

# **El Salvador -- Gold, Guns, and Choice:**

## **The El Dorado gold mine, violence in Cabanas, CAFTA claims, and the national effort to ban mining.**

*International Union for the Conservation of Nature (IUCN)*  
*Commission on Environmental Economic, and Social Policy (CEESP)*

Richard Steiner, Professor  
Member, IUCN/CEESP <richard.g.steiner@gmail.com>

February 2010

---

### **Contents:**

i. Acknowledgements	Page
I. Introduction	2
I.1. IUCN Context	2-3
I.2. Methodology	3-4
I.3. Historical Context	4-6
II. Overview of Issues	6
II.1. El Dorado and Pacific Rim	6-7
II.2. CAFTA Actions	7-12
II.3. Violence and Security in Cabanas	12-15
II.4. Effort to Prohibit Mining in El Salvador	15-17
III. Findings	17
III.1. Violence and Security in Cabanas	17-19
III.2. Impacts of Mining Activities in Cabanas	19-21
III.3. Civil Society Issues	21-22
III.4. CAFTA Actions	22-23
III.5. Prohibition of Mining, and a Green Future	23
IV. Recommendations	24-26
References	26
Appendices:	
I. Statement by the Ombudsman for the Defense of Human Rights	27-38
II. Declarations by Ombudsman for the Defense of Human Rights	38-41
III. Radio Victoria: Chronology of Threats and Actions	41-49

## **i. Acknowledgements:**

The author wishes to thank the many people who assisted in this mission, in particular all of those who agreed to meet with me and share their perspectives. Those in San Salvador are listed in section I.2 below. Special thanks go to those I met with in Cabanas, whose names are not disclosed here due to continuing security concerns. Thanks also go to the mission's sponsor IUCN / CEESP, and the Association for Economic and Social Development of Santa Marta (ADES), which hosted the mission in country. In addition, thanks go to the many others who helped to facilitate the mission, including SHARE, CISPES, U.S. El Salvador Sister Cities, and Walking With El Salvador. And mostly, sincere thanks go to all the people in El Salvador who continue to speak their truth in the face of continuing threats and violence.

-----

## **I. Introduction**

At the request of the *International Union for the Conservation of Nature (IUCN) Commission on Environmental, Economic, and Social Policy (CEESP)*, the author traveled to El Salvador from Jan. 20 – 28, 2010, to conduct a Rapid Assessment / Fact-Finding Mission regarding the situation with respect to the proposed El Dorado gold mine in the District of Cabanas. In particular, the assignment asked for information on the security situation in Cabanas, the recent wave of extra-judicial killings of environmental leaders opposing the mine, continuing threats toward citizens, the government response to the situation, the CAFTA actions filed by mining companies against the government, and the effort to ban metals mining in the country

.

### **I.1 IUCN Context**

The Rapid Assessment Mission was conducted pursuant to IUCN Resolutions 4.090 and 4.088 adopted at the 2008 World Conservation Congress in Barcelona.

The directive of Res. 4.090 - *Open pit metal mining exploration and exploitation in Mesoamerica* - states the following:

The World Conservation Congress at its 4<sup>th</sup> Session in Barcelona, Spain, 5–14 October 2008:

CALLS ON the governments of the Mesoamerican region to cancel current open-pit metal-mining exploration and exploitation with proven negative impacts on the environment, and to take the necessary preventative measures so that, in the future, the granting of mining exploration and exploitation permits does not include permits for open-pit metal mining, and to carry out and apply strictly strategic environmental assessments and other relevant environmental instruments, in the Mesoamerican Biological Corridor in particular;

REQUESTS the IUCN Secretariat and Commissions to work with members in the Mesoamerican Region to:

(a) support local NGOs and indigenous peoples, in securing effective consultation prior to any mining exploration and exploitation concession, in accordance with ILO Convention 169 concerning indigenous and tribal peoples;

(b) promote communication campaigns on the current situation and the future risks of open-pit metal exploitation, and warn local communities of these risks, informing them objectively

The Directive of Res. 4.088 – *Establishing the IUCN Extractive Industry Responsibility Initiative*:

REQUESTS the Director General to:

(a) explore the feasibility and funding what risks they might be exposed to; and

(c) urge the governments of the region to ensure that consultation processes and environmental impact studies include the cumulative and synergetic impacts on broad zones of the region and the need for strategic environmental assessments.

Note: Although most of the El Dorado project is planned mostly as an underground, rather than open pit, mine, there are some deposits at El Dorado (e.g., Nueva Esperanza, and others yet to be delineated) that may be mined by open pit methods.

requirements of establishing an *Extractive Industry Responsibility Initiative* (EIRI) within IUCN, drawing on the experience of the Commission on Environmental, Economic and Social Policy (CEESP), Commission on Environmental Law (CEL), other Commissions as appropriate, as well as the experience of the World Bank, governments, the United Nations, NGOs and IUCN members;

(b) develop criteria for rigorous extractive industry certification; and

(c) explore, with CEESP and the Commission on Ecosystem Management (CEM), methods for identifying and mobilizing technical experts competent to review extractive industry performance in relation to these certification criteria.

## **I.2 Methodology**

Pursuant to the assignment, the author traveled to El Salvador from Jan. 20 – 28, 2010, to conduct site visits in the region proposed for Pacific Rim’s El Dorado gold mine in Cabanas, interview victims and survivors of violence and threats, and interview government and NGO officials in San Salvador. The mission was hosted in country by the Association for Economic and Social Development in Santa Marta (ADES),

headquartered in Sensuntepeque, the capital of Cabanas.

*Meetings and interviews:*

*San Salvador:*

Antonio Pacheco, Executive Director, Association for Economic and Social Development of Santa Marta (ADES), based in Sensuntepeque, Cabanas  
National Roundtable Against Mining in El Salvador (“La Mesa”), Rodolfo Calles,  
Facilitator

Louis Francisco Lopez Guzman, attorney for La Mesa and victim’s families

Hector Garcia Berrios, attorney for La Mesa and victim’s families

Dr. Oscar Humberto Luna, Ombudsman for Defense of Human Rights

Francisco Pineda, President of Environment Committee of Cabanas (CAC)

Carlos Antonio Ascencio Giron, Director General of National Civilian Police

Licda Mirna Perla, Supreme Court Justice

Andres McKinley, Program Officer, Office for Central America, Mexico, and the Caribbean, Oxfam America

US Embassy: Robert Blau, Charge d’Affaires

Mitchell Ferguson, Economic Advisor

Phil Laidlaw, Political Advisor

Larry Brady, Director US AID El Salvador

Mike McGee, Director, Foreign Commercial Service

Fray Oscar Antonio Granados, COMFRES (Franciscan Order of El Salvador),  
Director of Justice, Peace, and the Integrity of Creation

Lourdes Palacios, FMLN Deputy to National Legislative Assembly

Salvador E. Nieto, Executive Director, Ministry of Environment and  
Natural Resources (MARN)

Herbert Guzman, M.D., independent health and development consultant

*Cabanas:*

Met with / interviewed many local leaders and families over several days in Cabanas, in and around the communities of San Isidro, Sensuntepeque, Guacotecti, Trinidad, and Victoria. Due to continuing security concerns, their names are not disclosed here.

*Requested, but did not obtain, meetings with:*

Attorney General Romeo Benjamin Barahona;

Organized Crime Office Rodolfo Delgado;

Chief of Staff to President Funes, Francisco Hasbun;

Deputy Orlando Arevelo, Popular Party member of National Legislative Assembly.

### **I.3 Historical Context**

El Salvador is geographically small, covering only 21,000 km<sup>2</sup> (about the size of the state

of New Jersey in the U.S.), and has a population of about 6 million people. It is one of the most densely populated, poorest, most violent, and environmentally degraded countries in Latin America. The country has only 3% of its original forest left, and in the past 20 years has lost approximately 20% of its total surface water resources, 95% of the remaining surface water is reportedly contaminated with industrial chemicals and fecal wastes (personal communication, Oxfam America). In some areas, such as in Cabanas, the water table has reportedly dropped by as much as 1 meter / year. Rural villages and communities are comprised primarily of subsistence farmers, who live on less than \$2 / day, with low literacy and health indicators.



Politically, the polarity that exists in today’s El Salvador, such as that in Cabanas, is an extension of the polarity that existed during the Salvadoran Civil War from 1980 – 1992. During that period, five left wing groups merged to form the Farabundo Marti National Liberation Front (FMLN), seeking greater civil rights, land distribution, and economic opportunity from a succession of military and right-wing governments, including the ARENA party which came to power in 1989. Set during the Cold War, the leftist FMLN guerillas were backed by Cuba, the USSR, and social democratic parties in Western Europe, while the official government forces were supported by the U.S. Some 75,000 people were killed in the war, and notorious atrocities were committed against the people

of El Salvador.

After the Peace Accords were signed in January 1992, the ARENA party continued in the presidency until 2009, when Mauricio Funes was elected as the first president from the FMLN party, and inaugurated in June 2009. Of the 84 seats in the National Legislative Assembly today, 35 are currently held by FMLN representatives, 22 by ARENA Party, 12 by GANA Party (a split from ARENA), 10 by the Party of National Conciliation (PCN), and 5 by the Christian Democratic Party (PDC). The tension between the FMLN and the ARENA party is today very evident in Cabanas, where local governments are controlled by the ARENA party.

## II. Overview of Issues

### II.1 El Dorado and Pacific Rim

Like Guatemala, Honduras, Nicaragua, and Costa Rica, El Salvador stretches along the Mesoamerican central mineralized belt rich with gold, silver, nickel, and uranium. El Salvador currently has approximately 37 mining prospects under exploration permit, most in the watershed of El Salvador's largest river, Rio Lempa. However, there is overwhelming popular support and growing political support to prohibit all mineral mining in the country (see section II.4 below). Other than some small-scale, artisanal gold mining operations, there are currently no producing metal mines in the country.



(Map of Mesoamerican mineral belt, from Pacific Rim website)

Pacific Rim - a Canadian, U.S., and Salvadoran mining conglomerate - claims prospects in El Salvador at El Dorado (San Isidro), Santa Rita (Trinidad, northwest of El Dorado), and Zamora (Cerro Colorado, to the west of Santa Rita). The El Dorado prospect is closest to development, and is located 65 km east of San Salvador, in the Department (province) of Cabanas. The prospect is estimated to contain 1.4 million ounces of gold, another 0.3 million ounces inferred and perhaps more possible (Pacific Rim website). El Dorado is wholly owned by Pacific Rim Cayman LLC (a Nevada USA corporation), through its subsidiaries Pacific Rim El Salvador (PRES), and Dorado Exploraciones (DOREX). Corporate headquarters for Pacific Rim are in Vancouver Canada. The El Dorado mine was in production from 1948 – 1953, producing 270,000 tons of ore and 72,500 ounces of gold, at a yield of 9.7 g/ton.

Most mining was suspended throughout the country during the Salvadoran Civil War. After the 1992 Peace Accords, exploration drilling commenced again at El Dorado, and 202 shallow drill holes at the site, delineating the high-grade resource at Minita. Pacific Rim acquired El Dorado in 2002, and claims that \$77 million has been spent by it and its predecessors since 1993 to explore and develop the resource. To date, some 660 exploratory holes have been drilled, totaling 225 km in total length in the region. Mineralization is said to exist to about 500 meters below the land surface at Minita and 5 other smaller deposits (Pacific Rim website).

Pacific Rim currently has 144 km<sup>2</sup> under exploration license at El Dorado, and in Dec. 2004 requested permits to convert a 12.75 km<sup>2</sup> at Minita from exploration to exploitation (development) at 750 tons / day production level. The proposed mine would be mostly underground, but Pacific Rim has stated that some prospects, such as Nueva Esperanza, might be mined through open pit practices (Moran, 2005). The projected life of the project is 10 years. A brief timeline of interactions between the company and the Ministry of Environment and Natural Resources (MARN) is discussed in section II.2 below, as this issue is at the center of the CAFTA claims by the company.

MARN has not issued approval of the EIA, nor the environmental permits for exploitation. As a result, the company suspended its exploratory drilling operations in July 2008. Since that time, the company has maintained its camp at El Dorado, with an undetermined number of employees engaged in unknown activities, has continued some surface exploration, and claims to maintain its rights to the mineral resource.

## **II.2 CAFTA actions**

In April 2009, Pacific Rim filed an arbitration action under CAFTA (U.S. - Dominican Republic - Central American Free Trade Agreement) against the government of El Salvador. The case is currently in arbitration proceedings governed by *Convention on the Settlement of Investment Disputes Between States and Nationals of Other States and the Rules of Procedure for Arbitration Proceedings* at the International Center for Settlement of Investment Disputes (ICSID) at the World Bank in Washington D.C. The company is represented in the action by the Washington D.C. law firm Crowell & Moring LLP, and

the government of El Salvador is represented by the D.C. firm Dewey and LeBoeuf.

**Company claim:** The basis for the arbitration action, as claimed by the company, is:

...the Government's improper failure to finalize the permitting process as it is required to do and to respect Pac Rim's and the Enterprises' legal rights to develop mining activities in El Salvador the government of El Salvador.

The company asserts the government acted in an “arbitrary and discriminatory” manner, and objects to the government’s decision:

...to suddenly change its entire body of laws and regulatory framework for mining without justification after [the company] had invested many tens of millions of dollars in the country in reliance on the laws and regulatory framework that existed at the time....

As officials at the U.S. Embassy in San Salvador told me, the company had received “a wink and a nod” from the Saca administration that they would receive their exploitation permits.

Specifically, the CAFTA filing by Pacific Rim states the following with regard to basis for the claim:

...A licensee who completes to exploration phase is entitled to proceed to the mineral extraction or “exploitation” phase – without which all of the investment and effort devoted to exploration would be wasted. Once the exploration phase is concluded and the licensee has determined that there is “economical mining potential” at a site, the licensee has the *right* to request an exploitation concession for the purpose of mineral extraction in order to protect its exclusive rights over the license area. Moreover, the government is *required* to grant the licensee an exploitation concession once the exploration is concluded, the existence of mineral deposits has been demonstrated, and the licensee has both filed the application provided in Article 36 of the Mining Law and enclosed the documents described below.

