



MiningWatch Canada

Mines Alerte

Newsletter

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Ascendant Copper's "La Florida" model farm installation in Ecuador.

Ascendant gets a rough ride in Ecuador, can't get picked up in Toronto

Ascendant Copper launched its IPO (initial public offering) on the Toronto Stock Exchange, but it was their camp in Ecuador that really caught fire.

The company launched its IPO on October 14, 2005 (stock symbol ACX), but so far has only managed to attract an additional 16.3% investment according to its listings on sedar.com, at prices considerably below its target - \$1.50 to \$1.70 per share as opposed to \$2.

Meanwhile, on December 10, 2005, over a hundred residents of the 20 villages nearest Ascendant's Junín concession in northwestern Ecuador expressed their frustration with the company's aggressive development program by setting fire to and destroying Ascendant's "La Florida" model farm building at Chaguayacu Bajo. Ascendant personnel have reportedly been repeatedly trying to get onto the concession, testing the communities' blockade of the area, while at the same time trying to buy land in the area around the concession.

The company has publicly claimed that the model farm was actually a clinic, that its employees were attacked and

injured, and that computers and medical supplies were stolen by community members before they set fire to the building. These claims are emphatically denied by community members present at the action, according to representatives of DECOIN who have talked to them. Interestingly, the company's legal complaint asking the Ecuadorian Attorney-General to investigate the event does not mention that the building destroyed was a clinic (and nor do any of Ascendant's other public documents); nor does it mention a doctor's report proving any injuries were sustained by anyone. The document is signed by the company's legal representative, Juan Carlos Bermeo, Ascendant's General Manager in Ecuador.

The community representatives maintain that Ascendant has no hope of acquiring a "social licence" to mine, and should withdraw from the area. They also want the company to disassociate itself from - and cease funding - CODEGAM, the group that is trying to create a new county so Ascendant wouldn't have to deal with the requirements of Cotacachi County's "ecological ordinance".

Guatemalans Present Demands to World Bank President re: Marlin Mine

On December 9, 2005, World Bank President Paul Wolfowitz met with Mario Tema, an indigenous Maya leader from Sipacapa, Guatemala, and Magali Rey Rosa of the Guatemalan environmental organisation MadreSelva. Representatives of Friends of the Earth Canada, Oxfam America, and the Bank Information Center were also present. Tema presented Wolfowitz with a statement from Sipakapense Maya leaders outlining their demands regarding Glamis Gold's Marlin mine. Glamis Gold received a \$45 million loan from the International Finance Corporation, part of the World Bank Group, to construct the mine. The Sipacapa statement is avail-

able on our web site in English and Spanish.

Mr. Tema also presented President Wolfowitz with a statement from the community of San Miguel Ixtahuacán. This statement is available in English and Spanish. Both Sipacapa and San Miguel Ixtahuacán are affected by the Marlin mine.

For additional details, see the statement on our web site by Friends of the Earth Canada and the Halifax Initiative Coalition (of which MiningWatch Canada is a long-standing member) in support of Sipacapa's demands, "Glamis Gold and the IFC: Gross Mismanagement in Guatemala".

Barrick Gold Faces Determined Opposition at Pascua Lama and Veladero

Community groups on both side of the Argentina-Chile border are increasing their opposition to Barrick Gold's proposed Pascua Lama project in Chile, while criticism of its Veladero project already under way on the Argentinean side of the border is also mounting. There have been protests in both countries and even a blockade on the Argentinean side.

Long-standing Opposition

The Pascua Lama project has been categorically opposed by a broad cross-section of environmental groups in Chile as well as by many of the 70,000 irrigation farmers and small farmers whose livelihoods depend on the water originating in the glaciers at the mine site.

