MiningWatch Canada
Mines Alerte

Newsletter

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Contents:

Editorial Note: Apologies for the Hiatus

You may have noticed that it's been over a year since our last "quarterly" newsletter. I suppose it's a sign of becoming a victim of our own success. Between some very high-profile campaigns such as bringing the Red Chris mine environmental assessment case all the way to the Supreme Court or the struggle to rein in the excesses of Canadian transnational mining companies through Bill C-300, and some more behind-the-scenes work such as transferring our web site to a new content management system or completing a groundbreaking study of the human rights impacts of Canadian mining investment in Colombia, commissioned by Inter Pares, the pace of work here for your loyal MiningWatch team has been intense.

Newsletter production has suffered, and for that we apologise. You may have kept up with our activity through the news or on our web site, but this newsletter is our way of talking directly to you, and you deserve to be informed of our activities. At the beginning of a new year and a new decade this is as important as ever to us, and, we hope, to you.

– Jamie Kneen

Left to right: Jaime Mejía (former Prefect of the Province of Morona Santiago), Pepe Acocha (President, Interprovincial Federation of Shuar Centres, FICSH), and Raúl Petsain (President, Shuar Arutam People) at the "Mining on the Borders" conference in Macas, Ecuador, July 6, 2009. J. Kneen photo.

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MiningWatch Celebrates Ten Years of Making the Connections

MiningWatch Canada celebrated ten years of making the mining industry account for the true costs of its activities with an energizing social event on April 24, 2009. Supporters, partners, and allies joined current and former staff and directors to reflect and toast ten years of groundbreaking research and radical analysis, and to renew our collective commitment to end irresponsible mining practices and policies that sacrifice people and ecosystems in the quest for greater profits.

While this objective might not seem any closer than it did ten years ago, in reality there is a greater level of awareness among both "decision-makers" and the public, much better access to critical information, and a level of activity and sharing of experience and knowledge – across the country and internationally – that we could barely have imagined in 1999.

MiningWatch Intervenes in Federal Environmental Assessment of Controversial "Prosperity" Project

In February, an independent committee awarded MiningWatch $37,200 to participate in the environmental assessment of Taseko Mines' proposed Prosperity Gold and Copper Mine. The project area is 125 km south west of Williams Lake BC and within the traditional territory of the Xeni Gwet'in, members of the Tsilhqot'in National Government (TNG).

MiningWatch was encouraged to become involved in the EA by the Xeni Gwet'in and TNG and in the fall of 2008 Canada Program Coordinator, Ramsey Hart met with community leaders and the TNG Mining Coordinator and visited the proposed project area.

One of the main sources of controversy is the proposed draining of Teztan Biny (Fish Lake) to make way for the open pit, a waste rock disposal area and ore storage. The lake has cultural significance to the Xeni Gwet'in. The proponent's Environmental Impact Statement states that the lake and area around the lake has been in continual use for 7,500 years. Most of the 79 sites identified during an archaeological inventory are along the lakeshore and show uses such as "hunting, fishing, plant gathering and processing". The lake is home to an abundant trout population and is in a remarkably scenic location. Destruction of the lake will require a regulatory amendment to add it to Schedule 2 of the Metal Mining Effluent Regulations under the Fisheries Act.

Unsatisfied with the consultation and accommodation that has occurred during the planning stages of the project, the Xeni Gwet'in and TNG are undertaking legal action to have their right to fish respected by BC law.

One aspect of MiningWatch's contribution to the EA was to critique the EIS's findings that the project will have no significant effects on the fishery and will actually result in a net improvement through the habitat compensation plan. This work was undertaken in collaboration with fisheries biologist David Levy, who previously worked with MiningWatch on the Kemess North mine environmental assessment. To compensate for lost fish habitat, Taseko is proposing to construct a reservoir upstream of the pit and tailings impoundment. Due to the physical configuration of the reservoir, Dr. Levy has concluded it would have to be four to five times larger than planned to provide adequate compensation. Of course, even if this were possible it would only address the technical replacement of fish habitat and would not do anything to address the irreparable loss of cultural values associated with Teztan Biny.