Under Salvadoran law, a company must obtain an exploitation permit from the Ministry of Economics (MINEC). To obtain the exploitation permit, several documents are required to be filed with the application, as follows:

For purposes of submitting an application to receive an exploitation concession, the pertinent documents provided by the law to be attached to a concession application are set out in Article 37 of the Mining Law.

These documents include presentation of: 17 NOA, para. 8. 18 NOA, para. 35:

- A description of the area for which the concession is requested;

- A showing that the licensee owns or is authorized to use the real estate property where the mine project is located;
- The relevant *Permiso Ambiental* (Environmental Permit) ("Permit") issued by MARN and accompanied by a copy of the corresponding *Estudio de Impacto Ambiental* (Environmental Impact Study) ("EIA");
- An *Estudio de Factibilidad Tecnico Economico* ("Feasibility Study"); and
- A five-year *Programa de Explotacion* ("Development Plan"). 8.12

The company claim asserts that it has complied with all of these, except that MARN has not provided an environmental permit for El Dorado exploitation.

The company's claim goes on to state that:

The Mining Law makes it clear that the right to develop a mine constitutes a *property right*, subject to all the protections of the Salvadoran Constitution and other applicable laws.

and:

In short, the promise of an exploitation concession is the reason why companies undertake their investment in the first place.

Prior to the application for its exploitation permit from MINEC, the Environmental Law requires the company to apply for its Environmental Permit from MARN, which may deny a permit if the agency is not satisfied that the applicant has satisfactorily addressed its concerns. The company asserts that the Environmental Law requires the government to grant or deny the permit request within 60 working days of submission of the original EIA, or at least within 120 working days.

Briefly, the timeline of interactions between the company and MARN is as follows: The company filed its EIA with MARN in September 2004. MARN did not immediately respond, and on Dec. 22, 2004 Pacific Rim went ahead and filed, without the environmental permit, its request for the exploitation concession with MINEC. MARN responded to the company in Feb. 2005 with additional questions and concerns, to which the company replied with a supplemental volume to the EIA in April 2005. MARN replied asking for more information, to which the company responded with its Final Exploitation EIA in September 2005. The EIA was put out to public review in October 2005, but only for 10 working days, and with only one copy available in country. In March 2006, MARN asked the company to respond to public comments received, and supplemented this with a request for additional information in July 2006. The company responded to the additional requests in October 2006, and then filed their final wastewater treatment plan in Dec. 2006. As such, Pacific Rim claims that it has

complied fully with the statutory requirements, and thus is “entitled to receive an environmental permit for mining on the El Dorado site.” The company also claims that further exploration permits for other areas at El Dorado have been held up by MARN as well. The company claims it has had no contact from MARN after December 2006.

Thus, the company asserts the lack of government response constitutes a taking of a “property right,” and the company’s arbitration action is “seeking award of damages in the hundreds of millions of dollars from the Government for its multiple breaches of international and Salvadoran law.” This includes not just a recovery of the \$77 million it claims to have invested to date, but also damages “far in excess” of this amount for lost revenues that may have ensued by developing the mine.

**Government of El Salvador preliminary objections:** On January 4, 2010, the government of El Salvador filed preliminary objections to the Pacific Rim filing with the Tribunal at the ICSID. In their filing, the government asks that all claims be dismissed.

The government states that the claimant’s assumption that it holds a “perfected right” to mine exploitation concession is incorrect as a matter of law, and that the company provides no factual basis for this claim, as required by CAFTA. The government filing states the following:

First, contrary to the claimants suggestion, there is no automatic right to a concession under Salvadoran law. Second, instead of asserting the required facts, Claimant merely asserts a legal conclusion that PRES [Pacific Rim El Salvador] has purportedly “perfected” a legal right to a mining exploitation concession except for the Government’s failure to approve its Environmental Impact Study and issue an Environmental Permit. In reality, Claimant fails to set forth facts to show that PRES complied with what Claimant admits are other “plain and explicit” requirements under Salvadoran law which must be satisfied before a company may seek a mining exploitation concession.

and:

PRES has failed to comply with those other requirements, as demonstrated by the undisputed facts set forth in Claimants own documents. Thus, even if the government of El Salvador were to approve the Environmental Impact Study and grant the necessary Environmental Permit, the undisputed facts show that PRES would still not have any right to obtain the mining exploitation concession. In short, even assuming as true all of the Claimant’s factual allegations regarding the Environmental Permit, the alleged actions or inactions of the Government have caused the Claimant no harm. Therefore, all claims related to the El Dorado project are not claims “for which an award in favor of the claimant may be made.”

Thus, two preliminary rebuttals by government are that:

The Mining Law does not give holders of exploration licenses automatic rights to

exploitation concession...Indeed, full compliance with all the formal requirements of the Law simply affords the applicant the right of having his or her application considered by the Ministry.

and:

While Claimant makes allegations related to PRES's inability to obtain an Environmental Permit, nowhere in the Notice of Intent or the Notice of Arbitration does Claimant provide even factual allegations, much less evidence, that PRES has submitted the other specified documents or complied with the other individual requirements to obtain the concession. This complete lack of any factual allegations relating to these legal requirements which Claimant calls "plain and explicit" violates the requirements of CAFTA Article 10.16.2(c).

For instance, with regard to the Feasibility Study required to be submitted prior to a permit decision, Pacific Rim states on its website the following:

In February 2009 the Company decided to defer completion of the feasibility study again due to: unpredictability in capital costs as changes in commodity prices due to recent economic volatility become reflected in the prices for capital items; the Company's focus on saving cash until these inputs have stabilized and the study can accurately reflect changed economic realities; and, uncertainty in the timing of the El Dorado permitting process. Pacific Rim intends to complete the feasibility study when the El Dorado permit issue is clarified and capital costs stabilize.

This statement suggests that the company has not completed a Feasibility Study, and thus has not complied with the requirement to submitting such prior to a permit decision. The company prepared a "Pre-Feasibility Study," dated January 21, 2005, but it is not clear that the pre-feasibility study satisfies the requirement under law that a full "Feasibility Study" be submitted, along with the other documents and the Environmental Permit prior to receiving the exploitation concession. The company website reports information with regard to the compliance of its Pre-Feasibility Study with Canadian *National Instrument 43-101 Standards of Disclosure for Mineral Projects*, administered by the Canadian Security Administrators. But it remains a matter of dispute between parties whether this satisfies El Salvadoran law on this issue.

The government further states that it's filing of preliminary objections:

..does not mean that the Republic of El Salvador accepts the jurisdiction of the Centre (ICSID) or the competence of the Tribunal to decide this dispute.

It is noted that in a previous case at the ICSID brought by a Spanish company against the government of El Salvador, the government prevailed based on their argument that the ICSID had no jurisdiction in the disputed matter.

In their filing of preliminary objections, the government's "Prayer for Relief" requests the Tribunal to:

- Suspend the proceedings on the merits while these preliminary objections are pending, with the exception of the issues on the merits raised in these preliminary objections.
- Dismiss all claims in this arbitration related to Pacific Rim El Salvador's application for a mining exploitation concession in the El Dorado project.
- Dismiss all claims in this arbitration related to the exploration license for the Santa Rita project.
- Dismiss all claims related to allegations of violations of CAFTA Articles 10.3 (National Treatment), IOA (Most-Favored-Nation Treatment), and IO.16.1(b)(i)(B).
- Declare that the Tribunal does not have competence to decide Claimant's claims under the Investment Law of El Salvador and, as a consequence, dismiss all claims under the Investment Law and any other domestic law of El Salvador.
- Issue an order awarding the Republic of El Salvador its share of the arbitration costs and its attorney's fees incurred related to these objections, plus interest from the time of the decision until payment is made, at a rate to be established at the appropriate time.
- Grant the Republic any other remedy that the Tribunal considers proper.

The company has until Feb. 23, 2010 to respond, and then there will be at least one more back and forth for responses of the parties, and then the first hearing will be scheduled, likely in May 2010.

Subsequent to the Pacific Rim filing, another similar arbitration action was filed by Commerce Group (also a U.S. mining company) against the government of El Salvador for the government revocation of permits for their San Sebastian gold mine in La Union district of eastern El Salvador, claiming similar infringements and seeking similar damages.

### **II.3 Violence and Security in Cabanas**

Since 2004, when Pacific Rim requested exploitation permits and community opposition to the mine commenced in Cabanas, violence toward local leaders in the region has increased substantially. Over the past five years, there have been many assaults, kidnappings, attempted murders, murders, and many threats.

The violence escalated in 2009 when several people associated with opposition to the mine project were targeted and murdered, as follows:

Marcelo Rivera – murdered in June 2009. He had been an artist and teacher, Director of Association of Friends of San Isidro (ASIC), Director of the San Isidro Cultural Center, a Board Member for the FMLN Party in Cabanas, and a member of La Mesa. He was an outspoken opponent to the El Dorado mine, and organized community opposition to local election irregularities in January. He had received repeated death threats, was subject to a targeted campaign to publicly defame him, and had narrowly escaped a vehicular assault earlier in the year.

Marcelo was kidnapped on June 18, while in-route by bus from San Isidro to Ilobasco. Family members reported the disappearance to police on June 21, but police reportedly took no immediate action. On June 24, family members filed a formal complaint with the Attorney General in San Salvador asking for an investigation and search, and family members and friends launched their own search.

As a result of the community-organized search, one person with knowledge of Marcelo's murder came forward and agreed to talk with police. As a result of information provided and continuing pressure from the community, the authorities reluctantly searched the area surrounding an abandoned well, some 30 meters deep.

The corpse showed signs of torture that were consistent with former Death Squad tactics of the civil war years. Many locals report investigative misconduct on the part of the local police – the police were slow to respond, did not secure the crime scene, and did not collect evidence properly, etc. Seven suspects were arrested in August, and one minor was released without charge. It is reported that cellmates of the suspects report that the suspects confessed to having been commissioned to murder Marcelo, and being paid with weapons and money. Some allege that as much as \$100,000 was paid to each suspect to carry out the murder of Marcelo, an enormous sum of money by Salvadoran standards. Witnesses also report a conversation overheard at a local auto repair shop in which two men claimed credit for having completed the job of having Marcelo killed, and needing to collect payment.

Ramiro Rivera – murdered Dec. 20, 2009. Ramiro (no relation to Marcelo) was Vice President of the Environment Committee of Cabanas, and lived in Trinidad, near the proposed Santa Rita mine site. Trinidad had been scene of many direct confrontations between Pacific Rim and local opponents. Local people organized to evict mine exploration drilling machinery from the area, police intervened on behalf of the company, the drilling machinery returned, and once again was evicted by locals. Ramiro was one of the leaders of this local opposition, and had received several death threats as a result. He had been attacked on August 7, shot 8 times in the back, while returning on horseback from milking his cows. He survived, and recognized the perpetrator as Oscar Menjivar, who was reported to have formerly been a promoter for the mine. Menjivar was then arrested on August 13, and is now in jail.

After the Marcelo Rivera murder in July, Ramiro was assigned two armed police guards. On Dec. 20, Ramiro was driving up a very steep dirt road toward his home in Trinidad, with 13-year old Eugenia Guavara and Ms. Felicita Eschevarria next to him in the cab of the truck. In the bed of the truck were Jose Santos Rodriguez (husband of Dora Alicia Sorto, and an outspoken mining opponent), and the two armed police guards. An ambush had been carefully planned at a switch back in the road, and at least four gunmen with M-16 military assault rifles sprayed the truck cab with bullets. Ramiro and Felicita were killed, Eugenia was wounded, and the others escaped. It is unclear how or if the armed police guards in the truck were able to respond to the attack.

Dora Alicia Recinos Sorto and her unborn child – murdered Dec. 26, 2009. Dora, a mother of 6 children, and her husband Jose Santos Rodriguez were active members of the Environment Committee of Cabanas, and lived next door to Ramiro Rivera near the proposed Santa Rita mine site in Trinidad. Santos had received many death threats, and had been attacked previously. On Dec. 26 Dora was returning up the hill from the spring where she washed clothes, 8-months pregnant, with her 2-year old son on her hip and laundry on her head. She was shot with a high-powered rifle, she and her unborn child were killed, and her 2-year old son was wounded. Police were stationed nearby (within a few hundred meters), but were unable to prevent the attack or to apprehend the perpetrators.

Horacio Menjivar Sanchez and Esperanza Velasco de Menjivar, murdered on April 9 and Oct. 8, respectively – Horacio and Esperanza were parents of Oscar Menjivar, who was reported to have been a promoter for the Pacific Rim project. In 2008, Oscar reportedly attacked with a machete two members of the Environment Committee of Cabanas: Nelson Ventura in April 2008, and then Jose Santos Rodriguez (husband of Dora Alicia Sorto) in May 2008. Nelson escaped unharmed, but Santos lost two fingers. Oscar was subsequently arrested for the shooting attack on Ramiro Rivera in August 2009, and sentenced to 6 months in jail.

-----

In addition to the targeted murders discussed above, threats to mine opponents escalated and intensified dramatically in 2009 and have continued in 2010. A chronology of the threats, compiled by staff at Radio Victoria, is attached in Appendix III. Due to the recent attacks, murders, and threats, several people from the region are currently in protective custody, safe houses, or other protective programs. Security presence, and police presence has been increased as well in the region.

Father Luis Quintanilla – A Catholic priest in Cabanas who has been outspoken in opposition to the mine, has received continuous threats and survived two kidnapping attempts in 2009. Father Quintanilla hosts a weekly evening show on Radio Victoria, in which he often voices his opposition to the mine, and discusses other human rights issues in the region. He had received death threats since 2006, and was followed by a car and photographed in May 2009. On July 13, a car attempted to stop Father Quintanilla while he was driving at night back from Victoria to Sensuntepeque, but when he noticed the

masked gunmen, he accelerated around the car and escaped unharmed. On July 27, upon return from Victoria to Sensuntepeque after his evening radio show, he was stopped by a roadblock, and four masked gunmen took him into custody. He heard his abductors say: “Should we kill him now? No, we are supposed to take him alive.” Fortunately, he had locked his car when he was removed, and his car alarm activated. When the gunmen returned to the car to try to deactivate the alarm, Father Quintanilla then leaped down a ravine and escaped. Police were summoned but when they learned that Father Quintanilla had not been hurt or robbed, they decided to not investigate any further.

