



Proyecto de Derechos Económicos, Sociales y Culturales

FACT SHEET: LA PLATOSA CONFLICT IN DURANGO, MEXICO

(Updated: November 5, 2012)

Between August 28 and November 5 of 2012, Excellon released a series of press releases with damaging and incorrect information regarding the blockade in front of its La Platosa mine, the Ejido La Sierrita, and the Project for Economic, Social, and Cultural Rights (ProDESC), a non-profit Mexican human rights organization that has advised the Ejido since 2007. The Company’s allegations regarding these two parties are extremely misleading and put them at risk. In what follows, ProDESC and the Ejido respond to the Company’s unfounded allegations.

What is the status of the protest in front of the La Platosa mine?

<i>Allegation:</i>	<i>Reality:</i>
<p><i>The removal of the protestors’ camp by the Company and the union that it supports on October 24, 2012 was peaceful and did not involve violence.</i></p>	<p>In October, the protestors were forced out of their camp by over 200 people with intimidation that included death threats. Their camp was burnt to the ground.</p> <p>In the beginning of October, Excellon stopped using the mine entrance where the protestors’ camp was located and started exclusively using a secondary route. The Ejido and protesting workers moved part of their camp next to this secondary route around the middle of October. The landowners and workers held a demonstration in this new location on October 22 to protest the company’s continued refusal to respect their rights as owners of the land on which the mine is located.</p> <p>On the morning of October 24, members of the company-supported “Frente” Union arrived to both camps in six buses, including a bus adorned with the logo of Excellon Resources, Inc. They were armed with sticks and rocks. The majority of Frente Union members arrived from the neighboring state Zacatecas. Protestors report that Robert Moore, Chief Operating Officer of Excellon Resources, Inc., directly participated in the action against the landowners, pulling down a fence that was located on the private property of Teresita Villalobos and was installed at the advice of Ms. Villalobos’ attorneys.</p> <p>The Frente Union members then moved in with</p>

	<p>heavy machinery and immediately began to destroy and burn down the protesters' temporary housing at both camps. The protesters made repeated requests to federal and state officials to stop the aggressors but the officials present took no action to stop the intervention. Photos of the machinery and the burnt camp will be available on our website shortly.</p> <p>This action comes on the heels of another incident of aggression against human rights defenders by mining companies in the neighboring state of Chihuahua earlier that same week. In that case, two community leaders, Ismael Solorio Urrutia and Manuelita Solís, were violently killed amidst the community's efforts to stop the installation of a Canadian mining company's facility on their land.</p>
<p><i>The protesters' camp is illegally located on Excellon property.</i></p>	<p>The protesters' two camps are both located on land that is owned by third-party landowners with their consent. The first protest camp was located on the land of Ms. Teresita Villalobos. The second is located on the land of Ejido Banco Nacional, a neighboring communal landowner. Protestors established their camps in these properties with the consent of the landowners. Protestors have, at no point, established a camp on land under Excellon's control or deed. If they were on company or unauthorized land, the federal and state government would have worked quickly to force them off under criminal trespass charges. This has not occurred.</p>
<p><i>The protesters' camp was unsanitary and posed a safety danger.</i></p>	<p>First of all, as mentioned above, the protesters camp was located on private land and company representatives along with the company-union were trespassing when they entered Mr. Villalobos' land.</p> <p>Second, the Ejido has been extremely organized and maintained an orderly camp. The living area had a community kitchen facility and regular trash cleanup. There were never any complaints regarding hygiene or health from the landowners where the camp is located, authorities, or the Ejido members themselves.</p>
<p><i>Excellon is not breaking any laws.</i></p>	<p>In fact, Excellon has been the target of several legal complaints by the Ejido La Sierrita and several others.</p> <p>First, the Ejido La Sierrita has filed multiple complaints with the Federal Environmental</p>

	<p>Prosecutor for environmental damages caused by the La Platosa mine.</p> <p>Second, the Ejido has filed a lawsuit with the Agrarian Tribunal for rescission of the land agreement between Excellon's subsidiary and the Ejido La Sierrita.</p> <p>Third, the Ejido La Sierrita filed a complaint with the National Commission of Human Rights related to threats by an army captain against members of the Ejido in early September.</p> <p>Two other neighboring landowners have filed complaints against the company for damages related to Excellon operations.</p> <p>Finally, several other complaints have been filed against the company-supported Frente Union for crimes akin to defamation against ProDESC.</p>
<p><i>The blockade of La Platosa mine was broken in late August of 2012 by the Concerned Women of Bermejillo and the company-supported Frente Union and the protest has concluded.</i></p>	<p>Excellon's re-entry into the mine facilities on August 29, 2012 occurred through the deployment of over 100 soldiers and police officers to the protest site. These soldiers intimidated and confronted the protesters over the course of several days. No women or people from the community ever marched to the protest site.</p> <p>The Concerned Women of Bermejillo is not a recognized organization or coalition in Durango. A small group of 6-8 women did accompany workers by bus to the mine on August 29, 2012. Ejido members have information that these women were paid around 500 pesos to go to the mine on that day. Taxi drivers also stated that they were paid by Excellon officials to take these women back to Bermejillo after workers entered the mine on that same day.</p> <p>The complaint filed with the Canadian NCP for the OECD Guidelines documented support that Excellon has provided to the Frente Union. Since 2011, Excellon brought this company-supported union to the mine to counter efforts by workers to form a democratic union local that will directly represent workers. During the union recognition vote on July 5, 2012, the Frente Union brought in close to 100 thugs with sticks to intimidate voting workers, which was documented by a group of 12 international observers. These thugs, none of</p>

