



Rainforest Action Group

Landmark Rights of Nature case to be heard in Ecuador's Constitutional Court on October 19

The outcome of this significant case to protect the Los Cedros Reserve from mining would set a precedent for all future Rights of Nature cases, and could dramatically limit the ability of mining companies to operate in Ecuador.

[Los Cedros Reserve](#) in north-western Ecuador is one of the most biologically diverse habitats in the world, with more than 4,800 hectares (nearly 12,000 acres) of primary cloud forest safeguarding the headwaters of four important watersheds. It also protects [incredible diversity](#), including [over 200 species facing a high risk of extinction](#), five of which are regarded as critically endangered by the Ecuadorian government.

One of these species is the critically endangered Brown-headed spider monkey. Only 250 of these rare monkeys remain, around a quarter of which live at Los Cedros. Los Cedros is a Key Biodiversity Area, which makes it critical to the global persistence of biodiversity and the health of the planet. In May, the [Constitutional Court of Ecuador specifically cited](#) the biodiversity at Los Cedros and the presence of “*the last populations of the spider monkey in a critical state of conservation, and the Andean (spectacled) bear [which is] in danger of extinction*” as reasons for hearing the case.

On October 19th, the Court will be examining evidence concerning whether or not mining should be allowable within Los Cedros, which is a type of protected forest known as a *bosque protector*. The upcoming hearing is predicted to focus on the application of the Rights of Nature, which were guaranteed in Articles 71–74 of Ecuador's constitution.

Natalia Greene, the vice president of CEDENMA and a member of the executive committee for the Global Alliance for the Rights of Nature, and a member of Los Cedros's legal team, says, “*The Rights of Nature in Article 71-73 are quite important to understand the case of Los Cedros. It's an amazing place, threatened by mining. By reading these articles, you can understand that, if nature has rights — especially nature with such a big biodiversity, with so many species that are unique and that are on the verge of extinction — then Article 71 and 73 need to be applied in Los Cedros since it is facing such a big threat.*”

A positive ruling would not only protect Los Cedros's forests from mining, but could provide a precedent to safeguard all 186 Protected Forests in Ecuador, totalling some 2.4 million hectares (6 million acres).

Edgar Merlo who heads the legal team for Los Cedros, said: “*The [Constitutional] Court's ruling in this case would be a first in Ecuador: on the Rights of Nature, the right to prior consultation of communities, and the right to legal certainty, since concessions were granted without respecting the*

declaration of protective forests. The final judgment by the Constitutional Court in this case could change the legal focus in Ecuador, South America, and the entire world on the Rights of Nature and the rights of local communities, so that mining concessions are not granted in Protected Forests.”

The rapid expansion of mining in Ecuador since 2017 has seen a 300% increase in new concessions for mining exploration, totalling over 2.9 million hectares (6.17 million acres) of land. Around [750,000 hectares of Protected Forest and a million hectares of indigenous lands](#) in Ecuador are covered with mining concessions. A recent ruling concluded that [these mining concessions may not be legal](#), given that affected communities did not give Prior and Informed Consent, since concessions were granted without respect for the national networks of Protected Forests and Indigenous Territories, and given that the granting of concessions impedes upon the Rights of Nature enshrined in the Constitution.

“Our legal case has been based on the argument that mining in Protected Forests is a violation of the legal status of declared Protected Areas, the Rights of Nature, and the right of communities to prior consultation, even before considering potential environmental damages,” says Jose DeCoux, manager and founder of Los Cedros reserve.

Canadian mining company Cornerstone Capital Resources was given a permit to explore for gold at Los Cedros Reserve in a joint-venture arrangement with the Ecuadorian state mining company, ENAMI. BHP also has a concession that overlaps part of the Reserve.

“Ecuador was the first nation to include the Rights of Nature in its constitution. It could now become the first nation to protect large swathes of biodiversity, based upon this constitutional innovation. This would set an invaluable precedent worldwide,” says Jonathon Porritt, one of the UK’s leading environmentalists.

