

Ribera Cahuaré, Municipality of Chiapa de Corzo, Chiapas
11 June 2012

**TO THE COUNCIL OF THE COMMISSION FOR ENVIRONMENTAL
COOPERATION OF NORTH AMERICA**

The undersigned are members of **Comité Promejoras de la Ribera Cahuaré**, in the municipality of Chiapa de Corzo, state of Chiapas, representing its residents and attesting to our identity with voter identification cards issued by the Federal Electoral Institute (*Instituto Federal Electoral*) in Mexico.

1 BACKGROUND

Our town of Ribera de Cahuaré currently has a population of approximately 2000. It is situated on the banks of the Grijalva River at a site known to all as the gateway to Sumidero Canyon National Park. The settlement was established in 1900 with a population of 82 and grew to a population of 812 in 1980 (INEGI 2011, see Appendix 1). Ribera de Cahuaré currently sits within the municipality of Chiapa de Corzo. We have modest incomes, with most of us earning a living from wage labor and/or the informal sector.

In 1963, the company Cales y Morteros del Grijalva, S.A. de C.V. began operating a quarry here from which rock materials are mined and processed into slaked lime, caliche, gravel, screenings, and other materials used in construction. In 1966, 50 hectares (30 hectares in practice) were purchased from Adalberto Hotzen Hueper and Abel Torres Rizo (see Appendix 2, diagram showing the boundaries of the property).

2 ORDER DECLARING THE NATIONAL PARK

The company Cales y Morteros del Grijalva, S.A. de C.V. is located on land belonging to Sumidero Canyon National Park, a protected natural area (PNA) declared and published in the Official Gazette of the Federation (*Diario Oficial de la Federación*—DOF) on 8 December 1980, pursuant to Article 61 of the Mexican Environmental Protection Act (*Ley General del Equilibrio Ecológico y la Protección al Ambiente*—LGEEPA)¹.

¹<http://www.diputados.gob.mx/LeyesBiblio/pdf/148.pdf>

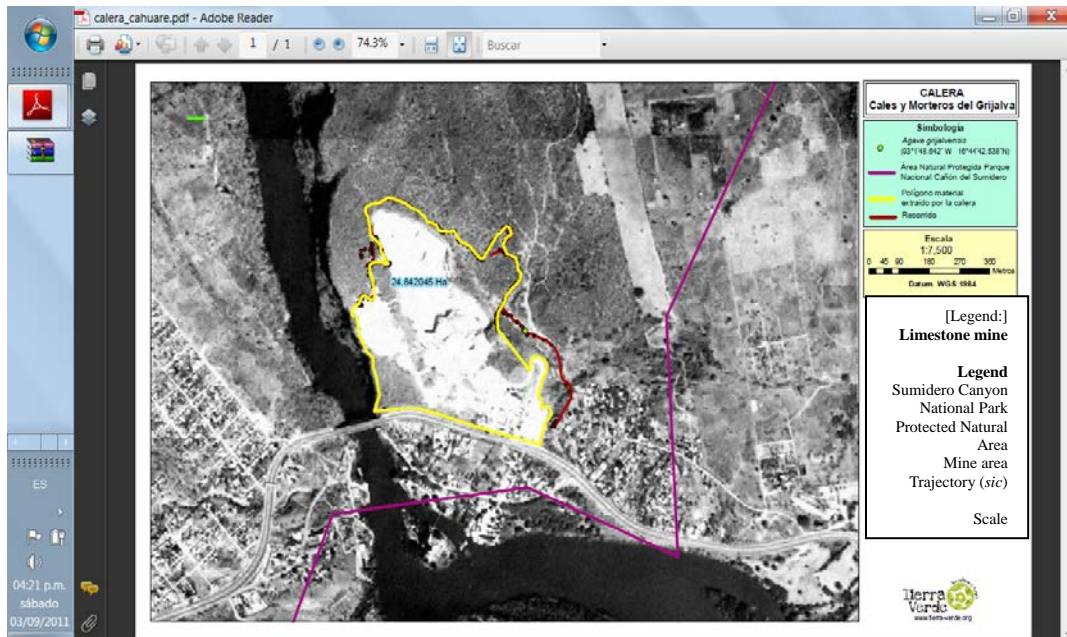


Figure. Location of Calera y Morteros del Grijalva S.A. de C.V. mine and boundaries of Sumidero Canyon PNA. Source: Tierra Verde.

