



**Stakeholder Communication Form**  
**(Version 01.0)**

*This form shall be used for any CDM-related communication with the UNFCCC secretariat or the CDM Executive Board. All the questions are mandatory unless otherwise indicated.*

*The completed form and any supplemental documents shall be submitted electronically to [cdm-info@unfccc.int](mailto:cdm-info@unfccc.int), or via fax to +49-228-815-1999 or via post to: Sustainable Development Mechanism (SDM) Programme, UNFCCC secretariat, P.O. Box 260124, D-53153 Bonn, Germany.*

**SECTION 1: COMMUNICATION HEADER**

*Please provide your contact information.*

**Title:** [Choose an item]    **First Name:** \_\_\_\_\_    **Last Name:** \_\_\_\_\_

**Name of Organization:** \_\_\_\_\_    **E-mail Address:** \_\_\_\_\_

**Postal Address:** \_\_\_\_\_    **Phone Number:** \_\_\_\_\_  
**Country:** \_\_\_\_\_    *Include country code (e.g. +49-228-815-1999)*

**Stakeholder Type:** [Choose an item]    If other: \_\_\_\_\_

*Please indicate from whom you would like to get an answer.*

**This communication is addressed to<sup>1</sup>:** [Choose an item]

**SECTION 2: PROJECT ACTIVITY OR PROGRAMME OF ACTIVITIES (POA)**

*If this communication refers to a specific CDM project activity/PoA, please answer questions in this section (otherwise proceed to Section 3).*

**Project/PoA Ref. Number** \_\_\_\_\_    If applicable, CPA Ref. Number: \_\_\_\_\_  
*5-digit# format 01234*    *8-digit# format 0123-4567*

**Project Cycle Stage** [Choose an item]    If other: \_\_\_\_\_

*If there is no specific CDM Reference Number, please answer the remaining questions in this section (otherwise proceed to Section 3).*

**Host Country(ies)** \_\_\_\_\_

**Project/PoA Title** \_\_\_\_\_

**Technology Type** [Choose an item]    If other: \_\_\_\_\_

**SECTION 3: YOUR COMMUNICATION**

**Title/Subject** \_\_\_\_\_  
*Maximum 250 characters*

**Communication Text** \_\_\_\_\_  
*Include background, details, and conclusion (unlimited length)*

**Supplemental Documents** \_\_\_\_\_  
*If applicable, list the title(s) of any attached file(s) or link(s)*

**This communication may be made public** [Choose an item]

<sup>1</sup> In accordance with the "Procedure: Direct communication with stakeholders" (version 02.0), stakeholders may address communications either (a) to the secretariat, in order to seek a fast-track technical or operational explanation regarding the implementation of existing CDM rules, or (b) to the CDM Executive Board, in order to communicate to the Board their views on CDM rules and their implementation, or to seek official clarifications of CDM rules.

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### Document information

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<i>Version</i>	<i>Date</i>	<i>Description</i>
01.0	02 March 2015	This form supersedes and replaces the following: <ul style="list-style-type: none"><li>• F-CDM-RtB: <i>Form for submission of Letters to the Board</i> (version 01.2)</li><li>• F-CDM-RtB-DOE: <i>Form for communication on policy issues initiated by AEs/DOEs</i> (version 01.1)</li><li>• CDM-RtB-DNA: <i>Form for communication on policy issues initiated by DNAs</i> (version 01.1)</li></ul>

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Decision Class: Regulatory  
Document Type: Form  
Business Function: Governance  
Keywords: communications

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To the CDM Executive Board  
Martin Luther King Strasse 8  
P. O. Box 260124  
D-53153

**Re: Request to support due implementation of CDM rules re #3237: Barro Blanco Hydroelectric Project**

16 July 2015

Dear Mr Schneider, Dear Mr Buendia,

We, the April 10 Movement for the Defense of the Tabasara River (M-10), Alianza para la Conservacion y el Desarrollo (ACD) and Asociacion Ambientalista de Chiriqui (ASAMCHI), are writing to inform you about the decision of the Panamanian government to temporarily suspend the project Barro Blanco Hydroelectric Power Plant, in the Tabasara River, Panama (project number 3237). The decision was taken because of breaches of the national environmental impact assessment requirements, including shortcomings in the agreement with the locally affected indigenous communities.

In light of the recent decision that the CDM local stakeholder consultations are to be conducted “in accordance with applicable national regulations, if any.”<sup>1</sup>, we hereby ask the CDM Board to take action, including to coordinate with ongoing investigations, react to the suspension decision of the Panamanian government, and suspend the project upon finding non-compliance with the current CDM rules and procedures.

Let us first provide you with the most recent developments surrounding the Barro Blanco hydroelectric project: In 2008, the Autoridad Nacional del Ambiente (ANAM), granted approval to the project under the mandatory condition of an agreement between GENISA, the developer of the Barro Blanco hydroelectric project in Panama, and the indigenous Ngöbe-Buglé communities, who will be affected by the dam as it would flood their territory, homes, schools, as well as religious, archaeological, and cultural sites. On 19 January 2015, following the continued protests of the affected indigenous communities, the President of Panama, Juan Carlos Varela, designated a high-level commission headed by Vice-President Isabel de Saint Malo to start a dialogue with a special commission of the Ngöbe-Buglé.

Recognizing the lack of agreement with the affected Ngöbe-Buglé communities<sup>2</sup>, ANAM issued a temporary suspension of the construction work of the Barro Blanco hydroelectric dam on 9 February 2015. During the dialogue that held 11 meetings and extended until 18 May 2015, the government recognized in several occasions that the company GENISA has failed to reach an agreement with the Ngöbe-Buglé indigenous peoples.

In May 2015, following a complaint filed by M-10, who are representing the indigenous Ngöbe-Buglé peoples, a report<sup>3</sup> was published by the Independent Complaints Mechanism (ICM) of the German and

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<sup>1</sup> CDM-EB81-A04, CDM validation and verification standard, 146d

<sup>2</sup> Please see ANAM’s suspension decision in Annex 1, para. 1 page 3

<sup>3</sup> <https://www.deginvest.de/International-financing/DEG/Die-DEG/Verantwortung/Beschwerdemanagement/Barro-Blanco/>

Dutch development banks (DEG and FMO), who are amongst the banks financing the project. This report concluded that the banks violated their own policies by failing to adequately assess the risks to indigenous rights and the environment before approving a US\$50 million loan to GENISA. The ICM found that the “lenders [FMO and DEG] should have sought greater clarity on whether there was consent to the project from the appropriate indigenous authorities prior to project approval.”<sup>4</sup>

Currently, the situation is more than critical as a decision on the future of the 95% complete hydro dam is being negotiated. Indigenous communities continue to defend their rights, blocking access to the site and demanding the cancellation of the project.

Against the newly clarified CDM consultation rules that need to be in line with national laws, this is a critical time for the CDM Board to take action to ensure due implementation of the CDM rules. This is especially important because the Barro Blanco project was registered under the CDM in 2011, despite repeated concerns that were communicated to the Board via two letters submitted by local representatives sent on 9 February 2011 and 24 March 2011.<sup>5</sup> The findings from these two submissions strongly suggest that the CDM local stakeholder consultation rules were not met.

There are several ways the CDM Board could act that would encourage the due implementation of existing standards and rules. For example:

- Coordinate with financing banks and demand information about the ongoing investigations and findings.
- Launch a separate investigation to ensure compliance with the current CDM rules and procedures on local stakeholder consultation and consider options in case of non-compliance, such as a suspension of the project.
- Follow up with the national authorities, enquire about the project status and about whether the government considers withdrawing the letter of approval following their acknowledgment of flaws and mishandling.
- Consider options to address concerns that may lay outside of the CDM Board’s mandate by including recommendations in your annual report to the CMP towards establishing a CDM grievance mechanism, taking into account the need to operationalize the COP decision 1/CP.16, namely that “Parties should, in all climate change-related actions, fully respect Human Rights<sup>6</sup>”.

We remain at your disposal for further information and look forward to your response,

Yours sincerely,

Rubén González, Alianza para la Conservacion y el Desarrollo (ACD)

Goejet Miranda, April 10 Movement for the Defense of the Tabasara River (M-10)

Oscar Sogandares, Asociacion Ambientalista de Chiriqui (ASAMCHI)

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<sup>4</sup> *Ibid.*

<sup>5</sup> Please see the letters in Annex 2 and 3

<sup>6</sup> <http://unfccc.int/resource/docs/2010/cop16/eng/07a01.pdf>

**República de Panamá**  
**AUTORIDAD NACIONAL DEL AMBIENTE (ANAM)**  
**PROVIDENCIA AG- 0001**  
De 09 de Febrero de 2015.

Que inicia proceso administrativo por infracciones ambientales contra **GENERADORA DEL ISTMO, S.A., e HIDRÁULICA SAN JOSÉ, S.A.**

La suscrita Administradora General, de la Autoridad Nacional del Ambiente (ANAM), en uso de sus facultades legales, y

**CONSIDERANDO:**

Que las empresas **GENERADORA DEL ISTMO, S.A. (GENISA)**, persona jurídica inscrita en el Registro Público a Ficha 527440, Documento 958537, cuyo representante legal es ALDO LÓPEZ, con pasaporte No. 00641936K, con domicilio en Edificio Capital Plaza, Costa del Este, Paseo Roberto Motta, Oficina 1401, Ciudad de Panamá, e **HIDRÁULICA SAN JOSÉ S.A.**, persona jurídica inscrita en el Registro Público a Ficha 708626, Documento 1818848, cuyo representante legal es JOSÉ LUIS GAMARRA, con pasaporte No. BC135628, con domicilio en Avenida 4 Oeste, Calle Dr. Ernesto Pérez Balladares, David, Chiriquí, y teléfono 775-9944, llevan a cabo obras en el Río Tabasará relacionados a la construcción y operación de una planta de generación hidroeléctrica de una capacidad instalada de 28.84 MW, para lo cual la Autoridad Nacional del Ambiente le ha aprobado los siguientes Estudios de Impacto Ambiental.

