



HUMAN RIGHTS CLINIC

THE UNIVERSITY *of* TEXAS SCHOOL *of* LAW



A GENERATION POISONED BY LEAD:

A FOLLOW-UP REPORT ON THE HEALTH AND ENVIRONMENTAL CRISIS
IN ABRA PAMPA, ARGENTINA

NOVEMBER 2011



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THE UNIVERSITY *of* TEXAS SCHOOL *of* LAW



The Bernard and Audre
RAPOPORT CENTER
For Human Rights and Justice
The University of Texas at Austin
School of Law

This report does not represent the official position of the Law School or of the University of Texas. The information presented here solely reflects the opinion of the Human Rights Clinic.

The photograph on the cover of the report was taken at a field in Barrio 12 de Octubre, where toxic metal can be seen close to residents' homes. Human Rights Clinic. April 2011.

TABLE OF CONTENTS

Acknowledgments	1
Acronyms and Translations	2
Executive Summary	4
Recommendations	6
I. An Introduction To The Environmental And Health Crisis In Abra Pampa	12
II. Research Methodology	16
III. The Environmental Remediation That Never Arrives	17
a. The Development of the Environmental Remediation Plan	17
b. The Preclusion of Community Participation and the Uncertainty Surrounding the Remediation Plan	20
c. The Inter-American Development Bank Neglects Its Role in the Development of the Remediation	23
IV. A Generation Poisoned by Lead: 25 Years of Government Negligence in the Face of a Health Crisis	25
a. What Is Lead Poisoning?.....	26
b. Evidence of Lead Poisoning and the Recommendations for the Establishment of a Public Health Program	27
c. The Campaign to Minimize the Apparent Severity of the Health Crisis	28
d. Lack of Methodologies and Planning to Provide Adequate Medical Treatment in Cases of Lead Poisoning	30
e. Abra Pampa Residents Demand a Health Remediation Plan	31
V. The Forgotten Children of Abra Pampa	32
VI. The Policy of Obstructing Access to Information Regarding the Remediation Plan	34
a. The Lack of Information Regarding the Contamination and the Remediation Plan	34
b. The Lack of Public Information Available Online.....	35
c. The Government’s Silence in Response to Requests for Information.....	35
VII. The Institutional and Legal Procedures that have not lead to a Resolution of the Crisis in Abra Pampa	37
a. The Work of the National and Provincial Ombudsmans.....	37
b. The Status of the Civil Procedures and Criminal Investigations on the Environmental Contamination.....	38
VIII. Community Mobilization in Response to the Lack of an Integral Remediation Plan	40
IX. Conclusions about the Crisis in Abra Pampa	42
X. Appendix	44

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ACRONYMS AND TRANSLATIONS

Organization Name (English Translation)	Organization Name (Argentina)
Administrative Litigious Justice of the Province of Jujuy	Justicia Contencioso Administrativo de la Provincia de Jujuy
Applied Chemistry Research Group at the National University of Jujuy (INQA)	Grupo de Investigación Química Aplicada de la Universidad Nacional de Jujuy (INQA)
Association for Civil Rights (ADC)	Asociación por los Derechos Civiles (ADC)
Chief of the Cabinet of Ministers (JGM)	Jefatura de Gabinete de Ministros (JGM)
Deliberative Council of the Municipality of Abra Pampa	Concejo Deliberante de la Municipalidad de Abra Pampa
Department of Toxicology at University of Buenos Aires	Servicio de Toxicología de la Universidad de Buenos Aires
Departmental Council of Kolla Communities	Consejo Departamental de Comunidades Kolla
Honorable Chamber of National Deputies (HCDN)	Honorable Cámara de Diputados de la Nación (HCDN)
Lawyers for Human Rights and Social Studies in the Northeast of Argentina (ANDHES)	Abogados y Abogadas del Noroeste Argentino en Derechos Humanos y Estudios Sociales (ANDHES)
Mining Chamber of Jujuy	La Cámara Minera de la Provincia de Jujuy
Ministry of Federal Planning, Public Investment and Services	Ministerio de Planificación Federal, Inversión Pública y Servicios
Ministry of Foreign Affairs	Ministerio de Relaciones Exteriores, Comercio Internacional y Culto
Ministry of Health of the Province of Jujuy	Ministerio de Salud de la Provincia de Jujuy
National Ministry of Health	Ministerio de Salud de la Nación
Ministry of Production	Ministerio de Producción
National Ombudsman	Defensor del Pueblo de la Nación
National Poison Prevention and Control Program of Argentina (PreCoTox)	Programa Nacional de Prevención y Control de Intoxicaciones de Argentina (PreCoTox)
National Secretary of Mining	Secretaría de Minería de la Nación

Prosecutorial Unit for Investigations of Environmental Concern (UFIMA)	Unidad Fiscal de Investigaciones en Materia Ambiental (UFIMA)
Provincial Directorate of Mining and Energy Resources	Dirección Provincial de Minería y Recursos Energéticos
Provincial Ombudsman	Defensor del Pueblo de Jujuy
Secretary of Health Care Coordination of Jujuy	Secretaría de Coordinación de Atención para la Salud
Secretary of Environment and Sustainable Development	Secretaría de Ambiente y Desarrollo Sustentable
Secretary of Environmental Management	Secretaría de Gestión Ambiental
Secretary of Human Rights	Secretaría de Derechos Humanos
Sub-program of Environmental Management for Mining (GEAMIN)	Subprograma de Gestión Ambiental Minera
The Environmental Law Clinic at the University of Buenos Aires working with the Foundation for the Environment and Natural Resources (UBA-FARN)	La Clínica Jurídica de Derecho Ambiental de la Universidad de Buenos Aires- Fundación Ambiente y Recursos Naturales (UBA-FARN)
Toxicology Service at the Central Laboratory of the Ministry of Health of the Province of Jujuy	Servicio de Toxicológico del Laboratorio Central del Ministerio de Salud de la Provincia de Jujuy

EXECUTIVE SUMMARY

Abra Pampa is a city of approximately 12,000 people, most of whom identify as indigenous Kolla, located in the northwestern Province of Jujuy, Argentina. Within a context of economic and social marginalization, the residents of Abra Pampa have been victims of the contamination left by a metal smelting plant decades ago and of government negligence to take appropriate and effective measures to protect the health of the residents and the environment. The Human Rights Clinic of the University of Texas at Austin School of Law (hereinafter “the Clinic”) released a report on the health and environmental crisis in Abra Pampa in August 2009, titled: *Abra Pampa: A Community Polluted, A Community Ignored. The Struggle for Environmental and Health Rights in Argentina*.

In the report the Clinic documents the history of the Metal Huasi smelting plant in Abra Pampa, its closure, the thousands of tons of toxic metal waste left at various sites around the city, the removal of the metal waste from the site of the former plant at the end of 2008 and the lack of adequate precautions to protect residents from additional exposure to metal waste during its removal. It references the development of environmental remediation plans for three sites contaminated by mining activity, which are financed by a loan approved in November 2007 from the Inter-American Development Bank (IDB or “the Bank”) to the government of Argentina. The remediations at these three sites are understood to be “pilot projects” that will guide future remediation projects within the country. In contradiction to international treaties and national law, Abra Pampa’s residents have not been properly consulted nor has the government facilitated community involvement in the development of the remediation plan.

The 2009 report also summarized the results of medical studies that have demonstrated since 1986 that a large percentage of Abra Pampa’s residents have high levels of lead in their blood. Twenty-five years have passed since the first study confirmed that many of the city’s children have lead poisoning, yet the government has not taken effective action to resolve this crisis. Thus, it is concluded that the fundamental right to health and the right to a healthy environment are being violated in Abra Pampa.

The Clinic presented recommendations in the 2009 report to government ministries and secretaries emphasizing the importance of protecting human rights in the design and implementation of a prompt and effective health and environmental remediation. The Clinic also presented recommendations to the Inter-American Development Bank regarding their role in the supervision of this process in order to ensure that the remediation follows international standards for environmental projects.

The present is a follow-up to the 2009 report that documents recent developments in the remediation process. Based on documents that summarize the work of the National Secretary of Mining’s Sub-program of Environmental Management for Mining (GEAMIN) in Abra Pampa, the Clinic analyzes how the plan for the remediation is being designed. This analysis includes the work conducted by the Peruvian engineering firm CESEL Ingenieros, S.A., hired in early 2010 as a consultant. Based on the documents that explain both the work of GEAMIN and CESEL in this remediation process, it is clear that the government continues to limit access to public information regarding the planned remediation. GEAMIN, the directorate in charge of developing and implementing the remediation plan, has not facilitated the participation of the community or consulted the indigenous peoples of the city.

The IDB is providing the majority of funding for the remediation process, yet it is not adequately monitoring how the government uses disbursed funds to ensure that international standards are upheld regarding the rights to access to information, community participation in the development of the plan and the protection of the population and the environment. Beyond this inadequate supervision of the processes carried out thus far by GEAMIN, the IDB itself also limits access to public information about its role in

the remediation. This is clear from the limited information available on the IDB website regarding this loan to Argentina and in its failure to respond to requests for information made by the Clinic.

Although the IDB loan documents state that the environmental remediation plan is being developed in response to the adverse health consequences of the metal waste to residents, the government is still not developing a comprehensive public health plan that includes medical treatment for people affected by lead poisoning and its noxious effects. Of particular concern is the situation of Abra Pampa's children, who are most susceptible to the potentially harmful effects of high levels of lead on their physical and neurological development.

In addition to the lack of effective actions taken to resolve the crisis by the authorities responsible for implementing the remediation plan, the National and Provincial Ombudsmans have also neglected the situation in Abra Pampa by failing to continue their investigations into the contamination and by failing to monitor the actions of government agencies regarding this case.

At the judicial level, civil cases filed by residents against the Municipality of Abra Pampa continue to be in their initial stages despite years of processing. At the same time, criminal investigations by federal prosecutors have resulted in declarations that the case is outside of their jurisdiction due to the local nature of the contamination. A criminal investigation remains open at the provincial level, but it has yet to result in the prosecution of any responsible party for the contamination and its consequences in the city.

Given the failure of the government to resolve the crisis in Abra Pampa, residents continue to demand a joint environmental and health remediation. In response to the absence of a health remediation plan and a new proposal to begin mining exploration within the municipality, residents organized in 2010 to promote an ordinance prohibiting open-pit mining and the transport of toxic substances through the city, which was ultimately approved. This action was taken as a preventative measure to avoid additional mining pollution, since residents continue to live with the consequences of the contamination left by the former smelting plant Metal Huasi.

Abra Pampa is a symbol of how Argentina's mining policies do not protect human health and the environment. It is imperative that the government adopt policies that ensure proper respect for the right to health and the right to a healthy environment as well as the right to access to information and the rights of indigenous peoples.

RECOMMENDATIONS

To the Government of the Province of Jujuy:

To the Government of Jujuy

- Take all necessary steps to ensure that all remaining smelter waste and affected materials are removed from the grounds of Barrio 12 de Octubre, Metal Huasi and Arroyo Tabladitas. This should be carried out using best practices for environmental remediation, with the prior consultation of all individuals potentially impacted and educational programs for the community.
- Provide the necessary resources to ensure that provincial agencies, including the Ministry of Health, the Ministry of Production, and the Secretary of Environmental Management have the resources and the executive support to ensure that the health and environmental situation faced by the people of Abra Pampa is fully addressed and resolved.
- Facilitate communication and cooperation between provincial and national bodies in order to ensure the development and implementation of a remediation plan that is comprehensive and efficient.
- Develop, in consultation with Abra Pampa residents and in conjunction with national authorities, a plan to compensate the residents for the contamination of which they were and are victims.
- Respect the ordinance adopted by the Municipality of Abra Pampa prohibiting open-pit mining within its jurisdiction. The ordinance was proposed by community members in response to the consequences of past mining related activities in the territories where they live.

To the Ministry of Health

- Inform all the participants of the Ministry of Health study of the results of their evaluations. Publish the statistical results of blood lead levels and the results of the study establishing a “georeference” of people affected by lead.
- Establish a program to monitor blood lead levels of children, pregnant women and women of childbearing age.
- Provide all possible health services to children and adults affected by lead poisoning in Abra Pampa immediately. All children and adults known to have been affected by lead poisoning at a level of greater than 5 µg/dl – the standard recognized by the most current medical literature to potentially cause irreversible physical and mental harms – should be provided with integral and permanent treatment that is free of cost.
- Ensure the Ministry of Health’s involvement in all processes surrounding the development and implementation of environmental remediation plans in Abra Pampa. Involvement should include assessing the risks of lead poisoning from atmospheric exposure, identifying the types of precautions that can be taken and providing other involved state institutions with clear information about the health risks involved in remediation.

- Hold open public forums and distribute educational information throughout neighborhoods in Abra Pampa about the risks of lead poisoning and preventative measures that can be taken, ensuring that all individuals and families in Abra Pampa have access to information about the current problems and issues associated with lead poisoning.

To the Ministry of Production

- Ensure that the human rights to prior consultation and community participation are implemented in all phases of the remediation plan carried out in Abra Pampa and in all mining related activities.
- Coordinate with the Ministry of Health, the Secretary of Environmental Management, and the Secretary of Human Rights to ensure that all health, environmental and human rights standards are applied throughout the remediation process in Abra Pampa and all future mining activities. Remediation plans should be carried out as soon as possible, with all precautions and positive measures taken to protect the residents of Abra Pampa.
- Ensure the independence of the groups monitoring the National Secretary of Mining and private corporations involved in mining and smelting, and in all phases of evaluation, activity and remediation.