Under LGEEPA Article 44, the establishment, regulation, administration, and enforcement of PNAs are powers of the federation. Various government departments have been in charge of the administration of this PNA, beginning with the Ministry of Human Settlements and Public Works (*Secretaría de Asentamientos Humanos y Obras Públicas*—SAHOP) and subsequently the Ministry of Environment, Natural Resources and Fisheries (*Secretaría de Medio Ambiente, Recursos Naturales y Pesca*—Semarnap), now the Ministry of Environment and Natural Resources (*Secretaría de Medio Ambiente y Recursos Naturales*—Semarnat).² This department, acting by the Protected Natural Areas Commission (*Comisión Nacional de Áreas Naturales Protegidas*—CONANP), “organizes and administers protected natural areas and supervises the work of conservation, protection, and enforcement of such areas...”³

This site was declared a PNA by virtue of the need to conserve and protect its scenic beauty, its scientific, educational, recreational, and historical value, its flora and fauna, and its tourism development potential, in addition to its status as a component of the Sumidero Canyon-Selva El Ocote biological corridor. The importance of this corridor resides in the fact that it allows for the continuation of functional ecological processes and natural gene spread. The National Biodiversity Commission (*Comisión Nacional para el Uso y Conocimiento de la Biodiversidad*) identifies the park as a priority terrestrial region (RPT 141) and an important bird conservation area (AICA SE-46). Likewise, due to the importance of the hydrological and ecological processes

²(<http://www.conanp.gob.mx/anp/consulta/EPJ-PNCS.pdf>)

³(<http://www.Semarnat.gob.mx/queesSemarnat/Pages/quehacemos.aspx>)

taking place here and the biological diversity they support, it is a Ramsar site for the protection of wetlands of international importance (CONANP, 2007).⁴

The conservation status of the PNA is further reflected by the presence of various species listed in NOM-059-SEMARNAT-2001 as threatened, endangered, or subject to special protection (CONANP, 2007), with a real conservation opportunity favoured in some cases by the mountainous topography, which renders access difficult and rules out any other land use.

The purpose of the order is to facilitate the protection and conservation of this area of natural beauty as well as to stimulate scientific research and adopt regulatory and control standards to prevent alteration of the ecosystem.⁵ The expropriation order includes and applies to the structures and facilities found on the land in question (Article 3). Pursuant to LGEEPA Article 62, once a PNA is established, its extent and, as applicable, permitted land uses as well as any other provisions relating to it may only be amended by the establishing authority, obeying the same formalities set out in the LGEEPA as for the issuance of the original declaration.

2.1 PARK MANAGEMENT

Pursuant to LGEEPA Article 65, within the year following the publication of the corresponding declaration in the DOF, Semarnat shall draft a management program for the PNA in question, affording opportunities for participation in the process by residents, owners, and occupants of lots included within the PNA's boundaries as well as competent agencies, state governments, municipal governments as applicable, community, public, and private organizations, and other interested persons.

We have not found a published management plan for the park, nor have the residents of Cahuaré or the members of Comité Promejoras been invited to any meeting for the purpose of drafting the management plan for the park. In 2007, CONANP published on the Internet a study purporting to justify an amendment to the PNA declaration⁶ on the grounds of encroachments by irregular habitation. In that document the mine is zoned as a "recovery subzone." The primary purpose of this designation is to halt the deterioration of the resources and restore the area, so that it can be rehabilitated and eventually return to its original state, thus ensuring the continuity of the natural processes occurring therein. It is located in that part of the PNA where the natural resources have been severely altered or modified (LGEEPA Article 47 Bis paragraph II subparagraph h). The area of this subzone is 12,781 hectares.

