

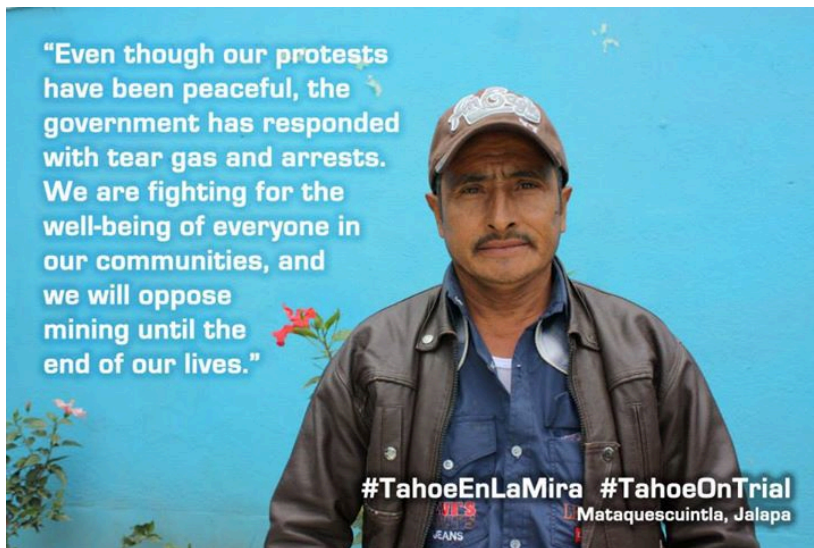
Under Siege

Peaceful Resistance to Tahoe Resources and Militarization in Guatemala

Report by Luis Solano

November 10, 2015





This investigation was undertaken by Guatemalan investigative journalist Luis Solano, and commissioned by the International Platform Against Impunity in Central America and MiningWatch Canada. The research was carried out with assistance from the Network in Solidarity with the People of Guatemala (NISGUA) and local residents in the departments of Santa Rosa and Jalapa, Guatemala whose names will remain confidential.

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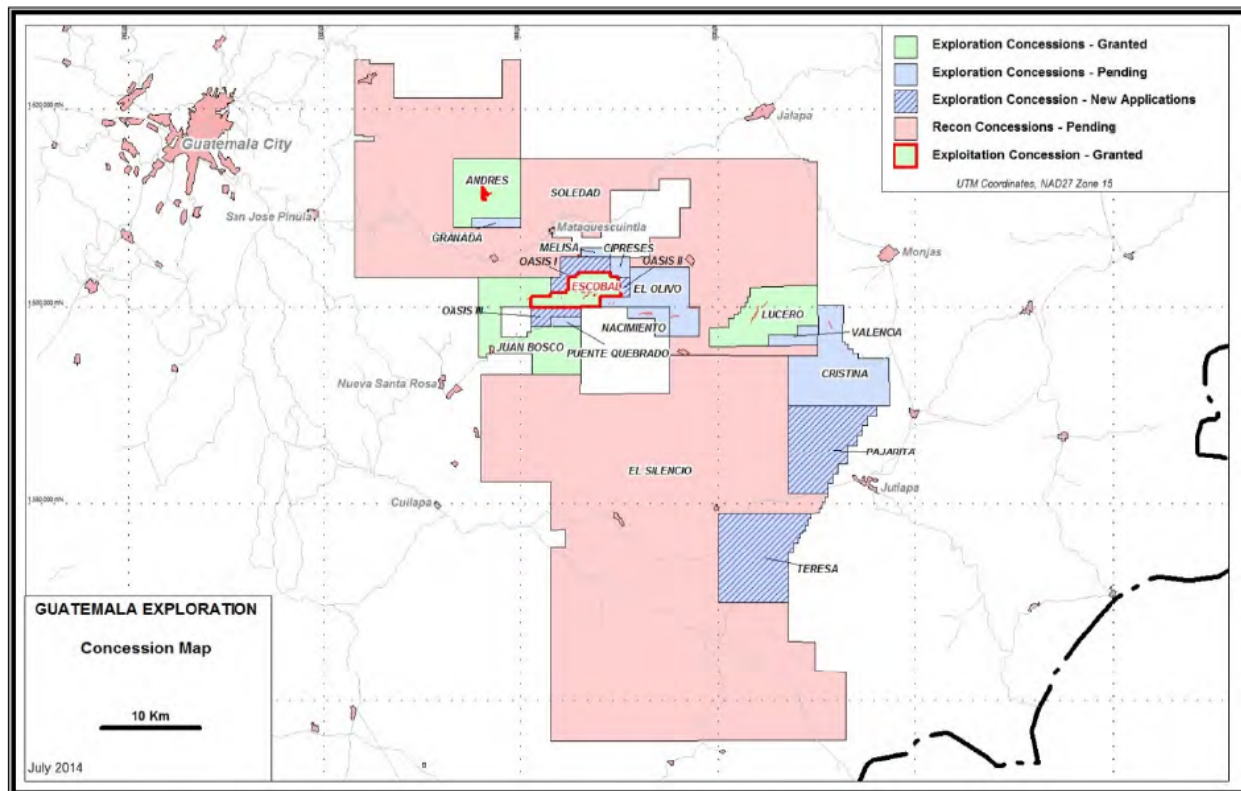
1. The Escobal Mine Case.....	1
1.1 Context.....	2
1.1.2 Background on Mining in the Area.....	2
1.1.3 Background on Tahoe Resources.....	4
1.1.4 Mining Operations Since 2006	4
2. Peaceful Resistance.....	7
2.1 Committee in Defence of Life and Peace	7
2.2 The Diocesan Commission for the Defence of Nature (CODIDENA).....	7
3. Environmental Impact Assessment (EIA).....	8
4. Municipal Plebiscites in the Area Surrounding San Rafael Las Flores	8
4.1 Economic and political power at the municipal level	11
5. Criminalizing Peaceful Protest and Militarization of Community Life.....	12
5.1 Private Security Firms.....	12
5.2 Robbery of Explosives	14
5.3 State of Siege	16
5.4 Inter-Institutional Committee for Integrated Development	17
6.0 Revelations About Tahoe Resources' Quasi-Military Security Strategy.....	19
6.1 The Sworn Affidavit of Tahoe Resources' Vice-President	20
6.2 International Private Security of a Counterinsurgency Nature	21
6.3 Alberto Rotondo in Charge of Private Security	23
6.4 Other Security Companies and Intelligence Offices.....	24
6.4 Changes in MSR Private Security.....	25
7.0 Final Considerations	26

1. The Escobal Mine Case

The Escobal mining concession is located in the municipality of Santa Rosa, Guatemala. According to the Guatemala Ministry of Energy and Mining, the concession is registered as LEXT-015-11 and was given final authorization on April 3, 2013. It contains gold, silver, nickel, cobalt, chrome, lead, zinc, antimony, and rare earths.

The Escobal concession has an area of 19.99 km², equivalent to one-fifth of the territory of San Rafael Las Flores, which has a total area of 85 km². Originally, while in the exploratory phase, the Escobal concession was 50 km² and was named Oasis. It had been granted to Entremares, S.A. a subsidiary of the transnational mining company Glamis Gold, which Goldcorp later acquired. The Escobal mining project was later sold to Canadian-U.S. mining company Tahoe Resources, which now operates the project through its Guatemalan subsidiary Minera San Rafael, S.A. (MSR). The mining concession was named Escobal because at its centre is the village of Escobal in the municipality of Mataquescuintla, department of Jalapa. Most of the concession, however, is in the municipality of San Rafael Las Flores, department of Santa Rosa.

If the requested concessions Oasis I, II, and II are taken into account, which immediately surround the Escobal concession, their surface area is 40 km² or half of the territory of San Rafael Las Flores, extending into the municipalities of San Rafael Las Flores and Casillas in the department of Santa Rosa, as well as the municipalities of Mataquescuintla and San Carlos Alzatate in the department of Jalapa. The Escobal concession forms part of a much larger mining project belonging to Tahoe Resources that includes numerous concessions in different stages of development from exploration to extraction, located in the departments of Guatemala, Jalapa, Santa Rosa, and Jutiapa with an approximate area of 1290 km² (see map).



Source: Tahoe Resources. Escobal Mine Guatemala. NI 43-101 Feasibility Study. November 5, 2014.

The Escobal mining concession was granted for a period of 25 years and entered the mineral extraction stage in 2014. The company estimates, however, that mine operations will last approximately 18 years. The mining rights (royalties, fees, and taxes) that MSR is anticipated to pay per ton of extracted mineral is US\$3.56, for an estimated total annual payment of US\$4.97 million, half of which is destined for the municipality of San Rafael Las Flores. Over the 18 years of mineral extraction, the Guatemalan government would receive an estimated US\$84 million, while MSR would receive US\$12,400 million (based on January 2012 prices).¹

1.1 Context

Agriculture and ranching are the basis of the economy and economic development in the municipalities located in the Escobal mining concession and the entire area of the mining project examined here. Onions and coffee are the principal crops, as well as the production of dairy products, livestock for dairy and beef, corn and beans. Migration since the 1970s to the United States for employment opportunities, as is common in many parts of Guatemala, mean family remittances are also historically and currently an important pillar of the local economy.

1.1.2 Background on Mining in the Area

Since 2006, this geographic region has seen a new resurgence of historic mining interests. The history of the mining concessions granted to Tahoe Resources is summarized below.

The municipalities of Mataquescuintla in Jalapa, and San Rafael Las Flores in Santa Rosa have been the focus of mining activities since 1694, when silver was first discovered—the same mineral currently being mined from the Escobal concession.²

In 1850, Jesuits began mining silver from the Santiago and Mercedes Mine, which they found in the village of Morales, Mataquescuintla, very close to San Rafael Las Flores. They stopped mining in 1872, when, at the beginning of the period of Liberal Reform, the government of Justo Rufino Barrios expropriated the Catholic Church's properties.³

Between 1917 and 1918, U.S. mining companies West End Consolidated Mining Co. and Mataquescuintla Mining Co. explored the silver and copper mines El Rosario, Los Ocotes, Magdalena and San Francisco located in what would later become known as the Matquescuintla mine, in the town of Morales. Both transnational companies operated in conjunction with the U.S. company Silver Lead Mining Co., which explored for minerals in the municipality of Sansare, El Progreso, not far from the current mining project.

The Santiago and Mercedes Mine, along with the Mataquescuintla Mine, were located on lands in El Rosario, and were owned by Chilean engineer Edward Wright Crowe Ebner, who participated in the mining activities. He first obtained these lands in 1925 when he arrived in Guatemala to work with the U.S. firm International Railways of Central America (IRCA). Later, he helped develop banana plantations for the United Fruit Company (UFCO) in Tiquisate, Escuintla. The Crowe family remained owners of

¹ Madre Selva Collective, "Four cases regarding environmental and human safety management. Related to the metal mining industry in the Cuilco, Motagua, Los Esclavos and Ostúa-Guija watersheds, Republic of Guatemala," August 2015.

² Luis Solano, "Cómo se constituyó un proyecto cuasi militar en el proyecto minero Escobal," April 9, 2015; <http://www.albedrio.org/html/documentos/Solano-SanRafaellLasFlores.pdf>

³ Translator's note: These expropriations took place in the context of Guatemala's shift to coffee production that increased the value of these lands.

these areas until 2013.

From 2007 onward, landowner Carlos Crowe Santis, grandson of Crowe Ebner, served as Manager of Community Relations for Tahoe Resources, as a civil engineer for the mine, and held similar positions in the company Montana Exploradora, a subsidiary of Goldcorp. Crowe Santis played an important role, trying to convince the population to accept the Escobal mining project. Crowe Santis was owner of the Pedregal El Rosario farm until 2013 when, under pressure from communities in the region, he sold his properties and left his work at MSR.⁴ While he owned the farm, he received protection from MSR's private security forces. Crowe Santis was very important to ensuring the entry of MSR into Mataquescuintla, Jalapa, even serving as mediator in an attempt to convince Mayor Hugo Loy of Mataquescuintla to authorize the mining operations, which the mayor opposed.

In the 1940s, the Guatemalan company Minerales Nacionales, S.A. was formed to carry out mining operations in the Santiago and Mercedes Mine, property of coffee producer José Roberto Fanjul García. The company's legal representatives were coffee producers Arturo Bianchi Arguiello and Fanjul García. Fanjul García was Minister of Economy during the government of Arbenz Guzmán. In the 1980s, one of his sons, Julio Roberto Fanjul Bianchi, current general manager and legal representative of Monolit (Multi-Inversions Group), held sulphur mine interests in the Peñas Blancas mining concession, adjacent to San Rafael Las Flores. He was the last legal representative of Minerales Nacionales in the 1950s. Some of his family members also held high posts in the government of Jorge Serrano Elias (1991-1993).

