

**CO - OPERATION AND CONFLICT BETWEEN FIRMS, COMMUNITIES,  
NEW SOCIAL MOVEMENTS AND THE ROLE OF GOVERNMENT:  
THE CERRO DE SAN PEDRO CASE**

José G. VARGAS-HERNÁNDEZ\*

**Abstract:** The aim of this paper is to analyze relationships of cooperation and conflict between a mining company and the involved communities, New Social Movements and the three levels of government. The mining company begun operations for an open pit mine of gold and silver supported by officials from the local, state and federal government. The inhabitants of these communities supported by environmental groups and NGOs argue that the project will pollute sources of fresh water besides of perturbing the environment and the ecology of the region.

**Keywords:** Cerro de San Pedro; community; government; conflict; environment.

**Resumo:** O objetivo desse trabalho é analisar as relações de cooperação e conflito entre uma companhia de mineração e as comunidades, os novos movimentos sociais e os três níveis de governo envolvidos. A companhia de mineração iniciou operações para uma mina a céu aberto de ouro e prata na localidade de Cerro de San Pedro, no México, com apoio oficial dos governos local, estadual e federal. Os habitantes apoiados por grupos ambientalistas e organizações não-governamentais argumentam que o projeto contaminará as fontes de água potável além de perturbar o meio ambiente e o equilíbrio ecológico da região.

**Palavras-chave:** Cerro de San Pedro; comunidade; governo; conflito; meio ambiente.

## **I. GEOGRAPHICAL LOCALIZATION**

Cerro de San Pedro is a semi-abandoned historic mining town located in the center of Mexico, the State of San Luis Potosi. Cerro de San Pedro is a small village 10 miles east of the City of San Luis Potosi, the Capital of the State of San Luis Potosi. Cerro de San Pedro is located in the mountains above the valley of San Luis Potosi and is part of the watershed area for the valley and its major cities. The valley is the source of 73% of the water for the area.

It is a ghost town containing the ruins of shops, churches, estates and a hospital. Today there are only about 100 people living in the Cerro. The Real hamlet covers the hills on both sides of the canyon; large and small houses flank the narrow streets (Cordero de Enciso, 1997). The remains of the 400 year old town are still there, along with an active

---

\* M.B.A.; Ph.D. Research Professor at University of Guadalajara. E-mail: [jvargas2006@gmail.com](mailto:jvargas2006@gmail.com) /[Jgvh0811@yahoo.com](mailto:Jgvh0811@yahoo.com)

church and municipal office. Cerro de San Pedro sits in the high desert in the heart of Mexico, the kind of place with lots of road runners and big cacti. 400 years of mining did not alter the original appearance of Real, which is irregular and whose center is the parish of San Pedro. The artistic and urban development that started in the 17<sup>th</sup> century is represented in Cerro de San Pedro. There are two structures particularly important from the historical heritage perspective. The Church of San Nicolás dates from XVII Century and San Pedro Apostle which dates from the Century XVIII.

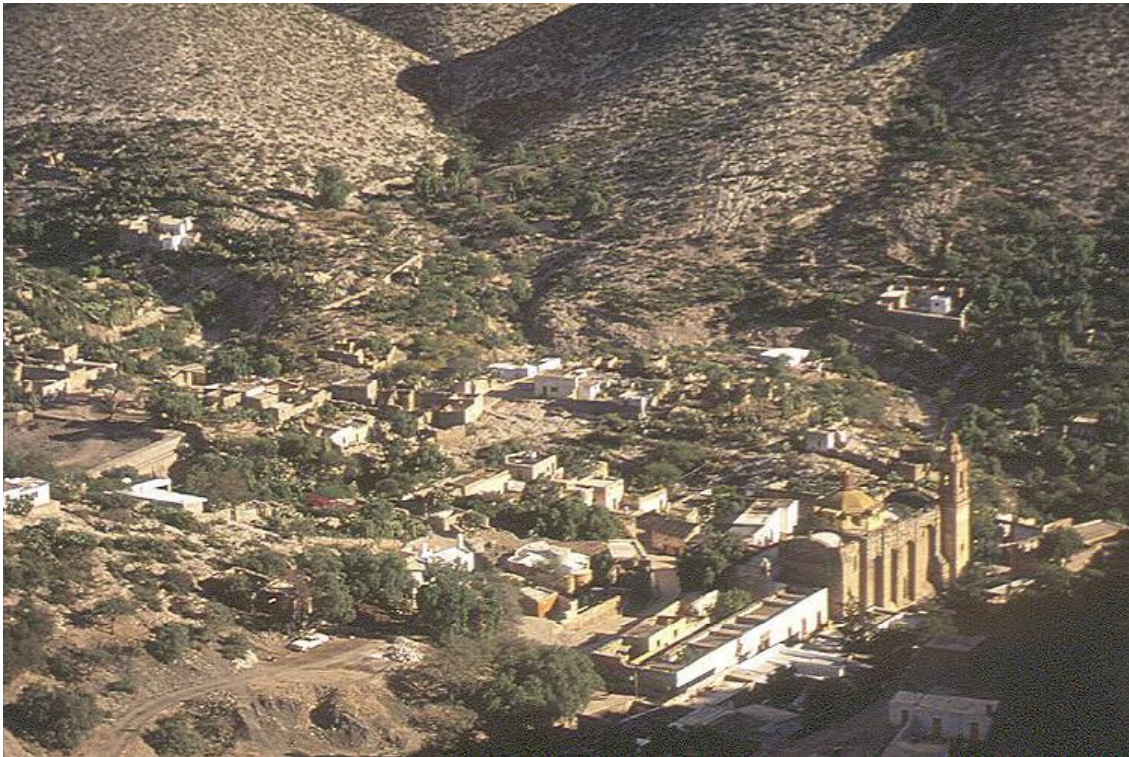


**Figure 1:** Cerro San Pedro located in Mexico

Tarascan Indians settled around the church and they adopted San Nicolás as their patron saint; the avenue in front of the church was used as an exchange and socializing place (Cordero de Enciso, 1997). Two churches were built in Cerro de San Pedro attended by the secular clergy helped by the Franciscan monks, and later by the Augustines who were able to speak Tarascan. The two churches built in the first half of the 17<sup>th</sup> century being identical, though the San Pedro church was later modified. The church of San Pedro is a rare example of a 17<sup>th</sup> century church; and its coloring is in aesthetic harmony with the hill behind it. The San Nicolás de Tolentino church is built on one side of the canyon and has become an urban area. The San Nicolás church kept its primitive appearance of only one nave and barrel vault.

There are several diverse historical monuments protected by the National Institute of Anthropology and History (Instituto Nacional de Antropología e Historia-INAH)

The section of town known as "La Colonia de los Gringos" contains what once were company offices and living quarters of the American Smelting and Refining Co.



**Figure 2:** Panoramic view of Cerro San Pedro

## II. LEGAL BACKGROUND

Since the Prehispanic times in México, mining has played an important role in economic and political history. From 1986 to 1990 The World Bank granted credits to support the structural adjustment economic policies. The credit 3359 supported structural adjustment of the mining sector categorized as B to eliminate environmental requirements and public hearings (Border Ecology Project, 1994). Under a neoliberal economic policy, amendments to constitutional Article 27, a new Agrarian Law, a Mining Law (1993) and a Foreign Investment Law during the nineties, allow the ejidatarios, originally limited owners of land rights, to change the ownership. Investors now could associate with ejidatarios, exploit land resources without buying it. The North American Free Trade Agreement (NAFTA) offer advantages and opportunities for investors.

The Mining Law (1993) and the Regulation to the Mining Law (1999) opened to foreign capital areas that were reserved for national investors and defined new rules for the development of national and foreign investments in exploration and exploitation of minerals as activities of public utility. The granting process of mining concessions does not require public hearings and most of the times the affected communities are the last ones to know about the project. There are some references about considering this and others “competitive advantages that offer Mexico compared to their partners in NAFTA

(Bardake, 1993). A mining concession can not be cancelled for polluting the environment and only can be fined.

### III. HISTORICAL ANTECEDENTS

The Guachichiles inhabited the area of Cerro de San Pedro hills before the Spanish came. The first original urban plan of Cerro de San Pedro dates from 1412. A couple of missionaries visited the area in the 1570s, but silver was found in the Cerro de San Pedro hills. Cerro de San Pedro used to be one of the biggest mining towns of the Colonial New Spain Five hundred years ago, Spanish conquistadors carved up the earth as they plundered the town's riches, sending most of the treasure back to Europe. In March 1592, Don Miguel Caldera, a mestizo and Commander of the Spanish army sent a group of miners to reconnoiter the land in the hills of the valley of San Luis Mexquitic and register the mines of the gold that called it Real de San Potosí.

Some 60 discoveries were registered with metals rich in lead. The richest minerals lay near the surface. After 40 years of struggle with the Guachichiles during the last decade of the 16<sup>th</sup> century, the Conquistadores convinced the Indians that planting crops and to have a sedentary life. Real de Minas de Cerro de San Pedro was founded in 1583 after several mines in the vicinity began operations, although is established that was in 1592, before that the capital of San Luis Potosí, discovered in the XVI Century, due to its wealth was baptized by the Spanish as the Potosí. Martín Pérez was one of the discoverers of the mines of el Cerro de San Pedro (S. L .P.), on March 4, 1592, was (P.F.V.: Col. Doc., Vol. I, p. 254, cited by Del Hoyo, 1979).