⁴<http://www.conanp.gob.mx/anp/consulta/EPJ-PNCS.pdf>

⁵(<http://www.conanp.gob.mx/sig/decretos/parques/Sumidero.pdf>).

⁶<http://www.conanp.gob.mx/anp/consulta/EPJ-PNCS.pdf>

Figure 2: Subzoning proposed by CONANP for Sumidero Canyon National Park. Source: CONANP, 2007.

In September 2008, the Sumidero Canyon Watershed Committee was formed to address the water pollution problem in Sumidero Canyon. In 2009, the National Waters Commission (*Comisión Nacional del Agua*), in conjunction with the state water institute, published the *Comprehensive Management Plan for the Sumidero Canyon Watershed*. This plan cites hydrometeorological phenomena, misuse of forest resources, contamination of water bodies, soil, and forests, incipient agricultural development, inadequate drinking water and sewer services, and harm to the sociocultural habitat as the major factors leading to the deterioration of natural resources and productive capacity in the Sumidero Canyon Watershed.

2.2 OPERATING PERMIT

LGEEPA Article 50 provides that the only activities permitted in national parks are those related to the protection of their natural resources, the increase of their flora and fauna and, in general, the preservation of the ecosystems and their components as well as ecological research, recreation, tourism, and education. Limestone mining does not fall into any of these categories and thus should not be permitted.

Furthermore, LGEEPA Article 64 requires applicants for permits or licenses covering the exploitation or use of natural resources within protected natural areas to demonstrate to the competent authority their technical and economic capacity to carry out this activity without causing environmental degradation. Semarnat, on the basis of technical and socioeconomic studies, may ask the competent authority to cancel or revoke the corresponding permit, license, concession, or approval where the exploration, exploitation, or use of resources results in or could result in harm to ecological stability.

Article 80 of the Protected Natural Áreas Regulation to the LGEEPA provides that for use or exploitation of resources within protected natural areas, the Ministry shall establish the corresponding rates of change, proportions, acceptable limits, or carrying capacities in accordance with the relevant methods and studies. Article 81 provides that in protected natural areas, only those natural resource uses that generate benefits for the local residents and conform to the principles of sustainable development, the relevant declaration, the PNA management program, the environmental land use plans, the applicable Mexican official standards, and other applicable legal provisions may be permitted.

Article 88 paragraph XIII of the same regulation provides that Ministry approval is required in order to engage in mineral exploration and mine operation within protected natural areas, with adherence to the established zoning and without prejudice to the applicable legal provisions.

Article 94 of the Regulation provides that in order to engage in mineral exploration and mining within PNAs, the interested parties shall apply to

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CONANP for the approval contemplated in the Mining Act (no prescribed form), providing the following information:

- I. Applicant's name or corporate name.
- II. Location, area, and boundaries of the lot in question, duly georeferenced.
- III. Physical and biological characteristics of the lot.
- IV. Relevant information about the nature of the construction/work to be carried out and the manner in which it will be carried out.

While the mine in question was established before the publication of the LGEEPA and its regulation, we contend that the mine should be obligated to adhere to the provisions of the LGEEPA as from the date of establishment of the park, and that renewal of the license should not be approved until the mine is in compliance with the LGEEPA.

As established in the Fifth Transitory Article of the Protected Natural Areas Regulation, economic activities occurring in PNAs prior to the issuance of the order declaring the PNA may continue provided that they comply with the applicable environmental laws and regulations. We submit that the mine is not in compliance with Mexican standards in regard to particulate air pollution emissions and noise emissions; that it is disrupting the ecological stability of the flora, fauna, and geology of the national park; that it is causing harm to the health of neighboring residents, and that it is not operating in accordance with sustainable development principles, as discussed below.

In 2003, Semarnat did not receive any written application from the company in question for a renewal of the operating license or permits (SDGPA/UGA/DMIC/003/03, Appendix 3). It can be concluded that by failing to make the necessary renewal application, the company has allowed its operating license to lapse since that date, yet it continues to operate illegally. Nor has Semarnat set acceptable limits or rates of change or corresponding carrying capacities for the specific case of the park.