In 1996, Mar-West Aruba mining company, a subsidiary of Canadian firm Mar-West Resources was awarded what is known today as the Escobal mining concession (surrounded by the mining concessions Oasis I, II, and III) and the Cerro Blanco mining project in the neighbouring department of Jutiapa. On September 26, 1996, Mar-West President, a Canadian citizen, Simon Ridgeway, set up the subsidiary Entre Mares, S.A. in order to operate in Guatemala. In 1997, the Ministry of Energy and Mining (MEM) awarded Entre Mares the Ayarza I, Pocito, and Joya Grande mining concessions⁵, located in the municipalities of Casillas and San Rafael Las Flores, where Tahoe Resources' principal mining concessions are located today.

In 1998, Glamis Gold acquired Mar-West Resources and all of its mining projects, including Escobal and Cerro Blanco. Glamis also acquired Entre Mares, S.A. and Simon Ridgeway then became president of Radius Exploration, now called Radius Gold, which currently has numerous mining exploration concessions in Guatemala, Mexico, and the U.S.

In 2002, Glamis Gold acquired Montana Exploradora, a Guatemalan subsidiary originally founded by Canadian company Montana Gold to operate the Marlin mine in the northwestern department of Guatemala. When Goldcorp bought Glamis Gold in 2006, it obtained all of its active mines and subsidiary companies in Guatemala, including the Escobal mine project, Entre Mares Guatemala, S.A. and Montana Exploradora, S.A. In 2010, the Escobal project was sold to Tahoe Resources. In 2013, MEM approved the final permit to move the Escobal mining concession into the mineral extraction stage.

⁴ Crowe sold the farm between the end of 2013 and the early part of 2014 to then Congressman of the then ruling party Partido Patriota (PP), Amildo Morales, from San Rafael Las Flores. Amildo Morales passed away in October 2014. He was originally elected as a member of the UCN party, but later changed parties to join the PP. After his death, the land remained in the hands of his son, Amildo Morales, who distributes fuel to Minera San Rafael (MSR) through gas stations on his property in the town of Sabana Redonda, San Rafael Las Flores. See: Plaza Pública, Carolina Gamazo and Rodrigo Baires Quezada, "No puedo decir si este secuestro fue por la mina o fue por el problema con las tierras," March 20, 2013; <http://www.plazapublica.com.gt/content/no-puedo-decir-si-este-secuestro-fue-por-la-mina-o-fue-por-el-problema-con-las-tierras>. Journalist Jose Rubén Zamora has accused Morales (son) of drug trafficking. See: Contra Punto, Jose Rubén Zamora, "Ruta del piloto de polvo blanco que no es harina," November 27, 2012; <http://www.contrapunto.com.sv/tribuna/ruta-del-piloto-del-polvo-blanco-que-no-es-harina>

⁵ These concessions are also known as Ayarza and Tapalapa.

1.1.3 Background on Tahoe Resources

Top executives of Canadian mining companies, especially Glamis Gold and Goldcorp, founded Tahoe Resources. The company came onto the scene thanks to the Escobal mining project in 2010, following its purchase from Goldcorp. The company is registered in British Columbia, Canada, with offices in Vancouver and Nevada, U.S.

Tahoe Resources was incorporated under the Business Corporations Act of British Columbia on November 10, 2009, originally under the name CKM Resources. On January 13, 2010, the company changed its name to Tahoe Resources Inc. A few months later, on May 3, 2010, the company entered into an agreement for the purchase of the Escobal mining project from Goldcorp, with the transaction completed on June 8, 2010.

Previously, beginning on February 12, 2010, Goldcorp started purchasing and legalizing lands for the mining project using the services of lawyers Daris and Dora Pivaral Pivaral who have offices in San Rafael Las Flores. On April 15, 2010, lawyer Jorge Asencio Aguirre registered MSR on the Guatemalan Commercial Registry. On June 8, 2010, Tahoe Resources acquired MSR and the mining project, but Goldcorp retained 40% of the shares in Tahoe. Current Chief Executive Officer (CEO) of Tahoe Resources, Kevin McArthur, was once president of Glamis Gold and of Goldcorp.⁶ McArthur continues to advise the CEO of Goldcorp.⁷

Until 2015, as a result of holding 40% of Tahoe's shares, Goldcorp appointed three people to Tahoe's board of directors annually; of eight board members, six had current or past experience with Goldcorp or its predecessor Glamis Gold. In April 2015, the merger of Tahoe Resources with Rio Alto Mining diluted the percentage of Goldcorp's shares in Tahoe to 25% and changed the conformation of the board of directors. Currently four of eight board members have present or past experience with Goldcorp or its predecessor Glamis Gold. In June 2015, Goldcorp sold all of its shares in Tahoe for approximately CAD\$1 billion.

Asencio Aguirre is a key player in this entire process. He is the legal representative for Montana Exploradora, which operates Goldcorp's Marlin Mine in San Marcos. He also represents Goldcorp's Guatemalan subsidiary Entre Mares and the U.S. firm Kappes, Cassidy & Associates' subsidiary Explotaciones Mineras de Guatemala that operates the mining project opposed by organized residents in 'La Puya',⁸ as well as Tahoe's subsidiary MSR. As he once stated on the television program '*Libre Encuentro*', Asencio Aguirre also helped develop Guatemala's 1997 Mining Law.

1.1.4 Mining Operations Since 2006

In 2006, Glamis Gold's subsidiary Entre Mares began exploration and discovered the mineral deposit known today as the Escobal licence. The company set up the first offices associated with Glamis Gold, including Entre Mares, and Glamis Gold publicity began to appear. At that time, the mining company did not yet have a notable presence in the communities. On March 15, 2007, MEM passed Resolution No. 44,

⁶ Tahoe Resources, "Tahoe Resources announces Kevin McArthur to assume CEO role," August 5, 2015; <http://www.tahoeresources.com/tahoe-resources-announces-kevin-mcarthur-to-assume-ceo-role/>

⁷ Bloomberg, Executive Profile: C. Kevin McArthur: <http://www.bloomberg.com/research/stocks/people/person.asp?personId=30269754&ticker=THO:CN>

⁸ Translator's note: Community resistance known as "La Puya" to gold mining operations in the Department of Guatemala, has garnered national and international attention since early 2012.

approving the Oasis exploration licence of 50 km², reference number LEXR-040-06.⁹ That year, Goldcorp acquired Glamis Gold and all of its assets, companies and mining licences in Guatemala.¹⁰

According to the company, the Escobal project held an estimated “434 million silver ounces at an average grade of 346 grams per tonne (g/t), with significant quantities of lead, zinc and gold.”¹¹ The company planned to process an average of 3,500 tons of ore per day and extract about 20 million ounces of silver per year, at a cost not over \$5.00.¹² From 2008 to 2009, Entre Mares continued exploring and began to buy lands around its base camp.

At the end of 2008, Kevin McArthur retired as President of Goldcorp, and in 2009, founded Tahoe Resources, at which time negotiations with Goldcorp began.¹³ On December 23, of the same year, Guatemala’s Ministry of the Environment and Natural Resources (MARN) approved the Environmental Evaluation for the exploration project through Resolution No. 1918-2010/ECM/GB.

A few months later on April 27, 2010, through Resolution #095, MEM authorized the first extension of the Oasis exploration licence to the company Entre Mares, reducing the area of exploration from 50 to 40 km². Minera San Rafael S.A. (MSR) was legally established in Guatemala on April 5, 2010 and on April 29, 2010, MEM authorized Resolution No. 098, which allowed the transfer of the exploration licences for the Escobal project from Entre Mares to MSR.

On May 3, 2010, Goldcorp announced its intentions to sell the Escobal project and entered into negotiations with Tahoe Resources. Finally, Tahoe Resources acquired the project for US\$505 million, which was announced in Canada on June 8, 2010 and was approved by resolution No. 1918-2010/ECM/GB. As a result of these negotiations, as mentioned above, Goldcorp obtained 40% of Tahoe Resources’ shares.

On February 10, 2011, the Ministry of the Environment and Natural Resources (MARN) approved the Environmental Impact Assessment (EIA) for “Tunnels for the Oasis Exploration Project”, according to Resolution No. 262-2011/ECM/cam.¹⁴

On June 8, 2011, Tahoe Resources announced on its web page that it had discovered a mineralized vein parallel to the Escobal vein, named Margarito, which joins the Areneras, Beto and Escobal veins.

On the same date, MSR reported that it was exploring other areas in the region as part of its expansion plans. These included the Morales Project to the north of Escobal, which is a mine that operated at the end of the 1800s and where basic metals like copper, lead, zinc and silver have been identified, the San Nicolás Project, 13 km to the northeast of Escobal, and the Varejones Project to the east of Escobal.¹⁵

On November 14, 2011, Tahoe Resources announced on its website that the Environmental Impact Study (EIA) for the Escobal project was approved by MARN on October 21, 2011, clearing the way for construction of the plant, and that it had presented the “request for the Escobal mineral extraction licence,” a

⁹ Ministry of Energy and Mines, General Mining Directorate

¹⁰ A lengthy chronology of mine operations is available here: Human Rights Offices of the Archbishop of Guatemala (ODHAG from its initials in Spanish). Óscar Roderico Morales García, “San Rafael Las Flores: Before and After the Exploration Licence was granted to the San Rafael Mining Company,” September, 2013.

¹¹ Tahoe Resources Website: <http://www.tahoeresources.com/operations/escobal-mine/>, accessed June 20, 2015

¹² Tahoe Resources, Escobal Mine overview: <http://www.tahoeresourcesinc.com/escobal/>; Translator’s note: the website now sites costs at \$7.20 per ounce (net of byproduct minerals) for the first 10 years of the project.

¹³ Globe and Mail, “Kevin McArthur has mining in his blood,” June 16, 2010; <http://www.theglobeandmail.com/globe-investor/kevin-mcarthur-has-mining-in-his-blood/article1606820>

¹⁴ Asesoría Manuel Basterrechea Asociados, S.A, 2011. Environmental impact study for the Escobal mining project. San Rafael Las Flores, Santa Rosa, Guatemala, June 2011.

¹⁵ Tahoe Resources, “Tahoe Resources updates Escobal drilling-expands known mineralization,” June 8, 2011; <http://www.tahoeresourcesinc.com/tahoe-resources-updates-escobal-drilling-expands-known-mineralization/>

requirement to commence operations. As of September 30, 2011, Tahoe Resources reported that the Escobal project employed 365 people.¹⁶

Proposed government reforms to its mining law were on the table at the time, which suggested that the state would participate with up to 40% interest in new mining projects. This prompted Tahoe Resources to issue a public statement on June 28, 2012 emphasizing that the Guatemalan government's proposed reforms would in no way affect the Escobal project. Tahoe further stated that a state mining company is not viable and that the Guatemalan government had never indicated its interest to participate in the Escobal project.¹⁷

On November 14, 2012, Tahoe Resources announced that the exploration licence was nearing approval and that it expected to receive it by the end of 2012.

On April 3, 2013, later than the company expected, but still a complete surprise to local residents, the Mining Office at MEM announced that it had granted the mineral extraction licence for the Escobal project to MSR. This was announced immediately on Tahoe Resources' website.¹⁸ The same day, the Mining Office notified 280 citizens that complaints they had individually filed against the licence¹⁹ would not be processed, arguing that they were not directly and personally affected by the project. Despite this opposition, the Director of Mining, Fernando Castellanos Barquín awarded the Escobal mineral extraction licence to Tahoe.

Castellanos Barquín took office in 2012 and had previously worked for Kluane Guatemala, S.A., a company subcontracted to MSR. It was Castellanos Barquín who reported that the 280 complaints against the Escobal mineral extraction licence would not be taken into account. As a result of this violation in the administrative process for the approval of the licence, local resident, Otoniel Kelvin Jimenez Villalta, filed an injunction before the First Chamber of the Court of Appeals. The judge found in favour of Kelvin Jimenez and ordered the Director of Mining to process his complaint. Jimenez is legal adviser to the Parliament of the Xinca People of Guatemala (PAPXIGUA or the 'Xinca Parliament'). This decision effectively suspended the Director of Mining's decision to grant the licence.²⁰

On July 24, 2013, Tahoe Resources reported on its website that the Appeals Court decision, in recognizing the injunction against the resolution from April 3, 2013, would not affect the Escobal project since it did not directly invalidate the Escobal licence. According to Tahoe Resources CEO Kevin McArthur, "The legality of the licence is not in question and it remains fully effective," adding that MEM and the company would appeal the decision to the Constitutional Court.²¹ MSR reported in 2014 that it had begun exporting precious metals from San Rafael Las Flores, disregarding the injunction.²² As of July 2015, a decision from the Constitutional Court was still pending following their appeal.