Cerro de San Pedro dates back to the sixteenth century and was the original location of the state capital of San Luis Potosí. But at the San Pedro Hill there wasn't enough water to support the town and for washing the metals, so they ended up moving. the Spaniards founded the village San Luis Potosí in the valley. The San Luis Potosí city's Coat-of-Arms had the Cerro de San Pedro on a blue and gold background with two silver and two gold cross bands, over which is lying Saint Louis King of France, testimony to its mining origins. The mountain is the symbol of their heritage.

Some Spanish families mestizos, mulattos and Indians founded Real de Cerro de San Pedro further up in the sierra which had their own governors and unions. Tlaxcalans, Tarascans and Otomies were brought in to work in the mines and the cattle ranches. The mining district Cerro de San Pedro has supported various periods of significant mining activity and has seen many production mining campaigns since its discovery over the past 500 years. There are no records of production during the period (1575 to 1660) of mining activity in the Cerro de San Pedro. The mines produced wealth in the first thirty years and some 62 million pesos were paid in rights alone during its first 60 years of existence; that is, some 10 million pesos per year (Cordero de Enciso, 1997).

In 1613, the mayor, Pedro de Salazar had the famous Socavón del Rey built; a horizontal tunnel that gave access to deeper veins which produced around thirty tons of silver mixed with gold in a year. After 15 years of mining the amount of precious metals reduced although there was a “gold affair” that stirred greed among a group of men, who colluded in an enormous fraud and the owners of the Briones mine lost their property and finally in 1628 the houses in San Luis Potosí’s main square were vacated. The last rich mine, the San Cristóbal was closed down in 1656 although there were some bonanzas on El Cerro.

In 1690, the Mayor, Alonso Muñoz Castilblanque, opened the San Cristóbal mountain pass with the help of a loan made to him by the Viceroy, the Count of Galvez and production increased to one fifth of what it was in 1620. In 1740 one hundred furnaces and sixty mineral crushers still existed in the region.

In the 18<sup>th</sup> century the area had a reputation for maltreatment of indigenous people and anger. The poverty of the inhabitants of the Hill and its surroundings increased and became worst in 1767. The donations of silver given towards the reparation of the church were lost. The expulsion of the Jesuits resulted in an uprising in 1767. Cerro de San Pedro in 1767 was the focal point of a popular insurrection against the excess of Borbonic reforms. The serranos had demands and opposed the removal of the Jesuits but have to surrender. Viceroy Marquis de Croix sent Don José Galvez with 400 soldiers to punish the rebels and their families cruelly, but the serranos managed to have their taxes reduced and the church was repaired and improved.

By the mid 18th century, after two hundred years of mining industry, it was underdeveloped and had low of productivity due to a lack of capital, technological insufficiency, the limited capacity of the specialized workers, and a shortage of supplies and labor, among other things (Villalba, 2000).. A few years later, Don Joseph de Castilla y Loaeza, a knight of Santiago founded the Compañía Patriótica that invested 20,000 pesos and used old-fashioned techniques. In 1773, San Luis Potosí had around twenty mining communities in deplorable state of unproductiveness. By 1774, Cerro de San Pedro had to continue to struggle to restore exploitation of the local mines (Lopez Miramontes y Urrutia, 1980).

In 1816 a horizontal tunnel was built in the Pópulo hill and the Socavón Aventurero de la Victoria, the tunnel of adventure and victory, restarted 60 years later. Compañía Metalúrgica Mexicana owned the railway that extended towards Río Verde that to transport the minerals from San Pedro to San Luis Potosí. A major period of mining activity began in 1870 and continued through the early 1950's. In 1930, the American Smelting Company (ASARCO) worked the horizontal tunnel and the work continued until 1948 when the miners’ strike broke out and the mine closed down.

By the late 1940s, the gold, lead, iron, manganese and mercury deposits finally began to give out. By the early 1950's it is estimated that approximately 2.5 million ounces of gold and 40 million ounces of silver had been produced from the Cerro San Pedro

district. In 1993, the region of Cerro de San Pedro was declared ecologically protected area. Local firms continue to extract limited quantities of minerals from the mines. Visitors can enter La Descubridora, the town's first mine. Guide service is available

#### **IV. MINERA SAN XAVIER PROJECT DEVELOPMENT IN CERRO DE SAN PEDRO**

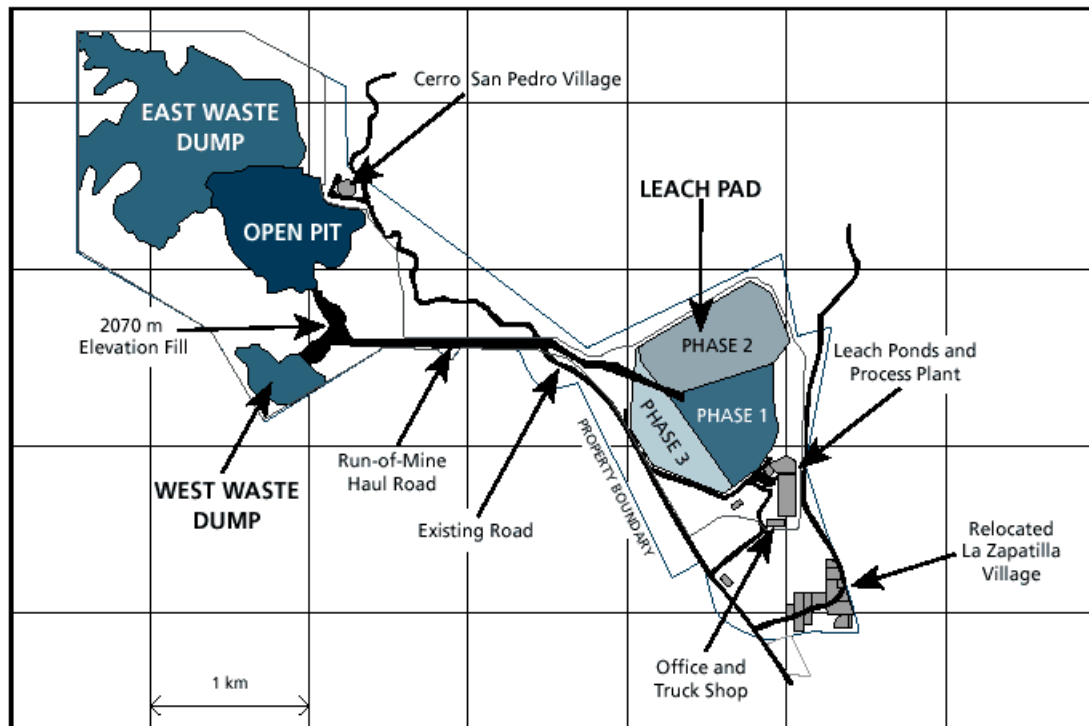
Renewed interest in the Cerro San Pedro district began in the 1970's with evaluations by various companies to determine the district's potential as a large tonnage, low-grade, bulk mineable deposit. In 1971, Las Cuevas mining company was unable to revitalize the mines. When the North American Free Trade Agreement (NAFTA) was enforced in 1994, the Canadian Company Metallica Resources Inc. started to explore the old mining town with the intentions to exploit its resources in gold and silver. In 1995, Metallica acquired an option to purchase Cerro San Pedro project and began an exploration program to expand the work of recent exploration programs conducted by other companies. Minera San Xavier (MSX) at Cerro de San Pedro is developing a gold mining project.

Also, orpiment is reported from very few Mexican localities, among which, it has been found sparingly in the gold deposits of Cerro de San Pedro. The colors in this miniature from Juarez, Cerro de San Pedro, San Luis Potosí, Mexico go very well together - green pyromorphite, yellow wulfenite, gray galena, and white barite - it's really a beautiful piece! (Bob Winfree's auction on eBay).

The February 1997 feasibility study included a proven and probable reserve estimate of 77.3 million tons averaging 0.60 g/t gold and 24.8 g/t silver, with an overall waste to ore ratio of 1.51:1. The reserve estimate was prepared by Mine Reserve Associates, Inc. and was calculated using a gold price of \$400/ounce and a silver price of \$5.00/ounce. Metallica elected to seek a joint venture partner to develop the property in late 1997, and in January 1998 entered into an agreement with Cambior, Inc. to acquire a 50% interest in MSX. The agreement resulted in the issuance of additional MSX shares to Cambior such that it would own 50% of the issued and outstanding shares of MSX. Cambior's ability to retain its 50% interest in MSX was contingent upon it spending \$20 million on project development by December 31, 2000. (Metallica Resources Inc, 2005).

The Cambior feasibility study included a proven and probable reserve estimate of 63.5 million tons grading 0.62 g/t gold and 24.5 g/t silver, with an overall waste to ore ratio of 1.57:1. The reserve estimate was prepared by Cambior, Inc. and was calculated using a gold price of \$300/ounce and a silver price of \$5.50/ounce. Mine development, working capital and mine equipment costs were estimated at \$68 million. (Metallica Resources Inc, 2005).