2.3 ENVIRONMENTAL IMPACT ASSESSMENT

LGEEPA Article 28 requires prior environmental impact assessment of works and activities that may cause ecological instability or exceed the limits and conditions set out in the applicable provisions for the protection of the environment and for the preservation and restoration of ecosystems, with a view to preventing or minimizing the negative impacts of such activities on the environment. The following paragraphs are applicable to the case at hand: paragraph XI, "works and activities in protected natural areas under federal jurisdiction," as well as paragraph X, "works and activities in wetlands, mangrove ecosystems, lagoons, rivers, lakes, and salt marshes,..." and paragraph XIII, which reads: "works or activities corresponding to matters under federal jurisdiction that may cause grave or irreparable ecological instability, or harm to public health or ecosystems, or that exceed the limits and conditions set out in the legal provisions for the preservation of ecological stability and the protection of the environment," and finally paragraph VII, "Land use changes in forested areas as well as in rain forests and arid zones."

The representatives of Ribera Cahuaré, by means of a letter sent 9 June 2009 to the Ministry of Environment and Housing (*Secretaría de Medio Ambiente y Vivienda—Semavi*) of the state of Chiapas (Appendix 4), and another letter of 20 July 2010 to Semarnat, requested copies of the environmental impact statement filed by Cales y Morteros del Grijalva, S.A. de C.V. They received a response, file no. D.F./SGPA/UGA/3194/10, dated 5 August 2010, from Luis Fernando Torres García, the Semarnat official in Chiapas, stating that the request had been referred to the Semarnat Liaison Unit pursuant to Article 28 paragraph IV of the Federal Access to Information Act (*Ley Federal de Transparencia y Acceso a la Información Pública Gubernamental*), but to date no response has been received from that unit (see Appendix 5).

We demand that the Park Expropriation Order, published in the DOF on 8 December 1980, and the LGEEPA and its Regulation, enacted in 1988, be considered applicable as of their date of entry into force.

3 COMPLAINTS FILED WITH STATE AND FEDERAL AUTHORITIES

Some of the already obsolete machinery, which had design defects from the outset and has been operated improperly, produces fugitive air pollution emissions. The inspection of the company in 2002 by the Office of the Federal Attorney for Environmental Protection (*Procuraduría Federal de Protección al Ambiente—Profepa*), reported in file no. D.Q. 113/2002 (Appendix 6), uncovered irregularities in which the company was engaged. An environmental impact-related administrative proceeding was brought against the company.

In 2002 we filed an initial complaint with Profepa for air pollution emissions, with the Ministry of National Defence (*Secretaría de la Defensa Nacional—Sedena*), for the company's irresponsible use of explosives, with the Ministry of Health (*Secretaría de Salud—SSA*) for health impacts on the population, with the Institute of Natural History and Ecology (*Instituto de Historia Natural y Ecología—IHNE*) for noise emissions, with Semarnat for environmental impact and destruction of the non-renewable limestone resource, with the Civil Protection Branch (*Subsecretaría de Protección Civil*) for damage to housing structures, with the National Institute of Anthropology and History (*Instituto Nacional de Antropología e Historia—INAH*) for damage to local cave paintings, and with the National Human Rights Commission (*Comisión Nacional de los Derechos Humanos—CNDH*) for violation of our basic right to live in a healthy environment. From the Chiapas state government we requested the relocation of the company, while from the mayor (*presidente municipal*) of Chiapa de Corzo we requested the relocation of the company and the repair of the harm caused (Appendix 7, with minutes of decision and meeting), all in the state of Chiapas.

The Ministry of Environmental Protection (*Secretaría de Protección al Ambiente*), after inspecting the company Cales y Morteros del Grijalva, S.A. de

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C.V., brought three administrative proceedings in connection with environmental impact, land use changes, and hazardous waste management. As part of these proceedings it produced decisions issuing warnings and imposing sanctions, fines, and a total temporary and partial suspension of the company's activities, and in so doing terminated the process and closed the complaint file, which was requested but was not delivered to Comité Promejoras.

