



The Marlin Mine and the World Bank

Introduction

The Marlin project is a gold mine located in the municipalities of San Miguel Ixtahuacán and Sipacapa, in the department of San Marcos, in the highlands of western Guatemala. The mine is operated by Montana Exploradora de Guatemala, a subsidiary of the Canadian company Goldcorp Inc.¹ Before mine construction began, the transnational company received a \$45 million USD loan from the International Finance Corporation (IFC), a branch of the World Bank (WB), becoming the first extractive company to receive a loan since the World Bank's Extractive Industry Review (EIR) in 2003.

In response to the irrefutable negative impacts of different extractive industry projects, as well as the persistent work of organizations in civil society, the World Bank decided in 2000 to carry out an independent investigation into the role of the World Bank in oil, gas and mineral projects. The EIR was realized between 2001 and 2003 and included participation from government, representatives from industry, union organizers and other organizations from five continents. The principal objectives were to document the impacts of extractive industry projects and to evaluate how investments from institutions of the World Bank could contribute to poverty alleviation and sustainable development. At the end of the report, various strategies were proposed which would assist in better reaching these goals.²

The conclusion of the EIR is that if the World Bank seeks to comply with its mandate of poverty alleviation, they should not support the extractive sectors unless they comply with a set of minimum standards, including: governance directed to poverty alleviation through sustainable development, more effective social and environmental policies, consent from Indigenous peoples and local communities, and a firm respect for all aspects of human rights.³ The fact that the IFC granted a loan to the transnational company operating the Marlin mine, one assumes that the project is thus compliant with the standards outlined in the EIR.

Implementation of the Management Response to Extractive Industries Review

As described in the EIR, the institutions of the World Bank must write an annual review that presents the principle successes in the extractive industries over the year, as well as a summary of the development impacts of various projects supported by the World Bank according to the recommendations of the EIR. A few weeks ago, we, the Pastoral Commission for Peace and Ecology (COPAE), received the second

¹ Since it was discovered, the Marlin Mine has been the property of various Canadian companies. Francisco Gold, the first owner, was acquired by Glamis Gold in 2002, which was then acquired by Goldcorp Inc in 2006. Since the purchase of Glamis Gold, Goldcorp has become the third largest gold producer in the world, and, in the company's words "the lowest cost producer of gold in the world.

² The \$45 million loan to the Marlin project was approved in June of 2004 by the IFC. The IFC also gave a \$89,000 grant to a forestry project proposed by the Sierra Madre Foundation, which was created by Montana Exploradora de Guatemala, SA. Source: CAO, Assesment of a complaint submitted to the CAO in relation to the Marlin Mining Proyect in Guatemala, <http://www.cao-ombudsman.org/pdfs/CAO-Marlin-assessment-English-7Sep05.pdf>

³ The entire EIR document is accessible from the website of the World Bank: <http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTOGMC/0,,contentMDK:20306686~menuPK:592071~pagePK:148956~piPK:216618~theSitePK:336930,00.html>



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Implementation of the Management Response to Extractive Industries Review, which relates specifically to the mineral exploitation that is taking place in the department of San Marcos.

Unfortunately, the report's Marlin mine summary shows the low level of willingness by the World Bank to carefully examine the projects in which they are involved. We are worried about the numerous errors in the document, which lead to the false conclusion that the people living in the areas surrounding the mine have benefited substantially since the beginning of mining operations. Confronted with this situation, and with the knowledge of people's lives in the communities near the Marlin mine, we see the necessity to bring to light the content of the report, as well as our own judgments of its conclusions.

Below are the paragraphs relating to the Marlin project, as they appear in pages 41 and 42 of the Implementation of the Management Response to Extractive Industries Review. The entire document is downloadable from <http://siteresources.worldbank.org/INTOGMC/Resources/implementationtomr2.pdf>

8. Marlin Gold Mine -- Guatemala

Background: *The Marlin gold mine development was the first new mining investment in Guatemala following a change in government policy designed to attract new exploration and mining investment. It follows on from a long period of civil unrest/war that led to many deaths in the country and to significant numbers of the population being uprooted. The mine is located in a remote, poor part of the country that is peopled by Indigenous Peoples who had moved there relatively recently.*

Development Impacts: The mine is having a positive impact on the local population. It has created over 1,000 employment opportunities, 70% of which have been filled by the local population. In 2005, it paid about \$9 million in wages to Guatemalans, including \$4 million to local indigenous people, and spent over \$6.2 million on goods and services in San Miguel and Sipacapa, the two municipalities where the mine is located. The company has spent more than \$2.6 million on social programs to date, and initiated Foundation Sierra Madre to provide basic health services to more than 6,000 people in local communities. School enrollment has increased by up to 50 percent in some communities since 2002. The mine has also provided vocational and technical training to about 600 of its employees. With the company's help, an independent, community-based environmental monitoring association has been formed and trained. In 2005, Marlin paid close to \$7 million in taxes and royalties, and is set to become one of the country's largest income taxpayers following the facilitation of a tax agreement.