The other main component of our contribution to the assessment has been to critique the proponent's socio-economic evaluation of the projects and the predicted benefits for surrounding region of Williams Lake and the province. Former National Director Joan Kuyek worked with MiningWatch staff to complete the socio-economic review.

Visit the MiningWatch web site for more on this project and to read our submissions to the EA Panel.

Ontario's New Mining Act Leaves Gaping Holes

Extensive revisions to Ontario's Mining Act were approved by Queen's Park on October 21, 2009, and received royal assent a week later. The new Act follows commitments made by Premier McGuinty to "modernize" the Act and strike a balance between the diverse interests that are affected by and involved in the sector. Though another round of consultations took place as part of the legislative process while the bill was under Committee review, few substantive changes have been made since the bill was introduced in the spring. Response to the Act has been mixed.

At least from appearances, an important change in the Act is the addition of wording around Aboriginal consultation, including it within the purpose statement of the Act and throughout various sections. Though touted as a major advancement by the government, several individual First Nations and regional First Nations organizations have commented that a vague requirement for "consultation" is not adequate and that the province needs to institutionalize Free, Prior, and Informed Consent for affected First Nations. In other words, if consultation is to be meaningful then communities must have the right to say no to projects they determine are not in their interest. There is nothing in the new Act that requires consent or recognizes First Nations' right to say 'no', though most of the details on consultation requirements are being left to the development of the regulations under the Act. Another concern regarding Aboriginal consultation is the fact that the bill passes responsibility for consultation on to mining companies when it is the legal duty of the government to engage in consultation.

The act addresses concerns over the "Free Entry" system by requiring the submission of exploration plans and requests for exploration permits. The requirement for exploration permits was one of MiningWatch's core demands for the new bill and we are pleased to see this included. It is not, however, at all clear what will be involved in the permitting process. Some

vague direction is provided but, as with Aboriginal consultation, the details are being left to the development of regulations.

We have enquired how regulations are going to be developed and have been promised that there will be additional public consultations to provide input on the regulations, but no specifics are available. Given the looseness of the framework created by the new act, and the importance of getting the regulations right, MiningWatch will fully engage with our allies to propose regulations that will effectively address social and environmental concerns.

Other aspects of the Act where MiningWatch recommended changes have not been addressed at all. There is nothing in the new Act to improve financial assurances or the environmental assessment process, or to prevent uranium exploration and mining.

Quebec Coalition Celebrates First Anniversary

As MiningWatch celebrates our 10th anniversary we are pleased to also be celebrating the one year anniversary of Quebec's new voice on the mining industry "La coalition pour que le Québec ait meilleure mine!", roughly translated as "The Coalition to Put a Better Face on Quebec Mining." (There's a *double-entendre* in the name as *mine* means 'appearance' or 'face' as well as 'mine' in French.) MiningWatch is an active member providing our input, analysis and a small partner support grant to the Coalition.

The Coalition has a strong and diverse membership from academic and NGO spheres. Members include organisations that operate Canada-wide and others that are focused in Quebec as well as a number of regional and local groups. (See sidebar.)

In the last year the coalition has taken on a number of issues, some in reaction to emerging concerns, and some in a proactive approach to improving the environmental and social performance of the mining industry in what the Fraser Institute considers the world's friendliest mining jurisdiction.

Highlights of the coalitions first year have included:

- Responding to a tailings spill at the closed Opemiska mine and using the incident to raise awareness about abandoned mines, and the need to reform Quebec's inadequate mine closure policies.
- Undertaking a review of the Quebec Mining Act and developing a slate of legislative reforms for a new and improved act. The work of Ecojustice and CIELAP in bringing together NGO concerns and proposals for a new Ontario Mining Act (with MiningWatch's help) served as a solid foundation for this project.
- Ongoing review and commentary on the environmental impact statement for Osisko's proposed low-grade open pit gold mine. This mine would require relocating a large portion of the town of Malartic and produce more wastes than all other operating gold mines in Quebec. It represents an alarming shift in mineral development practices in Quebec.
- Working with numerous regional and local groups calling for a halt to uranium exploration in Quebec. Significant gains have been made on this issue as the Parti Québecois and Québec Solidaire have both called for a moratorium and the town of Sept-Îles has seen significant and organised resistance to proposed exploration in close proximity to the source of their drinking water.