A positive ruling would also impact the ability of mining companies to operate in Ecuador. All phases of mining are scientifically proven to decrease biodiversity through the collective impacts of road construction, deforestation, and associated river sedimentation and pollution.

The Los Cedros case is not the only case currently being heard on the Rights of Nature. A Constitutional Injunction won at the Cotacachi Court on September 24 may give endemic species all over Ecuador protective rights from mining through the Rights of Nature clause.

The Constitutional Court has chosen these cases to test how the Rights of Nature in the Constitution should be applied on a judiciary level. The outcome will serve as a precedent for all future Rights of Nature cases, and could have implications for the future of mining throughout the country.

Scientists and academics are expected to put forward testimonies about the importance of the Los Cedros Reserve as a crucial habitat for endangered species at the hearing, and the need to safeguard legally protected forests from extractive industries such as mining.

The Constitutional Court required scientists to submit research supporting the value of Los Cedros to an online web portal by October 15. However, issues with the portal meant no-one was able to login and submit testimonies in the required format. Some scientists were able to email or send these

letters in hardcopy by the due date, but there are concerns that these submissions may not be accepted, or that vital testimonies may be lost due to this technical hitch.

“It is impossible to understate how important the habitat that Los Cedros protects is, and the science shows that very clearly. It houses incredible diversity that we haven’t even begun to fully understand, plays a vital role in the water cycle, is an important carbon capture, and so much more. There’s so little intact primary forest left. Los Cedros is the last refuge for countless organisms,” says Professor Bitty A. Roy from the University of Oregon’s Institute for Ecology and Evolution.

There has already been significant international outrage at the threat to the reserve, with more than 19,000 signatories to a petition set up by the US Center of Biological Diversity in August. A separate scientists petition was [signed by over 1200 scientists](#), including Jane Goodall, EO Wilson, Peter Raven, and Rosemary and Peter Grant.

Given the climate emergency, the need to keep reserves like Los Cedros intact takes on added urgency. Beyond the extraordinary biodiversity of these forests, they are vital to sequester carbon and water.

Meanwhile mining company Cornerstone Capital Resources continues to explore within the Reserve, without the appropriate permits, despite overwhelming opposition in the region, and in direct contravention of Protective Measures granted by the Provincial Court of Imbabura in June 2019.

In 2018, Canadian mining company Cornerstone Capital Resources was given a permit to explore at Los Cedros Reserve in a joint-venture arrangement with the Ecuadorian state mining company, ENAMI. BHP also has a concession that overlaps part of the Reserve. A positive ruling at the Constitutional Court level would not only protect the Los Cedros Reserve from mining, but could provide a precedent to safeguard all 186 Protected Forests in Ecuador, totalling some 2.4 million hectares (6 million acres).

This would greatly impacting mining companies operating in Ecuador.

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Edgar Merlo who heads the legal team for Los Cedros, said: *“The [Constitutional] Court’s ruling in this case would be a first in Ecuador: on the Rights of Nature, the right to prior consultation of communities, and the right to legal certainty, since concessions were granted without respecting the declaration of protective forests. The final judgment by the Constitutional Court in this case could change the legal focus in Ecuador, South America, and the entire world on the Rights of Nature and the rights of local communities, so that mining concessions are not granted in Protected Forests.”*

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FOR MORE INFORMATION PLEASE CONTACT:

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Los Cedros River. Image credit: RESERVA LOS CEDROS MEDIA RELEASE, OCTOBER 15 2020

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The rapid expansion of mining in Ecuador since 2017 has seen a 300% increase in new concessions for mining exploration, totaling over 2.9 million hectares (6.17 million acres) of land. Communities believe the Ecuadorian government has acted illegally for selling these concessions without their knowledge or consent, and acting without respect for the national networks of Protected Forests and Indigenous Territories.

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Los Cedros River. Image credit: @MurrayCooperPhoto