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Co-operation and Conflict Between Firms, Communities, New Social Movements and the Role of the Government v Cerro de San Pedro Case

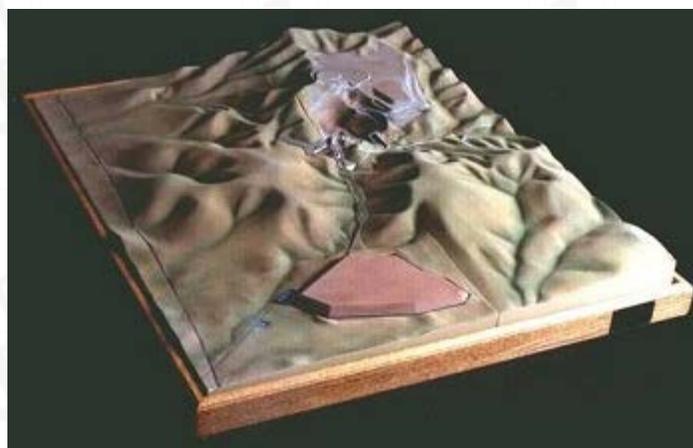
José G. Vargas-Hernández, M.B.A.; Ph.D.
Instituto Tecnológico de Cd. Guzmán
Cd. Guzmán, Jalisco, México
jgvh0811@yahoo.com

Geographical localization

Cerro de San Pedro is a semi-abandoned historic mining town located in the center of Mexico, in the state of San Luis Potosí. Cerro de San Pedro is a small village 10 miles east of the city of San Luis Potosí, the capital of the state of San Luis Potosí.



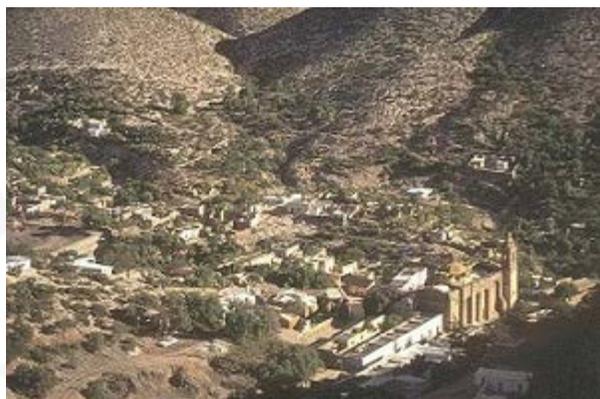
Location of Cerro San Pedro



Model of the Potosí watershed

Cerro de San Pedro is located in the mountains above the valley of San Luis Potosí and is part of the watershed area for the valley and its major cities. The valley is the source of 73% of the water for the area.

Today, it is a ghost town containing the ruins of shops, churches, estates and a hospital. There are only about 100 people living in the Cerro. The hamlet of Real covers the hills on both sides of the canyon; large and small houses flank the narrow streets (Cordero de Enciso, 1997). The remains of the 400 year old town are still there, along with an active church and municipal office.



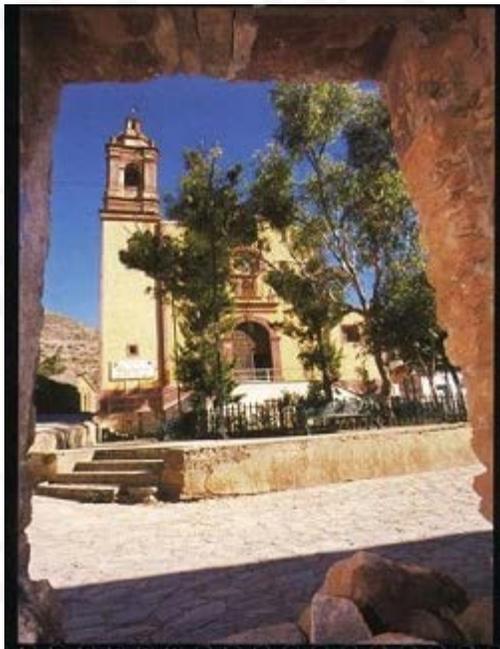
The village of Cerro



Première rue de San Pedro

Cerro de San Pedro sits in the high desert in the heart of Mexico, the kind of place with lots of road runners and big cacti.

Four hundred years of mining did not alter the original appearance of Real, which is irregular and whose center is the parish of San Pedro. The artistic and urban development that started in the 17th century is represented in Cerro de San Pedro. There are two structures particularly important from the historical heritage perspective. The Church of San Nicolas dates from the XVIIth century and San Pedro Apostle which dates from the XVIIIth century.



Church of San Nicolas

Tarascan Indians settled around the church and they adopted San Nicolás as their patron saint; the avenue in front of the church was used as an exchange and socializing place (Cordero de Enciso, 1997). Two churches were built in Cerro de San Pedro attended by the secular clergy helped by the Franciscan monks, and later by the Augustines who were able to speak Tarascan. The two churches built in the first half of the 17th century were identical, though the San Pedro church was later modified. The church of San Pedro is a rare example of a 17th century church, and its coloring is in aesthetic harmony with the hill behind it. The San Nicolás de Tolentino church is built on one side of the canyon that has become an urban area. The San Nicolás church kept its primitive appearance of only one nave and barrel vault.

There are several diverse historical monuments protected by the National Institute of Anthropology and History (Instituto Nacional de Antropología e Historia-INAH).

The section of town known as "La Colonia de los Gringos" contains what once were company offices and living quarters of the American Smelting and Refining Co.



Historical monuments



Legal background

Since prehispanic times, mining has played an important role in Mexican economic and political history. From 1986 to 1990 the World Bank granted credits to support the structural adjustment of economic policies. The credit 3359 supported structural adjustment of the mining sector categorized as B to eliminate environmental requirements and public hearings (Border Ecology Project, 1994). Under a neoliberal economic policy, amendments to constitutional Article 27, a new Agrarian Law, a Mining Law (1993) and a Foreign Investment Law passed during the nineties, allowed the ejidatarios, originally limited owners of land rights, to change the ownership. Investors now could associate with ejidatarios to exploit land resources without buying it. The North American Free Trade Agreement (NAFTA) offered advantages and opportunities for investors.

The Mining Law (1993) and the Regulation to the Mining Law (1999) opened to foreign capital areas that were reserved for national investors and defined new rules for the development of national and foreign investments in exploration and exploitation of minerals as activities of public utility. The granting process of mining concessions does not require public

hearings and most of the times the affected communities are the last ones to know about the project. There are some references about considering this and others "competitive advantages that Mexico offers compared to their partners in NAFTA "(Bardake, 1993). A company can not lose its mining concessions for polluting the environment; it can only be fined.

Historical antecedents

The Guachichiles inhabited the area of Cerro de San Pedro hills before the Spanish came. The first original urban plan of Cerro de San Pedro dates to 1412. A couple of missionaries visited the area in the 1570s when silver was found in the Cerro de San Pedro hills. In March 1592, Don Miguel Caldera, a mestizo and Commander of the Spanish army sent a group of miners to reconnoiter the land in the hills of the valley of San Luis Mexquitic and register the goldmines that would give it the name of Real de San Potosí. Cerro de San Pedro became one of the biggest mining towns of Colonial New Spain as the Spanish conquistadors carved up the earth and plundered the town's riches, sending most of the treasure back to Europe.

Some 60 discoveries of metals rich in lead were registered.. The richest minerals lay near the surface. After 40 years of struggle with the Guachichiles during the last decade of the 16 th century, the Conquistadores convinced the Indians to plant crops and lead a sedentary life. Real de Minas de Cerro de San Pedro was founded in 1583 after several mines in the vicinity began operations, although it was established in 1592, before the capital of San Luis Potosi. Martín Pérez was one of the discoverers of the mines of el Cerro de San Pedro (S. L .P.), on March 4, 1592 (P.F.V.: Col. Doc., Vol. I, p. 254, cited by Del Hoyo, 1979).

Cerro de San Pedro dates back to the sixteenth century and was the original location of the state capital of San Luis Potosi. But at the San Pedro Hill there wasn't enough water to support the town or wash the metals, so they moved. The Spaniards founded the village of San Luis Potosi in the valley. The San Luis Potosi city's Coat-of-Arms had the Cerro de San Pedro on a blue and gold background with two silver and two gold cross bands, over which is lying Saint Louis King of France, testimony to its mining origins. The mountain is the symbol of their heritage.

Some Spanish families, mestizos, mulattos and Indians founded Real de Cerro de San Pedro further up in the sierra with their own governors and unions. Tlaxcalans, Tarascans ad Otomies were brought in to work in the mines and the cattle ranches. The mining district of Cerro de San Pedro has supported various periods of significant mining activity and has seen many production mining campaigns over the past 500 years. There are no production records for the mining activity during the period of 1575 to 1660 in the Cerro de San Pedro. The mines produced wealth in the first thirty years and some 62 million pesos were paid in rights alone during its first 60 years of existence; that is, some 10 million pesos per year (Cordero de Enciso, 1997).

In 1613, the mayor, Pedro de Salazar, had the famous Socavón del Rey built. This was a horizontal tunnel that gave access to deeper veins which produced around thirty tons of silver mixed with gold yearly. After 15 years of mining, the amount of precious metals declined although there was a "gold affair" that stirred greed among a group of men who colluded in an enormous fraud that caused the owners of the Briones mine to lose their property. In 1628 their houses in San Luis Potosí's main square were vacated. The last rich mine, the San Cristóbal, was closed down in 1656 although there were some bonanzas on El Cerro.

In 1690, the Mayor, Alonso Muñoz Castilblanque, opened the San Cristóbal mountain pass with the help of a loan made to him by the Viceroy, the Count of Galvez, and production increased to one fifth of what it was in 1620. In 1740 one hundred furnaces and sixty mineral crushers still existed in the region.

In the 18 th century the area had a reputation for mistreating the indigenous people. The poverty of the inhabitants of the Hill and its surroundings increased and became worse in 1767. The donations of silver given towards the reparation of the church were lost. The expulsion of the Jesuits resulted in an uprising in 1767. Cerro de San Pedro in 1767 was the focal point of a popular insurrection against the excesses of Borbonic reforms. The serranos made demands and opposed the removal of the Jesuits but had to surrender. Viceroy Marquis de Croix sent Don José Galvez with 400 soldiers to punish the rebels and their families cruelly, but instead the serranos managed to have their taxes reduced and the church restored.