**Cerro San Pedro project  
Proposed site plan**

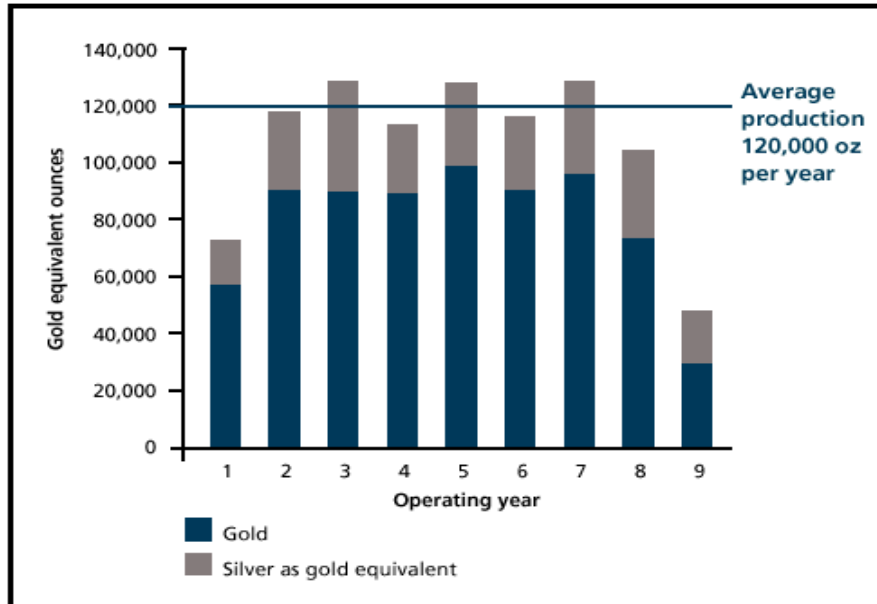


**Figure 3:** Cerro San Pedro project: proposed site plan

In May 2000, Cambior sold its 50% interest in the Cerro San Pedro project to Glamis Gold Ltd. In November 2000, Glamis published a revised feasibility study for the project that included a proven and probable reserve estimate of 49.2 million tons grading 0.57 g/t gold and 23.0 g/t silver, with an overall waste to ore ratio of 1.45:1. The reserve estimate was prepared by Mine Reserve Associates, Inc. and was calculated using a gold price of \$275/ounce and a silver price of \$5.25/ounce. Mine development, working capital and mine equipment costs were estimated at \$45 million. (Metallica Resources Inc, 2005).

On February 4, 2003, WLR Consulting, Inc. ("WLR") prepared a technical report on the Cerro San Pedro project that included a proven and probable reserve estimate of 61.1 million tonnes grading 0.59 g/t gold and 24.0 g/t silver, with an overall waste to ore ratio of 1.21:1. The reserve estimate was prepared by William L. Rose of WLR and was calculated using a gold price of \$325/ounce and a silver price of \$4.62/ounce. Mr. Rose is a Qualified Person, as that term is defined in Canada National Instrument 43-101. On February 12, 2003, Metallica purchased Glamis' 50% interest in the Cerro San Pedro project for \$18 million plus a sliding scale net smelter returns royalty. (Metallica Resources Inc, 2005). (Metallica Resources Inc, 2005).

### Cerro San Pedro project Gold equivalent production



**Figure 4:** Cerro San Pedro project: gold equivalent production

In February 2003, Metallica updated the Glamis' feasibility study run-of-mine development plan to provide for contract mining. The use of contract mining will reduce the project's capital cost to approximately \$25 million, a result of eliminating the need to purchase the mining fleet. Metallica also updated the mineral reserve estimate using a higher gold price due to the strengthening of the gold market. Based on a \$325 per ounce gold price and a \$4.62 per ounce silver price, the mineral reserves stand at 61.1 million tonnes grading 0.59 grams per tonne gold and 24.0 grams per tonne silver representing 1.8 million ounces of gold equivalent. The gold equivalent reserves increase to 2.1 million ounces at a \$350 per ounce gold price and a \$5.00 per ounce silver price. (Metallica Resources Inc, 2005).

Annual production was projected at 90,400 ounces of gold and 2.1 million ounces of silver, which equates to approximately 120,000 ounces of gold equivalent per year over a mine life of approximately 8.5 years. Cash operating costs, net of silver credits, are estimated to be \$177 per ounce.

In September 2003, an updated capital and operating cost study was completed for the Cerro San Pedro project. Metallica Resources (MR), pretended to build what she announced in Wall Street, one of the greatest open pit mine of gold and silver of the world.



## V. ACTORS

### V.1. The mining company

Minera san Xavier (MSX) is the Mexican subsidiary of the Canadian company is Metallica Resources involved in developing the San Xavier Mine in the municipality of Cerro San Pedro, San Luis Potosi, Mexico. The mining project of Minera San Xavier (MSX) is located 20 kilometers northeast of the city of San Luis Potosi, the state capital with a population of approximately one million people.

### V.2. Community and social movements involved

The affected community is the small village of Cerro de San Pedro.

In Cerro de San Pedro it has been formed an alliance among diverse civil groups, organizations and political parties in a coalition called Alianza Ciudadana Opositora a Minera San Xavier. Alliance in Opposition to the San Xavier Mine is formed by social movements.

Among the groups, the most involved are:

Educación y Defensa Ambiental A.C., Environmental Education and Defense.  
 Pro San Luis Ecológico A.C., Pro San Luis Ecology,  
 Patronato Pro-Defensa del Patrimonio Cultural e Histórico de Cerro San Pedro, A.C.,  
 Patronato in Defense of the Cultural and Historical National Patrimony of Cerro San Pedro. and  
 Asociación de Vecinos de Cerro San Pedro, the Neighbors' Association of Cerro San Pedro

Other members of the alliance are:

Central Independiente de Obreros Libres y Campesinos  
 Frente Cívico Potosino  
 Frente Cívico de Soledad de Graciano Hernández  
 Signo y Tierra  
 ICOMOS de México  
 Escuela de Capacitación Cívica  
 Parlamento Indígena  
 Comerciantes de la Central de Abastos  
 Vecinos de la Colonia La Florida  
 Frente Zapatista de Liberación Nacional, the Zapatista Front for National Liberation  
 Tangamanga Branco

Frente Cívico de Teotihuacan  
Frente Popular Zacatecas  
Greenpeace  
Hermano Hombre  
Movimiento Huasteco democrático  
Movimiento Pueblo Libre  
Partido Verde Ecologista de México, Consejo Estatal  
Partido de la Revolución Democrática, Consejo Estatal  
Red Todos los Derechos para Todos  
Revolucionarte  
Nava Partido Político  
UCD  
UNTA  
Colectivo Azul the Blue Collective, and  
The Blue Lilly, etc.

The alliance also counted with the support from the Catholic Church and its Archbishop

The citizen's group opposed to the project, the Ample Oppositional Front (Frente Amplio Opositor) is the citizens' movement that has a long-running struggle to prevent the destruction of the village of Cerro de San Pedro by a Canadian company that is planning to operate an open-pit gold mine.

University of San Luis Potosi has conducted an independent review of the environmental impact study.

Compas, this is one of the resistance movements of the San Luis Potosí civil society

### **V.3. Government**

Municipal President of Cerro de San Pedro opposed the mining project and had not given his town's permission to the state government, The Governor of the State of San Luis Potosi and the President of Mexico.

## **VI. THE CONFLIT**

According to the company MSX, the 100%-owned Cerro San Pedro gold and silver heap leach project is located in the historic Cerro San Pedro mining district in the State of San Luis Potosi, Mexico. The presence of MSX in Cerro de San Pedro has caused a severe social conflict among the inhabitants of San Pedro, Soledad y San Luis and has called the attention of all who are concerned by historic heritage, cultural and environmental issues.

MSX argued that its operations would have some benefits: 40 millions of pesos in taxes will be paid to the federation in eight years and would by materials and provisions to local suppliers which would be the minimum because most of these suppliers would be foreign. Never the company referred the mining operations as an ecocide, contamination of watersheds, pollution of air and destruction of the historical heritage. The inhabitants of these communities supported by environmental groups and NGOs argue that the project will pollute sources of fresh water besides of perturbing the environment and the ecology of the region.

At the center of the controversy is the cheap and efficient technology. It is alarming the use of cyanide and its impact on watersheds, the environment and human health. Lixiviation consists in pile up mineral mixed with cyanide over a platform in such a way that gold will be residual. Cyanide is used for the extraction of metals since 1887 as a chemical reactive to solve gold in water (Logsdon et al, 2003). 20 percent of global production is used in a process of lixiviation to get gold. Almost 99% of gold is separated from a rock and it is profitable to spend one ton of cyanide to extract 6 kilos of gold (Ronco, 2002)

Studies done by Minera San Xavier to evaluate pollution risk to the watershed of the valley of San Luis and to quantify the use of millions of cubic meters of water and its evaporation are insufficient and with a tendency. The hydrological card of INEGI the subterranean waters of San Luis Potosí and Cerro de San Pedro are the same in the geo hydrological zone. The daily use of 16 tons of cyanide and 32, 000 tons of rock material that would require one million of cubic meters of water per year would have residuals of cyanide, heavy metals, toxic material and mercury stem can contaminate the watershed favored by inclination of land and put at risk population

The process implies daily 16 tons of cyanide mixed with 32 millions of liters of water. According to the Environmental Impact Manifestation presented by MSX, should be erosion by deforestation, alteration of drainage patterns, cancellation of productive activities, pollution caused by deposits of toxic residuals and severe, irreversible and permanent damages. The Manifestation of the Environmental Impact of the company considers that “the impact is significant and adverse for the extraction of water” (Page 16) 90% of water consumption comes from the valley of San Luis which can be contaminated by the cyanide used in the lixiviation process (Martínez Ramos, 2004).