Ugo Lapointe is the facilitator for the Coalition and can be reached at: ulapointe_quebecmeilleuremine@ymail.com

Members of the coalition *Pour que le Québec ait meilleure mine!*

- Action boréale Abitibi-Témiscamingue
- Association de protection de l'environnement des Hautes-Laurentides, comité uranium
- Coalition de l'ouest du Québec contre l'exploitation de l'uranium (COQEU)
- Comité vigilance Malartic
- Écojustice
- Forum de l'Institut des sciences de l'environnement de l'UQAM
- MiningWatch Canada
- Mouvement Vert Mauricie
- Nature Québec
- Professionnels de la santé pour la survie mondiale
- Regroupement pour la surveillance du nucléaire
- Réseau québécois des groupes écologistes
- Société pour la nature et les parcs du Canada – SNAP-Québec

Nova Scotia Legislates Uranium Ban – Sort Of.

On November 3, 2009, the Nova Scotia government passed a bill called the *Uranium Exploration and Mining Prohibition Act*. The purpose of the act is to "prohibit exploration for or mining of uranium in order to protect the health and safety of Nova Scotians and the quality of their environment." MiningWatch commends the government of Nova Scotia for taking the initiative to legislate the moratorium that has been government policy since 1981. There is however a disconcerting loophole in the proposed act, and while the act is more permanent than the former policy it is weaker in its prohibitions.

Despite the stated purpose of the act uranium can be mined if it is being done in conjunction with another mineral and the concentration of uranium is below 0.01% (or 100 parts per million). While below the threshold of economic viability at current uranium prices this concentration could represent viable deposit if prices rise or extraction technology improves. This would create the potential for uranium mining so long as another mineral of interest occurred with the uranium as is commonly the case.

The earlier uranium moratorium prevented any further exploration when uranium concentrations above 0.01% were discovered – effectively blocking further disturbance of the area for exploration or extraction. Under the new law this protective measure has been removed. Areas with higher levels of uranium can now be explored and exploited, even if above the threshold of 0.01%. The uranium could not be extracted but would have to be disposed of in waste areas as per yet-to-be-developed regulations of the new Act.

MiningWatch to Examine Quebec Uranium Project

MiningWatch has applied to the Canadian Environmental Assessment Agency for funds to participate in the review of the environmental assessment of Quebec's most advanced uranium project. The Matoush project is located in north-central Quebec near Mistissini, 550 km north of Montreal and within the area covered by the James Bay and Northern Quebec Agreement between the Quebec Cree and the federal and provincial governments.

Strateco Resources Inc. is proposing to construct an exploration ramp to further examine a uranium ore body. Though the current proposal is not for full-scale mining, the environmental assessment guidelines do require the examination of the potential impacts of a mine being developed.

In order to assist with the review of the environmental assessment documents MiningWatch has proposed to sub-contract two highly knowledgeable and experienced individuals: Dr. Gordon Edwards, co-founder of the Canadian Coalition for Nuclear Responsibility and Lorraine Rekmans of the Serpent River First Nation, author of *This is My Homeland*, which documents the impacts of uranium mining on her community.