By the mid 18th century, after two hundred years of mining, it was underdeveloped and had low productivity due to a lack of capital, technological insufficiency, the limited capacity of the specialized workers, and a shortage of supplies and labor, among other things (Villalba, 200). A few years later, Don Joseph de Castilla y Loaeza, a knight of Santiago, founded the Compañía Patriótica that invested 20,000 pesos and used old-fashioned techniques. In 1773, San Luis Potosí had around twenty mining communities in a deplorable state of productivity. By 1774, Cerro de San Pedro was still struggling to restore productivity of the local mines (Lopez Miramontes y Urrutia, 1980).

In 1816 a horizontal tunnel was built in the Pópulo hill and the Socavón Aventurero de la Victoria, the tunnel of adventure and victory, restarted 60 years later. Compañía Metalúrgica Mexicana owned the railway that extended towards Río Verde to transport the minerals from San Pedro to San Luis Potosi. A major period of mining activity began in 1870 and continued

through the early 1950's. In 1930, the American Smelting Company (ASARCO) worked the horizontal tunnel and the work continued until 1948 when the miners' strike broke out and the mine closed down.

By the late 1940s, the gold, lead, iron, manganese and mercury deposits finally began to give out. By the early 1950's it is estimated that approximately 2.5 million ounces of gold and 40 million ounces of silver had been produced from the Cerro San Pedro district. In 1993, the region of Cerro de San Pedro was declared an ecologically protected area. Local firms continue to extract limited quantities of minerals from the mines. Visitors can enter La Descubridora, the town's first mine. Guide service is available

Minera San Xavier project development in Cerro de San Pedro

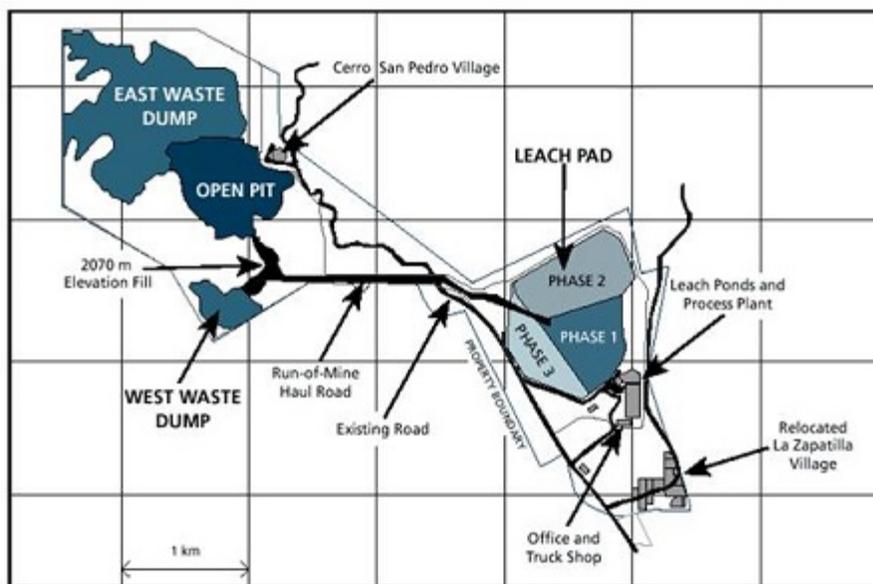


Renewed interest in the Cerro San Pedro district began in the 1970's with evaluations by various companies to determine the district's potential as a large tonnage, low-grade, bulk mineable deposit. In 1971, Las Cuevas mining company was unable to revitalize the mines. When the North American Free Trade Agreement (NAFTA) was enacted in 1994, the Canadian Company Metallica Resources Inc. started to explore the old mining town with the intent to exploit its resources in gold and silver. In 1995, Metallica acquired an option to purchase Cerro San Pedro project and began an exploration program to expand the work of recent exploration programs conducted by other companies. Minera San Xavier (MSX) at Cerro de San Pedro is developing a gold mining project.

Also, orpiment, which is found in very few Mexican localities, has been found sparingly in the gold deposits of Cerro de San Pedro. The colors in this miniature from Juarez, Cerro de San Pedro, San Luis Potosí, Mexico go very well together - green pyromorphite, yellow wulfenite, gray galena, and white barite - it's really a beautiful piece! (Bob Winfree's auction on eBay).

The February 1997 feasibility study included a proven and probable reserve estimate of 77.3 million tons averaging 0.60 g/t gold and 24.8 g/t silver, with an overall waste to ore ratio of 1.51:1. The reserve estimate was prepared by Mine Reserve Associates, Inc. and was calculated using a gold price of \$400/ounce and a silver price of \$5.00/ounce. Metallica elected to seek a joint venture partner to develop the property in late 1997, and in January 1998 entered into an agreement with Cambior, Inc. to acquire a 50% interest in MSX. The agreement resulted in the issuance of additional MSX shares to Cambior such that it would own 50% of the issued and outstanding shares of MSX. Cambior's ability to retain its 50% interest in MSX was contingent upon it spending \$20 million on project development by December 31, 2000. (Metallica Resources Inc, 2005).

Cerro San Pedro project
Proposed site plan



The Cambior feasibility study included a proven and probable reserve estimate of 63.5 million tons grading 0.62 g/t gold and 24.5 g/t silver, with an overall waste to ore ratio of 1.57:1. The reserve estimate was prepared by Cambior, Inc. and was calculated using a gold price of \$300/ounce and a silver price of \$5.50/ounce. Mine development, working capital and mine equipment costs were estimated at \$68 million. (Metallica Resources Inc, 2005).

In May 2000, Cambior sold its 50% interest in the Cerro San Pedro project to Glamis Gold Ltd. In November 2000, Glamis published a revised feasibility study for the project that included a proven and probable reserve estimate of 49.2 million tons grading 0.57 g/t gold and 23.0 g/t silver, with an overall waste to ore ratio of 1.45:1. The reserve estimate was prepared

by Mine Reserve Associates, Inc. and was calculated using a gold price of \$275/ounce and a silver price of \$5.25/ounce. Mine development, working capital and mine equipment costs were estimated at \$45 million. (Metallica Resources Inc, 2005).

On February 4, 2003, WLR Consulting, Inc. ("WLR") prepared a technical report on the Cerro San Pedro project that included a proven and probable reserve estimate of 61.1 million tonnes grading 0.59 g/t gold and 24.0 g/t silver, with an overall waste to ore ratio of 1.21:1. The reserve estimate was prepared by William L. Rose of WLR and was calculated using a gold price of \$325/ounce and a silver price of \$4.62/ounce. Mr. Rose is a Qualified Person, as that term is defined in Canada National Instrument 43-101. On February 12, 2003, Metallica purchased Glamis' 50% interest in the Cerro San Pedro project for \$18 million plus a sliding scale net smelter returns royalty. (Metallica Resources Inc, 2005). (Metallica Resources Inc, 2005).

In February 2003, Metallica updated the Glamis' feasibility study run-of-mine development plan to provide for contract mining. The use of contract mining will reduce the project's capital cost to approximately \$25 million, a result of eliminating the need to purchase the mining fleet. Metallica also updated the mineral reserve estimate using a higher gold price due to the strengthening of the gold market. Based on a \$325 per ounce gold price and a \$4.62 per ounce silver price, the mineral reserves stand at 61.1 million tonnes grading 0.59 grams per tonne of gold and 24.0 grams per tonne of silver representing 1.8 million ounces of gold equivalent. The gold equivalent reserves increase to 2.1 million ounces at a \$350 per ounce gold price and a \$5.00 per ounce silver price. (Metallica Resources Inc, 2005).

Annual production was projected at 90,400 ounces of gold and 2.1 million ounces of silver, which equates to approximately 120,000 ounces of gold equivalent per year over a mine life of approximately 8.5 years. Cash operating costs, net of silver credits, are estimated to be \$177 per ounce.

In September 2003, an updated capital and operating cost study was completed for the Cerro San Pedro project. Metallica Resources (MR) intended to build, as was announced in Wall Street, one of the greatest open pit gold and silver mines in the world.

Parties involved:

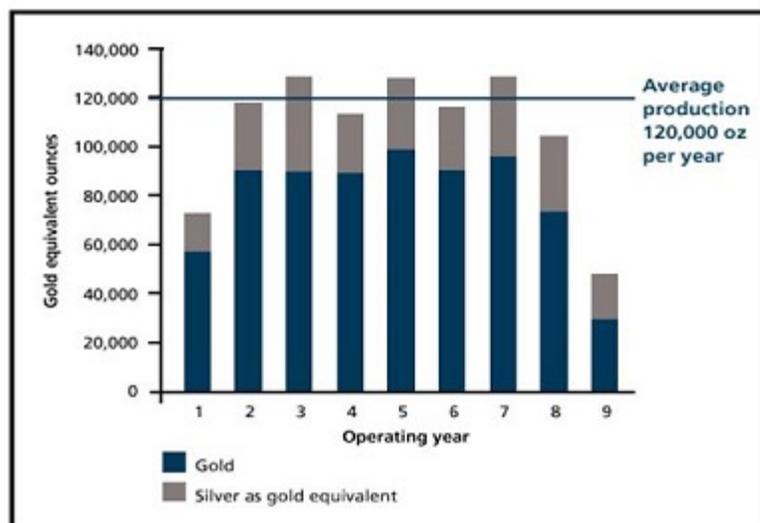
a. The mining company

Minera San Xavier (MSX) is the Mexican subsidiary of the Canadian company, Metallica Resources, which is involved in developing the San Xavier Mine in the municipality of Cerro San Pedro, San Luis Potosi, Mexico. The mining project of Minera San Xavier (MSX) is located 20 kilometers northeast of the city of San Luis Potosi, the state capital, with a population of approximately one million people.

b. Community and social movements involved

The affected community is the small village of Cerro de San Pedro.

**Cerro San Pedro project
Gold equivalent production**



An alliance has been formed in Cerro de San Pedro among diverse civil groups, organizations and political parties in a coalition called Alianza Ciudadana Opositora a Minera San Xavier (Alliance in Opposition to the San Xavier Mine).