Barrick had been working on the project since 1996, pushing for a "mining integration and complementation treaty" between Chile and Argentina that would make the project more lucrative by exempting it - and any other mines in the "border zone" sacrifice area along the spine of the Andes - from all tariffs and taxes, streamlining the acquisition of mineral rights, and allowing free transport of goods and material (including ore and wastes) across the border. The treaty was signed in December 1997, and in 1999 a "complementary protocol" was signed setting out the area covered by the treaty and allowing mining companies free access to water resources within the zone. Minera Nevada, Barrick's Chilean subsidiary, submitted the first EIS in 2000, neglecting to mention the three glaciers standing in the way of the projected open pit mine.



Barrick Gold's Pascua Lama mine camp in Chile.

Environmental Assessment Delayed Again

On December 5, 2005, the Chilean National Environmental Commission (CONAMA) extended the deadline for review of Barrick's Environmental Impact Statement (EIS) for the Pascua Lama project to February 16, 2006. The regional environmental commission, COREMA, must review additional information filed by Barrick and submit a summary of its findings to CONAMA for a final decision. Barrick submitted the EIS on December 9, 2004, but has repeatedly asked for the 120-working-day deadline to be suspended to allow it time to respond to COREMA's questions. If COREMA has further questions after reviewing Barrick's recently-filed second addendum, the company could ask to suspend the process again. See the actual files at http://www.e-seia.cl/seia-web/ficha/fichaPrincipal.php?id_expediente=1048260.



This photo, taken 10 years ago, clearly shows damage to the glaciers caused by Barrick's exploration activity. Photos courtesy OLCA.

The EIS had already been approved before the farmers of Huasco Valley discovered the details of what was being proposed, and they were alarmed by environmental and social risks posed by the project. The project was put on ice for four years due to low gold prices. When the project was resubmitted in 2004, the farmers began to organize against it, support-

ed by church groups and environmental organisations, and backed by affected groups on the Argentinean side of the border – residents of the towns of Calingasta and Iglesia, as well as the wine producers in the province of San Juan.

According to its latest information, Barrick is still planning to build an open pit mine, breaking up and moving the Esperanza and Toro 1 and 2 glaciers (or “ice reserves” as the company calls them to avoid acknowledging that they are glaciers). The only difference is that they will leave the Guanaco glacier, 2 kilometres to the south, alone rather than dumping the pieces of the other “ice reserves” on top of it.

Protesters Attacked by Police

A letter asking for the cancellation of the Pascua Lama project - with over 18,000 signatures - was presented to the President of Chile on November 11, 2005 but was met with police violence. Police charged protesters when they tried to place chunks of ice, representing the glaciers that the project will destroy, in the Plaza de la Constitución in front of the La Moneda government palace (see our web site for the text of the letter). More demonstrations were held in Vallenar and Santiago on November 12.

“Compensation” Deal Challenged

In July, Barrick signed a “protocol agreement” with the Huasco Valley Monitoring Committee, representing irrigation farmers in the area. The agreement committed the farmers to bring their concerns about environmental issues like acid mine drainage and the effects of relocating glaciers before a technical committee the company would set up, rather than submitting their questions to the environmental assessment process – effectively promising to withdraw from participation in the public process. In return, Barrick agreed to fund projects worth \$60 million – \$3 million a year over the projected 20-year life of the mine – if the project is actually approved. The money would go to improve water supply, quality, and usage. Committee board member Mauricio Perelló is supported by a large group of Committee members in opposing the agreement, which was approved without ratification by the membership.

The agreement has come under fire from many quarters for putting undue pressure on authorities to approve the project. Its critics included “the head of CONAMA”, according to a November 17 report from BNamericas.com. However, the previous day when MiningWatch Canada’s Jamie Kneen asked Paulina Saball, Executive Director of CONAMA, whether the “protocol” undermines the environmental assessment process by removing key stakeholders from it, she replied that it is an agreement between third parties that the government had no power over, but that it would not affect the process. Saball was in Ottawa for a meeting of the Canada-Chile Commission for Environmental Cooperation, established under the Canada-

Chile Agreement on Environmental Cooperation (CCAEC).