Finally, on 28 November 2007, Profepa terminated the process and closed the citizen complaint file due to force majeure (*por causas sobrevenidas*) (Appendix 8, termination decision, file DQ/113/02).

On 20 November 2008 a new complaint was filed with Semavi, defining the respective responsibilities of the agencies in question, these being Semarnat and Profepa (Appendix 9). On 12 January, Profepa issued a notice of proceedings declaring land use change-related irregularities on the part of the company further to the inspection and referring the matter to the Legal Affairs Branch of the Profepa office. However, there was no satisfactory response due to the fact that the incumbent Federal Attorney was replaced (Appendix 10, Profepa files).

The community of Ribera Cahuaré is not the only party to have filed complaints: in October 2009, the Director of Sumidero Canyon National Park, Edda C. González del Castillo, a biologist, filed a complaint with Profepa because of logging activities, impacts on vegetation from air pollutant emissions, and probable explosion damage to the east wall of the park, as noted in the Profepa decision of 28 October 2009. This complaint has yet to be resolved by Profepa (Appendix 11).

3.1 AIR POLLUTION

LGEEPA Article 111 BIS provides that Semarnat approval is required for the operation of fixed sources under federal jurisdiction emitting or potentially emitting odors, gases, or solid or liquid particles into the atmosphere. For the purposes of the LGEEPA, limestone mining is a fixed source under federal jurisdiction.

Article 17 of the Air Pollution Prevention and Control Regulation to the LGEEPA provides that persons responsible for fixed sources under federal jurisdiction emitting or potentially emitting odors, gases, or solid or liquid particles into the atmosphere shall:

- I.- Employ equipment and systems to control air emissions so that they do not exceed the maximum permissible levels set out in the applicable environmental technical standards.
- II.- Compile an inventory of their air pollution emissions in the format determined by the Ministry.
- III.- Install sampling platforms and ports.
- IV.- Measure their air pollutant emissions, record the results in the format determined by the Ministry, and submit the records to the Ministry where the latter so requests.

V.- Conduct perimeter monitoring of their air pollutant emissions, where the source in question is located in an urban or suburban area, where it borders a protected natural area, or where due to its operational characteristics or raw materials, products or subproducts, it may in the opinion of the Ministry cause serious harm to ecosystems.

VI.- Keep an operating and maintenance log for their process and control equipment.

VII.- Give advance notice to the Ministry of the resumption of their processes in the event of planned downtime, or immediate notice in the event of contingency downtime where pollution may result.

VIII.- Immediately notify the Ministry in the event of failure of control equipment, where the failure may cause pollution, so that the Ministry may take the necessary measures.

IX.- Take any other measures prescribed by the Act and the Regulation.

The limestone mine falls under Article 17 BIS paragraph G) II) of the Air Pollution Prevention and Control Regulation to the LGEEPA, due to the production of limestone as a fixed source under federal jurisdiction.

We submit that Semarnat, the body responsible for air quality compliance in this case (concerning a fixed source in the limestone industry), has not taken any steps related to air quality monitoring or an emissions log as required by the Regulation to the LGEEPA, nor has any record or log been published.

Article 18 of the Pollutant Release and Transfer Regulation to the LGEEPA provides that federal reportable substances, reporting thresholds, and technical criteria for the inclusion and exclusion of substances shall be determined in the relevant Mexican Official Standard, which shall contemplate air, water, soil and subsoil contaminants, hazardous materials and wastes, persistent organic compounds, greenhouse gases and ozone depleting substances.