	<p>whom are workers in the mine, lined the road to the mine and only dispersed when federal police approached them. On September 6, the Frente Union again brought outside thugs to the protest site, again with large sticks, to intimidate the families that are still camping at the entrance. In its press release of September 10, Excellon openly acknowledges its direct connection to the Frente Union.</p> <p>At this point, Ejido members and workers have not returned to their camp for fear for their lives. Nonetheless, they have continued to protest the local and state government regarding the matter.</p>
<p><i>The blockade in front of the La Platosa mine is illegal.</i></p>	<p>At no time has the blockade been deemed illegal by Mexican authorities and only after the company hired an Ottawa lobbyist with strong connections to the current Canadian government did the Mexican army and police act to break up the blockade.</p> <p>Before August 29, 2012, the Mexican government had maintained a role as mediator in the conflict at the La Platosa mine. The government, at both the state and federal levels, had assured the members of Ejido La Sierrita that it supports their right to protest and was outraged by Excellon’s failure to negotiate in good faith with the community. Furthermore, until August 29, no government official had ever expressed to the Ejido that s/he characterized the peaceful protest as illegal. As the protesters are not on Excellon’s property, nor on property related to the land rental agreement, the protest is not illegal. To date, no authority has presented the Ejido with an official statement or legal complaint that states otherwise.</p> <p>Notably, only after the Company hired a well-connected lobbyist in Ottawa to seek the help of the Canadian government did Mexican armed forces move in. Since August 23rd, Will Stewart of Ensign Canada has been registered as a hired lobbyist of Excellon’s new Executive Vice President, Brendan Cahill. According to the Canadian Lobby Registry, he was hired to seek “government support for Excellon Resources’ operations in Mexico.” Mr. Stewart’s previous post as chief of staff of John Baird, Minister of Foreign Affairs, places him in an advantageous position to influence the Harper administration on issues abroad.</p>

	<p>It is not clear what meetings Mr. Stewart has so far requested on Excellon's behalf. Nonetheless, his registration indicates that he was hired to lobby the Department of Foreign Affairs, the House of Commons, Natural Resources Canada and the Prime Minister's Office. Less than a week after Mr. Stewart's registration, the Mexican police and army entered the La Platosa mine.</p>
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Who is the Ejido La Sierrita, and what are their demands?

<i>Allegation:</i>	<i>Reality:</i>
<p><i>Excellon has complied with the land contract with the Ejido since 2008.</i></p>	<p>Excellon has been in violation of the land contract for the last four years.</p> <p>The Ejido entered into its land contract with Excellon in 2008 with the goal of improving its local social and economic development. The members hoped to be able to attract the community back to the land and to prosper, not just from rent payments, but from the various social clauses included in the contract. They also wanted to ensure that the mining activities would not damage their land and natural heritage.</p> <p>The Ejido has struggled for four years to push Excellon to comply with this contract. In those four years, aside from two meetings in June of this year, Excellon's local management failed to even sit down with the Ejido for more than an hour to discuss its failure to comply with the contract. Among the clauses that the company has ignored are promises for transportation and food service concessions, full implementation of hiring preferences, and the construction of a water treatment plant (see below).</p> <p>More importantly, the Company violated a vital clause in the contract by conducting exploration activities on areas within the Ejido's land that are not included in the 1,100 hectares rented under the contract and without the Ejido's permission. The Company has acknowledged its violation of this clause in several meetings with the Ejido and the government over the last year, but has failed to disclose this material fact to shareholders.</p> <p>The Ejido has asked to negotiate certain changes in</p>