- Estudio de Impacto Ambiental Categoría III para “Construcción y Operación del Proyecto Hidroeléctrico Barro Blanco”, mediante Resolución DIEORA IA-332-2008 de 9 de mayo de 2008, modificada por las Resoluciones AG-0101-2010 de 25 de enero de 2010 y la Resolución AG-0303-2010 del 1 de marzo de 2010.
- Estudio de Impacto Ambiental Categoría I para “Galera Temporal - Proyecto Hidroeléctrico Barro Blanco”, mediante Resolución DIEORA IA-150-2010 de 10 de marzo de 2010, modificada por la Resolución DIEORA-IAM-092-2011 de 30 de agosto de 2011.
- Estudio de Impacto Ambiental Categoría I para “Sub Estaciones y Línea de Transmisión 230 KV”, mediante Resolución DIEORA IA-144-2010 de 10 de marzo de 2010.
- Estudio de Impacto Ambiental Categoría I para “Camino de acceso del Proyecto Hidroeléctrico Barro Blanco”, mediante Resolución DIEORA IA-304-2010 de 3 de mayo de 2010.
- Estudio de Impacto Ambiental Categoría I para “Habilitación de áreas para manejo y disposición de materiales y productos generados por las actividades de remoción de tierra para el desarrollo y construcción del Proyecto Hidroeléctrico Barro Blanco y obras complementarias”, mediante Resolución DIEORA IA-679-2011 de 5 de agosto de 2011.
- Estudio de Impacto Ambiental Categoría I para “Central Móvil Dosificadora de Hormigón”, mediante Resolución IA-722-2011 de 23 de agosto de 2011.
- Estudio de Impacto Ambiental Categoría I para “Planta Dosificadora de Hormigón Estribo Izquierdo”, mediante Resolución ARACH-IA-032-2013 de 4 de marzo de 2013.
- Estudio de Impacto Ambiental Categoría I para “Modificación Subestaciones y Líneas de Transmisión 230 KV”, mediante Resolución ARACH-IA-050-2013 de 21 de marzo de 2013.
- Estudio de Impacto Ambiental Categoría I para “Planta Dosificadora de Hormigón de Estribo Derecho”, mediante Resolución IA-ARACH-122-2014 de 18 de julio de 2014.

*Uro*



También durante la inspección se evidenció que la empresa desarrolla talleres de mantenimiento y reparaciones de equipo en el área del embalse en las siguientes coordenadas topográficas E433895 N908988.

Mediante inspecciones realizadas anteriormente, se observó la realización de actividades de extracción de áridos, la cual no tiene un instrumento de gestión ambiental; por consiguiente mediante Nota ARACH-1480-07-13 se le solicita la presentación de una auditoría ambiental obligatoria, la empresa fue notificada el 30 de octubre de 2013 y a la fecha no consta la entrega de dicha documentación, siendo como fecha límite el 18 de noviembre de 2013. La empresa realizó extracción con permiso del Ministerio de Comercio e Industria: Resolución 2012-584, Resolución 2012-602, Resolución No. 2011-583 expedido el 13 de octubre de 2011 y Resolución No.2014-28 de 30 de enero de 2014. La extracción corresponde a 50,000 m<sup>3</sup> según permiso del Ministerio de Comercio e Industria.

Las actividades de establecimiento de materiales de acopio en botadero N°2, talleres en el área del embalse y extracción de áridos en el río Tabasará no cuenta con Estudio de Impacto Ambiental Aprobado.

- 3.2 Durante la inspección se evidenció acumulación de desechos sólidos, madera chatarra, equipos dañados en los predios del proyecto. Este es un incumplimiento a la Resolución de Aprobación DIEORA-IA 332-2008.
- 3.3 En el sitio de presa, a ambos lados del río, no se observó la implementación de medidas eficientes que controlen la escorrentía superficial de aguas y aporte de sedimentos, donde se observan taludes desprovistos, sin protección temporal, como tampoco el manejo del agua de escorrentía. También en la evaluación del informe Semestral de Cumplimiento Ambiental. Para el periodo de Febrero a Julio 2014. Seguimiento a Plan de Manejo Socio Ambiental del Proyecto Hidroeléctrico Barro Blanco las evidencias de la implementación de las medidas de control de erosión no refleja la aplicación de las mismas ya que se presenta fotografías de limpieza de las tinas de lavado de mixer, limpieza de las tinas de sedimentación, riego de caminos para minimizar las partículas de suspensión y limpieza de las tinas de sedimentación de la planta trituradora. Aunado, mediante revisión del expediente no consta la entrega por parte de la empresa del Plan de control de erosión y sedimentación solicitado mediante Nota ARACH-2622-09-12.
- 3.4 Durante la inspección se evidenció en el proyecto partículas de suspensión (polvo) y la frecuencia de riego muy baja ya que solo cuenta con un solo camión cisterna de agua como tampoco se presenta en el informe Semestral de Cumplimiento Ambiental. Para el periodo de Febrero a Julio 2014. No se evidencia del cumplimiento de esta medida con un registro de las áreas para irrigación y cantidad de camiones. También durante la inspección se evidenció que los camiones volquetes no utilizan las lonas. Este es un incumplimiento al Plan de manejo ambiental del Estudio de Impacto Ambiental.
- 3.5 Durante la evaluación del informe Semestral de Cumplimiento Ambiental. Para el periodo de Febrero a Julio 2014. Seguimiento a Plan de Manejo Socio Ambiental del Proyecto Hidroeléctrico Barro Blanco no se evidencia del cumplimiento de la coordinación con la Dirección Regional de Obras Públicas para la atención del tramo de carretera interamericana de Tolé-entrada a la finca (Santiago- Castillo).
- 3.6 Durante la inspección en el camino de acceso hacia sitio presa se observó un articulado que tuvo un desperfecto mecánico del sistema hidráulico y se estaba realizando la reparación sin poner material absorbente como tampoco un recipiente para drenar el aceite teniendo contacto directo sobre la superficie del suelo. Este es un incumplimiento al Plan de manejo ambiental del Estudio de Impacto Ambiental.



Que en virtud de la facultad descrita en el artículo 56 del Decreto Ejecutivo 123 de 14 de agosto de 2009, funcionarios del Área de Protección Ambiental de la Administración Regional de la Autoridad Nacional del Ambiente en Chiriquí, realizaron inspecciones de seguimiento al cumplimiento de dichos Estudios de Impacto Ambiental, sus resoluciones ambientales y la normativa ambiental aplicable.

Que dentro de dichas inspecciones, en el Informe técnico N° 009-01-2015 del 21 de enero del 2015 de inspección realizada el 14 de enero del 2015 al proyecto denominado “Construcción y Operación del Proyecto Hidroeléctrico Barro Blanco”, resaltan los siguientes hallazgos de incumplimiento que resultan particularmente graves a meses del cierre de presa e inundación:

1. Se verifica la siguiente medida: Resolución de Aprobación DIEORA-IA 332-2008. El promotor deberá definir y coordinar en detalle, los derechos fundamentales de la comarca Ngobe-Buglé y los acuerdos a los que ésta llegue con la empresa. A su vez, deberá presentar a la Administración Regional correspondiente una copia donde se establezca los acuerdos entre ambas partes. Durante la evaluación del informe Semestral de Cumplimiento Ambiental para el periodo de Febrero a Julio 2014, en seguimiento al Plan de Manejo Socio Ambiental del Proyecto Hidroeléctrico Barro Blanco, no se presenta evidencia documentada del cumplimiento de esta medida.
2. Se verifica la siguiente medida: Resolución de Aprobación DIEORA-IA 332-2008. El promotor es responsable legal y financieramente del proceso de negociación, reubicación e indemnización a los afectados por el desarrollo del proyecto. Durante la evaluación del informe Semestral de Cumplimiento Ambiental para el periodo de Febrero a Julio 2014, no se presenta evidencia de acuerdo con los propietarios de fincas que serán afectados por el embalse.
3. Se verifica la siguiente medida: Plan de Manejo Ambiental del Estudio de Impacto Ambiental. Evaluación y protección de los hallazgos arqueológicos del área del proyecto mediante un especialista del INAC. Entrega del informe luego de realizada la evaluación geotécnica y con los planos finales. Durante la evaluación del Informe Semestral de Cumplimiento Ambiental para el periodo de Febrero a Julio 2014, la empresa presenta ayuda memoria Proyecto Hidroeléctrico Barro Blanco 15 de julio de 2013 en la cual se discutió las medidas a seguir para la protección de los petroglifos, sin embargo no se presenta las evidencias de gestiones y aprobaciones de las propuestas con el Instituto Nacional de Cultura, Dirección Nacional de Patrimonio Histórico.

Que dichos informes dan cuenta de hallazgos de incumplimiento adicionales en el área de construcción de los proyectos, que incluyen:

1. Informe técnico N° 107-06-2013 del 20 de junio de 2013 de inspección realizada el 6 de junio de 2013 al proyecto denominado “Construcción y Operación del Proyecto Hidroeléctrico Barro Blanco” del promotor GENISA.
  - 1.1 En el sitio de presa, a ambos lados del río, no se observó la implementación de medidas eficientes que controlen la escorrentía superficial de aguas y sedimentos. Aunado, mediante revisión del expediente no consta la entrega por parte de la empresa del Plan de Control de Erosión y Sedimentos solicitado mediante Nota ARACH-2622-09-12. Por otra parte en el informe N° 4 se evidencia que en los meses de temporada lluviosa (agosto y octubre del 2012) no son eficientes las medidas aplicadas para el control de erosión, ya que en los lo monitoreo de agua superficiales; los parámetros de sólidos suspendidos y turbidez se encuentran por encima de límite máximo permisible.



