

**A SUMMARY OF ISSUES RELEVANT
TO THE
HUMAN RIGHTS IMPACT ASSESSMENT (HRIA)
OF MARLIN MINE, GUATEMALA**

There continues to be a concerted campaign to discredit the attempt of concerned shareholder institutions - pension funds and socially responsible investment funds - to address the human rights impacts on communities within the immediate area of the Marline mine in Guatemala owned by Goldcorp Inc. and operated by its subsidiary Montana Exploradora. An integral part of that campaign has been to target the PSAC and its staff regarding the Staff Pension Plan's involvement in co-authoring a 2008 shareholder resolution requiring Goldcorp to pay for a human rights impact assessment. The manifestation of this has been critical communiques directed at the Alliance Executive Committee in its role as the Pension Plan Administrator, the PSAC membership, and the staff of the Public Service Alliance of Canada.

As the lead person in the PSAC-Goldcorp Engagement Process - a vehicle designed to influence the corporate behaviour of the mining company at all of its world-wide operations (including in Canada) - and as the ethical shareholder group's representative on the **independent** Steering Committee administering the Human Rights Impact Assessment (HRIA) of the Marlin mine operations in Guatemala, I have expressed a willingness to meet with spokespersons of the internal Alliance staff unions to provide first-hand knowledge of the situation. Unfortunately, circumstances and scheduling difficulties has prevented this from occurring.

Accordingly, I have set down some of the major points highlighted by this campaign in hopes of dispelling some of the misunderstanding and misinformation created over the past year or more. I sincerely trust you will share it with your membership.

ISSUE ONE

The municipality of Sipakapa, through a series of community consultations, has rejected the Marlin mine as an acceptable form of economic development.

i) Prior to the 2003 municipal elections the former mayor, Mario Tema (the brother of the current mayor) supported mining and espoused the economic benefits of mining. His political support started to crumble, however, when it became known that, under the Guatemalan mining law, Sipakapa was not entitled to a share of the royalties.* Moreover, because of its distance from the mine, Sipakapa did not economically benefit in terms of jobs and community development to the extent that the municipality of San Miguel Ix did.**

ii) The Sipakapa community consultations, in fact, were used as a organizing tool for a political comeback of the Tema brothers who had co-founded the Civic Union for this

purpose. This was achieved in the 2007 elections when, by a slim margin, his brother Delfino Tema was elected mayor.

iii) Although the mine camp and administration buildings are situated within the municipality of Sipakapa, the mining operation itself is entirely within the municipality of San Miguel Ix. Under the mining law the latter receives half of the royalties (the other half goes to the national government). The locally engaged mine workers are generally those who live closest to the mine; about 500 reside in the communities of San Miguel Ix. and a little over 100 in Sipakapa.

**Before his electoral defeat, Mario Tema publicly argued for a payment from the mine similar to royalties paid to San Miguel Ix. The mine eventually offered an annual ex gratia payment based on the percentage of mine land within the Sipakapa municipality, but by that time the issue had been so locally politicized by Mario Tema that neither he nor his successors were willing to access the money (which has since grown in size) for fear of exposing themselves to charges of "sell out" by political opponents.*

*** For easier reading, "Ix" is an abbreviation of Ixtahuacan and is used throughout.*

ISSUE TWO

The mine operations are contaminating the water.

i) This is usually tied to the fact the mine uses cyanide to leech the gold from the soil. Cyanide, if fact, is very unstable and breaks down easily. In 2005 mining opponents hired an Italian engineer to conduct a sampling of the water outside the mine. He produced a report stating large amounts of heavy metals were present in the water. The report was widely and repeatedly circulated by a Canadian NGO. No circulation was given to an authoritative conclusion in 2008 that the report lacked a scientific base and, therefore, its conclusions were extremely unreliable.

