

## **Dissecting Wall Street Journal report on Skye Resources mining operation in Guatemala**

July 30, 2006, by Grahame Russell

Rights Action dissects, below, a WSJ article as a contribution to a more critical debate about the enviro- and development harms, human rights violations and media distortions associated with the global mining industry. The only thing positive about the article is that it shows how weak are the arguments in defense of how the global mining industry is currently operating in many exploited countries of the global south.

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BELOW:

- A dissection of a poorly researched and mis-leading Wall Street Journal [WSJ] article;
- A letter to the WSJ editors from a leading Indigenous community development organization where Skye Resources wants to operate;
- Two Prensa Libre articles [en espanol] documenting widespread community-based and Indigenous opposition to the global mining industry throughout Guatemala;
- What to do;

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WHAT DO NGOS HAVE AGAINST POOR GUATEMALANS?

By Andrea Tunarosa, Wall Street Journal, July 21, 2006; Page A15

[The title "what do NGOs have against poor Guatemalans" is ridiculous and shameless. There are well documented serious harms and violations associated with the global mining industry and there are obviously competing visions, across the globe, of what is "development", that honest journalism should properly explore.]

Residents of El Estor, a small Q'eqchi community of 40,000 people located in northeast Guatemala, cheered when they heard that Vancouver-based Skye Resources was interested in reopening a local abandoned nickel mine.

[The writer is mis-informed. El Estor is a small town of perhaps 1000 people, located in a very large municipality of isolated Q'eqchi communities; the total population of the Q'eqchi territory is approximately 40,000. The majority of these communities are openly critical of, if not in outright opposed to the global mining industry.]

According to local press, the town's mayor and several community leaders led a rally last September in favor of the mine with a banner that read, "El Estor says yes to responsible mining." It's easy to see why there was such excitement. Skye Resources estimates that it will employ 1,000 people and create four indirect jobs in the community for every new mining job. That plus an

overall investment of at least \$539 million is not irrelevant for an impoverished town with one of the highest illiteracy rates in the country -- over 40% for indigenous men and 35% for indigenous women.

[There has been little excitement and widespread opposition in Q'eqchi communities to how Skye Resources is proceeding, including the physical blocking of heavy machinery carving new roads through untouched jungle forests that provide livelihood and watershed to isolated communities; including legal cases nationally and internationally trying to stop or suspend mining.]

[These job creation estimates are widely contested by all Guatemalan NGOs and by local organizations in the El Estor region. A cursory look at other mines in the region (ie, Glamis Gold mines in Sipakapa, Guatemala, and Siria Valley, Honduras), let alone around the world, would suggest that these numbers are grossly exaggerated.

[The suggestion of \$539 million investment in El Estor region is patently misleading. The company may be planning to invest this amount in its own operations, to then generate much larger profits; it is not investing \$539 million – or any amount remotely close to this - in the integral development needs of the local people.]

The festive mood didn't last long. Within months, opposition to the project began to swell. Well-organized protesters were soon demanding that the Guatemalan government withdraw the mining license it had issued, alleging environmental risks and inadequate consultation with the community.

[Correct: there are well documented environmental harms with open pit mining across countries of the global south and there was no consultation with the affected Q'eqchi communities; there are well documented environmental, health and water-shortage harms associated with Glamis Gold's six-year gold mining operation in neighboring Honduras.]

The democratically elected government did not comply with the protestors' demands.

[It is mis-leading to call Guatemala a democratic government. All national and international human rights organizations, including the U.S. State Department, recognize that the powerful military and economic sectors in Guatemala continue to commit systematic human rights violations with impunity and that the democratic and legal institutions simply do not work to curtail these abuses and hold the guilty accountable.]

Skye Resources has initiated a feasibility study for a 50 million pound ferro-nickel project and is already looking at a potential expansion that would double production. At the same time, it has also launched an environmental and social impact assessment to comply with Guatemala's regulatory framework.

[See: the Prensa Libre article, below, that explains how Skye Resource's "Fenix Project" environmental study was not approved. As with Glamis Gold's environmental assessment in San

Marcos, Guatemala, groups across the region are crying foul at how the assessments were carried out, with no public consultation or participation, and at the simplistic content of their findings.]

