

Rights Action – April 21, 2011
HudBay Minerals Impunity Watch

GUATEMALA COURT RULES IN FAVOR OF LAND & TERRITORY RIGHTS OF MAYAN QEQCHI COMMUNITY, LAND CLAIMED BY HUSBAY MINERALS

BELOW: a press release from Indian Law Resource Center

RIGHTS ACTION COMMENTARY:

This ruling, from the highest court in Guatemala, has direct implications for HudBay Mineral's claims to its mining and mineral rights. Since 2004, when the nickel mining related problems began again in eastern Guatemala, there has been a series of brutal forced evictions and other human rights violations (including killings and gang rapes). As Rights Action, and other groups, have investigated and denounced these violations and harms, the local Maya Qeqchi communities have claimed, all along, that they have prior claim to these lands and territories.

Until now, these claims have been denied by the governments of Guatemala and Canada, and by a succession of nickel mining companies, including INCO, Skye Resources, HudBay Minerals.

Not only is HudBay Minerals facing charges, in Canadian courts, of the 2009 killing of Adolfo Ich (a Maya Qeqchi community leader) and the 2007 gang rape of 11 Maya Qeqchi women from the Lote 8 community (as part of an illegal, brutal forced eviction), but now they must face the fact that they do not have mining rights in the Maya Qeqchi community of Lote 9 (also known as Agua Caliente) and that it is highly likely that all the other Maya Qeqchi communities in the region have valid prior claim and land rights to their territories.

- Please re-post and distribute this information, citing sources
- To get on/ off Rights Action's listserv: www.rightsaction.org
- More information: see below
- What to do: see below

QUESTIONS:

Grahame Russell, Rights Action co-director, info@rightsaction.org

GUATEMALA COURT MAKES LANDMARK RULING IN INDIGENOUS RIGHTS CASE

<http://www.indianlaw.org/content/guatemala-court-makes-landmark-ruling-indigenous-rights-case>

Washington, D.C.— The highest court in Guatemala has made a precedent setting decision in favor of the community of Agua Caliente [also known as Lote 9], a small Maya Qeqchi indigenous community of 385 people in El Estor, in the country's Izabal province. The community has been fighting for formal recognition of its land rights and for justice against plans to mine nickel on the community's lands.

On February 8th, 2011, the Constitutional Court of Guatemala issued a decision that recognizes the community's collective property rights to its lands, and ordered the government to take the necessary measures for issuing a land title to the community. The decision is the first of its kind in the country.

According to Indian Law Resource Center attorney Leonardo Crippa, the decision comes at a critical time. State police are forcibly evicting indigenous communities from their ancestral lands in El Estor. "The decision brings an end to a two year legal battle against Guatemala's executive branch and the mining company; this decision affirms Agua Caliente's [lote 9's] legitimate land claim."

According to the Court, the executive branch's omission in properly registering and titling the indigenous lands violates Agua Caliente's [Lote 9's] land rights and rights to equality before the law, as well as the legal principle of self-determination. "This ruling has policy implications for Guatemala's land registry system since it reinforces the state's duty to properly title and register indigenous lands," noted Crippa.

The Court ordered the executive branch to take all corrective actions necessary to properly title Agua Caliente's [Lote 9's] lands. This includes replacing pages that were removed from the official land registry book, pages that show land ownership belongs to the Agua Caliente [Lote 9] community, but which have gone missing.

"This ruling sends a clear message to all extractive industry companies interested in exploiting the natural resources located within indigenous lands in Guatemala, especially to those with interests in El Estor. The mining must stop," said Crippa.

In 2006, the Guatemalan government issued a mining permit to the Guatemalan Mining Company (CGN), a subsidiary of the Canadian company, HudBay Minerals Inc. Seventeen Maya Qeqchi communities, including Agua Caliente [Lote 9], are located within the area granted for nickel extraction under the permit. The Indian Law Resource Center and Defensoria Qeqchi, an indigenous human rights organization based in El Estor, have been advising the communities, and in 2009, brought forward this litigation on behalf of Agua Caliente [Lote 9], the community with the largest depositions of nickel on their lands.

Because of rich natural resources in the Maya Qeqchi territory, the communities have faced efforts by local government and mine security forces to evict them from their lands for more than 40 years. These evictions, often violent, threaten the safety of the community members, leaders and local counsel. The communities have long been concerned about the impacts of mining on the environment. They rely on the natural resources of the land and the nearby Lake Izabal, the largest lake in Guatemala, for food and economic resources.

The Center will monitor the enforcement of the Court order, to insure the collective rights of the Agua Caliente [Lote 9] community.

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MORE INFORMATION

About the two lawsuits in Canadian courts: www.chocversushudbay.com
Contact: Murray Klippenstein & Cory Wanless, 416-598-0288,
murray.klippenstein@klippensteins.ca, cory.wanless@klippensteins.ca

Please view background films:

- El Estor eviction 10 minute film, by Steven Schnoor:
<http://rightsaction.org/video/elestor/index.htm>

- CTV's W5 special "Lost Paradise":
http://www.ctv.ca/CTVNews/WFive/20100415/w5_paradise_lost_100415/

Please read:

- "Formal Complaint", submitted by Rights Action and the University of Northern British Columbia, to the Canadian government:
http://rightsaction.org/articles/Complaint_HR_&Guate_Mining.html

WHAT TO DO – FUNDS NEEDED

Rights Action asks for financial support for the mining-affected, Mayan Qeqchi communities in eastern Guatemala, so that they can continue their work for community-controlled development, environmental justice, indigenous and human rights, and to do their part to ensure that these cases advance in the Canadian courts and that some measure of justice is done for these crimes.

TO MAKE TAX-DEDUCTIBLE DONATIONS

Make check payable to "Rights Action" and mail to:

- UNITED STATES: Box 50887, Washington DC, 20091-0887
- CANADA: 552 - 351 Queen St. E, Toronto ON, M5A-1T8

CREDIT-CARD DONATIONS: <http://rightsaction.org/contributions.htm>

DONATIONS OF STOCK: info@rightsaction.org

WHAT TO DO – PLEASE WRITE

To the Canadian government, to HudBay Minerals, and to investors (including, for example, the Canada Pension Plan), insisting on a complete suspension of all mining related work at HudBay Mineral's "Fenix" mine site in Guatemala,

- given the prior land claims of the local indigenous people that have never been addressed or resolved,
- given the serious nature of the cases in Canadian courts, and
- given the extent of harms and violations set out in the "Formal Complaint", submitted by Rights Action and the University of Northern British Columbia, to the Canadian government: http://rightsaction.org/articles/Complaint_HR_&Guate_Mining.html

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CANADA PENSION PLAN (CPP)

As of March 2010, the CPP owns 2,394,000 shares in HudBay Minerals, worth C\$30,000,000
(http://www.cppib.ca/files/PDF/q4_10_cdn_re_holdings.pdf)

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<http://www2.parl.gc.ca/Parlinfo/Compilations/HouseOfCommons/MemberByPostalCode.aspx?Menu=HOC>

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