

CURRENT STATUS ON MINING TAX IN LORETO 2NOV15

Mexico as a civil law country needs an affirmative statute to allow activity: in other words, it is illegal to do something if the law is silent on that activity. In addition, it can be argued that Loreto's recent Ecological Ordinance (POEL) forbids that land be used for mining, because it is not congruent with the type of water, air and soil management under said Ordinance. Hence, creating a "mining property tax" could weaken the governance framework of both the UDP and POEL by implying mining is acceptable and taxable.

The College of Architects and College of Engineers are not just the associations of the architects and engineers of Loreto. They are the "academic/technical and citizen party" (an actual category by law) that gives approval to works by the City of Loreto or allowed by the City. In other words, for monies from the Federal or State governments destined for new infrastructure or public works improvements, both colleges must sign off on civic works requests and plans.

The proposal by the College of Architects to create a way for the municipality to tax mining (the "*impuesto predial para suelos rústicos del sector minero*") risks creating a way to open the door to mining in Loreto, by creating a tax revenue incentive. The City Council of Loreto approved its fiscal package (which included the mining property tax) so that they can function for 2016. Property taxes imposed are based on the Urban Development Plan (UDP- types of land use and densities), and currently Loreto's approved UDP does not contain a land use for mining. This may create a basis for rejecting the mining tax at the state level: how can you tax something that is not specifically permitted?.

On the other hand, it may not have occurred to the College of Architects that a property tax keyed to mining would create expectations of enrichment from land speculation and plans for use of dump trucks and other equipment. Nor that commitments could be made between authorities and mining interests, which can very easily lead to allowing certain types of preliminary-to-mining activities. In addition, it is clear the College of Architects did not recognize how many people are opposed to mining and would speak out about the risk to water resources and tourism businesses.

A certified copy of the minutes of the Sessions of City Hall, shows "the inclusion of a new concept for tax on land values (*valor catastral*) on rustic soils (unimproved land) for use in the mining industry. This monetary value will be of MN\$28,000 per Hectare. This was approved by a majority, and the Council stated that Loreto doesn't mean mining projects are being approved, only that it wants to have the physical value of land for that sector." This flat tax of MN\$28,000 may be another way to challenge the tax as there was no study to show this tax is sufficient to pay for harms from mining activities.

Other municipalities in BCS have had, or will have, a "mining property tax." Yet the other four Municipalities in BCS do not yet have a POEL that makes mining-related land use nearly impossible. It can be argued, perhaps, that a form of mining and the tax thereon was defined in Loreto 40 years ago to address *Isla del Carmen* salt harvesting. Yet, back then, Loreto was part of another Municipality, *Comondu*; so the new Municipality of Loreto has never actually had a "mining property tax" of any kind.

At this time, there are conflicting stories about whether this "mining tax" was forwarded to La Paz as part of the fiscal package to be approved in the State Congress ("*Propuesta de Decreto de Valores Catastrales Municipio de Loreto 2016*"). The discussion of Loreto's fiscal package has reportedly been scheduled for 15 of November.

On 10Oct15, the City Council of Loreto met to amend their decision on the "mining tax." The minutes of the Council Session states one Council Member "mentions the mining tax should be excluded" from the city's fiscal package, yet the minutes do not show a formal vote or instruction by the City Council to "remove the category of property tax for mining sector from the proposal of *Decreto de Valores Catastrales para el Municipio de Loreto 2016*," in other words, to remove the new tax in the exact same wording it was introduced, and to give instructions to change the existing (fiscal package) minutes for consideration by the State Congress to reflect that such a tax should be excluded from the municipal tax authority. There may be a stronger document from the Council to make the reversal of mining tax a more confirmed Council action, but we have not yet seen it. There is some concern that the wording of the 10Oct15 Session's minutes, without supporting information may not sufficiently affirm the new Council's opposition to the mining tax.

At the same time, there are cultural and political challenges that may derive from seeking greater specificity and clarity in formal written statements. In a small town like Loreto, community members often prefer relationships and implied trust, rather than an emphasis on formal transparency and accountability in governance. Confronting the City Council with formal requests for certified documents etc. on this one issue may jeopardize the sense of trust and in turn, other projects. Thus, for now, it seems important to take the Council at its word that the mining tax is no longer part of the fiscal package for state level review.

Eco-Alianza's board met on 27Oct15 to discuss mining. Eco-Alianza will work on a proposal for funding for the defense of the POEL, as well as local soil, water and air as a positive solution for the long-term future of Loreto. A staff hire has been authorized to work on this issue in order to improve the response time for communications and actions as needed. It will also be focused on research to fact check information and avoid the spread of rumors.

We are all aware that mining of minerals is a conflict with the POEL, and specifically with the use and management of water, air and soil. The POEL was adopted, due (in large part) to the hard work of Eco-Alianza Loreto. In addition, the nomination of Loreto as a Pueblo Mágico, another Eco-Alianza project, is in conflict with the mining plan/tax.

Loreto is counting on *Diputado* - Rodolfo Davis. He is from Loreto, and is actively against mining. Rodolfo Davis has committed to convince 20 of his fellow *Diputados* in the Senate to vote against the mining tax with him. Would it not be easier to convince 5 of the 7 City Council members (numbers for majority vote) to give more specific instruction to exclude the mining tax from the tax package? Perhaps. There are now 3 City Council members who have openly stated - including on the Facebook page of VIII Ayuntamiento de Loreto that they are against the mining property tax and mining all together in Loreto: Carlos Castañeda, Ramona Fernandez and Ma del Rosario Arce. Two more votes and a vote can be called in Loreto (not La Paz) and stop this where it began. At the same time, a state level strategy, working with Rodolfo Davis avoids conflict with those in Loreto who hope to benefit from mining.

Loreto's visitors and seasonal residents come because it is a beautiful place, with many opportunities to enjoy nature on land and at sea. The Municipality, like most of BCS, needs all of the water it has, and more, to meet the needs of the residents, local businesses, farmers, and the tourism operations that help Loreto thrive and grow. Loreto's POEL recognizes that value of its natural resources to the economic, social, and environmental health of the municipality. It is the POEL's intent to secure the future of the children of Loreto.