

## **FAQ Sheet Sources:**

### **What You May Not Know about Goldcorp's Marlin Mine in Guatemala**

**May 2010**

#### **Goldcorp asserts 1: The Guatemalan government is in compliance with the Inter-American Commission on Human Rights**

Goldcorp, "Notice of Annual and Special Meeting of Shareholders and Management Information Circular," March 28<sup>th</sup> 2011, p C2

- "In compliance with the precautionary measures granted by the IACHR, the government of Guatemala initiated the administrative process for the suspension of activities at a mining operation established by Article 51 of the Guatemalan Mining Law."

#### **What Goldcorp isn't saying 1: The recommendations of the IACHR are binding on Guatemala, which should have resulted in the immediate suspension of the Marlin mine.**

Inter-American Commission on Human Rights, Precautionary Measures Granted by the Commission during 2010 - PM 260-07 Communities of the Maya People (Sipakense and Mam) of the Sipacapa and San Miguel Ixtahuacan Municipalities in the Department of San Marcos, Guatemala (<http://www.cidh.oas.org/medidas/2010.eng.htm>)

- The Inter-American Commission on Human Rights asked the government of Guatemala "to suspend mining exploitation at the Marlin I mine and all other activities related to the concession given to Goldcorp/Montana Exploradora de Guatemala S.A."

James Anaya, Special Rapporteur on Indigenous Peoples for the United Nations. Observations about the situation of the rights of indigenous peoples in Guatemala in relation to extractive projects, and other forms of projects, on their traditional lands, March 4<sup>th</sup> 2010, p 40

- "Based on principle, and by virtue of the principle of prevention, *the State and the company Goldcorp should comply with the precautionary measures* issued by the IACHR in relation to the situation of the communities affected by the Marlin mine, including the suspension of the operations of the mine" (emphasis added)

Globe and Mail, Martin Mittelstaedt, "Goldcorp mine in Guatemala ordered to shut: Intergovernmental body cites human rights, environmental infractions," June 7<sup>th</sup> 2010 (<http://www.theglobeandmail.com/globe-investor/goldcorp-mine-in-guatemala-ordered-to-shut/article1595448/>)

- "Maria-Isabel Rivero, commission press director, says the call to cease mining is obligatory on Guatemala and ensures that if the alleged environmental and human rights concerns are found to be valid, local conditions would not be worsened by continued activity over the year or two it would take to investigate the claims. "For us it is binding and our reasoning is we are not [a non-governmental organization.] We're an intergovernmental organization created by the states themselves," she said.

Bartolomé Clavero, Professor at the University of Sevilla and Member of the UN Permanent Forum on Indigenous Issues reiterated the obligatory and urgent nature of the precautionary measures in his blog entry on June 27<sup>th</sup> 2010, "Guatemala: Valor Ejecutivo de las Medidas Cautelares" (<http://clavero.derechosindigenas.org/?p=6614>)

- Clavero writes "Precautionary measures are by definition urgent. They cannot wait for the resolution of the case through a contradictory process in order that further impacts are not

consummated, and such that the given situation is not seriously altered, and, most importantly, so that further irreversible and irreparable damages are not caused.”

- He further emphasizes that Inter-American Commission on Human Rights has legal jurisdiction in Guatemala and that it is the Commission not the government that establishes the timeline for the execution of precautionary measures, which should be immediate, unless the Commission says otherwise. In other words, it is the Commission that determines due process, “not the government, and much less Goldcorp.”

### **Goldcorp asserts 2: The Guatemalan government is carrying out a thorough investigation.**

Goldcorp, “Notice of Annual and Special Meeting of Shareholders and Management Information Circular,” March 28<sup>th</sup> 2011, p C2

- “This administrative procedure has involved a thorough investigation of the Marlin Mine...”