Among these social groups, the most involved are:

Educación y Defensa Ambiental A.C. (Environmental Education and Defense);
Pro San Luis Ecológico A.C. (Pro San Luis Ecology);

Patronato Pro-Defensa del Patrimonio Cultural e Histórico de Cerro San Pedro, A.C. (Foundation for the Defense of the Cultural and Historical National Patrimony of Cerro San Pedro), and
Asociación de Vecinos de Cerro San Pedro, (Neighbors' Association of Cerro San Pedro)

Other members of the alliance are:

Central Independiente de Obreros Libres y Campesinos
Frente Cívico Potosino

Frente Cívico de Soledad de Graciano Hernández
Signo y Tierra
ICOMOS de México
Escuela de Capacitación Cívica
Parlamento Indígena
Comerciantes de la Central de Abastos
Vecinos de la Colonia La Florida
Frente Zapatista de Liberación Nacional, the Zapatista Front for National Liberation
Tangamanga Branco.
Frente Cívico de Teotihuacan
Frente Popular Zacatecas
Greenpeace
Hermano Hombre
Movimiento Huasteco democrático
Movimiento Pueblo Libre
Partido Verde Ecologista de México, Consejo Estatal
Partido de la Revolución Democrática, Consejo Estatal
Red Todos los Derechos para Todos
Revolucionarte
Nava Partido Político
UCD
UNTA
Colectivo Azul the Blue Collective, and
The Blue Lilly, etc .

The alliance also counted with the support of the Catholic Church and its Archbishop

The citizen's group opposed to the project, the Ample Oppositional Front (Frente Amplio Opositor) is the citizens' movement that has a long-running struggle to prevent the destruction of the village of Cerro de San Pedro by a Canadian company that is planning to operate an open-pit gold mine.

The University of San Luis Potosi has conducted an independent review of the environmental impact study

Compas is one of the resistance movements of the citizens of San Luis Potosí.

Government

The Municipal President of Cerro de San Pedro opposed the mining project and had not given his town's permission to the state government, the Governor of the State of San Luis Potosi or the President of Mexico.

The conflict

According to the company MSX, the 100%-owned Cerro San Pedro gold and silver heap leach project is located in the historic Cerro San Pedro mining district in the State of San Luis Potosi, Mexico. The presence of MSX in Cerro de San Pedro has caused a severe social conflict among the inhabitants of San Pedro, Soledad y San Luis and has attracted the attention of all who are concerned with issues of historic heritage, culture and the environment.

MSX argued that its operations would have some benefits, the greatest being 40 million pesos in taxes which would be paid to the federation in the first eight years. Local suppliers would also reap benefits as materials and provisions would be bought from them, though most would be bought from foreign suppliers. The company never referred to the mining operations as an ecocide, leading to the contamination of watersheds, pollution of the air and the destruction of historical heritage. The inhabitants of these communities, supported by environmental groups and NGOs, argue that the project will pollute sources of fresh water as well as damage the environment and the ecology of the region.

At the center of the controversy is cheap and efficient technology. The use of cyanide and its impact on watersheds, the environment and human health is alarming. Lixiviation consists of piling up mineral mixed with cyanide over a platform in such a way that gold will be residual. Cyanide has been used for the extraction of metals since 1887 as a chemical reactive to dissolve gold in water (Logsdon et al, 2003). Twenty percent of global production uses the process of lixiviation to get gold. Because almost 99% of the gold is separated from the ore, it is profitable to spend one ton of cyanide to extract 6 kilos of gold (Ronco, 2002)

Studies done by Minera San Xavier to evaluate pollution risk to the watershed of the valley of San Luis and to quantify the

use of millions of cubic meters of water and its evaporation are insufficient and are slanted. The hydrological card of INEGI and the subterranean waters of San Luis Potosí and Cerro de San Pedro are the same in the geo hydrological zone. The daily use of 16 tons of cyanide and 32, 000 tons of rock material would require one million cubic meters of water per year which would have residuals of cyanide, heavy metals, toxic material and mercury. This water can contaminate the watershed due to the inclination of the land, putting the population at risk.

The process requires the daily use of 16 tons of cyanide mixed with 32 million liters of water. According to the Environmental Impact Manifestation presented by MSX, this would cause erosion by deforestation, alteration of drainage patterns, cancellation of productive activities, pollution due to deposits of toxic residuals and severe, irreversible and permanent damages. The Manifestation of the Environmental Impact of the company on the valley's water supply considers that "the impact is significant and adverse for the extraction of water" (Page 16) Ninety percent of water consumed comes from the valley of San Luis which can be contaminated by the cyanide used in the lixiviation process (Martínez Ramos, 2004).

In the last 25 years, 76% of cyanide spills have been due to imperfections in the lixiviation yard, 18% due to pipes and 6% due to transportation accidents. (State Environmental Resource Center, 2004). Mining Companies have caused ecological catastrophes that have provoked reactions from civil society groups and governments around the World. Governments of many countries have prohibited open pit mining exploitation using cyanide. (Governor's office, 2003; Friends of the Earth y Oxfam America, with support from Mineral Policy Center, 2003)

The company had purchased buildings in the village to be used for offices. The open-pit silver and gold mine planned for the area would have a dramatic effect and is being challenged in court by environmentalists. Environmentalists have a long standing battle against the company Minera San Xavier (MSX), a subsidiary of Canada's Metallica Resources that plans to build an open-pit silver and gold mine that would decapitate the mountain that looms behind the town Cerro de San Pedro. In a postproduction model developed by the company, the area looks like a lunar landscape. The ore-processing plant, where the toxins would be used, sits just 20 minutes from San Luis Potosí, the capital of the state and home of about one million people.

Excavation for the mine will take place in an area of 67.7 hectares, digging a crater 1,150 ft. deep and a half-mile wide to gain access to the 90,500 oz. of gold and 2.1 million oz. of silver the mountain could yield each year for the next decade. The mountain will be demolished and in its place will be large deep pits filled with the residue of the mining process. Soil cover will be lost in an area of approximately 500 hectares.

The pit is only about 600 meters from the town square and the tunnels from the old mine go under the church and the square. If the mine project goes forward, a 1,150-ft., half-mile crater would be blasted in the top of the mountain that sits behind the town of Cerro de San Pedro, Mexico. The proposed mine would destroy the historic remains of the old town and destroy the environment because of the cyanide leaching and would potentially poison the water of San Luis Potosi. Greenpeace says the use of cyanide poses a high risk in the mining plans of the Canadian firm in the Mexican district of Cerro de San Pedro. The firm Cambior has been involved in the two most disastrous cyanide spills in mining history, contaminating millions of liters of water.

The project would entail moving part of the town and its historic buildings, but the people don't want to move. To avoid damage to the buildings, the company plans to move the municipal buildings and the centuries old church another 600 meters away. The company would destroy the environment for a yield that would last only 6-8 years. MSX only vaguely outlined on the environmental-impact report. how it would restore the mountaintop, clean up the massive piles of bulldozed waste, protect rare plants and wildlife like the biznaga cactus and the desert tortoise, and safeguard the town's 16th-century structures. Actual profit from the exploitation would be low in comparison to the amount of destruction and permanent ecological damage that would result.

Most troubling was the company's unclear plan for the management and disposal of the toxins, including cyanide, that are used in gold mining. The daily use of 13 tons of explosives composed of nitrate "Anful" will produce great quantities of dust which can cause irreversible illnesses. Six hundred and forty million m3 of cyanide materials would be residuals covering a surface of 178 hectares which will not allow agricultural or cattle activities for generations. The potential poisoning of the watershed lands alone would have dramatic consequences for the inhabitants of San Luis Potosi. (Campbell, 2004) However, MSX argues that it has clarified its plans and is implementing the 100 changes suggested by a group of Mexican academics who studied the environmental-impact report.

In spite of the fact that permits have been cancelled, the company has huge trucks, big tanks and workers on site, and an environmentally protected area has been cleared for future use in an obviously illegal move. A test drill resulted in the street collapsing because of the tunnels under the street and the company "repaired the damage" by dumping a load of gravel in the hole. If the project goes forward, MSX would add about 170 jobs to its existing staff of 34 to work on the mine, but the new jobs will require education and training that people from Cerro de San Pedro often lack. Some qualified residents would

receive temporary housing a few miles from town. Other villagers could choose to stay and receive from MSX a monthly payment, based on the typical wage in the area, that could be used to strengthen their houses to protect them from the blasts.

The Company has violated federal and state laws. Among federal laws:

- Presidential Decree of June 2, 1961 which forbids extraction of water in the valley of San Luis Potosi.
- Article 35 of Federal Law of fire arms and explosives. Storage and use of explosives is only 50 meters from town instead of at least one kilometer.
- The Agrarian Law establishes the obligation of the agrarian authority to staff and protect the ejidatarios. The Company has leased ejidal lands from fake ejidatarios.

State Laws violated are

- Article 7 of the Environmental Law of San Luis Potosí does not give the governot the authority to award licenses for land use. The Governor exceeded his authority to grant authorization of land use in may 2000.
- Article 15 of the State Constitution of San Luis establishes the right of citizens to enjoy a healthy environment and to prevent and combat environmental pollution.

Cooperation and conflict relationships between the parties involved

A decree of September 1993 protects the area of the municipalities of Cerro de San Pedro, Soledad and San Luis Potosi from any type of aggression against the natural environment. A Reordering Plan of San Luis Potosí and surroundings (Plan de Ordenación de San Luis Potosí y sus alrededores), launched by the government in 1993 included Cerro de San Pedro and proposed ecological restoration during the following 20 years. On September 1993, the government of San Luis Potosi granted the plan, establishing that three fourths of municipal territory should be oriented toward development of wildlife, signaling the lack of water as a fundamental problem and the need to have recharging watersheds and to give priority to industries that do not pollute or require much water (Periódico Oficial del estado de San Luis Potosí, 1993).

In 1994 MSX conceived the mining Project to exploit Cerro de San Pedro in an open pit process at only 50 meters from the town. Since 1995, information and letters have been sent to many officials. The citizen's group opposed to the project, the Frente Amplio Opositor (Broad Opposition Front) , has won a number of legal battles. However, some people favor the project arguing that mining is part of this town's history and its economic legacy. On May 5, 1996 the Patronato Pro Defensa del Patrimonio Cultural e Histórico del Municipio de Cerro de San Pedro, AC, was founded.