	<p>the contract that would remedy the Company's violations. These minimal changes would ensure a better relationship with both parties over the 30-year life of the contract. Of course, the Ejido has not been able to discuss these matters with Excellon because Excellon has not come to the negotiation table in good faith.</p> <p>If the Company is unwilling to negotiate, the Ejido has only one other remedy: rescind the contract. Rescission of the contract would put at risk all land on which the Company is currently operating and exploring, including its main offices and access to the mine proper.</p> <p>For more details on the Company's failure to comply with the contract, please see the complaint filed with the Canadian NCP for the OECD Guidelines.</p>
<p><i>Rescinding the contract will not affect La Platosa operations.</i></p>	<p>Excellon will not be able to operate the La Platosa mine or continue exploration work at the Rincon de Caído if the contract is rescinded. To continue to operate once the contract is rescinded suggests that the company presumes it can run roughshod over the rights of Ejido landowners without being held accountable by Mexican or Canadian authorities.</p> <p>The Ejido filed a complaint for rescission of the contract with Excellon's Mexican subsidiary, Excellon de México, on September 4, 2012. Rescission of the contract will undo the entire contract, including the 1,100 rented ejidal lands and the sale of 27 hectares on which Excellon currently operates the La Platosa mine and utilizes for entry to the mine. Excellon conducts water pumping, oversees administration, conducts separation and delivery activities, and enters the mine proper on the lands in question. Therefore, rescission will directly affect the entire mining operation.</p> <p>Additionally, according to local sources, all known drilling in the Rincon de Caído region of La Platosa is currently taking place on the 1,100 hectares rented under this same contract. If the Ejido asks for injunctive relief, it would ensure that Excellon cannot enter the 1,100 hectares while litigation proceeds. This would keep Excellon from conducting any exploration in the high</p>

	<p>mineralization region for the foreseeable future.</p>
<p><i>The Ejido includes about 25-30 people while the landowners' blockade has severely affected the livelihoods of some 250 Excellon workers, and an estimated 380 families.</i></p>	<p>The Company's failure to comply with its land contract prevents the social and economic development of the Ejido La Sierrita, which affects over 350 persons.</p> <p>An Ejido is a communally-owned land entity in Mexico. The Ejido La Sierrita is comprised of 127 member-families who have communally owned for generations the land where the La Platosa mine currently operates. Because of the dismal economic reality of the region, many of these members have had to seek work elsewhere. Nonetheless, it is their human right to protect their heritage and their land and to use this important asset as a source of development for their families and neighbors. Ejido members hope to attract more of their families back from the United States and other locations with a sound community development plan that provides more locally autonomous sources of employment. Ejido titleholders, their families, and residents on Ejido land amount to over 350 people. The camp in front of La Platosa mine consists of representatives from each of these families along with the neighbors who live on the Ejido's land. Around 80-110 persons were present in the camp at any given moment before the protestors were displaced.</p> <p>Excellon has fewer than 200 front-line workers in the La Platosa mine; not 300 as stated in the company's press release of August 29, 2012, or 250 as stated in its September 10th press release. Almost 50 of these workers, members of the Local 309 of the National Mining Union, have maintained a solidarity camp next to the Ejido's protest.</p> <p>Nor is Excellon the biggest employer in the region. Several milk and meat processing companies also operate close to Bermejillo and hire thousands of workers.</p>
<p><i>Excellon cannot build the water treatment plant because of permitting issues and is complying with Mexican law.</i></p>	<p>Excellon is required by law to build a water treatment plant and no permit is necessary for this to happen.</p> <p>Federal law requires mining companies to construct a water treatment plant for all water extracted from an underground mine, even if it is</p>

	<p>pumped in its natural state, if it has the ability to damage the surrounding lands.</p> <p>Irrespective of the permitting process, the water extracted from the La Platosa mine is harming surrounding lands. The Ejido has hired experts from large educational and governmental entities, including the Autonomous Agrarian University “Antonio Narro”, to test the water as it leaves the ground. These tests show that the water contains a high level of salt and heavy metals and will render the surrounding land unsuitable for agricultural use in the next several years without appropriate precautions. This is a drought-prone area. It is not appropriate for water to be pumped from the aquifer and dumped at approximately 10,000 gallons/minute on the land, which is what is taking place at the La Platosa operation. The Ejido has provided the results of these tests to the Canadian National Contact Point for the OECD Guidelines on Multinational Enterprises (NCP for the OECD Guidelines). The Ejido has also provided Excellon with affordable options for treatment of this water, without any response from the Company.</p> <p>Rather than provide the water to the small farmers in the Ejido, Excellon currently provides this extracted water to several large-scale farmers for their agricultural use without insisting on permits. These farmers have stated to members of the Ejido that they pay Excellon for the use of this water. The current recipients of water do not own the land that they are farming and will have little consideration for the quality of the soil in 3-4 years. But the farmers in the Ejido will have to live with the consequences of water contamination for generations.</p>
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What is ProDESC?