- 1.2 Al momento de la inspección se observa la realización de actividades de extracción de material pétreo no metálico, y mediante revisión de documentos, se señala en la página No. 66 del EsIA Central Hidroeléctrica Barro Blanco, en el Punto 4.6.4. “Necesidades de Insumos durante la Construcción el material pétreo provendrá de canteras ubicadas próximas al proyecto...sin embargo, el promotor iniciará la gestión para la solicitud de exploración de material no metálico en el tramo del río Tabasará desde el sitio de Presa hasta la confluencia del río Tabasará con el río Cuvíbora”... y en el artículo No. 2 de la Resolución de aprobación se señala la presentación de un EsIA para la realización de actividades de extracción.
2. Informe técnico N° 031-02-2014 del 24 de febrero del 2014 de inspección realizada el 31 de enero del 2014 al mismo proyecto.
  - 2.1 En el sitio de presa, a ambos lados del río, no se observó la implementación de medidas eficientes que controlen la escorrentía superficial de aguas y aportes de sedimentos y se observan taludes desprovisto de vegetación. Aunado, mediante revisión del expediente no consta la entrega por parte de la empresa del Plan de Control de Erosión y Sedimentos solicitado mediante Nota ARACH-2622-09-12.
  - 2.2 Mediante inspecciones realizadas anteriormente, se observó la realización de actividades de extracción de áridos, la cual no tiene instrumento de gestión ambiental, por consiguiente mediante Nota ARACH-1487-13 se le solicita la presentación de un auditoría ambiental obligatoria y a la fecha no consta la entrega de dicha documentación, siendo como la fecha límite el 18 de noviembre del 2013.
  - 2.3 Al momento de la inspección se observa la realización de las actividades de tala de la vegetación existente en el área correspondiente al sitio de embalse; donde según entrevista con el gestor ambiental de la empresa señala que el manejo de los residuos es la venta comercial de la madera, incumpliendo con lo señalado en el Estudio de Impacto Ambiental aprobado que establece la realización de abonos orgánicos.
  - 2.4 Durante la inspección efectuada, se observa que se realiza la irrigación de los caminos internos del proyecto en baja frecuencia, incumplimiento con la medida: “Programa de irrigación con agua en la época de baja humedad; así como el empleo de lonas para cubrir los vagones de los camiones”.
  - 2.5 Al momento de la inspección efectuada, se observa que en la dosificadora ubicada en la margen derecha el río Tabasará, existen trazas de lavado de mixer fuera de las norias y con recorrido hacia el cauce de la Quebrada Manchuria. Adicional, se observa la deposición de residuos de las norias en el sitio de botadero. Incumplimiento con la medida: Actividades de concreto debe efectuarse a una distancia no menor de 250 metros de la fuente de agua.
  - 2.6 Se observa los taludes intervenidos por la construcción, desprovisto de vegetación o cualquier otro tipo de material que permita mejorar la estabilidad de éstos. incumplimiento con la medida: “Siembra de especies vegetales para mantener la estabilidad de los taludes”.
3. Informe técnico N° 009-01-2015 del 21 de enero del 2015 de inspección realizada el 14 de enero del 2015 al mismo proyecto.
  - 3.1 Durante la inspección se observó diferentes actividades en el área de botadero N°2 tales como: adecuaciones del terreno con grava, construcción de una losa de hormigón aproximadamente 6m<sup>2</sup>, construcción de una galera para depósito, talleres y comedores. En el área se colocó materiales de construcción y piezas de maquinaria y turbina.

*[Handwritten signature]*



- 3.7 Durante la evaluación del informe Semestral de Cumplimiento Ambiental. Para el periodo de Febrero a Julio 2014. Seguimiento a Plan de Manejo Socio Ambiental del Proyecto Hidroeléctrico Barro Blanco no se evidencia el cumplimiento de los reportes diarios de verificación del equipo por parte del operador y no se refleja el mantenimiento realizado a la maquinaria de acuerdo a las horas trabajadas.
- 3.8 Al momento de la inspección se observa la realización de las actividades de extracción de madera se le pregunta al gestor ambiental y nos comunica que es para aprovechamiento en el proyecto, sin embargo al consultar en el departamento forestal no han realizado el pago del aforo correspondiente. Esta medida está señalada en el permiso de limpieza por indemnización ecológica N°122-2013.
- 3.9 Mediante la evaluación del informe Semestral de Cumplimiento Ambiental para el periodo de Febrero a Julio 2014, se verificó que no se presenta evidencia documentada de las inspecciones realizadas por el SINAPROC a los depósitos de insumos de naturaleza inflamable.
- 3.10 Mediante la evaluación del informe Semestral de Cumplimiento Ambiental para el periodo de Febrero a Julio 2014, se verificó que no se presenta evidencia de inspección semestral por parte de la Oficina de Seguridad de Cuerpo de Bomberos de Panamá.
- 3.11 En los monitoreo de ruido ambiental durante el turno diurno presentado el 8 de febrero de 2014 presenta incumplimiento Punto N°1 Frente al campamento temporal del comedor (74.3 dBA) y Punto N°4 Costado derecho sitio presa (65.6 dBA), como también para el turno nocturno se encuentra por encima del límite máximo Punto N°1 Frente al campamento temporal del comedor (67.2 dBA), Punto N°2 Sra. Bertha González. (61.4 dBA) Punto N°3 Sr Onelio González. (56.4 dBA) Punto N°4 Costado derecho sitio presa (58.9 dBA). El 13 y 14 de marzo de 2014 se presenta incumplimiento en el Punto N°2 Sra. Berta González (62.5 dBA) para el turno nocturno Punto N°1 Sr. Onelio González (56.0) Punto N°2 Sra. Berta González (62.5 dBA). La empresa no evidencia medidas para mitigar el ruido ambiental.
- 3.12 Durante la evaluación informe Semestral de Cumplimiento Ambiental, para el periodo de Febrero a Julio 2014, no se evidencia registros y certificados de disposición final por empresas autorizadas para el manejo de los desechos de hidrocarburos.
- 3.13 Al momento de la inspección se observa que en la dosificadora ubicada en el margen derecho del río Tabasará, existen concretos en el cauce de la Quebrada Manchuria. Adicional, se observó la gran cantidad de lodos de residuos de concreto cerca de la fuente hídrica.
- 3.14 Durante la evaluación del informe Semestral de Cumplimiento Ambiental, para el periodo de Febrero a Julio 2014, no se presenta evidencia documentada del cumplimiento del Plan de Contingencia.
- 3.15 En el área del taller no se ha implementado un programa de almacenamiento y manejo de las sustancias peligrosas, ya que durante la inspección no se evidenció un inventario actualizado de las sustancias peligrosas, no tiene las hojas de seguridad, no existe un plan de etiquetado e identificación de las sustancia, no se encuentra dentro de bandejas de contenciones secundarias, tanques de materiales peligroso dispersos por las instalaciones del taller, almacenamiento de sustancias en recipientes inadecuados, no hay extintores en el área como tampoco kit de derrames de derrame de sustancias peligrosas. También se evidencio manchas de hidrocarburos en el suelo por todo el área del taller.



- 3.16 Durante la inspección se observó un camión volquete que contenía en su vagón un tanque de combustible en ese momento se hacía de abastecimiento de la caseta de combustible, el mismo no está acondicionado para esta actividad.
4. Informe Técnico N° 116-07-2013 del 15 de julio de 2013 de inspección realizada el 6 de junio de 2013 al proyecto denominado "Planta Dosificadora de Hormigón Estribo Izquierdo" de HIDRÁULICA SAN JOSÉ, S.A.
- 4.1 En la revisión del expediente solo reposa un solo informe de seguimiento ambiental recibido en la ANAM el 20 de febrero de 2014, dicho proyecto se encuentra en operación.
5. Informe Técnico N° 024-02-14 del 10 de febrero de 2014 de inspección realizada el 31 de enero del 2014 al proyecto denominado "Sub Estaciones y Línea de Transmisión 230kV" del promotor GENISA.
- 5.1 Falta de evidencia de informes que sustente los avances del proyecto y la aplicación de las medidas para mitigar los impactos.
6. Informe Técnico N° 038-03-2014 10 de marzo de 2014 de inspección realizada el 31 de enero de 2014.
- 6.1 Durante inspección realizada, se observó en el recorrido del camino construido, la siembra de vetiver en ciertas áreas de los taludes, sin embargo se encuentra desprovisto en distintas áreas y adicional algunas de las especies sembradas han resultado afectadas por la temporada seca y se han desprendido del talud, no acorde con medidas de mitigación del Plan de Manejo Ambiental.
- 6.2 Presentación de Informes de Cumplimiento Ambiental los periodos de: Marzo 2013-Agosto 2013 y Septiembre 2013-Febrero 2014 no conforme con el Artículo 4 de medidas de mitigación del Plan de Manejo Ambiental, el cual establece: "Presentar, cada 6 meses, ante la Administración Regional del Ambiente correspondiente, para evaluación y aprobación, mientras dure la implementación de las medidas de mitigación, control y compensación un informe sobre la aplicación y la eficiencia de dicha medidas, de acuerdo a lo señalado en estudio de impacto ambiental.
- 6.3 Se observa baja frecuencia de humedecimiento de los caminos internos incrementando la proliferación de partículas de polvo. Hallazgo que incumple con medidas de mitigación del Plan de Manejo Ambiental. Numeral 2 "Se deberá mantener el área húmeda en especial en época seca para evitar la generación de polvo".
7. Informe Técnico N° 124-07-2013 del 18 de julio de 2013 de inspección realizada el 6 de junio de 2013, al proyecto "Central Móvil Dosificadora de Hormigón", del promotor HIDRÁULICA SAN JOSÉ, S.A.
- 7.1 El permiso de descarga fue negado mediante resolución AG0074-2014 del 10 de febrero de 2014 por no cumplir con los parámetros de turbiedad y coliformes totales.

Que, en cuanto a las infracciones ambientales, el numeral 18 del artículo 7 de la Ley 41 de 1 de julio de 1998 faculta a la Autoridad Nacional del Ambiente para imponer sanciones y multas, de conformidad con la presente Ley, los reglamentos y las disposiciones complementarias; mientras que los artículos 112 y 114 establecen:

Artículo 112. El incumplimiento de las normas de calidad ambiental, del estudio de impacto ambiental, del Programa de Adecuación y Manejo Ambiental, de la presente Ley, leyes y decretos ejecutivos complementarios y de los reglamentos de la presente Ley, será sancionado por la Autoridad Nacional del Ambiente, con

*CGA*



amonestación escrita, suspensión temporal o definitiva de las actividades de la empresa o multa, según sea el caso y la gravedad de la infracción.