Radio Victoria - Radio Victoria is a community, mostly youth-run, radio station located in Victoria, Cabanas. It has been broadcasting across much of Cabanas and neighboring Honduras since 1994, and is a founding member of ARPAS, the Salvadoran Association of Participative Radios and Programs, which is a member of the Latin American Radio Education Association (ALER), and the World Association of Community Radios (AMARC). Although the radio is not directly affiliated with any political party, its staff comes from the social and environmental justice movement in the region, and the station has taken a public position against gold mining, electoral fraud and human rights violations.

Threats began to be received by Radio Victoria staff in 2006, but escalated dramatically in 2009. The attached Chronology (App. III) provides a detailed list of the threats, vandalism, and assaults that the staff has endured since 2006. In October 2007, Radio Victoria staff report that Pacific Rim offered to support Radio Victoria’s station expansion, and to pay the station \$8,000 / month for advertising and public relations. The station declined the offer. Subsequently, a campaign of intimidation of Radio Victoria staff intensified. Several dozen threats have been received, along with home invasions, assaults, and vandalism of remote radio antennas and equipment. Some of the text / email threats were sent under the name: “exterminio pacificrim”, translated as “pacific rim extermination.” Several radio staff were put under direct police guard, and some transferred to safe houses for protection.

#### **II.4 Effort to Prohibit Mining in El Salvador**

From 1994, when the recent mineral exploration in El Salvador commenced, until 2004, exploration proceeded with the clear sanction and encouragement of the right-wing ARENA party-controlled national and regional governments. When people living near mining exploration activities began to notice environmental impacts from the mining exploration - reduced access to water, polluted waters, impacts to agriculture, and health issues – civil society opposition to metal mining began to grow in Cabanas and across the country. The National Roundtable Against Mineral Mining in El Salvador (La Mesa) and the Environment Committee of Cabanas (CAC) were formed in 2005.

A widespread political movement to ban metal mining spread across the country, and La Mesa drafted and arranged for the introduction of legislation in the National Legislative Assembly (NLA) in 2007 to permanently ban mining. As well, an alternate bill to

encourage mining was introduced by the Party of National Reconciliation (PCN), allegedly with extensive drafting support by Pacific Rim. These bills did not pass, but the anti-mining position grew more politically acceptable.

A broadly based social movement against mining staged a national march in San Salvador, attracting support from the Catholic Church. As a result, in March 2008, President Sacca, who had been a strong supporter of mining for years, first stated his opposition to issuing any further mining permits, and said that he intended to revisit the entire legal framework that governs mining in El Salvador. At a press conference then, President Sacca stated categorically:

What I am saying is that, in principle, I do not agree with granting [pending mining] permits.

In February 2009, the month before the presidential election, President Sacca reiterated his new policy on mining:

While Elias Antonio Sacca is in the presidency, he will not grant a single permit for mining exploration, not even environmental permits, which are issued prior to the mining permits, being granted by the Ministry of Economy. [Pacific Rim and its subsidiaries] are about to file an international complaint, and I would like to reaffirm, I would prefer to pay the \$90 million than to give them a permit.

This position was held as well by the opposition candidate, Mauricio Funes of the FMLN, who won the March 2009 election. In January 2010, President Funes announced his support for a ban on all mineral mining in El Salvador, saying that:

No one has convinced us that there are ways to extract minerals and metals, especially metals, without contaminating the environment and affecting public health.... We are not going to authorize any mining exploration project... Nor are we going to allow systematic disappearances and threats against members of the environmental movement.

Although the NGO community genuinely appreciates the statement by President Funes, they feel strongly that legislation needs to be adopted by the NLA to make this ban permanent, and law. This effort is now underway. However, the Funes administration is said to be drafting a bill that would impose only a temporary ban on mining (perhaps for 5 years), out of fear of additional CAFTA actions that might ensue if a permanent ban were to be adopted at this time.

A *Strategic Environmental Assessment* (SEA) for the mineral sector across the country was first proposed in 2006 by the Ombudsman for Defense of Human Rights (PDDH), as a means to zone areas as appropriate or not for mineral exploitation. An SEA is a comprehensive analysis conducted before specific industrial activities are approved for a region, in order to incorporate environmental policies, plans and programs into development plans. In 2008, President Sacca reiterated the need for an SEA, and said no

permits will be granted until a comprehensive SEA is completed. In January 2010, an invitation to bid to conduct the Mining SEA was published by the Ministry of Economy (MINEC), with proposals due March 5, 2010. The MINEC invitation-to-bid requires the SEA to commence in June, and be completed by December 2010. Many NGOs hope that the SEA will provide a context to argue for the permanent legislative ban on metals mining, while others feel it may provide support to allow mining in certain areas of the country.

### **III. Findings**

#### **III.1 Violence and Security in Cabanas**

1. Currently in Cabanas, there exists a strategic campaign of domestic terrorism targeting mining opponents. It is clear from speaking to local citizens in Cabanas (in the towns of San Isidro, Sensuntepeque, Guacotecti, Trinidad, and Victoria), that there currently exists a strategic campaign of violence, threat, and intimidation directed against community leaders and others who oppose the opening of the El Dorado mine. Seven people were murdered in the area last year, most of who were outspoken in their opposition to the mine, and/or otherwise associated with the opposition to the mine. Residents of Cabanas report over the past year report seeing bands of strangers, some with automatic weapons. They feel these gangs may be mercenaries hired to conduct the strategic campaign of violence. Alternative hypotheses to explain the observations in Cabanas – including inter-family rivalry, common crime, drug-related, etc. – are inconsistent with the observations. These alternative hypotheses cannot account for the many uni-directional threats received continuously by mine opponents, or the most recent attacks, attempted abductions, and premeditated murders, all of mine opponents.

The threats toward staff at Radio Victoria, and attempts to abduct Father Quintanilla are clearly not family or drug related. As well, those who abducted Marcelo Rivera did not request any ransom whatsoever, thus refuting a strictly commercial motive for the kidnapping. The only hypothesis that explains the cumulative evidence is that a targeted campaign of violence and terror is being waged against mine opponents in Cabanas. And as the Director of the National Civilian Police, Carlos Antonio Ascencio Giron, stated in regard to the arrest of suspects in connection with the murder of Marcelo Rivera: “We know that’s not where it ends.”

2. Many feel that this violence is related to the presence of the mining company.

Residents of Cabanas report that the violence began and became epidemic just in the past few years, co-incident with the increase in mining exploration activity and the company’s request to move from exploration to development at El Dorado. Many residents and some government officials allege a direct and/or indirect relationship between of the mining company and the recent violence. Local residents report that company officials told their employees that local environmental leaders, in particular members of the Environmental Committee of Cabanas, were to blame for their lack of work. Residents express a strong desire that the precise nature of any association between the mine company and the

violence, and any other intellectual sponsorship for the violence, be rigorously investigated by the Attorney General's office, and all those found to be involved prosecuted to fullest extent of Salvadoran law.

3. The investigation into the violence has been ineffective. Many report serious irregularities with the investigation into the violence to date, in particular the murder of Marcelo Rivera. These irregularities are discussed in detail in the Ombudsman's statement (App. I). The investigation should include all evidence, including all violent attacks, the murders, the threats, etc. that have occurred. Many people report serious shortcomings with judicial follow-through with regard to crimes committed against mine opponents. Several serious incidents – attempted abductions, threats, assaults, robberies – were not investigated well, or at all in many instances. Some local police have reportedly issued threats themselves to mine opponents.

The statement of the Ombudsman (App. I) criticizes the investigation to date as follows:

The investigations carried out by the Attorney General's Office in the majority of the crimes committed against environmental activists in Cabañas, such as threats and injuries over the past 6 months, have not led to any further clarity of the events or determination of the material or intellectual actors responsible. This violates the rights of victims and families to have access to justice. Based on the declarations of the victims and their family members, it appears that the Attorney General's Office has abstained from investigating all possible motives and theories that could lead to the truth behind the crimes.

The Ombudsman's statement states further:

This Ombudsman's Office notes that there are sufficient elements in the homicides, in the way they have been carried out and the levels of planning involved, to lead one to believe that the homicides and other events may be related and have a common origin.

The Director of the National Civilian Police states that he is now "considering all hypotheses" in the investigation, that they "haven't ruled anything out," and they are meeting regularly with the Attorney General's office and the Office of Organized Crime on this matter. As well, he ordered a heavily armed undercover team to the area, additional patrols, a temporary police station in Trinidad, and increased intelligence gathering. These actions are appropriate and encouraging.

4. Residents feel that local government officials are associated with the campaign of violence and terrorism. Many local people feel strongly that local government officials – e.g. mayors, police – are involved at least indirectly in the campaign of violence, threats, and terror against mine opponents. People cite several pieces of supporting evidence, including funds paid to and by the officials, files kept on opponents, surveillance of mine opponents, rampant corruption, irregularities in applying the rule of law, and various other activities in support of the mine project. Many mentioned that they could not trust

the police, and wonder what association the police may have to the mine company. Some report that police themselves have issued threats to mine opponents. Many conclude that there must be a well-organized criminal organization behind the violence, and this requires at very least willful passivity on the part of local officials and police, if not active participation.

5. Lack of security in Cabanas is unacceptable. Despite the deployment of several squads of national civilian police to the area, the security situation is unacceptable. The statement from the Ombudsman (App. I) calls attention to: “grave omissions on the part of the State authorities in the failure to carry out due diligence to implement effective and necessary measures to protect the life and security of people living in the village of Trinidad.”

Threats continue to Radio Victoria staff and other mine opponents in the region, and mine opponents live day and night in fear for their and their family’s lives. Cabanas will likely remain tense until the perpetrators of the recent attacks and threats are arrested and brought to justice, the mine company leaves the region altogether, and national legislation is adopted prohibiting mining in the country.

### **III.2 Impacts of mining activities in Cabanas**

1. Residents report serious environmental impacts from mining exploration. Residents of Cabanas report impacts from exploration conducted by Pacific Rim, including reduced access to fresh water, polluted waters, impacts to livestock, and health impacts. To date, over 660 exploratory drill holes have been drilled in the region, totaling 225 km of length. There has not been a systematic study of the impacts of mine exploration in Cabanas, nor any significant government oversight of exploration activities.

2. Social impacts from the proposed project are already serious and have created “corrosive communities” - In addition to the environmental impacts of exploration, an intense sociopolitical polarity developed between proponents and opponents of mining, which lead to social tensions, emotional stress, disintegration of civil society, political turmoil, and violence. The communities near the proposed mine project have become classic examples of what social psychologists describe as “corrosive communities.” There is an extensive literature on the phenomenon of corrosive communities associated with large industrial projects. Such “corrosive communities” are characterized by intra-family and inter-family rivalries, traumatic stress disorders, depression, psychological illness, loss of social cohesion, substance abuse, physical abuse, crime, uncertainty about the future, fear and violence.

3. The Environmental Impact Assessment (EIA) for the El Dorado project is inadequate – Pacific Rim stated in its 2009 CAFTA filing the following:

The exploitation EIA was a thorough and detailed study, fully assessing the baseline environmental conditions and the projected environmental impacts of the mining and reclamation activities using best available operating practices and

mitigation measures.

However, the company was fully aware that a 2005 independent review by a mining hydrologist in the U.S. found just the opposite (Technical Review of the El Dorado Mine Project Environmental Impact Assessment, El Salvador, 2005). The technical review – of primarily the hydrology component of the EIA - found that the EIA lacked baseline water quality and quantity data, lacked transparency and public consultation (e.g., there was only one copy of the 1,400 page EIA available in El Salvador, and citizens were afforded only 10 working days to provide comments, and were not allowed to photocopy any parts of the document, etc.), and failed to consider costs of high water removal that would be required by the mine (328 million liters / year). The independent technical review found that the EIA was particularly lacking in its assessment of baseline groundwater resources, criticized the fact that all water sampling was conducted by the company or its paid representatives themselves, and found that many other impacts were not adequately analyzed in the EIA. The report concludes that the EIA overstates the positive aspects of the project and understates the negative aspects, and goes on to state that: “The EIA would not be acceptable to regulatory agencies in most developed countries.”

4. Mine development would likely cause significant impacts in Cabanas - Given the experience with such mines in other regions, together with the severe water shortage in Cabanas, it is highly likely that the El Dorado project would have serious and unavoidable impacts, regardless of how rigorous the precautions were. Many of these concerns are highlighted in the Statement of the Ombudsman for Defense of Human Rights (App. I). These impacts include competition for surface water resources; contamination of waters by cyanide, hydrocarbons, heavy metals, and increased sediment loads; acid mine drainage from the mine site; possible tailing dam failures; effects on aquifer flow characteristics and level caused by mine tunnels and/or explosives; changes to course of rivers and other waterways; air pollution from dust and toxic residues, causing respiratory problems for local residents; noise; extensive damage to surface landscape characteristics; damage to flora and fauna; and damage to scenic amenities. As discussed in the 2005 technical review of the Pacific Rim EIA (above), the INCO cyanide detoxification process that would be employed at the El Dorado mine would itself create toxic byproducts, including cyanate, thiocyanate, sulfate, ammonia, nitrate, some free cyanide, elevated copper concentrations, and many heavy metals. As well, the tailings dam is classified as “high risk” for failure due to financial factors, thus placing at risk the San Francisco river and people in the region.