¹⁶ Tahoe Resources, "Tahoe drilling further expands known Escobal mineralization," November 14, 2011; <http://www.tahoeresourcesinc.com/tahoe-drilling-further-expands/>

¹⁷ Tahoe Resources, "Escobal project unaffected by proposed mining reform," June 28, 2012; <http://www.tahoeresourcesinc.com/escobal-project-unaffected-by-proposed-mining-reform/>

¹⁸ Tahoe Resources, "Tahoe's Escobal project receives final permit," April 3, 2013; <http://www.tahoeresourcesinc.com/tahoescobal-project-receives-final-permit/>

¹⁹ The complaints were filed because the mining law includes an administrative provision for this exact purpose: a mechanism to express opposition to a mineral extraction licence before its approval.

²⁰ Prensa Libre, July 25, 2013, "Sala ordena conocer oposición a minería". eIPeriódico, July 25, 2013, "Pobladores ganan pulso legal a mina San Rafael".

²¹ Tahoe Resources, "Tahoe Resources Clarifies PEA Disclosure," July 24, 2013; <http://www.tahoeresourcesinc.com/tahoe-resources-clarifies-pea-disclosure>

²² MiningWatch Canada, "Guatemalan complainants celebrate effective suspension of Tahoe Resources' Licence," July 25, 2013; <http://www.miningwatch.ca/news/guatemalan-complainants-celebrate-effective-suspension-tahoe-resources-licence>

2. Peaceful Resistance

Ever since Goldcorp acquired Glamis Gold's mining rights in 2007, opposition began to surface among residents of communities in the departments of Jalapa and Santa Rosa, who began to peacefully demonstrate against the mining project. Since 2010, under control of Tahoe Resources, community opposition to the mining project grew to include protest marches and municipal referendums in neighbouring municipalities such as Nueva Santa Rosa, Santa Rosa de Lima and Casillas.

2.1 Committee in Defence of Life and Peace

It is notable that since their mining activities began, the subsidiaries of Glamis Gold, Goldcorp and Tahoe Resources never fully informed the population about what they planned to do in Jalapa and Santa Rosa. While the Mining Law is ambiguous in this regard and does not oblige companies to inform communities, an advertising campaign promoted the broad message that mining and similar projects generate "development and progress." This is used to achieve what the pro-mining sector calls a "social licence to operate" (defined by the population's acquiescence) while simultaneously aiming to counteract strong community opposition to natural resource extraction projects.

In late 2009, as a result of what many consider the mining company's lack of transparency, a group of residents in San Rafael Las Flores who were concerned about environmental issues and had heard rumours about a mining project starting up, met to learn about the issue. This group included people who had sold their land to the mining company and who felt cheated for not having been fully informed. In April 2010, villagers made contact with the organization Madre Selva Collective.²³

At a meeting of a small group of farmers from San Rafael Las Flores, the Madre Selva Collective provided information about the environmental and social impacts of metal mining activities and about Goldcorp's plans for the Escobal project, known in those days as Oasis. This led to the founding of the Committee in Defence of Life and Peace of San Rafael Las Flores (Committee in Defence of Life and Peace from here on in) that included participation of men and women from the local Catholic Church and farmers.

To date, the Committee in Defence of Life and Peace remains active. It is not a legally registered organization. Its leadership rotates and, for security reasons, members have declined to designate any formal positions or leadership titles. Local resistance to the metal mining in San Rafael Las Flores has been organized through this Committee. It is also important to note that Community Development Councils (COCODES), organizations that have legal recognition from the state, also participate in the resistance to mining in this municipality.

2.2 The Diocesan Commission for the Defence of Nature (CODIDENA)

In late November 2010, educational and awareness activities also began in the municipalities of Casillas, Nueva Santa Rosa, and Santa Rosa de Lima. Through a series of meetings with the Catholic Church in the municipality of Casillas, residents from San Rafael Las Flores gathered to learn in greater depth about the problems arising in the municipality. As a result, the church and other organizations increased coordination with the goal of providing information about these projects and their economic, social, political, legal and environmental impacts.

²³ ODHAG. Op. Cit., and Madre Selva Collective, August 2015. Op. Cit.

Also in November 2010, Indigenous communities such as Jumaytepeque in the municipality of Nueva Santa Rosa, in the department of Santa Rosa, joined in these discussions to learn more about the issues. These Indigenous communities form part of the Xinca Parliament.

During a December 2010, at the Diocese of Santa Rosa in Chiquimulilla, the Madre Selva Collective and the Peace and Ecology Commission of San Marcos (COPAE) shared experiences of struggles elsewhere in Guatemala in opposition to metal mining. This same month, the Santa Rosa Diocese and parish priests from the municipalities of Valle de Santa Rosa in a meeting with members from the Board of the Xinca Parliament proposed that there should be a group within the local Catholic Church to work with communities in their defence of natural resources, and consequently CODIDENA was born. CODIDENA included pastoral organizations from each municipality. This organization helped bring together the work of distinct organizations such as the Committee in Defence of Life and Peace, the Madre Selva Collective, the Xinca Parliament and the Centre for Legal Environmental and Social Action (CALAS), which subsequently began providing advice about how to hold community plebiscites and legal support to leaders being criminalized by the company.²⁴

Since then CODIDENA has accompanied the Committee in Defence of Life and Peace to carry out education and awareness activities in communities.

3. Environmental Impact Assessment (EIA)

Tahoe Resources conducted an Environmental Impact Assessment (EIA) for the Escobal exploitation licence in 2011, which it presented to MARN for approval. Asesoría Manuel Basterrechea Asociados, S.A. prepared the EIA and its approval was a requirement before requesting the mineral extraction licence. The EIA was approved on October 21, 2011 and subsequently the Madre Selva Collective undertook a study of the EIA. Similarly, on March 12, 2012, Robert H Robinson, Steve Lauderman and James Montgomery presented their analysis of the Escobal project EIA that they had carried out upon the request of the Madre Selva Collective.²⁵ Both analyses found serious deficiencies, concluding that MARN should not have approved the EIA.²⁶

4. Municipal Plebiscites in the Area Surrounding San Rafael Las Flores

One of the approaches that CODIDENA used in 2011 was to raise awareness and educate communities on mining issues in the northern part of the department of Santa Rosa, emphasizing the legal right that communities have to be consulted before such projects are initiated. In a coordinated effort, the Committee in Defence of Life and Peace, CODIDENA, CALAS, the Madre Selva Collective and the Xinca Parliament encouraged people from Casillas, Nueva Santa Rosa, Santa Rosa de Lima and Mataquescuintla to promote local plebiscites as a legal tool to document public opinion in their communities regarding the imposition of natural resource extraction projects.

Resistance to mining included municipalities in the department of Santa Rosa and the neighboring department of Jalapa, where municipalities such as Mataquescuintla, Jalapa and San Carlos Alzatate, would be affected by Tahoe Resources' expansion plans for the Escobal project. The expansion process began with the approval of a new mining exploration licence called 'Juan Bosco' which would affect Mataquescuintla.²⁷ For its part, the municipality of Jalapa is largely composed of communally owned land

²⁴ Madre Selva Collective, August 2015. Op. Cit.

²⁵ Robert H. Robinson, Steve Lauderman and James Montgomery, "Análisis de Estudio de Impacto Ambiental del Proyecto Minero El Escobal," March 23, 2012; <http://www.conflictosmineros.net/contenidos/15-guatemala/9844-analisis-de-estudio-de-impacto-ambiental-del-proyecto-minero-el-escobal>

²⁶ ODHAG. Op. Cit., and the Madre Selva Collective, August 2015. Op. Cit.

²⁷ Tahoe Resources, "Annual Information Form for the year ended December 31, 2014," March 11, 2015;

in the hands of the Indigenous community “Montaña Santa María Xalapán”, where some 85,000 peasant farmers live. The Xalapán farmers have long demanded that Guatemalan authorities recognize the lands granted to them in 1752 by royal decree of Charles V of Spain, and that 16 exploration licences and 15 exploitation licences be cancelled.²⁸

The Xinca Parliament, CODIDENA and the Committee for Defence of Life and Peace all played a very important role in the plebiscites that were held.

Between 2011 and 2012, four municipal plebiscites were conducted at the request of residents (Nueva Santa Rosa, Santa Rosa de Lima, and Casillas in 2011; and Mataquescuintla in 2012). They were premised on Article 28 of Guatemala’s Political Constitution and Articles 60-66 of the Municipal Code (Decree No. 12-2002). In San Rafael Las Flores, municipal authorities prevented a plebiscite from being organized.

On July 3, 2011, a Municipal Plebiscite was held in the municipality of Nueva Santa Rosa where 98.86% voted NO to mining.

On July 10, 2011, a Municipal Plebiscite was held in the municipality of Santa Rosa de Lima, where 98.34% voted NO to mining.

On August 7, 2011, a Municipal Plebiscite was held in the municipality of Casillas where 98.61% voted NO to mining.

On November 11, 2012, a Municipal Plebiscite was held in Mataquescuintla, where more than 52% of registered voters cast ballots and 98.68% voted NO to mining.

The Chamber of Commerce of Guatemala brought a constitutional challenge against the plebiscites in Nueva Santa Rosa and Santa Rosa de Lima. In both cases, the Constitutional Court (CC) ruled in favor of the plebiscites (CC 19-0-2012, accumulated records 2433-2011, 2480-2011).

MSR filed an appeal against the plebiscite in Casillas, arguing that only the Supreme Electoral Tribunal could hold a plebiscite. The appeal was not granted, a decision ratified by the CC.

With regard to the plebiscite in Mataquescuintla, Jalapa, a private attorney filed an appeal on November 9, 2012 arguing against the constitutionality of the regulation for the plebiscite.²⁹

More than a year later, on December 9, 2013, the CC set an important legal precedent when for the first time it endorsed the results of a community plebiscite regarding the construction of mining projects. It found that it is mandatory for a municipality to permit such exercises and take the results into account. The court’s resolution referred to the plebiscite in Mataquescuintla, Jalapa and was premised on the International Labour Organization’s (ILO) Convention 169 on the Rights of Indigenous and Tribal Peoples. It argued that “it is the unquestionable right of peoples to be consulted but it is [also] necessary

<http://www.sec.gov/Archives/edgar/data/1510400/000106299315001291/exhibit99-1.htm>

²⁸ Madre Selva Collective, August 2015. Op. Cit. This case is much more complex. The information about the 1752 by royal decree of Charles V of Spain was obtained as a result of the demands from the Indigenous and campesino march in 2012, when a dialogue process was established and an ad-hoc commission to resolve land conflicts. It is also important to note that part of the land dispute is with the politician Mario Estrada from the political party Unión del Centro Nacional (UCN or Union for the National Centre) who has been the mayor of Jalapa. The land conflict or the land conflicts of the Xinca Indigenous people were a particular consideration of the UN following the signing of the Peace Accords. There has been little to no progress in resolving most of these conflicts, but the conflict in Xalapán is the most well known.

²⁹ The regulation for this plebiscite had been published in the government official record on October 22, 2012.

to reinforce the proper procedure (for consultation),” given that this right is not something that the state per se carries out, but rather a function under municipal jurisdiction.³⁰

In addition to municipal plebiscites, starting in early 2013, ‘good faith’ community plebiscites were held in villages that make up the municipality of San Rafael Las Flores where local authorities had prevented a municipal plebiscite from being held.³¹

Immediately before and after the Escobal mineral extraction licence was issued in April 2013, eight ‘good faith’ plebiscites were held at the village in San Rafael Las Flores, promoted by the Committee in Defence of Life and Peace. These took place in the communities of San Juan Bosco, El Volcancito, La Cuchilla, Chan Grande, Las Delicias, Los Planes, and Barrio Oriental. In all of these communities, the majority voted ‘no’.

COMMUNITY	DATE	% YES	% NO
SAN JUAN BOSCO	17-Feb-2013	0.73	99.27
LOS PLANES	3-Mar-2013	6.50	93.44
EL VOLCANCITO	17-Mar-2013	0.80	99.20
LA CUCHILLA	23-Mar-2013	4.35	96.65
BARRIO ORIENTAL	14-Apr-2013	2.67	97.33
LAS DELICIAS	21-Apr-2013	1.16	98.84
EL RENACIMIENTO	21-Apr-2013	0.00	100.00
EL CHAN GRANDE	21-Apr-2013	1.74	98.26

Source: ODHAG. Op. Cit.