Private Member's Bill Promotes Industry and Government Accountability

On February 9, 2009, Liberal Member of Parliament John McKay tabled a private member's bill in the House of Commons. Bill C-300, titled *An Act respecting Corporate Accountability for the Activities of Mining, Oil or Gas in Developing Countries*,[1] would codify a number of key recommendations on accountability for Canadian extractive companies operating in developing countries from the March 2007 *Final Report of the Corporate Social Responsibility (CSR) Roundtables*.[2]

Bill C-300 would put in place standards for Canadian extractive companies operating overseas that receive financial or political support from the Canadian government. The "guidelines that articulate corporate accountability standards" must include: the International Finance Corporation Performance Standards, related guidance notes, and Environmental Health and Safety General Guidelines; the Voluntary Principles on Security and Human Rights; "human rights provisions that ensure corporations operate in a manner that is consistent with international human rights standards; and any other standard consistent with international human rights standards."

Bill C-300 would also create a complaints mechanism that would allow members of affected communities abroad, or Canadians, to file complaints against companies that are not living up to those standards. Complaints would be filed with the Ministers of Foreign Affairs and International Trade. If accepted, the complaint would lead to an investigation of a company's compliance with the guidelines and a public report on findings within eight months of receipt of the complaint.

A company that is found to be out of compliance with the standards may become ineligible for government support for as long as it is out of compliance with the guidelines. In particular, Bill C-300 refers to political and financial support that is provided to Canadian extractive companies by Export Development Canada, the Department of Foreign Affairs and International Trade, and the Canada Pension Plan.

While setting standards for Canadian extractive companies operating overseas, Bill C-300 primarily strives to put in place standards for Canadian taxpayer-funded agencies that support these companies financially and politically, to make sure that Canadian tax dollars are not being spent to support companies that have caused severe environmental degradation or abused human rights in their operations overseas.

Bill C-300 narrowly won a vote in the House of Commons on April 22, 2009[3] and is currently being debated in the parliamentary Standing Committee on Foreign Affairs and International Development. These hearings have provided a forum to give voice to a wide range of problems associated with Canadian mining operations in Latin America, Africa and Asia-Pacific, as well as a chance to look at how Bill C-300 would start to address these concerns. At the same time, industry associations, individual mining companies, the Chamber of Commerce, and lawyers who work for the industry have come out strongly against Bill C-300. Additionally, many government bureaucrats (Foreign Affairs, Trade, Canadian International Development Agency, Natural Resources Canada, and the new CSR Counsellor) have all expressed misgivings regarding the Bill. The podcasts of these hearings provide an excellent overview of the issues.[4] The hearings have closed now. Unless an election is called, the Bill will be reviewed and amended by the Committee when the House of Commons starts its new session in March before going back to the full House for a final vote.

MiningWatch Canada strongly supports Bill C-300. We have prepared a Position Statement on Bill C-300 and presented before the Standing Committee on October 8, 2009 – both of these texts are available on our web site. While the Bill has support from the National Democratic Party and the Bloc Québecois, the Conservatives are firmly against the bill and the Liberals are divided. We urge you to take action in support of Bill C-300! We have provided urgent action materials on our web site. During this break in Parliament, write a letter to you MP and express your support for Bill C-300.

Notes:

1. See the full text of Bill C-300 at:
http://www2.parl.gc.ca/HousePublications/Publication.aspx?DocId=3658424&Language=e&Mode=1
2. The *Final Report - National Roundtables on Corporate Social Responsibility (CSR) and the Canadian Extractive Industry in Developing Countries* is available at:
http://www.miningwatch.ca/sites/miningwatch.ca/files/sites/miningwatch/files/RT_Advisory_Group_Report.pdf
3. For the voting record on C-300 see:
http://www2.parl.gc.ca/HouseChamberBusiness/ChamberVoteDetail.aspx?Language=E&Mode=1&Parl=40&Ses=2&FltrParl=40&FltrSes=2&Vote=50
4. For webcasts visit:
http://www2.parl.gc.ca/CommitteeBusiness/CommitteeMeetings.aspx?Cmte=FAAE&Language=E&Mode=1&Parl=40&Ses=2

The Government's New "CSR Counsellor" for the Extractive Sector

In March 2009 the Canadian government finally released its response to the March 2007 Advisory Group Report of the CSR Roundtables.[1]

The government's response, heavily influenced by two years of lobbying by individual mining companies, the Prospectors and Developers Association of Canada and the Chamber of Commerce, was not only two years late but was also thoroughly disappointing to anyone concerned about reducing the sometimes shocking human and ecological cost associated with Canadian mining activities internationally.