Further, mine opponents in Cabanas conducted a site visit to the recently abandoned Entre Mares gold mine in Valle de Siria, Honduras, where they found widespread deforestation, catastrophic loss of surface water resources (20 of the pre-existing 23 rivers in the region reportedly dried up entirely), polluted waters, and respiratory and skin ailments of people living nearby. In El Salvador, the gold mine at San Sebastian in the neighboring district of La Union left a toxic legacy of acid mine drainage, waters polluted with cyanide and metals, and other problems. The San Sebastian mine is owned and had

been operated by Commerce Group (also a U.S. mining conglomerate), which has also recently filed an arbitration action against the government of El Salvador for suspending their operating permits. Finally, a 2008 report by Oxfam America entitled *Metals mining and sustainable development in Central America: An assessment of benefits and costs*, details the many risks of mining in Mesoamerica, and concludes that it does not facilitate, but rather compromises, sustainable development.

### **III.3 Civil Society issues**

1. The mining company played a significant role in destabilizing the region – Local residents feel strongly that Pacific Rim has played a significant role, both intentionally and indirectly, in politically destabilizing the region. They point to the company's attempt to buy their "social license to operate," through which they have provided up to \$1 million / year to various local initiatives aimed at winning local consent for the project. These initiatives include community projects, parties, and substantial discretionary funding reportedly paid directly to several mayors in the region. In addition, as the district government would receive under federal law 1% of the revenue from any mine project in its region, there exists strong support for mining within the ARENA party-controlled local governments. Mine opponents consider the mayors to function more as activists for the mine, rather than governors protecting the rights of all citizens. The Ombudsman statement (App. I) discusses complaints from communities in Cabanas regarding "the participation of the Mayor, members of the City Council, and elements of the National Civilian Police force and Armed Forces in promotion activities for the mining company that held the exploration permit for the area."

Further, the *OECD Guidelines for Multinational Enterprises* (see III.3.4 below), to which the governments and industries of Canada and the U.S. subscribe, section VI. *Combating Bribery*, states the following:

Enterprises should not, directly or indirectly, offer, promise, give, or demand a bribe or other undue advantage to obtain or retain business or other improper advantage. Nor should enterprises be solicited or expected to render a bribe or other undue advantage. In particular, enterprises should:

1. Not offer, nor give in to demands, to pay public officials or the employees of business partners any portion of a contract payment. They should not use sub-contracts, purchase orders or consulting agreements as means of channeling payments to public officials, to employees of business partners or to their relatives or business associates.
2. Ensure that remuneration of agents is appropriate and for legitimate services only. Where relevant, a list of agents employed in connection with transactions with public bodies and state-owned enterprises should be kept and made available to competent authorities.

It is the strong sense of local residents in Cabanas that Pacific Rim has openly violated

this provision.

2. Electoral fraud in Cabanas has been serious – Many report serious electoral irregularities and fraud in last year’s local elections in January, and many feel that this electoral fraud may be associated with the mine project. People from neighboring Honduras report having been paid \$100 each to come across the border to Cabanas to register to vote in the local elections for incumbent Mayor Ignacio Bautista, an outspoken supporter of the Pacific Rim project. Marcelo Rivera and ASIC called attention to this widespread fraud, and the elections were postponed for a week. As ASIC prepared to release evidence of this fraud, their offices were broken into and files stolen. The election went forward the next week, even with many of the same irregularities found previously, and Mayor Bautista was re-elected. Some local people suspect that the mayor may have had involvement in the abduction of Marcelo Rivera, who had exposed the electoral fraud that returned him to office.

3. The company has not obtained *Free Prior Informed Consent* (FPIC) – It is clear from the overwhelming opposition to mining in Cabanas that the mining company has not conducted effective consultation with local people, and has not received anything approaching *Free Prior Informed Consent* (FPIC) for the El Dorado project. Local residents say that Pacific Rim actually engaged in attempts to deceive them, with representatives pretending to drink cyanide at a town meeting, the company trying to conceal a dried spring, etc. Thus, despite their investment in the project, Pacific Rim has clearly not obtained their “social license to operate.”

4. Multinational mining companies operating in El Salvador have not conducted business consistent with the *OECD Declaration on International Investment and Multinational Enterprises*. The Organization for Economic Cooperation and Development (OECD) Guidelines set forth a code for responsible business conduct for multinational companies operating in and from countries adhered to the Declaration. These voluntary (non legally binding) standards include such issues as human rights, public disclosure of company information, employment and industrial relations, environment, combating bribery, consumer interests, science and technology, competition, and taxation. Currently, the Declaration and Guidelines are endorsed by all OECD member states (Europe), as well as the U.S., Canada, Argentina, Brazil, Mexico, Chile. That Pacific Rim is a Canadian and U.S. multinational enterprise imposes upon it the responsibility to adhere to the Declaration and Guidelines, as well as the governments of Canada and the U.S. to ensure Pacific Rim’s compliance. Pacific Rim has clearly violated many of these basic standards, and the U.S. and Canadian governments have not exerted sufficient influence on the company to bring its operations in El Salvador into greater compliance.

#### **III.4 CAFTA actions**

1. The CAFTA actions brought against the government of El Salvador are unfounded, constitute a serious threat to national sovereignty, and should be dismissed – The arbitration actions filed by Pacific Rim and Commerce Group against the government of El Salvador are unwarranted, and constitute a significant threat to the sovereign right to self-determination of nations. These rights include the right of nations to approve or

disapprove permits for activities within their jurisdiction, the right to establish and enforce environmental and requirements, and the right to adapt or alter national policies toward development at any time and in any way the sovereign nation deems appropriate.

The mining companies knew or should have known the many risks inherent in conducting business in El Salvador, and that *the right to explore* did not necessarily carry with it *the right to exploit* discovered resources. The company tried to expedite an affirmative permit decision while the government was re-evaluating its policy toward mining, and clearly such flexibility should be retained in the procedural affairs of sovereign states. The company's primary basis for their CAFTA claim is that MARN did not respond to its request for an environmental permit within the specified 60 or 120 days, and that this constitutes a violation of due process. However, in most government processes, failure to provide an affirmative reply within a specified time period simply constitutes a negative reply. This is the case in the Environmental Law of El Salvador as well, and perhaps should be clarified in all other applicable laws and regulation. As well, as Pacific Rim is headquartered in Vancouver Canada, and Canada is not a party to CAFTA, there is substantial question as to whether the company has legal standing to bring this CAFTA action through its affiliate Pacific Rim Cayman LLC, registered in Nevada, USA.

Were the companies to succeed at arbitration, this could have far reaching deleterious consequences beyond the immediate scope of this particular case. Both Pacific Rim and Commerce Group should be encouraged to drop their actions at the ICSID, and/or the Tribunal should dismiss the cases. Short of this, the international conservation and human rights community should weigh in on behalf of El Salvador, to assist in its defense.

### **III.5 Prohibition of Mining, and a Green Future**

1. A permanent prohibition on mineral mining in El Salvador is a choice for the people and their government - After becoming well-informed of the benefits / risks of mining, it seems the majority sentiment of the people of El Salvador that mineral mining be permanently banned in the country. This conscious choice must be respected by all parties, and enshrined in national legislation. El Salvador would be the first nation on Earth to establish such a permanent prohibition on mineral mining, and should be proud of this accomplishment.

2. El Salvador 2020: a sustainable, green future – The present debate in El Salvador regarding mining is a good platform for the country to discuss and develop an “El Salvador 2020” plan, to chart a path toward a green, sustainable future. The plan would direct government and international resources toward the planning horizon of year 2020, and include sustainable energy (solar, wind, geothermal, etc.) and a nationwide reforestation / environmental restoration program. Reforestation is absolutely essential to solve the growing water crisis in the country, as well such an effort could provide thousands of jobs in rural areas. El Salvador should explore the potential for selling carbon credits to northern industries through its nationwide reforestation effort.

## **IV. Recommendations**

1. Security must be enhanced in Cabanas, with additional patrols and temporary police stations located in the small communities at risk. Security arrangements for the organizations and individuals who are subject to continuing threats should be strengthened.
2. Pacific Rim should close its camp at El Dorado, and demobilize its operations entirely from Cabanas.
3. The government should require Pacific Rim to submit its finances to a thorough independent audit (by the government or others), to identify any/all payments made to local and/or national authorities, and for what purpose, since 2004.
4. All local mayors and other public officials in Cabanas should be required to submit their finances to a similar independent audit, to identify all payments made to them since 2004, and for what purpose. If necessary, their bank records should be subpoenaed and analyzed. This disclosure would be consistent with the *OECD Guidelines for Multinational Enterprises*, section VI. Combating Bribery, and section III. Disclosure.
5. All suspects in the violence should have their personal finances audited, to identify any financial irregularities that might point to payments made to commission criminal acts. As well, all suspects in custody should be individually interviewed by investigators, and investigators might consider offering plea agreements to individuals to solicit confessions to the truth about all actions, including who may have commissioned their actions.
6. The Attorney General and National Civilian Police should significantly enhance their investigation into the violence in Cabanas, in particular to identify any and all intellectual authors. Any association between the company and/or local authorities and the violence should be a primary focus. If necessary, these agencies should ask for international assistance in this investigation. I endorse the Ombudsman's call that: "a special group of attorneys and police officers be created to investigate the crimes and threats against the environmental defenders and their families."
7. The Office of Organized Crime Director Rodolfo Delgado should respectfully be removed from the investigation, as he is perceived by many citizens and some government officials to have specific biases and conflicts-of-interest that may interfere with an impartial and thorough investigation.
8. All of those found to have any involvement in the violence, from those committing the violent acts directly to the intellectual authors / sponsors, should be prosecuted to fullest extent of Salvadoran and/or international criminal law.
9. If it is the will of the people, a permanent ban on mineral mining in El Salvador should be adopted by the National Legislative Assembly, and signed by the President.

10. The government should vigorously defend its sovereign rights at the ICSID Tribunal re: the CAFTA actions brought, and not agree to settle the cases without establishing a clear victory for the government.

11. The government should commission a comprehensive Natural Resource Damage Assessment (NRDA) program to identify environmental and social damage caused by mining activities to date in country. [Note: an NRDA study is different than an EIA, which projects potential *future* damage if a particular project were to become operational. As well, it is different than an SEA, which is also a future-looking comprehensive environmental *zoning / planning exercise*. An NRDA program identifies damages from corporate activities *that have occurred to date*.] The damage assessment should analyze the assertions made in the Exploration EIAs that were presented by the companies to obtain their exploration permits, and compare actual results and impacts with those projected. If warranted, the government of El Salvador should file a claim against companies who are found responsible for environmental and social damage to date, either in Salvador, the U.S., or Canada. Such a counterclaim may offset any potential claim by the companies at the ICSID.

12. If the government opts not to seek redress through the courts of environmental and social damage identified in the NRDA study discussed above, then the citizens of the country who feel they have been harmed by activities of the mining companies should consider filing a class-action lawsuit seeking compensatory and punitive damages against the companies in the country where they are based – the U.S. and/or Canada.

13. The NLA should consider amending the Environment Law to require any/all multinational companies that seek permits to conduct business in El Salvador to pay a specific amount up front to MARN, sufficient for MARN to commission an independent assessment and analysis of the EIA prepared and presented by the company. As well, the public consultation provisions of the Environment Law need to be strengthened.

14. El Salvador should enhance its efforts toward reducing corruption at all levels of government.

15. The Ombudsman for Defense of Human Rights (PDDH) should be granted greater legal authority to exercise its duties. This authority should include the ability to demand compliance by other national agencies with its directives, and to demand responses to its queries / directives from other national agencies and industry within reasonable time periods.

16. The author endorses the demands of La Mesa that: a) there be a full and impartial investigation into the violence in Cabanas, including intellectual authorship; b) that the CAFTA actions be dropped by the companies and/or the ICSID Tribunal, or won by the government; and c) that a permanent ban on mineral mining in El Salvador be enshrined in law by the NLA and the President. As well, the author endorses the declarations of the Ombudsman for Defense of Human Rights (PDDH) in App. II.

17. The U.S. government should revisit CAFTA and other free trade agreements, and amend the agreements to make clear that they are not to supersede or infringe upon national sovereignty of the parties. Further, pursuant to the OECD *Declaration on International Investment and Multinational Enterprises*, the U.S. and Canadian governments should provide more active oversight of companies registered in their respective countries and operating in El Salvador and other nations.

18. El Salvador should consider becoming an adhering government to the OECD *Declaration on International Investment and Multinational Enterprises*.

19. El Salvador should consider developing an “El Salvador 2020” plan, to chart a path toward a sustainable, just, and green future for all its people, by year 2020.

-----

## **References:**

Moran, R. 2005. *Technical Review of the El Dorado Mine Project Environmental Impact Assessment (EIA), El Salvador*. Michael Moran Associates, LLC. Golden CO, USA. 14 pp.

OECD, 2008. *OECD Guidelines for Multinational Enterprises*. Organization for Economic Cooperation and Development. 55 pp.

Oxfam America, 2008. *Metals mining and sustainable development in Central America: An assessment of benefits and costs*. Thomas M. Power, University of Montana, USA. 35 pp.

Pacific Rim Cayman LLC, 2009. *Pacific Rim Cayman LLC v. Republic of El Salvador*. Arbitration action filed at International Center for Settlement of Investment Disputes (ICSID), Washington, DC, April.

Republic of El Salvador, 2010. *Preliminary Objections, Pacific Rim Cayman LLC v. Republic of El Salvador*. Filed by Attorney General Barahona, and Dewey and LeBoeuf LLP, Washington DC. January 4.

## Appendices

### Appendix I.

#### **Statement by the Ombudsman for the Defense of Human Rights (PDDH), El Salvador**

*Subject: Situation surrounding the “El Dorado” mining extraction project and assassinations occurring in Cabañas.*

*Request: Richard Steiner: Professor, University of Alaska and Member, IUCN*

#### *I. Context*

According to statements from the Ministry of the Environment and Natural Resources (MARN by its Spanish acronym), sent to this institution on March 23, 2007, there are “38 metals mining projects in the country; 12 of these are authorized (8 hold environmental permits and 4 do not require them), only one project has continued with exploration permits, corresponding to the ‘El Dorado’ project (San Isidro Cabañas, Pacific Rim, El Salvador S.A.)” Said statements add that: “to date there is no environmental permit in force.”