In May 2013, the central government announced a military state of siege in the municipalities of Casillas and San Rafael Las Flores in the department of Santa Rosa and in the municipalities of Mataquescuintla and Jalapa in the department of Jalapa. This brought a halt to most community consultation processes that were being planned in communities and municipalities affected by the Escobal project.

It took six months for another municipal plebiscite to be held in the municipality of Jalapa in November 2013.³² Over 23,000 people participated with 98.3% voting NO to mining.³³

In January 2014, a community plebiscite was held in the village of Sabana Redonda in the municipality of San Rafael Las Flores.³⁴ Sabana Redonda is a village immediately adjacent to the mine where mine workers’ dormitories were located. Here YES won with 53% of the vote.³⁵

On May 17, 2015, another municipal plebiscite was held in San Juan Tecuaco, Santa Rosa. According to the Human Rights Ombudsman’s Office, 98% voted NO to mining and 1% voted YES.³⁶ The Chamber of

³⁰ Emisoras Unidas, “CC avala consulta popular en la que vecinos oponen a minería,” December 9, 2013;

<http://noticias.emisorasunidas.com/noticias/nacionales/cc-avala-consulta-popular-que-vecinos-se-oponen-mineria>

³¹ Translator’s Note: Despite multiple formal requests from the population, the mayor of San Rafael las Flores refused to carry out a municipal referenda. Local leaders at the forefront of the referenda movement had multiple spurious legal cases filed against them during the same time period by mine employees or people associated with the mining company.

³² Prensa Libre, “Población de Jalapa hace consulta sobre minería,” November 10, 2013;

http://www.prensalibre.com/jalapa/Consulta-Jalapa-Mineria-Montana_Xalapan_0_1027097351.html

³³ MiningWatch Canada, “Tens of Thousands Oppose Tahoe Resource’s Escobal Project in Guatemala,” December 17, 2013;

<http://www.miningwatch.ca/news/tens-thousands-oppose-tahoe-resource-s-escobal-project-guatemala>

³⁴ Emisoras Unidas, “Realizan consulta comunitaria por minería en San Rafael Las Flores,” January 12, 2014;

<http://noticias.emisorasunidas.com/noticias/nacionales/realizan-consulta-comunitaria-mineria-san-rafael-flores>

³⁵ Panorama Noticias, “Aldea Sabana Redonda dice sí a la minería,” January 12, 2014; <http://panoramanoicias.com/?p=8235>

³⁶ Human Rights Prosecutor’s Office, “PDH observa consulta popular en San Juan Tecuaco,” May 26, 2015;

<http://www.pdh.org.gt/noticias/noticias-destacadas/item/6047-pdh-observa-consulta-popular-en-san-juan>

Commerce of Guatemala filed a constitutional challenge against the plebiscite, which had yet to be resolved at the time of this writing.

The Mayor of Mataquesuintla, Hugo Loy, sums up the entire process of community organizing and peaceful resistance against mining as follows: “The population has already shown its discontent with mining in the area and has consistently done so in public acts - marches, demonstrations, protests - that were always peaceful.” Loy refers to activities since late 2011, starting with the *Revolution of Flowers* (a play on the name of the municipality where the Escobal project is located, San Rafael Las Flores; ‘las flores’ means ‘flowers’), coordinated by the Committee in Defence of Life and Peace of San Rafael Las Flores, CODIDENA, the Xinca Parliament, CALAS and the Madre Selva Collective. The consistent and restrained manner in which communities availed themselves of legal and peaceful means to register concerns and opposition to the mining project is an important context given the violent and coercive actions they would subsequently confront as is explained below.

4.1 Economic and political power at the municipal level

While many community members were working to build consensus on opposing the mining projects, MSR built strategic relationships at the local level in San Rafael Las Flores. MSR focused on groups that have political and economic power in order to facilitate and guarantee its operations, seeking to gain the trust and support of certain sectors of the population, and in order to counter opposition and community resistance.

For example, MSR made a US\$2.3 million donation from Tahoe Resources³⁷ to the “Better Families” program of the Ministry of Social Development. This program is sponsored by the Sugar Foundation (Fundazúcar), the philanthropic arm of sugar mill companies in Guatemala, a principal economic sector in Guatemala dominated by the economic elite. This donation, for 2014 and 2015, is part of a public-private partnership in which the government, MSR and Fundazúcar are each involved.³⁸

The director of Fundazúcar is Herbert González Hertzsch, one of the main partners of Compañía Agrícola Industrial Palo Gordo (Ingenio Palo Gordo), along with his brother Luis González Hertzsch who runs an agricultural corporation composed of several coffee companies. Iván Antonio Morales del Cid worked with this agricultural corporation prior to the state of siege in May 2013. In March 2013, MSR hired him to perform various tasks, including: Institutional and Government Liaison; Community-Municipal relations; Social-Business conflict solutions; Community Development Projects (Agriculture, Reforestation, Health, Education); and projects with private and government institutions.³⁹

Morales del Cid was an important link between MSR, the municipal authorities and the governing political party, as well as with the National Coffee Association (ANACAFÉ) and the coffee growers of Santa Rosa.⁴⁰ He was also one of the managers for royalty payments and donations from MSR that were given to the municipalities that supported the mining project in the departments of Santa Rosa and Jalapa.

These roles were given to Morales del Cid as a result of his family connection with the mayor of Barberena, Santa Rosa, Rubelio Recinos, who has been in power in the municipality since 2000. Morales

[tecuaco.html#_VbfFEPIViko](#)

³⁷ Tahoe Resources, Corporate Social Responsibility Blog, “Tahoe Supports National Hunger Program,” July 28, 2014; <http://www.tahoecsr.com/tahoe-supports-national-hunger-program/>

³⁸ Ministerio de Desarrollo Social, “Gabinete de Desarrollo Social verifica logros en programas sociales,” May 27, 2015; <http://mides.gob.gt/gabinete-de-desarrollo-social-verifica-logros-en-programas-sociales>

³⁹ LinkedIn, “Ivan Antonio Morales del Cid”: <https://gt.linkedin.com/pub/ivan-antonio-morales-del-cid/a1/646/a35>

⁴⁰ Tahoe Resources, Corporate Social Responsibility Blog, “What Does A Cup of Coffee Mean?” August 19, 2013; <http://www.tahoecsr.com/what-does-a-cup-of-coffee-mean/>

del Cid is Recinos' son-in-law through his marriage to one of Recinos' daughters. This mayor who was general secretary of the governing political party, Partido Patriota (PP) from 2012 to 2015, and has provided the strongest support for Tahoe Resources' mining project. He is one of the six mayors of Santa Rosa that receives funds from the mining company.^{41,42}

5. Criminalizing Peaceful Protest and Militarization of Community Life

5.1 Private Security Firms

As soon as peaceful resistance got underway in late 2011, the Guatemalan government and MSR's private security forces immediately started to criminalize, stigmatize and defame leaders of the Committee in Defence of Life and Peace, organized residents from Mataquescuintla and CODIDENA (many of them from the municipality of Santa Rosa de Lima). Concurrently, several violent incidents occurred, which members of the peaceful resistance denounced as actions of infiltrators from the mine.

During the process of community organizing and manifesting resistance to the mining projects, various fundamental human rights of community members in San Rafael Las Flores were violated, including the right to be consulted as communities, the right to not be coerced, prior and informed consent, and access to justice, and due process. The last two governments of Presidents Álvaro Colom (2008-2012) y Otto Pérez Molina (2012-2015), respectively, did not uphold the exercise of these rights. Moreover, they actively favoured MSR through their actions and policies. Citizen participation was not taken into account by any government. To the contrary, the response to democratic efforts at the local level has been a policy of repression against community leaders as a way to undermine protests even though such protests were peaceful.

Below is an account of how community leaders have been systematically targeted, often by bringing legal charges against them, however spurious. The terminology now used within Guatemala to highlight this method of intimidating leaders and trying to accuse them as perpetrators instead of victims of abuses is "criminalization." A very important characteristic in this process of criminalization is that of the more than one hundred cases where charges were brought, all have been dismissed for lack of evidence or for including false evidence and/or statements. No one remains in prison, although several people who were falsely charged spent days or months in jail while their case was evaluated.

The first documented case of criminalization in connection with the Escobal mining project involved five leaders from the Committee in Defence of Life and Peace. On November 5, 2011, they were charged with kidnapping, terrorism and burglary. Carlos Roberto Morales Monzón, the legal representative of MSR, filed the criminal complaint, documented by the General Attorney's Office (MP) in file MP-431-2011-918. Ultimately, the mining company itself requested that the case be dismissed, leading observers to conclude that it had been filed in order to discredit the leaders.

Among these five leaders it is important to note that the then coordinator of the Committee in Defence of Life and Peace, Amadeo de Jesús Rodríguez, was later accused of criminal wrongdoing in various cases.

⁴¹ La Tribuna, "El desfalco de Rubelio Recinos," August 27, 2014; Prensa Libre, "Vecinos piden que alcaldes informe sobre destino de regalías," August 25, 2014; http://www.prensalibre.com/santa_rosa/Vecinos-piden-alcaldes-informacion-destino-regalias-mina-San-Rafael-Santa-Rosa_0_1199280219.html ; Ministry of Energy and Mines, "Primera entrega de regalías voluntarias rebasa los Q12 millones," January 30, 2014; <http://www.mem.gob.gt/2014/01/10/primer-entrega-de-regalias-voluntarias-rebasa-los-q12-millones/>

⁴² Translator's note: During the 2015 general elections, three mayoral candidates from Santa Rosa (Santa Rosa de Lima, Casillas and San Rafael las Flores) with roots in the anti-mining resistance defeated sitting mayors who had accepted mining royalties. The two mayors from the region (Nueva Santa Rosa, Santa Rosa and Mataquescuintla, Jalapa) who had refused royalties were reelected.

These people were also part of the group that, on October 11, 2011, opposed the installation of electric poles that would link the mine to electric power lines and supply from the National Electrification Institute (INDE) plant located in Mataquescuintla, Jalapa. This protest affected the work of two companies subcontracted by MSR – Geotecnología, Construcción y Servicios, S.A. (Geoconsa) owned by former Minister of Energy and Mines, Raúl Archila (2000-2003), and Corporación ASAF, S.A., a company that builds concrete posts.

The October 2011 protest against the electrical connection also involved the first private security company contracted by MSR, registered under the name of Servicios de Protección Particular, S.A. (Serprop), owned by Carlos Quintanilla Villegas. In 2008, Quintanilla Villegas was in charge of the Secretariat of Administrative Affairs and Security of the President's Office (SAAS), under the government of Álvaro Colom. He was dismissed that same year for accusations of breach of duties, espionage and interception or reproduction of communications.⁴³

According to members of the Committee in Defence of Life and Peace, as a result of this incident, Serprop stopped providing security services to MSR. MSR then hired the private security company Corporación Internacional de Seguridad, S.A. (Corinsa) until April 2013, along with Alfa Uno, S.A.⁴⁴ In the case of Corinsa, the company operates under the commercial names of Super Control 24 and Grupo Swat.

It is worth noting that Corinsa is a private security company legally registered to José Horacio Fúnez Gálvez, who signed up to be a congressional candidate during the general elections held in September 2015 in the Department of Sacatepéquez with the political party 'Corazón Nueva Nación' (CNN, or *Heart of a New Nation* in English), a party organized and made up of retired military officers.⁴⁵

On September 17, 2012, in response to MSR's third attempt to erect posts to connect electrical lines to the National Electricity Distribution Institute (INDE) plant in Mataquescuintla, residents of Mataquescuintla protested and prevented their installation. Agents of the National Civil Police (PNC) and Corinsa's private security guards provided protection for company employees that day. According to residents who were present in the protest and interviewed for this report, private security guards were seen giving orders to police. That same day, people also protested at the mine site in San Rafael Las Flores, located just a few kilometres from the INDE plant.

The following day, on September 18, 2012, while demonstrating in front of the mine site, protesters were violently evicted by police, the mining company, the company's private security and the army. At least 32 demonstrators were arrested and accused of burglary, arson and terrorism. The Lower Court judge in Cuilapa, in the department of Santa Rosa, later dismissed all criminal charges. The Joint Appeals Court of Jalapa, in the department of Jalapa ratified this decision in April 2013, finding that the Public Prosecutors Office's (Ministerio Público in Spanish) investigation was inadequate. Minera San Rafael acted as joint plaintiff in the process. Those captured were from the municipalities of Santa Rosa de Lima, Mataquescuintla and San Rafael las Flores. Media reported that protesters entered the mining company's property, but witnesses deny this version. The public prosecutor issued arrest warrants against the leader of Santa Maria Xalapá and president of the Xinca Parliament, Roberto González Ucelo, as well as Rudy Pivaral from the Committee in Defence of Life and Peace, who was accused of being responsible for the death of a police officer, Eduardo Demetrio Camacho.⁴⁶

⁴³ Terra, "Ejército ocupa Casa Presidencial después de hallar evidencias de espionaje," September 4, 2008;

http://noticias.terra.com/noticias/ejercito_ocupa_casa_presidencial_despues_de_hallar_evidencias_de_espionaje/act1405758

⁴⁴ Alfa Uno, S.A. is part of the Israeli Grupo Golan, S.A.

