

## Guatemalan Supreme Court of Justice: KCA (& Radius Gold) vs. “La Puya” Land & Environmental Defenders

By Grahame Russell & Catherine Nolin

Mining Impunity Delegation, May 17, 2016

The *La Sala de Vistas* courtroom of the Guatemalan Supreme Court of Justice was full for yesterday’s hearing in which lawyers with the Centre for Legal-Environmental and Social Action (CALAS), on behalf of the mining-affected communities, petitioned for the final, definitive suspension of the mining license for the El Tambor mine (Progreso VII Derivada) owned by American-based Kappes, Cassiday & Associates (KCA).

Radius Gold – that initiated this illegal and contested mining operation - sold its interests in 2012 to its junior partner KCA soon after an assassination attempt on the life of community member Yolanda Oqueli. On a deserted stretch of road near the mine’s entrance, two hitmen on a motorbike shot Yolanda three times. She survived, with one of the bullets remaining perilously close to her spinal column. Radius Gold maintains a royalty interest in the mine's gold production.



(CALAS lawyer Rafael Maldonado argues for the plaintiffs - communities of San Pedro Ayampuc and San Jose del Golfo - during the hearing. Guatemala City, Guatemala. May 16, 2016. Photo: James Rodriguez / MiMundo.org)

### **No to Mining, Yes to Life**

Our Delegation joined with people from mining-affected communities throughout the country who attended in support of community members from the peaceful resistance of *La Puya* to say, once again, ‘No to Mining, Yes to Life.’ Signs held by men from communities harmed by Tahoe Resources’ gold and silver mine in San Rafael Las Flores

read: “Mother Earth is not dying. She is being assassinated” and “San Rafael, Santa Rosa: We demand compliance with the Constitutional Court ruling that cancelled the El Escobal mining exploitation license of [Tahoe Resources’] Minera San Rafael.”

### **“So Much Insecurity”**



(Daniel W. Kappes (right), President of Nevada-based mining firm KCA, attended the hearing. Mr. Kappes, who refused to give his name, directed journalists to defense lawyer Estuardo Ralón. When asked to confirm Mr. Kappes’ identity, Mr. Ralón stated: "Since there is so much insecurity in the country, it is best to keep this gentleman's identity anonymous. But yes, he is a major investor in KCA." Guatemala City, Guatemala. May 16, 2016. Photo: James Rodriguez / MiMundo.org)

Despite “so much insecurity”, Kappes and KCA continue to push ahead with their mining interests!

During the hearing, CALAS lawyer Rafael Maldonado argued that the license for KCA’s mine should be definitively suspended (revoked) on two grounds: (1) the lack of free, prior and informed consent with the Indigenous people of the region prior to the development of the mine; and (2) the egregious behaviour of the company in ignoring the Constitutional Court ruling, more than one year ago, to cease operations.

We await the Supreme Court’s ruling.

### ***La Puya (The Thorn)***

From the court, we drove one hour outside of Guatemala City, to a place known as *La Puya*. Since March 2012, community members from San Jose del Golfo and San Pedro Ayumpac have maintained a permanent peaceful encampment - “La Puya” - at the entrance to the illegal mining operation.



(Pedro de Jesus Castillo (left), 72, and Faustino Morales, 81, (middle), are taking their turn, as part of a constant rotation, at the encampment. La Puya, San Pedro Ayampuc, Guatemala. May 16, 2014. Photo: James Rodriguez / MiMundo.org)

Community members take turns staying, eating and sleeping here, maintaining a permanent presence of protest to the illegal and unwanted mine. Over the course of more than four years, community members have been victims of repeated acts of repression by Guatemalan police and armed civilians; community members have been targeted with trumped up criminal charges. Through all this, they remain clear and firm in their dignified resistance in defense of community, environment and life.

### **A Message To North Americans About Their Companies**



(Amalia Sandoval Palencia, La Puya, Guatemala, May 16, 2016. Photo Rights Action)

After offering us coffee, rice and beans prepared in the La Puya kitchen, we asked Amalia Sandoval Palencia (a mother of four from San Jose del Golfo): “As you know, KCA is a U.S. company and Radius Gold is a Canadian company. What might you like to say to North Americans?”

Amalia responds (2 minute clip): <https://youtu.be/04gvXk2P09A>

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“Wake up. Wake up, humanity. We are out of time.” – Berta Cáceres

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