ii) In 2008, the Catholic Bishop of San Marcos, a vocal critic of the mine, repudiated his earlier statement that accepted the findings of the aforementioned report. In announcing the findings of a water "study" by COPAE, a diocese NGO, a few months later he was careful to say that the results were not scientifically-based but nevertheless underscored the need for regular scientific sampling by the Ministry of Environment. The Ministry, however, does not have a budget to undertake this task.

iii) A fact not often mentioned is that the water quality is tested every three months jointly by the mine and a community based committee. The samples are sent to two different laboratories, one chosen by the mine and one selected by the community committee. The two lab reports are compared on return. The community committee is assisted in the sample taking and lab report interpretation by engineers from San Carlos University. More importantly, the committee members are all residents of the communities in the mine area and report to each of their communities after each laboratory analysis. The organized mining opposition generally ignores this reality in public pronouncements about water quality. On the few occasions they have had to acknowledge the existence of the community committee, it has been to disrespectfully

dismiss it as a company collaborator. For the dozen or so communities that get regular updates on the quality of their water, however, it is a reassurance they undoubtedly appreciate.

iv) In January 2009 a Canadian NGO distributed photos of skin problems accompanied by highly charged commentary that strongly implies a direct relationship between “health harms” and contaminated water from the mining operation. A close examination of this essay, however, shows that, of the thousands of people living near or downstream of the mine, only a few indicated knowledge of a health problem described by the essay. The fact that the NGO in question has not provided a medical opinion that shows a direct link to contaminated water suggests subterfuge is being substituted for substantiation and, in the final analysis, has the unfortunate effect of calling into question legitimate efforts to challenge the human rights impacts of open pit mining.

ISSUE THREE

The tailings pool at the foot of the mine is toxic and poses a potential threat to water quality.

i) At any given time mine opponents have put it about that: 1) toxins are leaking into the ground water; or 2) the pond level is rising and will need to be spilled into the environment; and 3) the company is secretly spilling toxic water from the pool.

ii) There simply is no basis for 1) and 3); any change in the would have been detected by the community committee monitoring water quality. It is significant that none of the NGO mining opponents have offered to finance (or find the funding for) an independent water monitoring project.

iii) However, there is no question that sooner or later the toxin pool will need to be spilled (discharged) if the level of contaminated water is to be controlled. What is not reported by those who allege water contamination is the nearly completed water purification system built by the mine for just this eventuality. Mining experts say it will effectively “clean” the water before release. Only on-going testing will determine the validity of this claim, but again there doesn’t seem to be any NGO money for such a project.

ISSUE FOUR

The mine uses an inordinate amount of water in its quest to leech gold from the soil.

i) There is no disputing this claim. At 250,000 liters an hour (an amount equal to about 20 years of consumption by one household in the area), it is not difficult to believe that this represents an inordinate drain on existing sources of water. Notwithstanding, after four years on mining operations, there is no evidence of an adverse impact on water resources. Regardless, it would be prudent to have the matter studied by experts.

ISSUE FIVE

Communities are resisting the presence of the mine.

i) It is a reality of the region that the farther away a community is from the mine the more likely it will be anti-mining. In Sipakapa, for example, during the *consulta* (consultation) process eleven of the thirteen communities participating voted against mining as a form of economic development. The two communities in dissent - one voted in favor of the mine and one voted not to participate at all - live closest to the mine site.

ii) Mayan tradition is that communities are separate entities and are not bound by the decisions of neighbouring communities. Nevertheless, foreign organizations refer to Sipakapa as “communities in resistance” regardless of the fact that **only eleven of more than forty (40) Sipakapa communities voted against mining in the *consulta* process.**

iii) ADISMI, a Mayan organization in opposition to mining, has adopted the practice of referring to certain communities within the municipal borders of San Miguel Ix as resistant to mining. In point of fact, these so-called “communities in resistance” do not fit the description. The reality is that there may be an element within some communities who have joined ADISMI in its opposition to mining. **Out of a total of 59 San Miguel Ix communities, none to date has actually voted against mining or the presence of Marlin mine.**

ISSUE SIX

The human rights impact assessment only creates greater division and conflict among communities.

