

# Canada Pension Alert

What are your Pension Funds up to?

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## Open Letter to Canada Pension Plan Investment Board

Recently Jennifer Moore, Latin America Program Coordinator at MiningWatch Canada wrote an open letter to Canada Pension Plan Investment Board asking the board to divest from Tahoe Resources because of the company's alleged unethical business practices at its Escobal project in Guatemala. Here is her letter, reproduced with her permission:

*"MiningWatch Canada is writing this open letter to urge the CPPIB to divest from Tahoe Resources. The CPPIB tripled its investment in Tahoe Resources from 2012 to 2013, despite violence, broad opposition to the Escobal project (in Guatemala), pending legal actions against its mine operations, and the highly speculative nature of Tahoe's projections.*

### **Violence**

*There has been serious violence associated with the mine project, including against community leaders and peaceful protesters. Most recently, on April 13, 2014, a well-known leader of the Mataquesuintla youth movement against mining, Marilyn Topacio Reynoso Pacheco, was murdered. She was 16 years old. Her father, Edwin Alexander Reynoso, a community leader and key representative of the Peaceful Resistance in Defense of Natural Resources of Mataquesuintla, was shot four times and is in intensive care in the hospital. Alex Reynoso is recognized for his role in organizing a community consultation in this municipality. Guatemalan authorities have yet to arrest anyone in connection with this crime.*



*Last year, another violent incident directly implicated Tahoe employees. On April 27, 2013, Tahoe's private security shot and injured six men who were peacefully protesting outside the mine site. While Tahoe blamed the protesters, Tahoe's head of security, Alberto Rotondo, was arrested as he was trying to leave the country. Rotondo remains under arrest awaiting trial for his alleged role in the attack.*

### **Broad Opposition to the Escobal Project**

*Since 2011, communities living in the area of the mine have been peacefully opposing the project through marches and community referenda. More than half of the communities in the municipality of San Rafael Las Flores, where the Escobal project is located, have declared opposition to the mine. In five neighboring municipalities, in the departments of Santa Rosa and Jalapa, tens of thousands of people have participated in formal municipal referenda and voted against the project. For*

example, in the Municipality of Mataquescuintla, where Topacio Reynoso was from, over half of the eligible voters participated in a vote in which 96% - or some 10,000 people - voted against mining.

Tahoe Resources, with the help of the Guatemalan government and the powerful Guatemala Chamber of Commerce, used three strategies to prevent people from opposing the mine. The first strategy was to challenge the legality of municipal referenda in two lawsuits brought to the Constitutional Court. In both cases, the Constitutional Court dismissed the lawsuits, finding that citizens have a right to express their views regarding whether or not they are in favour of mining.

The second strategy was to prevent referenda from taking place at all, as was the case in San Rafael Las Flores, the municipality closest to the Escobal mine. In San Rafael Las Flores no official municipal referendum took place because the mayor refused to allow it, despite a community request. As a result, local organizers coordinated votes at the village level in San Rafael Las Flores. Eight of nine to date have been overwhelmingly against mining. Representatives of more than half of the communities in the municipality have also signed declarations against the mine.

The third strategy was to use force to quell social protest against the mine. Repression and criminalization against those opposing the project steadily increased in intensity as Tahoe ramped up toward production. Since 2012, there have been nearly 90 legal cases filed against protesters and community leaders, constituting a wave of criminalization against individuals for their participation in peaceful protests.

Finally, the opposition to the mine is so great that in June 2012 Tahoe filed a suit against the Guatemalan government stating that protests were hindering its operations and claiming that the State was not doing enough to allow its

exploration and construction activities to proceed. The Constitutional Court dismissed the suit in February 2013. Nonetheless, two months later, the Guatemalan government imposed a state of siege in municipalities that had voted against the project. During the state of siege, arrest warrants were issued for eighteen individuals who are known to oppose mining. Five were arrested and made to suffer months in jail. All eighteen have been absolved of any charges.

### **Environmental Lawsuits and Related Risks**

In 2012, community members from San Juan Bosco, located seven kilometers from the mine site, filed a legal challenge in defence of the right to water. Also, some 250 community members filed individual complaints with Guatemala's Ministry of Energy and Mines (MEM) in opposition to the exploitation license for the mine, citing potential damages to the environment, specifically access to water. MEM dismissed the complaints outright, hours before Tahoe's final license was granted. Through the appeal process, the court found that MEM violated due process in its consideration of one such complaint.

Tahoe is also under investigation by Guatemala's Public Prosecutors' Office for Crimes Against the Environment for industrial contamination of water supplies near the Escobal mine. Additionally, an engineering review of the environmental impact assessment substantiates community concerns. It finds a lack of sufficient information on water processing and water treatment. It also finds that there is no posted closure bond and that the three years estimated for reclamation is far too short.