Entitled "Building the Canadian Advantage: A Corporate Social Responsibility (CSR) Strategy for the Canadian International Extractive Sector,"[2] the government's response proposes to promote voluntary "guidelines" with Canadian extractive companies operating abroad. In addition to the OECD Guidelines for Multinational Enterprises, which Canada already supports, the guidelines to be promoted by the government are the International Finance Corporation's Performance Standards, the US-UK Voluntary Principles, and the Global Reporting Initiative. The conditions included in the 2007 Advisory Group Report that ensured that Canadian standards for extractive companies operating abroad would reflect international human rights norms and practices was not adopted by the government. Collectively, the voluntary guidelines proposed by the Government of Canada do not reflect, nor do they ensure respect for, all international human rights norms and practices that may be affected by Canadian mining companies operating abroad.

"Building the Canadian Advantage" also omits the accountability mechanism that was at the heart of the 2007 Advisory Group report. It replaces the Ombudsman and Compliance Review Committee that the Advisory Group report had proposed with an "Extractive Sector CSR Counsellor" to "assist stakeholders in the resolution of CSR issues" related to the activities of Canadian extractive sector companies operating abroad.[3] Whereas the Ombudsman and Compliance Review Committee would have independently decided to review any complaint brought before them with respect to the proposed guidelines, the CSR Counsellor's role is merely to "resolve CSR disputes." The Counsellor will only "review" the CSR practices of particular companies with the explicit consent of the company. Regardless of the findings, the Counsellor will not "make binding recommendations or policy or legislative recommendation, create new performance standards, or formally mediate between parties". The Counsellor will prepare an annual report to be tabled in Parliament by the Minister of International Trade.

As the CSR Counsellor is not in a position to recommend sanctions, a key element of the Advisory Group report that provided for government accountability to Canadians has been eliminated – the potential withdrawal of taxpayer-funded financial and/or political support by the government of Canada to companies found to be out of compliance with the standards.

The following summarizes shortcomings of the CSR Counsellor's mandate:

- The CSR Counsellor acts in reference to the voluntary CSR guidelines the government has put in place. These guidelines fall far short in reflecting the full rage of human rights that may be affected by the activities of Canadian mining companies operating overseas.
- The CSR Counsellor may not create new performance guidelines.
- The CSR Counsellor may only "review" the activities of extractive companies with the explicit consent of the company in question.
- The CSR Counsellor has no ability to recommend any form of sanction for companies found to be out of compliance with the voluntary guidelines.
- The CSR Counsellor does not represent a mechanism by which Canadians can hold the Canadian government to account by conditioning government taxpayer funded political and financial support for extractive companies on their compliance with best environmental practices and with international human rights standards.
- The CSR Counsellor has been given the mandate to investigate complaints brought against NGOs by industry. This possibility was discussed, and promoted by the Prospectors and Developers Association of Canada, but not adopted in the 2007 Advisory Group Report. We know of no similar function in any other country.

In addition to these shortcomings, the details of the CSR Counsellor's mandate raise concern about whether the role will be seen to be credible by civil society – and her political independence. For example, the mandate states that in deciding whether to take on a request for a review the Counsellor may consider a range of un-defined issues including: "the nature and seriousness of the issue;" "whether the request was made in good faith;" "the extent to which other redress mechanisms have been exhausted;" and "whether the issue is substantiated."

Additionally, before issuing a public statement based on a review, "the Counsellor shall (…) share the statement with the Minister [of Trade] and the Minister of Natural Resources, as well as the Minister of International Cooperation if, in the view of the Counsellor, the review is relevant to the mandate of the Minister of International Cooperation. The Minister [of Trade] may direct the Counsellor to study other matters related to the Counsellor's mandate and the Counsellor shall report back to the Minister on those matters. The Minister shall determine whether to make public the results of such study."