Although the PDDH has sent several requests for details on this and other announced metals mining projects, to this date this Office only has received the aforementioned official information. This is a concerning situation given that this lack of information limits the work of investigation, protection and guarantees of people’s rights that the People’s Defender (Ombudsman) must carry out.

#### **On the “El Dorado” mining project in Sensuntepeque, Department of Cabañas.**

Despite the aforementioned limitations, the PDDH has obtained information regarding this mining project from a study published by the Center for Investigation on Investment and Trade (CEICOM), titled “*Socio-environmental Impacts of Exploitation of Gold and Silver Mines in the Municipality of Sensuntepeque, Department of Cabañas.*” This study was carried out by the researcher Ivan Zenón, who points out that the project includes an area of 310 hectares of land and reaches 28 meters deep, beginning at an altitude of 413 meters and ending at 145 meters above sea level. It will be carried out 10 kilometers from the city of Sensuntepeque and 3 kilometers from the town of San Isidro, and the area in question includes the local aquifer that is formed between the Copinolapa and Titihuapa Rivers, which flow into the Lempa River. The San Francisco River, which flows west toward San Isidro into the mouth of the San Isidro River, is the water source for many communities of that municipality.

The study shows that the mine will use **2 tons of cyanide** per day, and that once the exploitation phase is over available water will have suffered important chemical

modifications as a result of the contamination of surface waters around the mine; these changes include higher levels of acidity and heavy metals from hydrocarbons. Moreover, these surface waters will leach into the subterranean water, filtered through cracks in the terrain until reaching the aquifer.

Another problem that the aforementioned study points out is the excavation of tunnels or galleries for the mine, which could realign the aquifer's water flow. This alteration in the subterranean water circulation could be intensified by the explosions used in the process and their effects on existing fissures. Explosives would also produce nitrates and heavy metals carried through mine water. The proposal supposes the re-fill of the galleries with sterile waste material, but does not mention the more dangerous possibility of material contaminated with cyanide or acid drainage from the mine.

The study shows that in addition to water, the air itself will be polluted with solid impurities such as dust and toxic or inert fuels that will reach the lungs and generate serious consequences for the human respiratory system. The study also shows that the danger is greater still when fine solid residues from the exploitation area reach the sediment layer in local rivers, which can lead to a contamination of ground and surface waters. In the case of San Isidro and Sensuntepeque, the situation is more dangerous still, as these populations are found only 3 and 10 kilometers, respectively, from the mineral deposits.

The study signals that another problem that has been detected is that of acid drainage which, as has been discussed, will reach and contaminate subterranean waters. In residual waste called tailings, such as will be generated in the process to be applied in Sensuntepeque, there is not only residual cyanide (< 3ppm) rather there are also other derivatives generated such as Cyanates and Thiocyanates, which are still toxic, especially for fish. These tailings will be deposited in an artificial tailings pond, a hazard waiting for an earthquake or other climate phenomenon to damage it and cause grave environmental contamination.

The report adds that the landscape in Cabañas will suffer grave modifications, as great quantities of sterile material will be uncovered and dumped. This, along with changes to the courses of rivers and waterways, will strip the area of its scenic attractions, and the localities will be affected by the noise pollution from the various operations. The vegetation in the area will be changed or eliminated by mining operations, along with a partial destruction and modification of the surrounding flora due to changes in the water table. The fauna will be disturbed and frightened off by the noise, air and water pollution, as well as the level of sediments in the rivers.

This is all of grave concern for this Ombudsman's Office, and the PDDH has called upon the corresponding authorities of the Executive Branch charged with environmental protection to generate a public warning regarding the problems discussed here, such that the rights of the Salvadoran population may be protected. As well the Ombudsman has demanded that a strategic environmental evaluation be carried out in the area, to reach a broad-scale determination of the effects that mining could have on life and the

environment, and take the issue with the seriousness warranted by the principles *pro homine* and *pro natura*.

## ***II. Position of the PDDH in relation to metals mining projects in El Salvador***

Since the year 2006, the Office of the Ombudsman for the Defense of Human Rights has carried out a series of investigations stemming from the announcement of metals mining extraction projects in the country and the repercussions of these projects on the Human Rights of the population potentially affected.

In August, 2006, through an Initial Resolution emitted and identified under file number 01-353-06, this institution issued a declaration regarding the situation, taking into account a series of considerations from the perspective of human rights, principally in protection of the right to life, health and the environment. The principles that guide the latter must be evaluated, and it is clear that a broad study is needed to evaluate the convenience of metals mining projects. These studies must include, first and foremost, the opinions of the affected population, as well as information on the territorial limitations, population density, environmental deterioration, and fundamentally, the problems generated for water resources vis-à-vis water quality and availability on a national scale. The critical water situation in the country has even been mentioned in official documents.

In a press release in August, 2006, this Ombudsman's Office again exhorted the Salvadoran State to carry out a broad study on the social and environment impacts of metals mining before granting any permit for exploration or exploitation. The statement urged the State to value access to information and to allow citizen participation in the process in order to ensure real protection for human lives, as defined by our constitutional framework.

On January 28, 2008, after beginning my mandate as the Ombudsman for the Defense of Human Rights, I made a statement establishing my position after the announcement of mining exploitation projects in the country and their potential impacts for the human rights of the Salvadoran population.

First, I ratified the position that was given in the resolution cited above, and again made recommendations: one recommendation was to the Minister of the Environment and Natural Resources suggesting objective analysis of the environmental impact assessments presented by the companies interested in mining projects, with a prevailing interest in the protection of the environment as the means to ensure the existence of present and future generations; likewise I recommended that the population be provided with sufficient, accurate and opportune information leading up to a public consultation regarding the process of the projects in question.

I recommended as well that the Ministry of the Economy adopt measures to guarantee that metals mining projects would not cause irreversible damage to the population and environment; as well as measures to apply the *principle of precaution*, in the case that

they did not have scientific certainty of the damages of this activity. The law gives clear precedent for this.

Likewise, I published the complaints presented to this Ombudsman's Office by the affected communities, particularly from the area of Sensuntepeque in the Department of Cabañas. Complaints centered on the participation of the Mayor, members of the City Council, and elements of the National Civilian Police force and Armed Forces in promotion activities for the mining company that held the exploration permit in the area.

On July 30, 2009, the Central American Council of Human Rights Ombudsmen, acting on an initiative from this Ombudsman's Office, passed a resolution in Panama City regarding the environmental and socio-cultural impacts generated by mining activities in the countries of the region, and demanding that States guarantee the protection of fundamental rights, the protection of people's personal integrity, and an end to the harassment of activists, organizations and persons dedicated to defending environmental and human rights.

On June 10, 2009, official correspondence was sent to the Minister of the Environment and Natural Resources, Mr. Hermán Rosa Chávez, informing him of the position taken by this institution on the issue of mining. Rooted in the contents of Article 10 of the law that regulates this Ombudsman's Office, it was requested of Mr. Chávez that he provide a report on the current status of the "El Dorado" mining exploration project to be carried out in the Municipality of San Isidro in the Department of Cabañas, as well as a copy of the Environmental Impact Assessment, the basis of the Environmental Evaluation and the Resolution emitted by the Ministry to authorize mining exploration. We did not receive a response.

On October 6, 2009, I renewed the request for this information from the MARN under correspondence tag 039/2009; despite this, for the second occasion the request was not observed, which implies a flagrant violation of the constitutional and legal mandate of the National Human Rights Institution, and obstruction of our investigative work.

### ***III. Profiling of victims identified by their defense of human rights as a principal facet of the investigation***

Since June, 2009, by way of telephone calls made to this Ombudsman's Office, we have registered a series of complaints related to the lamentable events that occurred in the area, such as the forced disappearance and subsequent assassination of Mr. Marcelo Rivera; an ambush that left two people dead: Mr. Ramiro Rivera and Mrs. Felicita Echeverría, and wounded M.E. Guevara, a 14 year old child; the assassination of Dora Alicia Sorto Recino, who was 8 months pregnant at the time; and injuries caused to R.A. Rodríguez, the 2 year old son of Dora Alicia.

This Ombudsman's Office is aware as well of the public resistance carried out by the National Roundtable Against Metals Mining (referred to in this document as the

Roundtable), an organization that has led national and international outcry against the aforementioned crimes, pointing out that the people assassinated were active members of the Environmental Committee of Cabañas which for several years has been organized to oppose projects that damage the environment in the area, and recently has been oriented principally to defend the communities from the introduction of mining projects.

The Roundtable has also stated that in recent months in Cabañas there have been ongoing severe conflicts, generated principally by offerings from the companies that have intentions of exploiting metals in the area. False expectations were generated by these offerings, and were fanned by the company's enormous investment in public relations. Conflict was thus generated between those who believed that they stood to benefit from the mining projects and those who argue that their natural surroundings would be damaged, with grave consequences for people's lives and the lives of future generations.

For these reasons, the Roundtable has denounced that the environmental defenders are suffering from constant attacks and disrespect of their human rights; they express as well their concern that the assassinations in Cabañas appear to have been carried out by assassins who acted "under contract," and they fear that the motive of the crimes could be linked to the activities of environmental defense in which the victims were involved.

Many human rights organizations in El Salvador have come out in support of the Roundtable's position and have likewise expressed concern about the assassinations and have made requests to the President of the Republic, the Attorney General's Office and the National Civilian Police force for an in-depth investigation of the events.

The Ombudsman's Office, in a Public Statement given on December 28 with respect to the assassinations carried out in the area, expressed its concern that the circumstances surrounding the events reflect grave omissions on the part of the State authorities in the failure to carry out due diligence to implement effective and necessary measures to protect the life and security of people living in the village of Trinidad. The inhabitants of the area had received constant threats, which had been reported to District Attorneys and Police authorities in a timely fashion.

Given these considerations and the gravity of the situation as well as the ongoing risk in the area, this Office demanded that the authorities proceed immediately with an in-depth investigation of the events and implement protective measures for the people and families that are currently at risk, especially including the members of the Environmental Committee of Cabañas and their families.

Likewise, I publicized the following conclusions drawn from the initial investigations carried out by this Office, including direct investigations of the area, testimony from the victims and direct communication with Police and Attorney General's authorities:

- The measures implemented up to this point by the National Civilian Police and the Witness and Victims Protection Program to protect the lives and physical and moral integrity of the environmental activists of the area who had previously been

victims of death threats and had even suffered severe attacks with firearms, such as is the case of Mr. Ramiro Rivera and Mrs. Dora Alicia Sorto Recinos, were not effective, and in fact were a far cry from the diligent application of the State responsibility to protect human rights.

- The investigations carried out by the Attorney General's Office in the majority of the crimes committed against environmental activists in Cabañas, such as threats and injuries over the past 6 months, have not led to any further clarity of the events or determination of the material or intellectual actors responsible. This violates the rights of victims and families to have access to justice.
- Based on the declarations of the victims and their family members, it appears that the Attorney General's Office has abstained from investigating all possible motives and theories that could lead to the truth behind the crimes.

#### *IV. The disappearance and homicide of Gustavo Marcelo Rivera Moreno*

On the 21<sup>st</sup> of June, 2009, this Ombudsman's Office received a complaint filed by the brother of Gustavo Marcelo Rivera Moreno. Mr. Rivera, age thirty-seven, at that time was the Director of the Cultural Center of San Isidro, Cabañas; and on March 1 of that same year had been named Director of the Friends Of San Isidro Cabañas Association (ASIC by its Spanish acronym). Mr. Rivera was a member of the Departmental Leadership of the Farabundo Martí National Liberation Front, (FMLN), and was a member of the "National Roundtable against Mining."

Mr. Rivera Moreno had been missing since June 18, 2009, and no reliable information was available as to his whereabouts. As the Complainant explained, on the aforementioned date his brother left his home in the Municipality of San Isidro, Cabañas, to go to San Salvador, where he would participate in different activities, and then on the 19<sup>th</sup> of that same month he would attend a training session in the village of Las Ánimas, in the municipality of Cojutepeque, Department of Cuscatlán, to which he never arrived.

The Complainant went to several different institutions to try to find out the whereabouts of his brother, but he did not appear in the logs of any of these institutions. He added that during the mayoral and parliamentary elections of January, 2009, Mr. Rivera Moreno was the Voting Center Leader named by the FMLN in the Municipality of San Isidro, Cabañas. In San Isidro the electoral event was eventually suspended due to incidents that arose with members of the National Republican Alliance (ARENA) party. Following these events an activist of the ARENA party was said to have attempted to run Mr. Rivera Moreno over with his vehicle.

Following these events, a press release was given on June 23, 2009, bearing the signatures and seals from the Friends of San Isidro, Cabañas Association (ASIC); the Environmental Committee of Cabañas (CAC by its Spanish acronym); and the United Movement Francisco Sanchez-1932 (MUFRA-32 by its Spanish acronym). The

document was titled *“Complaint regarding the disappearance of Gustavo Marcelo Rivera, Director of the Cultural Center of the Municipality of San Isidro, Cabañas; in the context of the grave violations against the right to life and other fundamental rights sustained during the struggle against the multi-national mining company Pacific Rim and the complaints of electoral fraud on the part of the ARENA party in the Municipality during the recent elections.”* In said publication they affirm that Mr. Rivera Moreno disappeared on Thursday June 18, 2009, at the “El Molino” crossroads in the jurisdiction of the Municipality of Ilobasco, seen for the last time between 5:30 p.m. and 6:00 p.m. Likewise, the document cites that the disappeared individual “was recognized for his leadership and firm stance for environmental protection, and his resistance against mining exploration and exploitation proposed in the Municipality by the mining company Pacific Rim.” Likewise, the individual was well known for his work in documenting the supposed “electoral fraud carried out by the Mayor of San Isidro in the recent mayoral elections, and acts of corruption carried out by the Municipal Administration over recent years.” The press release documented as well that during the 2009 campaign cycle Mr. Rivera Moreno received threats and insults from the [ARENA] party members.

