

Declaration of the Rights of La Laguna El Espino

Section 1. Preamble.

WHEREAS, the City of Ahuachapán (“Ahuachapán”) is defined, in part, by its uniquely close connection to the natural world that surrounds it, in particular La Laguna El Espino (“Laguna”), and also including the extraordinary diversity of nearby Parque Nacional El Imposible, the towering archipelago of stratovolcanoes, and the geothermal features of the Cordillera de Apaneca; and

WHEREAS, the Laguna, its water, and the life it supports serves as an integral basis of all life in Ahuachapán and the region, nourishing the land, the people, and the culture; and

WHEREAS, the Laguna is home to an abundance of living beings, including many fish species such as Tilapia, the Guapote Tiger, the Common Chimbolo, and River Snail, and several bird species, including Snail Kites, Herons, and numerous species of waterfowl, all of which have suffered greatly as a result of pollution from nearby development and industrial agriculture runoff; and

WHEREAS, the residents of Ahuachapán also depend upon the Laguna for many of their needs; the Laguna weaves the surrounding community together, serving as a hub for cultural activities, community gatherings, and many other uses; and

WHEREAS, likewise, the Laguna provides health and happiness for residents by providing an abundance of opportunities for physical exercise such as swimming, interaction with the natural world, tourist activities, and spiritual rejuvenation; and

WHEREAS, for these reasons and others, the health and welfare of the community is inseparable from the health and welfare of the Laguna, and indeed the health of the Laguna is a representation of the health of the human and nonhuman community of Ahuachapán; and

WHEREAS, the health of the Laguna has reached a crisis point, endangering the life of all species that live within or near it, or that depend upon the Laguna being a healthy and thriving entity -- including the human and nonhuman community of Ahuachapán; and

WHEREAS, the Earth’s freshwater sources are in crisis everywhere, with as much as 80 percent of the global population threatened with an inability to access freshwater in either sufficient quantity or quality, and by 2030 the world’s demand for freshwater will exceed supplies by 40 percent;¹ and

WHEREAS, El Salvador’s freshwater crisis will likely result in water-stressed conditions for much of its population and reductions in available surface water due to the impacts of the

¹ FRESHWATER HEALTH INDEX, <https://www.freshwaterhealthindex.org/> (last visited May 29, 2019).

global climate emergency and mismanagement of water,² underscoring the urgent need protect existing freshwater entities; and

WHEREAS, in 2016, the United Nations recommended that El Salvador commit to restoring and improving water access, particularly to its rural population and indigenous groups;³ and

WHEREAS, El Salvador obtains nearly 70 percent of its freshwater from surface water sources which are in grave danger due to unregulated pollution and agricultural run-off;⁴ and

WHEREAS, facing these sobering trends in the face of climate emergencies, negligent development schemes, and extractive economic regimes, in recent years the government of El Salvador has made strong commitments to protect and restore its ecosystems; and

WHEREAS, in 2017, El Salvador became the first country in the world to ban metal mining in order to protect the country's water sources;⁵ and

WHEREAS, in order to protect the well-being of both Nature and the human population, El Salvador is expected to pass the Climate Change Framework Law in 2019;⁶ and

WHEREAS, despite these praiseworthy commitments, the protection and restoration of lakes and rivers will never be achieved, whether in Ahuachapán or anywhere else, so long as Nature is treated as mere sewer or resource for human exploitation, which fuels the destruction of entire ecosystems for short-term profit, rather than treating Nature as a living, rights-bearing entity; and

WHEREAS, a growing number of governments around the world have rediscovered the basic truth that humans must live in harmony with Nature in order to protect all life on the planet and therefore have taken action to recognize the Rights of Nature in law, including the rights of particular ecosystems; and

WHEREAS, such actions include, among many others: incorporation of the Rights of Nature into the constitution of Ecuador, adoption of Rights of Nature laws by the national government of Bolivia, a New Zealand treaty recognizing the Whanganui River (or “Te Awa Tupua”) as “an indivisible and living whole” and “a legal person,” a Colombia Constitutional Court decision recognizing the Atrato River as a subject of fundamental rights, Mexico City's approval of a new constitution recognizing Nature's rights, the United Nations Universal

² USAID, CLIMATE CHANGE RISK PROFILE EL SALVADOR 3 (2017), <https://www.climatelinks.org/resources/climate-change-risk-profile-el-salvador>.

³ Léo Heller (Special Rapporteur on the Human Rights to Safe Drinking Water and Sanitation), *Report by the Special Rapporteur on the Human Right to Safe Drinking Water and Sanitation on His Mission to El Salvador*, 15-16 (2016).

⁴ *Id.* at 10.

⁵ Gene Palumbo & Elizabeth Malkin, *El Salvador, Prizing Water Over Gold, Bans All Metal Mining*, N.Y. TIMES (Mar. 29, 2017), <https://www.nytimes.com/2017/03/29/world/americas/el-salvador-prizing-water-over-gold-bans-all-metal-mining.html>.

⁶ USAID, *supra* note 2, at 4.