Artículo 114. La violación a las normas contempladas en la presente Ley, constituyen infracción administrativa, y será sancionada por la Autoridad Nacional del Ambiente con multa que no excederá de diez millones de balboas con cero centésimo (B/.10,000,000.00). El monto de la sanción corresponderá a la gravedad de la infracción o reincidencia del infractor, de acuerdo con lo establecido en los reglamentos respectivos.

Que sobre el mismo tema, el artículo 103 del Decreto Ejecutivo No. 43 de 7 de julio de 2004, dispone que “[e]l servidor público deberá iniciar las investigaciones de los hechos tan pronto tenga conocimiento de los mismos...”

Que adicionalmente, el Decreto Ejecutivo 123, afirma que “[l]os Promotores quedarán obligados a cumplir con el Estudio de Impacto Ambiental, el correspondiente Plan de Manejo Ambiental, y cualquier otro aspecto establecido en la Resolución Ambiental que aprueba la ejecución de un proyecto, obra o actividad, a evaluar su cumplimiento, a realizar el seguimiento, vigilancia y control ambiental, y enviar los informes y resultados con la periodicidad solicitada.”

Que, en cuanto a la paralización temporal de las obras, el artículo 30 de la Ley 41 y el artículo 104 del Decreto Ejecutivo No. 43, señalan lo siguiente:

Artículo 30. Por el incumplimiento en la presentación o ejecución del estudio de impacto ambiental, la Autoridad Nacional del Ambiente podrá paralizar las actividades del proyecto e imponer sanciones según corresponda.”

Artículo 104. Al inicio de la investigación la autoridad competente podrá adoptar medidas provisionales o cautelares, tales como: retención y devolución al medio silvestre de los especímenes la retención de los instrumentos, armas y medios de transporte, el cierre temporal de los negocios y la suspensión de actividades o trabajos, hasta tanto se adopte una decisión definitiva sobre el asunto.

Que el 106 de la Ley 41 establece que “[t]oda persona natural o jurídica está en la obligación de prevenir el daño y controlar la contaminación ambiental”.

En atención a lo anteriormente expuesto, la suscrita Administradora General, en uso de sus facultades,

**RESUELVE:**

**PRIMERO: INICIAR** proceso administrativo por infracciones ambientales en contra de las empresas **GENERADORA DEL ISTMO, S.A., e HIDRÁULICA SAN JOSÉ, S.A.**, en todas las obras que llevan a cabo estas empresas en el Río Tabasará relacionadas a la construcción y operación de una planta de generación hidroeléctrica de una capacidad instalada de 28.84 MW; así como cualquier otra actividad que ambas empresas estén ejecutando en el lugar y sus áreas colindantes.

**SEGUNDO: ORDENAR** a las empresas **GENERADORA DEL ISTMO, S.A., e HIDRÁULICA SAN JOSÉ, S.A.**, suspender de inmediato las obras o actividades relacionadas a la construcción y operación de dicha planta, hasta concluir con las investigaciones correspondientes.

**TERCERO:** Previa verificación y supervisión de la ANAM, y a solicitud, permitir a las empresas **GENERADORA DEL ISTMO, S.A., e HIDRÁULICA SAN JOSÉ, S.A.**, realizar, excepcionalmente, obras necesarias para la prevención del daño ambiental, el control de la

*UML*



contaminación ambiental, y la minimización del riesgo de seguridad de las estructuras de los proyectos, que pueda afectar a las comunidades próximas y al ambiente.

**CUARTO: NOTIFICAR** a los representantes legales o apoderados de las empresas **GENERADORA DEL ISTMO, S.A., e HIDRÁULICA SAN JOSÉ, S.A.**, que son objeto de una investigación por presuntas infracciones ambientales por parte de la Autoridad Nacional del Ambiente (ANAM).

**QUINTO: ORDENAR** a los representantes legales de las empresas **GENERADORA DEL ISTMO, S.A., e HIDRÁULICA SAN JOSÉ, S.A.**, que comparezca a la Administración General de la ANAM, a rendir declaración bajo la gravedad de juramento.

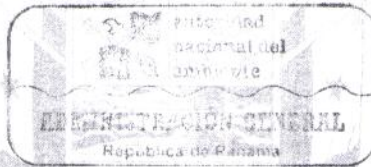
**SEXTO:** Esta providencia surte efectos a partir de su notificación.

**FUNDAMENTO DE DERECHO:** Ley 41 de 1 de julio de 1998, Ley 38 de 31 de julio de 2000, Decreto Ejecutivo No. 43 de 7 de julio de 2004, Decreto Ejecutivo 123 de 14 de agosto de 2009 y demás normas concordantes.

Dada en la ciudad de Panamá, a los NUEVE (09) días, del mes de Febrero, del año dos mil quince (2015).

**NOTIFÍQUESE Y CÚMPLASE,**

*Mirei Endara*  
**MIREI ENDARA**  
Administradora General



**AUTORIDAD NACIONAL DEL AMBIENTE**  
Administración Regional de Chiriquí  
HOY 17 Jueves DE Febrero  
SIENDO LAS 10:47  
NOTIFIQUE PERSONAL Branda Huesil  
Branda Huesil  
NOTIFICADO

*B. Enam*  
*Licda. Cleofaty*

**NOTIFICACION**  
Hoy 9 miércoles del mes de febrero  
del año 2015 se notifiad  
a Aldo Lopez de la  
Resolución No. Resolución AG-01 del día 09 del mes  
febrero del año 2015  
Notificado Aldo L. LOPEZ Notificador Amos Lopez  
Nombre y Apellido Amos Lopez  
N° de Cédula de I.P. E-8-109454 N° de Cédula de I.P. 8-724-6  
Aldo L. Lopez Firma Amos Lopez



To the CDM Executive Board  
Martin Luther King Strasse 8  
P. O. Box 260124  
D-53153

**Re: CDM Project Application #3237: Barro Blanco Hydroelectric Project.**

9 February 2011

Dear Chair of the CDM Executive Board:

We are writing to you on behalf of the April 10 Movement for the Defense of the Tabasara River (M-10), Alianza para la Conservacion y el Desarrollo (ACD), Asociacion Ambientalista de Chiriqui (ASAMCHI), International Rivers Counter Balance coalition and CDM Watch to express our serious concerns about the proposed CDM project involving Generadora del Istmo, S. A. in the Tabasara River in Western Panama.

Following a validation report by the DOE AENOR, which recommends approval, registration of the PA #3237 has been requested. According to the information at the UNFCCC website, review has already been requested based on concerns about the additionality of the project. However, we would like to bring to your attention that not only the additionality of the Barro Blanco Project is seriously questionable, but that our concerns also relate to lack of adequate public consultation and the potential use of CERs for the compensation of affected communities as well as human rights abuses involving the company GENISA against the lands of the Ngobe indigenous peoples.

Human Rights Abuses and Ngobe Land Rights

Both Project Design Documents (PDDs) that were submitted for the project (in October 2008 and July 2009) failed to document the impacts of the Barro Blanco reservoir on the Bakama area of the Ngobe-Bugle Indigenous Comarca (autonomous territory).

During the first validation process, ACD informed the CDM validator, AENOR, about this serious omission and even provided proper evidence of this situation (as recognized in the validation report). As expressed in this document, maps were provided to prove the existence of the affected indigenous communities. The validation report does not indicate what measures were taken by the validator after this information was provided.

During the second validation process, ASAMCHI and ACD both submitted comments and were later in contact with AENOR regarding these concerns. However, despite receiving an automatic receipt that their comments had been received, the comments did not show up on the CDM project page. Yet, the validation report never addressed properly the question of lands of the indigenous communities. This constitutes a serious human rights violation by any state participating in the trade of CERs.

These concerns prompted an investigation by the Complaints Mechanism of the European Investment Bank (EIB) upon numerous complaints of the indigenous communities and environmental groups as the Environmental Impact Assessment entirely denied the existence of these communities along the Tabasara river. In November 2010, GENISA withdrew the request for loans from the EIB upon knowledge of the imminent visit of the EIB complaints office to Panama to meet directly with the affected indigenous communities (which according to the PDD and the validation report will not be affected by the dam project). Currently, the petitioners, which are several of the organizations signing this letter, are waiting for the EIB to release a conclusions report of this investigation. They have requested this information to be

made public and consider that the Executive Board should consider its findings before making a final decision about the validation process.

#### Public Participation and Stakeholder Comments

The Bakama area is legally recognized by the Government of Panama as collective property of the Ngobe indigenous people. Yet, most of the consultation for CDM validation, including the site visit by AENOR, only considered the opinion of the non-indigenous population. In this regard, the validation process for Barro Blanco violated the international principle of free, prior and informed consent contained in ILO 169 and the UN Declaration on Indigenous Peoples.

In May 2009, the UN Rapporteur on Indigenous Peoples, James Anaya, also issued a report documenting human rights violations in the construction of the Chan 75 hydroelectric project that also affects the Ngobe people of Western Panama. Regrettably, the validation process conducted by AENOR for Barro Blanco committed once again the same violations of the principle of free, prior and informed consent documented in the 2009 Anaya Report by not involving the affected indigenous communities.

With regards to the CDM consultation, as stated above, ACD submitted comments in the first consultation process conducted in 2008. These concerns were never addressed by the CDM validator. Instead, AENOR opened a second validation process, in which both ACD and ASAMCHI again submitted comments. The CDM login system acknowledged receipt of the ASAMCHI comments through email, but the website failed to display the comments as received. However, once again, AENOR did not address the substantial issues raised by this organization, pretending that they were never informed about the opinions of the stakeholders.

#### Compensation of the Affected Communities

Following the principle that was also utilized in the Chan 75 hydroelectric project, GENISA has proposed the use of CERs to compensate the affected communities, including the Ngobe indigenous peoples. In the Chan 75 case, this question is currently being examined by the Inter-American Human Rights Commission, which raises serious questions about the appropriateness of using CERs for the compensation of affected communities when human rights violations have not been considered.