Diaguítas Claim Indigenous Rights, Ancestral Lands

On July 25, the Chilean Consumers’ Organisation filed a complaint with the Organisation of American States (OAS) alleging that the Pascua Lama project poses a grave risk to the subsistence rights of the Diaguítas indigenous communities in the area, and that the Chilean government would be breaking its international commitments if it approves the project. Specifically, the United Nations’ International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights commit the Chilean government to give the Diaguítas water rights “special protection”.

The Diaguítas people have been waiting over a year for the bill recognizing their aboriginal status to be passed by the Chilean Senate. The Diaguítas also claim that historical documents show that part of the Pascua Lama project is on ancestral Diaguítas lands “irregularly” acquired by Barrick. See http://www.elmostrador.cl/modulos/noticias/constructor/noticia_new.asp?id_noticia=164693 and box on next page.



Demonstrators protest Barrick Gold’s proposed Pascua Lama project. Santiago, Chile, November 12, 2005. Photo courtesy OLCA.

Veladero Mine Blockaded

Meanwhile, on the Argentinean side of the border, the inhabitants of Tudcum blocked the road by-pass to the nearby Veladero mine on November 23, 2005. According to local media reports, they were upset that Barrick was not living up to its promises of employment, as over 20 local people had been laid off by a Zlato, a Barrick sub-contractor, with little possibility of further work for Barrick. More important the jobs, according to those reports, were the threats made by the contractor against municipal officials the prepotent arrogance displayed by the company, who had refused to deal with the issue, and. The local authorities themselves said they are equally concerned by the pollution produced by the mine, and were determined that no more truckloads of cyanide should go

to the mine. On November 30 the police arrested Alfredo Díaz, President of the Neighborhood Union of Tudcum, and his sister Carolina, supposedly based on a complaint from a bus company, Autotransportes San Juan-Mar del Plata, who has been prevented from transporting workers to the mine due to the blockade. However, local people was concerned that the

complaint and the arrests were spurious since Díaz said that no buses belonging to the company were travelling in the area while the blockade was in effect.

According to local news sources Barrick's site manager, Julio Claudeville, maintains that cyanide is innocuous.

Irrigation Farmers and Small Agriculturists of Pinte, Huasco Valley, Under Pressure

A field team headed by Federico Mieres, representing the Huasco River Monitoring Committee in Alto del Carmen - the area affected by the Pascua Lama project - has been repeatedly pressuring members of the Diaguita/Huasco Altinos Agricultural Community and residents of neighbouring Pinte demanding that they cease supporting the administrative procedure currently underway that would force the General Water Directorate to invalidate the protocol of agreement signed between the Monitoring Committee and Barrick Gold. This protocol endorses the operation of the controversial mining project in exchange for \$3 million annually over the 20 years of Barrick's projected operations in the area.

This campaign of threats is a new strategy to weaken, to divide, and to intimidate those who legitimately defend their productive activities, their quality of life, and their ecological security. It is proof of how far Barrick is willing to go in its desperate efforts to develop this unsustainable mining project at any cost.

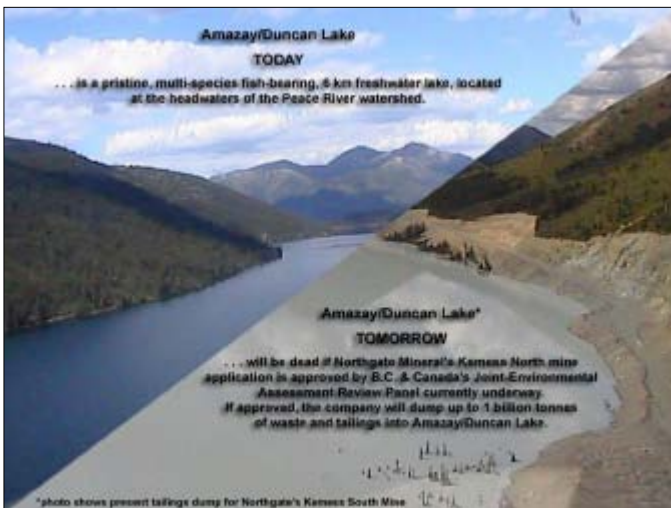
The Chilean Government has remained a mere observer of an endless number of irregularities, instead of assuring that the social processes around the environmental conflicts are transparent, just, and free of illegitimate pressures.