The mining Project was initiated in 1997, when MSX received authorization from local authorities. The company argues that the Project Cerro de San Pedro would generate almost 2, 000 million pesos in investments, jobs for locals. It would also buy 74% of it supplies froml local businesses (Europa Press, 2004). With the announcement of the Project was born also the opposition formed by environmental and architectonical conservation MSX subscribed the leasing contract of land in March 1997 for a period of 15 years by fake ejidatarios that did not have land rights on the Ejido. The Environmental Impact Statement for the Cerro San Pedro project was submitted to the Mexican Federal authorities in October 1997.

Since that time the permit process has included a public hearing in March 1998 and a technical review of the permit documents by the University of San Luis Potosí as mandated by the State government. In 1998, the Autonomous University of San Luis Potosi gave a technical scientific opinion requested by the Commission to Review the Project Cerro de San Pedro and Minera San Javier. This opinion established that the environmental components only prevented monitoring of water, not air and soil, for cyanide poisoning (Comisión de la Universidad Autónoma de San Luis Potosí para la Revisión del Proyecto Cerro de San Pedro de Minera San Xavier (1998). Researchers had accepted the invitation under the condition that the results of the study be published before shown to the Company and to SEMARNAT. The environmental study done by researchers of the Autonomous University of San Luis Potosi has not been considered serious, complete or professional but rather an instrument of expression of the company's interests.

On March 20, 1998, the Municipal President was found dead from a bullet to his head. The motive would be that he requested an audit and wanted penal action against the former municipal president who had illegally sold abandoned farms to MSX. One day before his assassination, officials of rhe company had given a presentation on the project at the Hotel Westin. After lunch at El Saucito, the Municipal President had argued with William Copeland Dodge, the manager of MSX. A portfolio with documents was lost and the Governor recommended interested persons to take care of themselves because the officers of the company would do anything to get what they wanted. A company employee was accused of robbing a XVII century painting.

An official from the International Council of Monuments and Sites (ICOMOS), an organization of UNESCO, declared that if the Minera de San Xavier project destroyed the cultural heritage of Cerro de San Pedro, the Governor of San Luis Potosi

would be remembered in history as the person responsible (La Jornada San Luis, 20 de Febrero, 1999) for the loss. Conservation and environmental groups have asked state and federal government officials not to authorize the project. They argue that the government should find equilibrium between conservation of cultural values and exploitation of material resources in such a way that the solution should guarantee the integrity of historical monuments.

In 1999 The Secretary of the Environment and natural Resources (SEMARNAT) authorized the project and its environmental impact in spite of serious violations to the General Law of Ecological equilibrium and Environmental Protection. In February 1999 The National Institute of Ecology (INE) granted environmental permit to operations of MSX against the existing plan of 1993 but establishing 100 conditions, among which number 12 established relocations of the communities of Cerro de San Pedro and La Zapatilla. Condition 68 established that the company should consider a proposal for limiting the use of water through treatment and other alternatives (Instituto Nacional de Ecología, 1999)...

On the 26 of February, 1999, the National Institute of ecology granted authorization to change land use in Cerro de San Pedro. In the year 2000, the civic platform Pro San Luis Ecological presented an appeal against authorization of mining exploitation granted on 1999 to Minera San Xavier by the National Institute of ecology. On May 5, 2000, the government of San Luis Potosi and the municipality of Cerro de San Pedro granted conditional authorization of land use for mining exploitation.

Since 2001, the social Justice Committee of Montreal, Mining Watch Canada and the Mexican NGO FUNDAR Center for analysis and research, funded by IDRC, are involved in a project to establish the impact of Canadian mining operations in Mexico, and to provide support to the affected Mexican communities. Field research was carried in Cerro de San Pedro. Relationships between Canadian and Mexican partners are maintained, nurtured and deepened linking communities and NGOs up with similar groups. A seminar on the impact of mining activities in Mexican communities took place. Case studies were also presented (Mining Watch Canada, 2002).

In April 2002, according to information from the company, the last of the amendments to the federal and state mining permits that had previously been issued was received by MSX. MSX acquired through irregular means water rights from ejidatarios and small land owners who have since sued the company. The company obtained illegally and against conditions 68, a total of 992, 000 cubic meters of water from intermediaries of six concessions. An order of apprehension of MSX's officials was granted (La Jornada San Luis, 2002).

In August 2002, the Tribunal of the Intenational Center for Dispute Resolution on Investments decided in favor of the United States Enterprise Metalclad, imposing a fine of 16 millions dollars to the Mexican government for discriminatory treatment after the authorities closed a land field for residuals and trash in Guadalcázar (San Luis Potosí, México). This was a dangerous precedent showing that commercial and business interests are above the health and welfare of communities

In October 2003, Mexican state and federal agencies, as well as the Catholic Archdioceses of San Luis Potosi, authorized the structural stabilization and installation of blast monitoring equipment at the Cerro San Pedro Apostle Church. Metallica Resources Inc. was pleased to announce this on October 23 (OTC Bulletin Board, 2003). On November 24, 2003, the Agrarian Unitary Tribunal (Tribunal Unitario Agrario) announced an agreement to stop operations of the transnational company requested by the real ejidatarios to maintain the integrity of the land in conflict.

Approximately \$2.0 million was spent on initial project development during 2003. Construction of the mine began in the first quarter of 2004 with commissioning scheduled for the fourth quarter of 2004. The exploitation unit started to build on February 2004 with the withdrawal and replanting of 21,000 protected cacti while MSX affirmed being in the process of ISO 14001 certification. The topography report includes plans of geoposition of the National Institute of Geography and Statistics (Instituto Nacional de Estadística Geografía e Informática, INEGI) stating that the mining exploitation is on the area of the hill and in the town. On February 11, five years later, the company submitted the impact on health issues and the company has not given any information regarding the areas of conservation of five species of cactus to the SEMARNAT. Besides the historic architecture, there are five species of flora included in the norm 059 at the risk of extinction.

Earlier in 2004 a group of nearly 20 environmental and civic groups charged Mexico's Ministry for Environment and Natural Resources of illegally rubberstamping in 1999 MSX's environmental-impact report. Cruz Camarena (2004) reports a confrontation early in March between 60 local environmental and community activists and representatives of the San Xavier Mine, the head of the State Unit of Civil Protection, Investigators from the Autonomous University of San Luis Potosí (UASLP) and the Secretary of Ecology and Environmental Organization.

On the 17 of March, 2004, the Unitary Agrarian Tribunal rejected the rental contracts between the MSX and false ejidatarios. The Governor of the State of san San Luis, Marcelo de los Santos, pressured the President of the municipal government of Cerro de San Pedro to grant the corresponding agrarian permits. He also tried to cancel the decree that protects the ecological zone. The Secretary of the State Government also pressured and wanted to corrupt the Municipal President of Cerro de San Pedro to grant permits of land use and to give support for authorization of SEDENA'S permit to

use explosives for bastings. The Secretary of Economic Development of the State of San Luis has land properties neighboring MSX and ceded 65% of water rights. The President of the Mining Chamber of Mexico, in a conflict of interest, supported the blasting of MSX even knowing that it was against judicial decisions

MSX has established programs dedicated to the conservation of the environment. MSX has formed a non-profit foundation to supervise and administer the funds that Metallica donated to preserve the village of Cerro de San Pedro and assist the surrounding communities. On April 12, 2004, a protest at Cerro de San Pedro was organized by FZLN.

On May 11, 2004, Fred H. Lightner, General Director of Minera San Xavier, sent a letter to Herrera Muñoz insisting on the permit to use explosives, warning that Metallica Resources would announce publicly in the United States that the company cannot continue with the construction of the mine due to the fact that it does not have the general permit to use the necessary explosives. He continued on saying that their investors and potential investors in other projects in Mexico would begin to question the risks of investing in Mexico (Cruz Martinez, 2004).

On the 18 of May, 2004, the Second District Court granted a suspension as part of the appeal 564/2004 promoted by inhabitants of Cerro de San Pedro to halt granting of construction and functioning of MSX. However, this suspension was lifted by the Cabildo at its session on the 7th of August.





In June 2004, the antimine coalition, Pro San Luis Ecológico, won when a federal court sided with environmentalists in effectively nullifying MSX's environmental permit, which halted the company's work. On June 23, the Supreme Tribunal of Fiscal and Administrative Justice cancelled the environmental permit granted by the Secretary of Environment and Natural Resources (SEMARNAT) in February 1999. On June 23, the 9th Collegiate Tribunal in Administrative Issues of the First Circuit of the nation Supreme Court of Justice (SCJN), declared that the license of change of land use and open pit mining project granted to MSX by the National Institute of Ecology violated the the General law of Ecological and Environmental Equilibrium and the Decree of Planning in the State of san Luis Potosi

On July 22, the Municipal Presidency was taken over by MSX. One week earlier, an entrepreneur attempted to bribe the President. The Secretary of Economy of Mexico declared in August hat MSX was a win-win project and authorized on July 28 a temporal occupancy of land, going against article 20 of the Mining Law that forbids mining exploitation of populated areas and ecological reserves. The environmental permit for MSX operations was cancelled July 28, 2004 the same day that it was granted by The National Institute o Ecology (INE). For more than one year, Fox visited the State once a month and promoted MNX. President Fox, while visiting Canada, questioned the judicial decisions affecting operations of the mining company.

On July 29, when visiting San Luis, Fox met with the Municipal President of Cerro de San Pedro, Oscar Loredo, and recommended the approval of the municipal permits even against resolutions of the judicial power. According to Loredo, Fox told him that he was concerned with the mining project and that he--the President of Mexico--recommended its approval (La Jornada San Luis, 30.08.04). The argument used by the government to support operation of the open pit mining company is the generation of 300 low wage jobs, for only 8 years. President Fox was criticized for having a double standard. While he promotes disobedience to the law of the Municipal President of Cerro de San Pedro, he has accused the Mayor of Mexico City of the same thing. The Municipal President admitted that he authorized the operations of the open pit mining because he was afraid of his life and the life of his family. In 1999, the Municipal President, the father of Loredo, was murdered because of his opposition

On the 7th of August the Municipal President of Cerro de San Pedro approved the permits to build the mine in conformity with previous safety and location agreements that were not approved on May 28, based on the appeal 564/2004 and agrarian and environmental resolutions forbidding these permits. Loredo realized that the permits were illegal; however,

there was not other way to face the pressure. The session where the Municipal President declares that he was under pressure by President Fox and the Governor of the State was tape recorded. The Municipal President declared that it was known beforehand that the federal government and the state government were in agreement and they were adamant that no one be against them; they had their hands on our neck and they were warning us. When his decision was questioned, the municipal president answered by asking if his life was not important.