In addition, the use of CERs for compensation of the affected communities complicates the assessment of the question of additionality as will be further discussed in the section below. Considering the extremely high rate of return of hydroelectric investment in Panama, the internalizations of compensation costs through CERs represents an anomalous procedure for the calculation of additionality.

#### Additionality

As expressed in several occasions by the undersigned organizations, hydroelectric investment in Panama has an extremely favorable net present value, which derives from the sale of electricity generated by hydroelectric plants at prices comparable to thermoelectric plants with higher operations costs. This situation occurs when non-contracted electricity is sold in the spot market, which happens regularly in Panama. For this reason, there are currently about 87 hydroelectric project scheduled for construction in Panama at this moment.

Recently, the Government of Panama has complained about the exaggerated levels of profit raised by hydroelectric companies and has even started investigations to avoid this type of speculation (see articles in *La Estrella de Panama*, December 28, 2010, and *La Prensa*, February 7, 2011 <http://www.prensa.com/hoy/negocios/2489716.asp>).



The PDD states that the IRR of the project without CERs is calculated as 9.25% and with CERs is calculated as 9.60%-10.02%. It is also stated that the project IRR needs to be at least 12% in order to be built. It is not explained why such a small increase in IRR from CERs compared to the increase needed to make the project viable would have much effect on project financing. Indeed, it is not convincing or believable that it would. The investment analysis works based on the premise that a project financial assessment against a benchmark predicts whether a project would be built. Therefore, either this project would not be built even with CERs, or there is something wrong with the benchmark analysis. In addition, the sensitivity analysis, to be accurate, should not only vary each figure on its own, but should vary them simultaneously.

On the basis of these serious concerns regarding the failure of the validation report to address the human rights abuses involving the company GENISA against the lands of the Ngobe indigenous peoples, the lack of adequate public consultation and the potential use of CERs for the compensation of affected communities, as well as doubts about the additionality of the project, we urge you to extend the request for review to the issues raised in this letter. We believe the project does not qualify as a CDM project and should be rejected.

Yours faithfully,

Oswaldo Jordan, International Affairs Coordinator, Asociacion para la Conservacion y el Desarrollo (ACD)

Oscar Sogandares, Spokesperson, Asociacion Ambientalista de Chiriqui (ASAMCHI)

April 10 Movement for the Defense of the Tabasara River (M-10)

Monti Aguirre, Latin America Program Coordinator, International Rivers

Barbara Haya, CDM Consultant, International Rivers

Eva Filzmoser, Programme Director, CDM Watch

Desislava Stoyanova, Coordinator, Counter Balance coalition

To the CDM Executive Board  
Martin Luther King Strasse 8  
P. O. Box 260124  
D-53153

**Re: CDM Project Application #3237: Barro Blanco Hydroelectric Project.**

24 March 2011

Dear Mr Hession,

Further to our letter of 9 February 2011, we are writing to you again on behalf of the April 10 Movement for the Defense of the Tabasara River (M-10), Alianza para la Conservacion y el Desarrollo (ACD), Asociacion Ambientalista de Chiriqui (ASAMCHI), International Rivers, the Counter Balance Coalition and CDM Watch to re-iterate our serious concerns about CDM Project Application #3237: Barro Blanco Hydroelectric Project in the Tabasara River in Western Panama.

Following a validation report by the DOE AENOR, which recommends approval, registration of the PA #3237 has been requested. According to the information at the UNFCCC website, review has been requested based on concerns about the additionality of the project.

In addition to the concerns highlighted in our last letter, we would like to take the opportunity to bring your attention particularly to lack of adequate public consultation. Based on the information provided below, we strongly believe that the real opinion of local communities, directly impacted by the project, is not reflected in the validation report. We therefore call on the CDM Executive Board to re-open the public consultation period.

**1) Indigenous communities were not duly notified when the local public consultation by the company was held**

The water reservoir of the Barro Blanco project is expected to flood about 259 hectares<sup>1</sup>. Obviously this would cause that local communities inhabiting this area would lose their fertile lands, livelihood and housing next to the river. Yet, the project impacts upon these communities were not mentioned in the project's EIA and the Project Design Document (PDD). They simply state that the project will have no adverse impact upon these indigenous communities.

In the early 1980s, original plans for the predecessor project of Barro Blanco, which at the time was named Tabasará 1, was looking into a reservoir of above 1000 hectares which would obviously flood greater extensions of land. At the time, indigenous and peasant communities alike opposed the project just as they do today. The difference was that the ruling General Omar Torrijos Government at the time did consult with the local communities and as a result withdrew the project. He expressed that if the communities were not in favor he would abide by their wishes.<sup>2</sup>

However, 30 years on the situation looks different: GENISA, the project participant has neglected to properly consult the impacted communities, particularly the Ngäbe indigenous communities, about the construction of the project site. Affected local peasant indigenous communities closest to the river are vehemently opposed to the project that would mean the end to their livelihoods. However, they were not

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<sup>1</sup> Page 7, Barro Blanco PDD

<sup>2</sup> [http://www.thepanamanews.com/pn/v\\_16/issue\\_11/economy\\_special\\_01.html](http://www.thepanamanews.com/pn/v_16/issue_11/economy_special_01.html)

given the chance to voice their concerns. Besides the numerous complaints by residents, the indigenous communities were not duly notified when the public consultation by the company was held.<sup>3</sup>

However, obviously with the intention to gain at least some support for the project from local (even if not directly affected) communities, GENISA promised temporary work to the inhabitants from villages farthest from the project (ej. in the village Tolé) who will not be affected one way or the other.

In our last visit to the area in October 2010, we were able to gauge the almost unanimous opposition to the project by the indigenous communities. More so now that the general perception runs counter to any projects, even within the non-indigenous communities. Therefore this finding quoted both in the EIA and the PDD is certainly surprising for us. Here we could include the youtube link to the video were locals talk to the organization Bankwatch about the project:

- Llegada al RioTabasara area indigena Ngobe Bugle Nuevo Palomar [http://chiriquinatural.blogspot.com/2010\\_10\\_17\\_archive.html](http://chiriquinatural.blogspot.com/2010_10_17_archive.html)
- Reunion en la Escuela Nuevo Palomar Area Indigena Ngobe Bugle <http://www.youtube.com/watch?v=3ZNIB2j8nPo> and <http://www.youtube.com/watch?v=AtbejA7pGxl>
- See also the Article "Tabasara Revisited" by [http://www.thepanamanews.com/pn/v\\_16/issue\\_11/economy\\_special\\_01.html](http://www.thepanamanews.com/pn/v_16/issue_11/economy_special_01.html)

In the following you will find a comparison of how the PDD does not reflect the real situation on the ground:

<b>PDD SECTION D. Environmental impacts</b>	
<b>What the PDD states</b>	<b>Correct information on the ground</b>
<p>GENISA, Generadora del Istmo S.A. requested Proyectos y Estudios Ambientales del Istmo S.A. the "Study of the Environmental Impact for the construction and operation of the Barro Blanco Hydroelectric Power Plant", which has been used to define the prevention and mitigation measures, as well as the projects required to control, compensate and prevent the negative impacts and effects that the project generates, in addition to maximising the positive impacts derived from the construction of the Barro Blanco Hydroelectric Power Plant. In addition, it is aimed at guaranteeing the correct use of resources and minimise (or avoid, when possible) their negative impact. The Environmental Impact Study provides the initial description of the project and a descriptive analysis of the natural (physical and biological) and socio-economic environment.</p>	<p>The EIA does not reflect the reality on the ground: it denies and ignores the existence of the indigenous communities along the banks of the Tabasará River and beyond the directly impacted area. This area will be impacted by the flooding of the reservoir which is within the land of the indigenous "comarcal" region of Ngäbe Bugle (but also by a variety of factors which will affect their livelihood).</p> <p>This indigenous land is protected by law nr.10/1997 and by the constitution of the Republic of Panama. In reality the project affects 4 districts (3 districts within the Ngäbe Bugle Region)*, with well over 5000 people directly dependent on the river for their livelihood and basic needs. The project will flood communities, their housing, cultivation fields, schools and religious centers. They will be denied access to the fresh water resources, while the UN has declared the right to water as a human right.</p> <p>*Actually by Districts we are referring to Corregimientos. The four Corregimientos are Tolé cabecera, Tolé district. The remaining three in the Müna District within the the Ngäbe Bugle region (actually most nearest to the project site) are Bakama, Cerro Caña and Alto Caballero, but there is Nibra, Sitio Prado and Chichica, and others in the Müna district, which will also be affected by the project. See Comarca Ngabe Bugle map <a href="http://www.box.net/shared/icjuivlob">http://www.box.net/shared/icjuivlob</a></p>

<sup>3</sup> [http://www.thepanamanews.com/pn/v\\_16/issue\\_11/economy\\_special\\_01.html](http://www.thepanamanews.com/pn/v_16/issue_11/economy_special_01.html)