To the Secretary of Environmental Management

- Impose strict standards for environmental protection in coordination with the National Secretary of Mining and the Ministry of Health.
- Make remediation plans known to the public and carry out an information campaign to inform all the residents about the environmental risks in the city and how to protect themselves from the pollution.
- Consistently and effectively monitor all the mines, steel plants and smelting plants in the Province of Jujuy to ensure that they follow the standards of the Mining Code of Argentina and the Hazardous Waste Act during their operation and closure.

To the Provincial Legislature

- Amend Law 4,444 to ensure open access to all public information in the Province of Jujuy.
- Establish a provincial legal framework for the effective and independent monitoring of all mining activities in Jujuy.
- Create a provincial law that requires mining companies to implement environmental remediations in all projects in accordance with international standards for best practices in mining activities.
- Ensure that provincial legislation fully recognizes and protects the rights of indigenous peoples to prior consultation with respect to all mining or smelting projects that may potentially impact them.
- Allocate the funds needed to finance a plan to economically compensate the residents for the

contamination of which they were and are victims.

- Establish laws that limit mining activities in areas degraded by mineral extraction and related activities and where a comprehensive remediation of the environment and the health of the population has not been completed.

To the Provincial Courts

- Decide all civil cases filed by residents of Abra Pampa with respect to the environmental pollution, the pending criminal investigation in the Contentious Tribunal regarding the city's metal waste pollution and all cases of environmental pollution from mining activities within the province as soon as possible, respecting due process and in accordance with international human rights treaties ratified by Argentina.

To the Provincial Ombudsman

- Actively pursue claims involving the right to health and the right to a healthy environment in the Province of Jujuy.
- Renew efforts to monitor the environmental pollution in Abra Pampa, its impact on health and the development of the remediation plan to promote and ensure the protection of all human rights.

To the Government of the Republic of Argentina:

To the Government of Argentina

- Make public the reasons why funds from the IDB loan were not used in 2008 to implement the first stage of the remediation process in Abra Pampa.
- Develop, in consultation with Abra Pampa residents and in conjunction with provincial authorities, a plan to economically compensate the residents for the contamination of which they were and are victims.

To the National Secretary of Mining

- Ensure the full implementation of and respect for international human rights standards, including prior consultation and community participation, in all communities affected by mining and related processes in Argentina.
- Incorporate requests from communities affected by mining activities as a central focus of all remediation work. This should include comprehensive remediation of the environment and the health of affected communities, which involves the treatment of water, soil, air, housing and ecological biosystems.

- Consistently and effectively monitor all the mines, steel plants and metal smelting plants within the country to ensure that they follow the standards of the Mining Code of Argentina and the Hazardous Waste Act during their operation and closure.
- Establish new standards to monitor active mining projects and environmental remediations, and promote the establishment of a national law for integral environmental remediations upon the closure of mining projects.
- Facilitate access to public information regarding mining activities. This should include access to environmental impact studies and information on the environmental and health risks associated with new and existing mining projects.
- Provide detailed information on mining activities to the general public and affected communities via locally accessible means, not solely webpages. The language should be understandable to the affected community and the general public; not in technical jargon.

To the Ministry of Health

- Establish a program to monitor the blood lead levels of children, pregnant women and women of childbearing age.
- Guarantee that the residents of Abra Pampa have access to comprehensive and permanent medical care for the treatment of all health problems related to lead poisoning.
- Participate in the environmental remediation in Abra Pampa to ensure that international standards for public health are respected in all phases of the project.
- Initiate a study on the health implications of the mining industry in Argentina, to investigate health consequences from previous mining projects as well as the health and environmental concerns stemming from new mining projects.
- Establish clear forms of collaboration with the National Secretary of Mining and contribute to the evaluation of environmental impact assessments required for the approval of mining concessions and projects.

To the Secretary of Environment and Sustainable Development

- Collaborate with the National Secretary of Mining to evaluate environmental impact assessments required for the approval of mining concessions and mining projects in order to ensure the implementation of international standards regarding the protection of the environment, the health of workers and surrounding communities and the protection of human rights of all people affected by the projects, including the right to community participation and the right to prior consultation.
- Ensure that the National Secretary of Mining and all other groups involved in the remediation process fulfill the right to community participation and implement best practices for environmental remediations.

- Facilitate public access to information about environmental remediation projects. Take positive steps to inform residents in communities affected by mining activities about the health and environmental risks associated with these activities.

To the National Congress

- Adopt a detailed law to promote effective access to information of public interest and provide mechanisms to ensure and protect this right.
- Adopt a detailed law to regulate mine closures and the environmental responsibilities of companies and the government.
- Adopt a law regulating the environmental remediation process in cases of contamination caused by mining activity that includes procedures for the restoration of the environment and the protection of human health, including measures to mitigate physical and neurological harm.
- Establish maximum blood lead level standards in accordance with the most recent medical literature and establish minimum standards for the treatment of lead poisoning.

To the National Ombudsman

- Renew efforts to investigate and monitor the environmental pollution and its health consequences in Abra Pampa. Exert pressure on the National Secretary of Mining, the Secretary of Environment and Sustainable Development, and the Ministry of Health to protect human rights in communities affected by mining practices and related activities.
- Establish clear forms of collaboration with the National Secretary of Mining, contributing to the evaluation of environmental impact assessments required for the approval of mining concessions and projects.

To the Federal Prosecutors

- Investigate whether the federal environmental and mining laws are respected in the provinces. In cases where they are not, initiate or continue criminal proceedings.

To the Inter-American Development Bank:

- Ensure that the remediation plan carried out by the National Secretary of Mining fully complies with international human rights standards for the participation of indigenous peoples, including prior consultation during all stages of the environmental remediation process.
- In the event that remediation efforts in Abra Pampa continue to fail to respect these standards, suspend the financing of the remediation project being carried out by the National Secretary of Mining.

- Ensure that all environmental remediation plans carried out with IDB funds are administered in accordance with best practices for the protection of health and the environment.
- Make public the reasons why the IDB did not fund the initial stages of the environmental remediation carried out by the National Secretary of Mining and provincial-level institutions in Jujuy.
- Facilitate access to information on the development and implementation of the remediation plan, the role of the IDB in these processes and detailed information regarding the funds disbursed.
- Require that as part of the remediation plan the government provide adequate medical treatment to every child and adult that needs it and take effective measures to prevent the continued lead poisoning of the population.

I. AN INTRODUCTION TO THE ENVIRONMENTAL AND HEALTH CRISIS IN ABRA PAMPA¹

“HUMAN RIGHTS DO NOT EXIST IN ABRA PAMPA.”

– Resident of Abra Pampa²

Abra Pampa is a city in the Province of Jujuy, Argentina with approximately 12,000 residents, the majority of whom identify as indigenous Kolla.³ The citizens of Abra Pampa have lived with toxic metals in the air, water and soil ever since the Metal Huasi smelting plant began to operate in their city without adequate governmental oversight. These toxic metals have high concentrations of lead that have resulted in the lead poisoning of 81% of the children evaluated in a 2006 study; these children had lead levels over 5 µg/dl.⁴ Despite repeated confirmations of the lead poisoning of many of the city’s children since the 1980s, a comprehensive health remediation is not a priority for governmental authorities; the proof is in the lack of concrete effective actions toward the resolution of the crisis and the lack of a thorough plan to mitigate the neurological and physical effects on human health caused by lead.

Metal Huasi began its operations in 1955 and throughout its existence processed lead from the Aguilar Mine located within the Province of Jujuy.⁵ The mine ceased its operations in 1990. At the time of its closure, the plant abandoned thousands of tons of toxic metal waste at various points throughout the city, and a mountain of metal waste of roughly 15 to 20 thousand tons at the former site of the plant.⁶ To date, no publicly available, reliable information exists as to the exact quantity of waste left in the city. Documents from state agencies and government representatives have provided contradicting estimates, contributing to the mis-information about the extent of the metal contamination.

In early 2009, the mountain of waste left at the former site of the plant was removed under the direction of the Mining Chamber of Jujuy, without taking adequate precautionary measures to protect the population from additional exposure to the metal waste. The waste was subsequently transferred to the Aguilar Mine where it was stored in double layer confinement, as required by the Hazardous Waste Act.⁷ In contrast to these confinement procedures, city residents did not have any protection from these toxic materials for more than twenty years. In fact, for many years the extent of the toxicity of the waste was hidden from the community.

¹ For more information, see: University of Texas at Austin School of Law, Human Rights Clinic, *Abra Pampa: A Community Polluted, A Community Ignored: The Struggle for Environmental and Health Rights in Argentina*, August 2009, accessible at: <http://www.utexas.edu/law/clinics/humanrights/abra-pampa-es.pdf>.

² Interview with resident, April 10, 2011, Abra Pampa, Jujuy, Argentina.

³ National Census and Statistics Institute of the Republic of Argentina (INDEC), *Census Results 2010*.

⁴ Applied Chemical Research Group (INQA), National University of Jujuy, *Evaluación de riesgo químico por metales tóxicos en Abra Pampa, asignando magnitudes y probabilidades de efectos adversos de la contaminación en el ambiente y la población infantil expuesta*, 2006 in a letter from Marcela Spolita de Lozano, Directora Desp. Gral. Rectorado, National University of Jujuy, May 18, 2007.

⁵ James Anaya, *Report by the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people*, September 5, 2010, 7.

⁶ Concrete information about the amount of toxic waste left at the former Metal Huasi site is difficult to find. Special Rapporteur James Anaya, 12. (The government submitted information to the Rapporteur indicating that 15,000 tons of waste was left at the former Metal Huasi site). Interview with Luis Humberto Ferpozzi, Carlos German and Manuel Rodriguez from the National Secretary of Mining, April 27, 2009, Buenos Aires, Argentina, (during the interview, they stated that 20,000 tons of waste were removed from the site).

⁷ Hazardous Waste Act, 24,051, article 33, annex III, December 17, 1991.

Despite the removal of this waste, representatives from the National Secretary of Mining stated that approximately 60,000 tons of waste remain in an open field in Barrio 12 de Octubre and Arroyo Tabladitas, a source of running water for the city during the rainy season.⁸ Today, dozens of homes surround the field in Barrio 12 de Octubre. Although in 2007 the municipality enclosed the field with a wire fence to limit exposure to the toxins, the waste was not contained by the fence as frequent winds spread *humos blancos* (fine oxidated lead dust), throughout the city. In other words, the residents have no protection against the metal waste left in the field. Children played soccer atop the metal waste in this field until someone took down the goal posts in 2010.



The double layer confinement used to store the hazardous metal waste removed from the former Metal Huasi site. The residents of Abra Pampa were exposed to this waste for more than 20 years without any safeguards in place for their protection. Photo provided by the Argentine government to the Inter-American Commission on Human Rights. 2008.

In November 2007, the government of Argetina signed a loan agreement with the Inter-American Development Bank for a mining project titled “Environmental Management Program for Sustainable Production in the Productive Sector.”⁹ This project is intended to develop and promote clean mining practices and strengthen environmental mining management, including the environmental remediation of

⁸ Interview with Luis Humberto Ferpozzi, Carlos German and Manuel Rodriguez from the National Secretary of Mining, April 27, 2009, Buenos Aires, Argentina. This information has not been corroborated by any other government document to which the Clinic has access.

⁹ Inter-American Development Bank, *Loan Contract Number 1865/OC-AR between the Republic of Argentina and the Inter-American Development Bank*, Environmental Management Program for Sustainable Production in the Productive Sector, (Argentina: November 6, 2007).

three locations degraded by mining activity: Abra Pampa, San Antonio Oeste in the Province of Rio Negro, and Calingasta in the Province of San Juan. According to the terms of the loan, the remediation in these areas will be conducted as a pilot project to establish a technical manual that will be used as a guide for future environmental remediation projects.¹⁰

As agreed in the loan, the Sub-program for Environmental Management in Mining (GEAMIN) was established in 2007 under the National Secretary of Mining as the entity responsible for the development and implementation of the remediation process in the three previously mentioned locations, while the Secretary of Environment and Sustainable Development is the responsible entity for the promotion of sustainable mining practices.¹¹ To fulfill the requirements of the loan contract, the remediation in Abra Pampa must include an evaluation of sites contaminated by toxic metals, the design and implementation of the remediation activities and an independent audit once the remediation is complete. In late 2009, two years after the signing of the loan with the IDB, there had not been any visible progress to develop the remediation plan using funds disbursed by the Bank.

According to available documents and from what can be observed in the city as of November 2011, the remediation plan is still in development, not yet in implementation. This is despite the fact that the remediation work was originally scheduled for completion at the end of 2010, with the independent audit to take place in early 2011.¹² At the time of this publication, the most concrete development of this plan was the hiring of the Peruvian engineering firm, CESEL Ingenieros, S.A. as the consultant to carry out the evaluation of areas polluted with toxic metal waste and the design of the remediation activities. CESEL conducted their fieldwork in the city at the beginning of 2010. The results of their evaluation are not publicly available, nor are their proposals on how to remedy the contamination.

The lack of information publicly available on CESEL's work in the city contributes to the persistent problem of lack of access to information for the residents of Abra Pampa and the general public regarding the extent of the contamination and the steps that are planned to restore the environment and mitigate any consequences. Since the 1980s, the government of Argentina has denied information to the residents of Abra Pampa about the toxicity of the metal waste, the possible consequences for human health due to exposure to the toxic waste and the results of medical studies confirming the lead poisoning of residents.

Metal Huasi closed its doors in 1990, yet municipal, provincial and national authorities took no action to prevent thousands of tons of metal waste from being abandoned in the city with high concentrations of lead, zinc, copper, iron, arsenic and cadmium, among others.¹³ The only concrete government action to remove these toxins has been the partial removal of the mountain of waste from the site of the former smelting plant.