### **Speculative Project and Weak Disclosure**

Tahoe's claims about the mineral deposit at its Escobal silver project are not backed by a feasibility study, which is normally used to establish the economic viability of exploiting a mineral deposit. In July 2013, the British Columbia Securities Commission placed Tahoe on its 'Issuers

*in Default List' because the company did not comply with related disclosure requirements. As Tahoe is listed on the New York Stock Exchange, the United States Securities Exchange Commission also questioned Tahoe about its claims. As a result, Tahoe was required to amend its Preliminary Economic Assessment (PEA) to clarify that no feasibility study had been done and to acknowledge that projects lacking a PEA "have a much higher risk of economic and technical failure." Tahoe began production in 2014, still without a feasibility study.*

*This is not the only troubling disclosure issue. In May 2013, the Justice and Corporate Accountability Project at Osgoode Hall Law School sent a letter to the Ontario Securities Commission pointing out that Tahoe had failed to disclose material information in relation to the shooting of six protesters by its head of security, Alberto Rotondo. Furthermore, as noted above, Tahoe has not disclosed the extent of the opposition to mining in the region, nor the fact that opposition was so great that it brought a court case against the Guatemalan government for failure to control local protests. This lack of disclosure on social conflict is problematic for investors. Another Canadian mining company in Guatemala, HudBay Minerals, is currently being sued in Ontario by the widow of a community leader murdered allegedly by HudBay's head of security. HudBay sold the mine for \$176 million in 2011, shortly after the launch of the lawsuit. It had purchased the mine three years earlier for \$446 million.*

### **Time to Get Out**

*At a time when Canadians are deeply concerned with the ability of the Canada Pension Plan to meet their future needs, the CPPIB should not gamble on speculative projects that put the future of both Guatemalans and Canadians at risk. The largest equity investor in the world, Norway's \$840 billion sovereign fund, demonstrates that this is unnecessary. This fund has cut its holdings in*

*mining companies last year and is reviewing all of its mining investments. In 2013, the Norwegian fund had a rate of return of 15.9%, compared to CPPIB's rate of return of 10.1%. Furthermore, investment in Tahoe Resources does not meet your own environmental, social and governance criteria for responsible investments. CPPIB should divest from Tahoe."*

Here are excerpts from the CCP Investment Board reply:

*"...CCPIB does not screen out companies based on environmental, social or governance (ESG) or other non-investment factors as we believe that such constraints can increase risk and/or decrease returns over time..."*

*"As active investors, we are committed to engaging companies to seek critically important disclosures and foster positive corporate conduct. CPPIB is engaging directly with several Canadian and international extractive companies to improve standards and disclosure related to operations in high-risk countries, including human right practices, local community relations and transparency of taxes and royalty payments. As part of our collaborative engagement efforts and alongside other institutional investors, we are participating in the recently formed Steering Committee of the United Nations-Supported Principles for Responsible Investment's (UN PRI's) collaborative engagement on Human Rights in the Extractive Sectors."*

While CPPIB may claim to be committed to responsible investing, they do not screen out companies based on environmental, social or governance or other non-investment factors as they believe that such constraints can increase risk and/or decrease returns over time. This clearly indicates that CCPIB's primary concern is its rate of return and not whether companies in its investment portfolio are engaged in the violation of human and environmental rights.

In July 2014, the Canadian Center for International Justice submitted a lawsuit to BC's Supreme Court, holding Tahoe liable for the actions of its security guards. On April 27, 2013 Tahoe's security guards allegedly shot and injured six men who were

peacefully protesting outside the mine. The British Columbia Investment Management Corporation has over 15 million dollars invested in Tahoe Resources (as at March 31, 2013). bcIMC invests on behalf of the B.C. College Pension Plan.

## Socially Responsible Investing

*Kyle Singbeil*

It is becoming increasingly possible for investors to promote their environmental and economic values, while keeping in mind their financial interests. One particular method of doing this is through socially responsible investing (SRI). SRI is an emerging approach to investing that uses three fundamental strategies: a screening process, shareholder advocacy and community investing.

Screening involves making investments in organizations that promote socially responsible values, while rejecting companies that produce harmful goods. For example, an investor could make the decision to invest in a renewable energy company, such as Finavera Wind Energy, as opposed to a petroleum-based organization.

In addition to providing capital to socially responsible organizations or investments, screening can be performed through the rejection of "sin stocks." Sin stocks are investments in goods and services that cause negative social and environmental impacts. For example, socially conscious investors will likely avoid investments in the alcohol, tobacco or gambling industries. As author Russell Sparkes noted in his book, The Ethical Investor, "Ethical investment goes further than just 'green issues.'" Environmental awareness is

important, but so too is the avoidance of companies which profit from totalitarian governments, the arms trade, or animal exploitation" (2002).