In the last 25 years, the major causes of cyanide spill over have been 76% due to imperfections in the lixiviation yard, 18% due to pipes and 6% due to transportation accidents. (State Environmental Resource Center, 2004). Mining Companies have caused ecological catastrophes that have provoked reactions of civil society groups and governments around the World. Governments of many countries have prohibited open pit mining exploitation using cyanide. (Governor’s office, 2003; Friends of the Earth y Oxfam America, with support from Mineral Policy Center, 2003)

The company had bought up buildings in the village to be used for offices. The open-pit silver and gold mine planned for the area would have a dramatic effect and is being challenged in court by environmentalists. Environmentalists have a long battle against the company Minera San Xavier (MSX), a subsidiary of Canada's Metallica Resources that plans to build an open-pit silver and gold mine that would decapitate the mountain that looms behind the town Cerro de San Pedro. In a postproduction model developed by the company, the area looks like a lunar landscape. The ore-processing plant, where the toxins would be used, sits just 20 minutes from San Luis Potosí, the capital of the state and home of about one million people.

Excavation for the mine will take place in an area of 67.7 hectares, digging a crater 1,150 ft. deep and a half-mile wide to gain access to the 90,500 oz. of gold and 2.1 million oz. of silver the mountain could yield each year for the next decade. The mountain will be demolished and in its place will be large deep pits filled with the residue of the mining process. Soil cover will be lost in an area of approximately 500 hectares.

The pit is only about 600 meters from the town square and the tunnels from the old town go under the church and the square. If the mine project goes forward, a 1,150-ft., half-mile crater would be blasted in the top of mountain that sits behind the town of Cerro de San Pedro, Mexico. The proposed mine would destroy the historic remains of the old town and destroy the environment because of the cyanide leaching and potentially poison the water of San Luis Potosi. Greenpeace says cyanide high risk in mining plans by a Canadian firm in the Mexican district of Cerro de San Pedro. The firm Cambior has been involved in two most disastrous cyanide spills in mining history. Millions of liters of water contaminated.

The project would entail moving part of the town and its historic buildings, but the people don't want to move. To avoid damage of the buildings, the company plans would move the municipal buildings and the centuries old church another 600 meters away. The company would destroy the environment for a yield that would last only 6-8 years. MSX only vaguely outlined on the environmental-impact report. how it would restore the mountaintop, clean up the massive piles of bulldozed waste, protect rare plants and wildlife like the biznaga cactus and the desert tortoise, and safeguard the town's 16th-century structures. Actual profit from the exploitation would be low in comparison to the amount of destruction and permanent ecological damage that would result.

Most troubling was the company's unclear plan for the management and disposal of the toxins, including cyanide, that are used in gold mining. The daily use of 13 tons of explosives composed of nitrate "Anful" will produce great quantities of dust which can cause irreversible ills. 640 millions of m3 of cyanide materials would be residuals covering a surface of 178 hectares which will not allow agricultural or cattle activities for generations. The potential poisoning of the watershed lands alone would have dramatic consequences for the inhabitants of San Luis Potosi. (Campbell, 2004) However, MSX argues that it has clarified its plans and is implementing the 100

changes suggested by a group of Mexican academics who studied the environmental-impact report.

In spite of the fact that permits have been cancelled, the company has huge trucks, big tanks and workers on site, and the land has been cleared for future use in an environmentally protected area, so the clearing is obviously illegal. A test drill resulted in the street collapsing because of the tunnels under the street and the company had "repaired the damage" by dumping a load of gravel. If the project goes forward, MSX would add about 170 jobs to its existing staff of 34 to work on the mine, but the new jobs will require education and training that people from Cerro de San Pedro often lack. Some qualified residents would receive temporary housing a few miles from town. Other villagers could choose to stay here and receive a monthly payment based on the typical wage here, from MSX that could be used to strengthen their houses to protect them from the blasts.

The Company violated federal and state laws. Among federal laws:

- Presidential Decree of June 2, 1961 which forbids extraction of water in the valley of San Luis Potosi.
- Article 35 of Federal Law of fire arms and explosives. Store and consumption of explosives is only 50 meters from town instead of at least one kilometer.
- The Agrarian Law establishes the obligation of the agrarian authority to staff and protect the ejidatarios. The Company leased ejidal lands from fake ejidatarios.

State Laws violated are

- Article 7 of the Environmental Law of San Luis Potosí which does not give faculty to the governor to authorize licenses of land use. The Governor exceeded his authority to grant authorization of land use in may 2000.
- Article 15 of the State Constitution of San Luis establishes the right of citizens to enjoy a healthy environment and to prevent and combat environmental pollution.

## **VII. COOPERATION AND CONFLICT RELATIONSHIPS BETWEEN THE ACTORS**

A decree of September 1993 protects the area of the municipalities of Cerro de San Pedro, Soledad and San Luis Potosi of any type of aggression against the natural environment. A Reordering Plan of San Luis Potosí and surroundings (Plan de Ordenación de San Luis Potosí y sus alrededores, launched by Government in 1993 included Cerro de San Pedro and previewed and ecological restoration during the following 20 years. On September 1993, the government of San Luis Potosi granted the plan, establishing that 3 fourths of the municipality territory should be oriented toward development of wild life, signaling the lack of water as a fundamental problem and the

need to have recharging watersheds and giving priority to industries with low consumption of water and not polluted (Periódico Oficial del estado de San Luis Potosí, 1993)..

In 1994 MSX conceived the mining Project to exploit Cerro de San Pedro in an open pit process at only 50 meters from the town. Since 1995, information and letters have been sent to many officials. The citizen's group opposed to the project, the Frente Amplio Opositor (Broad Opposition Front), has won a number of legal battles. However, some people favor the project arguing that mining is part of this town's history and it's economic legacy. On May 5, 1996 was founded the Patronato Pro Defensa del Patrimonio Cultural e Histórico del Municipio de Cerro de San Pedro, AC

The mining Project was born in 1997, when MSX received authorizations from local authorities. The company argue that the Project Cerro de San Pedro would generate almost 2, 000 millions of pesos in investments, jobs positions for locals and 74% of buying al local suppliers (Europa Press, 2004). With the announcement of the Project was born also the opposition formed by environmental and architectonical conservation MSX subscribed the leasing contract of land in March 1997 for a period of 15 years by fake ejidatarios that did not have land rights on the Ejido. The Environmental Impact Statement for the Cerro San Pedro project was submitted to the Mexican Federal authorities in October 1997.

Since that time the permitting process has included a public hearing in March 1998 and a technical review of the permit documents by the University of San Luis Potosí as mandated by the State government. In 1998, a technical scientific opinion from the Commission to Review the Project Cerro de San Pedro and Minera San Javier from the Autonomous University of San Luis Potosi established over the environmental components that only prevents monitoring of water but not air and soil where the cyanide could harm (Comisión de la Universidad Autónoma de San Luis Potosí para la Revisión del Proyecto Cerro de San Pedro de Minera San Xavier (1998). Researchers accepted the invitation under the condition that the results of the study should be published before should be shown to the Company and to SEMARNAT. The environmental study done by researchers of the Autonomous University of San Luis Potosi has not been considered as serious, complete and professional but it was considered as an instrument of expression of company's interests.

On March 20, 1998, the Municipal President was found dead by a bullet in his head. The motive would be that he requested an audit and wanted penal action against former municipal president that had sold illegally abandoned fincas to MSX. One day before of his assassination, official of he company gave a presentation of the project at the Hotel Westin and after the lunch at El Saucito he argued with William Copeland Dodge, the manager of MSX. A portfolio with documents was lost and the Governor recommended the interested persons to about motivations, to take care of themselves because the officers of the company would do anything to get what they want. Other employed of the company was accused of robbing a painting of XVII Century

An official from the International Council of monuments and sites (ICOMOS), an organization of UNESCO declared that if the Minera de San Xavier project destroys the cultural heritage of Cerro de San Pedro, the Governor of San Luis Potosi will be remembered in history as responsible (La Jornada San Luis, 20 de Febrero, 1999). Conservationist and environmentalist groups have asked stated government and federal government not to authorize the project. Government should find equilibrium between conservation of cultural values and exploitation of material resources in such a way that the solution should guarantee the integrity of historical monuments.

In 1999 The Secretary of the Environment and natural Resources (SEMARNAT) authorized the project and its environmental impact in spite of serious violations to the General Law of Ecological equilibrium and Environmental Protection. In February 1999 The National Institute of Ecology (INE) granted environmental permit to operations of MSX against the existing plan of 1993 but establishing 100 conditionings, among which, the number 12 established relocations of the communities Cerro de San Pedro and La Zapatilla. Conditioning 68 established that the company should consider a proposal for limiting the use of water through treatment and other alternatives (Instituto Nacional de Ecología, 1999)...

On the 26 of February, 1999, the National Institute of ecology granted authorization to change land use in Cerro de San Pedro. On the year 2000, the civic platform Pro San Luis Ecological presented an appeal against authorization of mining exploitation granted on 1999 to Minera San Xavier by the National Institute of ecology. On May 5, 2000, the government of San Luis Potosi and the municipal of Cerro de San Pedro granted conditional authorization f land use for mining exploitation.