Semavi NOM-025-SSA1-1993 (sic) conducted air quality monitoring during 17–21 March 2009, assessing air quality, PM10 particles pursuant to NOM-025-SSA1-1993,⁷ and also the Metropolitan Air Quality Index (IMECA), which includes measurement of ozone, sulfur dioxide particles, nitrogen dioxide, and carbon monoxide. All PM10 levels exceeded the level recommended by the 2005 World Health Organization air quality guide,⁸ which is a 25-hour average of 50 $\mu\text{m}/\text{m}^3$. The 19 March measurement by the mobile unit, 150 $\mu\text{m}/\text{m}^3$, exceeded the 24-hour average established by Mexican regulation (NOM-025-SSA1-1993) of 120 $\mu\text{m}/\text{m}^3$, while the 18 and 20 March 24-hour measurements were near the maximum permissible levels at 111.95 and 101.7 $\mu\text{m}/\text{m}^3$, respectively. The IMECA results found the average air quality to be “moderate” at 51-100, which means “possible nuisance to children, seniors, and persons with respiratory or cardiovascular disease.”⁹ On 19 March a mobile unit measured “poor” air quality, meaning “possible adverse health effects in

⁷<http://www.salud.gob.mx/unidades/cdi/nom/025ssa13.html>

⁸http://whqlibdoc.who.int/hq/2006/WHO_SDE_PHE_OEH_06.02_eng.pdf

⁹(<http://www.sma.df.gob.mx/simat2/index.php?opcion=24>)

persons with respiratory or cardiovascular disease,” particularly children and seniors. However, there were data missing from the study that were not reported in the monitoring results, such as the data recorded 20 March at a “private home” (see Appendix 12 for the response from Semavi and Appendix 13 for the analysis of the results and comparisons with WHO and Mexican standards).

Paragraph 5.4.2 of NOM-025-SSA1-1993¹⁰ states that “in order to verify observance of this standard, a minimum of data in one year will be required; this minimum is determined based on the quantity of valid 24-hour samples obtained in each of the four quarters of the year 2009. For validation of the year, at least three valid quarters with the above-specified number of valid samples are necessary; if this data is lacking, compliance with the standard for that year cannot be assessed.” To comply with this standard, Semarnat must perform this analysis and take at least three air quality measures per year, measuring pollutant levels in the area of influence of the factory in question, which has not been done.

On 22 March 2009, several entities met to follow up on the Comité Promejoras complaints in connection with the rock mining activities of Cales y Morteros del Grijalva, S.A. de C.V.; the decision was made that each federal and state entity would produce a technical report on the matters within its jurisdiction in response to the situation created by the company’s activities; Semavi would be responsible for compiling the resulting reports and convening a meeting on 29 April 2009 to ascertain whether sufficient evidence was available to file the applicable criminal complaint (Appendix 14). However, the meeting was never held because of the H1N1 flu outbreak.

On 13 July 2011, the Ministry of Environment and Natural History (its new name) of the state of Chiapas sent a letter stating that on 5 November 2010, “an auditing visit was made to the lot owned by the company, during which it was observed that rock mining was taking place, which gave rise to an administrative proceeding; in addition, further to various meetings held with other bodies of the federal government, these latter are also taking various kinds of legal action with a view to pursuing the processing of your request” (Appendix 15). However, there has been no conclusion nor any concrete response as to the status of the complaint.

3.2 PUBLIC HEALTH IMPACT

On 25 July 2002, the village of Cahuaré requested a medical examination of the residents due to the severe particulate air pollution that is affecting public health (Appendix 16). No response came, and seven years later, on 3 March 2009, the village reiterated its request (Appendix 17). A year later, on 11 March 2010, it did so again (Appendix 18). The following year, on 3 March 2011, the village filed another request (Appendix 19). This last request finally led to visits by the

¹⁰<http://www.salud.gob.mx/unidades/cdi/nom/025ssa13.html>

Ministry of Health on 6–7 April 2011 to 306 persons, with the results being relayed to Semavi on 13 May 2011 (Appendix 20). Semavi did not disclose these results to the residents. It was only when the residents staged a protest in May 2011, putting pressure on the government with concrete action, that the results were released. As noted, and as attested by a document appended hereto, the results of the exams are highly worrying. It was found that the local children are sicker and in more delicate health than the rest of the residents. Morbidity rates indicate that the most affected age group is children ages 5–9, followed by children ages 10–14. In general, the main cause of illness is respiratory disease, of which 26.2% of cases are allergic and 20% more are infectious, followed by skin diseases. The health brigades thus determined that

3. Airborne lime dust is an important factor in the development of respiratory diseases.

4. The association of this factor with the various disease cases encountered suggests to us that the origin of these diseases is directly related.”

