody. At an initial court hearing on March 24, he was charged with incitement to commit a crime, was released on his own recognizance, and ordered to present himself at the courthouse twice a month while awaiting his trial.

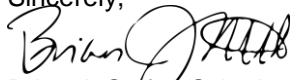
We understand that Judge Arteaga López has issued arrest warrants against 12 more environmental defenders and journalists who protested the mine in October 2021 when security forces violently attacked community residents with beatings and tear gas. The president declared a state of siege, sending more than 800 agents of the National Civilian Police (PNC), the army, the navy, and the air force, who maintained a dusk-to-dawn curfew and controlled roads in and out of El Estor (cf our letter 21 November 2021).

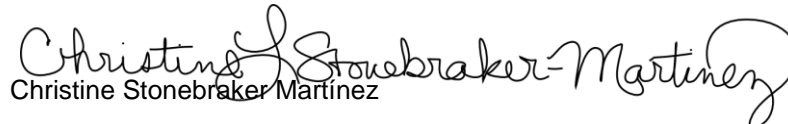
The El Fénix nickel mine is operated by the Guatemalan Nickel Company (CGN), a subsidiary of the Swiss-Russian consortium Solway Investment Group, which purchased the mining operation from the Canadian company HudBay Minerals in 2011. For the past 15 years, impacted Indigenous communities have reiterated 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 its ruling in 2019, the Constitutional Court of Guatemala ratified the right to consultation and resolved that the mining company had to suspend its mining activity. The company later carried out a "consultation" but excluded many key actors. The mining operations continue in defiance of the spirit of the court ruling.

We condemn acts of state violence and criminalization of Indigenous environmental rights defenders in El Estor. We therefore strongly urge you to:

- drop the criminal charges against Julio Toc Mucu and the other environmental defenders charged because of their protest in October 2021
- suspend the company's mining license and stop all further mining operations promptly
- initiate a new, transparent and thorough and inclusive consultation process

Sincerely,


Brian J. Stefan Szittai
Co-coordinators


Christine Stonebraker-Martinez

copies: Lica. María Consuelo Porras Argueta, Attorney General of 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
Switzerland: Solway Investment Group, Embassy of Switzerland in the US ~ via email
US State Department: Guatemala Desk Officers in Washington, DC: Bria Mathews, Moises Mendoza ~ vial 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

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