⁴⁵ Translator's note: Ultimately the Supreme Electoral Tribunal barred this political party from the 2015 elections.

⁴⁶ Camacho was shot in San Rafael Las Flores at the end of April 2013, during the confrontation leading up to the state of siege. In

One of the leaders who has been targeted most is Óscar Roderico Morales García from the Committee in Defence of Life and Peace, accused of multiple charges as indicated by documents processed by the Public Prosecutor's Office dating since 2012. More recently, in 2014, Camilo Ernesto Medina Mazariegos, Manager of External Affairs for MSR accused Morales García of having threatened him. In June 2015, Morales García was sentenced to six months in prison. However, the judge issued a "judicial pardon" suspending the prison time. Both parties appealed and, as of the time of writing, the case had not yet been resolved.⁴⁷

Criminal complaints submitted to the MP against human rights defender Oscar Morales

Nombre	No. de expediente	Tipo penal / sindicación
Oscar Roderico Morales García	MP0012-2012-60276 MP001-2012-108216 MP015-2013-7757 MP297-2013-3645 MP0010-2002-19	Usurpación de funciones Coacción, amenazas Amenazas No es delito Lavado de dinero y otros activos

Source: Office of Human Rights in Guatemala (PDH). Circumstantial Annual Report. Human Rights Situation and Record of Work 2014.

5.2 Robbery of Explosives

On November 19, 2012, a convoy from Mayaquímicos, S.A. (MAQUISA), contracted by MSR and reported by the company as transporting explosives to the Escobal mine, was detained by a large group—supposedly made up of protesting villagers. Usually, the company would travel from the offices of MAQUISA in the municipality of Sanarate, El Progreso, through the municipality of Casillas to reach San Rafael las Flores. On this day the trucks originated from the offices of MAQUISA in Sanarate, El Progreso as usual, but instead of following their normal trajectory, the explosives transportation company used the route through Mataquescuintla, which also connects with Sanarate, to arrive in San Rafael las Flores.⁴⁸

Residents from Mataquescuintla and San Rafael Las Flores interviewed for this report denied having stolen the explosives and insisted that it was a set-up coordinated between MAQUISA and MSR to frame activists.

MSR and MAQUISA, however, argue that there was a robbery, and even accused residents of burning six vehicles and a house. The explosives never turned up again, but eighteen leaders from the peaceful resistance movement in Mataquescuintla and San Rafael Las Flores were accused of having perpetrated this crime.

The legal process against the eighteen is documented in the Public Prosecutor's file number

2009, Camacho was identified by The Military Group of the US Embassy as an agent involved with human rights violations. See: Cablegate, "Guatemala Human Rights Leahy Amendment Vetting Request – 97," September 10, 2009; https://wikileaks.org/plusd/cables/09GUATEMALA868_a.html

⁴⁷ MSR Manager Camilo Medina is the cousin of then Vice Minister of Information Technology and Communications for the Ministry of the Interior, Juan Carlos Argueta Medina, who held this post during the entire term of General Otto Pérez Molina, whose responsibilities included control and intelligence in San Rafael Las Flores, according to complaints from local residents. Unethical use of this family relationship has been a cause of complaints from residents in San Rafael Las Flores. Argueta Medina dedicated his graduation thesis, among others, to Camilo Medina and Juan Pablo Marín, who are both associates of the company SIAFSA, which provides services to MSR. See: Juan Carlos Argueta Medina, Thesis, "Estimación de los riesgos y niveles de erosión hídrica en la microcuenca del río Negro, Chimaltenango," February 2012; http://biblioteca.usac.edu.gt/tesis/01/01_2572.pdf; Servicios Integrales Agrícolas y Forestales, S.A., "Diagnóstico Integral Multidimensional: Municipio de Olopa, Mancomunidad Copanch'orti," November 2012; <http://www.scribd.com/doc/235131359/DIM-Olopa#scribd>

⁴⁸ This case occurred the week after the community consultation process that took place in the municipality of Mataquescuintla on November 11, 2012.

MP009/2012/5316, dated January 15, 2013. In this file, documentation shows that the Prosecutor for Organized Crime, Rony Elías López Jérez, requested information about the robbery of the explosives from the Specialized Division for Criminal Investigation (DEIC) of the National Civil Police.⁴⁹ The DEIC turned over this information, but also included additional information about a separate investigation regarding a January 12, 2013 attack “carried out by terrorists against security guards employed by Minera San Rafael, S.A.”⁵⁰ Two mine security guards were killed and seven injured in this incident. Further details in this case have yet to surface.

According to residents interviewed for this report, the information DEIC provided came directly from the head of security of MSR, Alberto Rotondo, a Peruvian citizen. They base their conclusion on the nature of the language used in the report and the fact that those accused as a result were all leaders in the anti-mining struggle. An extensive report labelled Response #1608 clearly singled out such community leaders, in this case Armadeo de Jesús Rodríguez Aguilar, member of the Committee in Defence of Life and Peace.

As further evidence that MSR was behind the accusations they were facing, residents also cite Incident Report #003/2012, which contains the company’s logo and Rotondo’s name as the author, although the document was not signed. The report accuses anti-mining leaders from Mataquescuintla of “restricting free transit, intimidation and making threats with firearms” against mining company personnel.

In this Incident Report document, the author arrived at troubling conclusions regarding the local Catholic Church, suggesting that it leads the anti-mining movement. It recommends: “Implementing in the quickest manner possible a legal and publicity strategy in the media that demonstrates the involvement of leaders of the groups in these acts, especially the role of the Catholic Church, such that authorities are forced to take legal action against them.”^{51,52,53}

⁴⁹ See response number 1608-2013.REF.ELDO/sria, dated February 27, 2013.

⁵⁰ Public Prosecutor’s file number MP009/2012/5316, January 15, 2013.

⁵¹ Smear tactics toward anti-mining leaders in the press including use of the radio program “Hablando claro” (“Straight Talk”), directed until very recently by the journalist and politician Mario David García Velásquez, which was carried by the radio station *Emisoras Unidas*. The radio program regularly attacked opponents to MSR, in particular the mayor of Mataquescuintla, Hugo Loy. The program stopped airing when García Velásquez accepted the nomination to be the presidential candidate of the political party, Partido Patriota (PP), on May 17, 2015. The online newspaper *RepúblicaGT* is another example, such as the following article titled “CALAS supports political candidate for Lider party who contracted assassin”. See: RepúblicaGT. “CALAS apoya a candidato de Lider que contrató a sicario,” May 27, 2015; <http://www.republicagt.com/en-profundidad/calas-apoya-a-candidato-de-lider-que-contrata-a-sicario/>

⁵² Translator’s Note: The collaboration between mine security, the National Police and the Public Prosecutor’s Office, as well as the Incident Report, which suggests authorship by Rotondo, demonstrate that MSR private security played an active role in not only the legal persecution of anti-mine activists, but the design and implementation of a strategy to criminalize leaders in order to debilitate the resistance movement.

⁵³ Translator’s Note: Coinciding with the increase in criminal investigations into anti-mine activists was an increase in the presence of what human rights organizations such as the Unit for the Protection of Human Rights Defenders in Guatemala (UDEFEQUA) considered to be clandestine armed groups operating in the area. These groups were believed to be attempting to destabilize the region in order to delegitimize community opposition to the project and to criminalize the peaceful resistance to the Escobal mine. For example, from January 11-12, 2013, two members of the mine’s private security and a third man, possibly one of the attackers, were killed and six people injured during a nighttime attack just outside the mine installations. On March 17-18, 2013, four leaders representing the Xinca Parliament were abducted while returning home after observing a referendum in the community of El Volcancito, San Rafael Las Flores. One man was killed and two managed to escape, while the third was freed some 180 kilometres away. The men testified to having received threats related to their opposition to the mining project. On April 29, 2013 a member of the National Police was killed in an attack near the mine site by a group of armed men wearing ski masks. Guatemalan human rights organizations allege that these three events are related to the operation of one or more clandestine armed groups and could be linked to Minera San Rafael’s private security. See more: MiningWatch Canada and NISGUA, “Tahoe Resources Shareholder Alert: A Dangerous Investment,” May 8, 2013; http://www.miningwatch.ca/sites/www.miningwatch.ca/files/investor_alert_tahoe_8may13.pdf

5.3 State of Siege

In the midst of the growing number of community plebiscites in San Rafael Las Flores and surrounding municipalities and intensifying protests following the granting of the company's final permit, as well as following various violent incidents in the area and under strong pressure from the mining sector, the government decreed a military state of siege for 30 days on May 2, 2013. This was downgraded to a state of prevention eight days later.

Pressure from the business sector was constant beginning in 2012, during the months prior to the state of siege and, importantly, while Tahoe Resources was still waiting approval of its final permit. Illustrating this is Case file 2728-2012, an injunction filed by MSR with the Constitutional Court (CC). Carlos Roberto Morales Monzón, administrative manager and legal representative of MSR, filed the case against the President of Guatemala, the Ministry of the Interior, the Ministry of National Defence, the Director of the National Civil Police, the Superintendent of the National Civil Police for Station #22 in the department of Jalapa and Superintendent of the National Civil Police from Station #32 in the department of Santa Rosa.

In essence, MSR argued that the state was not facilitating mining activities on their approved mining concessions and that it was not providing the necessary security. The file stated: "The state is not ensuring security [for the company] by allowing residents to protest against activities that are authorized and have the corresponding licences, committing illegal acts and carrying out blockades in front of the installations, which impede free transit."

The CC denied the injunction on February 26, 2013. However, just over one month later on April 3, 2013, the Ministry of Energy and Mines announced the approval of MSR's Escobal exploitation licence, SEXT-015-11.⁵⁴

Among the most dramatic events following this decision and prior to the state of siege took place on April 27, 2013 when the mine's private security group, Alfa Uno, part of the Israeli company Grupo Golan, under orders by the then security manager, Alberto Rotondo Dall'Orso, indiscriminately opened fired on people peacefully protesting in front of the mine site in San Rafael Las Flores. Seven community members were injured.

On April 30, 2013, the Public Prosecutor captured Rotondo Dall'Orso at La Aurora International Airport and indicted him on May 7 of the same year for on charges of causing grave and minor injuries, and obstruction of justice. The Lower Court Judge for Narcotrafficking Activity and Crimes against the Environment in Santa Rosa, located in Barbarena, granted Rotondo's petition to stay under house arrest, a decision that the Human Rights Prosecutor appealed on May 10, 2013. The prosecutor requested Rotondo be placed in pre-trial detention instead.⁵⁵

In the end, the state of siege was lauded by a group of MSR's service providers through a paid ad published in the print media on May 7, 2013. Thirty-six construction sector companies signed the statement, which expressed their "respect and support for the government's decision to re-establish public order and the rule of law in Santa Rosa and Jalapa." Cementos Progreso, Aceros Arquitectónicos, Mixto

⁵⁴ Translator's note: In response to this decision, protests did not stop; they intensified. On April 6, 2013 community members from San Rafael, as well as surrounding municipalities established an encampment, modelled after "la Puya", on privately held land outside the mine entrance. Approximately one week later, national police attempted to violently evict the encampment, arresting 26 people, despite the fact that protestors had permission from the owner to be on the land and the encampment was in no way blocking access to the mine. On April 22, four good-faith community consultations were held in the villages of San Rafael las Flores, all voting against mining activities.

⁵⁵ The case against Rotondo remains open and the next hearing is scheduled for early 2016.

Listo and PADEGUA were among the signatory companies.

Then President, General Otto Pérez Molina, put the Deputy Head of the Department of Defence, General Manuel López Ambrosio, in charge of the state of siege. The month after the state of siege, on June 4, 2013, López Ambrosio was named Head of the Department of Defence. One month after that, on July 16, 2013, he was named the Minister of Defence. His rapid ascension conceivably was influenced by the role he played at this time, in addition to being originally from Jalapa, along with his prior experience as Commander of the Army's Third Brigade in Jalapa, the position he held when he was placed in charge of the military operation.