On August 9th, the Second District Court allowed other appeals presented by ejidatarios, and the next day declared a suspension and ordered that SEDENA could not authorize buying and using of explosives. On the 10th of August, the same Court granted another suspension as part of the appeal 909/2004, to halt SEDENA's actions to deliver to the company a permit to buy and use explosives, but the license was issued the 12th of October by the Secretary of Defense. On August 18th, congresswoman Eliana García, presented to the Permanent Commission of Congress a point of agreement to request the Judicial Power to investigate federal and state officials involved in possible violations of the law.

On August 21st, opponents of the MSX's project closed the offices and demanded the immediate removal of the company from Cerro de San Pedro. Among these opponents were Movimiento Pro-Cerro de San Pedro, Frente Cívico Potosino, Greenpeace, Frente Zapatista de Liberación Nacional y del Movimiento "Ya Basta", inhabitants from Cerro de San Pedro, San Luis Potosí and Soledad, and a patrol of public security.

On September 1, 2004, a decision of the Mexican Federal Superior of Fiscal and Administrative Justice Court (Sala Superior del Tribunal Federal de Justicia Fiscal y Administrativa, TFJFA) called for the mining company's permit, granted on February 1999 to conditionally operate the mine, to be revoked because of its failure to comply with proper procedures with respect to their environmental impact study. The resolution stated that because biodiversity is at danger, the project should not be authorized. Commencement of mine operations was anticipated to begin in the fourth quarter of 2004, subject to project financing.

In a resolution dated September 1st, the TFJFA approved a suit brought in 2000 by the civic union Pro San Luis Ecológico, opposing the authorization granted to the company the previous year by the National Institute of Ecology (INE). The Delegate of the SEMARNAT in San Luis Potosí (2002-2004) created and presided over the Foundation of Potosi for the purpose, declared by Minera San Xavier, to fulfill the conditions established by the National Institute of Ecology to authorize the Manifest of Environmental Impact and to provide compensations for ecological costs. The firm needed more than three years to fulfill only 32 of 100 conditions imposed by SEMARNAT while this Secretary only needed one month to accept them.

The Court halted operations at the San Luis de Potosí Gold Project, owned by Minera San Xavier (MSX), a subsidiary of the Canadian company Metallica Resources. The Federal Court's resolution was based on the necessity of ecological preservation of San Pedro Hill, where some animal species are in danger of extinction, as well as risks derived from cyanide use in mining, which would put the biodiversity of the area in danger. In addition to this point, the TFJFA recalls that the responsibility for preservation and regeneration of the environment lies with the federal authority. It concluded that the permit that had been granted for the concession did not conform to "applicable laws".

The opponents to La Minera San Xavier considered that "the project is dead", since any action that could undermine the federal justice decision "would imply disrespect and transgression of the law". The company claimed that the decision lacks a scientific base and that it will harm Canadian investments in the country. Second District Judge of the Federal Judicial Power ordered suspension of the plan as part of appeal 909/2004, promoted by ejidatarios de Cerro de San Pedro, San Luis Potosí, to suspend permit of buying and using explosives by the company.

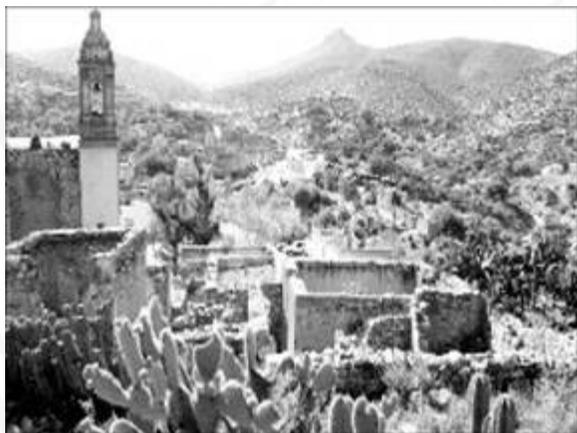
MSX appealed the ruling and, in September, lost again. Because the company's latest appeal was rejected, they threatened to use NAFTA's Chapter 11 to sue the Mexican government for potential loss of profits. On September 27, the Broad Opposition Front asked the Subdirector of Mining Rights to order the cancellation of the concession to Minera San Xavier.

On October 7th, officials from the Secretary of the Economy asked the ejidatarios to withdraw from the land but a judge suspended the action against the owners of the land. During the first period of the project, more than 100 hectares of protected areas were illegally stripped of protected species, cutting the flora and expelling the fauna. The municipal president, who had granted the permit under pressure, faces a suit for not obeying the law because the municipal permit was suspended on March 16, 2004. By February 6, 2004, MSX had failed to acknowledge some of the environmental commitments required and had underestimated its obligations to fulfill conditions.

The company also committed fraud against the three levels of government that granted the respective permits for the mining project under the assumption that land tenure was not viscid. With a fake contract, MSX took possession of land, destroying old buildings as well as protected flora and fauna at a great loss to the ecosystem.

The company also illegally closed neighborhood roads that had been used by inhabitants of La Zapatilla, Cuesta de

Campa, Portezuelo y Cerro de San Pedro, and invaded the federally owned property where the old track of the Potosí-Rioverde train was located and installed a fence of several kilometers to keep the municipal inhabitants out. (Montemayor, 2004).



On October 26, the Federal Tribunal of Fiscal and Administrative Justice determined that authorization of conditioned land use granted in 1999 to the project of MSX was against federal norms and not considered the existence of a protected area plan for the Cerro de San Pedro and surroundings. In public speech the 28 of October, the Minister of Environment and Natural Resources evaluated the resolutions of tribunals as the worst and spoke on favor of the company as having fulfilled all the requirements and considered as absurd the opposition of the inhabitants.

After SEDENA granted permits for use of explosives, on November 18, an incident of violation of suspension granted to the appeal promoted by ejidatarios on August 9, was promoted. On the 22 of November, Semarnat promoted a revision against the resolution that cancels the permit of conditioned operation of the open pit mining to MSX and SEDENA authorized to MSX the use of explosives.

The 29 of November, 2004 the Director of Mining in the State of San Luis Potosí declared that in the following days the Company would have the first blasts to prepare operations. 30 of November, 2004, The Senate Chamber passed an "obvious and urgent resolution" to stop programmed operations of MNX

On Dec. 1, an Agrarian Unitary Tribunal defended its claim that MSX's lease excludes a group of land owners. The Agrarian Unitary Tribunal ordered to obey the sentence derived of an appeal 807/202 which determined the illegality of the leasing contract of land subscribed in March 1997 for a period of 15 years by fake ejidatarios that did not have land rights on the Ejido. (Cruz Martínez, 2004). The Court cancelled rental contracts subscribed between the company and false ejidatarios. The ruling freezes MSX's land rights although the company constructed barbed wired fences around land that the company doesn't own.

The Agrarian Tribunal (Tribunal Unitario Agrario) has nullified the rental contracts for the land where important parts of the mine are located – on the grounds that the persons renting the ejidal (socially-owned) land to the company were not in fact members of the ejido, that is to say that their actions were fraudulent. About the land use, the company declared that the ejido leased is Cerro de San Pedro when belongs to the municipality of Soledad de Graciano Sanchez. The intention is to avoid permits in area that is legally environmentally protected. Also, Ejidatarios of Palma de la Cruz leased 136 hectares to Minera San Xavier to be used as shops but the company was using it as disposal of sulfurous material that is not lixiviable.

On the 13 and 14 of December, the company blasted the area of La Zapatilla incrementing tension among the inhabitants of the region. On December 14th, it began excavating the mountain. Inhabitants of the town La Zapatilla were relocated after the company initiated operations. When the INAH knew about the blasting, requested the company to stop of such activities arguing the defense of around 115 buildings dated from XVII to XIX Centuries. Since 1998, INAH had warned over the danger for the historic heritage that would represent to activate the mining. With the opposition of the National Institute of Anthropology and History (INAH), and the reluctant permission for using explosives for blasting the mountain, of the Secretary of Defence (SEDENA) the company has begun its operations. The company appealed but the judge did not grant suspension against INAH decision.

On December 18, intellectuals, artists and around 50 civil, environmental and Human Rights organizations strongly requested President Fox to respect and enforce the law at Cerro de San Pedro and to order Minera San Xavier to suspend activities based on judicial resolutions and verdicts. The arguments of the organizations, among others, Frente Amplio Opositor, la Asociación Nacional de Abogados Democráticos, la Unión Nacional de Trabajadores Agrícolas y el Movimiento Agrario Indígena Zapatista (Maiz), were in favor to defend the environmental, cultural and historic heritage and the imminent health risks of more than one million people Ejidatarios continued with a safety line in front of the entrance to the

mine although it was announced that the Secretary of Economy of Mexico will grant a permit of temporal land occupancy in the agrarian nucleus of Cerro de San Pedro in response to an application done by MSX the 28th of June, 2004 (Cruz Martinez 2004a). Thus, the Company and government were looking for other options of land ownership such as Expropriation or temporal occupancy. But expropriation is only by cause of public utility.

On the 20 of December, The Third District Court received the appeal presented by the company against the decision of the INAH. The Canadian firm Metallica Resources Incorporated suffered a second decrease in the year of 16 percent in value of shares on December 21, after informing shareholders over the resolutions of Unitary Agrarian Tribunal which nulls the contract of leasing of 300 hectares in Cerro de San Pedro. Metallica Resources responded with an appeal and skating that would look for other option of land tenancy to have access to mineral resources The first decrease in a year, of around 20% occurred in mid 2004.

Members of Christian Science Monitor, were the first Canadians to come and witness the damage that has already happened, and the potential for more harm. On December 22, 2004 under strategic action, Mexico citizen's group sought halt in the Canadian-owned mine, in responds to an urgent request for Canadian support to challenge legality and operations.