### **What Goldcorp isn’t saying 2: Goldcorp is relying on studies that have not been made public and were conducted by agencies without the capacity to do them.**

Presidencia de la República de Guatemala, Comisión presidencial coordinadora de la política del ejecutivo en materia de derechos humanos – COPREDEH – Departamento de Defensores, “Insumos sobre visita seguimiento Misión Internacional de verificación Internacional ‘El Derecho a la Alimentación,’” Marzo 2010, p 8

- The Government of Guatemala has referenced 23 environmental/water studies to support its argument that the mine does not have an impact on human health, however none of these studies have been made public.

On Common Ground Consultants Inc., Human Rights Impact Assessment of Goldcorp's Marlin Mine, Commissioned on behalf of Goldcorp by the Steering Committee for the Human Rights Impact Assessment of the Marlin Mine, May 2010 (<http://www.hria-guatemala.com/en/MarlinHumanRights.htm>)

- “[T]here is a lack of capacity and limited experience [by the Ministry of the Environment and Natural Resources (MARN)] with the issues required to enforce environmental standards in the mining industry. Interviews ... confirmed the lack of experience and capacity of both MARN and MEM [Ministry of Energy and Mines] to address the complexity of mining in a country with no mining experience. Limited government budgets limit hiring experts with the required expertise.”

Bartolomé Clavero, Professor at the University of Sevilla and Member of the UN Permanent Forum on Indigenous Issues reiterated the obligatory and urgent nature of the precautionary measures in his blog entry on June 27<sup>th</sup> 2010, “Guatemala: Valor Ejecutivo de las Medidas Cautelares” (<http://clavero.derechosindigenas.org/?p=6614>)

- Clavero questions both the Guatemalan government and Goldcorp for relying only on their own studies, “as if they weren’t interested parties and as if no other studies existed.”

### **Goldcorp asserts 3: There has been no harm to human health or the environment**

Goldcorp, “Notice of Annual and Special Meeting of Shareholders and Management Information Circular,” March 28<sup>th</sup> 2011, p C2

- “...all of the evidence compiled by the Government demonstrates that there has been no harm to human health or damage to the environment as a result of the operation of the Marlin Mine.”

### **What Goldcorp isn't saying 3: Goldcorp is ignoring independent scientific studies**

On Common Ground Consultants Inc., Human Rights Impact Assessment of Goldcorp's Marlin Mine, Commissioned on behalf of Goldcorp by the Steering Committee for the Human Rights Impact Assessment of the Marlin Mine, May 2010 (<http://www.hria-guatemala.com/en/MarlinHumanRights.htm>)

- The HRA found “absence of on-site technical performance review by independent auditors means there is no verification of Montana’s claims.”

E-Tech International, “Executive Summary: Evaluation of Predicted and Actual Water Quality Conditions at the Marlin Mine, Guatemala,” August 11<sup>th</sup> 2010, p1-2 (<http://goldcorpoutofguatemala.files.wordpress.com/2010/07/e-tech-081110execsummaryenglish.pdf>)

- “Although more information is needed, existing data suggest that tailings seepage may be migrating to the drainage downstream of the tailings dam.”
- “Water in the tailings impoundment does not meet IFC effluent guidelines... Maximum concentrations of cyanide, copper, and mercury measured in 2006 were over three, ten, and 20 times IFC guidelines, respectively.”

Van de Wauw, Johan et al., “Are Groundwater overextraction and reduced infiltration contributing to Arsenic related health problems near the Marlin mine (Guatemala)?” October 14<sup>th</sup> 2010.

- “An increase of the arsenic concentration [in the production well] by on average 400% was detected from 2006 to the end of 2009, implying the arsenic concentration doubled nearly every year starting from the beginning of the mine activities onwards.”
- “The data demonstrates that arsenic concentrations in some groundwater layers are far above safe drinking guidelines, and further suggests that superficial wells are disappearing.”
- “The fact that elevated arsenic concentrations are found in groundwater and urine and that arsenic induced diseases seem to be widespread urge for immediate action.”

Physicians for Human Rights, “Toxic Metals and Indigenous Peoples Near the Marlin Mine in Western Guatemala: Potential Exposures and Impacts on Health,” April 2010.