Signed:

Sergio F. Campusano Villches, President, Diaguita Huasco Altinos Agricultural Community
Latin American Observatory of Environmental Conflicts OLCA

Village of El Tránsito, December 5, 2005

Funds to Pay for Intervention on Proposed Kemess North Mine in BC



MiningWatch Canada has received \$31,270 from the Canadian Environmental Assessment Agency as part of the participant funding for the Kemess North mine environmental assessment. The funds were a portion of the \$99,000 given out by the Agency for intervenors.

The four affected First Nations elected to boycott the process on the basis that it contravenes their Aboriginal rights and title to the mine area. The company intends to take Duncan Lake for a tailings impoundment, and the First Nations say this is not negotiable. The mining company, Northgate Minerals, argues that it is the only economically feasible option.

The participant funding will pay for the services of two British Columbia-based experts to analyze two aspects the EIS prepared by the proponent: the impacts on Duncan Lake and the fish habitat compensation plan being proposed, and the socio-economic implications of the project.

Regulating Canadian Mining Companies Operating Internationally

Canadian mining companies have been alleged to be at the root of forced resettlement, environmental destruction, negotiating with hostile regimes, as well as being involved in a morass of violations of human, workers' and indigenous rights. MiningWatch Canada has documented international cases to expose the negative social, environmental, economic and political consequences of Canadian-based or Canadian-financed mining operations.

On October 20th, 2005, MiningWatch Canada held a roundtable in Ottawa to explore and discuss options for legislative and regulatory changes applicable to Canadian mining companies operating internationally. This event brought together Canadian representatives from the government,

industry and civil society as well as invited guests from Chile, Ghana and the Philippines.

We distributed a policy framework that highlights changes necessary in the current structure of legislation and regulatory practices. This framework identifies facilitative, incentive, and coercive mechanisms for regulation and describes how they can be implemented within the current Canadian legal and socio-political context.

Our invited guests formed a panel and presented case studies about the impacts of Canadian mining companies in their regions. We welcomed the international perspectives of César Padilla, representing the Latin American Observatory for Environmental Conflicts (OLCA) in Chile, Abdulai

Darimani from the Third World Network-Africa, and Melizel F. Asuncion, from the Legal Rights and Natural Resources Center-Kasama sa Kalikasan/Friends of the Earth-Philippines.

Sara L. Seck, from Osgoode Hall, York University, presented the keynote address, and claimed that the real reasons why governments are reluctant to regulate is because these reasons have more to do with economic self-interest than international law. Seck continues her argument by debunking three

different types of myths that are traditionally used to justify non-action: (1) the sovereignty myth, (2) the separate corporate personality myth, and (3) the international comity myth (the mutual recognition by nations of each others' laws).

Many issues raised were generated from the dynamic, multi-stakeholder discussion groups that took place during the afternoon roundtables.

The background papers are available on our web site.

Ensuring the fox has streamlined access at the henhouse: the federal Smart Regulation initiative.

On March 24, 2005, Treasury Board President Reg Alcock said, "Ottawa is making sweeping changes to the way it regulates Canadian business to help firms compete at home and abroad in the face of lagging productivity growth, rapid scientific advances and emerging global juggernauts such as China."

The changes allow the needs of competitive business to trump "safeguarding our health and safety" and "ensuring a clean and sustainable environment". They rely heavily on voluntary measures from industry and are premised on the hypothesis that there will continue to be no money available for regulation and compliance, despite massive federal surpluses.

