

Rights Action  
July 19, 2015  
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## **Resistance Works: KCA (Radius Gold) Mining Operation Suspended, ... but the ‘La Puya’ struggle is not over**

Article by GHRC

Since 2012, community members have maintained a permanent peaceful encampment at “La Puya”, protesting this illegal, harmful mining operation. Community members have been victims of repeated acts of repression by Guatemalan police and armed civilians; community members have been targeted with trumped up criminal charges. Since 2012, Rights Action has provided regular small grants to the people of La Puya, for their community, human rights and environmental defense struggle, and taken numerous educational-solidarity delegations to visit and learn from the people of La Puya.

### **Below**

- Article by GHRC/USA
- Article by Telesur

This struggle is not over. Backed by the governments of Guatemala, US and Canada, mining companies use whatever tactics they need to keep on mining in Guatemala.

**What to do:** see below

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## **Victory for La Puya: Guatemalan Court Orders Suspension of Construction Operations at the El Tambor Mine**

By Guatemala Human Rights Commission/USA

<https://ghrcusa.wordpress.com/2015/07/17/victory-for-la-puya-guatemalan-court-orders-suspension-of-construction-operations-at-the-el-tambor-mine/>

GHRC applauds the July 15 resolution by a Guatemalan appeals court which ruled in favor of the right of residents to be consulted about projects that affect them and ordered the suspension of construction activities at the mine.

The ruling is a positive sign for community members from San Pedro Ayampuc and San Jose del Golfo who have joined together in non-violent resistance to oppose what they see as a deeply harmful mining project.

The movement, known as ‘La Puya,’ has maintained a 24-hour presence at the entrance to the site for over three years. During that time, La Puya has denounced intimidating or illegal actions on the part of the Guatemalan company that holds the mining license, EXMINGUA, as well as by its parent company, Reno-based Kappes, Cassiday & Associates.

[Rights Action note: This mine was originally developed by the Canadian mining company Radius Gold that, after the attempted murder of La Puya community member Yolanda Oqueli, sold most of its interests to KCA. Radius Gold maintains financial interests in this mine:

[http://www.radiusgold.com/s/NewsReleases.asp?ReportID=710383&\\_Type=News-Releases&\\_Title=Radius-Gold-to-Receive-Gold-Production-Royalty-Payment.](http://www.radiusgold.com/s/NewsReleases.asp?ReportID=710383&_Type=News-Releases&_Title=Radius-Gold-to-Receive-Gold-Production-Royalty-Payment.)]

This legal complaint, however, filed in October 2014 by authorities from two of the affected communities, El Carrizal and El Guapinol, targets the government for its failure to act on behalf of its citizens.

The complaint accuses the Municipal Advisory Council of San Pedro Ayampuc – where the mine site is located – of failing to act to stop construction activity at the mine site and for its failure to defend the interests of the affected communities. They argue the Council had the responsibility to act given their knowledge that the company had broken the law by operating without a construction permit, having documentation regarding concerns about water quality and contamination, and not carrying out valid prior community consultation.

The court found the company was operating illegally, “without permit, authorization or approval from the Municipality of San Pedro Ayampuc...to carry out its mining project” and that the responsibility falls to the Municipal Council to enforce the law.

“This passive attitude on the part of the State...could make the Municipal Council an accomplice to the impacts and damage caused by mining activities in its territory,” the community authorities had told the court, reminding them that “municipalities are obligated to denounce ecological disequilibrium in order to maintain a healthy environment.”

The verdict, celebrated by the Puya and national and international allies, orders EXMINGUA to suspend all construction activities at its mine site until a community consultation is held, and orders the Municipal Council of San Pedro Ayampuc to take action to ensure construction is stopped within the next 15 days.

“This is a huge victory,” said GHRC Director Kelsey Alford-Jones. “GHRC has accompanied the communities’ struggle for almost four years, and has documented intimidation and repression against those protesting the mine. This verdict validates the concerns long expressed by local residents and represents an important step in guaranteeing their rights.”

GHRC has called on the US Embassy to encourage the company to comply with the verdict.

#### Evidence Supporting the Complaint

From the time they learned of the mining project, community members have expressed serious concerns about the health of the environment and the impact on local residents. The region is dry and water is scarce, and the mine would use large quantities of water. Furthermore, local water contains naturally-occurring arsenic at levels that already exceed recommended levels. The rock — that would be drilled, ruptured and disregarded in order to access the small quantities of gold

and silver — is arsenopirite which contains 46% arsenic. For families in the area, many of whom depend on farming, the risk of contamination is too great.