Three military outposts were set up in the region during the state of siege, in Santa María Xalapán, Jalapa; Mataquescuintla, Jalapa; and Casillas, Santa Rosa. Of these, the latter two remain active as of this writing. Referring to the Inter-Institutional Committee Office, described below, residents interviewed for this report indicated that a military intelligence office was opened in the capital of the department of Jalapa for the purposes of further militarization and control.

5.4 Inter-Institutional Committee for Integrated Development

In addition to the February 2013 ruling of the Constitutional Court to dismiss MSR's injunction, another fundamental step leading toward the state of siege was a decision by National Security Commission (CNS). The CNS gave the Escobal mining project the category of 'strategic natural resources', which converted the conflict in San Rafael Las Flores into a national security problem. The 2013 Annual Report of the CNS Technical Secretary recorded this shift, reporting that in March 2013 the agency approved the creation of the Inter-Institutional Commission for Integrated Development to be established in San Rafael Las Flores "with the purpose of developing policies, strategies, projects and recommendations that would enable the Committee to holistically address security and development issues toward the betterment of the quality of life of the population and to ensure environmental protection."

Following approval of a Governmental Accord proposed by the CNS Technical Secretary, this Inter-Institutional Commission (also called the Inter-Institutional Group or Office, depending on the document) was established under the direction of General Ricardo Bustamante Figueroa. The CNS Committee for Support and Planning presented the proposal in March 2013, outlining the creation of the 'Inter-Institutional Group on Strategic Natural Resources (Mining)' to be located in San Rafael Las Flores. The Accord to create the Commission was approved by the General Prosecutor's Office (PGR) on May 22, 2013, while the state of prevention was still in effect.⁵⁶ Nevertheless, the Accord was never published in the official government paper of record.⁵⁷

A report from the Technical Secretary of the CNS outlines the chronology of what occurred prior to, during and after the state of siege. While the military operation is never cited in the document, it can be deduced that the decision to proceed with the state of siege was made during meetings of the above-cited organizations.⁵⁸

⁵⁶ The state of prevention replaced the state of siege and was declared according to the Accord 8-2013, on May 9, 2013 for 15 days. The Accord references, among other justifications: "that, in the municipalities... for several years serious incidents have occurred that have been a threat to constitutional order, governability and state security." The municipalities included were: Jalapa and Mataquescuintla in the department of Jalapa; as well as Casillas and San Rafael Las Flores in the department of Santa Rosa.

⁵⁷ Translator's note: While the legal implications of implementing an Accord lacking the final administrative step of official publication are unclear, at the least this fact contributed to how the communities affected experience the lack of transparency of government policies and actions.

⁵⁸ Technical Secretary for the National Security Commission, "Chronology for the creation of the Inter Institutional Group for Strategic Natural Resources," May 2013.

The chronology of events establishes that on March 26, 2013, during the third meeting of the CNS, “the establishment of the Inter-Institutional Group on Mining Affairs was approved in order to... formulate recommendations on this case for the National Security Commission, starting in the municipality of San Rafael Las Flores, where the El Escobal mine is operating.”

Among the incidents cited in the document justifying creation of the Inter-Institutional Commission (or the Inter-Institutional Group, as it was also called) are “problems related to social conflict stemming from mineral exploration and exploitation in the country... which has led to violent acts in in the south-eastern part of the country in which private property damage took place, as well as attacks and kidnappings of members of the [police], and robbery of explosive material and munitions belonging to the mining company and the [police] respectively.” These illicit acts are the same acts that members of the anti-mining resistance indicate as having been planned between private and public security forces precisely to later justify and implement the state of siege. According to residents, the goal was to silence social protest against MSR and interrupt the municipal and good-faith community plebiscites underway.

The Inter-Institutional Group included the Ministry of Energy and Mining (the leading institution); MARN; the Ministry of the Interior; the Technical Secretary of the National Security Commission; the Secretary for Strategic State Intelligence; the National Commission for Protected Areas; and the Presidential Committee of the National Dialogue System.

Its creation demonstrates the particular influence of military security and intelligence, something the local population has emphasized to the press.⁵⁹ The Inter-Institutional Office that was established – and still in operation in San Rafael Las Flores – is, in practice, believed to be fundamentally carrying out intelligence gathering work.⁶⁰

A meeting recorded in the chronology as held on April 16, 2013 deserves special note as it indicates the level of coordination between the company and the state. The “principal point” of this meeting was “a presentation by the general manager of the El Escobal company regarding their work plan following granting of the mineral extraction licence, social corporate responsibility and risk management analysis.”

Later, at a meeting on April 23, 2013, the representative of the Secretary of State Intelligence (SIE its initials in Spanish) presented “the Strategy Cycle and Map of Processes.” Then, on May 7, 2013, during the state of siege, the central point addressed was the establishment of the Inter-Institutional Office in San Rafael Las Flores.

The MEM’s 2013 Annual Report also cited installation of the Inter Institutional Commission in the following terms: “the tangible achievement of creating the Inter-Institutional Office for Integrated Development in the municipality of San Rafael Las Flores, Santa Rosa to attend to this issue in the territory, led by MEM through the Vice Minister of Sustainable Development.”

⁵⁹ Plaza Pública, Oswaldo J. Hernández, “La oposición a la minería, la nueva amenaza a la seguridad nacional,” July 16, 2014; <http://www.plazapublica.com.gt/La%20oposici%C3%B3n%20a%20la%20miner%C3%ADa,%20la%20nueva%20amenaza%20a%20la%20seguridad%20nacional>; Plaza Pública, Luis Solano, “Una red cuasi militar para proteger la mina Escobal,” April 7, 2015; <http://www.plazapublica.com.gt/content/una-red-cuasi-militar-para-proteger-la-mina-escobal>

⁶⁰ In this regard, a press release from the Special Rapporteur for the Freedom of Expression for the Inter American Commission of Human Rights (IACHR), number R80/15 and dated July 21, 2015, “expresses its concern on the disclosure of a large amount of information that says that several governments in the hemisphere have reportedly purchased and implemented surveillance programs that could cause serious harm to the rights to privacy and freedom of thought and expression.” Although the Rapporteur did not cite which governments it was referring to, this coincides with the complaints from residents of San Rafael Las Flores. See: Office of the Special Rapporteur for Freedom of Expression, “The Office of the Special Rapporteur Expresses Concern Over the Acquisition and Implementation of Surveillance Programs by States of the Hemisphere,” July 21, 2015; <http://www.oas.org/es/cidh/expresion/showarticle.asp?artID=998&IID=2>

Tahoe Resources' Annual Information Form, dated December 31, 2013 and published on March 12, 2014, also discussed the issue, indicating: "The government set up an inter-institutional commission to address community issues and oversee security matters, the first of its kind in Guatemala. It is managed by the Technical Secretary of Intelligence, and is comprised of members from Ministry of Interior, Energy and Mines, Environment and the National Dialogue Table. MSR helped the Commission to locate suitable office space in SRLF [San Rafael Las Flores] and get established."⁶¹

In conclusion, one can see the paper trail between the government and the mining company leading to establishment of a Commission, which would later provide - beginning with the state of siege - new conditions to favor mining interests. Company pressure on the government, its military and police-like actions, and the relationship between private and public security forces diminished the intensity and visibility of mining resistance during this entire time period.

6.0 Revelations About Tahoe Resources' Quasi-Military Security Strategy

On June 18, 2014, the seven men who were injured when private security guards opened fire on a peaceful protest in front of the Escobal mine site in April 2013 filed a legal suit against Tahoe Resources Inc. in the Supreme Court of British Columbia.⁶² The filings in this case have brought to light important revelations about Tahoe Resources' security strategy, starting in 2011 with MSR's hiring of a U.S. security company, as well as the contracting of Alberto Rotondo Dall'Orso, a Peruvian, as head of security.

The suit, filed against Tahoe Resources charges the company with violent repression of a peaceful protest and is based on the fact that Tahoe Resources controlled all important aspects of the Escobal mine operations, including security practices and policies, and community relations.

The filing states: "Tahoe expressly or implicitly authorized the use of excessive force by Rotondo and the security personnel against the plaintiffs or was negligent in failing to prevent Rotondo and the security personnel from using excessive force."⁶³ According to the plaintiffs, as full owner of MSR, Tahoe "is vicariously liable for the conduct of MSR."⁶⁴ It continues: "In the further alternative, Tahoe is vicariously liable for the conduct of Rotondo and the security personnel."⁶⁵

Tahoe denies that Rotondo Dall'Orso is responsible, and instead places responsibility on Grupo Golan for not following international security protocols for security service providers. Tahoe gave this same argument when questioned about its role in San Rafael Las Flores by Norway's Government Pension Fund Global (GPF). The GPF, nevertheless, determined that Tahoe is responsible regardless and, in its 2014 Annual Report published on January 26, 2015, recommends excluding Tahoe Resources Inc. from its investments "due to an unacceptable risk of the company contributing to serious human rights violations."⁶⁶

⁶¹ <http://www.sec.gov/Archives/edgar/data/1510400/000106299314001363/exhibit99-1.htm>

⁶² The plaintiffs are: Adolfo Agustín García, Luis Fernando García Monroy, Artemio Humberto Castillo Herrera, Wilmer Francisco Pérez Martínez, Erik Fernando Castillo Pérez, Noé Aguilar Castillo and Misael Eberto Martínez Sasvin. The plaintiffs receive legal support from a group of Canadian lawyers, the Canadian Centre for International Justice (CCIJ) and the Guatemalan Centre for Legal Social and Environmental Action (CALAS it is initials in Spanish). Six of the seven victims of the attack are plaintiffs in the criminal process that Guatemala's Special Human Rights Prosecutor is carrying out under the Guatemalan Public Prosecutor's Office.

⁶³ Adolfo Agustín García et al, Notice of Civil Claim against Tahoe Resources Inc., June 18, 2014; https://tahoeontrial.files.wordpress.com/2014/06/notice_civil_claim.pdf

⁶⁴ Adolfo Agustín García et al, Notice of Civil Claim against Tahoe Resources Inc., June 18, 2014

⁶⁵ Adolfo Agustín García et al, Notice of Civil Claim against Tahoe Resources Inc., June 18, 2014

⁶⁶ Council on Ethics for the Government Pension Fund Global, Annual report 2014, for term ended December 31, 2014; <http://etikkradet.no/files/2015/01/Council-on-Ethics-2014-Annual-Report.pdf>

6.1 The Sworn Affidavit of Tahoe Resources' Vice-President

The sworn testimony of Donald Paul Gray, Vice President of Tahoe Resources, dated November 24, 2014, revealed some of the most interesting elements regarding the Escobal mining project in San Rafael Las Flores, Santa Rosa.⁶⁷

Part of Gray's sworn testimony is about the process of contracting private security starting in 2011, when the company began exploring for silver, gold, lead, and zinc. His statements demonstrate links between a conglomerate of companies and individuals tied to military and intelligence services, of contracts with private security companies with large military projects in Afghanistan and Iraq, and companies with mining and construction operations in Guatemala.

The document, written in English, has a section titled 'Security and other operations in Guatemala'. In subparagraph 53 it states that, in 2011, MSR "engaged International Security and Defense Management, LLC ("ISDM"), a security and defence management company with global operations, based in California, to assess its security needs and requirements during the construction phase of the Escobal project. As part of that engagement, ISDM managed a process of soliciting proposals for security services for MSR and made recommendations."⁶⁸

In subparagraph 54, he states, "As a result of the solicitation process, MSR came to contract with Grupo Golan, formally called Alfa Uno, Sociedad Anonima ("Grupo Golan") and retained it to develop and implement MSR's security plan. Grupo Golan is a well established and world renowned security company that specializes in providing security products and services to multinational organizations."⁶⁹

Gray recognizes that Grupo Golan provided security services for MSR before, during and after the incidents of April 27, 2013. The contract between MSR and Grupo Golan was signed in November 2011.

In subparagraph 56, Gray states that, "Rotondo initially provided services to MSR through ISDM. In 2012, MSR engaged him as its security manger through the Contract. MSR received and reviewed information about Rotondo's experience and qualifications, including information from ISDM, as part of the due diligence that led MSR to retain his services."⁷⁰

Subparagraph 57 states, "As Security Manager, Rotondo was required to manage MSR's third party contracts related to security for the Escobal Project. MSR employed two or three other Guatemalan nationals in roles to support Rotondo."⁷¹

Gray declared, "Rotondo managed MSR's contract with Grupo Golan and interacted with various Grupo Golan Personnel for that purpose."⁷² Grupo Golan's security operations included protection for the Escobal project as well as for company offices in Guatemala City. It provided between 80 and 125 security guards to protect the site and transport vehicles.