- Preliminary findings demonstrate that some residents living near the mine have relatively high levels of lead in their blood and arsenic in their urine.
- Based on their findings, PHR’s main recommendations highlight the need for a rigorous human epidemiological study, an enhanced and expanded ecological study and an independent oversight panel.

### **Goldcorp asserts 4: There is no existing danger to the life or physical integrity of the population...**

Goldcorp, “Notice of Annual and Special Meeting of Shareholders and Management Information Circular,” March 28<sup>th</sup> 2011, p C2

- “there is no contamination, no lack of water adequate for human consumption, no existing danger to the life or physical integrity of the population and definitely no possibility of irreparable harm. In conclusion, there is no basis to support the call to suspend operation of the Marlin Mine...”

**What Goldcorp isn't saying 4: People's lives are at risk. Threats and intimidation against human rights defenders have been on the rise since the mine opened.**

Unit for the Protection of Human Rights Defenders in Guatemala (UDEFEGUA), Interview with Director Claudia Samayoa, Guatemala City, November 2010.

- The Guatemalan Unit for the Protection of Human Rights Defenders (UDEFEGUA) has documented growing threats and intimidation against human rights defenders in the Department of San Marcos since the mine opened. In November, UDEFEGUA's General Coordinator reported a notable rise in attacks since the precautionary measures were issued by the IACHR.

Amnesty International, *UA: 163/10 Index: AMR 34/008/2010 Guatemala Date: 21 July 2010*, "Guatemala: One mining activist shot, another threatened: Deodora Hernández and Carmen Mejía" (<http://www.amnesty.org/en/library/asset/AMR34/008/2010/en/957fdd4a-e9c5-429d-8682-07d10bf5da42/amr340082010en.html>)

- On July 13th 2010, Diodora Hernández, a known activist opposed to the Marlin mine, was shot and wounded in her home by a former mine employee and contractor.
- On 16 June, the UN Special Rapporteur on the situation of human rights and fundamental freedoms of Indigenous People visited the municipality of San Miguel Ixtahuacán, to investigate whether the Indigenous communities had been adequately consulted about the establishment of the mining operation there. On 12 and 15 June, Carmen Mejía, another activist campaigning against the alleged human rights impacts of the mine, received a number of threatening text messages, saying that she shouldn't defend human rights and that she would be killed. During the Special Rapporteur's visit, Carmen Mejía described to him in a public meeting the alleged human rights violations. On 18 June, Carmen Mejía received a further threatening text message.

Amnesty International, *Individuals at Risk Program*, "Carmen Mejía: Threatened with death for defending her community" (<http://www.amnesty.ca/atrisk/index.php/carmen-mejia/#post-512>)

- "Carmen Mejía is from a Mayan community in Guatemala. Her life is at risk because she is campaigning against impacts of mining on her community's human rights."
- "'You shouldn't defend human rights, or you'll be killed.' Carmen received this warning several times in June. Carmen works for a development organization that represents members of Indigenous communities seeking to protect their right to water, land, housing, freedom of expression and cultural identity. She has spoken at public meetings about her concerns about the Marlin Mine, which is owned by a subsidiary of Canadian mining company Goldcorp."

Amnesty International, *57/11 Index: AMR 34/002/2011 Guatemala Date: 03 March 2011*, "Guatemala: Mine activists beaten and threatened" (<http://www.amnesty.org/es/library/asset/AMR34/002/2011/en/e99a7253-74fb-48fd-9448-a82c1bcb9805/amr340022011en.html>)

