



MiningWatch Canada

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The Social Licence to Mine: Passing the Test

Presentation to the Roundtables on Corporate Social Responsibility

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Introduction:

Good morning. My name is Jamie Kneen, and I am the Communications and Outreach Coordinator for MiningWatch Canada. I have worked for MiningWatch since its inception in 1999, and I was one of its founders. I have been working on the environmental, social, economic, and cultural impacts of mining in Canada and internationally for 20 years.

When MiningWatch staff discussed what we could most usefully contribute to the Roundtables, it was obvious that we should address the points raised in the Government discussion paper and make specific comments and recommendations from our distinct perspective. But to make that meaningful, it's important to give you more of a full picture of just what that perspective is and how it has been formed.

We see these Roundtables as a vindication of the work, indeed the very existence, of MiningWatch Canada. Of course, the actual creation and organising of the Roundtables is the work of dozens of organisations and hundreds of people; but the issues being addressed here are the same ones that drove the creation of MiningWatch seven and a half years ago.

At that time, the globalisation of the mining industry was well underway. Country after country had responded to the pressure applied by the International Monetary Fund and the World Bank – supported by governments of mining countries such as Canada – by liberalising their mining, environmental, and labour codes under the rubric of “structural adjustment”, and Canadian mining companies were actively expanding their investments and operations around the world. At the same time, the same companies

were publicly threatening Canadian authorities that they would “move to Chile” if conditions were not made more friendly for investment here, eroding our hard-won environmental and other protections.

The impact of these changes was being felt by communities all over the world, and those communities were coming to Canadian international workers and organisations to ask how they should respond to the invasion and destruction of their lands and communities by Canadian mining companies. They reasonably expected that Canadians would be able to tell them how these companies operated, what controls applied to them, and whether and how they could be negotiated with. We couldn't. We could tell them that we were facing the same struggles here in Canada, that the legal and regulatory controls we have here are inadequate and poorly enforced, that there is little by way of meaningful international standards, and that the companies' commitments were only as good as their opposition could make them.

Little has changed. Metal prices are booming, and Canadian mining companies are taking advantage of the same prejudicial conditions to expand into all corners of the globe, manipulating, slandering, abusing, and even killing those who dare to oppose them, displacing Indigenous and non-Indigenous communities alike, supporting repressive governments and taking advantage of weak ones, and contaminating and destroying sensitive ecosystems.

There have been some advances. Starting in the early 1990s, the industry embarked on a series of feel-good exercises intended to steal the rhetorical high ground from non-governmental organisations and mining-affected communities, beginning with the Whitehorse Mining Initiative, and ending up with the Global Mining Initiative, the Mines, Minerals, and Sustainable Development program, and the creation of the International Council on Mining and Metals. More recently, a huge effort from civil society groups turned the World Bank Group's Extractive Industries Review into a serious attempt to describe more restrictive and honest conditions for the multilateral institutions' involvement in the sector. Its conclusions were largely distorted and negated by the Bank, the industry, and the Canadian government. Yet along the way, the industry was forced to acknowledge its toxic legacy of abandoned mine sites, and in Canada has even taken some responsibility for helping clean it up. Industry leaders have developed codes of conduct, best practice standards, and auditing tools. Some are worth less than the paper they're printed on, but the best of them are rigorous and comprehensive. Some companies, at some mine sites, have been forced into developing and implementing innovative and accountable environmental monitoring and economic development initiatives. The vaunted “social licence to mine” has become a meaningful point of engagement in some cases, though with varying results.

It's not a case of “a few bad apples” – it's a case of bad apples.

There are companies and individuals in the industry who understand that if they don't act responsibly it will eventually become increasingly difficult for them to do business, but there are many – too many – willing to do whatever it takes to extract short term profits, gambling that they can finish the project or flip the property before the fabled chickens come home to roost. But it's really just a few “good apples”. The lowest common denominator hasn't changed. Whether they bother with the Cyanide Code or the UN Global Compact or the OECD Guidelines for Multinational Enterprises, or contract high-priced public relations consultants, or buy support from naïve NGOs and corrupt local officials, or actively divide communities, or rely on good old-fashioned intimidation, it is clear that most mining companies – from the largest global players to the smallest exploration juniors – are willing to do whatever they can get away with to reward their shareholders with juicy returns.

It seems presenters at the Calgary round table were asked not to name specific companies in our presentations. I've never heard anything so stupid, unless it's the idea of calling this session "public" and then excluding the media. Of course, there may be a certain moral burden associated with hearing specific details of abuse, some sort of obligation to actually do something about it, and just as I am sure that there are those who would like to avoid that minimal level of discomfort, it's something I have to live with every day and I feel obligated to share it.

We have companies like Barrick Gold and TVI Pacific who threaten to sue their critics for libel and defamation, knowing that while what we are saying is true, and we have the documentation to prove it, we could never afford to mount an extensive legal defence.