Whereas the Marlin project enjoyed widespread local support at the time of approval by IFC's Board, opposition gathered in the municipality of Sipacapa near the mine in 2004-05, where a number of stakeholders, including local and international NGOs and religious organizations, have been active. The situation has calmed down considerably this year as the company and its foundation continue their social and community development programs. Roads to the mine, however, have been blocked several times by individuals seeking jobs at the mine, and the reform of the mining law remains a key subject of national debate.

One particular issue that has been addressed recently concerns that of taxation. Under general purpose legislation in Guatemala that was made available to all export industries, the company had been granted an exemption from income taxation until January 2008. To allay concerns in this respect, the WBG, at the request of the company and the government, facilitated an agreement whereby the company began paying income tax



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as of July 1, 2006. The company has now become one of the largest income tax payers in the country. In the tax agreement, the government agreed to work with the Guatemalan Congress to use the increased tax revenues: (i) to improve local municipal capacity to utilize effectively the mining royalties it is receiving, (ii) for additional infrastructure and social spending in San Marcos department where the mine is located, and (iii) to improve the capacity of the Environmental and Mining ministries to regulate the sector.

Challenges: Despite substantial benefits from the mine in a poor remote area, there has been some unhappiness by some people in parts of the local communities about the mine whose concerns have been strongly taken up by some national and international NGOs. The mine has also become a focus for debate about the government's policy towards mining in Guatemala more generally. One result has been some protests against the mine and threats of violence. Although the situation must be regarded as sensitive, it could now be that the concerns of some in nearby communities are being allayed by the strong efforts the mine is making to generate benefits that are valued by local people beyond the jobs and demand for local businesses it supports. In addition, it has recently an agreement with the government that should see more tax revenues coming to the local region. To an extent, conflict about the mine may, at least, partially, be the result of different nearby communities benefiting differentially from its development.

Note: Following its recent acquisition by another gold mining company, IFC's loan to the sponsor of the Marlin mine was repaid. IFC, however, will continue to remain engaged for the immediate future in the community monitoring program.

In the following paragraphs, we question the precision of certain data and figures as they appear in the Implementation of the Management Response to Extractive Industries Review. Our information is based on information from local leaders and people that live in communities near the mine, as well as in reports and documents circulated by the mining company. In addition, we wish to bring forward a number of important themes that are not included in the report.

1. The generation of employment and the situation of workers

There is an overestimation in the document regarding the creation of jobs. During the construction phase, which lasted one year, the Marlin mine required approximately 1000 workers, most of whom came from regions near the project. However, during the exploitation phase, which is expected to last 10 years, it is estimated that only 300 employees are needed. This data comes from a presentation of the Marlin project created by Montana itself in 2004.⁴ In addition, the summary of the Environmental Impact Assessment (EIA) as shown on the IFC website mentions that Montana would employ between 125 and 150 local workers, of whom only 45 would be fixed contract/salaried workers.⁵

Local workers are paid the smallest salaries by the company and have the lowest level jobs, particularly in the service sectors. They are employed as truck drivers, cooks in the company cafeterias, or as road workers. Their salaries are generally between 2000 and 2500 Quetzales per month (\$260 - \$325), which are much lower than the salaries received by their counterparts in Canada, the United States, or Australia.

⁴ Montana Exploradora de Guatemala, S.A., Informe de Cumplimiento del Convenio 169 del la OIT, Proyecto Minero Marlin I.

⁵ Environmental Impact Assessment (EIA) Summary, from the website:

<http://www.ifc.org/ifcext/spiwebsite1.nsf/2bc34f011b50ff6e85256a550073ff1c/60b8beb20d6bdc7285256e610054690a?opendocument>



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The reduction of jobs available at the mine for people living in surrounding areas has created tension and disillusion, since the company initially promised full employment. This promise was one of the reasons that the local population agreed to sell their land. Today, the situation for these communities has become very complicated, because many people are without land to cultivate and out of work.

In addition, the report does not mention anything about the working conditions for mine employees. We consider it particularly worrying that union organizing for workers at the mine is essentially prohibited, which tells us something about the level of transparency and good faith of the company.