3.3 DAMAGE TO BUILDINGS

The company uses dynamite as a blasting agent in its limestone and gravel mining operations, and this is causing land shifts which have, over the years, cracked the walls, roofs, and floors of the houses.

In September 2002 and March 2003, Sedena informed us that the explosions are under its supervision, yet it is the environmental authorities that are responsible for determining whether the use of the explosive is harming the environment and natural resources and deciding whether the company’s explosives permit should be renewed (Appendix 21). In March 2009, the explosives approval was renewed; however, no response was obtained (Appendix 22).

In November 2008, the Civil Protection Branch of Chiapas conducted a technical study to assess the risks and quantify the harm to the Lic. Benito Juárez primary school, which has been condemned as posing a risk to students and teachers. As a result of this study, the school was demolished and rebuilt that same year. A new risk assessment has been issued (Appendix 23) in regard to 35 of 69 damaged houses. The report concludes that an “inadequate construction system” and “poor quality materials” are being used.

3.4 NOISE POLLUTION

LGEEPA Article 155 prohibits emissions of noise, vibrations, heat and light energy, and generation of visual pollution, where they exceed the limits set out in any Mexican official standards issued by Semarnat for such purpose, considering the maximum permissible environmental contaminant concentration values for human beings as determined by the Ministry of Health. The federal or local authorities, according to their spheres of jurisdiction, shall take measures

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to prevent these limits from being exceeded and, as applicable, shall apply the corresponding sanctions.

LGEEPA Article 156 provides that the Mexican official standards on noise, vibrations, heat and light energy, odors, and visual pollution shall establish the procedures for the prevention and control of such pollution and shall set the corresponding emission limits. The Ministry of Health shall conduct the tests, studies, research, and monitoring necessary to identify the origin or source, nature, degree, magnitude and frequency of the emissions so as to determine when they produce health harms.

On 4 December 2002, IHNE conducted noise monitoring and detected noise levels of up to 80–89 decibels, exceeding Mexican Official Standard NOM-081-ECOL-1994,¹¹ which establishes a daytime maximum of 68 decibels and a nighttime maximum of 65 decibels (Appendix 24). Therefore, the mine is in violation of Mexican noise standards and the Ministry of Health is not conducting the analyses, studies, research, and monitoring required by law.

3.5 ENVIRONMENTAL RISKS

Forty-five years of mining have left a 30-hectare crater down to a depth of 40–50 m (see video in appendix). If we make a comparative analysis of the number of hectares impacted, it corresponds to the size of the mine area; that is, *even before* the existence of the park boundaries, they had already exhausted the resource on their own property and now they are in actual fact invading park property (Appendix 25, mine boundaries).

The destruction of this area is irreversibly altering the habitat for flora and fauna, the nonrenewable limestone resource, the health of residents and their homes.

On 16 April 2009, Grupo Escala Montañismo y Exploración, A.C., through its legal representative, filed a complaint of ecocide with CONANP (Appendix 26).

The east wall of Sumidero Canyon National Park, where the activity is taking place, is severely damaged by cracks caused by this activity. Furthermore, only 20 m away is the Belisario Domínguez International Bridge, an important road link between our country and Central America.

¹¹<http://www.ceamamorelos.gob.mx/secciones/ambiente/prevencionYcontrol-delacontaminacion/normayotros/NOM-081-Semarnat-1994.pdf>



Figure 3: Cracks in the wall of Sumidero Canyon on the side where Cales y Morteros de Grijalva, S.A. de C.V. is operating. Source: Our photo.