Guatemala's Ministry of Energy and Mines also found "a series of deficiencies" in the company's Environmental Impact Assessment, including a lack of plans for mitigation of damages — though it still approved the license. US expert Dr. Rob Moran reviewed the report and called it "the worst quality [study] I have reviewed in more than 42 years of professional hydrogeology / geochemistry experience, involving hundreds of mines, worldwide."

Lawyers representing the company argued they had consulted by giving a series of presentations. They also attempted to claim they were operating legally.

But the Court said that no legitimate community consultation had occurred, and called the company's bluff on having legal license to operate, saying: "the contradiction between relevant [municipal records] is more than evident...the mining company does not possess a construction permit."

#### The Broader Context

The sentence comes in a context of widespread outrage about corruption in all sectors of government. The former Minister of Energy and Mines, Erick Archila, resigned after being accused of corruption. His Vice-Minister, who was sworn in as Minister in May, has since been arrested on charges of conspiracy for participation in a network of officials engaging in influence peddling and money laundering.

Mining itself has been one of the most controversial issues in Guatemala in recent years. Licenses have been granted despite poor environmental impact assessments, lack of oversight, and with no consultation, generating immense social conflict in communities across the country that opposes the projects. Threats, attacks and deadly violence are commonplace against activists defending their right to land, territory, consultation and a healthy environment.

Respect for the right to consultation has been an ongoing battle and the Guatemalan government has failed to comply with its obligation under international law to carry out consultations before any project is carried out that could affect indigenous communities. Municipal code requiring support from local residents has not been utilized – or, when carried out, the results have not been respected. In the absence of government consultation, communities have carried out their own referendums, with the vast majority of people voting no on mining.

Like in many places, mining operations – or even the threat of mining — in San Pedro Ayampuc and neighboring San Jose del Golfo has disrupted community harmony and divided families. And, as GHRC has documented, people hired by the mining company have carried out acts of harassment, verbal threats and physical intimidation. On multiple occasions, the Guatemalan police have utilized scare tactics and in 2014 used disproportionate force to evict protesters from the entrance to the mine which resulted in injuries for some that required hospitalization.

In this challenging context, La Puya has been an exemplary case of peaceful resistance, combining creative community action, government advocacy, and legal denouncements to defend their rights.

GHRC/USA

<https://ghrcusa.wordpress.com/>

<http://www.ghrc-usa.org/>

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### **Guatemalan Court Suspends Mining Operations in “La Puya”**

16 July 2015

<http://www.telesurtv.net/english/news/Guatemalan-Court-Suspends-Mining-Operations-in-La-Puya-20150716-0040.html>

Local communities have been peacefully fighting against the mining project for the past three years. Communities of La Puya, Guatemala, celebrated a major victory on Wednesday when a constitutional court suspended the mining license and operations of national company Exmingua, a subsidiary of U.S. mining company Kappes, Cassidy & Associates (KCA).

A constitutional court ruled in favor of the community mayors from EL Guapinol and El Carrizal, supported by the Association of Maya Lawyers, who filed the suit against the U.S.-owned El Tambor gold mine project.

The suspension order goes along with the obligation for the mining company to hold community consultations with local residents affected by the mine. Local communities have been lobbying against the project since March 2012.

The communities have remained firm in their nonviolent resistance in San Jose del Golfo, despite sometimes paying a high price. Police have violently evicted community blockades, community members opposed to the mine have been shot and threatened, and in May 2014 nine leaders from the resistance were accused of making threats and assaulting employees of the El Tamblor mine, though they were finally cleared of any charges in March.

The local community resistance claims the project has no legitimacy and will contaminate the environment with dangerous, toxic chemicals.

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### **Tax-Deductible Donations**

To support campesino and Mayan organizations, such as the people of La Puya, as they struggle to end the impunity and corruption of global mining companies and their government, make check payable to "Rights Action" and mail to:

- United States: Box 50887, Washington DC, 20091-0887
- Canada: (Box 552) 351 Queen St. E, Toronto ON, M5A-1T8

- Credit-Card Donations (Canada & U.S.): <http://www.rightsaction.org/tax-deductible-donations>
- To donate stock, contact: [info@rightsaction.org](mailto:info@rightsaction.org)

### **Delegation to Honduras, November 7-15, 2015**

“Connecting the Dots from the Global to the Local: Understanding the Environmental, Human Rights, Poverty and Impunity Crisis in Honduras”  
Rights Action and the Mir Centre for Peace at Selkirk College invite you to join this educational seminar trip to Honduras.

- Flyer: <http://rightsaction.org/action-content/honduras-education-seminar-trip>
- More info: [info@rightsaction.org](mailto:info@rightsaction.org)

### **More Information**

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