New lines of communication with the community have been opened and if all goes well, the mine could be working in 2008. Had Skye Resources been less intent on its investment, Guatemala could have lost an important wealth-enhancing opportunity for thousands of Guatemalans.

[Mining is very “wealth-enhancing”, but hardly for the majority poor population in places like El Estor. The writer’s implication is based on the incorrect argument that by investing millions of dollars, big business projects ‘help the poor.’ Guatemala’s economy has been dominated by big business since long before the United Fruit Company sponsored coup in 1954; over 70% of Guatemalans – mostly landless and exploited often by the big businesses – live in predictable and endemic poverty. Guatemala law obliges mining companies to pay the Guatemalan government a mere 1% of their profits, and provides generous tax breaks.]

That came close to happening when another Canadian company, Glamis Gold Ltd., bought land to invest in a gold mine in the northwestern highlands town of Sipacapa.

[Again, the writer is mis-informed; Sipakapa is not simply a town. It is the home territory of the Sipakapense-Mayan people; in 2005, 11 of 13 villages in Sipakapan territory voted overwhelmingly against the global mining industry operating in their territory.]

Locals were eager to get jobs in the mine and to provide services around the project. But last year organized and well-funded opposition nearly squelched the deal.

[Never consulted with by the company or the World Bank, nor by the Guatemalan and Canadian governments, as required by municipal, national and international law, in July 2005 the vast majority of the Mayan-Sipakan people voted against allowing mining in their communities and territories.]

In a country with such dire needs for capital and technology to lessen the want of the poor, it is worth exploring whether such anti-mine activism truly expresses the will of the people.

[Beyond providing a small number of low-paying jobs to local inhabitants, mining transfers a pittance of capital and no technology to host communities or even countries; the vast majority of capital flows to North American shareholders, private and institutional investors. As stated above, and as reported on in the Prensa Libre article below, across Guatemala, campesino and Indigenous communities are expressing their own will, rejecting the global mining industry outright.]

Looking behind the scenes, the funding and instigation of the activism appears heavily driven by international nongovernmental organizations that end up discouraging development while trying to fulfill their own mission.

[It is condescending and racist to suggest that national or international organizations “instigate” activism. Rejection to the global mining industry, as it operates, is being led locally by campesino and Indigenous communities throughout Guatemala and Central America. Organizations like Rights Action are in opposition, ‘in’ North America, to the global mining industry because we disagree with the exploitative, unjust and environmentally harmful nature of how the global mining industry operates.]

[Moreover, local, national and North American organizations - critical of and opposed to the global mining industry - are pro-development and pro-environment. Rights Action criticizes and opposes the global mining industry, as it currently operates in most countries of the global south, because it most often undermines any chance of integral, community controlled development and because it is done in ways that are harmful of the environment.]

Boston-based Oxfam America and Toronto's Rights Action are two anti-development NGOs active in Guatemala.

[To call these two organizations “anti-development” is pathetic journalism.]

Oxfam has partnered with MadreSelva (Mother Jungle), a Guatemala City environmental group headed by affluent urbanites, to block mining projects. Rights Action's agenda also coincides with that of MadreSelva. The nickel project was problematic in this regard because MadreSelva was already busy in Sipacapa, fighting the Glamis project. So it fell to Father Daniel Vogt, an American priest previously known for his involvement in a land dispute at El Estor, to take the lead in the opposition to the nickel mine.

[See, below, letter to editor of the WSJ from Father Dan Vogt. See below an article by Magali Rey Rosa, of Madre Selva. It is our understanding that the writer spoke with neither organization.]

International NGOs in Guatemala train local leaders to "empower" minorities and indigenous groups and to denounce the mines as "neo-colonial" ventures.

[This is a distortion of our work and exhibits racist condescension towards Indigenous communities. Throughout Guatemala (and elsewhere), Rights Action and OXFAM support projects designed and carried out by local communities and NGOs; we do not tell them what to do.]

But the reality is that the very nature of the NGO saves it from having a real stake in the communities it affects through its activism. It can blow through town like a hurricane disrupting development and then be gone.