2. The community benefits

The document mentions that the mining company spent \$6.2 million dollars in 2005 on goods and services in the municipalities of San Miguel Ixtahuacán and Sipacapa, both villages with majority indigenous populations. What the document fails to mention, however, is that the municipal council of Sipacapa has not accepted any funds from the mining company or its Sierra Madre Foundation. As the World Bank is aware, the citizens of Sipacapa rejected all mining activity in their territory during the community consultation on June 18, 2005. This rejection of mining activities was reaffirmed a few days after the referendum, when the mayor of Sipacapa signed a municipal agreement prohibiting metal mining in the municipality.

The mining company continues to try and buy off leaders in Sipacapa through various projects. Because of the poverty in the region and the lack of attention from the central government, some communities near the mine have accepted the construction of auxiliary municipal buildings by the mining company, as well as teachers paid by the company in schools. A survey of the different communities in Sipacapa shows that the amount that the company has spent in the municipality is not more than 1.5 million Quetzales, or approximately US\$ 200,000.

We can conclude that the mining company has spent most of the supposed \$6.2 million in San Miguel Ixtahuacán. If this figure was legitimate, we would expect to see significant changes in the infrastructure and the economy of the municipality, but the reality is otherwise, as the only change that the project has provoked is inflation in the cost of living.

3. Regarding environmental monitoring and the Association of Environmental Monitoring

The document mentions that there is an independent association for environmental monitoring that is based in the communities. What the document doesn't clarify, however, is that the organization known as AMAC (Community Environmental Monitoring Association) was created and formed by the employees of the mining company, which is to say by the company itself! As a consequence this organization is not impartial in the complicated and fundamental activities of environmental monitoring. In addition, the people who worked previously with AMAC have indicated that their only responsibility was taking water samples, which they later gave to employees of Montana Exploradora. The analysis of the water samples is paid for by the mining company and takes place in laboratories located in Canada.



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Nevertheless, it cannot be denied that one of the biggest worries of the local population is the possible effects on the natural environment. It is a legitimate worry, as various studies show, including a study realized by the Compliance Advisor Ombudsman (an evaluation body of the IFC), that the most significant risk of the Marlin project is environmental contamination.⁶ Contamination of water and water shortages are the most worrying for the communities. In addition, it is worth mentioning that Montana Exploradora has refused initiatives to test water together with professional and impartial scientists, thereby preventing a more transparent and legitimate process.

4. With regards to the supposed decrease in tension

We want to clarify that the tension that was mentioned in the report was provoked by the irresponsible conduct of Montana Exploradora de Guatemala, and the instances of problems in the communities have continued since the construction of the Marlin project began. In 2004, a group of women in the community of Salem blocked one of the company trucks, after the company's machinery wrecked the water main that serves the communities, resulting in the fact that women and children had to search out water in streams far from their homes. The first work stoppage within the mine was in 2006, when the workers presented 16 petitions to the management of Montana Exploradora de Guatemala. Among their demands were: better salaries, concern for their occupational health, and that discrimination against Indigenous employees by some higher levels of management be stopped.

The incidents that took place in January 2007 are illustrative of the persistence of tension. During a period of almost two weeks, 400 Indigenous families from different communities near the mine obstructed the entryways to the mine. The people took action using these means because the company failed to take their demands into account:

- Repair the cracks in houses near to the mine, which were caused by the explosions during pit blasting
- Pay the people in the area an additional sum of money with respect to the quantity of gold encountered (a verbal promise made by the company when they were purchasing land)
- Install an independent lab to monitor water quality (since there are scientific studies that already demonstrate the contamination of the Tzálá river)

The tension lowered a little after the Human Rights Ombudsman (PDH) accepted the role of mediator in the conflict. The people decided to unblock the roads because the company promised to open up a dialogue and take their concerns into account. Montana Exploradora still has not fulfilled this promise, which has provoked another problematic situation in the region and allows for the possible resurgence of the conflict.

In summary we feel that the statement in the document indicating that the tension around the mine has lowered considerably over the last year is unfounded.