After a detailed explanation about the acts of violence against the mine site and mine private security,

⁶⁷ Affidavit, Donald Paul Gray, made on November 24, 2014, No. S-144726 Vancouver Registry, Supreme Court of British Columbia; <https://tahoetrial.files.wordpress.com/2015/04/affadavit-donald-paul-gray-24nov14.pdf>

⁶⁸ Ibid.

⁶⁹ Ibid.

⁷⁰ Ibid.

⁷¹ Affidavit, Donald Paul Gray, made on November 24, 2014,

⁷² Ibid.

Gray stated that Rotondo resigned two days after the incident that occurred on April 27, 2013, ending his relationship with MSR. However, Gray does not say why, according to community members, Rotondo reportedly continued to live at the mine site during the time that he was under house arrest, a measure ordered after the first judicial hearing in 2013. Rotondo's whereabouts are currently unknown, although the house arrest order is still under affect.

Gray concluded his declaration recognizing that the Public Prosecutor in Guatemala is investigating Rotondo's actions, mentioning that charges were filed against Rotondo for causing injuries with a firearm and obstruction of justice. He also cited President Otto Pérez Molina when he linked various illicit acts that have taken place in the area with organized crime and "outside groups", "which I understand to mean groups from outside the community of San Rafael Las Flores."⁷³

Without citing the state of siege imposed on May 3, 2013, Gray indicated that at the end of that month, the government "added more police to the existing permanent police forces in several municipalities in the region, including San Rafael Las Flores. There has been significantly decreased tension since that time."⁷⁴

6.2 International Private Security of a Counterinsurgency Nature

The context in which Tahoe Resources, MSR, and other mining service providers in the area of San Rafael Las Flores are operating is very similar to what is happening in the rest of the country. Protests against mining projects – and similar large-scale projects – are numerous and have taken many forms. In each instance, there have been military-style responses to protests by the government and companies. But in San Rafael Las Flores, this has occurred with a specific counter-insurgent flair, using military intelligence and counter-intelligence strategies. If San Rafael Las Flores was seen as a special case, requiring a sophisticated and counter-insurgent approach, that would help explain why the company contracted International Security and Defense Management, LLC (ISDM) to research and recommend how to set up its security plan.

ISDM is listed amongst the most important private military companies in the world and as one with mercenary roots in the Iraq and Afghanistan wars.

ISDM is a company founded by United States military veterans- James V. Earl and William J. Earl - who hold vast international military experience, above all, in Afghanistan and Iraq. Registered in Nevada with headquarters in Coronado, San Diego, California, ISDM provides a variety of security and defence services including evaluations of threats and kidnapping prevention, training in military operations, military intelligence, counter-intelligence, and anti-terrorism. It has contracts with private companies and the government of the United States.

When Tahoe Resources hired ISDM, the military company had just signed a second contract with Fluor Intercontinental, Inc. (FII) to provide qualified personnel to be deployed to Afghanistan. This contract was to comply with the contractual requirements for the Logistical Civil Augmentation Program (LOGCAP) that FII signed in 2007 with the United States government to carry out military operations in Afghanistan (the contract remains in effect).

FII is a Californian company with headquarters in South Carolina, that belongs to Fluor Government Group (FGG), part of the U.S.-based transnational company Fluor Corp. Fluor Corp. and its affiliates

⁷³ Ibid.

⁷⁴ Ibid.

offer a wide variety of construction and engineering services to private sectors, such as mining and petroleum, and to the U.S. government, given that FGG fulfils contracts with the U.S. Department of Defence.

The American Equipment Company, Inc. (AMECO) is among the conglomerate of companies that make up Fluor Corp, who bring together construction companies, many with operations in Latin America. It remains unclear if the connection between ISDM and FII (Fluor Corp.) was a factor in contracting ISDM. AMECO has a subsidiary in Guatemala – Maquinaria Ameco Guatemala, Limitada, which goes by the commercial name Ameco Guatemala, listed on Guatemala's Business Registry in 2007 and legally represented by Allen Robert Krebs Wickfors. The headquarters of Maquinaria Ameco Guatemala is the same as Equipos Múltiples de Guatemala, S.A. (Multiequipos); Compañía Pavimentadora de Guatemala, S.A.; and Pavimentos de Guatemala, S.A. (PADEGUA) all of which are represented by Krebs Wickfors and were registered as businesses in Guatemala between 1970 and 1997.

Out of this group of companies, Multiequipos and PADEGUA provide services to MSR for the Escobal project. In 2011, PADEGUA built the road providing access to the Escobal mine and, in 2012, it built the sub-surface drainage system and the retaining wall.

The hiring of Grupo Golan fits within the quasi-war scenario that has arisen and that was likely forecast by the contracting of ISDM. One of the international consultants that participated in the evaluation for ISDM was Tim Pascuarelli, of the U.S. military who had extensive experience in a variety of countries, including Iraq and Afghanistan, as a military security consultant.

Pascuarelli was in Guatemala on contract with ISDM between May and September 2011. During this time, ISDM had a job posting for Security Manager at a Guatemalan mine on the American Society of Industrial Security (ASIS) page. The Earl brothers, executive directors of ISDM, are part of ASIS.

The Golan Group was contracted in November 2011. Rotondo Dall'Orso was hired perhaps a month beforehand, initially by ISDM, to provide services to MSR.

What made Tahoe Resources contract the Grupo Golan? Perhaps it was Golan's previous experience with mining projects in Guatemala, such as Goldcorp's Marlin mine in the northwest and KCA's El Tambor project near Guatemala City, and the fact that they had the experience ISDM was looking for. Grupo Golan is an Israeli private security company founded in 1983 by members of the Israeli Special Armed Forces. Its president is Capitan Yoram Yasur, and its directors are Vered Yasur and Yehuda Senderey. Its origins in Guatemala date back to the counter-insurgency war backed by the Israeli army and intelligence. Grupo Golan was formed in November 1987 under the name Golan, S.A. In 1990, the company Alfa Uno, S.A. was registered and in 1997, Tiendas Golan, S.A. and Golan Armas y Municiones, S.A. were registered and became members of the Grupo Golan. Their legal representatives in Guatemala are Yoram Yasur and Gerardo Antonio Wurmser Ordóñez, who is also the general manager and previous president of GGCA Inc. (Golan Group Central America), registered in Panama in 2007.

Grupo Golan has offices in Central America, Mexico, Venezuela, Colombia and Israel. It is registered in Florida, United States, which is where it has its central offices. In Guatemala, it provides services to a variety of companies and was already known to the directors of Tahoe Resources, through previous relationships. Notably, between 2005 and 2009, Golan provided its security services to Glamis Gold and Hudbay Minerals at their Marlin and Fénix mining projects, respectively. In both cases, security agents committed human rights violations. Hudbay Minerals is currently being sued in Canadian courts over the murder of teacher Adolfo Ich.

6.3 Alberto Rotondo in Charge of Private Security

Alberto Rotondo Dall’Orso was contracted as Security Manager for MSR. He publicly admits that he has military training in counter-insurgency.⁷⁵ He graduated in 1974 from the Peruvian Navy and, between 1980 and 1981, received training at the United States Naval Special War Command (US NSWC), headquartered in Coronado, San Diego, California, which is where ISDM is also headquartered.

Between 1985 and 1986, he received training in psychological operations, civil affairs and low-intensity terrorism at the John F. Kennedy Special Warfare Center and School in Fort Bragg, North Carolina, which is where the U.S. Army Center and School for Psychological Operations is located. During these years, the counter-insurgency war in Peru was at its height. Publically available information about Rotondo ends in 1991, when he was studying at the Inter-American Defence College in Washington, D.C.

After Rotondo’s arrival to MSR, the criminalization and violence detailed above escalated. The number of arrest warrants issued without sufficient evidence increased considerably.

For example, on April 6, 2013, 26 people were detained without arrest warrants while outside the mine site protesting. All of those arrested are from Mataquescuintla and San Rafael Las Flores and they were held for four days before they were brought before a judge. The Lower Court Judge of Barberena, Santa Rosa, released all 26 men on April 15 due to lack of evidence. The Guatemalan Center for Social, Legal and Environmental Action (CALAS) managed to ensure that the Human Rights Special Prosecutor was responsible for the investigation of those detained.

According to community members interviewed, Rotondo was the architect of the plan to harass community leaders by bringing criminal charges against them in the period leading up to the declaration of the state of siege. Rotondo’s name is listed as the author of incident reports, in which he directly names the leaders of the peaceful resistance as participants in violent acts. The plan relied on the participation of Office for Organized Crime Prosecutor Rony López, who people claim hoped to become Attorney General. Although he was unsuccessful in his bid, he was named to the Advisory Board of the Public Prosecutor’s Office in 2014 - an advisory panel to the Attorney General. López carried out the investigations with the support of MSR’s private security, the Special Criminal Investigation Division (DEIC for its Spanish acronym) and Judge Carol Patricia Flores Polanco, who was in charge of the legal process of those arrested during the state of siege.⁷⁶

On April 30, 2013, right before the state of siege began, Judge Flores Polanco held a preliminary hearing to hear witness testimony at which time the Public Prosecutor’s Office presented file #MP0009-2012-5316/OF.2DO/OF.2DO, which explained the full investigative process carried out by the Public Prosecutor’s Office for Organized Crime. The names of eighteen people appear in this file, all with arrest warrants that remained in effect during the state of siege. Four National Civil Police officers accused the eighteen men of having illegally detained them along with nineteen other police officers on April 20, 2013, when hundreds of people from Santa María Xalapán and Mataquescuintla blocked the road in Jalapa. The police identified the eighteen on the basis of photographs that prosecutor Rony López showed to them. All eighteen were known anti-mining leaders and their profiles were later handed over to the army during the state of siege in order to carry out the arrest warrants. According to those interviewed for

⁷⁵ LinkedIn: Alberto Rotondo; <https://gt.linkedin.com/pub/alberto-rotondo/66/828/165>

⁷⁶ On April 30, 2015, the Attorney General and the International Commission Against Impunity in Guatemala (CICIG) filed a request to withdraw her immunity on the grounds of possible crimes of money laundering and other activities, illicit enrichment, and breach of duty to provide a list of assets. Consequently, the Supreme Court withdrew Flores Polanco’s judicial immunity on July 30, 2015.

this report, Rotondo had prepared the activists' profiles.⁷⁷ The eighteen people had been under investigation since November 2012.⁷⁸ Community members further indicate that the person responsible for police operations before and during the state of siege – Superintendent Telemaco Pérez – was rewarded for his services. On June 26, one month after the state of siege ended, he rose to become General Director of the National Civil Police.

6.4 Other Security Companies and Intelligence Offices

Another document published in relation to the lawsuit against Tahoe Resources in British Columbia is a sworn affidavit from Roger Barany, who translated to English the telephone wiretaps of Rotondo's phone authorized by the Lower Court Penal Judge for Narcotrafficking Activities and Crimes against the Environment of Guatemala.⁷⁹

Various reporters published extracts of these wiretaps when they were played on May 7, 2013 during a public hearing at the Lower Court Penal Court for Narcotrafficking Activities and Crimes against the Environment in Santa Rosa. In the wiretaps, Rotondo is heard, using criminal and racist language, ordering guards to indiscriminately open fire against protesters during the events of April 27, 2013 outside of the Escobal mine site. Also recorded were various conversations between Rotondo and Juan Pablo Oliva Trejo, during which he gives orders to shoot the protesters. At the time, Oliva Trejo worked as a communications and security consultant for MSR.

Rotondo was captured on April 30, 2013 and Oliva Trejo was taken into custody on May 4, 2013. Oliva Trejo served in the army until 2005 and reached the level of sub-commander of the infantry in 2000. He is more well-known as legal representative of Counter Risk, S.A. This company was created in 2008 and contracted by Tahoe Resources to carry out risk consultancy and to track media coverage. This is referenced in the suit filed against Tahoe by seven community members from San Rafael Las Flores, that states, "Tahoe's security personnel at the Escobal mine were comprised of Rotondo and private security personnel employed under contract with the security companies Grupo Golan (Alfa Uno) and Counter Risk, S.A."⁸⁰

The nature of the exchange in the wiretaps shows a high level of trust between Rotondo and Oliva Trejo. A level of trust that presumably also existed with Oliva Trejo's father, retired cornel Juan Guillermo Oliva Carrera, president and director of the Association of Military Politics Studies (AEPM).⁸¹ Oliva Carrera was prosecuted for being one of the supposed intellectual authors of the assassination of anthropologist Myrna Mack in 1990.