<p>Subsequently, the Environmental Handling Plan is implemented, which shows the different actions that must be started to reduce the most important negative environmental aspects and increase the effectiveness of positive effects.</p>	<p>Also Chiriqui province including Tole map <a href="http://www.box.net/shared/brougoizpz">http://www.box.net/shared/brougoizpz</a></p>
<p>The Environmental Impact Study has been approved by ANAM with the "Resolution of the Environmental Impact Study, Category III, No. IA 332-2008, May 9, 2008". Said resolution includes other mitigation and compensation measures, in addition to those described in the EHP. These include the presentation of a Reforestation Plan for the river bank and reservoir, including the results of the aquatic fauna studies of the Tabasara River, presentation of the information gathered from the limnigraphic station, etc. Likewise, these measures specify the obligation to allocate 20% of the funds obtained, in accordance with the stipulations of the Environmental Impact Plan and the negotiation of certified carbon emission reductions (CER) for the annual community support fund, provided that these funds are obtained.</p>	<p>The EIA ignores that the aquatic life will definitely be systematically annihilated by the physical presence of the dam.</p> <p>Much of these Riverine fish species form the staple diet for the Ngäbe Bugle indigenous communities upstream. Those species that are not directly eliminated by the physical action of the turbines will be impeded to complete its life cycle beyond the insurmountable dam barrier<sup>4</sup>. Those that are within the lake environment will be deprived of oxygen due to the lack of aeration of the lake waters and the organic decomposition in the lake bed itself. Still others due to lack of mobility from the marshlands to the river high courses will surely be sentenced to extinction. No artificial means of spawning (or the use of "fish ladders" --of which none are described in the EIA) will actually replace the natural processes that take place in the free flowing river. These same phenomena is presently observed in the other river basins of Chiriquí and Bocas del Toro and parts of Costa Rica where these rivers, formerly free flowing rivers were subsequently dammed by not one but many of the so called "run of the river" type projects. But which in reality involve the use of reservoirs to collect adequate amounts of water for generation purposes. This great proliferation of hydroelectric dams 160 projected to be exact in the Republic of Panama - more than all of Central America combined in its (government sponsored) irrational rush to provide cheap hydro-electrical energy for exportation –despite the public version of the "growing national needs" and beyond the nation's capacity , has in effect hampered the free flowing of aquatic biota (much of it endemic "diadromous" aquatic species) which complete their respective life cycles from the oceans to the highlands through these formerly unhindered aquatic life corridors, upsetting the ecological balance of species and interrupting the vital food chains. This vital fact has prompted the World Heritage Committee to recommend to the UNESCO to place the Parque Internacional La Amistad, a Natural World Heritage Site which comprises both the Republic of Panama and Costa Rica to be placed in its Endangered Site List<sup>5</sup>. The Tabasará Mountain range (which is an extension of the Talamanca mountain range in Costa Rica and western Panama) within the Comarca Ngäbe Bugle although not precisely</p>

<sup>4</sup> Helical Turbine and Fish Safety By Alexander Gorlov, August, 2010 (see Kaplan Turbine Fish kill page 3) <http://www.mainetidalpower.com/files/gorlovrevised.pdf>;

<sup>5</sup> THE THREAT TO BIODIVERSITY AND ECOSYSTEM FUNCTION OF PROPOSED HYDROELECTRIC DAMS IN THE LA AMISTAD WORLD HERITAGE SITE, PANAMA AND COSTA RICA: <https://sites.google.com/site/chiriquinatural/bibliografia/UNESCOEnglishVersion.pdf?attredirects=0&d=1>; Also see: [http://www.lclark.edu/law/clinics/international\\_environmental\\_law\\_project/our\\_work/la\\_amistad/](http://www.lclark.edu/law/clinics/international_environmental_law_project/our_work/la_amistad/) <http://www.commondreams.org/newswire/2010/10/06-10>

	<p>the Parque Internacional La Amistad shares the same Mesoamerican Natural Corridor with the PILA and extends throughout South America</p>
<p>In accordance with the abovementioned structure, the main impacts are described for the planning, construction and operating phase. The identification and assessment of each impact associated to each project stage is structured by the correlation between the project activities with the components and processes of the environment. During the planning phase, we can basically highlight the positive environmental impacts, since different studies are carried out during this phase, defining the process and including the allocation of ecological compensation and water usage funds, in order to foster and strengthen the presence of the ANAM in the area. On the other hand, special attention is paid to the measures that must be adopted in case of detecting and protecting cultural heritage that has not been detected before.</p>	<p>The EIA ignores that within the project impact area more precisely near the river banks within the lake area to be flooded, several pre-Columbian petroglyphic structures have been observed which will be irretrievably lost if this project is to be continued as planned see: Petroglyphs located on the banks of the Tabasará River<sup>6</sup>. This not taking into account the unaccounted for sacred Ngäbe Bugle ancestors burial sites some within the Ngäbe Bugle Comarca but others outside their perimeter which will also be flooded, destroyed or impacted by the project. In the EIA no "archeological rescue" program has been specified. The results of this unplanned and unthought-of process has been the tragic destruction and pillage of ancient pre-Columbian sites, specifically to give an example the irretrievable loss of an important archeological finding pertaining to the Barriles culture in the Baja de Mina - Baitún projects along the banks of the Chiriquí Viejo River, run by the company CILSA (presently known as IDEAL SA) property of the Mexican Tycoon Carlos Slim (purported richest man on the earth).</p> <p>Where irreplaceable artifacts were either destroyed by the machinery or were perhaps pillaged by the company officials on the banks of the Chiriquí Viejo River<sup>7</sup>, also one of the most overtaxed river basins in the country with more than 24 planned hydroelectric projects. But this occurrence has not only taken place in this project. There are also unconfirmed reports of damage and loss of pre-Columbian sites and artifacts in the Dos Mares Mega project by GDF Suez Energy and its subcontractors Norberto Odebrecht in the Gualaca area, financed by the European Investment Bank. The Barriles culture has been one of the most investigated cultures in Panama since the start of the 20<sup>th</sup> century (please see old issues of the National Geographic Magazines and expeditions led by Dr. Matthew Stirling in the 1940's as well as other bibliography) and inhabited the western portion of the Chiriquí, in western Panama, on the slopes of the Barú volcano. Its clues on their demise or exodus are attributed to the sudden period of activity of this volcano observed in the ash strata where these artifacts were found<sup>8</sup>. No human remains were visible leading to the conclusion that its inhabitants spread toward other areas, perhaps toward Costa Rica and the eastern portion of Chiriquí, where the precisely the Ngäbe Bugle are presently located.</p> <p>Apart of the numbers of archeological findings which dot the river basin as shown in diagram in page 236 of EIA of Tabasará I<sup>9</sup>(predecessor of Barro Blanco) THC 28 in Chiriquí at the edge of the river basin (and above the project</p>

<sup>6</sup> Petroglyphs located on the banks of the Tabasará River: Petroglyph 1:

<http://www.box.net/shared/08t535ygct>; Petroglyph 2: <http://www.box.net/shared/vt1c5xfga1>

<sup>7</sup> Bajo de Mina y Baitún de Carlos Slim, Rio Chiriquí Viejo, Panamá Parte 4

<http://www.youtube.com/watch?v=IIExt3rS3LM>

<sup>8</sup> Barriles <http://en.wikipedia.org/wiki/Barriles>

<sup>9</sup> diagram in page 236 of EIA of Tabasará I



	<p>site and subject to flooding) is located one of the known petroglyph sites (source Dr Richard Cooke and Dr Ernesto Barrillas for archeological reconnaissance for EIA Tabasará I page 236). This is just one of several dozen known archeological sites along the banks of the Tabasará River basin which will be directly impacted by the project and not even a mention of an "archeological rescue plan" is mentioned in the latest EIA or PDD.</p>
<p>On the contrary, the most relevant negative impacts on the project take place during the construction phase, whereby corresponding corrective measures have been established. These include reversible impacts, such as the generation of dust or noise by the works; impacts that will cease when the project phase ends. During this phase, the EHP has proposed the installation of warning signs to indicate the execution of the works and prevent high levels of noise. As regards dust, a water irrigation program has been established. On the other hand, in relation to the non-reversible impacts on the natural environment, we can highlight those on the vegetation, floor and fauna. The loss of the plant cover and tree species on the banks of the river can lead to the instability of embankments, so that a Monitoring Plan will be in place to monitor their stability and revegetation. As regards the effects of the decrease in the space available on native fauna, a rescue plan will be carried out, which will count, identify and relocate the animals. An expert will be hired by the project Developer for such purposes. Finally, different measures will be established to mitigate the negative impacts on the landscape, such as the placement of plant barriers in strategic points or painting buildings with colours that match those of the landscape.</p>	<p>The EIA ignores that the construction inconveniences are perhaps the least negative and permanent impacts since the most harmful aspects are the ones which will occur <i>after</i> the construction phase ceases. Besides instability described by the PDD the loss of so called "plant cover" is actually a pristine gallery forest along the banks of the Tabasará River (<i>of which its area, the number of trees, or its CO2 caption capacity are not even quantified or taken into account in the formulas in the PDD</i>) where it is true most of the upper slopes are dedicated to cattle pastures and agriculture, the main activities in the area<sup>10</sup>. But it is very important to point out that the previous EIA of its predecessor Tabasara I project did have a very detailed tree statistical study with classification into its different native species and individual numbers and relative proportions (see page 260 EIA Tabasará I project<sup>11</sup>). Since the gallery forest along the banks of the river will certainly be the most impacted area, since most of these trees date hundreds of years and have an important CO2 caption role, which will be either cut off or flooded and will no longer serve in their role of CO2 caption, and may even become an atmosphere pollutant by decomposition into organic material and methane gas tens of times more polluting than CO2 itself. No amount of planting and reforestation, most likely with monoculture of exotic and imported species most probably of commercial value to the company ei. teak, African mahogany, pine, etc., (as is the common practice of the promoters here) to the area with no symbiotic relationship to the native animal and bird species may create more harm than good and can result in unexpected extinction or loss of species numbers in the area, not taking into account the growth phase (of perhaps several decades) where their CO2 caption function will be minimal.</p> <p>As previous experiences from other unsuccessful rescue attempts in this country and elsewhere demonstrate, (see the failed Corredor Norte Metropolitan Nature Park rescue plan in 1995) this is not a problem which can be solved simply by an improvised native fauna rescue plan even by so-called specialists. Since the areas for relocation are already overcrowded and scarce and the degree of competition for the same resources increases with overcrowding and overloading of the biological load capacity of the given ecosystems by new species members, sometimes different than the original environment where they proceeded from. Thereby resulting in stress, in-adaptation, struggle and death of many of the species we intend to protect. Sometimes the "rescued" individuals cannot even adapt to new settings therefore are condemned to live their remainder of lives in captivity<sup>12</sup>. As for mitigating the negative aspects of the landscape this is simply not performed by "cosmetic measures" such as just</p>

<sup>10</sup> Tabasará River Basin Gallery Forest picture folder: <http://www.box.net/shared/v0f0yd9xap>