The Smart Regulation initiative

After two years of study by the "External Advisory Committee on Smart Regulation", a report was released by Treasury Board President Reg Alcock on March 24, 2005. It made forty recommendations. The report is available at *Smart Regulation Report on Actions and Plans* on the Treasury Board web site. The plan will streamline the regulatory approval process to harmonize standards with the United States, to speed up regulatory approval processes, and to achieve "long-term environmental sustainability by fully integrating environmental performance with competitiveness, innovation and investment cycles."

The plan is already being implemented in the government bureaucracy and is led by the Privy Council Office (PCO). Various regulatory proposals (or the absence of them) on hazardous products, pesticides, the "security and prosperity partnership" with the US and Mexico, campaign financing, electoral reform, lobbyist registration, environmental assessment, and fish habitat can all be linked to "smart regulation".

At the heart of the plan is a triage system for all regulation which uses a "risk assessment" to divide regulation into low, medium and high risk categories and effectively deregulate the low risk items. Most risk assessments are theoretical models that depend on thresholds set by political decisions. A 1997 study by Health Canada presented at a workshop of the National Orphaned and Abandoned Mines Initiative (NOAMI) in November 2005 found that risk assessment results were highly variable and unreliable. A comparison of results from four contractors looking at the risk of getting cancer from polyvinyl chloride exposure differed from one another by a factor of 100,000,000. The consultants underestimated risk three times out of ten, by 60 to 146 times.

There are "a dizzying number of different policy initia-

tives" under the Smart Regulation banner.

Just a few of the initiatives we at MiningWatch Canada are dealing with:

1. ***Government Directive on Regulating***
2. ***Commitment Statement on Environmental Sustainability in Canada***
3. ***Mining Sectoral Sustainability Table***
4. ***Fisheries Act "streamlining" and amendments to the Metal Mining Effluent Regulations***
5. ***Retooling of the Environmental Assessment Act***

Government Directive on Regulating

PCO's main "smart regulation" initiative – other than overseeing all of the dispersed initiatives in most if not all other departments and agencies – is developing a replacement for the 1999 Government of Canada Regulatory Policy, to be called the Government Directive on Regulating (GD-R). A series of consultations have just been held on the current consultation draft of the GD-R, and public comment will be received until December 23. In simple terms, the GD-R sets out new rules for the Regulatory Impact Assessment Statement that accompanies the first public posting of proposed regulations and forms the basis for Cabinet consideration of the proposal. Already, cabinet secrecy, solicitor-client privilege for Department of Justice advice provided to its "client" departments, and the day-to-day influence of PCO and the Department of Finance on regulatory departments' efforts all shroud the regulatory process in secrecy. Civil society organizations are afraid that this will prevent public input into new regulations.

Commitment Statement on Environmental Sustainability

On December 12th the Canadian Council of Ministers of the Environment (CCME) was asked to formalize a federal-provincial version of the federal environmental Sustainability Framework, entitled the "Commitment Statement on Environmental Sustainability in Canada". The Agreement proposes a dubious "environmental risk" approach to regulation, as opposed to the precautionary approach. New Brunswick has indicated its intent to be the first province to implement the Agreement. To do so, New Brunswick plans to rework all of its existing environmental regulations ranging from environmental impact assessment and pesticide spraying to water-course alterations and pollution permitting. All of New Brunswick's environmental laws will then be repealed, to be replaced by a solitary piece of legislation.