AEPM is the central office for: Counter Risk, S.A., the company that Oliva Trejo represents, and Supervivencia Urbana, S.A., the company that employs Oliva Carrera as director of political risk analysis, and Oliva Trejo as the shooting instructor.⁸² Supervivencia Urbana is a shooting range, known as

⁷⁷ In total, there were 32 arrest warrants issued; 10 were issued for alleged members of an extortion ring in Casillas; 22 were issued for people in San Rafael Las Flores and Mataquescuintla; one was issued for Roberto González of Santa María Xalapán. In total, 5 were for people from San Rafael Las Flores. Seven of the 22 were arrested and kept in prison until November 2013. In total, there were 53 search warrants, 35 of which were in San Rafael Las Flores. According to military orders, the house searches were to look for stolen explosives.

⁷⁸ Translator's Note: See section 5.2 "Robbery of Explosives" for further detail about an incident in November 2012 that local activists say Alberto Rotondo in collaboration with Public Prosecutor Rony López used to frame them and subject them to an unfair legal process.

⁷⁹ Affidavit, Roger Barany, made on January 21, 2015; No. S-144726, Vancouver Registry, the Supreme Court of British Columbia; <https://tahoeontrial.files.wordpress.com/2015/04/affadavit-wiretap-transcripts-filed-23jan15.pdf>

⁸⁰ Adolfo Agustín García et al, Notice of Civil Claim against Tahoe Resources Inc., June 18, 2014.

⁸¹ Website for the Association for Military Political Studies (AEPM its Spanish initials): <http://asociacionepm.org/>

⁸² Oliva Trejo is president of the NGO "Por los niños" (For the children), based in the Lourdes residential neighbourhood in

Southern Shooting Range, directed by general Alfredo Augusto Rabbé Tejada.⁸³ He is an associate of the company Mayaquímicos, S.A. (MAQUISA), cited above in Section 5.2, which was created by the Military Prevision Institute (IPM) and was in charge of the explosives MSR uses for its mining operations, as well as owner of the explosives that were supposedly stolen. It is important to note that this supposed robbery was one of the causes the government cites for the state of siege on May 2, 2013.

6.4 Changes in MSR Private Security

After the events of April 27, 2013 and the capture of Alberto Rotondo, Tahoe Resources switched security companies. It hired a new company to protect its interests: Centurion Security, S.A. This company was registered with on the Business Registry in 2013 and received its licence to operate as a private security company in early 2014.

Donald Paul Gray confirmed this in his sworn affidavit, stating: “In early 2013, MSR retained Peter Snell to advise on security matters. Snell was the General Manager of a security company called Yantarni. At that time, Snell was in the process of forming Centurion Security S.A. (“Centurion”), a new security company that would provide facility protection services.”⁸⁴

Centurion was contracted, according to Gray, based on agreements with Centurion and its work in Guatemala, after confirming that it was a company legally registered in Guatemala. He stated, “In June 2013, Centurion was retained to manage the Grupo Golan contract. In April 2014, MSR terminated its contract with Grupo Golan and retained Centurion to provide complete facility protection services at the Escobal Mine.” Currently, Centurion guards between 8-10 trucks used to haul minerals at night, providing security during the entire trip to Puerto Quetzal in the department of Escuintla. Residents interviewed for this report indicated that in addition to private security, police and military presence also increases at these times all along the route.

Former British soldiers founded the security company Corporación Yantarni, S.A. in Guatemala on June 5, 2006. In the beginning, it provided private security for Blue Oil, S.A. a gas import and distribution company that was registered in Guatemala on December 19, 2005.⁸⁵

According to Snell, Yantarni is a British company that “offer[s] comprehensive advice on every aspect of security – from corporate operations, commercial risk and foreign investment to counter-terrorism and espionage and support to regional governments.” Yantarni is a company recommended by the Embassy of Great Britain in Guatemala.⁸⁶

Guatemala City designated for military families.

⁸³ Rabbé Tejada was elected to congress with the political party Unión del Centro Nacional (UCN or Union for the National Centre), but declared himself independent just before being sworn in.

⁸⁴ Affidavit, Donald Paul Gray, November 24, 2014.

⁸⁵ Argueta, Otto (2010), *Private Security in Guatemala: The Pathway to Its Proliferation*. Page 93. NOMOS. Verlagsgesellschaft, Baden-Baden 2013. Printed in Germany. Edition 2013. 296 pages.

⁸⁶ Foreign and Commonwealth Blog, Julie Chappell, “Compañías Británicas de Seguridad Liderando el Camino,” March 1, 2011; <http://webarchive.nationalarchives.gov.uk/20131001194911/http://blogs.fco.gov.uk/juliechappell/2011/03/01/companias-britanicas-de-seguridad-liderando-el-camino/>

7.0 Final Considerations

The case of the Escobal mining project has become an emblematic case of criminalization of social protest and restrictions on the liberty of association and peaceful protest in Guatemala for the following reasons:

- Peaceful opposition to the Escobal mining project involves various municipalities in the departments of Santa Rosa and Jalapa, where all or part of the mining licences held by the Canadian-U.S. transnational Tahoe Resources and its subsidiary Minera San Rafael (MSR) are located.
- Good-faith community plebiscites have been organized to peacefully demonstrate opposition to mineral extraction and were the preferred legal mechanism that the population has used to express its opposition to this project.
- The response of the government and the mining company was to not accept the community opposition. Instead, in a coordinated manner, they undertook a strategy of criminalization and militarization to undermine community opposition to the mining project. The government reaction was influenced by the potential economic gains of the project. The private security considered the possibility that the opposition to the mine in San Rafael Las Flores could turn into another “la Puya”,⁸⁷ referring to the mining project in San José del Golfo, Guatemala, which during that time mining operations had been paralyzed by the peaceful local resistance.⁸⁸
- Government and company efforts ranged from facilitating relationships with communities and leaders organized through large landowners associated with the mining project to try to convince them of the benefits of the project; to military, counterinsurgency type actions in order to neutralize and/or dismantle the supposed threats to the continuation of their project.
- The mining company contracted local and foreign private security agencies to plan security for the mine project. Their efforts to “control” the social movement against the mine included criminalization and repression of community protest and of community leaders – who according to the company - represented a threat to its interests.
- Governmental institutions in charge of public security built close relationships between the mining project and its private security. These efforts reached a high point during the state of siege in May 2013, although they continue at the time of this writing. These relationships remain intact thanks to the installation of the Inter-Institutional Group in San Rafael Las Flores and two military outposts that are still in the region. A relationship between the lawsuit that the mining company brought against the state and the systematic response from the government can be seen through the involvement and actions of the Army, the National Civil Police, the Public Prosecutor’s Office, and the Technical Secretary of the National Security Commission. Presidential backing for the mine project was clearly demonstrated two months later when he declared the state of siege.^{89,90}
- The state of siege diminished the intensity and visibility of the anti-mining movement by creating a state of terror (through military and police persecution), criminalization and persecution of leaders, as

⁸⁷ Translator’s note: The peaceful resistance at “La Puya” paralyzed Kappes, Cassidy & Associates’ El Tambor project for two years.

⁸⁸ Plaza Pública, Rodrigo Baires Quezada, “El pico del conflicto minero,” September 16, 2013; <http://www.plazapublica.com.gt/content/el-pico-del-conflicto-minero>

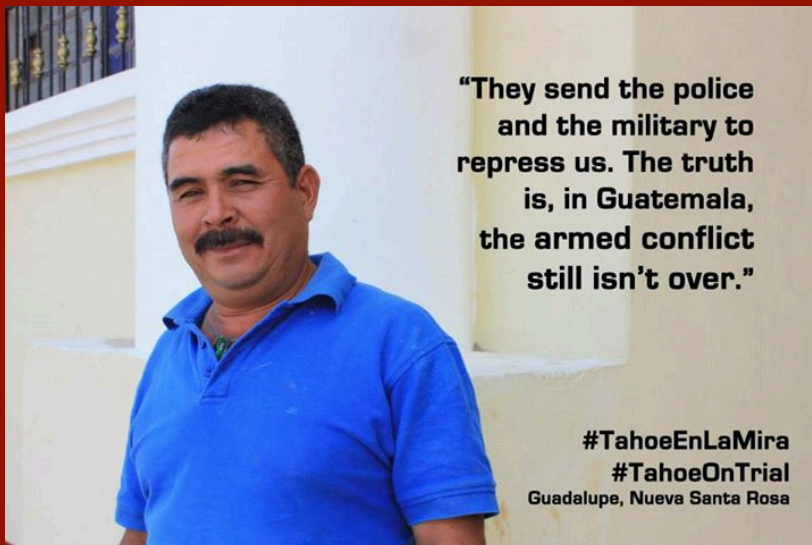
⁸⁹ Network in Solidarity with the People of Guatemala (NISGUA), MiningWatch Canada, Maritimes-Guatemala Breaking the Silence Network, “Crumbling political support for Tahoe Resources in Guatemala,” September 11, 2015; <http://nisgua.blogspot.com/2015/09/crumbling-political-support-for-tahoe.html>

⁹⁰ Translator’s Note: President Otto Pérez Molina also demonstrated his support for the mine when he visited the site in July 2013.

well as the capture of leaders based on false accusations and massive raids on the homes of key people within the opposition movement.

- If the private companies' and government counterparts' framework for addressing opposition does not change, the anti-mining resistance, in practice, will be treated on a scale ranging from being a controllable threat to being identified as a "terrorist threat." Such categorizations have led to a counterinsurgency-style response with the aim of dismantling the resistance movement. In this scenario, the continued participation of foreign private security agents and military elements with ties to military intelligence structures can be foreseen.
- The processes to criminalize and persecute dozens of community members were never based on any real evidence. There were dozens of detentions and the accused were made to wait days or even months in prison. Not a single accusation for which they were detained was ever proven. These arbitrary detentions were more punitive in nature with the purpose of demoralizing and demobilizing anti-mining protests.⁹¹

⁹¹ Translator's Note: Less frequent but not isolated acts of violence against anti-mining leaders continue in the region. Since the state of siege, two leaders in the local resistance, including 16-year old Topacio Reynoso and Telésforo Pivaral have been murdered, while others have been shot and wounded, including Topacio's father Edwin Alexander Reynoso who has been shot on two occasions and survived. Investigations into those responsible for these murders have not advanced, but instead have focused on further criminalizing Reynoso and the organized resistance, specifically in the municipality of Mataquescuintla. The most recent attack took place on October 17, 2015, demonstrating that those who speak out against the project and Tahoe's planned expansion in the region continue to run the risk of violence and repression. Despite a necessary lower profile given these conditions, the struggle of local communities continues. This is evident in the continuation of municipal plebiscites on mining and the strong electoral support for several mayors in San Rafael Las Flores and surrounding areas who campaigned on an anti-mining platform during the 2015 general elections.



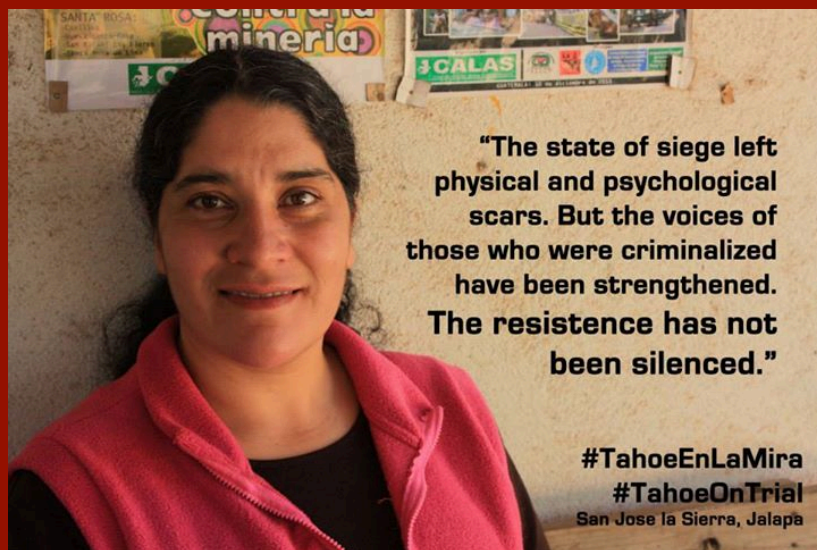
"They send the police and the military to repress us. The truth is, in Guatemala, the armed conflict still isn't over."

**#TahoeEnLaMira
#TahoeOnTrial
Guadalupe, Nueva Santa Rosa**



**#TahoeOnTrial #TahoeEnLaMira
Mataquescuintla, Jalapa**

"We are exercising the rights we have as impacted communities to express our opposition to mining and we want to be heard. Instead of listening, they use the full force of the military to try to silence us."



"The state of siege left physical and psychological scars. But the voices of those who were criminalized have been strengthened. The resistance has not been silenced."

**#TahoeEnLaMira
#TahoeOnTrial
San Jose la Sierra, Jalapa**