- "On 28 February, 200 members of the communities of San Miguel Ixtahuacán municipality were protesting against the Guatemalan state's failure to suspend extraction activities in the Marlin mine, in the San Miguel Ixtahuacán municipality, in the San Marcos department of south-western Guatemala. Activities have continued at the Marlin Mine, owned by Montana Exploradora de Guatemala, S.A., a wholly-owned subsidiary of Goldcorp, despite the Inter-American Commission on Human Rights (IACHR) ordering for activities to be suspended until the effects of the mine on local indigenous communities are properly assessed."
- "The protests, organized by the Front in Defense of San Miguel Ixtahuacán (FREDEMI), lasted around 12 hours. When the protesters left, the bus they were travelling in was stopped and the

protesters were forced to get off the bus and were beaten and robbed. Some protesters were taken from the group and attacked individually. Miguel Bamacá, [who had been granted precautionary measures by the Guatemalan government] and Aniceto López [sic] were singled out. Aniceto López [sic] was reportedly taken to the office of the local mayor where he was beaten in the face, robbed of his documents and possessions, and threatened with death. Others were seriously injured, such as Fredy González, who was hospitalized due to an injury caused by being hit by a firearm.”

### **Goldcorp asserts 5: The Guatemalan government’s multi-stakeholder roundtable is advancing human rights**

Goldcorp, “Notice of Annual and Special Meeting of Shareholders and Management Information Circular,” March 28<sup>th</sup> 2011, p C3

- “...significant developments have occurred in Guatemala recently that illustrate that the Company is contributing to the advancement of human rights in Guatemala. First, the government of Guatemala has established a multi-stakeholder roundtable (Mesa de Diálogo) that is comprised of representatives of the national government, local communities, and Montana Exploradora, our Guatemalan operating company. The Mesa de Diálogo meets monthly and has adopted a two-tiered agenda to address short term issues such as the petition pending before the IACHR as well as longer-term issues related to the development of the Municipalities of San Miguel Ixtahuacán and Sipacapa.”

### **What Goldcorp isn’t saying 5: The IACHR did not convene this dialogue, nor is it the appropriate forum to address the petition.**

Carlos Loarca, Legal Representative for Petitioners to the IACHR Petition and Precautionary Measures. Oficina de Ligitio Estratégico en Derechos Humanos de Guatemala – OLEDH. Blog Post dated: December 24<sup>th</sup> 2010, p 6

(<http://pluriculturalidadjuridica.blogspot.com/2010/12/contra-la-mina-marlin-en-navidad.html>)

- “[At the IACHR] the company, ‘indicated its willingness to participate in a dialogue with the parties with the purpose of arriving at an amicable solution about the petition,’ I inform you that, as the representation for the petitioners of San Miguel Ixtahuacán, we have NOT accepted any kind of proposal of this nature. To the contrary, in the same meeting we reinforced our position by showing evidence of contamination, including the presentation of a video...”
- “In this meeting we told Commissioner Dina Shelton that the IACHR should accept the Admissibility Report, given that it is NOT possible to talk about an amicable solution while the company operates illegally, and the company, like the State, is systematically not complying with the precautionary measures issued by the IACHR...”
- “We have faith that the IACHR will not recognize a roundtable dialogue that, despite being convened by the highest levels of authority in Guatemala and by the company, seeks to reach an amicable solution about the Petition while the legitimate petitioners are not represented. It is alarming that the government would encourage a process that is so arbitrary, in such noncompliance with the Precautionary Measures and in outright violation of Inter-American law on human rights.”

### **Goldcorp asserts 6: Guatemala’s decision to join the Extractive Industries Transparency Initiative is another step ahead for human rights.**

Goldcorp, “Notice of Annual and Special Meeting of Shareholders and Management Information Circular,” March 28<sup>th</sup> 2011, p C3

- "...Guatemala joined the Extractive Industries Transparency Initiative; an effort that Goldcorp and Montana Exploradora are supporting by participating in a multi-stakeholder implementation committee organized by the government."

