

UNOFFICIAL TRANSLATION

OF THE REQUEST FOR SUSPENSION OF THE PASCUA LAMA PROJECT, UPON WHICH THE COURT ORDER TO SUSPEND PASCUA LAMA IS GROUDED

AND OF THE COURT RESOLUTION

I. REQUEST FOR SUSPENSION OF THE PASCUA LAMA PROJECT

Distinguished Court

Lorenzo Soto Oyarzun, in representation of the persons and the Diaguita indigenous communities in the case Number 300-2012 regarding Protection Recourse, we state:

1. As per Resolution 3765 of 31 October 2012 of the SERNAGEOMIN (The National Geological and Mining Service of Chile) which has ordered the Temporary Total Closure of Drilling, Blasting, Pre-Stripping, Removal of Waste Dump Operations, of the Pascua Lama mine of the Company Minera Nevada Spa.
2. That the current stoppage ordered by the SERNAGEOMIN is limited to and circumscribed to “Drilling, Blasting, Prestripping, Removal of the Waste Dump Operations” and as such do not extend to the total area of the project.
3. Nevertheless, by order number 2339 dated March 11, 2013, the SERNAGEOMIN, consulted by this Court to produce a report, did not reply to the situation that might be occurring with rock acid drainage and its impacts on water resources, alluding to incompetency, despite knowing of the situation, as we shall see.
4. That similarly, the consulted Environmental Evaluation Commission, in its report to the Court, evades referring concretely and with resolve, to the impact effects of the late sanctioning processes it has applied, despite also knowing of them, as we shall see, and without adopting any precautionary or emergency measures whatsoever, while having legal faculty and obligations to do so under these circumstances.
6. As such, as per Ord. 60 of the 23 March, 2013, having informed this Court, the General Water Department (Dirección General de Agua-DGA) is clear in affirming that the lack of compliance of the company are of such nature and magnitude, that it provokes “adverse direct effects on the environment in its glacier components, and in its consequences for the availability of water sources in the basin.”
7. That the very company has self-denounced before the Super Environmental Intendant (SMA)—the new public agency in charge of environmental controls only as of the 28 December 2013 [sic] – due to the occurrence of at least two contingencies of environmental contamination of the water resources of the Estrecho River that occurred in December of 2012 and

January of 2013 that place the environment of the basin at risk as cited in the files of the SMA.

8. That in the context of the control actions initiated by the SMA, they have been able to ascertain in the short time—in contrast to the questioned authorities—the facts that sustain this present precautionary measure and their aggravating effects in recent fiscalization investigations and reports requested to the DGA, to the SERNAGEOMIN carried out in January of 2013, and that have originated the charges against the company on 27 March 2013, as was informed and publicly known through the press and social media.

That the facts obtained by the SMA are the following:

- Construction of the alleviation systems of the North Lower Perimeter Canals, specifically in works of Art. 1 and 5, that are not described in the environmental authorization of the project. Additionally it was witnessed that these works are transporting superficial water with no contact to a zone of contact of the sterile waste dump (Nevada Norte).
 - Impacts are registered of 1,378 m² of vegas located below the Q9 gorge, caused by alluvial material deposited by the events informed in the self-denunciation.
 - It is recognized that the Hydrogen Peroxide Oxidation Unit and Osmosis Plant or secondary alternative treatment, associated to the Rock Acid Water Drainage (DAR) Plant have not been constructed. Additionally, no forced evaporation system is witnessed in the pool area. These elements should be constructed prior to the deposit of sterile rock in the Waste Dump area as per RCAN 24, 15.02.2006. (These works are to treat water contaminated by the mining process).
 - The construction of the Entrapment and Restitution Chamber of superficial contact water is witnessed, but it is not included in the environmental authorizations of the project and which at the moment of the inspection, was discharging water into the Rio Estrecho.
 - It is recognized from the analysis of results of the monitoring of subsurface water, reported by the company, high concentrations of some parameters, such as Arsenic, Aluminum, Copper, and Sulfates. The levels of these parameters are in comparison to the reported baseline for the project.
 - In regards to the background information presented by the company, associated to the monitoring of subsurface water, these do not comply with Resolution 37 of 15.01.2013 of the SMA, that resolves and instructs Norms of General Character on Entities of Environmental Inspection and validity of reports.
7. That by Exempt Resolution Number 107 dated 31 March 2013, the SMA order a series of provisional measures based on which it can ascertain:
 - i. The accumulation of rocks and mud on vegas systems, as a result of mass removal, derived from general interventions in the area of the North Lower Perimeter Canal (NLPC);

- ii. The deterioration of the associated NLPC works;
- iii. The diversion of water of no contact to towards to area of contact;

And that in conformity with this: “the described facts have generated a situation of imminent environmental danger on the water resources of the Estrecho River, since the Acid Water Management System is not currently implemented as indicated in the Environmental Quality Resolution, and on the vegas systems, due to potential events of mass removal that can increase the affected area.”

- 8. That despite everything that has been mentioned above, these measures present a significant state of non-compliance, as found by the SMA through its Fiscalization Report: Verification of Conformity of the Application of Provisional Measures in the Modification of the Pascua Lama Project – DFZ 2013 63 III RCA IA, carried out in the period January – March 2013.

The SMA concluded that “All of the requested provisional measures present some grade of non-compliance, be it due to the presentation outside of the established time limits (cleaning of vegas zones) by non compliance of the given instructions (temporary plan CCR does not permit measuring water quality in a maximum timespan of 48 hours).

That is, the imminence of harm persists and is occurring.

In order to inform the Court, the fiscalization reports and the administrative sanctioning acts of the SMA that are alluded to, are publicly available since the 27 March 2013 at the following link:
<http://snifa.sma.gob.cl/registropublico/snifahome> or at the SNIFA link at:
<http://www.sma.gob.cl/> in addition to the report that has been requested for the Court.

All of this overwhelming evidence and existing background on the aggravating facts of constitutional rights, that have additionally gone beyond the conservation acts of the administrative authority, merit and warrant that the judiciary reestablish the empire of the law, decreeing a precautionary measure of general effect that ceases the effects that continue to be caused.

AS SUCH

We ask: accept the order of non-innovation requested, decreeing the total suspension of the works and construction of the Pascua Lama mining project, while a definitive judicial resolution is adopted, except for those works that in the view of the SMA are necessary to assure the conditions that permit avoiding the continuation of harmful environmental impacts.

II. RESOLUTION TO GRANT REQUEST OF SUSPENSION OF THE PASCUA LAMA PROJECT

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9 APRIL 2013

Resolving the presentation on page 473 to the principle as requested of an order to not innovate as per terms requested, to this effect, notify the company Minera Nevada SpA per receptor and cost to the company.