Since 2001, The social Justice Committee of Montreal, Mining Watch Canada and the Mexican NGO FUNDAR Center for analysis and research, funded by IDRC, are involved in a project to establish the impact of Canadian mining operations in Mexico, and to provide support to the affected Mexican communities. Field research was carried in Cerro de San Pedro. Relationships between Canadian and Mexican partners are maintained, nurtured and deepened linking communities and NGOs up with similar groups. A seminar on the impact of mining activities in Mexican communities took place as well as case studies (Mining Watch Canada, 2002).

In April 2002, according to information from the company, the last of the amendments to the federal and state mining permits that had previously been issued was received by MSX. MSX acquired of irregular form water rights of ejidatarios and small land owners who have suit the company. The company obtained illegally and against conditioning 68, 992, 000 cubic meters of water from intermediaries of six concessions. An order of apprehension of MSX's officials was granted (La Jornada San Luis, 2002).

On August 2002, the Tribunal of the Intenational Center for Dispuite Resolution on Investments established a laud in favor of the United States Enterprise Metalclad,

imposing a fine of 16 Millions Dollars to the Mexican Government for discriminatory treatment after the authorities closed a land field for residuals and trash in Guadalcázar (San Luis Potosí, México). This was a dangerous antecedent that the commercial and business logic is above the health and welfare of communities

In October 2003, Mexican state and federal agencies, and Catholic Archdioceses of San Luis Potosí, authorized the structural stabilization and installation of blast monitoring equipment at the Cerro San Pedro Apostle Church. Metallica Resources Inc, was pleased to announce it on October 23 (OTC Bulletin Board, 2003). On November 24, 2003, the Agrarian Unitary Tribunal (Tribunal Unitario Agrario) emitted an agreement to stop operations of the transnational company, requested by the real ejidatarios to maintain the integrity of the land in conflict.

Approximately \$2.0 million was spent on initial project development during 2003. Construction of the mine begun in the first quarter of 2004 with commissioning scheduled for the fourth quarter of 2004. The exploitation unit started to build on February 2004 with the withdrawal and re plantation of 21.000 protected cactus while MSX affirmed being in process of ISO 14001 certification. The topography report includes plans of geoposition of the National Institute of Geograpy and Statistics (Instituto Nacional de Estadística Geografía e Informática, INEGI) stating that the mining exploitation is on the area of the hill and in the town. On February 11, five years later, the company submitted the impact on health issues and the company has not given any information regarding the areas of conservation of five species of cactus to the SEMARNAT. Besides the historic architecture, there are five species of flora included in the norm 059 at the risk of extinction.

Earlier 20004 a group of nearly 20 environmental and civic groups charged Mexico's Ministry for Environment and Natural Resources of illegally rubberstamping in 1999 MSX's environmental-impact report. Cruz Camarena (2004) reports a confrontation early in March between 60 local environmental and community activists and representatives of the San Xavier Mine, the head of the State Unit of Civil Protection, Investigators from the Autonomous University of San Luis Potosí (UASLP) and the Secretary of Ecology and Environmental Organization.

On the 17 of March, 2004, the Unitary Agrarian Tribunal rejected the rental contracts between the MSX and false ejidatarios. The Governor of the State of san San Luis pressured the President of Municipal Government of Cerro de San Pedro to grant the corresponding agrarian permits. He also pretended to cancel the decree that protects the ecological zone. The Secretary of the State Government also pressured and wanted to corrupt the Municipal President of Cerro de San Pedro to grant permits of land use and to give support for authorization of SEDENA'S permit to use explosives for bastings. The Secretary of Economic Development of the State of San Luis has land properties neighboring MSX and ceded 65% of water rights. The President of the Mining Chamber of Mexico in a conflict of interests supported the blasting of MSX even knowing that the were against judicial decisions



MSX has established programs dedicated to the conservation of the environment. MSX has formed a non-profit foundation to supervise and administer the funds that Metallica donate to preserve the village of Cerro de San Pedro and assist the surrounding communities. April 12, 2004, a protest mining at Cerro de San Pedro was organized by FZLN.

On May 11, 2004, Fred H. Lightner, General Director of Minera San Xavier, sent a letter to Herrera Muñoz insisting on the permit to use explosives, warning that Metallica Resources would announce publicly in United States that the company is found without any possibilities to continue with the construction of the mine due that it has no count with the general permit to use the corresponding explosives. He continued on saying that their investors and potential investors in other projects in Mexico would begin to question regarding the risks to invest in Mexico (Cruz Martinez, 2004).

On the 18 of May, 2004, The Second District Court granted a suspension as part of the appeal 564/2004 promoted by inhabitants of Cerro de San Pedro to halt granting of construction and functioning of MSX. However, this permit was liberated on the 7 of August at Cabildo session.

In June 2004, the antimine coalition, Pro San Luis Ecológico won a federal court sided with environmentalists in effectively nullifying MSX's environmental permit, which halted the company's work. 23 of June, the Supreme Tribunal of Fiscal and Administrative Justice cancelled the environmental permit granted by the Secretary of Environment and Natural Resources (SEMARNAT) in February 1999. On June 23, the 9th Collegiate Tribunal in Administrative Issues of the First Circuit of the nation Supreme Court of Justice (SCJN), declared that the license of change of land use and open pit mining project granted to MSX by the National Institute of Ecology violated the the General law of Ecological and Environmental Equilibrium and the Decree of Planning in the State of san Luis Potosi

On July 22, the Municipal Presidency was taken over by MSX One week before an entrepreneur intended to bribe the President. The Secretary of Economy of Mexico declared in August hat MSX was a win-win project and authorized the 28 of July a temporal occupancy of land against article 20 of the Mining Law that forbids a mining exploitation when there are population or an ecological reserve The environmental permit to operations of MSX was cancelled the 28 of July, 2004 the same that was granted by The National Institute o Ecology (INE). For more than one year, Fox visited the State once per month and promotes MNX. President Fox visiting Canada questioned the judicial decisions affecting operations of the mining company.

On the 29 of July when visiting San Luis met the President Municipal of Cerro de San Pedro and recommended the approval of the municipal permits even against resolutions of the judicial power. According to Loredo, Fox told him that he was worried to achieve the mining project and that he (The President of Mexico) recommended its approval (La

Jornada San Luis, 30.08.04). The argument used by government to support operation of the open pit mining company is the generation of 300 low wages employments, for only 8 years. It was criticized that President Fox for having a double moral. While he promotes disobedience to the law of the Municipal President of Cerro de San Pedro, he has accused the Mayor of Mexico City for the same fault. The Municipal President recognized that he authorized the operations of the open pit mining because he was afraid of his life and the life of his family. In 1999, the Municipal President, the father of Loredo, was murdered because his opposition

Marcelo de los Santos Governor of the State of San Luis, Oscar Loredo, Municipal President of San Pedro and Vicente Fox, the 29 of July, 2004. Fotografía: La Jornada San Luis

On the 7 of August the Municipal President of Cerro de San Pedro approved the permits to build the mine and conformity regarding safety and location against a previous agreement of no approval done on may 28, based on the appeal 564/2004 and agrarian and environmental resolutions forbidden these permits. Loredo recognized that the permits were illegal; there was not other way to face the pressure. However, the session was tape recorded, where the Municipal President declares that he was under pressure by President Fox and the Governor of the State. The Municipal President declared that it was known beforehand that the federal government and the state government are in agreement and they are potent that one can not be against them; they have the hand over our neck and there were some advertencies. When this decision was questioned, he responded asking if his life was not important.

On August 9, the Second District Court admitted other appeal presented by ejidatarios and next day declared suspension in order that SEDENA could not authorize buying and using of explosives. On the 10<sup>th</sup> of August, the same Court granted other suspension as part of the appeal 909/2004, to halt Sedena's actions to deliver to the company permit to buy and use explosives, but license was issued the 12 of October by the Secretary of Defense. On August 18, a congresswoman Eliana García, presented to the Permanent Commission of Congress a point of agreement to request the Judicial Power to investigate federal and state officials involved in disobedience to the law.

On August 21, opponents to the MSX's project closed the offices and demanded immediate exit of the company from Cerro de San Pedro. Among these opponents were Movimiento Pro-Cerro de San Pedro, Frente Cívico Potosino, Greenpeace, Frente Zapatista de Liberación Nacional y del Movimiento "Ya Basta", inhabitants from Cerro de San Pedro, San Luis Potosí and Soledad, and a patrol of public security.

September 1, 2004, a decision of the Mexican Federal Superior of Fiscal and Administrative Justice Court (Sala Superior del Tribunal Federal de Justicia Fiscal y Administrativa, TFJFA) has called for the mining company's permit granted on February 1999 to conditionally operate the mining to be revoked because of its failure to comply with proper procedures with respect to their environmental impact study. The

resolution states that because biodiversity is at danger, the Project should not be authorized. Commencement of mine operations was anticipated to begin in the fourth quarter of 2004, subject to project financing.

In a resolution dated September 1st, the TFJFA substantiated a case brought in 2000 by the civic union Pro San Luis Ecológico, opposing the authorization granted to the company the previous year by the National Institute of Ecology (INE). The Delegate of the SEMARNAT in San Luis Potosí (2002-2004) created and presided Foundation of Potosi under the purpose declared by Minera San Xavier to fulfill the conditions established by National Institute of Ecology to authorize the Manifest of Environmental Impact and to provide the compensations of ecological costs. The firm needs more than three years to fulfill only 32 of 100 conditions imposed by SEMARNAT while this Secretary only needed one Month to accept them

The Court halted operations at the San Luis de Potosí Gold Project, owned by Minera San Xavier (MSX), a subsidiary of the Canadian company Metallica Resources. The Federal Court's resolution was based on the necessity of ecological preservation of San Pedro Hill, where some animal species are in danger of extinction, as well as risks derived from cyanide use in mining, which would put in danger the biodiversity of the area. In addition to this point, the TFJFA recalls that the responsibility for preservation and regeneration of the environment lies with the federal authority. It concludes that the permit granted for the concession did not conform to "applicable laws".