We have companies like Vanessa Ventures, Glencairn Gold, Glamis Gold, Skye Resources, Ascendant Copper, and Intrepid Mines who refuse to recognise the legitimacy of affected communities' opposition, colluding with local authorities and using threats and manipulation to bypass or repress the opposition.

Placer Dome withdrew from northern Costa Rica in 1997 in the face of overwhelming local opposition, yet nine years later Vanessa Ventures is using chicanery and intimidation to try to get the same project approved, fighting to overturn Costa Rican law¹ in the same way Glencairn did a few years earlier², threatening lawsuits against the government and community leaders alike.

Glamis Gold has threatened the government and the communities of the Siria Valley in Honduras that if it does not get all the concessions it wants to expand its Entre Mares mine it will shut down early, punishing the local people who depend on the mine to feed their families, and pitting them against the farmers who are trying to get Glamis Gold to take some responsibility for the contamination and water scarcity caused by the mine. In Guatemala, the company turned to the police and army to end a blockade holding up construction of its Marlin mine, resulting in one man dead and dozens injured.

Also in Guatemala, both the government and Skye Resources have refused to consult with the Q'eqchi' Mayan people in its mining leases, with the result that the Q'eqchi' people have occupied the land that is rightfully theirs, having been illegitimately taken from their grandparents for the benefit of the mining company (at that time INCO).³ The company has refused to negotiate, and just last weekend called in the police to evict the protesters, provoking violent clashes.⁴

The communities of northern El Salvador where Intrepid Mines is trying to establish itself do not want their agricultural livelihoods displaced or destroyed by mining. Listening to the presentation by Bill McGuinty, Intrepid's Vice President of Exploration at the Toronto round table a few weeks ago was a surreal experience. All Mr. McGuinty could talk about was his frustration that the communities didn't

¹ Open pit gold mining was outlawed in Costa Rica in 2002: "Costa Rica bans open pit mining", <http://www.planetark.com/dailynewsstory.cfm/newsid/16310/story.htm>, June 7, 2002. See also <http://www.comitecanadien.org/>.

² "International Investment Complaint Filed Against Canadian Mining Company", <http://www.minesandcommunities.org/Action/press626.htm>, May 13, 2005

³ On September 17, 2006, in northeast Guatemala, over 2,000 Q'eqchi' Maya people occupied three separate areas on the mine site of Compañía Guatemalteca de Niquel (CGN), a subsidiary of Vancouver-based Skye Resources. "PBI-Canada Delegation to Guatemala Witnesses Struggle for Lake Izabal", http://www.miningwatch.ca/index.php?Skye/PBI_Izabal_Visit, October 24, 2006. CVRD Inco still owns approximately 12.4% of Skye: "Inco to Participate in Skye Financing", <http://www.skyeresources.com/investor/news/2006/index.php?mod=cnt&act=cnt&id=88>, February 3, 2006

⁴ "Police, Mayans clash at Guatemala nickel project", Reuters, November 13, 2006.

want to negotiate, when it is clear to any intelligent observer that there is nothing to negotiate and the only responsible action left to Intrepid is to withdraw.

We know what doesn't work.

Voluntary codes don't work. Golden Star Resources joined the Cyanide Code last spring, but it continued to spill cyanide at its Bogoso operation in Ghana.⁵ Ascendant Copper joined the UN Global Compact earlier this year and just two weeks ago sent busloads of thugs to invade the Junín community forest reserve in Ecuador. The OECD Guidelines don't work. The Canadian National Contact Point convened one meeting regarding the involvement of Anvil Mining in an army massacre in the Democratic Republic of Congo and said that was all it could do. A Congolese military judge recently recommended that charges be laid against Anvil personnel. MiningWatch, Friends of the Earth Canada, and the local Ecuadorian organisation DECOIN were forced to withdraw our complaint against Ascendant Copper under the OECD Guidelines when it became clear – after eight months of inaction – that the NCP was not interested in applying the relevant procedures.⁶

Local laws don't work. Even where the laws themselves are good, enforcement is often weak and subject to corruption. Metallica Resources⁷ has been operating without a permit for over a year at San Luis Potosí in Mexico. Ascendant Copper is violating the Ecuadorian Constitution, environmental laws, and municipal laws. Glamis Gold has been repeatedly charged with water violations in Honduras, over several years, but mysteriously not one charge has yet been heard by the courts. Bonte Gold⁸ closed its operations in Ghana in March, 2004, without giving its workers any notice or severance pay, without paying local farmers the compensation that it had agreed to for destroying their farms and orchards, and without paying the fines it owed the Ghanaian government for various spills and environmental violations.

Canadian securities laws don't work. Despite the fact that Canadian securities regulations were beefed up after Bre-X made a mockery of them, shareholders and potential investors in all of these companies are not being told the whole truth about their operations and activities.

So what does work? Non-violent direct action and democratic decision-making.