Sedena admitted participation in control and surveillance of blast that the company realized, confirming violation of suspension dictated by the judge in August, 2004 ordaining not liberation of permit to use explosives (Cruz Martinez, 2004). Another round of blasting was scheduled for December 31st. On December 18, the Municipal President of Cerro de San Pedro announced next detonation.



On the 15 of November, 2003, The Commander of the 12 Militar Zone of San Luis Potosí considered that authorization of the permit could affect negatively to SEDENA. The Secretary of National Defense, the 30 of November 2003, agreed to suspend the permit to use explosives granted to the mining company, but on October 12, 2004, against resolutions of judged, signed and granted permits of use of explosives . The Commander of the military zone that had opposed was removed from his position. On November 22, SEDENA authorized to MSX the use of explosives.

However, the 24 of December when authorizations were public already, the permits were suspended but not cancelled. The Secretaría de la Defensa Nacional (Sedena), suspended the permit 3762-San Luis Potosí granted to MSX to buy and consume explosive material under the argument that the license to the company was altering the peace, tranquility and public order among people living in the region of Cerro de San Pedro, although the inhabitants have denied alteration of public order (Cruz Martinez, and Balboa, 2004).



The National Institute of Anthropology and History (INAH) sued against directives of the Transnational for destruction and demolition of Finca Guadalupe, that dated since the XVIII Century.. The Broad Opposition Front sent a letter to the Canadian Embassy requesting intervention to halt operations of the Canadian company who is blackmailing and pressing inhabitants of Cerro de San Pedro using as arguments the NAFTA's framework (Roman, Jose Antonio, 2004).

The last two days of December 2004, the lawyer of the company MSX got signatures among fake ejidatarios from Cerro de San Pedro and La Zapatilla, who would agree to use TNT (La Jornada, January 2, 2005).



Foto

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The Ministry of the Environment has taken legal steps to have the previous court rulings against the company overturned. SEMARNAT had promoted an appeal of revision to the resolution of cancelled permit but had obtained in its favor a suspension to avoid cancellation of the permit. The Commission of Governance, Constitutional Issues and Justice of the Permanent Union Congress approved an agreement to request information to SEMARNAT about the legal status of Minera San Xavier and to accept the resolution of the Court that cancels the permit of operation of the open pit mining. A plural commission traveled to Cerro de San Pedro (La Jornada, January 12).

The destruction of a historic building catalogued as a heritage monument of the XVIII Century in the town of Cerro de San Pedro by Minera San Xavier was reported by La Jornada San Luis and Triunfo Elizalde (2005). The Finca o Casa de Guadalupe is included in the National Catalog of Historical Monuments. Access to the Finca was denied to the Municipal authorities by the employees of the company when authorities went to take an act because an inhabitant showed the titles of property.



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The inhabitants of Cerro de San Pedro only had obtained from Congress an agreement to request information from the SEMARNAT over the legal status of the company (La Jornada, 17 January). On the 18 of January, 2005, the INAH sued MNX for the intentional damages caused to real states that are historic heritage of Cerro de San Pedro and request suspension of actions to avoid damages against real states and the AOF accused the company to unfulfilled obligations. The suit was presented on January 15 because the Company did not requested any authorization although on November 18, the INAH had asked he company an immediate suspension of any activities and blast in the area. On the 17 of January, protesters of AOF demanded INAH for information (Enciso, 2005e).

The owners of Casa Guadalupe, a historic real state demolished by MNX sued the company for dispossession and damages. The building is in the catalog of historic constructions of the Instituto Nacional de Antropología e Historia (INAH). Personnel from INAH ordered to stop demolition on January 15. The Patronato Pro Defensa del Patrimonio Histórico y Cultural del Municipio Cerro San Pedro, demanded cancellation of concessions to MNX for not fulfillment of the Mining Law (Enciso, 2005d)

According to the Secretary of Environment and Natural Resources (SEMARNAT) Minera San Xavier has fulfilled with 180 conditions established to favor sustainable development (Enciso, 2005c). The 20 of January, 2005, the Broad Opposition Front (AOF) Frente de Oposición Amplia (FOA) to the Minera San Xavier addressed an open letter to the Constitutional Governor of the State of San Luis to denounce damages caused by the blasts and the dangers and risks of planned mining operations. The argument of the governor stating that it was “an issue between particulars” is severely criticized (Annex C.).

Minera San Xavier suit for defamation to members of the Broad Opposition Front two ejidatarios of Cerro de San Pedro and the leader of a civil organization Pro Defensa de Cerro de San Pedro (Cruz Martines, 2005a for the publication of an article in La Jornada (Masiosare, 29 de Agosto de 2004). The National Network of Civil Organizations of Human Rights, All the Rights for All (la Red Nacional de Organismos Civiles de Derechos Humanos Todos los Derechos Para Todos) started to circulate a letter of support to the three accused, as an Urgent Action.



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Minera San Xavier lost other judicial process when the Third Court of District from State denied an appeal against the National Institute of Anthropology and History (Instituto Nacional de Antropología e Historia, INAH), who requested last December suspension of blast explosions that damaged the historic heritage (Enciso, 2005b).

In a public message, AOF sustained that in a shameful act of cynicism and impunity, Cardenas Jimenez has recommended the Minera to go to the Tribunals without knowledge of the coursed legal process (La Jornada, February 13). The Broad Opposition Front to the MNX announced in mid February 2005 that would promote a demand of political suit for negligence against the Minister of the Environment and Natural Resources who have supported the company in a public hearing on the 11 of February (La Jornada, February 14)..The Senate approved an agreement requesting SEMARNAT and SEDENA to explain their involvement in the Minera San Xavier case (Cruz Martinez 2005)

On March 4, 2005 a conference/forum Cuarto Concierto Cultural por la Defensa de Cerro de San Pedro took place for the defense of the environment the village and the rights in Cerro de San Pedro, sponsored by Patronato Pro Defensa Cerro de San Pedro, marking the 413 anniversary of its foundation, the 4 of march of 1592.

On March 17, a KAIROS delegation formed by seven Anglican, Lutheran, Presbyterian, Roman Catholic and United church leaders went to Cerro de San Pedro to investigate a mining operation owned by Metallica Resources, a Canadian company based on Ottawa that stands accused of illegal gold mining in Mexico. The company threatens to destroy both the historic town and the surrounding fragile ecology. The Canadians met with KAIROS' Mexican partners and local people to bear witness to their struggle and brought details home to Canada, including video and other documentation. “Foreign mining in Mexico is another by-product of NAFTA and the trade liberalization policies that affect the poor,” said Lutheran National Bishop Ray Schultz, a delegate with the KAIROS program. “When our Mexican partners raised concerns about this Canadian-owned mine, we felt we had to investigate.” (Kairos, 2004).

Representants of Kairos, formed by a group of Canadian religious institutions expressed concerns over the conflict of the Community of Cerro de San Pedro and the Canadian company considering that the practices of MNX violates Canadian Laws in Mexican territory (Munoz, 2005). Previously, a member of the Broad Opposition Front had toured and campaigned in Canada lobbying leaders of opinion and legislators. On March 18, 2004, the Auxiliary Bishop Daniel Bohan of Toronto called on a Canadian company to abandon a Mexican gold and silver mining operation using cyanide that locals fear will poison their water. With a surge in gold prices, MSX executives want to move forward and are searching for a legal breakthrough that will allow MSX to begin excavation and resume operations by mid-2005 (Campbell, 2004).

Under an irregular procedure, the Canadian Company promoted two appeals, but was denounced by the Pro Ecology Group. On 6 of April, 2005, a Tribunal in Administrative matters of First Circuit informed to MNX that had lost the appeal. Canadian legislators and Human and Parliamentary Rights Canadian Organizations formed a follow up and analysis committee to investigate actions of Metallica Resources, owner of the project Minera San Xavier. The Human Rights Canadian organization had visited previously the community of Cerro de San Pedro (Enciso, 2005a).

The Canadian Ambassador in Mexico met with the Broad Opposition Front to the MSX on the 4 of May and expressed the concerns of the Canadian Government for the conflict between the company and the Community of Cerro de San Pedro. A

group of 30 environmentalist organizations accused the Minister of the Environment and Natural Resources to benefit transnational corporations approving projects such as the open pit mining at Cerro de San Pedro against the will of the community and demanded a change in the environmental policy (Enciso, 2005). The protestors also denounced that the Minister has prosecuted environmental activists.



Oppositional groups win the judicial controversy against MNX after the First Court of District (Juzgado Primero de Distrito) has dismissed the appeal 503/2005, which was the last resource of the Company's defense. (La Jornada, 9 de mayo, del 2005). The Governor of the State of San Luis Potosí ordered to hijack a complete edition of the newspaper La Jornada San Luis to avoid to be know the publication of his official maneuvering for pressure the decision to install the mining company Minera San Xavier (Hernandez Lopez, 2005).

13 of May 2005 is reported that after Metallica Resources presented loses in its first report of the year, the owners of MNX plan to withdraw Cerro de San Pedro's project and will suit the NAFTA's panel of controversies Cruz Martínez, Angeles (2005a)..

FOTO Carlos Ramos Mamahua

Final remarks and conclusions

Mining activities are perceived as the main factor of marginal regions and depressed zones. Mining concessions granted by Mexican government is centralized, brief and against public hearings, in such a way that affected groups and communities can not react immediately and mobilize against potential risks and dangers or to negotiate rights and interests.

The Canadian firm Metallica Resource Incorporated was at the point to destroy part of the environmental, cultural and historic heritage of the country, although there were three judicial resolutions to halt operations granted by different authorities upon request of the. Ejidatarios who have rights to own the land had been dispossessed. It was assumed that operations of the firm were in complicity with the Federal, State and local governments. The environmental and health risks would have side effects on more than one million people living in the localities of Cerro de San Pedro, la Soledad and San Luis Potosi. Norms were violated by the transnational when it started operations without obtaining legal permit of construction and operations and authorization to manage and to store explosives.

Exploitation of gold trough open pit mining and use of cyanide lead to destruction of natural environments and irreversible geomorphologic alterations, distortions of watersheds, reduction on the quality of available water, transport accidents of dangerous substances and spill over during the exploitation, irreversible destruction of natural scenic and generation of deposits highly risky pollutant materials which have social, cultural and environmental impacts at short, medium and large terms (Montenegro, 2004).