Notes:

1. See "Groundbreaking Report on Mining, Oil and Gas Companies Released: Civil Society and Industry Representatives Agree on Good Overseas Practices" on our web site at http://www.miningwatch.ca/en/groundbreaking-report-mining-oil-and-gas-companies-released.
2. The full title of the report is *Building the Canadian Advantage: A Corporate Social Responsibility (CSR) Strategy for the Canadian International Extractive Sector*. www.international.gc.ca/trade.../csr-strategy-rse-stategie.aspx
3. The CSR Counsellor, Marketa Evans, was appointed in October. She reports to the Minister of Trade. She will only consider issues brought before her that occurred after October 19, 2009.

The Cordillera del Cóndor – Ecuador, Peru Turn On Their Own Peoples

While companies such as Vancouver-based Dorato Resources and IAMGOLD are moving in on the Cordillera del Condor (Condor Mountain Range) along both sides of the Peru-Ecuador border, other Canadian companies, such as Kinross Gold, Corriente Resources, and Dynasty Metals & Mining, are re-establishing their operations on the Ecuadorian side of the Cordillera after that country's Constituent Assembly shut down all foreign mining operations in the country for most of 2008. Regulations implementing the new Mining Act didn't emerge until late 2009.

Peru Declares War on Indigenous Peoples

President Alan García's government has tried to expand Peru's resource-extraction economy at the expense of subsistence farmers and Indigenous peoples through a series of decrees that opened up new areas to mining, oil and gas development, and logging, as well as making it easier for investors to legally obtain communities' consent for their projects. Prohibitions against foreign companies acquiring mining rights near international borders have also been selectively lifted, as in the case of Nevada-based Newmont Mining, or just evaded by having Peruvian citizens hold mining rights on behalf of foreign interests, as in the case of Dorato.

The situation has been tense throughout the country but especially so in the northern Amazon and neighbouring mountain regions. The tension peaked this past June 2nd when security forces sent to break up a two-month-long demonstration and roadblock near the town of Bagua opened fire on Indigenous protesters, some of whom retaliated – leaving at least 33 people dead, one policeman missing, and over 200 people injured. The protestors were demanding the repeal of government decrees opening up indigenous lands to oil, mining, and logging companies, in the framework of the free trade agreement (FTA) signed with the United States. Peru's Congress had already revoked some of the decrees, and after the incident revoked two more of the most controversial decrees.

This clear illustration of the Peruvian government's inability and unwillingness to protect Indigenous rights and basic human rights was completely ignored by the Canadian government. A free trade agreement that would, among other things, protect Canadian investment in disputes with Indigenous groups and peasant farmers, was passed by the Canadian Senate at the government's urging without so much as a note of concern mere days after the Bagua massacre. MiningWatch and other groups that had written Senators on this subject received condescending letters from the Government leader in the Senate, Marjorie Lebreton, brushing off our grave concerns as "misconceptions" – almost two months afterwards.

(At the end of December, the commission established to investigate the circumstances of the events at Bagua submitted its report, over the objections of three of the commission members, one of whom was its Chair, who said the report was incomplete and biased, and would serve only to increase tensions.)

Meanwhile, in August 2009, Awajún and Wampis issued a statement giving Dorato Resources Inc. 15 days to voluntarily leave their territory. According to the Awajún and Wampis, Dorato was granted its mining concession in contravention of Rule 71 of Peru's Constitution, which prohibits foreign companies to operate a mine near a border. In addition, Dorato's concession is located in the ancestral territory of the Awajún and Wampis, but had been granted without their having been consulted by the government or the company. The company did not comply. Despite this opposition and the clear risk to the region's water resources, the Peruvian Ministry of Energy and Mines approved Dorato's Environmental Impact Statement in December, much to the alarm of Peruvian observers such as Cooperacción and Indigenous organisations such as AIDESEP, as well as the Awajún and Wampis themselves.