The opponents to La Minera San Xavier consider that "the project is dead", since any action that could undermine the federal justice decision "would imply disrespect and transgression of the law". The company has retorted that the decision lacks a scientific base and that it will harm Canadian investments in the country. Second District Judge of the Federal Judicial Power dictated suspension of plan as part of the appeal 909/2004, promoted by ejidatarios de Cerro de San Pedro, San Luis Potosí, to suspend permit of buying and using explosives by the company.

MSX appealed the ruling and, in September, lost again. Because the company's latest appeal was rejected, they are threatening to use NAFTA's Chapter 11 to sue the Mexican government for potential lost profits. On September 27, the Broad Opposition Front asked to the Sub direction of Mining Rights to order cancellation of concession to Minera San Xavier

On October 7, personnel of the Secretary of Economy asked the ejidatarios to withdraw the land but a judge suspended the action. Against the owners of the land, during the first period of the project, more than 100 hectares of protected areas were illegally naked of protected species cutting the flora and expulping the fauna The municipal President who under pressure granted the permit, confronts a suit for not obeying the law because the municipal permit was suspended on March 16, 2004. On February 6 2004, MSX did not acknowledge some of the environmental commitments acquired and underestimating obligations to fulfill conditionings.

The company also committed fraud against the three levels of government who granted respective permits for the mining project under the assumption that land tenure was not viscid. With a fake contract, MSX took possession of land causing destruction on old buildings and protected flora and fauna, a loss to the ecosystem.

The company also closed neighborhood roads that had been used by inhabitants of La Zapatilla, Cuesta de Campa, Portezuelo y Cerro de San Pedro, without any permit. Invaded land of national property where was the old track of the train Potosí-Rioverde and installed a fence of several kilometers to avoid access to inhabitants to municipal land. (Montemayor, 2004).

On October 26, the Federal Tribunal of Fiscal and Administrative Justice determined that authorization of conditioned land use granted in 1999 to the project of MSX was against federal norms and not considered the existence of a protected area plan for the Cerro de San Pedro and surroundings. In public speech the 28 of October, the Minister of Environment and Natural Resources evaluated the resolutions of tribunals as the worst and spoke on favor of the company as having fulfilled all the requirements and considered as absurd the opposition of the inhabitants.

After SEDENA granted permits for use of explosives, on November 18, an incident of violation of suspension granted to the appeal promoted by ejidatarios on August 9, was promoted. On the 22 of November, Semarnat promoted a revision against the resolution that cancels the permit of conditioned operation of the open pit mining to MSX and SEDENA authorized to MSX the use of explosives.

The 29 of November, 2004 the Director of Mining in the State of San Luis Potosí declared that in the following days the Company would have the first blasts to prepare operations. 30 of November, 2004, The Senate Chamber passed an “obvious and urgent resolution” to stop programmed operations of MNX

On Dec. 1, an Agrarian Unitary Tribunal defended its claim that MSX's lease excludes a group of land owners. The Agrarian Unitary Tribunal ordered to obey the sentence derived of an appeal 807/202 which determined the illegality of the leasing contract of land subscribed in March 1997 for a period of 15 years by fake ejidatarios that did not have land rights on the Ejido. (Cruz Martínez, 2004). The Court cancelled rental contracts subscribed between the company and false ejidatarios. The ruling freezes MSX's land rights although the company constructed barbed wired fences around land that the company doesn't own.

The Agrarian Tribunal (Tribunal Unitario Agrario) has nullified the rental contracts for the land where important parts of the mine are located – on the grounds that the persons renting the ejidal (socially-owned) land to the company were not in fact members of the ejido, that is to say that their actions were fraudulent. About the land use, the company declared that the ejido leased is Cerro de San Pedro when belongs to the municipality of

Soledad de Graciano Sanchez. The intention is to avoid permits in area that is legally environmentally protected. Also, Ejidatarios of Palma de la Cruz leased 136 hectares to Minera San Xavier to be used as shops but the company was using it as disposal of sulfurous material that is not lixiviable.

On the 13 and 14 of December, the company blasted the area of La Zapatilla incrementing tension among the inhabitants of the region. On December 14th, it began excavating the mountain. Inhabitants of the town La Zapatilla were relocated after the company initiated operations. When the INAH knew about the blasting, requested the company to stop of such activities arguing the defense of around 115 buildings dated from XVII to XIX Centuries. Since 1998, INAH had warned over the danger for the historic heritage that would represent to activate the mining. With the opposition of the National Institute of Anthropology and History (INAH), and the reluctant permission for using explosives for blasting the mountain, of the Secretary of Defence (SEDENA) the company has begun its operations. The company appealed but the judge did not grant suspension against INAH decision.

On December 18, intellectuals, artists and around 50 civil, environmental and Human Right organizations strongly requested President Fox to respect and enforce the law at Cerro de San Pedro and to order Minera San Xavier to suspend activities based on judicial resolutions and verdicts. The arguments of the organizations, among others, Frente Amplio Opositor, la Asociación Nacional de Abogados Democráticos, la Unión Nacional de Trabajadores Agrícolas y el Movimiento Agrario Indígena Zapatista (Maiz), were in favor to defend the environmental, cultural and historic heritage and the imminent health risks of more than one million people Ejidatarios continued with a safety line in front of the entrance to the mine although it was announce that the Secretary of Economy of Mexico will grant a permit of temporal land occupancy in the agrarian nucleus of Cerro de San Pedro in response to an application done by MSX the 28<sup>th</sup> of June, 2004 (Cruz Martinez 2004a). Thus, the Company and government were looking for other options of land ownership such as Expropriation or temporal occupancy. But expropriation is only by cause of public utility.

On the 20 of December, The Third District Court received the appeal presented by the company against the decision of the INAH. The Canadian firm Metallica Resources Incorporated suffered a second decrease in the year of 16 percent in value of shares on December 21, after informing shareholders over the resolutions of Unitary Agrarian Tribunal which nulls the contract of leasing of 300 hectares in Cerro de San Pedro. Metallica Resources responded with an appeal and skating that would look for other option of land tenancy to have access to mineral resources The first decrease in a year, of around 20% occurred in mid 2004.

Members of Christian Science Monitor, were the first Canadians to come and witness the damage that has already happened, and the potential for more harm. On December 22, 2004 under strategic action, Mexico citizen's group sought halt in the Canadian-

owned mine, in responds to an urgent request for Canadian support to challenge legality and operations.

Sedena admitted participation in control and surveillance of blast that the company realized, confirming violation of suspension dictated by the judge in August, 2004 ordaining not liberation of permit to use explosives (Cruz Martinez, 2004). Another round of blasting was scheduled for December 31st. On December 18, the Municipal President of Cerro de San Pedro announced next detonation

On the 15 of November, 2003, The Commander of the 12 Militar Zone of San Luis Potosí considered that authorization of the permit could affect negatively to SEDENA. The Secretary of National Defense, the 30 of November 2003, agreed to suspend the permit to use explosives granted to the mining company, but on October 12, 2004, against resolutions of judged, signed and granted permits of use of explosives. The Commander of the military zone that had opposed was removed from his position. On November 22, SEDENA authorized to MSX the use of explosives.

However, the 24 of December when authorizations were public already, the permits were suspended but not cancelled. The Secretaría de la Defensa Nacional (Sedena), suspended the permit 3762-San Luis Potosí granted to MSX to buy and consume explosive material under the argument that the license to the company was altering the peace, tranquility and public order among people living in the region of Cerro de San Pedro, although the inhabitants have denied alteration of public order (Cruz Martinez, and Balboa, 2004).

The National Institute of Anthropology and History (INAH) suited against directives of the Transnational for destruction and demolition of Finca Guadalupe, that dated since the XVIII Century.. The Broad Opposition Front sent a letter to the Canadian Embassy requesting intervention to halt operations of the Canadian company who is blackmailing and pressing inhabitants of Cerro de San Pedro using as arguments the NAFTA's framework (Roman, Jose Antonio, 2004).

The last two days of December 2004, the lawyer of the company MSX got signatures among fake ejidatarios from Cerro de San Pedro and La Zapatilla, who would agree to use TNT (La Jornada, January 2, 2005)..

The Ministry of the Environment has taken legal steps to have the previous court rulings against the company overturned. SEMARNAT had promoted an appeal of revision to the resolution of cancelled permit but had obtained in its favor a suspension to avoid cancellation of the permit. The Commission of Governance, Constitutional Issues and Justice of the Permanent Union Congress approved an agreement to request information to SEMARNAT about the legal status of Minera San Xavier and to accept the resolution of the Court that cancels the permit of operation of the open pit mining. A plural commission traveled to Cerro de San Pedro (La Jornada, January 12).