The negotiation agenda and international mobilization around the debate over the concept of sustainable development and defense of the environment is a paradigm presented as a model of cooperation and consensus where the needs of all are incorporated and the greater have a compromise to support weaker. Intervention of the state and international community to benefit the public interest and the common good and to control forces of the state and to achieve more equity among populations together with the implementation of more sustainable production and consumer patterns.

It is quite evident the lack of sensitivity of foreign mining companies toward the consequents of their activities upon the communities and environment. To a certain extent, we disagree with Sánchez-Mejorada (2000) who argues that facts will not convince the fringe environmental activists, the best defense is to address all environmental concerns and to have an aggressive community relations program that will put the facts before the general population that will be affected by the project. Keeping a low profile will rarely work when being assaulted by activists on all fronts. But, an aggressive community relations program will escalate the conflict.

This case also shows the lack of negotiation between firms, communities, new social movements and governments Information about externalities and future costs of company activities is crucial but more crucial is formulation and implementation of more sensitive policies to avoid damage of the environment, biodiversity and health of population. Governmental institutions must be aware that their decisions may affect the community quality of life of actual and future generations only for a small increment in economic growth and large increase in private benefits of a small group of investors.

More informed citizens tend to be more active protestors, such as the case of the students in San Luis. Contact between informed individuals of diverse groups and organizations help to exchange experiences and create public opinion in favor of mobilizations. Community participation and involvement in decision making of community development planning is quite limited by the lack of critical information. This fact is critical when the local government can not provide the right information because there are other interests affecting the process.

The impact of mining activities is not part of the national political debate agenda.

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ANNEX A Cerro de San Pedro, San Luis Potosi, Mexico

Facts & Statistics	
Place Name	Cerro de San Pedro
Place Status (Type)	Town
Population	129 (1990)
Location	San Luis Potosi, Mexico, North America
Latitude	22°15'N
Longitude	100°40'W

Cerro de San Pedro or San Pedro, town (1990 pop. 129), San Luis Potosi, N central Mexico, on interior plateau, 12 mi/19 km ENE of San Luis Potosi; 22°15'N 100°40'W. Elev. 6,719 ft/2,048 m. Silver, gold, lead mining.

ANNEX B. San Luis Movement - Call For Public Support

To Public Opinion,
 To the Means of Communication,
 To the Non-Governmental Organizations and Environmentalists
 To Governor Marcelo de los Santos
 El Cerro de San Pedro and the San Xavier Mine

With the goal of making known clearly and completely the problems that have been developing for eight years now in the Municipality of Cerro de San Pedro in the state of San Luis Potosí, México, and with regard to the controversial project to exploit the gold and silver that the Canadian Mining company Minera San Xavier [MSX of Metallica, Canada] plans to carry out there, we urge you to become familiar with the following information. Two or three minutes of your time could really impact hundreds of years of future history.

Historical Background

Thanks to the rich deposits of gold and silver found in the place, in 1592 the Royal Mines of Cerro de San Pedro were founded, an event recorded in the fact that in the center of the coat of arms of the state of San Luis Potosí, México, one finds the Cerro de San Pedro over which Saint Louis, King of France, is resting.

In the middle of the Cerro (the mountain) are seen the holes left by the mining exploitation and on the sides of his royal personage are seen the bars of gold and silver. That is to say, that it is to the Cerro de San Pedro, that the state of San Luis Potosí owes its existence. Linked to its glorious past are the churches that date from the seventeenth century as well as all of its exceptional architecture of such importance that the National Institute of Anthropology and History (INAH) carried out

all of the work necessary so that UNESCO would consider it part of the historic patrimony of the nation. At present the paper work is in process to have the Cerro de San Pedro declared a Zone of Historic Monuments.

Once the North American Free Trade Agreement (NAFTA) went into effect in 1994, the Canadian [mining company Metallica] owner of the San Xavier Mine (MSM) conceived the idea of prospecting in the Cerro de San Pedro located 12 kilometers from the capital city of San Luis Potosí with the goal of exploiting its resources, gold and silver. The extraction of gold and silver is planned to be carried out with a system called "open pit mining" (tajo a cielo abierto) and the recovery of the metals will be done by a cyanide process and lixiviation of the ore, that is washing or percolating the ore.

Impact

The company called the inhabitants of the town to a meeting during which it was explained to them that the project would mean the disappearance of the village, of its churches and houses, but that they were being offered money to relocate themselves and for the construction of new houses.

In order to carry out the exploitation of the site by the open pit method, it will be necessary to remove up to one kilometer, cutting down the mountains and grinding them up, and then digging down into the subsoil to a depth of between 250 and 350 meters. That is to say, it will require according to what was said, removing the land on which the town rests, using 13 tons of explosives of nitrous ammonia. Instead of the Mountain of San Pedro, there will be the Crater of San Pedro. In order to get more minerals, the traditional foundry system will not be used, but rather in the lixiviation yard 16 tons of cyanide will be mixed with 32 million liters of pure water which will be taken from the aquifer that serves the city, and which, as those of us who live in San Luis Potosí know, is in danger of being exhausted because of over use. The sodium cyanide mixed with the water produces hydrogen-cyanide acid, which when evaporated will travel daily toward the city and its populated environs.

It is also proposed to use 25 tons daily of explosive made of nitrate of ammonia with the goal of extracting 75,000 tons of material each day. The explosive will produce great quantities of dust that can cause illnesses such as pulmonary fibrosis and silicosis, an irreversible and incapacitating illness common among miners.

The people of San Pedro, Soledad de Graciano Sánchez, Los Gómez, Pozos, Armadillo de los Infante, San Luis Potosí and other surrounding towns will be constantly inhaling those contaminants.

[The article goes on to list some specific laws that will be being violated in this process.] (See below)

For more information contact Alicia Beatriz Cruz Camarena at fzln_slp@hotmail.com

Protests can be sent to:

comunicacionsocial@congresoslp.gob.mx

sgg@slp.gob.mx

marcelo@slp.gob.mx

SAN LUIS MOVEMENT - CALL FOR PUBLIC SUPPORT sedesore@sedesore.gob.mx

segam_rtrevino@slp.gob.mx

For the company view about this issue see:

Metallica Company press release

<http://www.metal-res.com/main.asp?section=news&page=20040112>

Metallica on Cerro San Pedro

<http://www.metal-res.com/main.asp?section=properties&page=cerro>

Dorothy Kosich, "Metallica earns social license first," in Mineweb at:

<http://trinity.mips1.net/MGGold.nsf/0/42256E2B005E0A2E85256E3D00469473>

Some of the legal aspects that are being violated

Federal laws :

a) Article 35° of the Federal Law of Weapons of Fire and Explosives, indicates the demand of a perimeter of 1,000 meters of the place of storage and consumption of explosives, free of constructions for house room, historic zones and archaeological zones. If the project is carried out tons of explosives would be utilized to do the cut just 50 meters away from

the town.

b) Article 3º of the Presidential Decree of June 2, 1961 prohibits for an indefinite time the use of water from the subsoil of the Valley of San Luis Potosi without previous written permission by the Secretary Office of Hydraulic Resources.

c) The Agrarian Law establishes the obligation of the authority to assess and to protect the "ejidatarios," (like cooperative members). Mining San Xavier negotiated with the "Asamblea Ejidal" the leasing of its lands without the Agrarian Attorney's office to comply with its obligation to assess the coop members. The contract of leasing mentions persons that do not appear in the National Agrarian Registration. This means that the company legally lacks the title of the property it wishes to exploit.

State, municipal and local laws

a) Article 7º of the Environmental Law of the state of San Luis Potosi published in the "Periodico Oficial" of December 15, 1999, establishes the attributions of the Executive in environmental matter. These attributions do not include the faculty to offer floor use licenses in a specific area or region. The executive power was exceeded in its functions when it offered and gave such permission in May, 2000.

b) Article 15º of the Constitution of the State of San Luis Potosi establishes the right of the inhabitants to enjoy a healthy environment with the obligation of the municipal and state governments "to conserve, to protect and to improve the natural resources of the state (or entity) as well as to prevent and to fight environmental pollution.

Know more about the problematic and participate actively in defense of the patrimony that is of us all. Come to the III Cultural Festival de Cerro de San Pedro that will be in March 6 and 7.

Patronato Pro-Defensa del Patrimonio Cultural e Histórico de Cerro de San Pedro, A.C.

Colectivo Azul

De lirio Azul

Asociación de vecinos de Cerro de San Pedro

Educación y Defensa Ambiental, A.C.

Pro San Luis Ecológico A.C.

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ANNEX C.

San Luis Potosí, 20 de enero del 2005

CP MARCELO DE LOS SANTOS FRAGA GOBERNADOR CONSTITUCIONAL DEL ESTADO DE SAN LUIS POTOSÍ PRESENTE.

De nueva cuenta nos presentamos ante el Poder Ejecutivo del Estado que Usted representa para denunciar a la empresa canadiense Minera San Xavier quien desde hace 10 años viene violentando el estado de derecho en el Estado de San Luis Potosí, sin embargo la respuesta que hemos tenido por parte suya desde que asumió la gubernatura de la entidad ha sido de total apoyo a la instalación y explotación del mineral en el municipio de Cerro de San Pedro, sin importarle los impactos ambientales a los que será sometido el Valle de San Luis Potosí, el daño al patrimonio histórico y cultural del estado que gobierna, así como la violación sistematizada a los preceptos legales que han cometido desde 1995 al tratar de engañar a las autoridades agrarias e inventar supuestos ejidatarios para hacerse de manera por demás ilegal de los terrenos donde pretenden llevar a cabo su devastador proyecto, así mismo cometiendo desacatos judiciales que les prohíben continuar con sus trabajos al desconocerles los permisos ambientales con los que contaban, esto por atender con la flora y la fauna de la zona, los mantos freáticos que abastecen en gran medida a los municipios de Cerro de San Pedro, Soledad y San Luis Potosí, teniendo como base el decreto de SEPTIEMBRE DE 1993 que protege esta zona contra cualquier tipo de agresión. Al mismo tiempo la SEDENA canceló los permisos de uso de explosivos al darse cuenta del descontento social provocado por la emisión de los mismos, y por ultimo el INAH interpone hace unos días demanda

penal contra los directivos de esta trasnacional al percatarse de la destrucción de la Finca Guadalupe, que estaba en pie desde el siglo XVIII y que fue derrumbada por ordenes de Minera San Xavier sin explicación alguna, dando un duro golpe al patrimonio histórico de la nación.