⁶ The annex of the evaluation of the Marlin project by the CAO mentions the following potential impacts of the mine: cyanide discharge from the tailings storage facilities (TSF), accidental cyanide spills during transport or from the tank, acid mine drainage, sedimentation, other contamination (arsenic, ammonia, nitrates) from TSF discharge, and the possibility of failure in the tailings dam. Source: CAO, *Assessment of a complaint submitted to the CAO in relation to the Marlin Mining Project in Guatemala*, <http://www.cao-ombudsman.org/pdfs/CAO-Marlin-assessmentanexes-English-7Sept-05.pdf>



5. With regard to the involvement of national and international organizations

The document notes that mining activities in the area were accepted until the activation of “local and international NGOs.” In addition, it was noted that the worries and discontent of the population “was caused by a few international and local NGOs,” thereby suggesting that it is not an informed population that is rejecting mining, but only a few non governmental organizations. It is our opinion that this demonstrates a lack of respect for the opinions and the legitimate concerns of community members. Indigenous people have the right to be consulted and their opinions must be taken into account. This right is recognized in various laws and conventions, both nationally and internationally.⁷ The worries and concerns of the people should be respected and taken seriously, by the company, the state of Guatemala and the international community, in which the World Bank plays an important role. This necessary respect for the legitimate concerns of the population is missing from the report.

6. Concerning the taxes paid by the mining company

The document correctly mentions the agreement signed last year between Montana Exploradora de Guatemala and the government concerning payment of the income taxes (ISR) by the company. Before this agreement was signed, the company was exonerated from paying various taxes, through their qualification under decree 29-89 (the “Drawback” Law, also known as the Law of Maquilas). During the year 2007, Montana will pay approximately \$8.5 million in ISR on the projected profits of \$120 million. The document does not mention that the company will retain their exemptions from paying the Value Added Tax (IVA) on imports and custom tariffs. Both are taxes that every citizen of Guatemala is required to pay.

It concerns us that an institution of the World Bank turned a blind eye to the fact that companies like Goldcorp Inc, who avoid paying taxes through legal loopholes, while at the same time the World Bank has recommended that the payments to Guatemala should be higher and should be collected more efficiently as a necessary element that will permit Guatemala to end underdevelopment.

Final Comments

The inaccuracies mentioned above lead us to believe that the World Bank does not understand the situation around the Marlin mine very well. In addition, the publication of this document largely ignores the legitimate social and environmental preoccupations not only of national and international NGOs working for the wellbeing of Guatemalans, but also of the men and women whose lives are directly affected by the intrusion of a mining company in their territory. Publications like this, unfortunately, lead us to suspect that there was no independent investigation during its preparation, but that the World Bank simply accepted the information provided by the mining company who received the loan from the IFC.

⁷ As evidenced in article 65 and 66 of the municipal code of Guatemala, and article 15 of Convention 169 of the International Labor Organization, signed by Guatemala in 1996 and ratified in 1997.



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Jean Ziegler, the UN Special Rapporteur on the Right to Food, expressed serious concerns relation to mining exploitation in Indigenous territories. In his report, the Rapporteur evidences state repression against peaceful protests as well as a lack of dialogue with affected communities: “Demonstrations against exclusionary development are often met with violent repression that can amount to violations of the right to food. [...] The army and police were also used against indigenous populations during a blockade of trailers carrying milling cylinders for Glamis Gold’s Marlin mine in the western department of San Marcos, and led to the killing of Raul Castro Bocel and Miguel Tzorín Tuy on 11 January 2005. Indigenous communities allege that the Government granted a mining licence to the corporation for the exploitation of a gold mine on their land without seeking their free and informed consent, and are concerned that their right to water and right to food will be violated by the open-pit cyanide leaching process of the gold mining that will poison drinking and irrigation water.”⁸

Similarly, the UN’s Special Rapporteur on human rights and fundamental freedoms of Indigenous peoples, **Rodolfo Stavenhagen**, noted “The exploitation of subsurface natural resources from has affected Indigenous peoples in a discriminately high manner. Gold extraction in San Miguel Ixtahuacán and Sipakapa, Guatemala; and other projects in other countries [...] has left devastating effects for Indigenous peoples, who have seen the destruction of their traditional territories as a consequence of highly contaminating technologies and the lack of consideration for the environmental rights of local communities.”⁹

We consider that although the loan to the IFC has been repaid, the World Bank still has a responsibility in the current situation, since the mining company initially established itself in Guatemala thanks to the backing of the IFC. Given all of the aforementioned points, we request that the World Bank:

- Not negate or reduce voices of those who are critical of investments in the extractive industries, as is the case at the Marlin mine;
- Publicly rectify and expand the report;
- Cite clearly the information sources for the report;
- Publish the exact quantity of earnings for the IFC derived from the loan to the Marlin project;
- Carry out an independent investigation into the social, economic, cultural and environmental effects of the Marlin mine for community members in the municipalities where mineral exploitation is taking place.

**Pastoral Commission Peace and Ecology – COPAE – San Marcos Diocese
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⁸ Jean Ziegler, Report of the Special Rapporteur on the right to food, (2006. 18th of January), pages 23 and 24.

⁹ Rodolfo Stavenhagen, Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples, (2007. 27th February), page 14.