Pursuant to LGEEPA Article 170, where there exists an imminent risk of ecological instability or of damage to or deterioration of natural resources, or in cases of contamination with dangerous consequences for ecosystems, their components or public health, the Ministry may, with due justification, order safety measures including the temporary partial or total closing of pollution sources.

3.6 OTHER COMPLAINTS AND RESPONSE FROM STATE AND MUNICIPAL AUTHORITIES

The state government led by Pablo Salazar Mendiguchía convened a meeting with representatives of all the institutions involved, including the complainants, with a view to finding a solution to the problems in question. No follow-up meeting was held despite our insistence (Appendix 27).

On 9 August, Comité Promejoras de la Ribera de Cahuaré delivered a complaint to Javier Hernández Valencia, Representative of the UN Human Rights Office in Mexico, and Mónica Bucio, UNICEF Representative in San Cristóbal, for violations of the International Covenant on Economic, Social and Cultural Rights; the Convention on the Rights of the Child; the American Convention on Human Rights; the OAS Charter, as amended by the Protocol of Buenos Aires, and the Universal Declaration of Human Rights (Appendix 28). No response has been received.

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On 30 November 2010 and 21 May 2011, a complaint was filed with the Special Attorney for Environmental Crimes (*Fiscal Especializado para la Atención a Delitos Ambientales*) in the state attorney general's office. The public prosecutor in the Special Attorney's office drew up an official record of the facts. Statements were taken and a forensic medical examination of 17 residents of Ribera Cahuaré was performed, as well as a forensic inspection of 9 cracked houses. At this time, the complaint is at the stage of an administrative proceeding, and it has not been raised to the status of a criminal investigation (Appendix 29).

Finally, on 8 September, a motion was filed in Second District Court of Tuxtla Gutiérrez, Chiapas, but it was dismissed (Appendix 30).

WHEREAS:

The MISSION of Semarnat is to work to incorporate criteria and instruments guaranteeing the optimal protection, conservation and use of our natural resources into all spheres of society and the public service, thus devising a comprehensive and inclusive environmental policy within the framework of sustainable development.

The MISSION of Profepa is to deliver environmental justice by means of strict law enforcement, uncovering impunity, corruption, indolence, and failure to exercise authority, involving all sectors of society and the three levels of government in this work, in accordance with the fundamental principles of equity and justice.

WE HEREBY SUBMIT to the Council the existence of failures to enforce the environmental law in Mexico and Chiapas, in particular the LGEEPA, applicable in protected natural areas under federal jurisdiction, in that the authorities are allowing the destruction of a protected natural area of biological and geological importance in both the domestic and international ambits, and allowing air pollution, land use changes, hazardous waste management, mining-induced cracking of the east wall of Sumidero Canyon National Park and houses in Cahuaré, noise pollution, and the use of dynamite without a declared and published management plan for the park, an operating licence, or an approved environmental risk and/or impact study, thus making Semarnat and Profepa responsible for these failures to enforce.

This company has been an obstacle to traditional tourism and ecotourism development. When it began operating this was an uninhabited area; now there are more than 11 urbanized communities with around 15,000 inhabitants whose presence in the area is no longer justified and is incompatible with the conservation of wildlands. We request the immediate relocation or definitive closing of these settlements and the restoration of the area.

We are appending photographs of the impacted area (Appendix 31), copies of local and national news stories (Appendix 32), a DVD (Appendix 33) with testimonials and images illustrating and complementing the submission, a

document presenting the sequence of complaints filed with the environmental authorities in Chiapas, Mexico (Appendix 34), and the website that we built at <http://sites.google.com/site/denunciacalera/historia> to publicize the wave of destruction sweeping over this reserve.

Thank you for your attention to this matter, in which we hope you will take a particular interest and that the outcome of this submission will be favorable to the environment and the natural resources that are our legacy to present and future generations.

“RESOLVING THE PRESENT, BUILDING THE FUTURE”

Sincerely,
COMITE PRO MEJORAS

[signature]
Prof. Fernando Velazquez Perez
President

[signature]
Raul Guerrero Boraz
Secretary

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