The government's neglect has led to the violation of the right to health and the right to a healthy environment in Abra Pampa. The negligence surrounding the health crisis is so serious that a resident stated, "human rights do not exist in Abra Pampa."¹⁴ This health and environmental *emergency* requires immediate action in accordance with the severity of the situation, to protect the health of all people living in the city.

¹⁰ Inter-American Development Bank, *Loan Proposal*, Environmental Management Program for Sustainable Production in the Productive Sector, (Argentina: 2007), 14.

¹¹ *Ibid.*, 21.

¹² Letter from Dr. Eduardo M. Bustos Villar, Secretary of Health Indicators and Sanitary Relations of the Ministry of Health, to Dr. Luis Hipólito Alen, Sub-secretary of Human Rights Protection in the Ministry of Justice and Human Rights, June 16, 2011, 14.

¹³ *Ibid.*, 11.

¹⁴ Interview with resident, April 10, 2011, Abra Pampa, Jujuy, Argentina.



Metal waste abandoned in Barrio 12 de Octubre, Abra Pampa. Homes that are exposed to humos blancos are seen in the background. Human Rights Clinic. April 2011.

II. RESEARCH METHODOLOGY

On March 9, 2011, the Clinic presented public information requests to government institutions regarding the remediation process, including a request for the timetable guiding the implementation of the plan, information about how the community is being consulted and whether medical treatment for the children and adults with lead poisoning is being considered. The Clinic had already requested the majority of this information in April 2009 but did not receive any official responses (see Appendix). At the provincial level, requests for information were presented to the following agencies: the Ministry of Production, the Ministry of Health, the Secretary of Health Care Coordination and the Provincial Directorate of Mining and Energy Resources. At the federal level, requests for information were presented to the National Secretary of Mining, the National Ombudsman, and the Secretary of Environment and Sustainable Development. The Clinic has yet to receive an official response from any of these government agencies. The Clinic presented a request to the Secretary of Human Rights on April 15, 2011 during its visit to their offices. The same day, this Secretary presented the Clinic with copies of documents it had in its files regarding the case and in August 2011 additional documents were provided, including copies of letters authored by the Ministry of Health regarding Abra Pampa. A request for information was also presented on March 21, 2011 to CESEL, whose response was to refer the Clinic to request the information from GEAMIN. The Clinic also presented a request for information to the Inter-American Development Bank on May 5, 2011, which had not been answered as of the date of publication.

In addition to this documentary work, in April 2011 the Clinic carried out a second mission to Argentina to gather further information. Two members of the Clinic travelled to Abra Pampa to investigate the current situation regarding the environmental remediation, which included visits to the site of the lead smelting plant Metal Huasi, Barrio 12 de Octubre and Arroyo Tabladitas. Clinic members interviewed residents from the city, as well as the Director of the “Nuestra Señora del Rosario” Hospital, members of Abra Pampa’s Deliberative Council (city council) and the President of the Departmental Council of Kolla Communities. In San Salvador, the capital of the Province of Jujuy, Clinic members held meetings with Provincial Ombudsman Victor Galarza and Provincial Deputy Pablo Baca. At the federal level, meetings were held with representatives from the Prosecutorial Unit for Investigations of Environmental Concern (UFIMA), the Ministry of Foreign Affairs, and the Secretary of Human Rights. In Buenos Aires, a representative of the Inter-American Development Bank was interviewed. Unfortunately, the following requests for meetings were either denied or no reply was received: the National Secretary of Mining, the Secretary of Environment and Sustainable Development, the National Ombudsman, the Ministry of Production of Jujuy, and the Provincial Directorate of Mining and Energy Resources of Jujuy.

Additionally, the Clinic met with experts on public access to information from the Association for Civil Rights (ADC), the Lawyers for Human Rights and Social Studies in the Northeast of Argentina (ANDHES) and the Environmental Law Clinic at the University of Buenos Aires working in conjunction with the Foundation for the Environment and Natural Resources (UBA-FARN).

With the exception of one person who gave permission to be cited by name, the names of Abra Pampa residents in citations or references have been omitted in order to protect the privacy and security of interviewees.

III. THE ENVIRONMENTAL REMEDIATION THAT NEVER ARRIVES

“WHAT ENVIRONMENTAL REMEDIATION? THERE IS NO REMDIATION HERE.”

– Resident of Abra Pampa¹⁵

A. THE DEVELOPMENT OF THE ENVIRONMENTAL REMEDIATION PLAN

The Argentine government signed an agreement with the IDB for a \$50 million (USD) loan, of which the IDB will finance \$40 million, with a project deadline of November 6, 2013.¹⁶ \$10.4 million of these funds are to be used for the remediation of the three locations previously mentioned.¹⁷

Although the IDB loan agreement was already in effect, the Argentine government took the first steps towards environmental remediation in early 2009 without using the funds provided by the Bank and without taking precautions to protect the population and the environment in Abra Pampa. The precautions required in the loan include working during times of low wind, utilizing water sprinklers to reduce the spread of dust and moving the families in the areas closest to the work site to other accommodations during these operations.¹⁸ According to residents of the city, however, these precautions were not followed.¹⁹ The government used bags to remove the toxic metal waste that ripped open during transport, failed to cover the vehicles while transporting the bags and performed the work during strong winds.²⁰ Although tons of metal waste was removed at the site of the smelting plant, *humos blancos* can still be seen on the ground, an indication that the remediation is not complete. In addition, tons of metal waste still remain at the field in Barrio 12 de Octubre and in Arroyo Tabladitas.

The remediation plan managed by GEAMIN is divided conceptually into two stages: 1) the assessment of the areas contaminated by toxic metals and the design of the remediation plan, and 2) the execution of the plan. The first stage includes: an analysis of the water, soil, air and ecosystems impacted by the environmental contamination; the characterization of the source of contamination; a toxicological assessment; the design and presentation of three alternative remediation plans for selection by provincial and municipal authorities; the detailed engineering design of the selected project; and the establishment of terms of reference for the implementation of the remediation works.²¹ The second phase will be implemented based upon the assessments made during the first phase.²²

¹⁵ Interview with resident, April 10, 2011, Abra Pampa, Jujuy, Argentina.

¹⁶ Inter-American Development Bank, *Loan Contract Number 1865/OC-AR between the Republic of Argentina and the Inter-American Development Bank*, Environmental Management Program for Sustainable Production in the Productive Sector, (Argentina: November 6, 2007), clause 3.04.

¹⁷ IDB, Loan Proposal, 14.

¹⁸ Letter from Dr. Eduardo M. Bustos Villar, June 16, 2011, 6.

¹⁹ Interview with resident, April 11, 2011, Abra Pampa, Jujuy, Argentina. This was corroborated by several residents.

²⁰ Ibid.

²¹ Ministry of Federal Planning, Public Investment and Services of the National Secretary of Mining to the Sub-secretary of the Secretary of Human Rights, *Note No. 013/10-DNM*, January 29, 2010, section: “Remediation of Abra Pampa.”

²² Ibid.



Transfer of toxic waste from the premises of the former site of Metal Huasi to Aguilar Mine without protection to prevent the spread of the waste throughout the city. Photo provided by the Argentine government to the Inter-American Commission on Human Rights. October 2008.



The site of the former Metal Huasi smelting plant two years after the removal of the mountain of waste. Humos blancos can still be seen on the ground. Human Rights Clinic. April 2011.

For the development of the first stage of the remediation, a bidding process was initiated in January 2010 to contract a consulting company for the evaluation and design of an environmental remediation plan.²³ However, GEAMIN has not made public information regarding the bidding process, the standards used for the selection of a consulting company, or which companies were considered, even though the loan stipulates that this information must be made available on a unique, open access electronic portal that is also accessible to the IDB.²⁴ Through this process, CESEL was selected for the evaluation and design of the remediation plan.

From January to April 2010, CESEL carried out a study of areas possibly impacted by the lead waste in Abra Pampa, which included taking soil samples from 47 pits in Barrio 12 de Octubre, the former smelting plant and Arroyo Tabladitas to evaluate their geological and chemical composition.²⁵ CESEL also carried out studies on air quality and water quality in the Miraflores River, water deposits near Barrio 12 de Octubre, and underground water sources.²⁶ The fieldwork also included an evaluation of the health risks based on a compilation of studies, statistics and epidemiological information available from the hospital in Abra Pampa, the Ministry of Health and the provincial government of Jujuy and the

²³ Ibid., section: "Future Actions."

²⁴ IDB, *Loan Contract No. 1865/OC-AR*, 5.

²⁵ Ministry of Federal Planning, Public Investment and Services of the National Secretary of Mining, *Detailed evaluation and design of the areas impacted by the activity of the former smelting plant Metal Huasi in Abra Pampa, Province of Jujuy*, First Progress Report of Activities, period beginning January 29 and ending March 30, 2010, 6-7.

²⁶ Ibid., 7.

analysis of routes of exposure to toxins.²⁷ Additionally, in order to map the social and economic demographics, CESEL collected survey data from city residents.²⁸

The Clinic documented deficiencies in the fieldwork conducted by CESEL during its evaluation of the environmental contamination. Part of the work completed by CESEL included digging pits of various depths to take samples of the soil. Many of these were never completely filled, and residents of Abra Pampa have reported several accidents where in animals and people have fallen into the pits. In addition to the open pits left throughout the city, CESEL left plastic caution tape and PVC piping in the field in Barrio 12 de Octubre. Some of CESEL's practices have thus contributed to the contamination of Abra Pampa rather than its remediation.



An open pit left by CESEL in Barrio 12 de Octubre. At the bottom of the pit, PVC piping left by CESEL can be seen. Human Rights Clinic. April 2011.

B. THE PRECLUSION OF COMMUNITY PARTICIPATION AND THE UNCERTAINTY SURROUNDING THE REMEDIATION PLAN

Similar to what was reported in 2009, the work carried out by GEAMIN and CESEL in 2010 and 2011 has not included proper dialogue, consultation and participation of residents in the development of the remediation plan. Community participation in the development of activities with an environmental

²⁷ Ibid., 11.

²⁸ Ibid., 10.

impact is protected by Law 25,675 of the National Environmental Policy that requires the promotion of community participation in these decision making processes.²⁹

The Environmental Guidelines for Mining Operations from the Department of Economic and Social Affairs (UNDESA) and the United Nations Environment Programme (UNEP) lay out best practice principles for mining projects, which include community participation and dialogue in all phases of the mining process.³⁰ The guidelines specifically state that “the participation of the affected communities in the decision-making process is an essential precondition for a responsible environmental policy” and that “participation is primarily ensured by giving affected communities access to relevant information at all stages of mining activities.”³¹

In this respect, GEAMIN, as the responsible body for the implementation of the remediation plan, and CESEL, as the consultant, have failed to facilitate community participation in the remediation process as reflected in the “communication workshops with the community” that were held between February and December 2010.³² According to documents obtained by the Clinic and information provided by residents who attended, the purpose of these workshops was not to consult the community but rather to inform residents of CESEL’s work. For example, during the February 2010 workshop, representatives of GEAMIN and CESEL presented information about CESEL’s pending fieldwork. Neither this workshop nor any other government activity have facilitated community participation during the decision making process as required by national law.³³

Representatives of CESEL and GEAMIN had planned to return to the community in July 2010, but residents reported that the workshop was cancelled without explanation.³⁴ In December 2010, representatives from these organizations returned to the community for another workshop during which they reported that the remediation process would begin in early 2011.³⁵ The remediation, whose characteristics are unknown to the community, has yet to begin as of the date of publication of this report. Representatives from GEAMIN have not returned to Abra Pampa to inform the community about a change in the scheduled start date for the remediation. It is clear that GEAMIN has kept the community uninformed about the plan and has also prevented the community’s substantive participation in its development. According to information submitted by the National Secretary of Mining to the Secretary of Human Rights, the exclusion of the community and lack of consultation will continue as GEAMIN plans to present the three options for the remediation plan to the provincial government of Jujuy and the municipal government of Abra Pampa, but not to the affected community.³⁶

In addition to the preclusion of participation in the remediation process, residents also lack access to information on the details of the remediation plan. For example, the implementation of the remediation process is now scheduled for the second half of 2011 or early 2012, according to information provided by a representative of the IDB to the Clinic;³⁷ however, this information has not been made available to the residents of Abra Pampa. In the same manner, there is lack of public information on the bidding process for the selection of the firm to implement the remediation.³⁸ No information has been given to the public on the exact date of this selection or the terms of reference for the selection process. Likewise, there is no

²⁹ National Environmental Policy, 25,675, articles 2 and 10, November 6, 2002.

³⁰ United Nations Department of Economic and Social Affairs and United Nations Environment Programme Industry and Environment, *Environmental Guidelines for Mining Operations*, (1998), 22.

³¹ Ibid.

³² Note No. 013/10-DNM, section: “Future Actions.”

³³ Interview with resident, April 12, 2011, Abra Pampa, Jujuy, Argentina.

³⁴ Emily Jane Spangenberg, “‘Hacerles creer que hay plomo’ (‘Convincing them there is lead’): Health, Environment and Power in Abra Pampa, Argentina.” (MA thesis, University of Texas at Austin, 2011), 66-67.

³⁵ Interview with resident, April 12, 2011, Abra Pampa, Jujuy, Argentina.

³⁶ Note No. 013/10-DNM, section: “Remediation of Abra Pampa.”

³⁷ Interview with Pablo Roldan, Inter-American Development Bank, April 15, 2011, Buenos Aires, Argentina.

