



Guatemala Human Rights Commission/USA Delegation Report: Verification on the Status of Mining Activities in El Estor

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Introduction:

The Fenix Mine is an open-pit nickel mine, created by the Canadian company Inco in El Estor, Izabal, in 1960. After a “care and maintenance period,¹” mining activities resumed in 2005. Mine ownership has passed between several international companies, leaving behind a trail of human rights abuses. Swiss-Russian conglomerate Solway currently owns the mine and works with Guatemalan subsidiaries MayaNiquel, Pronico, and the Guatemalan Nickel Company (CGN).

In November 2022, the US Treasury Department sanctioned two businesspeople linked to the mining in El Estor: leader of Solway's mining operations in Guatemala and Russian national Dmitry Kudryakov along with Belarusian national Iryna Litviniuk, who “allegedly directed multiple bribery schemes over several years involving politicians, judges, and government officials” in El Estor. As a result of the sanctions, Solway announced the closure of its operations.

From January 25-28, GHRC mobilized a delegation to verify El Estor’s mining operations status. The verification mission consisted of representatives from Swiss Civil Society, the Swiss Embassy, and the Ambassador himself. Delegates met directly with Indigenous Authorities and other community organizations in El Estor to gather testimony about past and current human rights concerns related to the nearby mine. The group also conducted a site visit to the mine.



¹ “Care and maintenance,” as defined in the mining sector is the temporary suspension of mining operations for various reasons, without the closure of the mining site.

Background:

Located in northeastern Guatemala, El Estor is a municipality next to Lake Izabal and consists primarily of Q'eqchi Indigenous communities. For centuries, these communities have relied on Lake Izabal—the largest lake in Guatemala—for fishing and subsistence agriculture. The Fenix Mine, which lies in the mountains surrounding the lake, was opened in Q'eqchi territory without consultation. Since the resumption of mining activities in 2005, in addition to the environmental impacts of the mine's runoff, dozens of communities have been violently evicted and terrorized, suffering human rights violations including rape, murder, and wrongful imprisonment.

Former mine owner, the Canadian company Hudbay Minerals faces three lawsuits related to human rights violations in Canadian courts. During a forced eviction in 2007, company employees and state security forces gang-raped eleven Q'eqchi women, and in 2011, security forces opened fire on protesters, killing one person and paralyzing another member of the community.

In 2017, a mysterious red slick began to appear on Lake Izabal. Realizing that the slick was likely linked to mining activities, the Fisherman's Guild—a group of artisanal fishermen from Estor—joined together to express its concerns to national and local government authorities. The fishermen demanded an investigation to determine the cause of the damage to the lake and a suspension of mining operations to prevent further damage. After years without a response, the group appealed to the Guatemalan Constitutional Court (CC) for a review of the company's violation of their rights as Indigenous people to proper consultation with regard to mining operations.

In 2019, the CC ruled in favor of the Fisherman's Guild, ordering the suspension of all mining operations until a proper consultation could be conducted in compliance with international standards established in ILO 169. Such consultation, however, never occurred, and the mining operations continued. In fact, from 2019 to 2022, Solway reported increased profits from nickel mining. During this time, mining staff engaged in coercive activities to divide communities by spreading misinformation and manipulating Guatemalan authorities. Leaked documents released in the report "Mining Secrets" revealed that Solway employees engaged in espionage and bribed various Guatemalan authorities, including the President himself so as to continue their operations.

At the end of 2021, the Ministry of Mines and Energy (MEM) rammed through a consultation process violating international standards. In October, when anti-mining groups came together to protest the continuation of mining operations, Guatemalan security forces attacked them. Acting at the direction of company management, thousands of security forces rushed the protesters, beating them and firing teargas. The Inter-American Commission on Human Rights later condemned security forces for "excessive use of force." President Giammattei then declared a siege in El Estor, imposing martial law and restricting freedom of movement. The majority of consultation was carried out during the state of siege and subsequent state of prevention, intentionally excluding anti-mining groups and Indigenous leaders. The process concluded on December 10.

Field Verification

On January 25, 2023, the Swiss-US Mission—consisting of representatives from the Swiss Solidarity Network, the Swiss Ambassador's office, and the Guatemala Human Rights Commission/USA—made a site visit to verify reports of the continuation of mining operations in El Estor. Upon arrival, they observed trucks transporting trees from a logging initiative on the surrounding hillsides.

The group also observed some areas where company employees had planted new trees. Indigenous leaders accompanying the mission explained that staff must remove the trees before mining begins. The company then started replanting trees where employees had mined all the nickel reserves.

While visiting the site, the mission spoke with a company security worker posted at the mine entrance. He told the group that the company left the site after the imposition of sanctions and “ran away to protect its finances.” He expects the company to return in March or August.



The delegation observed evidence that the mine continues to operate, such as freshly dumped mining debris and waste in the area where the Gocen Community stood before its eviction. Observing the areas around the mine, it was clear that mining activity was in full swing; areas that were green mountaintops just a few months prior looked like red gashes in the mountains. The mission attempted to visit a community located directly next to the mine, higher into the mountains of El Estor, called Las Nubes. A mining company checkpoint, staffed with uniformed private security agents, guards the single road that leads to the community.



The guards check the identification information of the people and vehicles traveling on that road. During the delegation's visit, the guards denied the delegation passage, explaining that the delegation needed a proper permit from the CGN Community Relations Affairs office.

Following instructions, the delegation went to the CGN offices in El Estor, where company employees once again recorded the information of each person on the mission. After spending approximately one hour waiting, the staff told the group that they needed to apply for the permit two to three days in advance and undergo training on industrial safety before traveling on the roads. The authorization to go to the Las Nubes community was denied, infringing on the mission's ability to see a less visible area of the mine to verify operations. While traveling along this road, however, the group observed several trucks transporting unprocessed nickel.

Meeting with Surrounding Communities

The group met with local communities and Q'eqchi leaders to hear directly from those most impacted by the mine. These meetings included members of the Ancestral Q'eqchi Council, human rights defenders, and members of evicted and criminalized communities.

They recounted the complete history of attacks against them, including using criminal cases to intimidate them. Several defenders at the meeting still have warrants for their arrest for crimes they never committed. Their testimonies emphatically expressed their disagreement with the mining company and their need to stop mining operations.

Other defenders recalled the company's strategies to avoid criminal responsibility for crimes committed against the surrounding communities over the years. For example, defenders noted that following international attention for abuses, like those committed by Hubday Minerals, the owners sold the mine to a new company, or the company itself was renamed.

Conclusions:

For Indigenous communities in El Estor, the situation remains dire. Despite court rulings and international sanctions, mining operations continue. While mining occurs mainly at night, leaders fear full-scale operations will resume as early as March.