



MiningWatch Canada

Mines Alerte

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To the Canada Pension Plan Investment Board:

MiningWatch Canada is writing this open letter to urge the CPPIB to divest from Tahoe Resources. The CPPIB tripled its investment in Tahoe Resources from 2012 to 2013, despite violence, broad opposition to the Escobal project, pending legal actions against its mine operations, and the highly speculative nature of Tahoe's projections.

Violence

There has been serious violence associated with the mine project, including against community leaders and peaceful protesters. Most recently, on April 13, 2014, a well-known leader of the Mataquesuintla youth movement against mining, Merilyn Topacio Reynoso Pacheco, was murdered. She was 16 years old. Her father, Edwin Alexander Reynoso, a community leader and key representative of the *Peaceful Resistance in Defense of Natural Resources of Mataquesuintla*, was shot four times and is in intensive care in the hospital. Alex Reynoso is recognized for his role in organizing a community consultation in this municipality. Guatemalan authorities have yet to arrest anyone in connection with this crime.

Last year, another violent incident directly implicated Tahoe employees. On April 27, 2013, Tahoe's private security shot and injured six men who were peacefully protesting outside the mine site. While Tahoe blamed the protesters, Tahoe's head of security, Alberto Rotondo, was arrested as he was trying to leave the country. Rotondo remains under arrest awaiting trial for his alleged role in the attack.

Broad Opposition

Since 2011, communities living in the area of the mine have been peacefully opposing the project through marches and community referenda. More than half of the communities in the municipality of San Rafael Las Flores, where the Escobal project is located, have declared opposition to the mine. In five neighboring municipalities, in the departments of Santa Rosa and Jalapa, tens of thousands of people have participated in formal municipal referenda and voted against the project. For example, in the Municipality of Mataquesuintla, where Topacio Reynoso was from, over half of the eligible voters participated in a vote in which 96% - or some 10,000 people - voted against mining.

Tahoe Resources, with the help of the Guatemalan government and the powerful Guatemala Chamber of Commerce, used three strategies to prevent people from opposing the mine. The first strategy was to challenge the legality of municipal referenda in two lawsuits brought to the Constitutional Court. In both cases, the Constitutional Court dismissed the lawsuits, finding that citizens have a right to express their views regarding whether or not they are in favour of mining.

The second strategy was to prevent referenda from taking place at all, as was the case in San Rafael Las Flores, the municipality closest to the Escobal mine. In San Rafael Las Flores no official municipal referendum took place because the mayor refused to allow it, despite a community request. As a result, local organizers coordinated votes at the village level in San Rafael Las Flores. Eight of nine to date have been overwhelmingly against mining. Representatives of more than half of the communities in the municipality have also signed declarations against the mine.

The third strategy was to use force to quell social protest against the mine. Repression and criminalization against those opposing the project steadily increased in intensity as Tahoe ramped up toward production. Since 2012, there have been nearly 90 legal cases filed against protesters and community leaders, constituting a wave of criminalization against individuals for their participation in peaceful protests.

Finally, the opposition to the mine is so great that in June 2012 Tahoe filed a suit against the Guatemalan government stating that protests were hindering its operations and claiming that the State was not doing enough to allow its exploration and construction activities to proceed. The Constitutional Court dismissed the suit in February 2013. Nonetheless, two months later, the Guatemalan government imposed a state of siege in municipalities that had voted against the project. During the state of siege, arrest warrants were issued for eighteen individuals who are known to oppose mining. Five were arrested and made to suffer months in jail. All eighteen have been absolved of any charges.

Environmental Legal Actions and Risks

In 2012, community members from San Juan Bosco, located seven kilometers from the mine site, filed a legal challenge in defence of the right to water. Also, some 250 community members filed individual complaints with Guatemala's Ministry of Energy and Mines (MEM) in opposition to the exploitation license for the mine, citing potential damages to the environment, specifically access to water. MEM dismissed the complaints outright, hours before Tahoe's final license was granted. Through the appeal process, the court found that MEM violated due process in its consideration of one such complaint.

Tahoe is also under investigation by Guatemala's Public Prosecutors' Office for Crimes Against the Environment for industrial contamination of water supplies near the Escobal mine. Additionally, an engineering review of the environmental impact assessment substantiates community concerns. It finds a lack of sufficient information on water processing and water treatment. It also finds that there is no posted closure bond and that the three years estimated for reclamation is far too short.

Speculative Project and Weak Disclosure

Tahoe's claims about the mineral deposit at its Escobal silver project are not backed by a feasibility study, which is normally used to establish greater certainty about mineral finds and the economic viability of a project. In July 2013, the British Columbia Securities Commission placed Tahoe on its 'Issuers in Default List' because the company did not comply with related disclosure requirements. As Tahoe is listed on the New York Stock Exchange, the United States Securities Exchange Commission also questioned Tahoe about its claims. As a result, Tahoe was required to amend its Preliminary Economic Assessment (PEA) to clarify that no feasibility study had been done and to acknowledge that projects lacking a PEA "have a much higher risk of economic and technical failure." Tahoe began production in 2014, still without a feasibility study.

This is not the only troubling disclosure issue. In May 2013, the Justice and Corporate Accountability Project at Osgoode Hall Law School sent a letter to the Ontario Securities Commission pointing out that Tahoe had failed to disclose material information in relation to the shooting of six protesters by its head of security, Alberto Rotondo. Furthermore, as noted above, Tahoe has not disclosed the extent of the opposition to mining in the region, nor the fact that opposition was so great that it brought a court case against the Guatemalan government for failure to control local protests. This lack of disclosure on social conflict is problematic for investors. Another Canadian mining company in Guatemala, HudBay Minerals, is currently being sued in Ontario by the widow of a community leader murdered allegedly by HudBay's head of security. HudBay sold the mine for \$176 million in 2011, shortly after the launch of the lawsuit. It had purchased the mine three years earlier for \$446 million.

Time to Get Out

At a time when Canadians are deeply concerned with the ability of the Canada Pension Plan to meet their future needs, the CPPIB should not gamble on speculative projects that put the future of both Guatemalans and Canadians at risk. The largest equity investor in the world, Norway's \$840 billion sovereign fund, demonstrates that this is unnecessary. This fund has cut its holdings in mining companies last year and is reviewing all of its mining investments. In 2013, the Norwegian fund had a rate of return of 15.9%, compared to CPPIB's rate of return of 10.1%. Furthermore, investment in Tahoe Resources does not meet your own environmental, social and governance criteria for responsible investments. CPPIB should divest from Tahoe.

I appreciate your attention to this matter and look forward to your response.

Attentively,



Jennifer Moore
Latin America Program Coordinator, MiningWatch Canada