³⁸ Note No. 013/10-DNM, section: “Future Actions.”

public information on the plans to implement a monitoring system and to conduct an international audit of the remediation work in 2012.³⁹ In sum, many doubts surround the implementation of the remediation process as a result of the lack of mechanisms to facilitate the community's access to information and the government's refusal to respond to requests for information.



Caution tape left by CESEL in a field in Barrio 12 de Octubre on top of humos blancos and metal waste. Human Rights Clinic. April 2011.

Due to the lack of information about the remediation, residents are left in uncertainty regarding basic aspects of the plan and they have doubts on whether the work will remedy all contaminated areas. For example, the residents do not know if the plan will include Arroyo Tabladitas since the information workshops conducted by GEAMIN and CESEL focused on the work to be done in Barrio 12 de Octubre. Another concern of residents is that the toxic metal waste that was deposited in Arroyo Tabladitas and later only partially removed continues to contaminate the water supply for the city and the region.⁴⁰ CESEL assessed the soil of the creek and water sources in the city, yet the results of those assessments have not been made public. As a result, residents are not sure of the water's toxicity and, if necessary, how the water supply will be remediated. Some residents also question whether the remediation will include homes that were built on top of the toxic metal waste in Barrio 12 de Octubre. They explained that the lots around the Barrio 12 de Octubre field were distributed by the municipality without prior removal of the toxic metals.

In sum, the long wait for progress and lack of information about what is planned has created much skepticism among the residents about whether or not a remediation plan actually exists, or if it will

³⁹ Ibid.

⁴⁰ Interview with resident, April 11, 2011, Abra Pampa, Jujuy, Argentina.

be implemented. This is reflected in the statements of residents, who on several occasions have stated: “here there is no remediation!” to which they add, “the waste will be here for the next 15 years.”⁴¹

C. THE INTER-AMERICAN DEVELOPMENT BANK NEGLECTS ITS ROLE IN THE DEVELOPMENT OF THE REMEDIATION



National and provincial government officials along with officials from the Inter-American Development Bank visit the site of the former smelting plant Metal Huasi. The officials use face masks while the residents have no protection in their daily lives from the metal waste that remains. Photograph published with permission from El Libertario. November 2008.

During an interview with the Clinic in April 2011, Pablo Roldan from the IDB explained that the Bank’s role is “to monitor the implementation of the project and [ensure] that it is implemented well.”⁴² It is clear that the Bank has not met its own standards in the processes undertaken thus far as it has allowed GEAMIN to exclude the adoption of appropriate measures to protect the environment, the health of the residents and the rights to participation and access to information.

Though little information is known about the IDB’s role in the remediation, the Clinic obtained some data on disbursed funds to Argentina through the Bank’s website. As of March 31, 2011, the IDB

⁴¹ Interview with resident, April 12, 2011, Abra Pampa, Jujuy, Argentina.

⁴² Roldan, IDB, April 15, 2011.

has disbursed \$3,461,102 (USD) for the entire project, 34.3% (\$1,187,158) earmarked for the environmental management of areas degraded by mining, without mention of how much has been used for the remediation in Abra Pampa.⁴³ The “Progress Monitoring Report” from March 31, 2011 from the Bank does not explain in more detail the distribution of these funds, so it is unknown how the Bank has used those funds or how much has been allocated for the compensation of CESEL. There are no further details about the use of these funds or how the Bank is monitoring the work of GEAMIN.

The lack of adequate supervision by the IDB in the development of the remediation plan can be seen in the lack of monitoring of the work of CESEL, which left trash on sites that were already contaminated and did not fill pits from its soil sampling. The IDB is also allowing GEAMIN to keep the public uninformed about the details of the remediation plan. In addition to this, the Bank itself has contributed to the uncertainty the community feels about the process by not providing information about the development of the remediation plan. Due to the limited public information available on the IDB’s website, the Clinic submitted a request for information to the Bank on May 5, 2011, in which it asked for: a timetable for the evaluation and implementation of remediation work by the National Secretary of Mining; copies of monthly reports that the implementing unit submits to the Bank; information about the terms of reference for the implementation and the control of the remediation work; information on the amount of funds disbursed; and information about the public bidding process for the implementation of the remediation. As of the date of publication of this report, the IDB has not responded to the Clinic’s request for information.

The Human Rights Clinic is concerned about the passive role assumed by the IDB, which has full knowledge of the situation in Abra Pampa. Bank personnel have visited the contaminated areas many times and were present at GEAMIN’s workshops in the city.⁴⁴ The Bank has heard complaints about the lack of information and the demands of the people for a health remediation. Nevertheless, the IDB is not adequately monitoring the situation or taking any steps to guarantee the residents’ right to health, nor are they ensuring that the remediation is carried out with transparency and according to international standards.

⁴³ Ibid.

⁴⁴ Roldan, IDB, April 15, 2011.

IV. A GENERATION POISONED BY LEAD: 25 YEARS OF GOVERNMENT NEGLIGENCE IN THE FACE OF A HEALTH CRISIS

“WE NEED A COORDINATED AND SIMULTANEOUS ENVIRONMENTAL AND HEALTH REMEDIATION PLAN.”

– Resident of Abra Pampa⁴⁵

“LEAD CANNOT BE SEEN IN THE BLOOD. SINCE YOU CAN’T SEE IT, NOTHING IS
DONE TO SOLVE THE PROBLEM.”

– Resident of Abra Pampa⁴⁶

The year 2011 marks the 25th anniversary of governmental neglect of the environmental contamination in Abra Pampa, as medical studies dating as far back as 1986 demonstrate that many children and youth in Abra Pampa have lead poisoning. Since then the government has downplayed the severity of the emergency and failed to provide comprehensive medical treatment for all residents with lead poisoning. Although the government removed the majority of lead waste from the former site of Metal Huasi, and even if it removes the remaining metal waste from the city, residents will continue to need a health remediation plan.

The Secretary of Human Rights, one of the only governmental organizations that responded to the Clinic’s requests for information, provided documents in August 2011 that clearly demonstrate that the federal government does not have plans to implement a public health program to address lead poisoning and its adverse effects. These documents explain that the Ministry of Health is not involved in the remediation plan in Abra Pampa despite the various studies conducted by offices of the Ministry in regards to the environmental contamination.

In the correspondence between the Chief of the Cabinet of Ministers (JGM) and the Honorable Chamber of National Deputies (HCDN) it was explained that “comprehensive remediation of environmental contamination in Abra Pampa does not only mean removal of the waste and contaminated soil, but also, and primarily, the recovery of the quality of life and health of the affected population.”⁴⁷ Despite this important commitment, engineer Ricardo Benitez, head of the Department of Environmental Health, explains that “although the JGM explicitly states that all actions planned in the Sub-program and in the Memorandum of understanding that emerged from the Sub-program would be completed in coordination with other government departments, the Ministry of Health has not been invited to participate in any of the actions that were to be completed.”⁴⁸ This confirms that neither the Ministry of Health nor any other governmental agency of Argentina has included comprehensive medical treatment in the remediation plan in accordance with the Argentine government’s obligation to protect the right to health.

⁴⁵ Interview with resident, April 10, 2011, Abra Pampa, Jujuy, Argentina.

⁴⁶ Interview with resident, April 11, 2011, Abra Pampa, Jujuy, Argentina.

⁴⁷ Letter from Dr. Eduardo M. Bustos Villar, June 16, 2011, 2.

⁴⁸ Ibid.

A. WHAT IS LEAD POISONING?

Lead is a heavy metal that is not biodegradable, which means it does not lose its toxicity over time.⁴⁹ As a result, the waste generated by Metal Huasi continues to have high concentrations of toxic lead to this day. Lead is easily absorbed by the human body, especially by the respiratory system when it is in dust form. The National Poison Prevention and Control Program of Argentina (PreCoTox) has shown that lead dust is the principal source of exposure to lead for children.⁵⁰ In Abra Pampa *humos blancos* (the same dust that is the primary source of lead exposure) are seen throughout the city - on the grounds of the former smelting plant, in Barrio 12 de Octubre, and scattered around homes and streets. This lead dust is so fine that it permeates the air of the city without being perceived as a health risk, yet residents notice the presence of the white dust in the air as it accumulates on the clothes they hang outside to dry.⁵¹

After entering the body, lead is absorbed into the blood and soft tissues, including the liver, kidneys, bone marrow and central nervous system.⁵² Children absorb 50% of lead that enters the body and are, therefore, highly vulnerable to lead poisoning.⁵³ In contrast, adults absorb between 10 and 15% of lead that enters the body. Pregnant women are also particularly vulnerable, as they can pass the lead in their blood to the developing fetus, which may lead to premature birth.⁵⁴ Once inside the human body, lead can remain deposited in the bone tissue for up to twenty years, where up to 95% of stored lead is accumulated in the body.⁵⁵ At low levels, less than 10 µg/dl, lead in the body can cause reductions in IQ and attention span, reading and learning disabilities, memory problems, hearing loss and constraints on growth, motor and visual functions.⁵⁶ High levels of lead, above 10 µg/dl, can cause anemia and damage to the brain, liver, kidneys, nerves and stomach, potentially causing convulsions or death.⁵⁷ The results of clinical studies published in the *New England Journal of Medicine* have shown that the effects on intellectual and physical development begin at levels as low as 3 µg/dl.⁵⁸ The effects of lead in the body are potentially irreversible; prolonged exposure exacerbates the harmful effects.⁵⁹ The medical literature explains that the best strategy to protect children from the effects of lead exposure is through prevention.⁶⁰

⁴⁹ United Nations Children's Fund (UNICEF) and United Nations Environment Programme (UNEP), *Childhood Lead Poisoning. Information for Advocacy and Action*, (1997), 6.

⁵⁰ Letter from Dr. Eduardo M. Bustos Villar, June 16, 2011, 6.

⁵¹ Spangenberg, 69.

⁵² Melinda M. Valdivia Infantas, "Lead Poisoning", *Revista de la Sociedad Peruana de Medicina Interna* 18, no 1 (2005): 23.

⁵³ UNEP and UNICEF, 8.

⁵⁴ *Ibid.*

⁵⁵ Valdivia, 25.

⁵⁶ UNEP and UNICEF, 5.; Valdivia, 26.

⁵⁷ *Ibid.*

⁵⁸ Rogan, Walter J, M.D. and James H. Ware, Ph.D., "Exposure to Lead in Children – How Low is Low Enough?," *New England Journal of Medicine* 348, (2003) 1515 -1516.

⁵⁹ UNEP and UNICEF, 5.

⁶⁰ Rogan, "Exposure to Lead in Children," 1515 -1516.



Lead dust (humos blancos) on the field of Barrio 12 de Octubre. The National Poison Prevention and Control Program of Argentina has determined that this dust is the principal source of lead exposure for children. Human Rights Clinic. April 2011.

B. EVIDENCE OF LEAD POISONING AND THE RECOMMENDATIONS FOR THE ESTABLISHMENT OF A PUBLIC HEALTH PROGRAM

Since 1986, numerous tests have confirmed that the children of Abra Pampa have lead poisoning. In the first of these studies carried out by the Toxicology Service at the Central Laboratory of the Ministry of Health in the Province of Jujuy, 40% of the children in Abra Pampa had lead levels over 10 $\mu\text{g}/\text{dl}$.⁶¹ In 2004, the Department of Toxicology at the University of Buenos Aires conducted a study in which 40% of children again demonstrated lead levels above 10 $\mu\text{g}/\text{dl}$.⁶² In 2006, the Applied Chemistry Research Group at the National University of Jujuy (INQA) with the approval of the Ethics Committee at Hospital ‘Posadas’ and the Ethics Committee of the Province of Jujuy, evaluated 234 children between the ages of 6 and 12.⁶³ Of these children, 81% had levels of lead in their blood above 5 $\mu\text{g}/\text{dl}$ and 16% had levels above 20 $\mu\text{g}/\text{dl}$.⁶⁴ It must be emphasized, however, that doctors indicate that no level of lead in the blood is safe or acceptable, as it is toxic to humans.⁶⁵

⁶¹ “Epidemiological study on environmental contamination provoked by lead in the school-age population of Abra Pampa, in relation to a lead smelter located in the town” by the Toxicology Service of the Central Laboratory of Public Health from 1986, results published in “Epidemiological study on environmental contamination provoked by lead in the children of Abra Pampa,” signed by Dr. Sara R. Barberis. Date not included.

⁶² Sara Barberis, Adriana Piñeiro and Clara Magdalena Lopez, “Study on the environmental contamination provoked by lead in the children of Abra Pampa (Jujuy – Argentina),” *Acta Toxicológica Argentina* (2006) (Supplement): 2-6.

⁶³ Letter from Dr. Eduardo M. Bustos Villar, June 16, 2011, 4.

⁶⁴ INQA.

⁶⁵ UNEP and UNICEF, 9. This was corroborated by Dr. Luís Alberto Márquez, director of the “Nuestra Señora del Rosario” Hospital, April 11, 2011, Abra Pampa, Jujuy, Argentina.