That complaint filed with this office led us to open file SS-0273-2009, and an initial resolution was created on July 1, 2009, in which the acts described above were initially defined as presumed forced disappearance. The Director of the National Civilian Police force was notified of this, as well as the then Acting Attorney General. On the 4<sup>th</sup> of July, 2009, the cadaver of Mr. Gustavo Marcelo Rivera Moreno was found at the bottom of a well, in the village of San Francisco, in the Municipality of Ilobasco, Department of Cabañas. This Ombudsman’s Office modified its investigation to include the apparent violation of Mr. Rivera Moreno’s right to life, and the violation of his family’s right to swift fulfillment of justice. In that sense, on July 21, 2009, the PDDH filed formal request PADCI/079/09, requesting that the Director of the Coroner’s and Forensic Science Office share the results of the autopsy. There was no response granted to this request.

This Office learned through the media of the arrests of gang members accused of being the material authors of the homicide of Mr. Rivera Moreno, and we have paid special attention to the development of the penal process. As well, the PDDH has had frequent and direct contact with the family members of Mr. Rivera Moreno, and other individuals from that Department involved in the defense of the environment. On the 28<sup>th</sup> of July, 2009, family members of Mr. Marcelo Rivera and persons accompanying them provided information regarding other concerning situations ongoing in Cabañas, which, in their opinion, are directly linked to the homicide of Mr. Rivera Moreno. They declared that in the National Cultural Secretariat (formerly known as CONCULTURA), there is an extended file against Mr. Marcelo Rivera that includes reports of him being followed, and even photographs him carrying out his daily activities. These persons also recounted a death threat made by an unknown and unidentified person against Mr. Francisco Antonio Pineda, Coordinator of the Environmental Committee of Cabañas, who received the threatening call on his cellular phone, and an attack against Mr. Luis Quintanilla, who runs a radio program on Radio Victoria. Mr. Quintanilla was driving back at night from this program to the parish of Iglesia La Magnífica in Nejapa, when persons that he could

not identify blocked his path with an automobile, forcing him to swerve off the road and into a ditch.

With respect to the Attorney General's and Police investigations, several verifications were made of the police files. This Office has tried to make corresponding observations of the files at the Attorney General's office in order to verify if the investigation into the homicide due to the surrounding circumstances is oriented toward or at least takes into account the fact that the victim was involved both in political activities as well as work to defend the environment. Despite this, there have been difficulties in gaining access to the Attorney's files. Given these difficulties, through official request PADCI/007/2010, I have solicited that the Attorney General give instructions to the Special Unit against Organized Crime to facilitate access to the investigation files, such as to be able to verify if important elements and possible theories to clarify this crime have been abandoned.

Despite all of this, the members of the Environmental Committee of Cabañas have denounced irregularities that lead one to believe that the Attorney General's Office and the National Civilian Police force may have failed to fully comply with their duties or have acted with negligence in this case. These irregularities include: leaving the area where Mr. Rivera Moreno's body was found unprotected and leaving the perimeter without police presence, allowing several people access to the crime scene and permitting possible contamination; refusal to collect objects found in the area that could give important clues about the crime, objects such as a sharpened piece of wood with bloodstains on it; hiding some signs of torture on Mr. Rivera Moreno's body during the autopsy, given that the Coroner's Office of San Vicente initially agreed to carry out a detailed examination with technical staff from San Salvador but then quickly cremated the body upon orders from the Attorney General's office; refusal to consider the hypothesis that the motive of the crime could be linked to the victim's activities in defense of the environment, as some of the high-ranking police officials made declarations to television media that the crime was due to personal problems that the victim had with certain gang members; and in general the refusal to view the crime in the context of the struggle against mining in the Department of Cabañas.

In the opinion of this Ombudsman's Office, the disappearance and homicide of Mr. Gustavo Marcelo Rivera Moreno, and other events that will be described in this document, are very probably related to each other, thus enabling us to infer that they are also linked to the victims' work in defense of the environment.

#### ***V. Threats against the staff of Radio Victoria***

On the 23<sup>rd</sup> of July, 2009, a person who requested that his/her name be maintained confidential, which is permitted by article 34 of the Ombudsman's Office for the Defense of Human Rights Law, filed a complaint with this office stating that the young men José Alexander Beltrán Castillo, Ludwin Franklin Iraheta and Vladimir Abarca Ayala, who work as reporters for Radio Victoria in the Department of Cabañas, were receiving death

threats due to investigative journalism and reporting work, in the ongoing context of conflict in Cabañas after the death of Mr. Marcelo Rivera.

According to the complaint, the aforementioned young men were victims of threats made by persons who did not identify themselves and used different means, such as short messages sent via internet to the victims cellular telephones, anonymous notes slipped under the doors of their homes, and even direct telephone calls. In these threats the aggressors affirmed that if the [victims] continued with their reporting work they would suffer the same fate as Marcelo Rivera, using phrases such as “you’re next,” “you talked too much in San Isidro,” “You’re time will be up soon,” etc. This situation was causing considerable alarm and instability in the work, family and social environments of these young men, who were forced to modify their daily routines and even miss work and other engagements to try to ensure their safety.

This complaint led to an immediate reaction from this institution, opening file CA-0040-2009, and immediately requesting protective measures for the victims, even though no State official or agent was considered responsible for the threats. Due to the State’s responsibility to guarantee human rights in this case we felt the immediate need to make clear our position to prevent the threats from becoming a reality, and to demand the implementation of security measures for the victims, the investigation of the acts, and sanction of the culprits.

In that sense, and given that the acts could lead to a violation of the victims’ rights to life, integrity and even freedom of expression and right to information, through a direct resolution I requested of Carlos Ascencio Girón, Director of the National Civilian Police force, that the police immediately take all actions necessary to protect the lives and physical integrity of José Alexander Beltrán Castillo, Ludwin Franklin Iraheta and Vladimir Abarca Ayala, and each of their families. I also requested that the Acting Attorney General, Mr. Astor Escalante and Mr. Carlos Ascencio Girón conduct an impartial, in-depth and effective investigation into the threats against the young men in question, to find the culprits and serve justice.

To this date, I have verified only that the National Civilian Police force has given protection to the staff of Radio Victoria, in keeping with the re-assignment of police officers; with respect to progress in the investigation that would allow us to know the material and intellectual authors of the threats, there is still no information available.

***VI. Homicides of Mr. Ramiro Rivera Gómez and Felicita Echeverría, and six days later, the assassination of Dora Alicia Sorto and her unborn child of 8 months.***

The 20<sup>th</sup> of December, 2009, at around 4:00 p.m. on the principal access road from Ilobasco to the village of Trinidad, at a point in the road commonly known as “El Portillo,” as Mr. Ramiro Rivera Gómez was driving by in his vehicle he was ambushed by subjects that shot at him with firearms. Mrs. Felicita Gómez was killed in the act, as she was traveling in the same vehicle, Mr. Rivera Gómez was gravely wounded, and a

young child accompanying them was injured as well; they were taken to the Ilobasco National Hospital, but Mr. Ramiro Rivera died in transit before reaching the medical center.

Mr. Rivera was under special protection from police officers, and was under the watch of the Witness and Victims Protection Program. The officers that accompanied him at the time were unable to repel the attack.

Some days later, the 26<sup>th</sup> of December, 2006, at around 3:30 p.m. Mrs. Dora Alicia Sorto, who was 8 months pregnant, was on her way back from washing clothes and carrying her 2 year old child in her arms when unknown assailants confronted her on the path and shot her. She died instantly and in the same act her child was injured by a bullet in one of his legs. Mrs. Sorto was the wife of Mr. José Santos Rodríguez, an active member of the Environmental Committee of Cabañas.

With respect to the events described above, this Ombudsman's Office opened file CA-0077-2009 to investigate the case of the homicides of Mr. Ramiro Rivera and Mrs. Felicita Echeverria, and file CA-0002-2010 for the homicide of Mrs. Dora Alicia Sorto. Contact was made immediately with authorities from the District Attorney's office and local outposts of the National Civilian Police force, requesting the pertinent information about the events and actions being carried out. A response was received from the Police Chief in Cabañas on December 28, 2009, in which he laid out the actions carried out, including: the designation of a police patrol to protect the inhabitants of the village of Trinidad, and another patrol to the village of Maraña, both in the jurisdiction of Sensuntepeque, starting on December 23; patrols and checkpoints on access roads to the aforementioned villages; and visits from the police leadership structure to supervise the aforementioned police officers. As well the Departmental Police Chief mentioned that he was requesting personal security details for the victims families, and that the investigation into the crimes had been assigned to the Elite Division against Organized Crime.

Likewise, the District Attorney's office of Sensuntepeque reported that the investigations into the homicides of Mr. Ramiro Rivera Gómez and Mrs. Felicita Echeverria viuda de Argueta, as well as the homicide of Mrs. Dora Alicia Recinos Sorto, were being directed by the Special Unit against Organized Crime from the Attorney General's office, located in San Salvador.

The grave acts of violence led me to, in my role as Ombudsman for the Defense of Human Rights, give a public statement before the media on December 28, 2009, condemning the acts and urging for security measures to be adopted to protect the members of the Environmental Committee of Cabañas and their families, and for actions to be carried out to investigate and clarify the crimes committed. These requests were reproduced in official correspondence to the Attorney General, via formal request PADCI/175/09, and to the Director of the Witness and Victims Protection Program via formal request PADCI/176/09, both on December 28 of last year.

Likewise, officials from this Ombudsman's Office have held meetings with coordinators of the Witness and Victims Protection Program in order to carry out joint actions to guarantee the safety of the inhabitants of the village of Trinidad, especially the members of the Environmental Committee of Cabañas. To strengthen these efforts, a conference was held between those in charge of the Witness and Victims Protection Program in Cabañas, the National Civilian Police force and representatives of the Environmental Committee, together with officials from this Ombudsman's Office.

***Principal motives for concern***

Of the events described above and the investigations carried out so far by this institution, one can preliminarily say that in the case of the crime against Gustavo Marcelo Rivera Moreno, deficiencies were found in the failure to consider other hypotheses for investigation. This fact cannot be overlooked given that Mr. Rivera was a well-known public figure in San Isidro in his role as the Director of the Cultural Center, as a political activist and in his work in community associations working to defend the environment. All of these elements led him to be a person strongly recognized both within and outside his area of origin and could likewise generate situations that give rise to motives for his disappearance and subsequent assassination; in this sense this Ombudsman's Office cannot condone that only one motive is being considered in this investigation, and that other possible motives have been arbitrarily and summarily discarded.

Given the time elapsed between the homicide of Mr. Gustavo Marcelo Rivera Moreno and the constant complaints of death threats and attacks against members of the environmental defense organizations in the area, without conclusive and satisfactory results of investigations of the crimes, their motives and culprits, this could have been a principal factor that led to the subsequent acts of violence. This Ombudsman's Office can infer that the ineffectiveness of the investigations into the first cases led to a widespread climate of impunity, enabling subsequent acts of violence that could otherwise have been avoided. On top of that, none of the criminal investigations in these cases has made any public mention of possible intellectual authors. This Ombudsman's Office notes that there are sufficient elements in the homicides, in the way they have been carried out and the levels of planning involved, to lead one to believe that the homicides and other events may be related and have a common origin.

This Ombudsman's Office cannot avoid pointing out that in the homicides committed in December, 2009, there were already measures in place to try to guarantee the personal safety of some community members, and despite these these lamentable events took place, showing that the measures implemented were ineffective. This allows us to conclude that safety measures are insufficient when not coupled with investigations that provide satisfactory results. If in-depth investigations are not carried out effectively no safety measure can guarantee that new attacks will not occur.

Given all of the aforementioned elements, as the Ombudsman for the Defense of Human Rights, in the context of my constitutional and legal mandates, in a public statement on December 28, I recommended:

1. The urgent adoption of all actions and means necessary to clarify the grave crimes committed against environmental defenders in Cabañas and their families, without summarily discarding any theories for investigation, to allow the individualization of the material and intellectual authors in each case and ensure respect for the right to access to justice for the victims and their families.
2. That integral and efficient measures be put in place to guarantee the effective protection of the lives and physical security of the members of the Environmental Committee of Cabañas and their families.
3. That a special group of attorneys and police officers be created to investigate the crimes and threats against the environmental defenders and their families.

During a visit to the honorable Legislative Committee on Justice and Human Rights at the Legislative Assembly on January 12, 2010, I recommended that the discussion be renewed to pass the proposal to make more severe the penalty in homicides when the victim is a defender of human rights.

Likewise, on the same date I made recommendations to the Honorable Legislative Assembly of El Salvador to: review the current legislation related to licenses and concessions for metals mining in the country, opening a serious discussion and dialogue principally with the population that would be impacted by these types of projects, oriented toward passing a new Mining Law that conforms fully to international law on Human Rights, principally the right to a life with dignity, which implies a life in an environment free from contamination, as was expressed in the United Nations Conference on the Environment and Development (1992), and 10 years later, in the World Summit on Sustainable Development. These declarations should be seriously considered in the design, planning and execution of mining extraction projects that undoubtedly would affect the lives and means of subsistence for populations that live in poverty.

-----

## **Appendix II.**

### **Declarations from Ombudsman for Defense of Human Rights**

---

**Document 1:** Aug. 10, 2006

*The Office of the Ombudsman for the Defense of Human Rights opened a file on metals mining projects in El Salvador.*

**High Points:** (Paraphrasing) Mr. Luna discusses the panorama for metals mining in El Salvador, including that there have been 37 concessions for exploration, almost all of

them near the Lempa River. Mr. Luna states that the State has not provided necessary transparency and opportune information for people to be properly consulted, and the document lists the chronology of public statements made by government officials or the media regarding mining.

Mr. Luna then cites the State obligation to generate and collect information, and share this information with the public regarding Environmental Impact Assessments.

Mr. Luna asks the Minister of the Environment and Natural Resources, Hugo Barrera, to analyze the EIA carefully, and not grant exploitation rights if mining will harm the environment, as well as to ensure that public consultations are held.

Mr. Luna asks the Minister of the Economy, Yolanda de Gavidia to refrain from granting permits if mining will affect the environment and human rights in El Salvador.