**What Goldcorp isn't saying 6: The importance of this revenue transparency initiative is in its implementation, which has been poor.**

Human Rights Watch, "Decisive Moment for Global Transparency Effort, Most Countries Miss Deadline to Demonstrate Openness on Petroleum, Mining Revenues," March 9th 2010, (<http://www.hrw.org/en/news/2010/03/08/decisive-moment-global-transparency-effort>)

- Arvind Ganesan, director of the business and human rights program at Human Rights Watch notes, "It's easy for governments to sign up for the initiative and claim they are open about the money they earn from lucrative natural resources. But the proof is in whether they actually do what they promised, and so far the results have been dismal."
- "The initiative does not address how governments spend the money and cannot track corruption or assess whether the funds from extractive industries are used to benefit the public." It does not assess compliance against human rights standards.

IPS, Danilo Valladares, "Boosting Accountability for Mining and Oil Industries," April 12, 2011. (<http://ipsnews.net/news.asp?idnews=55233>)

- Peru, for example, has been part of the EITI since 2004 and has yet to achieve compliance.
- Economist Gustavo Ávila told IPS that it has not been of any use in preventing conflicts in extractive industry sectors, saying "implementation of the EITI programme in Peru is still "very rudimentary."

**Goldcorp asserts 7: Guatemala's proposal for a law to regulate consultation of indigenous peoples advances their rights.**

Goldcorp, "Notice of Annual and Special Meeting of Shareholders and Management Information Circular," March 28<sup>th</sup> 2011, p C3

- "...on February 24, 2011, Guatemala's Minister of Labour published a proposed regulation for implementing Convention 169, the Convention concerning Indigenous and Tribal Peoples in Independent Countries. These are important advances in human rights that will benefit all Guatemalans."

**What Goldcorp isn't saying 7: The United Nations Special Rapporteur on the Rights of Indigenous Peoples has criticized this law as another violation of indigenous rights.**

James Anaya, Special Rapporteur on the Rights of Indigenous Peoples for the United Nations. Observations about the situation of the rights of indigenous peoples in Guatemala in relation to extractive projects, and other forms of projects, on their traditional lands, March 4<sup>th</sup> 2011, p 4-5, 16

- In January 2011, the Government of Guatemala contacted the Rapporteur asking for his feedback on a third draft of the Consultation Regulation. The Rapporteur placed emphasis on the "need to open a more participatory process of dialogue and consultation with indigenous peoples with relation to the text."
- After reading the fourth version of the text on February 21<sup>st</sup> 2011, the Rapporteur emphasized that, despite the incorporated changes, the draft "plainly did not correspond with the international standards on the subject." He also reiterated that, "the [bill] can not comply with international standards if the [bill] itself does not undergo an adequate prior consultation process with indigenous peoples."

- The many derivations of the deficiencies in the registry of indigenous Mayan territories are particularly grave in the context of extractive projects and other types of projects, and place affected communities in situations of special vulnerability. The atomization of communal property into small individual properties, combined with the practical non-existence of specific guarantees that protect indigenous lands from their transfer, has opened up the possibility for companies to negotiate directly with individual property owners about the acquisition of their territories under the condition of a voluntary buyer-voluntary seller. These buying processes, without the direct supervision of the State, have opened the door to all types of abuses and have resulted in a net loss of indigenous lands, and thereby aggravate the disintegration of indigenous territories.

Consejo de los Pueblos Maya de Occidente – CPO (Council of Mayan People in the West), “In Defense of Land,” Blog post dated March 24<sup>th</sup> 2011, (<http://consejodepueblosdeoccidente.blogspot.com/2011/03/consejo-de-los-pueblos-maya-de.html>)

- “Regarding the proposed Law to Regulate Community Consultation announced on the 23<sup>rd</sup> of February by President Alvaro Colom, our political position in front of national and international audiences is: ... It diminishes, restricts, and distorts the true spirit of the Right to Consultation, overlooking the right to consent, the ancestral territoriality and the right to self-determination, as well as other fundamental rights protected in ILO 169, the UN Declaration on the Rights of Indigenous Peoples, and other international treaties.”
- “It represents a real threat, latent and imminent to the life, territory, cosmovision, and spirituality of our peoples, which we consider to be equivalent to another phase of plunder and occupation, using the pretext of ‘development’ and using subtle and strategic maneuvers.”
- “It is another example that the State of Guatemala continues to be a colonizer, racist, authoritarian and exclusive.”