[This is ignorant and wrong. The writer never spoke with anyone in Rights Action, that has supported community based development, environment, emergency relief and human rights organizations in Guatemala – and elsewhere – since the early 1980s ..., hardly blowing through.]

The mines, on the other hand, have long-term relationships to manage.

[Again, this is unfounded in many cases. Skye Resources bought its nickel interest from Canada's INCO nickel company. (INCO remains a major investor in Skye!) INCO operated a nickel mine in El Estor for less than 2 years, in 1979-1981, then shut down its operation. INCO operated "like a hurricane", forcibly evicting Q'eqchi communities from home lands; depleting local water sources; contributing to contamination of earth, air and water – still evident today; INCO was cited by the 1999 United Nations Truth Commission for direct and indirect participation in at least 6 cases of serious political repression, including killings.]

Concerned about its role in Sipacapa, for example, Glamis funded the construction of a local road that was not needed for the mine but was beneficial to the poor community. It offered to fund 32 new teaching positions to help meet the increasing demand for public education in the area.

[According to the directors of the Sipakapa middle school – again, not interviewed by the writer -, right after the Guatemalan ministry of education suddenly and unconstitutionally cut education spending for Sipakapa schools in early 2006, the government told the Sipakapan municipality that Glamis Gold would pay for some of its teachers, ... but teachers would have to educate about the benefits of mining and stop any education work critical of the environmental and development harms of mining. The school, and the Sipakapan people rejected this 'help'.]

The company also took an unprecedented step by helping to launch an independent monitoring association that will provide environmental studies, while ensuring that Glamis reports back to the communities and to other stakeholders.

[Similar to voluntary international 'codes of conduct', self-regulation and self-monitoring undermine and are contrary to the rule of law and what enforceable accountability mean. This monitoring is not at all independent.]

Activism against Skye Resources has been milder because nickel is not directly associated with wealth the way gold is.

[The writer is wrong. There is huge opposition to nickel mining right now in Guatemala, that builds upon widespread opposition to Canada's INCO company in the 1970s and early 1980s. See comment above concerning harms and violations associated with INCO's operations.]

The days when the old mine was operating are remembered as prosperous, so it's been more difficult to incite the population against the project.

[This statement is patently false. See previous comments about INCO. Rights Action, as well as AEPDI (see letter below), can provide extensive information about the negative impacts – including what should be considered illegal and criminal actions - associated with INCO's operations in the past.]

For the mayor of El Estor, Rigoberto Chub, environmental and human-rights groups have not been able to put forward ideas that address the community's real needs. "They justify their campaigns with our poverty," he says. "That's unfair." On the day of the pro-mine rally, he declared Sept. 30 to be El Estor Dignity and Foreign and National Investment Day.

With the price of nickel at a historic high of \$13 a pound, and the sharp rise in China's demand for this major component of stainless steel, the Canadian firm is bullish about the future. Over the past year, it raised its stake in the project to 90% from 70%.

One thing is for sure: Even though Guatemala is still in the process of building solid political and social institutions and a lack of trust remains, this is not the Guatemala of the 1980s. Ten years have passed since the peace treaties were signed ending a 35-year civil war, and much has been done to modernize the telecommunications and financial sectors.

[While much has been done to "modernize the telecommunications and financial sectors", as desired by the economic elites of Guatemala and demanded by North American companies and investors, World Bank, Inter-American Development Bank, in terms of repression, Guatemala is closer "to the 1980s" than the writer cares to explore; almost nothing has been achieved in terms of ending the systematic violations of human rights and the impunity of the powerful sectors.]

In the case of mining, most experts consider the 1997 law an adequate legal framework that respects international standards.

[Again, this is poor and manipulative journalism. The 1997 mining 'law' – similar to many mining 'laws' enacted across Latin America at the behest of mining companies, the governments of Canada and the USA, the World Bank - has been widely condemned by environment, development and human rights organizations north and south. At [www.rightsaction.org](http://www.rightsaction.org), one can find a report ("A Backwards, Upside-Down Kind of Development" by Sandra Cuffe of Rights Action) that sets out how these laws were enacted, who they were written by and how they favour companies and enable great harms to the environment, human rights and development. Many organizations (Madre Selva, Mining Watch-Canada, the OXFAMs, CAFOD (England), Misereor (Germany), Friends of the Earth, etc.) have investigated and criticized these 'laws'.]