It is important to note that none of these medical studies evaluated other groups highly vulnerable to lead poisoning, including pregnant women and women of childbearing age. Such studies are necessary because of the consequences that the exchange of bodily fluids may have on a developing fetus.⁶⁶

The researchers from the 2004 study published an article on their results in 2006, and recommended that the government take action to treat the children: "these measures [the study] should be accompanied by clinical-environmental-analytical-toxicological studies that take into account the entire at-risk population (children and pregnant women, primarily) in order to prevent and/or treat the multiple adverse side effects caused by lead, and should be accompanied by awareness campaigns for the entire population."⁶⁷

In addition to the studies conducted by institutions in Argentina, in 2006 the Department of Environmental Toxicology at the Medical School of the Autonomous University of San Luis Potosí in Mexico, a center working in collaboration with the World Health Organization on Evaluating Risks and Environmental Health for Children, took soil samples at seven sites around the city. All of the samples exceeded 400 mg/kg of bio-accessible lead in the soil, the maximum standard that is permitted in Mexico and the United States. For example, the sample taken at the premises of the former smelting plant revealed 20,750 mg/kg of bio-accessible lead in the soil; a house across from the Metal Huasi site had 596 mg/kg in the soil; while other samples from around the city had 5540 and 6930 mg/kg of bio-accessible lead.⁶⁸ Given these high concentrations of lead, the director of the Department of Environmental Toxicology wrote the following in July 2006 to Herman Zerpa, the Mayor of Abra Pampa at that time: "taking into account that the level of lead we are reporting is bio-accessible (in other words, it can be absorbed), *the health risk is evident and it is urgent that a public health program begin immediately to monitor children's blood lead levels*" (emphasis added).⁶⁹ Despite this letter, the government again failed to follow any of these recommendations.

C. THE CAMPAIGN TO MINIMIZE THE APPARENT SEVERITY OF THE HEALTH CRISIS

The response of government authorities to medical studies that prove the existence of lead poisoning in children has not been to establish a public health program, but rather to begin a campaign to minimize the apparent severity of the situation. The Ministry of Health of the Province of Jujuy carried out a medical study in 2007 in which it took blood samples from 1,846 children and adults. The results of the analysis, based on the enzyme delta aminolevulinic acid dehydratase (ALA D), show that of the 1,309 samples of people over 12 years of age, 6% could have lead contamination.⁷⁰ Of the 519 people assessed under 12 years of age, 11.41% were found to have lead levels above 10 µg/dl.⁷¹ As reported by the director of "Nuestra Señora del Rosario" Hospital, these results have not been released to the residents of Abra Pampa, despite the fact that four years have passed.⁷² At a minimum, this constitutes a serious lack

⁶⁶ UNEP and UNICEF, 7.

⁶⁷ Sara Barberis, "Study on environmental contamination..." 2-6.

⁶⁸ Letter from Dr. Fernando Díaz-Barriga Martínez, Department of Environmental Toxicology, Medical School, Autonomous University of San Luis Potosí, Mexico to the Mayor of the Municipality of Abra Pampa, Herman Zerpa, copied to the director of the Ministry of Health and Environment and the director of INQA, July 2006.

⁶⁹ Ibid.

⁷⁰ Ministry of Health of the Province of Jujuy, Secretary of Policy Planning and Sanitary Regulations, Provincial Directorate of Sanitary Programs, *Contamination by lead in Abra Pampa*, (2007), 14-15.

⁷¹ Ibid, 20.

⁷² Márquez, April 11, 2011.

of medical ethics,⁷³ as these residents participated in the study expecting to find out the levels of lead in their bodies and those of their children.

In the study, the government does not explain why the results found lead levels much lower than those from studies completed in 1986, 2004 and 2006, which were conducted by various respected health and scientific institutions. The government also neglected to report whether it will consider repeating the study because of these discrepancies. The results of the study fail to outline the need for medical treatment for those with confirmed high levels of lead. The Ministry's report suggests that the study was conducted with the objective of accompanying the remediation in Abra Pampa by monitoring the health of the population. The report states, "we can conclude that the tasks for the final remediation are underway and in an advanced stage approaching the conclusion of the environmental problems caused by lead in Abra Pampa."⁷⁴ Four years have passed since the completion of this study and the definitive resolution of the health and environmental crisis has yet to be achieved.

The campaign by governmental authorities in Argentina to minimize the severity of the health crisis in Abra Pampa includes its response to requests for information from United Nations' Special Rapporteurs regarding human rights violations in Abra Pampa as a result of lead contamination. The Rapporteurs who requested information from the Argentine government on this case are James Anaya, UN Special Rapporteur on the rights of indigenous peoples; Okechukwu Ibeanu, Special Rapporteur on the adverse effects of the movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights; and Anand Grover, Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of health. The information provided by the government of Argentina to Rapporteur Anaya was published in his annual report on September 15, 2010, by Rapporteur Ibeanu on September 2, 2010 and by Rapporteur Grover on May 16, 2011.

Based on his report, it is clear that the government provided Rapporteur Anaya with the results of the INQA study, but with a change in the standard used to measure lead poisoning. The results from INQA indicate that 81% of children who were tested had levels greater than 5 µg/dl of lead in their blood.⁷⁵ The government submitted the results to Rapporteur Anaya using a standard of 10 µg/dl, which changes the apparent level of lead poisoning to 28% of the children evaluated.⁷⁶ In its correspondence with the Rapporteur, the government did not explain the use of a different maximum limit than was originally used by INQA. The government reported that the sample of 234 people during the INQA study only reflected 1.92% of the population and thus "it is not significant for the purpose of taking a sample that will support a scientifically valid conclusion."⁷⁷ However, the government did not provide an explanation of what it would consider a scientifically valid sample, nor whether measures were taken to provide medical treatment to people with any amount of lead in their blood, considering that the medical literature has not found any blood lead level to be safe for human health. What is clear from the government's response to Rapporteur Anaya is that they manipulated the study's results by not explicitly explaining that a different standard was used, which serves the government's purpose of minimizing the apparent severity of the situation to the Rapporteur. The government's approach, rather than focusing on finding effective solutions to protect residents' health, has been to discredit reports and studies that reveal the true gravity of the situation.

When the government does break the pattern of denial and minimization of the severity of the crisis, its plans for medical treatment of the population never go beyond mere discussion. This can be seen in the statements made by Dr. Marcelo Daniel Bellone to members of the Clinic in April 2009, when

⁷³ Medical Association of Argentina, Code of Ethics, article 77, (2001), accessible at: <http://www.ama-med.org.ar/dwnl/CODIGOESPA%D1OL.pdf>

⁷⁴ Ministry of Health of the Province of Jujuy, *Contamination by lead in Abra Pampa*, 8.

⁷⁵ INQA.

⁷⁶ Rapporteur James Anaya, 12.

⁷⁷ Ibid.

he said that the medical treatment of the population would include providing milk and chelating agents (ethylenediaminetetraacetic acid particles, which adhere to lead and aid in its expulsion from the body) for a period of 10 years.⁷⁸ To date, advances in this supposed health remediation have not been seen by residents of Abra Pampa.

D. LACK OF METHODOLOGIES AND PLANNING TO PROVIDE ADEQUATE MEDICAL TREATMENT IN CASES OF LEAD POISONING

Beyond minimizing the extent of the health crisis, there has been negligence on the part of provincial and national authorities in designing and implementing a medical treatment plan and monitoring residents for lead poisoning. According to the director of the hospital in Abra Pampa, the toxicologist is the most appropriate physician to monitor cases of lead poisoning, provide necessary treatments or refer patients to specialists, yet the toxicologist is not following such cases.⁷⁹ The hospital director also explained that specialists in ophthalmology, cardiology, rheumatology and orthopedics provide services once a month in the city and they could treat some of the adverse effects of lead poisoning. The director explained that residents do not show up for consultations with these specialists, which for him is proof that no one in the city has symptoms of lead poisoning.⁸⁰ When asked how residents can be expected to show up to consultations with specialists when clinical results regarding their blood lead levels have not been released to them, the director had no response.

The director of the hospital explained several times that he has no knowledge of anyone with symptoms of lead poisoning; therefore there has been no need to provide follow-up care for anyone in Abra Pampa. In contradiction to this statement, the Clinic obtained a document prepared by INQA in 2008 which was addressed to the director of the hospital and contained statistics regarding people with symptoms related to lead poisoning. Of these statistics, it is notable that 59 of the 234 children evaluated had Burton's Line, a condition indicative of lead poisoning wherein the gums turn blue.⁸¹ The document also reported that 35 children had radiological signs of long bones, 32 had cardiac complications, 19 were malnourished, 11 were overweight, 6 had visual impairments, 9 had learning difficulties, 6 had lack of appetite and 1 had epistaxis (nosebleeds). The document explains that several children had more than one of these symptoms and that 38 were recommended to be tested again for lead poisoning. Despite knowledge of these symptoms, neither the hospital staff nor the Ministry of Health provided sustained and permanent medical treatment for children with these symptoms. The only individuals who have received the chelation therapy for treatment are children with lead levels above 20 µg/dl.⁸² There is no public knowledge of how many children were treated with this therapy or the results of the treatment.

A new hospital is being built in Abra Pampa to provide medical care for residents of the city and the region. The director of the hospital has indicated that, as in the existing facilities, the new facilities will not have the necessary equipment, chelating agents, or rooms to provide treatment for lead poisoning.⁸³ To date, all phases of development of the new hospital have ignored the need to provide medical care for people with lead poisoning. Thus, the hospital will not be equipped to address one of the greatest medical needs of the population.

⁷⁸ Bellone, April 29, 2009.

⁷⁹ Ibid.

⁸⁰ Ibid.

⁸¹ Letter from María Graciela Bovi-Mitre, National University of Jujuy (INQA), to the Director of Our Lady of the Rosary Hospital, Dr. Luis Alberto Márquez, April 18, 2008. For more information about Burton's Line, see: Valdivia, "Lead Poisoning."

⁸² Interview with Dr. Marcelo Daniel Bellone, Ministry of Health, Province of Jujuy, April 29, 2009, San Salvador, Jujuy, Argentina and in Rapporteur James Anaya, 8.

⁸³ Márquez, April 11, 2011.

In addition to the failure to provide medical treatment for people with lead poisoning or to develop plans to do so, there is also a lack of information about what is included in the remediation plan regarding health. A document from the National Secretary of Mining shows that it has an agreement with the National Technological University to acquire, install and operate an atomic absorption spectrometer for the measurement of inorganic constituents in the blood.⁸⁴ The National Secretary of Mining and the Ministry of Health have refused to provide information on what the purpose of the spectrometer is within the remediation plan or if they are planning a new study to measure blood lead levels. According to the hospital director, the equipment will be located in the provincial capital of San Salvador as it would be very costly to have the equipment in Abra Pampa.⁸⁵ Documents from the government and the hospital director do not explain how this equipment will be useful for city residents who live four hours from the provincial capital.

E. ABRA PAMPA RESIDENTS DEMAND A HEALTH REMEDIATION PLAN

Due to the adverse effects of lead exposure, every resident who met with members of the Clinic stressed the need for a health remediation in conjunction with the environmental remediation. The people of Abra Pampa demand a *coordinated and simultaneous* environmental and health remediation plan. After demanding this joint remediation for decades through various methods available to the population, such as protests on highways, marches to San Salvador and verbalization of their demands in the GEAMIN workshops, it is clear to the residents that the health remediation of the population is not a priority for government authorities. Although flawed for its inefficiency, slow pace and the already mentioned deficiencies in protecting human rights, the government is developing an environmental plan; yet, in this process plans for a health remediation have been entirely excluded. One resident summed up the community's disappointment and frustration with the lack of plans for a comprehensive medical remediation by saying, "lead cannot be seen in the blood. Since you can't see it, nothing is done to solve the problem."⁸⁶ Another resident added, "there is nothing about a health remediation plan, nobody takes responsibility."⁸⁷

The lack of comprehensive government action to protect the health of children and adults in Abra Pampa contradicts Argentina's responsibility to protect the right to health and the right to a healthy environment which are established in Articles 41 and 42 of Argentina's Constitution, as well as in international treaties, including Article 12 of the International Covenant on Economic, Social, and Cultural Rights and Articles 10 and 11 of the Protocol of San Salvador.

⁸⁴ Ministry of Federal Planning, Public Investment and Services, National Secretary of Mining, *Executive Summary of Progress Report*, First Semester of 2010, 4.

⁸⁵ Márquez, April 11, 2011.

⁸⁶ Interview with resident, April 11, 2011, Abra Pampa, Jujuy, Argentina.

⁸⁷ Interview with resident, April 11, 2011, Abra Pampa, Jujuy, Argentina.

V. THE FORGOTTEN CHILDREN OF ABRA PAMPA

“IT BROKE MY SPIRIT WHEN I FOUND OUT THAT MY CHILDREN HAD LEAD IN THEIR BLOOD. IT DESTROYED MY LIFE BECAUSE I KNOW THAT THERE IS NO CURE FOR LEAD.”

- Resident of Abra Pampa⁸⁸

“WE WOULD ONLY HAVE TO WAIT THREE GENERATIONS FOR OUR CHILDREN TO BE BORN WITHOUT LEAD.”

- Resident of Abra Pampa⁸⁹

For decades, children in Abra Pampa have been born and raised in an environment toxic to their health that could be leading to serious consequences to their physical and mental development. Government authorities have not taken concrete actions to prevent these children from growing up in a city where they are exposed to pollution on a daily basis as they breathe lead dust. The people most affected by pollution in Abra Pampa are the children because they absorb lead in amounts up to five times higher than adults during the most critical stages in a person’s physical and mental development. In addition, their parents do not have access to information about the harmful effects of lead and more specifically have not been informed if their children have high blood lead levels.

For decades, health officials have downplayed the gravity of the crisis to evade their responsibility to take necessary measures to protect the health of the children and prevent its harmful health consequences. Neither the development of the remediation plan, progress reports on GEAMIN’s activities, or discussions with health officials establish precautionary measures or an adequate medical treatment plan to mitigate harms to the health of children and young people in Abra Pampa.