### **Goldcorp asserts 8: Goldcorp says it strives to continuously improve its performance in all aspects of its business**

Goldcorp, “Notice of Annual and Special Meeting of Shareholders and Management Information Circular,” March 28<sup>th</sup> 2011, p C2-C3

- “In March 2008, Goldcorp agreed with a group of its socially responsible investors to undertake a human rights impact assessment. The Memorandum of Understanding recognized that the assessment would focus on the Company’s operations in Guatemala, but also stated that the assessment “will inform company policies, procedures and performance in other regions of operation.”
- “Goldcorp strives to continuously improve its performance in all aspects of its business, and believes that many positive results have been achieved, particularly with respect to the Company’s respect for human rights.”

### **What Goldcorp isn’t saying 8: Goldcorp is selectively responding to recommendations, avoiding crucial issues such as land acquisition and adequate consultation.**

On Common Ground Consultants Inc., Human Rights Impact Assessment of Goldcorp's Marlin Mine, Commissioned on behalf of Goldcorp by the Steering Committee for the Human Rights Impact Assessment of the Marlin Mine, May 2010, p21-22 (<http://www.hria-guatemala.com/en/MarlinHumanRights.htm>)

- The HRA observed that Goldcorp continues to acquire land around the Marlin mine, noting “a pattern of allegations about coercion and pressure in the land sales that would undermine the voluntary nature of transactions and would infringe upon the right to own property.” Overall,

the report was “unable to make an accurate determination of whether land sellers had positive, neutral or negative impacts on their standard of living” as a result of an “absence of due diligence about long term impacts...”

- Recommendation for immediate action: “Adopt a moratorium on land acquisition. Halt all land acquisition, exploration activities, mine expansion projects, or conversion of exploration to exploitation licenses, pending effective State involvement in consultation with local communities, and agreements put in place with communities to structure future land acquisitions. This would particularly include any project that requires an EIA, such as La Hamaca.”
- “The implication of an underlying collective title to the land held by the municipalities is that individual owners are not or should not be able to alienate land to the company on an individual basis, and that the community – including the traditional and municipal authorities – must be included in the decision-making process. This approach is supported by Article 17 of ILO Convention 169, which states that the “peoples concerned shall be consulted whenever consideration is being given to their capacity to alienate their lands or otherwise transmit their rights outside their own community.”
- “There is a pattern of allegations about coercion and pressure in the land sales that would undermines the voluntary nature of the transactions and would infringe upon the right to own property. Although the specific allegations could not be verified, Montana nonetheless fails to respect human rights as it lacks the policies and procedures to ensure that coercion does not occur, including an effective grievance mechanism for land sellers. There is also a lack of policies and procedures to ensure that the consent of women is obtained for land sales or resettlement decisions, which fails to respect the rights of women.”
- “A new program for liaison with land sellers initiated in 2009, which has no program funding, is not an effective response. The absence of due diligence about the long-term impacts of the land sales fails to respect human rights.”

Goldcorp, Goldcorp’s Response to the Marlin Mine Human Rights Assessment Report, June 2010, Goldcorp’s first Update to the Marlin Mine Human Rights Assessment Report October 18<sup>th</sup> 2010, and Goldcorp’s Second Update to the Marlin Mine Human Rights Assessment Report, April 29th 2011, p33.

- The company initially indicates that it will take this recommendation to halt land acquisition “under consideration and will respond in a future report.”
- Then in October 2010, indicates that “Goldcorp and its subsidiaries will develop a public compensation framework to ensure that people affected by our acquisition of land understand the land acquisition procedures...” etc, but does not refer to any consideration at this time or in the future of a moratorium until a process of consultation has been conducted.
- Most recently, on April 29th 2011, Goldcorp states, "The update of October 2010 is still accurate." Goldcorp then adds, "...Montana continues to acquire land..."

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