Professor Thomas Wälde of the Center for Energy, Petroleum and Mineral Law and Policy at the University of Dundee, Scotland, puts it this way: If there were still doubts about the government's capacity to enforce proper rules, "an international enforcement process with NGO standing, like an arbitration procedure against non-complying companies, can guarantee proper mining activity" even when the quality of local governance is poor.

[This sounds good, but such an "international enforcement process" simply does not exist, and is resisted openly by many governments, the World Bank, the IDB and the companies themselves, who all prefer – not surprisingly – voluntary, self-regulating, non-binding, non-enforceable 'codes of conduct'.]

According to a government official, no NGO has utilized the available legal channels to challenge the mining licenses.

[Again, this is terrible journalism. Despite risks of repression and the almost completely dysfunctional Guatemalan legal system, many community based organizations and NGOs are regularly trying to use the existing legal and political systems to detain and slow down the rampant spread of mining companies throughout the country].

If Guatemala were a "global investors' oasis," as Rights Action says, more than 50% of the population wouldn't be living below the national poverty line. So while NGOs are asserting that the country is not ready for investments in mining, the opposite would appear to be true for the people of El Estor and Sipacapa.

[Rights Action has argued that over 70% of Guatemalans live in conditions of exploitation and poverty in large part because Guatemala is a "global investors' oasis." If successive Guatemalan regimes, since 1954, had not mostly geared their economy to the interests of North American consumers (cotton, beef, sugar, pineapple, African palm oil) and North American investors (tourism, mineral and oil resources, hydro-electric resources), and had – instead – geared their "development" model to promoting and enabling local ownership and control over land and resources, to promoting and enabling local and national markets, then the levels of poverty and exploitation would be significantly lower.]

Ms. Tunarosa is a Robert L. Bartley fellow at the Journal.

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#### LETTER TO THE EDITOR

El Estor, July 24, 2006  
Editors, The Wall Street Journal, New York

Dear Gentlemen:

I am writing in regards to the article by Andrea Tunarosa that appeared in the July 21 edition of the Journal regarding NGOs working in Guatemala. In that article I am named and described as leading the opposition to the mining project underway owned by Skye Resources of Vancouver. As I was not contacted by the writer of the article to explain my position regarding the project, I wish to correct the impression created therein.

As an El Estor resident for nineteen years, I have witnessed the growing impoverishment of the Q'eqchi' Mayan population in the region. Because of discriminatory governmental policies, the Q'eqchi' Mayans have long been deprived of legal tenure of lands that they have possessed for centuries. I have been involved with projects that survey and title community lands that are held collectively through the years; however little progress has been made due to the administrative

quagmire that extends over many Guatemalan governments. Lacking permanent titles to their lands, the Q'eqchi' farmers cannot access credit to improve their harvests nor can they take advantage of reforestation incentives offered by the Guatemalan government. Many of these communities have paid the government for the lands they possess, but due to the administrative bureaucracy, almost no titles have been granted in all the years that I live here.

What angers and perplexes the Q'eqchi' farmers is that mining licenses have been granted for the exploration and extraction of nickel on these same lands, without any serious regard for the cultural impacts and without any serious and transparent mechanism of negotiation so that these same communities, long deprived of economic prosperity, might enjoy what is justly theirs should nickel be mined in their communities. I view mining as a viable, legitimate development option for our region, but it has been my position and that of the organization I direct, that any development project must comply with both Guatemalan law and the best international standards.

Rev. Daniel Vogt  
Director and Legal Representative  
AEPDI - Asociación Estoreña Para el Desarrollo Integral El Estor, Izabal, Guatemala

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LA RIQUEZA NATURAL DE GUATEMALA NOS PERTENECE AL PUEBLO, NO A LOS FUNCIONARIOS DE TURNO, Por: Magalí Rey Rosa, Prensa Libre, 28 de julio de 2006

[On July 25, 26, over 25,000 mainly Mayan campesinos in five municipalities in Huehuetenango voted against accepting mining licenses/activities in their territories.]