As a result of their exposure to toxic substances during their childhood, many children in Abra Pampa have dangerous levels of lead in their blood. Many children in Abra Pampa have different physical and mental abilities, ailments, and illnesses of unknown origin in addition to symptoms suggestive of lead poisoning, like Burton’s Line. Due to the lack of a constant medical monitoring program for children and youth in Abra Pampa, parents do not have definitive knowledge of the causes of their children’s medical conditions.

An example of how lead poisoning is potentially affecting the city’s children is the case of a 17 year-old teenager who in 2006 was found to have 23 µg/dl of lead in her blood, more than twice the maximum level established by the World Health Organization of 10 µg/dl. At this time, she was not offered chelating agents or any other medical treatment. In 2010, she gave birth to her child who was born without a finger on one hand. The mother does not know the reason why her child is missing a finger, but she and her family suspect that it is a result of exposure to lead during her pregnancy.⁹⁰ In another case, a

⁸⁸ Interview with resident of Abra Pampa in “Sangre en el plomo,” in *D-Humanos*, documentary, directed by Miguel Pereira (2011, Argentina).

⁸⁹ Interview with resident, April 11, 2011, Abra Pampa, Jujuy, Argentina.

⁹⁰ Interview with resident, April 11, 2011, Abra Pampa, Jujuy, Argentina.

mother explains that she is worried because her child was born with green and purple marks on his legs and one arm. Doctors informed her that these are normal, yet she suspects that the marks are a result of the exposure of the fetus to lead during gestation. She added that her son has problems learning in school and that at night he cries because of the pain in his bones. Despite these problems, the only treatment that her son has received is ibuprofen.⁹¹

There is no definitive proof that these children's medical conditions result from exposure to high levels of lead because health officials have not implemented medical monitoring programs nor released the results of completed medical studies. Just as with other elements related to the extent of the contamination and the remediation plan, the Ministry of Health has also created uncertainty about the origin of these ailments. While the people of Abra Pampa remain unsure about the cause of the medical conditions of many children in the city, the lead remains concentrated in piles and continues to permeate the air, exposing all residents to lead and its potentially irreversible health consequences.

After witnessing first hand the numerous cases of children with handicaps and ailments whose parents have not received answers from health authorities, a resident complains: "They [the children] cannot be normal when their mothers and fathers are poisoned by lead."⁹²

The lack of effective and definitive action to protect the health of children and youth in Abra Pampa violates the obligations of the Argentine government to protect the rights of the child. Among other obligations, the United Nations Convention on the Rights of the Child, which the Argentine government has adopted, guarantees "the right of children to the highest attainable standard of health," and that to guarantee this right a government must "[take] into consideration the dangers and risks of contamination of the environment."⁹³ Under its own national law for the Integral Protection of Children and Adolescents, the Argentine government should facilitate access to health services while respecting cultural and family norms, and provide comprehensive health care and rehabilitation.⁹⁴

⁹¹ Spangenberg, 78.

⁹² Telephone conversation with a resident of Abra Pampa, September 22, 2011.

⁹³ Convention on the Rights of the Child, article 24, September 2, 1990.

⁹⁴ National law for the Integral Protection of the Rights of Children and Adolescents, 26,061, article 14, October 21, 2005.

VI. THE POLICY OF OBSTRUCTING ACCESS TO INFORMATION REGARDING THE REMEDIATION PLAN

"THEY LIE TO US OR THEY HIDE MUCH INFORMATION FROM US. WE DO NOT HAVE COMPLETE KNOWLEDGE OF THE CONTAMINATION THAT EXISTS IN ABRA PAMPA. "

- Resident of Abra Pampa⁹⁵

"WE ARE THE MOST AFFECTED AND WE NEED TO KNOW WHAT'S GOING ON WITH THESE REPORTS AND RESULTS. THERE IS NO INFORMATION."

- Resident of Abra Pampa⁹⁶

A. THE LACK OF INFORMATION REGARDING THE CONTAMINATION AND THE REMEDIATION PLAN

In Abra Pampa, in addition to government neglect regarding the protection of health and the environment, the government limits access to any information on the contamination, its health consequences and the details of the design of the remediation plan. The community does not know the exact severity of the contamination, has no information regarding the health crisis of children and adults and is not informed of steps to be taken for the resolution of the crisis. Information is denied precisely to those who have a right to be informed about the environment in which they live. As explained by a resident who has made inquiries to GEAMIN and representatives of the province and the municipality, "the government does not want to pay attention to you, does not want to give you information."⁹⁷

There is much that the residents of Abra Pampa and the general public do not know about the contamination in Abra Pampa, its health consequences and the development of the remediation plan. As was mentioned previously, the results of the evaluation conducted by CESEL are unknown, as are its recommendations for the design of the remediation plan. The three proposals submitted by GEAMIN to the province and municipality are also unknown, as are the terms of reference for the implementation of the remediation and when the plan will be implemented. Authorities have hidden information on all key points required to understand the development of the remediation plan, which has caused mis-information and uncertainty about the fate of the remediation for city residents.

In documents obtained by the Clinic, GEAMIN suggests that it is creating a communication program to inform the community about the remediation processes.⁹⁸ Due to GEAMIN's lack of response to requests for information and for an interview with the Clinic, it is not possible to confirm what the program specifically entails. The community has had no communication with GEAMIN or the National

⁹⁵ Interview with resident, April 12, 2011, Abra Pampa, Jujuy, Argentina.

⁹⁶ Interview with resident, April 12, 2011, Abra Pampa, Jujuy, Argentina.

⁹⁷ Interview with resident, April 11, 2011, Abra Pampa, Jujuy, Argentina.

⁹⁸ Ministry of Federal Planning, Public Investment and Services, First Progress Report of Activities, 13.

Secretary of Mining since December 2010 when the last workshop was conducted. Community residents who met with members of the Clinic and who keep up with information regarding the remediation have no knowledge of how to communicate effectively with GEAMIN, as all of their requests for information have been ignored.

B. THE LACK OF PUBLIC INFORMATION AVAILABLE ONLINE

The National Secretary of Mining through the Ministry of Federal Planning, Public Investment and Services established a website called "Abra Pampa Remedia," which is "a space created with the objective of promoting dialogue and establishing a permanent channel of communication to promote responsible participation of all stakeholders in this environmental remediation initiative in Abra Pampa, within a framework of trust, transparency and mutual respect."⁹⁹ The Clinic recognizes the efforts of the Secretary in the creation of this website and its intentions to create a communication channel open to the community of Abra Pampa. However, more than a year after the creation of this site there is no on-going dialogue with the residents through this forum. Most inhabitants of Abra Pampa do not have easy access to the Internet, and a large portion of the population does not use the Internet. Solely creating a website is thus not the most appropriate channel for facilitating access to information for Abra Pampa's residents. The website also lacks specific information on the studies carried out by CESEL, and does not include information on the proposed remediation plan or specifics on when the plan will be publicly presented. Another problem with the website is that the little information that is available is presented in technical jargon that is not accessible to the city's residents or the general public. Additionally, there were technical failures that caused the site to be inaccessible for several months in 2011.

C. THE GOVERNMENT'S SILENCE IN RESPONSE TO REQUESTS FOR INFORMATION

During its investigation, the Clinic interviewed many of Abra Pampa's citizens who have requested the results of personal and their children's blood tests from the Ministry of Health. These citizens have also made requests for information regarding the design and implementation of the remediation plan, but have not received a positive response from the authorities. As mentioned by a resident of Abra Pampa, the information that some residents have in their possession are copies of studies and fragmented information that has been obtained from the Deliberative Council of Abra Pampa and third parties, not by official response from government authorities.

Similarly, deputies from the Province of Jujuy submitted on August 10, 2010, requests for information about the assessment of areas degraded by the activity of Metal Huasi, sanitation activities, toxicological studies performed, medical treatment and education provided, and the status of the remediation plan for Abra Pampa. The requests were presented by the following deputies: Carlos Alberto Amaya, Hector Freddy Morales, Clara de Facone, Pablo Baca, Jorge Raul Rizzotti, Silvia Alejandra Martínez, Carlos A. Dehler, Ana María Jorge, Mario Alejandro Pizara and Alberto Bernis.¹⁰⁰ Deputy Baca stated in his interview with the Clinic that as of April 2011 this request had not been answered.¹⁰¹

⁹⁹ Website of the National Secretary of Mining, Ministry of Federal Planning, Public Investment and Services and CESEL, accessed September 26, 2011, www.abrapamparemedia.com.

¹⁰⁰ Carlos Alberto Amaya, Hector Freddy Morales, Clara de Facone, Pablo Baca, Jorge Raul Rizzotti, Silvia Alejandra Martínez, Carlos A. Dehler, Ana María Jorge, Mario Alejandro Pizara and Alberto Bernis, *Information Request Project, Legislature of Jujuy Sanctions the Following Information Requests* (San Salvador, Jujuy), August 10, 2010.

¹⁰¹ Interview with Deputy Pablo Baca, April 12, 2011, San Salvador, Jujuy, Argentina.

Part of the Clinic's research included the presentation of requests for information to government agencies at the national and provincial level on April 7, 2009. To date, these requests have not been answered with the exception of some documents that were provided in the offices of the National Ombudsman during a meeting with the Clinic.¹⁰² Given the lack of response to these requests, the Clinic filed new requests for information on March 9, 2011 to the following federal agencies: the National Secretary of Mining, the Secretary of Environment and Sustainable Development and the National Ombudsman. The Secretary of Environment and Sustainable Development replied that it could not respond to the request because the Clinic did not have residence in Argentina, citing Article 3 of Law 25,831. At the provincial level, requests were sent to the following agencies: the Provincial Directorate of Mining and Energy Resources, the Ministry of Production, the Ministry of Health and the Secretary of Health Care Coordination. Again, the response from local and federal authorities to these requests has been silence. Due to a lack of response to requests for information regarding the remediation process in Abra Pampa, the Clinic sent a request for information to CESEL, that replied directing all requests for information to GEAMIN of the National Secretary of Mining, which has yet to provide a response to the request for information.

One of the few government agencies that has provided information on the case of environmental contamination in Abra Pampa is the National Secretary of Human Rights, which provided documents to members of the Clinic during a meeting in April 2011 and additional documents in August 2011. This is part of the most recent information the Clinic has regarding the design of the remediation plan.

In addition to the failure to respond to requests for information from the Clinic, several secretaries and ministries at the federal, provincial and municipal levels refused to meet with members of the Clinic in April 2011. These government authorities are: the National Secretary of Mining, the Secretary of Environment and Sustainable Development, the Ministry of Production of Jujuy, the Provincial Directorate of Mining and Energy Resources, the Mayor of the Municipality of Abra Pampa and the President of the Deliberative Council of the Municipality of Abra Pampa.

These actions are in violation of the right of access to public information guaranteed in human rights treaties such as the American Convention on Human Rights.¹⁰³ At the federal level, Law 25,831, guarantees the freedom of access to public environmental information.¹⁰⁴ To date, the lack of response to requests for information and the refusal to grant meetings has kept essential information about contamination and the future of the environmental and health situation of the city behind closed doors.

¹⁰² See Appendix, or *Abra Pampa: A Community Polluted, A Community Ignored*, August 2009.

¹⁰³ American Convention on Human Rights (Pact of San Jose, Costa Rica), article 13, November 22, 1969.

¹⁰⁴ Regulations on the Freedom of Access to Environmental Information, 25,831, November 23, 2003.

VII. THE INSTITUTIONAL AND LEGAL PROCEDURES THAT HAVE NOT LED TO A RESOLUTION OF THE CRISIS IN ABRA PAMPA

“THERE IS SO MUCH TALK ABOUT HUMAN RIGHTS, BUT IN ABRA PAMPA WE LIVE ON THE SIDELINES. HUMAN RIGHTS IS A CONCEPT THAT DOES NOT DEFEND US. WHY? BECAUSE WE HAVE BEEN ABANDONED, THE STATE DOES NOT TAKE US INTO CONSIDERATION.”

– Resident of Abra Pampa¹⁰⁵



An abandoned building at the former site of Metal Huasi. After functioning without governmental regulation, Metal Huasi ceased its operations leaving behind several abandoned buildings in addition to the metal waste. Human Rights Clinic. April 2011.

A. THE WORK OF THE NATIONAL AND PROVINCIAL OMBUDSMANS

Adding to the fact that pertinent governmental authorities, including the National Secretary of Mining and the Provincial and National Ministries of Health, have not resolved the health and environmental crises in Abra Pampa is the fact that the National and Provincial Ombudsmans have not

¹⁰⁵ Interview with resident of Abra Pampa in “Sangre en el plomo,” in *D-Humanos*, documentary, directed by Miguel Pereira (2011, Argentina).

continued to monitor the human rights crisis in Abra Pampa. This is in spite of their important contributions and recommendations in past years. The Provincial Ombudsman, an autonomous state institution, investigated the situation in the city in 2006 and in 2007 recommended to government bodies that they monitor and take action in this case. This included a recommendation to Prosecutor Antonio Gustavo Gómez. In June 2006, the Provincial Ombudsman published a recommendation in which he explained that the health risks in the city would continue into the future if action was not taken. However, in April 2011 the Provincial Ombudsman informed Clinic members that he considered his work in this case complete and that he could no longer continue monitoring the situation because of a pending criminal investigation.¹⁰⁶

Similarly, the National Ombudsman has investigated the situation and in 2007 recommended to the government of Jujuy the implementation of immediate medical care for affected residents. In 2009, the office assisted the Clinic in its research on the situation and provided documents that had been denied by other government bodies. However, since then, the National Ombudsman has stopped monitoring the crisis in the city, currently lacks updated information and has not continued to advocate for a resolution of the crisis.¹⁰⁷

B. THE STATUS OF THE CIVIL PROCEDURES AND CRIMINAL INVESTIGATIONS ON THE ENVIRONMENTAL CONTAMINATION

To date, judicial procedures have also failed to provide a resolution to the health and environmental crisis in Abra Pampa. More than 300 city residents presented three civil cases in the civil and commercial courts of the province against the Municipality of Abra Pampa to demand reparations for damages, moral damages, medical expenses already incurred and medical expenses to be made in the future.¹⁰⁸ These cases have been pending since 2006 without any knowledge of when they will be adjudicated.