Another Canadian company, IAMGOLD, is also present in Awajun and Wampis territory without their consent; but in contrast with Dorato its operation is completely illegal according to the Ministry of Energy and Mines in Peru. Felipe Ramírez, Director of the Ministry's Environmental Affairs office, stated in late November, 2009, that the company hasn't even so much as asked the government for a permit to mine or explore on the Awajún and Wampis territory. "What they are doing is illegal," he said. A company spokesperson said she was "not aware that they did anything illegal."

We have been repeatedly told by officials of Foreign Affairs, International Trade, and Natural Resources Canada that "the Canadian government expects Canadian companies to respect and uphold local laws wherever they operate."

New Mining Law in Ecuador Challenged by Indigenous Peoples and Peasant Farmers

Meanwhile, President Rafael Correa of Ecuador has clearly swallowed the glamorous vision of mining development presented to him in glowing (not to say fantastic) terms by Canadian mining executives and the Canadian Embassy. In a deft political manoeuvre, Correa pushed for the creation of a Constituent Assembly in 2007 to re-write the Ecuadorian Constitution and bypass a deadlocked Congress. In March 2008, the Constituent Assembly, then acting as the *de facto* legislature, granted amnesty to over 350 activists across the country, including those participating in nine mining conflicts, saying it was "acting in defence of their communities and the environment." On April 18, 2008, the Assembly suspended mining sector activity for 180 days to allow a new Mining Law to be written. The "Mining Mandate" revoked about 80% of the country's mineral exploration and mining concessions and suspended the rest.

On April 25, Correa met with representatives of Canadian companies, along with Canadian ambassador Christian Lapointe, who, according to the CBC, "attended the meeting with the mining companies and presented the Canadian government's concerns over the mining rules." As he went on to do on many other occasions, Correa gave a speech to a pro-mining rally on May 6, 2008, in which he promised to bring to Ecuador the marvels he imagined Canada's mining industry to represent: free of conflict and contamination, providing wealth for the country without polluting. At the same time he lambasted environmental groups and Indigenous organizations as "infantile" – for opposing large-scale mining in a country covered with eco-

logically sensitive areas and without any serious regulatory capacity.

Ecuador's new Constitution was celebrated for enshrining both the Quechua concept of "living well", *sumak kawsay*, and Rights for Nature. Nonetheless, the new Mining Law was the first legislation approved under the new Constitution, on January 12, 2009, paving the way for large-scale mining and allowing mining companies to resume work once they were certified to be in compliance with the new law. Finally on November 16, 2009, the regulations under the new law were gazetted, providing investors (and the Canadian Embassy) the "certainty" they had been seeking.

One thing is certain: the struggle is far from over. Community groups, environmental groups, and Indigenous organisations are committed to protecting their local economies and Ecuador's fragile tropical ecosystems, just as President Correa seems to be committed to sacrificing designated mining zones to pay for development initiatives for the country as a whole. There have been ongoing protests, and the national Indigenous organisation CONAIE filed a petition challenging the constitutionality of the Mining Law on March 17, 2009; a second case was filed by the water committees of several communities affected by mining projects in the province of Azuay on March 31. Neither case has yet been ruled on.

Anti-mining graffiti in Victoria del Portete, Azuay, Ecuador. J. Kneen photo.

Focus on Mining Giant Vale at World Social Forum

At the invitation of Brazilian activists who are supporting communities struggling against multinational mining giant Vale (formerly Companhia Vale do Rio Doce) in Brazil, and with support from the Steelworkers Humanity Fund and the Canadian Auto Workers Social Justice Fund, MiningWatch's Catherine Coumans attended the World Social Forum in Belem, Brazil in January 2009. Catherine was asked to provide local activists with information about relations between Vale and communities in Canada (Port Colborne and Sudbury in Ontario as well as Labrador), Indonesia and New Caledonia. In each of these places Inco (now owned by Vale and operating as a subsidiary, Vale Inco) is facing serious community concerns and criticism of its operations.