Declaration of the Rights of Mother Earth, and municipal recognition of Nature’s rights in ordinances adopted by dozens of cities across the United States; and

WHEREAS, the citizens of Ahuachapán are inspired by the growing Rights of Nature movement and believe that Ahuachapán must also evolve its own governance of and relationship with Nature, beginning with the recognition of La Laguna El Espino as a subject of certain inalienable rights, including rights to life, to integral and systemic health, and to restoration; and

WHEREAS, the government of Ahuachapán hereby determines that it can best protect the health, safety, and welfare of its residents, which are inseparable from the welfare of La Laguna El Espino, and can best contribute to the global movement to respect and promote the Rights of Nature, and in particular the inalienable rights of waterways, lakes, and watersheds, by incorporating those rights into its laws, policies, and practices, and by sharing information about Nature’s rights with members of other communities in El Salvador and elsewhere.

NOW, THEREFORE, THE CITIZENS OF AHUACHAPÁN DO HEREBY DECLARE AS FOLLOWS:

Section 2. Rights of La Laguna El Espino. The Laguna is a legal entity and subject of fundamental rights, including, but not limited to, the following:

- A. the right to life, and a holistic, thriving existence;
- B. the right to integral and systemic health;
- C. the right to exist free from pollution;
- D. the right to support all essential functions within its ecosystem;
- E. the right to support native biodiversity and all naturally occurring species;
- F. the right to restoration and rehabilitation;
- G. the right to a sustainable climate; and
- H. the right to independent legal guardianship to secure all of these rights.

Section 3. Effectuating the Rights of La Laguna El Espino. The citizens of Ahuachapán call upon the municipal government to effectuate the rights of La Laguna El Espino by modifying laws, policies, and practices such that the rights enumerated in Section 2 are fully and promptly enforced. The government of Ahuachapán shall effectuate the rights of La Laguna El Espino in close coordination with all relevant stakeholders—local communities, municipal, regional, and federal governments, indigenous peoples, scientists and other subject matter experts, civil society, companies, and so forth.

Section 4. Human Environmental Rights. All current and future generations of humans also possess fundamental rights that are dependent upon effectuating the rights of La Laguna El Espino. Therefore, the citizens of Ahuachapán call upon the municipal government to recognize and effectuate these human environmental rights, as well. Such human environmental rights include the right to a healthy and sustainable climate and rights to clean air, water, and soil.

Section 5. Non-Interference with Other Rights. Nothing in this Declaration shall interfere with the rights of indigenous communities and other human communities to fulfill their cultural, religious, and territorial rights in relation to La Laguna El Espino.

Section 6. Guardianship. The municipal government shall appoint an independent and transparent body of between three and seven qualified and appropriate legal guardians to act solely on behalf of the rights and interests of the Laguna. The Guardians shall be comprised of at least one scientist, at least one member of an indigenous tribe, and the remaining Guardians shall be other community members from Ahuachapán or members of communities directly dependent upon the Laguna.

Section 7. Duties of the Guardians. The Guardians shall uphold the rights of the Laguna in any way that the Guardians deem necessary including, but not limited to:

- A. Representing the Laguna in any legal proceeding or before any governmental body empowered to affect it;
- B. Bringing legal action against any party intent on violating any of the Laguna's rights as set forth in this Declaration;
- C. Entering into contracts on behalf of the Laguna; and
- D. Conducting open and public meetings providing an opportunity for members of the public to comment on any matter before the Guardians prior to action being taken on behalf of the Laguna on that matter; and
- E. Taking other actions reasonably necessary to perform the Guardians' functions.

Section 8. Written Statements by the Authority. For any significant action taken on behalf of the Laguna, the Guardians shall release a written statement justifying how such actions honor and uphold the rights of the Laguna, and further the policies set forth in this Declaration.

Section 9. Annual Report and Hearing. Once each 12-month period, the Guardians shall prepare a written report to the community on the state of the Laguna and the realization of the rights recognized in this Declaration. The report shall include recommendations for advancing and ensuring sustainability for the Laguna.

Section 10. Legal Standing of the Laguna. The Laguna shall have standing in courts of law, realized by legal action taken by the Guardians on behalf of the Laguna.

Section 11. Definitions.

- A. "Ecosystems" includes natural communities, their innumerable connections and relations to each other, and their habitats, such as their natural food supply, forests, grasslands, shrub lands, wetlands, groundwater systems, surface water systems, rivers, streams, aquifers, mountains, the atmosphere, and Earth's climate.
- B. "Biodiversity" is the variety of all life in an ecosystem, whose membership is ordinarily in flux, with a high degree of biodiversity indicative of a healthy ecosystem and a low degree of biodiversity indicative of an unhealthy ecosystem.
- C. "Species" are a group of living organisms consisting of similar individuals capable of exchanging genes or interbreeding.

- D. “Rights of Nature” is the recognition that Nature, and all living and nonliving beings and ecosystems within Nature, have equivalent moral and intrinsic value; that such moral value includes the inalienable rights to exist, to thrive, to naturally evolve, to regenerate and reproduce, to be protected, and to be restored; and rather than treating Nature as property which has been the foundation of much of the destruction of Earth’s habitat, Rights of Nature recognizes the universal truth that Nature in all its varied forms must be given equivalent legal rights subject to the full enforcement of the human community.
- E. “Ahuachapán” includes the municipality of Ahuachapán, the communities surrounding Ahuachapán itself, and the communities adjacent to, or dependent upon, or responsible for the pollution and/or health of, La Laguna El Espino.
- F. “La Laguna El Espino” includes not only the body of water called La Laguna El Espino and the surrounding area, but also all life within the water and dependent in some way on the water including birds, insects, mammals, reptiles, amphibians, humans, and all others. Not all life referred to in this Declaration may reside in, on, or even adjacent to the Laguna.