In addition to the civil cases, the Prosecutorial Unit for Investigations of Environmental Concern (UFIMA) reopened an investigation on November 9, 2009, that had commenced on October 5, 2007, to investigate the environmental contamination in Abra Pampa. On February 12, 2010, UFIMA's investigation (No. 97/07) was archived due to the existing investigation in the federal prosecutor's office (No.2).

On October 1, 2009, the federal prosecutor's office and its investigation of case No. 318/08 was declared an incompetent body to determine the case, as Law 24,051 on hazardous waste requires that the damages in question be of an inter-jurisdictional nature, not at the level of a single province, in order to be considered within its jurisdiction.¹⁰⁹

On July 8, 2010, the criminal investigation regarding the metal waste in Abra Pampa was presented to Courtroom No. 2 of the Administrative Litigious Justice of Jujuy under file D-218669/9.¹¹⁰ At the time of publication of this report, there is no known resolution to this case.

¹⁰⁶ Interview with the provincial Ombudsman of Jujuy, Victor Galarza, April 12, 2011, San Salvador, Jujuy, Argentina.

¹⁰⁷ Telephone conversation with a representative of the National Ombudsman, April 11, 2011, Buenos Aires, Argentina.

¹⁰⁸ *Ordinario por Daños y Perjuicios*, 8.

¹⁰⁹ Note on Judicial Power of the Nation, File No. 318/08, October 1, 2009, San Salvador, Jujuy, Argentina.

¹¹⁰ Information given by Prosecutor Mario Snopek, April 13, 2011, San Salvador, Jujuy, Argentina. Corroborated by Prosecutor Ramiro Gonzalez, April 14, 2011, Buenos Aires, Argentina.

In sum, criminal investigations initiated since 2007 have yet to determine who is responsible for the contamination in Abra Pampa and what the penal responsibilities will be. To date, neither the civil and criminal cases nor the actions of the National and Provincial Ombudsmans have led to a resolution of the health and environmental crisis in the city.

VIII. COMMUNITY MOBILIZATION IN RESPONSE TO THE LACK OF AN INTEGRAL REMEDIATION PLAN

“THE MOBILIZATION IN ABRA PAMPA IS PART OF THE KOLLA PEOPLE’S FRAMEWORK FOR REMEDIATION, WHICH THE GOVERNMENT DOES NOT WANT TO ACCEPT. MY UNDERSTANDING IS THAT THERE ARE FOUR LEGAL STEPS THAT THE GOVERNMENT SHOULD TAKE. FIRST, AVOID OR PREVENT CONTAMINATION – IN THIS CASE THAT WAS NEVER DONE. THE SECOND STEP IS TO PENALIZE AND FINE THE COMPANIES THAT HAVE COMMITTED THIS TYPE OF DISASTER. THE THIRD IS THE REMEDIATION, WHICH FOR THE GOVERNMENT HAS MEANT TO REMOVE THE WASTE AND TAKE IT ELSEWHERE, NOTHING MORE. THEY NEVER TALK ABOUT THE HUMAN REMEDIATION – THERE ARE POISONED CHILDREN AND THIS IS NOT PART OF THE GOVERNMENT’S PLAN, TO COMPENSATE FOR THE DAMAGE THAT HAS BEEN DONE AND WHICH IS IRREVERSIBLE. THE GOVERNMENT ONLY CONSIDERS UP TO THE THIRD STEP OF REMOVING THE WASTE, AND WITH THAT THEY ARE FINISHED WITH THE REMEDIATION IN ABRA PAMPA.”

-José Sajama, President of the Departmental Council of Kolla Communities and son of residents of Abra Pampa¹¹¹



Residents of Abra Pampa and members of the Departmental Council of Kolla Communities protest to re-establish an ordinance prohibiting open-pit mining in the municipality. Published with permission of the Departmental Council of Kolla Communities. January 2011.

¹¹¹ Interview with José Sajama, April 10, 2011, Abra Pampa, Jujuy, Argentina.

The people of Abra Pampa have been the subject of numerous environmental and medical studies carried out by government institutions and the targets of a number of promises for the resolution of the contamination. Faced with so many broken promises, the community has mobilized numerous times since the 1980s in order to demand government action regarding the protection of their health and the removal of the metal waste. The local civil society groups “Autoinvocados contaminados por plomo” and “Multisectorial” have previously organized the community to take action in protest against the environmental contamination. This included marches to the capital of Jujuy in July and October 2008 to present a list of demands to Governor Walter Barrionuevo.¹¹² This list of demands included the construction of a wastewater treatment plant for the city, the assignment of medical specialists to the city’s hospital and an environmental and health remediation in response to the metal toxins in Abra Pampa. This mobilization has also included multiple strikes on Highway 9, which crosses the city, to draw attention to the demands of the residents.

After realizing that the response from the municipal, provincial and national government authorities has been ineffective at removing the sources of lead contamination in the city and developing a health remediation plan, the community has continued to mobilize itself in new ways to prevent future environmental contamination similar to the one left behind by the last mining activity in the city. As one of the residents explained to the Clinic: “The remediation now has completely expired deadlines. As long as they do not complete the environmental remediation guaranteeing zero contamination, we are going to oppose any new mining project.”¹¹³

Considering that mining activity has had grave consequences for health and the environment, the community decided to take action in 2010 when they became aware of a proposal to open a mine in Guadalupe de Peña, a community within the municipality. For many of the residents it is unacceptable to continue opening mines in the municipality if the government does not resolve the human and environmental contamination that Metal Huasi left behind. With these principles in mind, local residents under the leadership of the Departmental Council of Kolla Communities presented a proposal for an ordinance to the Deliberative Council of the Municipality of Abra Pampa that would prohibit open-pit mining within its jurisdiction. The ordinance (No. 51-CD-010) was approved by the Deliberative Council on November 30, 2010 by a unanimous vote. The ordinance prohibited: 1) the location, installation, or functioning of metal mining explorations and/or the practice of mining exploitation utilizing chemical and toxic substances, and 2) the entry, traffic, use, commercial storage, manufacture, production, extraction and/or transportation of chemical substances such as cyanide, sulfuric acid and uranium.¹¹⁴ Nevertheless, on December 20, 2010 the mayor of Abra Pampa, Ariel Mechaca, vetoed the ordinance with Decree No. 050-SG-010 under the argument that decisions regarding mineral deposits belong to the provincial government.¹¹⁵ As a result of the demands of the community and protests outside of the mayor’s office, Mechaca reinstated the ordinance on January 13, 2011.¹¹⁶

As the President of the Departmental Council of Kolla Communities described, the ordinance was established because “here there exists a lack of responsible mining, where companies extract, contaminate, and leave.”¹¹⁷ He explained that the ordinance is an action aimed at preventing the kinds of irresponsible mining practices that have led to the current level of contamination in the city.

¹¹² “Llegó a la capital de Jujuy la marcha de Abra Pampa,” *El Libertario*, April 24, 2008 and “El Padre Olmedo fue recibido en la Legislatura de Jujuy,” *El Libertario*, October 20, 2008.

¹¹³ Interview with a member of the Deliberative Council of the Municipality of Abra Pampa, April 12, 2011, Abra Pampa, Jujuy, Argentina.

¹¹⁴ Ordinance No. 51-CD-010, Deliberative Council of the Municipality of Abra Pampa, November 30, 2010.

¹¹⁵ Sanction of the Ordinance No. 51-CD-010, Decree No. 050-SG-10, Abra Pampa, Capital of the Puna, December 20, 2010.

¹¹⁶ “Otro pueblo libre de minería contaminante,” *Página 12*, January 16, 2011.

¹¹⁷ Interview with José Sajama, July 10, 2011, Abra Pampa, Jujuy, Argentina.

IX. CONCLUSIONS ABOUT THE CRISIS IN ABRA PAMPA

“IT’S AS IF WE WERE SECOND CLASS CITIZENS AND THE TRUTH IS THAT HURTS.
AS AN ARGENTINE, IT HURTS.”

– Resident of Abra Pampa¹¹⁸

“THE GOVERNMENT WANTS TO JUSTIFY THE UNJUSTIFIABLE.”

– Resident of Abra Pampa¹¹⁹



At the premises of the former Metal Huasi smelting plant, abandoned buildings and rusted equipment still remain. From what is stated in government documents obtained by the Clinic, the removal of abandoned buildings and equipment is not included in the remediation plan. Human Rights Clinic. April 2011.

¹¹⁸ Interview with resident of Abra Pampa in “Sangre en el plomo,” in *D-Humanos*, documentary, directed by Miguel Pereira (2011, Argentina).

¹¹⁹ Interview with resident, April 11, 2011, Abra Pampa, Jujuy, Argentina.

Today, in the city center of Abra Pampa, the remains of the lead smelting plant Metal Hausi are still visible, abandoned now for over two decades. Buildings in deplorable conditions, oxidized equipment and *humos blancos* remain as a daily reminder of the source of the city's contamination. It is a symbol of the abandonment that residents of Abra Pampa feel given the lack of effective actions by the government in the face of the environmental and health crisis in which they live.

The government has denied and minimized the severity of the lead poisoning affecting children innumerable times. Nevertheless, residents have some knowledge about the results of medical studies due to press coverage, and they live with the suspicion that the lead particles they constantly breathe in the air are making them sick. After 25 years of knowledge about the poisoning of the population, it is not justifiable that the government has not adopted an integral public health plan.

As a resident of Abra Pampa explained, "the government wants to justify the unjustifiable." The government cannot continue to downplay the gravity of the situation in order to minimize its responsibilities while the health of the residents remains at risk.

The policy of denying information about this contamination, its health repercussions and any detailed information about the remediation plan has left the population in a situation of uncertainty for decades. The people have been excluded and without consultation about the decisions made regarding the remediation plan. In addition to the lack of adequate action by the relevant authorities to remediate the crisis, and in particular the insufficient and ill-conceived actions of GEAMIN, efficient mechanisms to resolve the crisis have also not been found to date through the National and Provincial Ombudsmen or the civil and criminal investigations. These processes have also been ineffective at providing solutions, compensating the victims and penalizing those responsible.

The Inter-American Development Bank is not monitoring the remediation process to ensure the protection of human rights during the process of developing the remediation project. To date, the IDB has not monitored the development of the project in Abra Pampa to ensure the observance of international standards and national laws, including the right of access to information, the right to community participation and the indigenous people's right to prior consultation in the development of programs with environmental and health consequences that impact them directly. The IDB itself has limited the access to information pertinent to the case of Abra Pampa, contributing to the lack of transparency that surrounds the remediation. Beyond that, the IDB has not required that the government implement adequate methods for medically treating cases of lead poisoning and its noxious effects.

Beyond the specific implications that the crisis has on the lives of the residents of Abra Pampa, this is only one of the many communities in Argentina that has been polluted by mining activity. There are currently more than 70 abandoned mines throughout the country; with the exception of the three previously mentioned locations, none have plans for an environmental or health remediation.¹²⁰ Additionally, in 2010, Argentina achieved a "historic record" of 572 mining projects either active or in development.¹²¹ The government has not established protocols for the closure of these projects, thus failing to establish a framework that can prevent the potential creation of 572 more Abra Pampas. If the closure of mining and related activities is not governed by best practices, and the development of the remediation plan in the three cities does not protect human rights, more communities could live with contamination from mining activity for an unforeseeable amount of time. Abra Pampa is a case study of what happens when the government fails to regulate mining activities and protect its citizens. Only time will tell how many more Abra Pampas there will be in the future.

¹²⁰ FOPEA Investigations, *The Day after the Mines*, September 26, 2011, <http://investigaciones.fopea.org/mineras>.

¹²¹ National Secretary of Mining, *Argentinian Mining, Opportunities for Investment*, accessed September 30, 2011, <http://www.mineria.gov.ar/pdf/informe-de-gestion.pdf>.