<sup>11</sup> Page 260 EIA Tabasará I tree inventory

<sup>12</sup> [http://www.laspumas.net/las\\_pumas.html](http://www.laspumas.net/las_pumas.html)

	<p>planting a few "plant barriers" here and there, or painting certain buildings with certain colors. Therefore it is curious how a project (not taking into account the loss of biodiversity and its socio-environmental impacts) and which in effect increases the CO2 output into the atmosphere can even qualify for Credits for Emission Reduction in the first place.</p>
<p>The positive impacts will be highlighted during the operating phases, provided that they comply with the project's specifications. In general, we must mention that the quality of life of the inhabitants will increase, as a result of the number of jobs available and the improvement in the conditions of the quality of water and river banks, which will provide new leisure areas to the community. On the other hand, there will be a greater knowledge and monitoring of the natural resources in the project's environment, which will allow for their adequate management. Certain negative impacts can be present during this phase, such as the potential start of eutrophication processes. Therefore, a Monitoring Plan of the Chemical Quality of Water has been established to prevent such processes. Likewise, the fluvial plant and animal life can be affected during the operating phases, so that the Developer has established a monitoring plan of the fish diversity with periodical reports drafted by an expert.</p>	<p>There will certainly be a so called greater knowledge of the natural resources of the river, which perhaps due to the irony of the circumstances which will be lost forever precisely to the disrupting presence of the project in the river's ecology and in the community's lives. On the contrary to what is stated in the PDD available jobs mainly for the resident Ngäbe Bugle population will be nonexistent since these are of the lowest type of employment such as laborer and non-skilled labor. Not considering the non-indigenous workers which are a better qualified and experienced labor pool. These will only be available during the construction phase. As the project construction ends the available jobs will cease as the only existing jobs will be for security guards, most likely a subcontracted firm with their own employees and qualified technicians which will monitor the operation of the plant since most of their functions will be automated at this operational phase.</p> <p>There will most likely be <i>eutrophication</i><sup>13</sup> as with all hydroelectric projects and most specifically those which involve the formation of lakes or reservoirs as the case of Barro Blanco with its 243 hectare lake which will in effect create a large body of stagnant water with inadequate levels of aeration and oxygen. Process which will inevitably lead to death of numerous Riverine aquatic species best adapted to free flowing river habitats and loss of biodiversity. This is not considering the living biota which will constantly fall victim to the turbine blades (as there is no other way out of the lake) which will decompose downriver and contaminate the lower courses of the river below the dam itself<sup>14</sup>. As for the present drinking quality of the Tabasará River water it is potable, pure water with little impurities typical of a free flowing river<sup>15</sup>. Such water supply is used in its untreated form without any health problems whatsoever by the community as the main water supply for the Ngäbe Bugle communities, as well as for the non-indigenous farming populations further downstream. Evidently the presence of the dam project will spell a serious deterioration in the water quality the communities obtain.</p> <p>It is doubtful there will be much of a surviving population of native species after the installation of the dam project itself as there will not be any safe way for these <i>diadromous</i> fish species to surpass this insurmountable obstacle (and more so in</p>

<sup>13</sup> <http://en.wikipedia.org/wiki/Eutrophication>

<sup>14</sup> Helical Turbine and Fish Safety By Alexander Gorlov, August, 2010 (see Kaplan Turbine Fish kill page 3) <http://www.mainetidalpower.com/files/gorlovrevised.pdf>

<sup>15</sup> P103,104 Tabasara I EIA Comparación del Nivel de Calidad de Agua del Rio Tabasará con normas nacionales e Internacionales (para diferentes usos)



	<p>the absence of fish ladders, which have already been proven ineffectual, but are not even contemplated in the EIA or PDD) on its way to complete its vital life cycles in the higher course of the river, or their safety on the way back to the coastal marshes where they interact with marine species and form part of this vital food chain and ecosystem.</p>
<p>As mentioned above, the set of measures used to prevent and mitigate the negative project impacts and improve the effectiveness of the positive impacts are included in the Environmental Handling Plan. The EHP has been drafted to guarantee the environmental sustainability of the project and the environment where it will be located and operated. The total cost of environmental management described in the EHP is as follows:</p>	<p>The promoters always quote improvement of the population's way of life as in the EIA, they always paint a rosy scenario, but once the project is built quite the opposite is true. All that is required to witness this grim scenario is to travel 75 miles west toward David the capital, then up towards Gualaca, Boquete, Boquerón, Bugaba and Renacimiento districts and let's make a "hydro" tour of all the destruction that hydroelectric projects have created within the already overtaxed river basins starting at river basin#106 (Rio Chiriquí) all the way to River basin #102 Rio Chiriquí Viejo with already 24 projected hydroelectric plants and the latest we heard from the ASEP (Autoridad para los Servicios Públicos) this is not the end of it, there are 36 more to go to make the grand number of 50, for this already overtaxed river basin<sup>16</sup>. Which was not so many years ago the Mecca for river rafting. Notwithstanding the recommendation from the IADB (Interamerican Development Bank) study of cumulative impact which warned of the dangers of overtaxing this river basin<sup>17</sup>. Farmer's lands has been divided or simply expropriated under the "social interest" clause. Wells and agricultural plots have gone dry as the water mantle disappears before their very eyes, since the hydro plants collect all the water and move it several kms. downstream toward their engine rooms in order to achieve the maximum elevation to generate their energy, indifferent to the farmers plight since they already "own" the water rights and can leave the farming and cattle areas dry as they please. Actually there is already a study circulated by the UNESCO that states that the Chiriquí province is one of the areas in the world in danger of desertification due to soil and basin mismanagement<sup>18</sup>. As of the present date there have been more than 160 hydroelectric plants projected for all of Panama and still more are to come, 120 alone in the province of Chiriquí, totaling more than all of Central American projects put together generating beyond this small country's capacity and needs. Everyone here knows that this great number is simply to comply with Plan Puebla Panama (and do not go along with the official story that it is due to Panama's "growing needs") and to add the additional incentive that promoters aspire after creating all this havoc, like the cherry on the icing; are the famous Certificates for Emission Reduction or CERS as their bonus prize. As if they are</p>

<sup>16</sup> CONCESIONES HIDROELECTRICAS CUENCA 102 R CHIRIQUI VIEJO  
<https://sites.google.com/site/chiriquinatural/bibliografia/cuenca102concesioneshidroelectricas2.pdf?attredirects=0&d=1>

<sup>17</sup> Impactos Acumulativos asociados a los Desarrollos Hidroeléctricos actualmente Concesionados en la Cuenca del Río Chiriquí Viejo - Panamá  
<https://sites.google.com/site/chiriquinatural/bibliografia/Imactosacumulativosrchiriquiv.pdf?attredirects=0&d=1>

<sup>18</sup> NATIONAL REPORT ON DESERTIC CONDITIONS AND DROUGHT REPUBLIC OF PANAMA  
<http://www.unccd.int/cop/reports/lac/national/2000/panama-summary-eng.pdf>

	<p>needed so much while employing such a free fuel as water. They sell their Kw/hr for just pennies less than what is required of the thermo electric plants, with the ideal advantage that their fuel is free. Let's even break down the formula.</p> <ul style="list-style-type: none"> <li>❖ Let's suppose we wish to sell at just \$0.12 cents per kw/hr (thermos usually sell theirs at roughly \$0.18 cents since their production costs are much higher).</li> <li>❖ As 1 MW capacity generates 1000kw/hr, we multiply this to give us 24,00kw/hr per day.</li> <li>❖ We now multiply 24,000kw/hrs by 365 days of the year and we obtain the final 8,760,000 kw/hr.</li> <li>❖ All we need now is to multiply our 8,760,000 kw/hr by our \$0.12 cents per kw/hr and we get the sum total of \$1,051,200 for our lowly 1MW produced.</li> </ul> <p>This certainly is an excellent rate of return on our money and we must admit it far surpasses farming or cattle raising, or even gourmet coffee growing. The banks surely will lend a helping hand to such an entrepreneurial venture, not considering all the other fringe benefits provided by the government of tax free operation for several decades. What else can we add? Surely they certainly wouldn't get into a type of business as this if they ever considered the prospect of losing.</p>
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<b>SECTION E. Stakeholders' comments</b>	
<b>What the PDD states</b>	<b>Correct information on the ground</b>
<p>An initial research process was carried out with the official data recorded to determine the communities located within the study area and their main characteristics. 13 communities were detected, which are affected to a greater or lesser extent by the project.</p>	<p>It was surprising to find no reference to actual census figures of the Múna district in either the present EIA or PDD. Only references were made to a survey conducted by the promoters' subcontractor which could not be independently confirmed or verified. No mention of total population figures except those within the Bakama corregimiento were made in such surveys. Therefore in our search for true verifiable figures we researched the previous EIA on the Tabasará I project --the predecessor for the current one.</p> <ul style="list-style-type: none"> <li>❖ On <i>page 150</i> on 3.4 Medio Socioeconomico, cultural y Arqueología of the Tabasará 1 EIA<sup>19</sup> it quotes that Tolé District (in 1990) had a population of 33,319 inhabitants (1990 census figures).</li> <li>❖ 66% were indigenous or else 22,069 persons and the rest 34% (11,250) were</li> </ul>

<sup>19</sup> \* *page 150* on 3.4 Medio Socioeconomico, cultural y Arqueología of the Tabasará 1 EIA