Esta semana cuatro pueblos indígenas de Huehuetenango dieron prueba fehaciente de su rechazo a la imposición de la explotación de metálicos en sus tierras por medio de consultas. Este rechazo ilustra con claridad que la destrucción ambiental que produce la explotación química de metales no tiene justificación para pueblos que consideran a la Tierra como su madre, la cual deben heredar a sus descendientes.

Esta actitud de respeto contrasta con la actuación de los funcionarios públicos que están dispuestos a hacer lo que sea necesario para facilitar la vida a las transnacionales mineras.

Las transnacionales mineras cuentan con inagotables recursos monetarios, gracias a los cuales contratan abogados, ingenieros, químicos, biólogos, agrónomos, etc., para que éstos justifiquen profesionalmente lo que sea necesario para que las mineras puedan operar como les da la gana. Así también cuentan con el apoyo de muchos funcionarios, quienes hacen y deshacen gracias a la eficiente impunidad que nos caracteriza.

El pulso entre los intereses de la población guatemalteca y los de las transnacionales mineras – con diferencias abismales en recursos y capacidades - no es una cuestión técnica. Detrás hay



expresiones fehacientes de cierta voluntad política. El equipo que actualmente nos gobierna ha manifestado claramente a quién protege.

Se rumora que la salida de la ex secretaria ejecutiva del Conap, antes amiga y protegida del señor Presidente de la República, está relacionada con un dictamen negativo para que la minera CGN utilice el Parque Nacional Río Dulce para arrastrar barcazas, con lo cual se afecta a la minera.

El señor Sergio Véliz, su feliz sucesor, declaró apresuradamente que él se encargará de acomodar las normativas existentes para que las actividades industriales sean compatibles con las áreas protegidas. El señor Véliz tiene que recordar que él es un servidor público y que Conap ya resolvió anteriormente que el paso de barcazas por el Parque Nacional Río Dulce es ilegal.

La resolución 86-97 de la Junta Directiva del Conap es un precedente legal importante para la conservación del Río Dulce, uno de los destinos turísticos más importantes de nuestro país. Como Véliz, hay muchos funcionarios públicos haciendo esfuerzos y hasta exponiéndose a sufrir las consecuencias legales de retorcer las leyes en su afán de demostrar su fidelidad a las poderosas mineras y sus socios locales.

Pero también hay muchas y muchos guatemaltecos que hemos entendido los verdaderos riesgos de explotar de esa manera nuestra naturaleza, que no estamos dispuestos a ver cómo se entrega impunemente el patrimonio natural que nos pertenece.

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The article below is about the Guatemalan Congress' Energy Commission requesting the cancellation of Skye Resource's "Fenix" nickel project concession (exploitation license) due to the Ministry of the Environment's rejection of an environment license for the processing plant.

**ADVERSAN LICENCIA MINERA: ESTUDIO DE IMPACTO AMBIENTAL EN IZABAL ES NEGATIVO PARA EXPLOTACIÓN**, Por: Martín Rodríguez P., Prensa Libre, July 27, 2006

CGN cuenta ya con licencia de explotación, a pesar de un estudio ambiental. La Comisión de Energía del Congreso pidió ayer al Gobierno que derogue la licencia de explotación minera otorgada en abril de 2006 a la Compañía Guatemalteca de Níquel (CGN), pues un estudio de impacto ambiental oficial desaprobó la planta de procesamiento en febrero.

La resolución número 503/2006/ECM/KC, del Ministerio de Ambiente, no aprobó el estudio de impacto ambiental de la planta de procesamiento del proyecto minero Fénix, de CGN, ubicada cerca del Lago de Izabal.

“El hecho de que este estudio de impacto ambiental haya sido denegado debería invalidar el proceso de CGN. Pedimos al Ministerio que derogue esa licencia”, aseveró Julio Morales, presidente de esa sala legislativa.