En resumen es inaceptable que el Gobierno del Estado continúe haciendo oídos sordos a los reclamos de la sociedad civil que día a día se inconforma cada vez mas contra la permanencia de Minera San Xavier en la zona poniendo como pretexto que el conflicto “es un asunto entre particulares”.

¿Es un asunto entre particulares el agua potable de los potosinos, es un asunto entre particulares el patrimonio histórico de la Nación que esta devastando hoy en día Minera San Xavier, es un asunto entre particulares el hecho de que un grupo de extranjeros estén cercando los caminos aledaños a Cerro de San Pedro impidiendo el paso a los habitantes del Estado, es un asunto entre particulares la violación al Estado de Derecho?

Señor Gobernador, el conflicto generado por Minera San Xavier en el valle de San Luis Potosí ha llegado al limite, le exigimos su pronta intervención ya que el continuar haciendo caso omiso a nuestros planteamientos no coadyuvara en ningún sentido a la solución del conflicto.

Existen diversas indagatorias judiciales contra integrantes de la Minera San Xavier ante la Procuraduría de Justicia. Exigimos perfeccionamiento y consignación.

La Minera San Xavier interpuso un amparo contra el Decreto de Septiembre de 1993, que defino el carácter de zona protegida, preservación y restauración de la vida Silvestre en Cerro de San Pedro. La autoridad responsable es usted Marcelo de los Santos Fraga y casi le podemos asegurar que se trata de un plan concertado, un objetivo común de la trasnacional con Usted. Defina públicamente cual será su posición en dicho juicio.

La MSX se va a ir de San Pedro, de San Luis y de México. La Minera demandara seguramente ante el Panel de controversias del TLC al Gobierno de México, al Gobierno del Estado y al del Municipio de San Pedro. Sus acciones y omisiones traicionan a la patria. En ese litigio el Frente Amplio Opositor se declarara coadyuvante de México, e inclusive estamos generando información y documentación ante la instancia internacional, sobre el desarrollo de los acontecimientos, haciendo hincapié desde luego en los fallos jurisdiccionales, los acuerdos administrativos de INAH y SEDENA y las denuncias de carácter penal contra los integrantes de la delictuosa MSX. Se debe iniciar la defensa ya, de inmediato. Si no es así usted será el responsable de un fallo contrario a los intereses de la Nación.

Usted tiene la palabra, y le recordamos que esto no es un asunto entre particulares, es mas bien un asunto en el que el futuro de la entidad esta en juego, le toca defender la vida del Valle de San Luis Potosí y nada más. Para eso fue electo Gobernador de San Luis Potosí.

ATENTAMENTE

FAO FRENTE AMPLIO OPOSITOR A LA MINERA SAN XAVIER

ANNEX D

This message is forwarded to you by the editors of the Chiapas95 newslists. To contact the editors or to submit material for posting send to: <chiapas-i@eco.utexas.edu>.

----- Forwarded message -----

Date: Mon, 12 Apr 2004 22:33:10 -0500 (CDT)

From: fzln <fzln@fzln.org.mx>

To: chiapas@eco.utexas.edu

Subject: Es;FZLN News Summary,Solicitud de firmas por Cerro de San Pedro

Cuando lleguen a ser cerca de 200 personas por favor envíen un correo a: mynos2001@hotmail.com _____

Buenas Tardes, Buenas Noches, Buenos días. (SI ESTAS DE ACUERDO, FIRMA LA SIGUIENTE CARTA Y MANDALA A TUS DIRECCIO'NES. SAN PEDRO ESTA A PUNTO DE DESAPARECER. NO LO PERMITAS. ESTA MISIVA LA HAREMOS LLEGAR A SU DESTINATARIO, PON TU NOMBRE AL FINAL Y MANDALA A MAS DIRECCIO'NES)

San Luis Potosí, marzo del 2004

CP. MARCELO DE LOS SANTOS FRAGA

GOBERNADOR CONSTITUCIONAL DE SAN LUIS POTOSI, MÉXICO.
PRESENTE

Señor Gobernador:

Los abajo firmantes, queremos expresarle a Ud. nuestro criterio en relación a los acontecimientos relacionados con la instalación de la compañía extranjera minera San Xavier en la población de Cerro de San Pedro, San Luis Potosí, origen centenario del Estado que Ud. gobierna.

Declaramos que no estamos de acuerdo con la postura que actualmente tiene el Gobierno del Estado sobre el inicio de la explotación minera en la zona por parte de la compañía de origen norteamericano y canadiense, San Xavier, la cual en mas de 7 años solo se ha dedicado a violar sistemáticamente las leyes que nos rigen para poder instalarse como dueños y señores de esas tierras, además de no cumplir siquiera con los compromisos que ellos firmaron, donde aseguraban que no habría deterioro ambiental, ni contaminación de nuestros mantos freáticos, y que además respetarían la decisión ultima de los pobladores (todos) de San Pedro, cosa que nunca se ha dado. Al contrario de lo que ellos pensaban, los habitantes de la cabecera municipal, los que ahí viven, tienen determinado, así lo han dicho, no abandonar sus hogares, aduciendo el amor a las raíces y a la cultura de la que son poseedores.

Esto es muestra de que el descontento social sobre el proyecto minero es real, y que por lo tanto no puede ni debe darse autorización alguna a la empresa minera San Xavier para explotar el mineral, ya que esto, todos lo sabemos, significaría un deterioro ambiental de graves consecuencias, además de que el trazo urbano original del poblado, el cual data de 1412 y las fincas que aun están en pie, desaparecerán en cuestión de semanas, víctimas de las detonaciones que diariamente efectuaran, en donde toneladas de explosivos volaran en pedazos nuestro querido Cerro de San Pedro. El mismo cerro donde se albergan infinidad de especies tanto de fauna como flora, amenazado con desaparecer y convertirse en "El Cráter de San Pedro".

Para nosotros es de más valor el respeto a nuestro Patrimonio Histórico y Cultural, que incluso viene representado en el Escudo de Armas de la ciudad Capital, y por extensión al escudo de nuestro querido Estado Potosino. Existen actualmente otros proyectos, los cuales nada tienen que ver con la deforestación de la naturaleza, ni tampoco con la destrucción de nuestro patrimonio Histórico, realizados por diferentes organismos a lo largo de muchos años, San Pedro se niega a desaparecer.

Por lo tanto:

No aceptamos ni aceptaremos la instalación de esta compañía minera San Xavier, ya que lo que representa Cerro de San Pedro, es superior al oro y plata que puedan extraer de sus entrañas, además de estar en contra de la contaminación que representa para los potosinos.

Apoyamos al Pueblo y Autoridades de Cerro de San Pedro en esta lucha. No están solos.

Hoy decimos todos:

NO A LA MINERA SAN XAVIER.

SI A CERRO DE SAN PEDRO.

¿Y usted Señor Gobernador, lo va a permitir?
La sociedad civil esta observándolo.

Muchas gracias.

ATENTAMENTE. 1.-MARTA SIERRA CONTRERAS/ Barrio de San Miguelito, SLP/ Me'xico. 2.-Gloria Rivera/ Potosina en Chicago, Ills. /USA 3.-Joel Rami'rez/ Jacarandas/ SLP 4.-Alejandro Nava/Centro Histo'rico/ SLP 5.-Guillermo Vega/ Centro Histo'rico/ SLP 6.-Enrique Rivera/ San Miguelito/ SLP 7.-Gerardo Lo'pez/ San Luis Potosi' 8.-Rosalba Herna'ndez Pe'rez/ San Luis Potosi' 9.-Gabriela Salazar Barro'n/San Luis Potosi' 10.- Tonantzin Mendoza Rocha/ Cerro de San Pedro 11- Alicia Beatri'z Cruz Camarena por el FZLN-SLP

La informacio'n contenida en esta lista es generada por fuentes propias o tomada de otros medios informativos y no refleja, necesariamente, la posicio'n oficial del Frente Zapatista de Liberacio'n Nacional. Todas las opiniones vertidas son responsabilidad de sus autores a no ser que se especifique lo contrario. Visita las pa'ginas del Frente Zapatista de Liberacio'n Nacional: www.fzln.org.mx (espa~ol) <http://www.ezln.org/fzln/index.html> (english)

<http://www.angelfire.com/ak4/FZLN> (portugue's) Site Arquivo EZLN-BR:<http://www.chiapas.hpg.com.br> Si quieres recibir por e-mail los comunicados del EZLN en portugue's solici'talos a: ezequielrn@osite.com.br Instrucciones para iniciar o terminar una suscripcio'n a la lista: <http://www.laneta.apc.org/mailman/listinfo/fzln-l> Respuesta a algunas preguntas frecuentes las puedes encontrar en: <http://www.fzln.org.mx/modules.php?opmodload&nameNews&filearticle&sid203>

MIMETITE: What we saw near San Luis Potosi would absolutely take your breath away: specimens of a type that I have never seen for sale--blood-red mimetite in balls (some as large as marbles) on matrix. We found these at a little gold camp called [Cerro de] San Pedro [perhaps 20 kilometers east of the city of San Luis Potosi]. When Mary Lou (who spoke fluent Spanish, was a permanent resident of Mexico, and knew the ways of the miners) went on a buying trip, she would go to the bar or restaurant in the hotel of whatever town she was in, tell the bartender or waiter to tell the men who were supposed to be at work in the mines, but weren't, that she was there and ready to do business. And then she simply would wait. If no one showed up after awhile, she would move on. Well, we sat there for an hour or so, until this guy showed up and began a long conversation with Mary Lou. After some time she told us this was the man who had all the "good stuff." He had a sizeable lot, but he would only sell it as a lot, and he wanted \$200 (he might as well have said \$2 million). He would not allow us to select only one or two pieces. She said that it was at least worth looking at. We walked on and on, down these little alleyways until we finally got to an old wooden door with a big lock on it. He unlocked the door and opened it, and we saw the entire floor (about 10 x 12 feet) completely covered with the most incredible mimetites. They were dark orange to blood-red balls, both individuals and groups on matrix, with no wulfenite. We tried and tried to get the guy to sell us just a few pieces, but he would not. We had essentially no money at all--in fact, we had left home with less than \$100.