The destruction of a historic building catalogued as a heritage monument of the XVIII Century in the town of Cerro de San Pedro by Minera San Xavier was reported by La Jornada San Luis and Triunfo Elizalde (2005). The Finca o Casa de Guadalupe is included in the National Catalog of Historical Monuments. Access to the Finca was in the area. On the 17 of January, protesters of AOF demanded INAH for information (Enciso, 2005e).

The owners of Casa Guadalupe, a historic real state demolished by MNX sued the company for dispossession and damages. The building is in the catalog of historic constructions of the Instituto Nacional de Antropología e Historia (INAH). Personnel from INAH ordered to stop demolition on January 15. The Patronato Pro Defensa del Patrimonio Histórico y Cultural del Municipio Cerro San Pedro, demanded cancellation of concessions to MNX for not fulfillment of the Mining Law (Enciso, 2005d)

According to the Secretary of Environment and Natural Resources (SEMARNAT) Minera San Xavier has fulfilled with 180 conditions established to favor sustainable development (Enciso, 2005c). The 20 of January, 2005, the Broad Opposition Front (AOF) Frente de Oposición Amplia (FOA) to the Minera San Xavier addressed an open letter to the Constitutional Governor of the State of San Luis to denounce damages caused by the blasts and the dangers and risks of planned mining operations. The argument of the governor stating that it was “an issue between particulars” is severely criticized (Annex C.).

Minera San Xavier suit for defamation to members of the Broad Opposition Front two ejidatarios of Cerro de San Pedro and the leader of a civil organization Pro Defensa de Cerro de San Pedro (Cruz Martines, 2005a for the publication of an article in La Jornada (Masiosare, 29 de Agosto de 2004). The National Network of Civil Organizations of Human Rights, All the Rights for All (la Red Nacional de Organismos Civiles de Derechos Humanos Todos los Derechos Para Todos) started to circulate a letter of support to the three accused, as an Urgent Action. Minera San Xavier lost other judicial process when the Third Court of District from State denied an appeal against the National Institute of Anthropology and History (Instituto Nacional de Antropología e Historia, INAH), who requested last December suspension of blast explosions that damaged the historic heritage (Enciso, 2005b).

In a public message, AOF sustained that in a shameful act of cynicism and impunity, Cardenas Jimenez has recommended the Minera to go to the Tribunals without knowledge of the coursed legal process (La Jornada, February 13). The Broad Opposition Front to the MNX announced in mid February 2005 that would promote a demand of political suit for negligence against the Minister of the Environment and Natural Resources who have supported the company in a public hearing on the 11 of February (La Jornada, February 14)..The Senate approved an agreement requesting SEMARNAT and SEDENA to explain their involvement in the Minera San Xavier case (Cruz Martinez 2005)

On March 4, 2005 a conference/forum Cuarto Concierto Cultural por la Defensa de Cerro de San Pedro took place for the defense of the environment the village and the rights in Cerro de San Pedro, sponsored by Patronato Pro Defensa Cerro de San Pedro, marking the 413 anniversary of its foundation, the 4 of march of 1592.

On March 17, a KAIROS delegation formed by seven Anglican, Lutheran, Presbyterian, Roman Catholic and United church leaders went to Cerro de San Pedro to investigate a mining operation owned by Metallica Resources, a Canadian company based on Ottawa that stands accused of illegal gold mining in Mexico. The company threatens to destroy both the historic town and the surrounding fragile ecology. The Canadians met with KAIROS' Mexican partners and local people to bear witness to their struggle and brought details home to Canada, including video and other documentation. "Foreign mining in Mexico is another by-product of NAFTA and the trade liberalization policies that affect the poor," said Lutheran National Bishop Ray Schultz, a delegate with the KAIROS program. "When our Mexican partners raised concerns about this Canadian-owned mine, we felt we had to investigate." (Kairos, 2004).

Representants of Kairos, formed by a group of Canadian religious institutions expressed concerns over the conflict of the Community of Cerro de San Pedro and the Canadian company considering that the practices of MNX violates Canadian Laws in Mexican territory (Munoz, 2005). Previously, a member of the Broad Opposition Front had toured and campaigned in Canada lobbying leaders of opinion and legislators. On March 18, 2004, the Auxiliary Bishop Daniel Bohan of Toronto called on a Canadian company to abandon a Mexican gold and silver mining operation using cyanide that locals fear will poison their water. With a surge in gold prices, MSX executives want to move forward and are searching for a legal breakthrough that will allow MSX to begin excavation and resume operations by mid-2005 (Campbell, 2004).

Under an irregular procedure, the Canadian Company promoted two appeals, but was denounced by the Pro Ecology Group. On 6 of April, 2005, a Tribunal in Administrative matters of First Circuit informed to MNX that had lost the appeal. Canadian legislators and Human and Parliamentary Rights Canadian Organizations formed a follow up and analysis committee to investigate actions of Metallica Resources, owner of the project Minera San Xavier. The Human Rights Canadian organization had visited previously the community of Cerro de San Pedro (Enciso, 2005a).

The Canadian Ambassador in Mexico met with the Broad Opposition Front to the MSX on the 4 of May and expressed the concerns of the Canadian Government for the conflict between the company and the Community of Cerro de San Pedro. A group of 30 environmentalist organizations accused the Minister of the Environment and Natural Resources to benefit transnational corporations approving projects such as the open pit mining at Cerro de San Pedro against the will of the community and demanded a change in the environmental policy (Enciso, 2005). The protestors also denounced that the Minister has prosecuted environmental activists.



Oppositional groups win the judicial controversy against MNX after the First Court of District (Juzgado Primero de Distrito) has dismissed the appeal 503/2005, which was the last resource of the Company's defense. (*La Jornada*, 9 de mayo, del 2005). The Governor of the State of San Luis Potosí ordered to hijack a complete edition of the newspaper *La Jornada San Luis* to avoid to be know the publication of his official maneuvering for pressure the decision to install the mining company *Minera San Xavier* (Hernandez Lopez, 2005).

13 of May 2005 is reported that after *Metallica Resources* presented loses in its first report of the year, the owners of MNX plan to withdraw *Cerro de San Pedro's* project and will suit the NAFTA's panel of controversies *Cruz Martínez, Angeles* (2005a).

### VIII. FINAL REMARKS AND CONCLUSIONS

Mining activities are perceived as the main factor of marginal regions and depressed zones. Mining concessions granted by Mexican government is centralized, brief and against public hearings, in such a way that affected groups and communities can not react immediately and mobilize against potential risks and dangers or to negotiate rights and interests.

The Canadian firm *Metallica Resource Incorporated* was at the point to destroy part of the environmental, cultural and historic heritage of the country, although there were three judicial resolutions to halt operations granted by different authorities upon request of the. *Ejidatarios* who have rights to own the land had been dispossessed. It was assumed that operations of the firm were in complicity with the Federal, State and local governments. The environmental and health risks would have side effects on more than one million people living in the localities of *Cerro de San Pedro, la Soledad and San Luis Potosi*. Norms were violated by the transnational when it started operations without obtaining legal permit of construction and operations and authorization to manage and to store explosives.

Exploitation of gold through open pit mining and use of cyanide lead to destruction of natural environments and irreversible geomorphologic alterations, distortions of watersheds, reduction on the quality of available water, transport accidents of dangerous substances and spill over during the exploitation, irreversible destruction of natural scenic and generation of deposits highly risky pollutant materials which have social, cultural and environmental impacts at short, medium and large terms (*Montenegro, 2004*).

The negotiation agenda and international mobilization around the debate over the concept of sustainable development and defense of the environment is a paradigm presented as a model of cooperation and consensus where the needs of all are incorporated and the greater have a compromise to support weaker. Intervention of the state and international community to benefit the public interest and the common good

and to control forces of the state and to achieve more equity among populations together with the implementation of more sustainable production and consumer patterns.

It is quite evident the lack of sensitivity of foreign mining companies toward the consequences of their activities upon the communities and environment. To a certain extent, we disagree with Sánchez-Mejorada (2000) who argues that facts will not convince the fringe environmental activists, the best defense is to address all environmental concerns and to have an aggressive community relations program that will put the facts before the general population that will be affected by the project. Keeping a low profile will rarely work when being assaulted by activists on all fronts. But, an aggressive community relations program will escalate the conflict.

This case also shows the lack of negotiation between firms, communities, new social movements and governments. Information about externalities and future costs of company activities is crucial but more crucial is formulation and implementation of more sensitive policies to avoid damage of the environment, biodiversity and health of population. Governmental institutions must be aware that their decisions may affect the community quality of life of actual and future generations only for a small increment in economic growth and large increase in private benefits of a small group of investors.

More informed citizens tend to be more active protestors, such as the case of the students in San Luis. Contact between informed individuals of diverse groups and organizations help to exchange experiences and create public opinion in favor of mobilizations. Community participation and involvement in decision making of community development planning is quite limited by the lack of critical information. This fact is critical when the local government can not provide the right information because there are other interests affecting the process.

The impact of mining activities is not part of the national political debate agenda.