**Document 2:** Jan. 28, 2008

*Ombudsman for the Defense of Human Rights Oscar Humberto Luna again expresses concern at the announcements of mining exploitation projects in the country and their potential impacts on the human rights of the Salvadoran population.*

**High points:** The ombudsman reiterates a resolution that was published in August 2006 (Document 1 above), in which he (paraphrasing):

- Asked the MARN to critically and independently analyze the EIAs and to keep the population informed
- Asked the Ministry of the Economy to make sure that mining activities did not produce irreparable damage
- Publicly shared that he had received complaints that the Mayors, City Councils, National Civilian Police force and Salvadoran Armed Forces in the localities of the mining areas had been actively promoting the mining projects.
- Cites the EUDOP/UCA survey that shows that the majority of the population is against mining.

In this resolution he also:

- Asks the Attorney General's Office to investigate environmental damage that has already occurred in the exploratory phases of mining,
- States that the lack of information given by the State on the mining projects prohibits agreements on the respect for the environment, community water sources and community tranquility.
- Recommends that the National Roundtable's proposed bill be considered.

**Document 3:** July 1, 2009

*Complaint filed by Miguel Angel Rivera Moreno*

**High Points:** Miguel Rivera states that his brother, Marcelo Rivera Moreno disappeared on Jun 18. He narrates Marcelo's social and political connections, and the events leading up to his disappearance. Mr. Luna affirms that if this is all true it could point to a case of *Forced Disappearance*, he contextualizes the significance of that in national and international law, and clearly states that the National Civilian Police and the Attorney General's Office MUST investigate fully.

**Document 4:** July 25, 2009

*Complaint received by the Office of the Ombudsman for the Defense of Human Rights.*

**High Points:** An anonymous complaint was filed in reference to death threats received by José Alexander Beltrán Castillo, Ludwin Franklin Iraheta and Vladimir Abarca Ayala, all reporters for Radio Victoria, Victoria, Cabañas. The complaint cites threats received from unidentified persons, making reference to the circumstances surrounding Marcelo Rivera's assassination.

Mr. Luna cites the rights to life and free expression in the Salvadoran Constitution and international law (Inter-American Human Rights Court, OAS), and calls on the National Civilian Police to provide protection to Radio Victoria workers, and the Attorney General's Office to do a full and complete investigation.

**Document 5:** July 30, 2009

*Resolution of the Central American Council of Ombudsmen for the Defense of Human Rights on the Environmental and Socio-Cultural Impacts of Mining Activities in the Region.* Panama City, Panama.

**High points:** The Ombudsmen from Central America resolve (paraphrased):

- States should respect their commitments in environmental law to guarantee adequate prevention, precaution, and participation of affected communities in deciding on mining projects.
- States should take environmental protection and biodiversity as the highest public interest to guarantee the human rights of future generations.
- States should move to guarantee adequate citizen participation in debates around mining laws, rules, and eventual reparations.
- States should act to protect the human rights of their citizens from the interests of the mining companies.

**Document 6:** Dec. 28, 2009

*Press Release on Recent Assassinations in Cantón Trinidad, Jurisdiction of Sensuntepeque, Cabañas.*

**High Points:** The Ombudsman cites the deaths of Ramiro Rivera, Felicita Echeverría, Dora Alicia Sorto Recinos and her baby, and shares concerns around (paraphrasing) blatant omissions in due diligence and efficiency that led to the failure to protect people in Cabañas, even after threats had already been received. Mr. Luna also called for further investigation and protection to be delegated to the area, and said that the Attorney General's Office has clearly not investigated all evidence and possible motives in these cases.

-----

### **Appendix III.**

## **Radio Victoria: Chronology of Threats and Actions**

### **Background:**

Marcelo Rivera was a resident of San Isidro, Cabañas, El Salvador and was an active community leader, artist and teacher who participated in a national environmentalist movement that has thus far prevented the Canadian Pacific Rim Mining Corporation from advancing their El Dorado gold mining venture located in the San Isidro municipality. Had the company opened the gold mine at El Dorado, it was expected that Pacific Rim's taxes and royalty payments would have boosted the annual municipal budget by a factor of ten, to approximately \$1 million. In 2002, the annual tax income for the Department of Cabañas, which includes nine municipalities including San Isidro, was under \$1.3 million.

Pacific Rim pulled out of El Salvador in July 2008 and issued a press release in December 2008 announcing that they had filed a Notice of Intent to commence international arbitration proceedings against El Salvador's government under the Central American Free Trade Agreement (CAFTA): "arising out of the Government's failure, within its own mandated time frames...to issue exploration and exploitation permits to which the Company is entitled."

For years Marcelo Rivera had opposed projects that would damage the environment and denounced corruption carried out by San Isidro's Mayor José Ignacio Bautista, who has held the office since 1997. During the election campaign for the January 2009 municipal elections, Marcelo received threats and insults from the right-wing political party, the Nationalist Republican Alliance (ARENA), to which Mayor Bautista belongs. On the day of the elections, Marcelo led a campaign to denounce fraud when it was alleged that ARENA had tried to bring illegal voters from neighboring countries to vote. All of the political parties except ARENA suspended the voting process that day because of obvious fraud. The election was rescheduled for the next week and Mayor Bautista once again was elected mayor.

Marcelo Rivera disappeared on June 18th, 2009, last seen getting off a bus at the El Molino turn-off near Ilobasco, Cabañas. On July 1<sup>st</sup>, police found Mr. Rivera at the

bottom of a thirty-meter-deep, dry well, which had been covered in chicken excrement and lime. In an anonymous phone call on June 27th, Mr. Rivera's sister-in-law was told that for several days a dead man had been in the well known as El Lagarto in Ilobasco, the municipality neighboring San Isidro where Mr. Rivera was last seen. Mr. Rivera's body showed signs of brutal torture typical of a death squad killing. He had no fingernails, scalp, nose, or mouth. His trachea was broken with a nylon cord, forcing his arm toward his face.

On July 7th, the Elite Division Against Organized Crime (DECO) of the National Civilian Police (PNC) captured four gang members and notified a fifth already in prison that they were suspects in Marcelo's murder. According to the DECO's investigations, the victim and the now-detained men "were imbibing alcoholic beverages in an abandoned house in the community of Las Flores, canton Agua Zarca when they began a fight that ended in the murder of the FMLN activist."

On July 8th, the Attorney General of the Republic (FGR) confirmed the assassination of Mr. Rivera. The chief of the Unit Against Organized Crime of the FGR, Rodolfo Delgado, stated: "To date there exists no evidence of an intellectual author of the assassination. We are not closed to any possibility, so if any subsequent investigation indicates that there exists an intellectual author, corresponding accusations will be formulated." He also sustained that between the presumed assassins and the victim, it has been possible to establish a relationship of friendship, which with the heat of alcohol this act of blood was generated. They were in a rural home in Ilobasco, and it was in that place that the death was caused by strangulation."

### **Radio Victoria:**

Radio Victoria is a community, and mostly youth-run, radio station located in the Cabañas province of northern El Salvador and has publicly taken positions against gold mining projects, electoral fraud and human rights violations. The Radio is not affiliated with any political party, religion or creed. Radio Victoria has been transmitting for 16 years and is a founding member of ARPAS, the Salvadoran Association of Participative Radios and Programs, which is a member of ALER, the Latin American Radio Education Association, and AMARC, the World Association of Community Radios.

Radio Victoria first received threats in 2006 during the electoral campaigns, but almost all of the more recent threats have mentioned Marcelo Rivera and what happened to him:

**March 2006:** Elvis Zavala, coordinator of Radio Victoria's Educational Production, received a threat stating: "We know where you live, we know who you are, we know your family, we know what time you leave the radio and if you don't shut up we are going to kill you."

**March 2006:** Vilma Recinos, head of Radio Victoria's news team at that time, received a threat stating: "Keep quiet, you only have 10 more minutes to live".

**March 2006:** Catholic priest Father Luis Quintanilla received various anonymous threatening messages, one of which stated: "Since you like to talk so much about Monseñor Romero and Father Rutilio Grande (the archbishop assassinated in March, 1980 and a Jesuit priest assassinated in March, 1977 both of whom spoke out and

defended the poor and oppressed) we will make sure you go and keep them company!".  
**October 2007:** Pacific Rim gold mining company offered to finish constructing Radio Victoria's new building and to place \$8,000.00 in publicity on the radio. Radio Victoria refused this offer.

**December 2007 and January 2008:** Neftaly Ruiz, a reporter for Radio Victoria, received threats on his cell phone and directly through warnings by way of community leaders saying that he should keep out of Pacific Rim's way.

**April 2008:** Oscar Menjivar chased after Nelson Ventura with a machete. Nelson works with the Environmental Committee of ADES. He was not hurt because he was able to escape in a car. Menjivar lives in the rural village Trinidad of Sensuntepeque.

**Mayo 2008:** Oscar Menjivar attacked Don Santos Rodríguez with a machete cutting off 2 fingers and damaging another finger that doctors were able to save. Don Santos is a member of the Environmental Committee of Cabañas that works to stop gold-mining projects and lives in Trinidad, Sensuntepeque. This attack was denounced to the PNC but Menjivar was not taken into custody.

**December 2008 and January 2009:** During the municipal electoral campaign in Victoria, Cabañas (where the Radio is located) the present mayor and ARENA candidate made statements such as Radio Victoria is a guerrilla radio, it belongs to the FMLN and they have arms hidden inside their building.

**January 13, 2009:** Isabel Gámez, head of the news team, received a threat from a municipal official who had been arrested for contraband: "You don't know who you are dealing with. It could be that the words you are saying today you won't be saying them tomorrow."

**January 18, 2009:** On the day of the municipal elections in San Isidro in which the process was suspended because of fraud accusations, one of our correspondents, Ramiro Laínez, was aggressed upon by people identified as ARENA supporters because he was reporting on the fact that people from outside the municipality had been brought in to vote.

**January 20 2009:** Someone tries to run over Marcelo Rivera with a pick-up. His brother Miguel saves him. The incident is denounced by Marcelo with the police and regional attorney general's office.

**April 28, 2009:** 15 residents of San Isidro, Cabañas signed and delivered a letter to the PNC (National Civilian Police) in Sensuntepeque asking for regular patrols in an area where a group of youth had been carrying out public disorders in vulgar ways. The letter, which was signed by Radio Victoria's community correspondent José Beltrán, asked for regular patrols, not to arrest the youth.

**May, 2009:** The radio link antenna, which receives the signal from the Radio Victoria building in Victoria to the transmission tower in Sensuntepeque, was stolen.

**May, 2009:** Father Luís Quintanilla, on his way to Radio Victoria, is followed by a car that starts blinking its headlights on and off. The car pulled up beside his car and the person in the passenger seat rolled down the window and pulled something out. It turned out to be a camera and he proceeded to take 3 or 4 photos of Father Luís.

**May 21, 2009:** A family member of José Beltrán received by regular mail 6 pages of a printed out email chat supposedly between José and someone else but which Jose had never seen before much less participated in and which defames his character by making it appear that he carried out inappropriate behavior when he was supposed to be reporting

for Radio Victoria.

**June 18, 2009:** Marcelo Rivera is last seen getting off a bus around 5:00-6:00 p.m. at the El Molino turn-off near Ilobasco, Cabañas en route from San Isidro, Cabañas to San Salvador.

**June 30, 2009:** Margarita, Marcelo's sister in law, received an anonymous phone call saying there was a body in an abandoned well.

**July 1, 2009:** A cadaver is found in 30-meter-deep, dry well near an abandoned house with Marcelo's clothes and keys nearby.

**July 7, 2009:** Prosecutor from the Office of the Attorney General of the Republic, Rodolfo Delgado, stated that 4 suspects had been arrested and a 5th already in jail notified that he is a suspect. They are gang members. The Prosecutor stated that they and Marcelo had been drinking and got into a fight.

**July 10, 2009:** A governmental forensic investigator stated that the cadaver belongs to Marcelo based on results of DNA tests. Marcelo's family asks to claim the body, and police say that it has already been buried.

**July 11, 2009:** Funeral mass for Marcelo Rivera in San Isidro.

**July 13, 2009:** Father Luis Quintanilla left Radio Victoria after his Monday night program at 10 p.m. and on his way to Sensuntepeque encountered a car blocking his way. When he saw men with hoods on and guns he accelerated his car and dodged the car barely getting by and scraping his car on a fence.

**July 15, 2009:** Radio Victoria dedicated its 16<sup>th</sup> anniversary all day special programming to Marcelo Rivera.

**July 15, 2009:** Another letter arrived at José Beltrán's house saying that he shouldn't continue working with Radio Victoria, that it would be better for him to dedicate himself only to his studies and not go around with the Radio or there would be something to lament.

**July 18, 2009:** Bladimir Abarca Ayala, community correspondent for Radio Victoria received a death threat on his cell phone saying: "Today it was Marcelo Rivera, tomorrow it could be you, Bladimir, for being in that guerrilla radio, you know, Radio Victoria".

**July 20, 2009:** Father Luis Quintanilla did not come to transmit his Monday night program because he was afraid.

**July 21, 2009:** The PNC in San Isidro arrested the 7 youth who had been accused of public disorder 3 months earlier. Nothing had been done up until that time. The complaint had asked for more police presence, not for arrests.

**July 22, 2009:** The mother of one of the arrested youth in San Isidro approached one of José Beltrán's family members with a copy of the complaint that had been delivered to the PNC in Sensuntepeque 3 months earlier saying: "The same thing that happened to Marcelo is going to happen to you". The police had custody of this complaint and it is not clear how this woman got a copy.

**July 22, 2009:** A policeman from San Isidro who is friends with one of José Beltrán's family members, told them to: "Get him out of the Radio, he's too young for that stuff. There is a list and probably he is on it, for that there is no age, so be careful."

**July 23, 2009:** Ludwin Franklin Iraheta, a Radio Victoria community correspondent received a threat that was pushed under the door of his house saying: "You like to talk too much, be careful, you are also on the list. You spoke too much in San Isidro (at

Marcelos' wake) and it will be for nothing because you see how the "Cipitio" (a legendary Salvadoran character that Marcelo often portrayed) appeared, ha ha ha, soon it will happen to you and no-one will be able to save you, son of a bitch. You are a piece of shit and not good for anything except to talk all this stuff in that damned Radio and soon we will see each other and we won't write you again because now you must be scared as shit". (Ludwin had previously received threats on his cell phone).

