

Swiss mining operation in Guatemala as corrupt and illegal as Swiss cheese is hole-ey

<https://mailchi.mp/rightsaction/swiss-mining-in-guatemala-corrupt-and-illegal>

“The Fenix Mining Project in Guatemala, of Swiss company Solway Investment Group, has operated illegally with the complicity of the governments of Presidents Jimmy Morales and Alejandro Giammattei”

Guatemalan Minister of Energy and Mines denounced for not suspending Solway Investment Group/CGN's Fénix mining operation

By Prensa Comunitaria, May 31, 2022

<https://www.prensacomunitaria.org/2022/05/denuncian-a-ministro-de-energia-y-minas-por-no-suspender-desde-2019-la-licencia-minera-fenix-en-el-estor/>

A resolution of the General Comptroller's Office (CGC) confirmed what the Constitutional Court and the journalistic investigation Mining Secrets (Forbidden Stories project) had already said: the Fénix Mining Project, of the Swiss company Solway Investment Group, located in El Estor, Izabal, has operated illegally with the complicity of the governments of Presidents Jimmy Morales and Alejandro Giammattei.

Alberto Pimentel Mata and Luis Chang Navarro, current minister and former minister of the Ministry of Energy and Mines (MEM), were denounced by CGC for not suspending the license of the Fénix mining project.

In July 2019, the Constitutional Court (CC) ordered the suspension of the mining operations of that project, owned by the Swiss-Russian mining transnational Solway and its subsidiary Compañía Guatemalteca de Níquel (CGN), which have been operating illegally since 2005.

Their negligence have allowed the mining giant to operate for two years and 11 months with total impunity.

The criminal complaint against Pimentel and Chang was filed at the end of 2021. It arose from the findings of the comptroller body in the Audit Report of May 2021, which stated that it was the objective of the CGC "to determine whether there was a period in which it failed to comply with the resolution dated July 18, 2019, issued by the Constitutional Court."

The results of the audit confirm that there was indeed contempt of the court's ruling and that they never suspended mining operations.

According to the lawyer Rafael Maldonado, the ruling of the CC concerning the Fénix project implies the suspension of all mining operations. That is to say: extraction in the quarry areas, the processing of minerals such as nickel ore in the Processing Plant, the export of the raw minerals, the import of inputs for the mining operation and other activities of Solway and CGN.

"Non-compliance was verified on the part of the ministers in office during 2019 and 2020, by not abiding by the resolution issued by the Constitutional Court, inasmuch as the Solway/CGN company continued to carry out the operations...", reads the audit.

The document also clarifies that MEM was notified of the court's resolution one day after the ruling on July 19, 2019. In the following days, the ministry submitted requests for clarification and extension to the CC, but these were dismissed on August 27 of that year by the magistrates of the court.

MEM issued a decree for the mining company to suspend operations on January 25, 2021, a year and a half after the court ruling. That gave 18 months or 556 days of uninterrupted work to the mining and land exploitation in El Estor, Izabal. [Even with this tardy decree, Solway/CGN continued mining!]

The CC ruling in July 2019, sought to protect the rights of the Maya Q'eqchi' indigenous communities, who claimed that Solway/CGN's Fénix license, which until 2011 belonged to Canadian companies Skye Resources and Hudbay Minerals, had not conducted a community consultation prior to starting

operations in 2005. They also did not have an Environmental Impact Assessment (EIA). Therefore, they do not have a mining license, as confirmed by the Amparo in the Supreme Court of Justice in 2018 and the CC ruling in 2019.

According to documents obtained by CGC, the mine maintained its activities until December 31, 2020. But communities of El Estor have repeatedly assured that the company never stopped operating.

Illegal mining during military state of siege

Even during the state repression of October 22-23, 2021 - [during a military state of siege imposed by President Giammattei's government in favor of Solway/CGN's illegal operation] - the company was operating. It was thanks to the state of siege and the Ministry of Defense that the company was able to guarantee coal reserves to prevent the Processing Plant from stopping operations.

In the report, Pimentel excused himself by saying that he took possession on January 14, 2020, when 5 months had already passed since the CC resolution and the notification to MEM, and that the Mining Department never informed him that the suspension was a pending issue.

Minister of Mines and Energy: "I was not aware ..."

"As the highest authority of the Ministry of Energy and Mines, I was not aware of the resolution issued and notified in due time by the Constitutional Court and even less, that this had not been complied with by the ministerial authorities who were in office at that time," Pimentel told the auditors of the comptroller's office.

"It can be determined that there was no breach of the orders issued by the court of amparo by my person, since the timeline and the rules of the constitutional process of amparo made such obligation to another person," said Chang Navarro to the auditors.

For the comptroller's office, both officials are responsible for the contempt. Chang and Pimentel will have to face the criminal complaint of the CGC (number MP001-2021-5868), which is now in the hands of the Prosecutor's Office of Administrative Crimes of the Public Prosecutor's Office (Ministerio Público MP).

Despite this, the situation at El Estor has not changed.

Fraudulent consultation process

In January 2022, the MEM signed the reactivation of the mining company's operations after carrying out a consultation that the Q'eqchi' Mayan population has labeled as fraudulent and exclusive.

At least 90 communities were left out of the process. Their main ancestral authorities were excluded and repressed. Now, four of them face a new arrest warrant, from January 2022, for opposing Solway's mining operation. The arrest warrant included a journalist from Prensa Comunitaria.

In March 2022, several scandals were revealed in the Forbidden Stories investigations into Solway Investment Group and the operations of the Fenix mining project. These investigations followed a leak of internal company documents and communications between Guatemalan and Russian managers and Solway's offices abroad, which confirmed the illegality of the mining operations.



Archive, Forbidden Stories articles:

<https://forbiddenstories.org/kiosk/mining-secrets-all-the-articles/>

One of the scandals was the use of millions of Quetzals to control the results of the consultation in 2021.

Recently, in April, Cristobal Pop, president of the Gremial de Pescadores Artesanales (GPA), and one of the authorities of the Cuatro Consejos Ancestrales Maya Q'eqchi', together with lawyer Rafael Maldonado, filed a lawsuit before the CC against the MEM for non-compliance and contempt of the sentence,

considering that the due process of the community consultation was violated. Therefore, it should be considered illegal.

The CC ruled that the MEM and the mining company failed to comply with the ruling, and decreed that the consultation is illegal and that the entire process must be rolled back or restarted as of June 2021, when preparations for the consultation began.

Both the CGC and the April 26 ruling of the CC confirm the irregularities and illegalities of Pimentel Mata's actions as head of the MEM, in relation to protecting Solway's illegal operations with the Fénix project in El Estor Izabal.

TESTIMONIO: Canadian Mining in the Aftermath of Genocides in Guatemala

The Forbidden Stories about Solway Investment Group re-confirm and add to what is published in our book Testimonio that addresses four community defense/ mining resistance struggles in Guatemala.

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