<u>Allegation:</u>	<u>Reality:</u>
<p><i>ProDESC receives funding from the AFL-CIO Solidarity Center.</i></p>	<p>ProDESC has varied and transparent funding.</p> <p>ProDESC receives a small portion of its annual budget from the AFL-CIO Solidarity Center, “a non-profit organization that assists workers around the world who are struggling to build democratic and independent trade unions.” ProDESC is proud to have the support of the</p>

	<p>Solidarity Center, which has been a leader in providing solidarity to workers around the world in defense of their human and labor rights.</p> <p>Nonetheless, ProDESC’s funding is varied and transparent. Since its inception, ProDESC has received the majority of its funding from well-recognized philanthropic foundations including the Open Society Foundation, Ford Foundation, General Service Foundation, Fund for Global Human Rights, Umvertelein Foundation, Oak Foundation, American Jewish World Service, and Semillas A.C. This money supports ProDESC’s diverse projects. ProDESC has posted letters of support from several of its funders on its website.</p>
<p><i>ProDESC is an instrument of the USW and National Mining Union (Los Mineros). ProDESC acknowledges that it is associated with Los Mineros and the USW and has represented the USW in government meetings.</i></p>	<p>ProDESC is an independent Mexican non-profit organization that receives no funding from the USW or Los Mineros. The USW and Los Mineros provide important solidarity for Mexican workers.</p> <p>One of ProDESC’s overarching goals is the defense of workers’ human right to freedom of association throughout Mexico, irrespective of union affiliation. ProDESC has been an ally of Los Mineros since 2007, particularly to accompany local unions that have fought for independent union recognition in Mexico. ProDESC supports Los Mineros as one of the only national unions that allows for internal union democracy within its leadership and among its members. ProDESC is also thankful for the important solidarity of the USW.</p> <p>Nonetheless, ProDESC receives no funding from either Los Mineros or the USW. Since 2005, ProDESC has worked on several successful campaigns to defend the human rights of workers and communities. ProDESC autonomously decides its own goals, objectives, and strategies without influence from any outside group. ProDESC accompanies a broad range of communities and workers unrelated to either Los Mineros or the USW. ProDESC has worked with the Ejido La Sierrita since 2007, a full three years before there was a union presence at the La Platosa mine.</p>

	<p>Finally, ProDESC has never legally represented the USW or Los Mineros in any government meeting. Just recently, in a meeting with the Mexican National Contact Point of the OECD Guidelines on Multinational Enterprises, ProDESC made it clear that it was not a legal representative of either Los Mineros or the USW. Los Mineros has its own legal team and coordinates its own actions related to the La Platosa struggle.</p> <p>ProDESC, a Mexican organization, denounces Excellon's insistence that a small Mexican organization is incapable of protecting and supporting workers against transnational companies without being guided by outside organizations or unions. Again, as letters of support from ProDESC allies and funders will show on its website, ProDESC is a well-recognized human rights defender in Mexico.</p>
<p><i>ProDESC does not have expertise in commercial agreements or in the formation of small business enterprises.</i></p>	<p>ProDESC staff is highly qualified in human rights defense and community development.</p> <p>Excellon management has no information regarding the extent of experience in ProDESC's team, nor has it ever sought to ask. ProDESC's staff has direct experience in human rights, labour law, collective bargaining, and civil transactions. ProDESC staff is also highly trained in community development and organizing. ProDESC has worked successfully with consultants to create successful community development plans not only in Durango but also in Guerrero. ProDESC staff includes alumni of prestigious universities, such as CIDE, Columbia University, Fordham University, University of Washington, Universidad Iberoamericana, and UNAM.</p>
<p><i>ProDESC's website states that its goal is to perpetuate funding.</i></p>	<p>As a small human rights organization, ProDESC has always included among its institutional aims the development and maintenance of a sound financial foundation.</p> <p>It is a well-known fact that all non-governmental, non-profit organizations seek financial sustainability from philanthropic institutions to continue their important work.</p>
<p><i>ProDESC's website endorses and encourages illegal actions.</i></p>	<p>ProDESC does not condone or support illegal actions. Its website does not state otherwise.</p> <p>ProDESC's website was created in Spanish.</p>

	<p>Any Spanish reader of the website can understand that ProDESC clearly does not support illegal actions. A more proper translation of ProDESC's objectives would be that ProDESC uses interdisciplinary efforts that include <i>non-judicial</i> tactics. In other words, ProDESC does not rely solely on litigation. ProDESC focuses on broader strategies that include consulting, organizing, education, and advocacy with governmental and non-governmental actors. Inclusion of the phrase "aspects that are not necessarily legal" refers to the use of perfectly lawful tactics in addition to litigation. This is particularly important in a country such as Mexico where the judicial system often lacks impartiality in labour and agrarian matters.</p> <p>In no way does ProDESC condone or support illegal actions, and it has always consistently advised its partners to act accordingly.</p> <p>ProDESC has recently undergone a long-overdue reformatting of its website.</p>
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