## REFERENCES

- BARDACKE, Ted (1993) “The Mexican Gold Rush” en *El Financiero Internacional*, Sep. 27- Oct. 3, 1993, pp. 14-15.
- BORDER ECOLOGY PROJECT (1994) “Environmental Protection within the Mexican Mining Sector and the Impact of World Bank Mining Loan #3359”, Draft Report, April 1994.
- COMISIÓN DE LA UNIVERSIDAD AUTÓNOMA DE SAN LUIS POTOSÍ PARA LA REVISIÓN DEL PROYECTO CERRO DE SAN PEDRO DE MINERA SAN XAVIER (1998), *Opinión Técnico-Científica sobre los Componentes Ambientales del Proyecto Cerro de San Pedro de Minera San Xavier*, San Luis Potosí, diciembre de 1998, pp. 16.
- CAMPBELL, Monica (2004) “Mexican town curbs mine giant” *The Christian Science Monitor*. December 14, 2004 edition Cordero de Enciso, Alicia (1999). *Real de Catorce*, San Luis Potosí. Investigación y texto] -- México : INAH: JGH, 1999. -- 102 p. il. --

(Guía, México y su patrimonio; 2) Título de cubierta. Incluye bibliografía: p. 99 ISBN 970-18-1219-0.

CORDERO DE ENCISO, Alicia (1997) San Pedro Hill it still worth a Potosi. México en el Tiempo # 19 july-august 1997. Mexico desconocido Online. [http://www.mexicodesconocido.com.mx/english/cultura\\_y\\_sociedad/actividades\\_economicas/detalles.cfm?idsec=17&idsub=83&idpag=689](http://www.mexicodesconocido.com.mx/english/cultura_y_sociedad/actividades_economicas/detalles.cfm?idsec=17&idsub=83&idpag=689).

CRUZ CAMARENA, Beatriz (2004). Community, Environmentalists Fight Canadian Mine Co.

CRUZ MARTINEZ, Angeles (2005) “El Senado aprobó un punto de acuerdo en el que exhorta a las dependencias a informar. Semarnat y Sedena deben explicar su participación con Minera San Xavier” La Jornada, Domingo 27 de febrero de 2005.

CRUZ MARTINEZ, Angeles (2005a). “Dueños de Minera San Xavier planean retirar el proyecto, aseguran opositores” La Jornada, Viernes 13 de mayo del 2005.

CRUZ MARTINEZ, Angeles (2005b). “Minera San Xavier denuncia "por difamación" a tres opositores a su proyecto de explotación”, La Jornada, 23 de Enero, 2005.

CRUZ MARTINEZ, Angeles (2004). “Admite Sedena que autorizó uso de explosivos a minera: ejidatarios”, La Jornada, 24 de diciembre.

CRUZ MARTINEZ, Angeles (2004a) “Intelectuales y ONG exigen a Fox ordene a Minera San Xavier suspender actividades”, La Jornada, 19 de diciembre de 2004.

CRUZ MARTINEZ, Angeles (2004b). “Tribunal emite ejecutoria que ratifica la ilegalidad de contrato de arrendamiento” La Jornada, Sábado 4 de diciembre de 2004

CRUZ MARTINEZ, Angeles and BALBOA Juan (2004). “Suspende Sedena permiso a Minera San Xavier para manejar explosivos” La Jornada, 26 de diciembre de 2004.

DEL HOYO, Eugenio (1979). History of El Nuevo Reino de Leon (1577- 1723). Editorial Libros de Mexico, S.A., Mexico, D.F.

ENCISO, Angélica (2005). “Ecologistas acusan a Alberto Cárdenas de beneficiar al sector Empresarial” La Jornada, 6 de Mayo.

ENCISO, Angelica (2005a) “Legisladores y ONG de Canadá deciden investigar actos de Minera San Javier”, La Jornada, 18 de abril del 2005.

ENCISO, Angélica L. (2005b). “Niegan amparo a Minera San Xavier” La Jornada, 3 de Febrero, 2005.

ENCISO, Angelica (2005c). “Insiste Semarnat en defender a Minera San Xavier”, La Jornada, 20 de Enero del 2005.

ENCISO, Angélica, (2005d). Dueños de la Casa Guadalupe denuncian a Minera San Xavier por daño y despojo”, La Jornada, 19 de Enero del 2005.

ENCISO, Angélica (2005e). “Presenta el INAH demanda penal contra la Minera San Xavier”, La Jornada, 18 de Enero del 2005.

EUROPA PRESS (2004) “Tribunal mexicano paraliza el proyecto minero en San Luis de Potosí La empresa responde que ya tenía todos los permisos y que el Tribunal carece de conocimientos medioambientales” 2 Noviembre 2004

FRIENDS OF THE EARTH Y OXFAM AMERICA, CON EL APOYO DE MINERAL POLICY CENTER (2003), Glamis Gold: Estudio de caso de inversión en la destrucción, noviembre del 2003, en [http://www.oxfamamerica.org/newsandpublications/publications/research\\_reports/art6471.html](http://www.oxfamamerica.org/newsandpublications/publications/research_reports/art6471.html)

- GOVERNOR'S OFFICE (2003). "Governor Davis signs Legislation to stop proposed Gold Mine near "Trail of Dreams" Sacred Site," 7 de abril del 2003, en [http://resources.ca.gov/davis\\_agency\\_news.html](http://resources.ca.gov/davis_agency_news.html), 30 de noviembre del 2003.
- HERNÁNDEZ LÓPEZ, Julio (2005). "Astillero", La Jornada, lunes 9 de mayo del 2005.
- INSTITUTO NACIONAL DE ECOLOGÍA (1999), autorización DOO DGOEIA 001130.
- LA JORNADA SAN LUIS (2002). "La Minera San Xavier adquirió de manera irregular derechos de agua", 22 de junio del 2002.
- LA JORNADA SAN LUIS (1999). "Minera San Xavier podría afectar el patrimonio de SLP" 20 de Febrero.
- KAIROS (2004). Delegation to Mexico looks at poverty, murder, Canadian mining practices and other free-trade by-products MEDIA ADVISORY KAIROS—Canadian Ecumenical Justice Initiatives.
- LA JORNADA SAN LUIS and TRIUNFO Elizalde (2005). "Minera San Xavier destruye un inmueble histórico del siglo XVIII", La Jornada, Domingo 16 de enero del 2005.
- LOGSDON, Mark J. et. al. (2003) El uso del cianuro en la extracción de oro, traducido de la publicación en inglés titulada *The Management of Cyanide in Gold Extraction*, de Mark J. Logsdon, MScKaren Hagelstein, PhD, Ciherry I. Mudder, PhD, publicado el miércoles 3 de diciembre del 2003, en: <http://www.ilustrados.com/publicaciones/EpZpVpEpkjxcfwDzo.php>, 16 de nov, 2004
- López Miramontes, Álvaro y Cristina Urrutia (1980) *Las minas de Nueva España en 1774*, Mexico, INAH, 1980.
- MARTÍNEZ RAMOS, Mario (2004), Carta a Quien Corresponda, San Luis Potosí S.L.P, México, Setiembre 23 del 2004, en <http://www.esquelonline.com/~noalamina/Sanluispotosi.htm>, 5 de noviembre.
- METALLICA RESOURCES, Inc. (2005). Cerro San Pedro. <http://www.metal-res.com/main.asp?section=properties&page=cerro>.
- Mining Watch Canada (2002). Mines Alerte. Newsletter, number 8, Winter/Spring 2002. <http://www.miningwatch.ca/publications/newsletters/newsletter8.html>.
- MONTEMAYOR, Carlos (2004)" Minera San Xavier despojó de tierras a habitantes de Cerro de San Pedro", La Jornada, 20 de octubre del 2004. III Parte.
- MONTEMAYOR, Carlos (2004). "Amenaza ambiental con Minera San Xavier", La jornada, Lunes 18 de octubre del 2004.
- MONTENEGRO, Raul A. (2004). Estudio sobre el Impacto Ambiental y Sanitario de las minas de oro. El caso Cordón Esquel, en <http://www.funam.org.ar/introduoro.htm>, 4 de noviembre del 2004.
- MUÑOZ, Alma E. (2005). "Destruye el TLCAN a las familias: grupos religiosos" La Jornada, 19 de marzo del 2005.
- OTC BULLETIN BOARD (2003). "Metallica Resources Announces Authorization to Proceed With Church Stabilization at the Cerro San Pedro Project, Mexico". October 23.
- PERIÓDICO OFICIAL DEL ESTADO DE SAN LUIS POTOSÍ (1993). "Plan de Ordenación de San Luis Potosí y de su zona conurbada", publicado 24 de septiembre de 1993.
- RAMÍREZ CUEVAS, Jesús (2004)." De cómo el Presidente mide con dos varas Fox promueve el desacato" La Jornada, 29 de Agosto del 2004.

ROMÁN, José Antonio (2004). “Piden a Canadá obligar a Minera San Xavier a respetar ley mexicana”, *La Jornada*, 28 de diciembre del 2004.

RONCO, Jorge (2002) *Fundamentos de la Campaña Esquel*, Eco sitio 2002-2004, en [http://www.eco-sitio.com.ar/fundamentos\\_de\\_la\\_campana2.htm](http://www.eco-sitio.com.ar/fundamentos_de_la_campana2.htm), 15 de nov del 2004.

SÁNCHEZ-MEJORADA, Rodrigo (2000). “Mining law in Mexico”, *Mineral Resources Engineering*, Vol. 9, No. 1 (2000), 129-139.

STATE ENVIRONMENTAL RESOURCE CENTER (2004) *Banning Cyanide Use in Mining*, en <http://www.serconline.org/mining/talking.html>, 21 de Julio del 2004.

VILLALBA BUSTAMANTE, Margarita (200). *State and business initiative in the formation of the valenciana and real de catorce mining communities (mexico), 1760-1790*. Colegio de San Luis.