In Sudbury, the community has become increasingly concerned about the impact of metals from Vale Inco's smelter on human health in the community. The recent release of the Sudbury Soil Study Human Health Risk Assessment Report (HHRA) has not eased this concern as an independent assessment of the report's findings conducted by Environmental Defence Canada concludes that the HHRA report underestimates the degree of risk to local people as a result of eating Sudbury-grown foods that have been found to have elevated levels of lead, arsenic and nickel. The report also found that the levels of some toxic metals, particularly lead and nickel, in soils in some parts of Sudbury are on the order of 35 to 49 times higher than the Canadian average. The web site for the Sudbury soil study is www.sudburysoilstudy.com.

In Port Colborne, the community has also been engaged in a Community Based Risk Assessment (CBRA) process that started in 2000. The risk assessment of impacts related to emissions from the nickel refinery operated by Vale Inco in Port Colborne was supposed to conclude in 18 months but is still ongoing. Community members have expressed concern that the "scientific process" does not appear to follow standards accepted by the scientific community, and that peer reviews pointing out flaws in the science being applied are being ignored. Members of the community are now involved in a precedent-setting class action lawsuit against Vale Inco.

In Soroako on the island of Suluwesi, Indonesia, Inco has been operating a massive nickel mining and smelting operation since the 1970s. There are serious concerns over environmental contamination of soils and water bodies in the area. There are

also serious human rights concerns. In particular, the indigenous Karonsi'e Dongi have been displaced to the margins of their ancestral territory. They now live along a fence that borders Vale's golf course. This golf course and mining related buildings has replaced what used to be agricultural land of the Karonis'e Dongi. It also has covered their graveyard.

In New Caledonia, known as Kanaky by the indigenous Kanaks, Inco Vale has been facing years of opposition from a coalition of indigenous organizations and environmentalists against plans to build a mine and hydromet processing facility on indigenous land. The Kanak organization Rhéébù Nùù has challenged Inco to enter into negotiations with representative Kanak organizations, similar to the negotiations Inco, now Vale, has had to enter into with the Innu in Canada, which led to a binding Inpact and Benefit Agreement. Kanak concerns are for impacts on extremely delicate terrestrial and marine ecosystems, as well as for cultural impacts on the local Kanak population. A more general Memorandum of Understanding was signed in October 2008 between Vale and representative Kanak organizations.

Vale Inco's Sudbury smelter. File photo.

Also participating in the sessions on Vale in Belem were a Steelworker representative from Newfoundland, Boyd Bussey, and an environmentalist from Newfoundland, Fred Windsor. Boyd Bussey shared his knowledge of labour relations between Vale and workers in Canada based on his experience in negotiating labour agreements for the Voisey's Bay nickel mine in Labrador. Fred Windsor spoke about the concerns of Newfoundlanders from Long Harbour over a proposed hydromet processing plant that Vale Inco wants to locate in Long Habour to process ore from the Voisey's Bay nickel mine. Vale plans to dump the toxic waste from the hydromet plant into a nearby lake called Sandy Pond which will be destroyed forever. Sandy Pond is a favourite fishing grounds for the Long Harbour community because of its very large trout.

❑ **YES! I want to help provide mining-affected communities with the support they need and make the mining industry accountable.**

Please direct my contribution to:

❑ **MiningWatch Canada** to press governments to make crucial changes to law and policy. I know I will not receive a charitable donation receipt.

❑ **The Canary Research Institute for Mining, Environment, and Health** to support research and education and receive charitable donation receipt. Charitable Registration # 87103 9400 RR001

Here is my gift of: ❑ $100 ❑ $50 ❑ $250 ❑ $150 ❑ $25 ❑ I prefer to give _____

Name: _____

Address: _____

_____

City: _____

Province: _____ Postal Code: _____

❑ I prefer to contribute by Cheque (payable to correct organization)

❑ Please charge my: ❑ Visa ❑ MasterCard

Card # _____ Expiry Date ____ /_____
Month/Year

Card Holder Name (please print) _____

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