<p>An analysis of the access alternatives was carried out to plan and program the work schedule and visit the communities affected. All communities affected were visited during the previous phase, starting by those that were farthest from the project area. The main objective was to gain a greater rapport with the leaders of each Community. A general explanation of the development of the hydroelectric project and the importance of the development of the energy sector in the region of Chiriqui and the rest of the Republic of Panama was provided to the communities.</p>	<p>Latinos.</p> <ul style="list-style-type: none"> <li>❖ In the 9 Corregimientos of Tolé (pre-comarca) are concentrated the greater part of the indigenous population and these are: Sitio Prado, Chichica, Potrero de Caña, Cerro Iglesias, Cerro Caña, Maraca, Cerro Puerco, Alto Caballero, and Peña Blanca.</li> <li>❖ It should be noted that for the year 1990 there existed an <i>indigenous</i> population of 63,377 persons of which 34% or 22,069 were located in Tolé.</li> </ul> <p>The Ngäbe Bugle Comarca was created in 1997 –closely before the publication of this EIA of Tabasará I and when the District of Tolé was partitioned<sup>20</sup>. The indigenous regions where the majority of the populations were located in the Tolé district were incorporated into the Müna district within the Comarca Ngäbe Bugle. Actually our estimate of 5000 indigenous Ngäbe Bugle inhabitants is far too conservative on our part as the present population of the Comarca is above 156,747 inhabitants (source 2010 census) and maintaining the same proportion, there would be far more than 5000 inhabitants (as we had conservatively quoted) in the influence area of the Tabasará River project. To verify the actual population of the Müna district we shall quote the present 2010 Census figures<sup>21</sup> which reveal that the present population of the Müna district from which the indigenous population was located in the former Tolé district a total of 36,075 inhabitants an increase of 14,006 inhabitants or more than 60% from 1990, whereas the total population of Tolé remains at a stable 11,885 inhabitants after 20 years<sup>22</sup>.</p>
<p>In parallel, surveys were performed per home in the different communities, using a representative sample. The purpose of the surveys was to obtain the perception of the inhabitants in the area about the commissioning of the Barro Blanco Hydroelectric Power Plant. Forms were designed</p>	<p>It is also important to point out that the EIA for Tabasará 1 was far more extensive than the one for Barro Blanco which did not even quote the in depth realities of the Ngäbe Bugles and merely dwells on a purported survey conducted among the indigenous population most of them illiterate and in some cases non Spanish speaking, so even these results of the survey are questionable knowing the vocal opposition shown by the Ngäbe Bugle toward this project.</p> <p>On page 3 of 12, section 7.2.1. ÍNDICES DEMOGRÁFICO, SOCIALES Y ECONÓMICOS of the EIA<sup>23</sup>: it quotes a figure from the 1990 -2000 Censos de Población y Vivienda de la República de Panamá 2000<sup>23</sup>. It seems to us that the EIA focuses</p>

<sup>20</sup> Tabasara I EIA was published in 1999 but census data cited in such dated from 1990. District of Tolé 2010 Census Statistics <http://www.box.net/shared/n5ysq7z68i>

<sup>21</sup> Comarca Ngäbe Bugle 2010 Census Statistics <http://www.box.net/shared/pho8h23o98>

<sup>22</sup> District of Müna 2010 Census Statistics <http://www.box.net/shared/t9o1bm81k6>; Tabasará Estadística Folder <http://www.box.net/shared/4lrde7qj21>; Also see <http://www.censos2010.gob.pa/Resultados/cuadros.aspx>

<sup>23</sup> Page 3 of 12, section 7.2.1. ÍNDICES DEMOGRÁFICO, SOCIALES Y ECONÓMICOS of the EIA<sup>23</sup>;

<p>to allow the persons surveyed to describe their living conditions and opinions about the project. All persons surveyed were invited to the informative meetings when the surveys were performed. The following surveys were performed by Community</p> <p>In relation to the acceptance of the project for the construction of the Barro Blanco Hydroelectric Power Plant, as shown in the initial surveys of August 14, 2007 during the preparation of the Environmental Impact Study (ESIA), in accordance with the data obtained from the 58 surveys performed, 50% of the persons surveyed were in favour and 50% against the project, obtaining the following results from the Community.</p>	<p>misleadingly on just a few communities within Bakama corregimiento and does not mention the other corregimientos and townships surrounding the area within the Müna district (and which are also closer to the project site), such as Sitio Prado, Chichica, Potrero de Caña, Cerro Iglesias, Cerro Caña, Maraca, Cerro Puerco, Alto Caballero, and Peña Blanca. All of which will be impacted in one way or another by this project, while on the other hand it erroneously gives the impression that the Ngäbe areas are sparsely populated in comparison with the townships within the district of Tolé. In order to verify the numbers by the EIA we accessed the year 2000 census web page<sup>24</sup> and arrived at a different picture for the district of Müna (taking into account the remaining communities omitted from the EIA --not to mention the previous updated figures from the 2010 census). It is curious how these Ngäbe communities located closer to the project are excluded from mention, while towns within Tolé district which are farthest are frequently quoted.</p> <p>Regarding the surveys mentioned in the EIA, it is important to point out that there is still a high degree of illiteracy in the Ngäbe population (at least in the Spanish language, as there is also a Ngäbere writing which is taught to the very young here in the Comarca see article Tabasará Revisited The Panama News<sup>25</sup>). It is also possible that the Ngäbe population may or may not have understood what was being asked of them, and also as an attempt to please their guests and in a gesture of hospitality may have responded in a positive form to their survey takers.</p> <p>Therefore gathering that the majority of the Ngäbe Bugle indigenous population in the influence area closer to the project are against the project (as attested even by the "survey" team conducted by the promoter's contractor in their EIA) and the majority of the population surrounding the project site is of Ngäbe indigenous origin, it is safe to assume that the majority of the population (including both indigenous and Latinos alike) --because there is also considerable opposition to the project by the Latino farming communities downriver from the project and are definitely not evenly split 50-50 as assumed by the promoter or leads us to believe.</p>
<p>In accordance with this information, we can see that the Communities with a highest level of rejection to the project are Tabasara and Nancito. The main displayed causes for the rejection or acceptance of the project are as follows:</p>	<p>The project's promoter is trying to divide the community leaders and members, offering to buy lands while article 127 of the country's constitution, as amended in 2004, establishes "the right to collective property and the law forbids the private appropriation of indigenous people's land."</p> <p>Now that the major government agenda starts to unfold with the mining propositions for the Ngäbe indigenous region, the installation of nearby hydroelectric plants makes perfect sense. These massive destructive open pit mining projects such as Cerro Colorado will require enormous amounts of energy. As a matter of fact the previous</p>

<sup>24</sup> Panama Census Page; [http://estadisticas.contraloria.gob.pa/inec/cgi-bin/RpWebEngine.exe/PortalAction?&MODE=MAIN&BASE=LP2000&MAIN=WebServerMain\\_censos.inl](http://estadisticas.contraloria.gob.pa/inec/cgi-bin/RpWebEngine.exe/PortalAction?&MODE=MAIN&BASE=LP2000&MAIN=WebServerMain_censos.inl); Müna District Including Bakama 2000 Census figures <http://www.box.net/shared/9f616ah5hg>

<sup>25</sup> Tabasará Revisited the Panama News [http://www.thepanamanews.com/pn/v\\_16/issue\\_11/economy\\_special\\_01.html](http://www.thepanamanews.com/pn/v_16/issue_11/economy_special_01.html)



<p>But the current position of the community is favourable, getting support for the project from local communities and local authorities. In this regard it is important to stress that following the community works being done since 2007 until now, the results of initial surveys dated August 14, 2007, are far from represent the views of the community today on the Barro Blanco project. It is highly relevant that many of the owners that in mid-2007 were opposed the Barro Blanco project have voluntarily sold their acres to GENISA.</p>	<p>Tabasará 1 project in the 1970s was linked to the proposed Cerro Colorado project then.</p> <p>The Bakama area to also include the other corregimientos in the vicinity in the Múna district. is legally recognized by the Government of Panama as collective property of the Ngobe indigenous people. Yet, most of the consultation for CDM validation, including the site visit by AENOR, only considered the opinion of the non-indigenous population. In this regard, the validation process for Barro Blanco violated the international principle of free, prior and informed consent contained in ILO 169 and the UN Declaration on Indigenous Peoples.</p> <p>In May 2009, the UN Rapporteur on Indigenous Peoples, James Anaya, also issued a report documenting human rights violations in the construction of the Chan 75 hydroelectric project that also affects the Ngobe people of Western Panama. Regrettably, the validation process conducted by AENOR for Barro Blanco committed once again the same violations of the principle of free, prior and informed consent documented in the 2009 Anaya Report by not involving the affected indigenous communities.</p>
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## 2) Comments submitted to the CDM auditor of the project were omitted or not sufficiently taken into account in the validation report of the project

The Barro Blanco project was initially submitted for validation in 2008 when a global stakeholder commenting period was opened on 10 October 2008. See the former [validation report](#) for more details. Mr Osvaldo Jordan submitted one comment on behalf of Alianza para la Conservacion y el Desarrollo (ACD).

Because of change in the methodology, the commenting period was re-opened on 27th of June of 2009. Here, the [updated validation report](#) states that “no comments were received during this period”. However, contrary to the information provided in the validation report, the organisations ASAMCHI<sup>26</sup>, M10 Tabasará Defense Movement and ACD Alliance for the Conservation and Development did submit two comments to the project. The receipt of one comment was confirmed via the UNFCCC CDM Web alert on 25 July 2009 (see attached). The receipt of the second comment submitted by Mr Jordan was unfortunately lost due to a technical problem.

Yet, the validation report does not sufficiently address the first acknowledged comment submitted by Mr Jordan. Moreover, it does not even mention that two more comments were submitted by Mr Jordan and Mr Sogandares respectively.

<sup>26</sup> [www.chiriquinatural.com](http://www.chiriquinatural.com)

Based on this information provided above, we strongly believe that the real opinion of local communities, directly impacted by the project is not reflected in the validation report. We therefore call on the CDM Executive Board to either reject the project or to re-open the public consultation period.

We would also like to inform you that based on the information provided above, a complaints procedure against the DOE will be initiated.

Yours faithfully,

Oswaldo Jordan, Alianza para la Conservacion y el Desarrollo (ACD)

Oscar Sogandares, Spokesperson, Asociacion Ambientalista de Chiriqui (ASAMCHI)

Miguel Arjona, Coordinator, April 10 Movement for the Defense of the Tabasara River (M-10)

Monti Aguirre, Latin America Program Coordinator, International Rivers

Desislava Stoyanova, Coordinator, Counter Balance Coalition

Eva Filzmoser, Programme Director, CDM Watch