When Manhattan Resources wanted to displace the town of Tambogrande in northern Peru, destroying a vibrant agricultural economy to make way for an open-pit copper-gold mine, the people demonstrated against it, but they also held a referendum and voted overwhelmingly against the project. They created a crisis of democracy for a government trying to shake off a legacy of corruption, and the government had to find a way to shut the project down. When Meridian Gold wanted to build a mine on the outskirts of scenic Esquel, in southern Argentina, the people demonstrated against it, but they also held a

⁵ “Groups Call for Action on Cyanide Spills by Multinational Gold Mine in Ghana”, http://www.miningwatch.ca/index.php?/Golden_Star/GSR_cyanide, July 26, 2006

⁶ “Voluntary Corporate Standards Fail Again: Environmental Organizations Withdraw Complaint Against Ascendant Copper”, http://www.miningwatch.ca/index.php?/Ascendant/OECD_complaint_withdr, January 16, 2006

⁷ Through its subsidiary Minera San Xavier, whose motto is “Intelligent Mining, Respecting History and the Environment” (<http://msx.com.mx>, November 10, 2006). See <http://www.angelfire.com/rebellion2/antimxs/> for details, dates etc.

⁸ A subsidiary of Akrokeri-Ashanti Gold Mines Inc., also now defunct. See “Mining Companies Should Do More” <http://db.ghanaian-chronicle.com/thestory.asp?id=2615>, July 23, 2004.

referendum and voted overwhelmingly against the project, eventually forcing the company to drop it. When Platinex Inc. ignored the moratorium on mining activity declared by the Kitchenuhmaykoosib Inninuwug First Nation in Northern Ontario, the people blockaded the site and forced the company to withdraw.⁹

What would help?

- Recognition that some areas are too ecologically or culturally sensitive to mine, and that mining is not the “highest and best” use of land. People may have made legitimate development choices that do not include and are not compatible with mining;
- Meaningful securities disclosure standards, and a single national securities regulator with the capacity and the will to enforce its own regulations;
- Long-overdue reforms to the Canadian Business Corporations Act to enable shareholders to demand accountability from corporate management, and making company directors liable for their personal involvement in corporate decisions;
- An end to taxpayer subsidies to mining companies – whether through tax breaks, tax treaties and free trade agreements, Canada Pension Plan investments, or loans, credits and political risk insurance from Export Development Canada;
- An end to political support for mining companies through Canadian trade commissions and embassies, and an end to Canada’s uncritical and reflexive pro-industry rôle in international bodies (including the World Bank institutions, the OECD, the Rotterdam Convention, etc.) Canada even opposes the UN Draft Declaration on Indigenous Rights because it would recognise that indigenous peoples have a right to determine the direction of their own development!

The Worm’s Eye View:

I started off saying I wanted to tell you how the world looks from the MiningWatch perspective. It’s a unique perspective because of the diversity of our membership and the broad range of organisations and communities we work with. We bring together local and national environmental groups, Aboriginal groups, trade unions, and international organisations, and we work with communities and organisations large and small all over the world. However, we have a staff of only four people, not even all working full time. We get immense support from our members and partners, but there are real limitations to what we can do.

I’ve talked about some of the many cases we’ve worked with our partners to document and denounce. We are here to try to change the policy and legal conditions that allow such abuses to continue. And yet we are acutely aware that it’s only a drop in the bucket. There is so much more going on out there, that we are simply unable to respond to. We just cannot investigate every case that is brought to our attention, so if you look at our web site and see over 60 Canadian companies listed, or the Mines and Communities web site¹⁰ and see over 90 out of the several hundred covered there, please don’t think this is an exhaustive list. There are literally hundreds of cases that have just not made the news because

⁹ “Ontario First Nation Wins Injunction to Halt Mining Company”, http://www.miningwatch.ca/index.php?/Platinex_Inc/KI_injunction, August 30, 2006.

¹⁰ www.minesandcommunities.org

they’re too isolated, or because of language barriers, or because repression is too severe for people to be able to speak out. Unfortunately, based on the work we have done, we cannot assume that there are no problems just because we haven’t heard about them. There are always problems, and in some cases they are very serious. When we sponsored a survey of Canadian companies operating in Mexico in 2002, we discovered that there were conflicts at every site around land use, human rights, and the environment.¹¹ One of the hardest parts of my job is telling people that we can’t help them, that we don’t have the money and time to give them the support they need to try and get justice, to protect their rights, or to protect their livelihoods.

Conclusion:

It’s time for systemic change. If I want a driver’s licence or a firearms licence I have to pass a series of tests designed to show my understanding of the responsibilities conferred by that licence and my ability to meet its conditions. I don’t see why the “social licence” to mine should be any different.

Thank you.

¹¹ *Minería, comunidades y medio ambiente: Investigaciones sobre los impactos de la inversión canadiense en México*. FUNDAR, Centro de Análisis e Investigación. México, julio de 2002.