X. APPENDIX

PUBLIC INFORMATION REQUESTS		
Information requested from the National Secretary of Mining:	Date(s) Sent:	Response Received:
Information about 1) Who is responsible for the independent supervision of Sub-Program II Environmental Management in Abra Pampa?; 2) How is the Secretary ensuring access to public information regarding the actions taken by GEAMIN and the environmental and health risks caused by the environmental waste still present in the community? And, in general, how is the Secretary implementing the recommendations made by this Clinic, and any advances that have been made.	March 2011	None
Copy of the document on the bidding process where the services of CESEL INGENIEROS were contracted to carry out the phase entitled “Detailed evaluation and design of the Remediation Plan in the areas impacted by the activity of the ex-smelter Metal Huasi in Abra Pampa, Province of Jujuy.”	April 2009, March 2011	None
Copy of LPI 01/08: “Detailed evaluation and design of the Remediation Plan in the areas impacted by the activity of the ex-smelter Metal Huasi in Abra Pampa, Province of Jujuy.”	April 2009, March 2011	None
Copy of LPI 05/08: “Design of the National Registry survey of areas degraded by previous mining activity and Training of the implementing staff: Finalization of the reformulation of Proposal Request documents.”	April 2009, March 2011	None
Copy of LPI 06/08: “Technical assistance in the design, implementation methodology and supervision of the systematic survey on geoenvironmental information, and for the design and implementation of a geoenvironment information system: Preparation of the Reformulation of Proposal Request documents.”	April 2009, March 2011	None
Agreement between the federal Secretary of Mining and the School of Engineering of the National University of Jujuy, on the realization of a study of decontamination as a result of the metal waste left by mining activity in the town of Abra Pampa.	April 2009, March 2011	None

Agreement between the federal Secretary of Mining with the National University of Jujuy for the “Preliminary Technical-Economic Evaluation of the Metal Huasi site.”	April 2009, March 2011	None
Copy of report on the “Preliminary Technical-Economic Evaluation of the Metal Huasi site.”	April 2009, March 2011	None
Information requested from the National Secretary of Mining , the Secretary of Environment and Sustainable Development , the Ministry of Production of Jujuy and the Provincial Directorate of Mining and Energy Resources of Jujuy :	Date(s) Sent:	Response Received:
Information about the Remediation Plan for Barrio 12 de Octubre, Abra Pampa, as a result of the activities of Subprogram II Environmental Mining Management.	March 2011	None
Copy of the final report “Detailed evaluation and design of the Remediation Plan in the areas impacted by activity of the ex-smelter Metal Huasi in Abra Pampa, Province of Jujuy” by the Subprogram GEAMIN through the consultants CESEL Ingenieros.	March 2011	None
Copy of the agreement to create the “Inter-institutional committee to Monitor the Remediation Program.” Please provide the following information: who forms part of the committee, frequency of meetings, what is its purpose, and a summary of the actions taken.	March 2011	None
Copy of the “georeference” studies on the contamination sites in Abra Pampa. Please provide the following information: when were the residents of Abra Pampa informed of the results and how has the information been put at the disposition of the citizenry in general.	March 2011	None
Information about the precautionary norms followed in order to carry out the bagging and loading of the toxic waste in 2007 and the removal of the slag from the site of the ex-smelter Metal Huasi in 2009 to protect the residents of Abra Pampa from additional exposure to dangerous materials. Additionally, a copy of the report on the consultation of the community in carrying out these procedures.	March 2011	None
Copy of the “Memorandum of Agreement for Technical and Financial Assistance Applicable to the Execution of the Plan in the Province of Jujuy, for Integral Remediation of the Environmental Liability of the Ex Smelter Metal Huasi.”	April 2009, March 2011	None

Information requested from the National Secretary of Mining , the Secretary of Environment and Sustainable Development and the Ministry of Production of Jujuy :	Date(s) Sent:	Response Received:
Copy of the activities report “Elaboration and presentation, in due time and proper form, of the requested information for the General Directorate of Human Rights and the General Directorate of Environmental Issues of the Ministry of Foreign Affairs, International Trade and Culture, regarding the anticipated activities of the Subprogram Environmental Mining Management for the integral remediation of the environmental liability of the ex-smelter Metal Huasi.”	March 2011	None
Information requested from the National Secretary of Mining and the Ministry of Production of Jujuy :	Date(s) Sent:	Response Received:
Copy of the “Agreement of Cooperation between the federal Secretary of Mining and the National Technical University to provide ‘Technical support for the pre-installation, acquisition, installation and operation of an Atomic Absorption Spectrometer equipped with a graphite oven.’”	March 2011	None
Copy of the agreement to create a “Committee of Community Monitoring of the Remediation Plan,” Please provide the following information: who forms part of the committee, what is its purpose, and a summary of the activities carried out.	March 2011	None
Copy of the “Financial Audit of Subprogram BID N° 1865/OC AR- PNUD N° ARG 07/008, corresponding to the exercise covering the period between 01/01/2009 and 31/12/2009 by the National General Auditor: assistance to the work of the auditor and delivery and response, in due time and proper form, of the information requested by the National General Auditor.”	March 2011	None
Copy of the “Financial Audit of Subprogram BID N° 1865/OC AR- PNUD N° ARG 07/008, corresponding to the exercise covering the period between 01/01/2009 and 31/12/2009 by the Internal Auditing Unit of the Ministry of federal Planning, Public Investment and Services: assistance to the work of the auditor and delivery and response, in due time and proper form, of the information requested.”	March 2011	None
Information requested from the National Secretary of Mining , the Ministry of Production of Jujuy and the Provincial Directorate of Mining and Energy Resources of Jujuy :	Date(s) Sent:	Response Received:
Information about the events of the “first communication workshop with the community of Abra Pampa about the commencement and the activity plan to be developed by the company CESEL” and in the workshops that CESEL carries out monthly.	March 2011	None

Copy of the twice yearly reports on the “Detailed evaluation and design of the Remediation Plan in the areas impacted by the activity of the ex-smelter Metal Huasi in Abra Pampa, Province of Jujuy” by the Subprogram II GEAMIN through the consultant CESEL Ingenieros.	March 2011	None
Copy of the “File No. 0521-051/01/01-DPMAYRN” about the Removal of Residues from the ex –smelter Metal Huasi in Abra Pampa” which was begun on October 1, 2001, between the then General Directorate of Renewable Natural Resources, dependent of the Ministry of Production, Commerce, and Environment in Jujuy.	March 2011	None
Information requested from the National Secretary of Mining , the Ministry of Production of Jujuy and the Ministry of Health of Jujuy :	Date(s) Sent:	Response Received:
Copy of the report on the “Supervision and coordination of the first technical visit of experts from the UTN to the Ministry of Health of the Province of Jujuy, for evaluation, diagnosis and adaptation of the available infrastructure in the laboratory where the analytical equipment will be installed.”	March 2011	None
Information requested from the National Secretary of Mining , the Ministry of Health of Jujuy and the Secretary of Health Care Coordination of Jujuy :	Date(s) Sent:	Response Received:
Copy of the “Inter-ministerial Agreement” of May 22, 2007, between the Secretary of Mining and the Coordination of Attention to Health, Education and Social Action of the Province, on the situation in Abra Pampa.	April 2009, March 2011	None
Information requested from the Secretary of Environment and Sustainable Development :	Date(s) Sent:	Response Received:
Information about 1) How is the Secretary of Environment and Sustainable Development coordinating with the Secretary of Mining to carry out the joint evaluations related to concessions and mining projects?; 2) How is it being ensured that the activities related to the remediation plan include prior consultation of the community of Abra Pampa?; 3) How is access to information being provided about GEAMIN’s actions and the environmental and health risks caused by the environmental waste still present in Abra Pampa? And, in general, how is the Secretary implementing the recommendations of this clinic and any advances that have been made.	March 2011	None
Any other information related to the situation of the population in Abra Pampa, Province of Jujuy, affected by lead contamination and related to the remediation plan for the municipality.	April 2009, March 2011	None

Information requested from the Ministry of Production of Jujuy and the Provincial Directorate of Mining and Energy Resources of Jujuy :	Date(s) Sent:	Response Received:
Copy of Resolutions numbers 5-2007 y 6-2007 of the Provincial Directorate of Mining and Energy Resources, regarding the regulation of reports on environmental impact and the obligation of companies to send copies of the reports to affected communities.	April 2009, March 2011	None
Copy of Resolution No. 135/2004 of the Provincial Directorate of the Environment and National Resources of Jujuy, regarding the environmental remediation of the ex –smelter site Metal Huasi.	April 2009, March 2011	None
Copy of Resolution No. 115/2005 of the Provincial Directorate of the Environment and Natural Resources of Jujuy, regarding non-compliance of the Metal Huasi company in cleaning the site where it previously functioned as a smelter plant.	April 2009, March 2011	None
Copy of Resolution No. 075/2006 of the Provincial Directorate of Environment and Natural Resources in Jujuy.	April 2009, March 2011	None
Copy of Resolution No. 151/2005 of the Provincial Directorate of the Environment regarding the complete and definitive closure of the site where the ex –smelter Metal Huasi previously operated.	April 2009, March 2011	None
Copy of Judicial Action B-162740/06, the notification to the Secretary of Environment and Natural Resources of the Province of Jujuy regarding the transfer of waste from Metal Huasi’s mining activity.	April 2009, March 2011	None
Any other information related to the situation of the population in Abra Pampa affected by lead contamination and related to the remediation plan for the municipality.	April 2009, March 2011	None
Information requested from the Provincial Directorate of Mining and Energy Resources of Jujuy :	Date(s) Sent:	Response Received:

Information about 1) How is the Ministry of Production and Environment coordinating with the Secretary of Mining and the Secretary of Health to carry out joint actions related to environmental protection?; 2) How is Access to information being ensured regarding the activities related to the remediation plan?; 3) In what way does the community have Access to information regarding the actions of GEAMIN and the environmental and health risks caused by the environmental waste still present in the community? And, in general, how has this Ministry implemented the recommendations made by this Clinic and any advances that have been made.	March 2011	None
Information requested from the Ministry of Health of Jujuy and the Secretary of Health Care Coordination of Jujuy :	Date(s) Sent:	Response Received:
What measures are being taken to provide adequate medical care to those children and adults with levels of lead higher than 5µg/dL in their blood, the current standard in the medical literature?	March 2011	None
How were the residents who were examined for the presence of lead in their blood informed of their results?	March 2011	None
Copy of the report from the Toxicology Service of the Central Laboratory for Public Health in the year 1986, entitled “Epidemiological study on the environmental contamination of lead in the school-age population of Abra Pampa in relation to the lead smelter located in this town.”	April 2009, March 2011	None
Copy of the report from the study of the Applied Chemical Research Group on the “Evaluation of Chemical Risk provoked by toxic metals in Abra Pampa, assigning magnitudes and probabilities of adverse effects of the contamination in the environment and the exposed childhood population,” or a copy of the results to date that have been released.	April 2009, March 2011	None
Information on the “Study for the Identification and Treatment of Abra Pampa residents contaminated by lead in the town of Abra Pampa,” begun in the year 2008.	April 2009, March 2011	None
Information or copies of reports on the studies carried out in 1974, 1980, and 1984 that indicated lead contamination in Abra Pampa residents.	April 2009, March 2011	None

Information requested from the Ministry of Health of Jujuy :	Date(s) Sent:	Response Received:
How is the Ministry of Health collaborating with the Secretary of Mining and other relevant authorities regarding the implementation of remediation plans in Abra Pampa that simultaneously provide adequate medical treatment for those poisoned by lead?	March 2011	None
How are the residents of Abra Pampa being consulted to ensure that they are informed of the remediation plans, the environmental waste contamination and its effects on their health?	March 2011	None
When and how is a “georeference” study being conducted of the contaminated sites, and how were the residents of Abra Pampa informed?	March 2011	None
Copy of document N° 13.316/99, which the National Ombudsman presented to the Directorate of Environment of the Ministry of Social Welfare of the Province of Jujuy to adopt the necessary measures to guarantee the health of the residents of Abra Pampa.	March 2011	None
Information about the recommendations issued on October 19 th , 2007, by the National Ombudsman to the government of Jujuy and the federal Secretary of Environment regarding the installation of a Public Health Assistance Program for the population of Abra Pampa.	March 2011	None
Information about the actions carried out as a result of this agreement “Supervision and coordination of the first technical visit of experts from the UTN to the Ministry of Health of the Province of Jujuy, for evaluation, diagnosis and adaptation of the available infrastructure in the laboratory where the analytical equipment will be installed”), the results of this visit and subsequent visits, and information on the equipment that was or will be installed, and what use will be made of the equipment.	March 2011	None
Information requested from the Secretary of Health Care Coordination of Jujuy :	Date(s) Sent:	Response Received:

The federal Secretary of Mining and the National Technical University agreed to provide “Technical support for the pre-installation, acquisition, installation and operation of an Atomic Absorption Spectrometer equipped with a graphite oven” that is planned for the medical attention of the residents of the Province of Jujuy with inorganics in their blood. Where and when will the spectrometer be installed? Will it be located in Abra Pampa for the use of those with lead poisoning?	March 2011	None
Any other information related to the situation of the population in Abra Pampa, Province of Jujuy, affected by lead contamination.	April 2009, March 2011	None
Information requested from the National Ombudsman :	Date(s) Sent:	Response Received:
What procedures is the National Ombudsman taking to monitor the environmental and health situation in Abra Pampa?	March 2011	None
How is the National Ombudsman collaborating with the Secretary of Mining regarding the continuation of the environmental remediation plan in Abra Pampa?	March 2011	None
Any other information related to the situation to the lead contamination and to the remediation plan for the city that affects Abra Pampa’s population.	March 2011	None
Information requested from the Secretary of Human Rights :	Date(s) Sent:	Response Received:
Information on the work conducted by this Secretary in regards to the case of environmental contamination in Abra Pampa.	April 2011	Note 013/10-DNM (April 2011) and Note 319/11 with letter attachments from the federal Ministry of Health (Aug 2011)
Information requested from CESEL, S.A. :	Date(s) Sent:	Response Received:

<p>The results of the studies carried out in Abra Pampa regarding the contamination of land, air and/or water, the recommendations made by CESEL to the Secretary of Mining, and any other information on CESEL's work with respect to Abra Pampa.</p>	<p>March 2011</p>	<p>Referred all requests for information to the Secretary of Mining</p>
<p>Information requested from the Inter-American Development Bank:</p>	<p>Date(s) Sent:</p>	<p>Response Received:</p>
<p>A timetable of the evaluation and implementation of the remediation works in Abra Pampa developed by the Secretary of Mining; copy of the semester reports that the implementing body submits to the Bank; information about the Terms of Reference for the implementation of the remediation works and the evaluation of the work; information about the amount of funds disbursed by the Bank for the evaluation of the remediation work in the city; and information regarding when and how the public bidding process will be carried out for the firm that will execute the remediation works.</p>	<p>May 2011</p>	<p>None</p>