i) This assertion (by a Canadian NGO) attempts to assign responsibility for the creation and nurturing of discord and conflict to others while ignoring the role played by foreign agencies (including themselves) and persons whose objective has been to organize resistance to mining since 2003. If, as it is alleged, the presence of HRIA assessors acerbates division and conflict then certainly the efforts of foreign advisors to encourage resistance against the HRIA simply creates even more divisiveness and conflict. In other words, it is not **the impartiality of the HRIA** that is adding to the tension but, rather, it is caused by **the partiality of mining opponents.**

ii) At a recent (February 11, 2009) meeting of the 59 auxiliary mayors of the San Miguel Ix communities (convened to receive information about the HRIA process and its objectives), there was an attempt to introduce a written statement critical of the HRIA for signature by all attendees. This maneuver was so contrary to the traditional decision-making process (i.e., an auxiliary mayor does not act without the prior consent of the

community), an overwhelming majority rose up in protest at the foreignness of the proposal. In point of fact, the person who introduced it was criticized for not having the consent of his community to do so.

i) It is significant that the same criticism of the HRIA has not been leveled against the Catholic Church's impact assessment announced January 23, 2009. This is perhaps because the Church is known to be against mining whereas the HRIA, in order to preserve its mandate to be objective, cannot take a position one way or the other. In other words, it seems as far as its opponents are concerned, if the HRIA mandate is not **against** mining it must be **for** mining. It is a mind set that not only denies objectivity but is entirely self-serving.

ISSUE SEVEN

The consent of the communities to conduct the HRIA in the mine area was not sought beforehand.

i) As a matter of fact the first objective of the HRIA assessor is to secure consent. Again, it is significant that this same criticism has not been levied against the Catholic Church's impact assessment despite the fact that the terms of reference of the latter study do not mention the prerequisite of community consent. It is not unreasonable to conclude, therefore, that the HRIA naysayers are either deliberately or inadvertently (because of their predilection not to criticize the Church) applying a double standard.

ISSUE EIGHT

The company - Goldcorp Inc. - is paying for the HRIA therefore the result is predetermined. Moreover, the shareholders have a vested interest in an outcome that "whitewashes" the company's human rights performance.

i) It is a universal tenet that if an Environmental Impact Assessment (EIA) is required before an economic activity is permitted to operate then the cost of it shall be borne by the corporation concerned. It is also widely accepted that same condition should apply to human rights impact assessments. In other words, the user pays.

ii) In the case of the HRIA the principles of independence and transparency have been included to protect the assessor and the peer reviewer (of assessor's work) from the influence of or intimidation by the company (*see relevant documents on web-site*).

iii) Socially responsible investors have two objectives in mind when engaging corporations on Environmental, Social and Governance (ESG) issues: 1) to convince corporations that it is in their best interests to act responsibly; and 2) to convince other investors that corporations can be influenced to behave in a socially responsible

manner. It is but another way to help create a better, fairer and more just world. But it is an approach that, unfortunately, a few NGOs cannot or refuse to comprehend.

iv) Finally, it is not the intent of responsible shareholders concerned or the HRIA to support open pit mining as an environmentally or socially acceptable form of economic activity. Rather, it is recognized that Marlin mine is a reality that is not going to go away. It is extremely unlikely the Guatemalan government will revoke the mining license and, most certainly, Goldcorp Inc. will not voluntarily close up shop and vacate the premises. Given that reality, the matter of determining and resolving the current social and environmental impacts on the population remains unaddressed and unresolved. In the judgement of the responsible investor group that visited the area in February 2008 the most appropriate means to address those impacts - the real issues the people and communities are experiencing every day - is a human rights impact assessment.

FINALLY

I will be glad to respond to any questions you or your membership may have. To access HRIA related documents, please visit www.HRIA-Guatemala.com

In solidarity,

Bill Brassington,
Chair SRI sub-committee
Joint Pension Advisory Committee
and Responsible Shareholder Member
of the HRIA Steering Committee

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