Shareholder advocacy is a method used by investors to influence corporations, specifically when confronted with decisions that will have a detrimental impact on society. The goals of shareholder advocacy include pressuring corporations into improving their policies and motivating management to avoid detrimental business practices. For example, in 1997 shareholders and environmental groups began petitioning Home Depot to discontinue sales of timber from old growth forests. Two years later this request was accepted, and the company began phasing out all sales of lumber from endangered forests.

The third strategy is community investing, a process that directs investors' capital back into their

communities. This capital can then be used for valuable services, including health and childcare, housing, and education, which are underfunded in many communities. Community development financial institutions (CDFIs), such as Chicago based ShoreBank, are an alternative to traditional lending centers; they provide small business financing and affordable housing options in disadvantaged communities.

Although socially responsible organizations are focused on much more than generating income, it is not uncommon for these companies to outperform conventional organizations. SRI stocks often provide returns equivalent to, and potentially greater than, those of traditional stocks, particularly as business practices are becoming more ethical and environmentally focused. As a result, investors are no longer required to sacrifice financial gains in an effort to become more socially responsible. For example, the Co-operators Ethical Canadian Dividend Fund had a

return of 22.5% in 2013, compared with the TD Dividend Income and RBC Canadian Dividend funds, which had returns of 10.8% and 16.1% respectively.

According to the Forum for Sustainable and Responsible Investing, over \$3.74 trillion is currently invested in the US according to SRI strategies. Today, this makes up more than 11% of the US's total investment. Between 1995 and 2007, the total value of SRI assets increased by over 324% in the United States. Throughout the same time period, the total value of all assets increased roughly 260%, which is a growth rate of 64% less than that of SRI assets alone (US SIF, 2013).

As this growth rate is expected to continue, socially responsible investing will have a considerable influence on the future of corporate governance. Furthermore, these investments provide returns that are comparable with market rate, and investors can make positive ethical impacts without surrendering financial returns.

#### **About the Author**

Kyle Singbeil is an accounting major from Vancouver Island University. He is interested in financial investing and social economics. Kyle's employment with a public accounting firm provided him with the ability to make financially responsible decisions, and to observe this potential within an organization. Kyle will begin working towards his Chartered Professional Accountant designation in the coming year.

## **Are you investing in crime?**

**Pension Funds in Canada have significant investments in mining operations that are accused of unethical practices, including the violation of human rights and the degradation of the environment.**

**Will you continue to allow your money to be used in this way?**

**The first step is to become informed. Learn more at [CanadaPensionAlert.com](http://CanadaPensionAlert.com)**

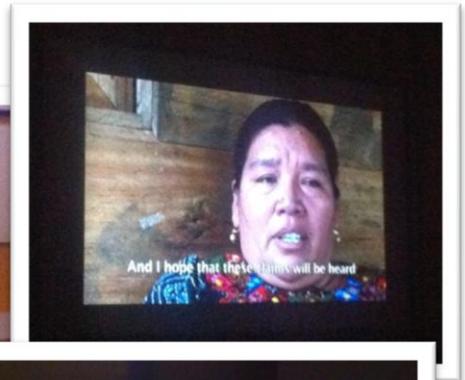
# Defensora Screening at VIU, Nanaimo Campus

Zain Raza

VIUFA Human Rights & International Solidarity, in collaboration with VIUFA Working Group on Ethical Investing and the Institute of Practical Philosophy, organized a screening for Defensora on Tuesday, April 1<sup>st</sup>, 2014. The event started at 7 pm sharp. Eliza Gardiner, Chair- VIUFA Human Rights & International Solidarity, introduced the two sponsors of the screening. Then, she briefly summarized the film and why it is a major concern for VIUFA.

Defensora is a documentary about Mayan Q'eqchi' resistance against mining in Guatemala. The story is set along the shores of Lake Izabal in the community of El Estor, where a nickel mining company has operated for over 50 years. Tensions run high against a backdrop of pro and anti-mining camps, violence and forced evictions. The film takes audiences into the lives of defenders in the resistance who struggle to reclaim their ancestral lands and seek justice in Canadian courts for alleged human rights violations.

After the screening, the floor was open for discussion. The audience was genuinely moved by the film, and they had some interesting questions, such as where did



the community relocate to when it was forced to move from the ancestral lands. Apart from answering these questions, Eliza also shared her experience of visiting Guatemala.

Furthermore, Robert Pepper-Smith from the VIUFA Working Group on Ethical Investing emphasized how pension funds are linked to the criminal activity described in the film. There are plans to organize a few more screenings on campus to promote this message.

## About the Author

Zain Raza is an MBA student at Vancouver Island University. He is working as an editorial assistant for the Institute of Practical Philosophy.

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