Mining Sector Sustainability Table

The federal government has established four “Sector Sustainability Tables”, one of which is mining, to advise the Council of Deputy Ministers (the key civil servant from each department of government) on how to ensure the highest level of environmental quality from the industry sector. The Mining Sector Sustainability Table is chaired by Richard Ross, CEO of Inmet Mining Corporation, and Alan Nymark, Deputy Minister for Industry. It has four other industry representatives, the Deputy Ministers of Natural Resources Canada, the Department of Indian Affairs and Northern Development, and Environment Canada, one labour representative, three environmental representatives (two chosen by the Canadian Environmental Network and one hand-picked by the government), and an as yet undetermined number of Aboriginal representatives. The terms of reference are still being negotiated, as are the actual activities of the Tables. A secretariat has been established. It is expected that the Tables will do much of their work in Working Groups, also not yet determined. Civil society and Aboriginal groups have been told that there will be money for technical assistance, but no figure has been given.

Fisheries Act Streamlining

The Department of Fisheries and Oceans (DFO) is undertaking a “Fisheries Act Renewal Process”, which is likely to see a gutting (*sorry – ed.*) of section 35 (habitat protection) and section 36 (deleterious substances). A review MiningWatch undertook of the “habitat compensation” provisions confirmed that of the many cases where habitat compensation (no net loss) is a part of permitting for a mine, there was only follow-up in six instances, and no science capacity to see if it actually worked. If it didn’t, nothing is done about it.

We have seen, too, that the Metal Mining Effluent Regulation (MMER), which provides the licence to pollute under Section 36 of the Fisheries Act, is not enforced. There have been no prosecutions to date, although there have been many exceedances of the limits. The industry treats the limits as minimums. Environment Canada enforces sections 36 and 37; Fisheries enforces section 35. Both have had their enforcement budgets steadily eroded.

The Fisheries Department clearly sees its role as enabling mining (and other industrial projects) to go ahead despite the tough language in the Act. Category 4 fish habitat receives no

protection at all; Fisheries officers issue “Letters of Advice” to tell companies how to avoid triggering an environmental assessment; the Department submissions in the environmental assessment context are frequently laughable. Recently, Fisheries has insisted on “regulating to its mandate”, and on the Red Chris project has defined tailings disposal as separate from the mine to avoid triggering a Comprehensive Study.

Amendments to the Metal Mining Effluent Regulations are currently being considered and Environment Canada finds itself under attack by industry, which is seeking to eliminate the need for cabinet approval if a company wants to use a lake for tailings disposal. At present it requires an amendment to Schedule 2 of the Regulation to do this. The Aur Resources Duck Pond Mine in Newfoundland is proposed to be added in an amendment waiting to go to Gazette after the election.

For more details, see newsletter #19.

Retooling of the Environmental Assessment Act

The Speech from the Throne announced the government’s plans to “consolidate” the EA process. “The Government will work to get its own house in order. It will consolidate federal environmental assessments and will work with the provinces and territories toward a unified and more effective assessment process for Canada.” The plan is to centralise the assessment of “major projects” within the Canadian Environmental Assessment Agency rather than having the assessments done by the departments with regulatory authority over the project, while a reduced number of screenings would continue to be done by departments. Risk analysis would be used to triage projects by their projected size and impact to eliminate about two thirds of projects currently assessed, and to use a class screening process to eliminate assessments for a multiplicity of “small” projects like culverts. The actual legislation has not yet been developed. Accompanying this legislation will be new bi-lateral “harmonization” agreements with the provinces and territories that set out what the arrangements would be when a joint EA is required. Each joint EA than has its own Terms of Reference; the danger is that the lowest common denominator would be applied rather than the highest available standard.

With devolution in the Northwest Territories and Yukon, CEAA’s role has been substantially diminished and essentially does not apply now to more than a third of the country.

MiningWatch Welcomes Susan Murdock as Resource Development and Administrative Coordinator

MiningWatch Canada’s Directors and staff are pleased to announce that Susan Murdock has accepted the position of Resource Development and Administrative Coordinator. She takes over from Julea Boswell, whose abrupt departure brought us the good fortune of having Liz Kim help out on an interim

basis until a new hiring process brought Susan on board. Liz’s good nature and commitment made her a pleasure to work with.

Susan brings with her an impressive range of skills and experience, including extensive solidarity and policy work in Central America.