La demanda no parece tener futuro. Luis Ortiz, ministro de Energía y Minas, informó de que está dentro del marco legal que CGN tenga una licencia de explotación, aunque el estudio de impacto ambiental para la planta de procesamiento haya sido negativo.

“Tendrán que mejorar la planta de procesamiento para poder aprobar un próximo estudio de impacto ambiental; en la actualidad están en fase de exploración. Cuando empiecen a explotar y a procesar necesitarán aprobar un estudio de impacto ambiental de la planta”, comentó Ortiz.

Según ambientalistas, en el proceso de extraer, procesar y separar las piedras del mineral se contaminará el Lago de Izabal.

El Ejecutivo no tiene una respuesta respecto de qué pasará si por haber reprobado el estudio de impacto ambiental CGN no puede procesar el níquel.

“No quiero presumir qué va a hacer la empresa cuando saque el mineral de la tierra. Pero está enmarcado en ley su actividad y nosotros no podemos ser deliberativos”, dijo el ministro.

Diputados de la Comisión de Energía y Minas recordaron que Rodolfo Sosa, uno de los abogados de CGN, es consuegro del presidente Óscar Berger.

#### VEN EFECTOS NEGATIVOS

La organización ambientalista MadreSelva aseguró que los efectos serán devastadores para la fauna y flora del Lago de Izabal y que los otros estudios de impacto ambiental, para las licencias de explotación y exploración, tienen anomalías. “A pesar de que son áreas protegidas, se pondrán en contacto con el aire metales como arsénico, plomo y mercurio, que luego contaminarán las aguas subterráneas y acabarán con la vegetación. Y al procesar los minerales al calor, regresarán al lago agua que destruirá la biodiversidad”, opinó José Cruz, integrante de MadreSelva.

La Comisión de Energía dictaminó ayer a favor de una moratoria para detener por tres meses las licencias mineras.

#### REACTIVACIÓN DE OPERACIONES

La empresa CGN anunció, en septiembre del 2005, que reiniciaría la extracción de ese mineral cerca del Lago de Izabal. La empresa invertirá US\$530 millones y en el 2005 aseguró que pediría la licencia de explotación hasta el 2008. Tiene 50 kilómetros cuadrados de concesión para explorar. Según estudios de organizaciones civiles, en El Estor, Izabal, hay 50 millones de toneladas métricas de níquel.

Entre 1977 y 1980, la empresa Exmibal [wholly owned subsidiary of INCO] – que vendió sus derechos a CGN – extrajo y exportó 14 mil toneladas métricas, según datos del Ministerio de Ambiente.

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WHAT TO DO:

- The #1 line of work in favour of global justice and equality is to fund and directly support local organizations so that they can continue to lead their own struggles in defense and promotion of development, the environment and human rights. Make tax-charitable donations to Rights Action in Canada and the U.S., to help support community-based organizations in countries where we work (Guatemala, Honduras, El Salvador, Haiti, Chiapas (Mexico));
- Get involved in education and activism work in your home community concerning the negative impacts of global economic and military power abuse whose policies and actions are controlled by the "G8" governments, including Canada and the U.S. With respect to North American mining companies operating in Central America, North American citizens have little or no information about who are the investors in, and financial beneficiaries from mining. Much research and education needs to be done on this issue - anyone can do this research themselves;
- Consider establishing long-term "partnerships" between your community / organization with grassroots organizations / communities in these countries that are affected by the global economic and military policies and actions of the G8 countries;
- Consider coming to these countries on an educational-activist delegation;

Rights Action is a development, enviro- and human rights organization, with its main office in Guatemala. We channel your tax-deductible donations to over 50 community development, environment and human rights organizations in Guatemala, Chiapas, Honduras, El Salvador and Haiti. We carry out education & activist work in the USA and Canada (and take educational delegations to these countries) to learn about and get involved in good work for global human rights, a healthy environment and a just economic development model.

TAX-DEDUCTIBLE DONATIONS - make check payable to "Rights Action" and mail to: United States: Box 50887, Washington DC, 20091-0887. Canada: 552 - 351 Queen St. E, Toronto ON, M5A-1T8. On-line, credit-card donations: [www.rightsaction.org](http://www.rightsaction.org).

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