**July 23, 2009:** José Beltrán and Ludwin Iraheta are taken out of Cabañas to a safe house.

**July 24, 2009:** Bladimir Abarca is taken out of Cabañas to a safe house.

**July 24, 2009:** José Beltrán and Ludwin Iraheta placed a formal complaint with the Human Rights Ombudperson, Oscar Luna, in San Salvador.

**July 25, 2009:** Oscar Luna, Human Rights Ombudsman wrote a resolution asking for precautionary measures to protect José, Ludwin and Bladimir.

**July 27, 2009:** Oscar Luna, Human Rights Ombudsman called a press conference and issued a resolution demanding that the National Civilian Police and the Attorney General of the Republic report back within 72 hours regarding what steps they have taken in investigating the threats against the 3 Radio Victoria correspondents. He called on the Director of the Police and the Acting Attorney General to "guarantee the life and physical integrity of the youth" who were threatened and their families; and to "urgently investigate in an impartial, exhaustive, and effective manner the threats against [the youth] to the effect of finding those responsible and making them face justice."

**July 27, 2009:** The 3 Radio Victoria journalists and other members of the Radio met with President Funes' Communications Secretary for an hour and a half. He relayed the information about the case directly to President Funes.

**July 27, 2009:** Four armed and hooded men intercepted Father Luís Quintanilla in a kidnapping and assassination attempt as he drove towards Sensuntepeque after his 9:00 p.m. program at Radio Victoria. He was forced from his car and the men said: "Should we kill him now? No, we are supposed to take him alive". He was able to escape by throwing himself down a ravine when the 4 men were distracted by his car alarm. Earlier he received threats similar to those of the journalists and one that said: "We will finish off the damned reds dressed up as priests." When the police finally arrived on the scene, they asked Father Luís if he had been harmed, or if something had been stolen, or if his car was damaged. When he responded negatively to all the police said, well, nothing has happened to you, if you want, you can decide whether or not to make a charge!

**July 28, 2009:** Father Luís attends an appointment at the prosecuting attorney's office in Sensuntepeque. This appointment was related to the death threats he received in 2007. He was told that since nothing more had transpired (basically since he had not been killed) that they were closing the case. He said on the contrary, now there was more reason than ever to continue the case. The answer he received was that what happened the night before was a new case so he would have to make a new complaint.

**July 28, 2009:** The Salvadoran Association of Participative Radios and Programs hold a press conference denouncing threats against Radio Victoria and other community organizations in Cabañas.

**July 29, 2009:** Walter Laínez, a community activist from Santa Marta who is a member of the Historic Memory Committee and member of the FMLN received a threat which was tacked to the gate of his property. The note also mentioned Antonio Pacheco, the Director of the Association for Economic and Social Development (ADES) in

Sensuntepeque, also known to be associated with the FMLN and to have participated in the movement against gold mining. The threat said: “The hour has come, Chico Montes (Antonio Pacheco) for the bomb in your own house and of your pals, now is the hour you pay for what you did in the decade of ’88 in coordination with that asshole Walter, for this reason (you are) the next like Marcelo Rivera.

**July 29, 2009:** Edward Lara receives 2 threats on his cell phone, one threatening him and his mother directly, and the second threatening everyone at the radio in general:

“Extermination > all at Radio Victoria will die for assholes and for confronting ARENA, they will appear rotten like that asshole Marcelo”

**July 29, 2009:** The electrical system at Radio Victoria’s transmission station in Sensuntepeque was sabotaged, causing the transmitter to fail. The Radio was off the air until it was partially repaired the next day.

**July 29, 2009:** Isabel Gamez, head of the news team at Radio Victoria hears someone moving around in the upstairs of her house around 1 a.m.

**July 30, 2009:** Formal denouncements and complaints are made at the headquarters of the PNC’s Criminal Investigation Division in San Salvador.

**July 30, 2009:** A long vicious and vulgar email is sent to most of Radio Victoria personnel naming 8 people specifically.

**July 30, 2009:** Isabel Gamez, head of the Radio Victoria news team, was the last person left at the Radio. As soon as everyone else had gone, she got a phone call in the pressroom. The person said: "Oh, you're all alone, mamaita. Well, we came to visit you last night but we didn’t have luck, tonight we will have more luck. We saw you in Sensuntepeque today and know everywhere you went.”

**July 30, 2009:** Ludwin Iraheta receives an email threat stating: “Why are you hiding, why don’t you come back to Cabañas, we are waiting for you.”

**July 30, 2009:** Elvis Antonio Natarén received 3 threatening messages on his cell phone. Elvis, known as Peter, presents a youth based opinion show on Radio Victoria. He had received various threats before.

**July 30, 2009:** Edward Lara received a text message that says: “You are dead, now you are in the mouth of the wolf, you goddamn dog.”

**July 30, 2009:** The transmitter failed again and the radio goes off the air.

**July 31, 2009 National Journalists Day:** The Attorney General of the Republic asks for a meeting with Radio Victoria and Isabel Gamez travels to San Salvador to meet with him (Astor Escalante). He did not provide any new developments in the case. Basically this was just a big show (probably because of all the pressure put on him!!!!)

**July 31, 2009:** Radio Victoria’s transmitter is partially repaired once again.

**July 31, 2009:** One of the 3 threatened reporters from Radio Victoria attended a reception put on by the President of the Republic for National Journalists Day. The journalist spoke directly with President Funes regarding the Radio Victoria case and the President promises to take measures to find who are behind all the threats.

**July 31, 2009:** One policeman is assigned as a guard in front of the Radio from 4 a.m until 11 p.m. Members of Radio Victoria and people from Santa Marta begin all night watches at Radio Victoria.

**July 31, 2009:** Haydee Rivas, Radio Victoria reporter received a call on her cell phone: “You have a good body for making love, we going to do all kinds of things because you have a big mouth working at that radio.”

**August 2, 2009:** Walter Láinez received a threat on his cell phone that states: “This is serious, pal, your days are counted, we have people in the community to do these things.”

**August 2, 2009:** Haydee Rivas received various calls on her cell phone but when she answers no one responds.

**August 3, 2009:** Radio Victoria’s transmitter and electric system is completely repaired.

**August 5, 2009:** Pablo Ayala, community correspondent for Radio Victoria received a written message threatening him and others from the Radio.

**August 7, 2009:** Various Radio Victoria members received emails threats saying: “Today, you dogs, yes we are going to carry out the objective, we are being pressured from above to carry out actions.... (it continues)”.

**August 7, 2009:** A community leader in the village of Trinidad, Don Ramiro Rivera, who actively participates in the anti-mining movement, was shot 8 times in the back while going out to milk his cow. Don Ramiro recognized Oscar Menjivar as the person that attacked him. He was able to escape, notify the police and look for help to get to a hospital.

**August 13, 2009:** Oscar Menjivar was condemned to 6 months in jail for attacking Don Ramiro Rivera.

**September 2, 2009:** The rural police, accompanied by soldiers, come to Radio Victoria community correspondent Pablo Ayala's house at 10 p.m. saying they wanted to search everyone in his family. When he asked why they said someone in the community had said he was cultivating marijuana. They searched his mother and father and other family members and then asked to see his identity card. Then they asked if he worked at Radio Victoria and asked to see his press card. Then they asked how the situation of threats was going and finally they said "you are obstructing our work here in the community", which Pablo understood that they were saying his work as a community correspondent got in the way of their work.

**October 5, 2009:** Radio Victoria's community correspondent Pablo Ayala received a death threat by cell phone, a woman's voice from a private undisclosed number.

**October 6, 2009:** Pablo Ayala found a hand written death threat outside his front door stating that "they are still around and he could be next if he doesn't stop expressing opinions against mayors and national deputies" and also naming other Radio Victoria members.

**October 24, 2009:** Pablo Ayala left a workshop in Guacotecti and across the road there are 2 rural policemen watching him. He took a bus to Sensuntepeque, got off at the park and noticed that 2 well dressed watch him and then nod at each other. He starts to walk to his next bus and the men follow, the faster Pablo walks the faster the men walk following him. Finally he runs to catch his bus and jumps in the back door. The men look like they feel like they blew it, that they lost him.

**October 24, 2009:** Ludwin Iraheta and Edward Lara are accosted by Police outside a dance when they ask in protest why the police are beating 2 young men. One of the policemen hit Ludwin and another grabs Edward by the throat as if to strangle him and then hits him in the face and says we don't want gay people here.

**October 25, 2009:** Pablo Ayala's brother is stopped and beaten by the rural police in the community where they live. The brother of Rubia Escobar (new Radio Victoria correspondent) and a friend are stopped by the rural police and taken into custody for supposed "illicit grouping". They are put in jail for 3 days and then released.

**October 30, 2009:** Radio Victoria's community correspondent Ludwin Iraheta was followed from near his grandmother's house in Guacotecti a Metro Centro in San Salvador where he got in a taxi and was able to lose the 2 men. He also received a threatening call while on the bus from Sensuntepeque to San Salvador.

**November 6, 2009:** Isabel Gamez's sister encountered a man outside their house at 11 p.m. coming toward her when she went outside to the bathroom. She did not recognize him and stated that he was not from Victoria. Isabel is Radio Victoria's news team coordinator.

**November 7, 2009:** Community correspondent Pablo Ayala encounters 2 strange men outside his house who did not arrive by the main path.

**November 9, 2009:** Hooded armed men arrive at the house of a key witness in the Ramiro Rivera case. The witness was not at home.

**November 17, 2009:** Pablo Ayala's friends and neighbors tell him there is a group in his community that is organizing to threaten his life because they blame him and Radio Victoria for taking out 2 rural policemen who they say were on their side.

**November 18, 2009:** Edward Lara's mother receives a call at 9:30 p.m. demanding \$600.00 in exchange for Edward's life.

**December 1, 2009:** Isabel Gamez hears someone knocking on her door at night. When she asks who it is, no one answers. The second time there is knocking, her son answers and when he opens the door someone throws stones and others things at him.

**December 20, 2009:** Don Ramiro Rivera is ambushed and killed along with another woman as he returns to his community.

**December 23, 2009:** Different members of Radio Victoria receive 2 emails, the first saying: "well, we sent 2 into a hole, the question is, who will be the third, maybe Father Luis Quintanilla, or someone from the Radio, that's not a bad idea to continue with one of the big mouths at Radio Victoria, we are not playing around, we have demonstrated that we have the logistical capacity and financing to take care of whoever, it doesn't matter if you have a police batallion taking care of your back like dogs, we will do it when we want to, the deaths will continue and no one can stop the vengeance that has started, we prefer that the third death be a radio announcer or a correspondent or whoever from this damn radio, the most secure target is an on the air announcer, be careful, we are not playing, this is the new wave of warning that we are starting after taking care of Ramiro" and the second: "As we said before, we are ready for everything and will not stop, if you don't stop this new campaign in that damn radio we cannot respond for what might happen, we are tired and we have an arsenal to send whoever to another world, we are saying right now and we have chosen the next who will die, a radio announcer of the most renown, it will be something that will really affect everyone at that radio, today we will not commit errors saying names, we only will say that this announcer is one of the best known and it will hurt you all, sooner or later we will get him.! and 2 radio announcers received direct threats on their cell phones:

Juan Carlos's cell: 11:08 a.m. "exterminio > We know where you live and your family will be taken into account leave the radio you will get yours on Saturdays and Sundays (when Juan Carlos has his shifts on the radio) we are listening to you here dog" and "exterminio > You son of a bitch you are chosen to die, we know where you live and you are now dead one of these days you will die we will wait for you when you leave your shift (at the Radio)"

Eliseo Rodriguez's cell: 7:07 p.m. "exterminio > paren esa capaña en la radio o no respondemos por lo que pase, vamos por el tercero, es un locutor y ya lo elegimos el que se va morir es un locut" and "exterminio > perros hijos de puta tarde o temprano nos quebraremos al locutor, adivinen quien es"

**December 26, 2009:** Dora Alicia Recinos Sorto was assassinated as she returned home from washing with her 2 year old son, he was wounded in the leg. Dora Alicia was 8 months pregnant and the wife of Don Santos Rodriguez who in May of 2008 was attacked and had 2 fingers cut off by Oscar Menjivar who is now in jail for shooting Don Ramiro Rivera 8 times in the back and legs. Dora Alicia and her husband are both members of the Cabañas Environmental Committee which has been very active in protesting metallic mining in Cabañas.

**December 27, 2009:** Six men riding on three motorcycles arrived at Isabel Gamez's house (Radio Victoria's news team coordinator), they got off the motorcycles and surrounded her house shining flashlights. Fortunately Isabel was not home, but a neighbor came out thinking it was the police and he was the witness who saw that they were not the police and that they were armed and had their faces covered. They left after about a half hour.

**January 7, 2010:** A stranger is seen outside Elvis Zavala and Marixela Rodriguez's house around 10 p.m. . He is heard outside twice more. He flees into the woods and not on the paths or the road.

**January 9, 2010:** Isabel Gaméz received a call from a friend in Sensuntepeque saying that she had received a call on November 21, 2009 in which a man asked her for information about the cases of "Ludwin, Edward and Isabel". Then he began to relate everything that the 3 of them had done during Victoria's patron saint day's festival (November 20), where they had gone, who they were hanging out with and that if Edward had not stayed home that night, and if Ludwin and Isabel had not been hanging out with various friends, the night would have turned out differently. They asked who was taking care of Isabel, why she stayed home alone at night, if she had people from Santa Marta protecting her, if Ludwin had renounced his protection, and they asked if Juan Carlos was the one to give directions to the on the air presenters and if he worked only weekends or also during the week. He also said that they were going to hit Elvis where it most hurt and that they had all the time in the world to do it. Isabel's friend refused to answer any of their questions and left Sensuntepeque for a time.

**January 21, 2010:** Bladimir Abarca received a threatening message on his cell phone saying: "get ready you damn Radio Victoria people because we already got the first 3" and later received another message making fun: "ha ha ha ".