

Response to the Inter-American Development Bank (“IDB”) Board of Directors

Date: October 24th, 2012.

Subject: Audit report in observance by the Independent Consultation and Investigation Mechanism (ICIM) policy, to be discussed by the Board of Directors in session this coming Wednesday October 24th, 2012.

Firstly, we wish to reiterate that since the beginning of the ICIM Pando-Monte Lirio process in Panamá, the main interest of the complainant organizations has been to make the social, environmental, economic and cultural impacts brought by the development of these types of projects visible, specifically within the framework of massive construction of hydroelectric plants in the Chiriquí Province, and in general their repercussions in our country's river basins.

The audit report acknowledges the legitimate concerns of the communities and emphasizes the fact that there was no fulfillment of some of the Operational Policies as well as social and environmental safeguards. In addition, it points out that the IDB was not in compliance with the resolutions of the Environmental and Safeguard Fulfillment Policy (OP-703) and (OP-304) related to Operations Administration, which should have been the criteria for the financing approval given to Electron Investment S.A.

Management's Response to the report comments, in Section III.2 paragraph 17, about an Ecological Flow Study that has been completed “thanks to the Bank's efforts and continued involvement”. Nonetheless, the communities, the claimants and other social actors in the river basin do not recognize this study. Although it is stated that a mitigation plan will be implemented and sluiceways constructed, these do not guarantee the survival of the river. The study was carried out unilaterally by the company, it was not done in consultation with local affected communities, nor does it consider the fact that there are other projects operating above and below the Pando y Monte Lirio dams in the same river basin, which are already altering the ecological flow of the river. The project comes at a time when there is already a general problem going on in the river basin.

In Section III.2 paragraphs 22 and 23 on the subject of the cumulative impacts, there is a reference to a preliminary evaluation of cumulative impacts, which if not addressed would likely cause irreversible damage to the river basin, and Management states that the Bank “has been consistently engaging with relevant authorities...to try and address cumulative impacts...[s]pecifically [through] the development of the pilot Watershed Management Plan for the [Chiriquí Viejo River through an on-going [Technical Consultation] with ANAM,” the National Environmental Authority.

As residents of the river basin, we are aware of ANAM's attempts to develop a Management Plan, but it is not based on suitable technical and scientific studies, nor is it sufficiently objective. We do not want to come to a point where the situation becomes too complex to resolve due to the impacts that have already occurred.

The river basin's situation is so grave it requires a drastic hold on all concessions for a thorough review, those in the process of getting approval and those which have not started operating, in order to determine the adequate mechanisms that can be developed to manage and protect the river basin, based on the physical, ecological, biological and economical conditions of the river basin, and under a governing scheme that brings about the dynamic participation of the affected communities.

ANAM's recently organized Management Plan for the River Basin Workshops were only convened to inform stakeholders that the institution does not have the financial resources to guarantee the implementation of such a plan. It is not a matter of adapting the Management Plan to hydroelectric developers. A Comprehensive River Basin Analysis is needed along with the Management Plan, where all social actors involved are considered, in order to guide and administrate correctly River Basin 102.

Section III.2 paragraph 28 states that EISA is perceived to be a more responsible company than others operating within the Chiriquí Viejo river basin. This is a rather questionable assessment, given the criminal and administrative cases that have been filed regarding actions taken by the company in cases regarding land acquisition, water pollution, health and environmental impacts to residents of the community, as well as community and individual complaints.

For further information, refer to the following (documentation can be presented upon request):

- ANAM's administrative files: Inspection technical report 036-06-12, belonging to Project Category III, named 'Hidroeléctrico Monte Lirio', by Engineer Nina Kalinina from Environmental Protection, ANAM-Chiriquí, where a formal complaint by the community was processed for environmental damage to a water source in Caizán.
- Criminal reports of pollution through Renacimiento's legal representation for life and health impacts caused to residents of the community (filed on June of 2012).

In Section III.2, paragraph 30, it is stated that in January 2012, there was a negotiation with EISA on a Corrective Actions Plan that brought an end to residual and polluted water discharge in communal aqueducts. We notice there is an evident contradiction between the environmental and social supervision reports to the Bank and the reality in which we live, given that there have been formal complaints filed regarding these issues on dates following those reports.

The Bank suggests that it was guided by a strategy of long term commitment with the company, to assure the fulfillment of those aspects. However this is not an easy process to fulfill when there is a lack of will and technical competence by ANAM, which may not result in a coherent and effective observance of environmental laws. The weakening of environmental law and the institution of ANAM itself has become quite evident in recent years, and this makes the situation at River Basin 102 even more serious.

The ICIM report also points out some systemic issues related to the approval of public and private financing of projects which have not complied with Bank standards or operational policy, but it is not clear about how such behavior has affected the company. It seems as if the company has been rewarded for resolving those obstacles and errors and has been able to continue to receive financing without consideration of the effects of those offenses

on the environment and the people that depend on the riverbasin.

As communities, we are left with the question of whether the ICIM report plays a role of generating information to bring about and assure compliance or if it in fact has a binding role, so that companies must fulfill their commitments to the communities from the beginning and the latter truly have a space to express their opinions, where they are respected and considered.

Our request is quite clear: stop all disbursements until fundamental steps are taken to protect the Chiriquí River Basin. Specific matters that should be necessary prerequisites to the approval of financing are:

- Ecological Flow. Present and hold participatory consultations regarding the Ecological Flow Study made by the Hydroelectric Company, with all stakeholders, including advocates of environmental and social rights and all those directly affected in our province. The mentioned study should in fact guarantee the survival of the river's life (water flow and species).
- Due to the irreversible damage being done to the river basin, we ask that a Cumulative Impact Study of the already constructed projects be conducted, including an analysis of the impact of the projects in the process of being approved and the ones already approved but not yet constructed. The commitment to assuring the survival of the river basin should not be considered only for projects' affected zone, but of the whole river basin.
- We ask the IDB to withhold all multilateral economic support given to the Panama government to strengthen environmental legislation, River Basin Management Plans, Risk Management Plans and Climate Change mitigation procedures, until the river basin's ecological flow is guaranteed and the technical abilities within the institutions in charge of such legislation and plans are increased, in order to adequately supervise and monitor the fulfillment of environmental statutes.
- Review of River Basin Legislation 44 to include successful participation of affected communities in the decision-making on conservation, administration and usage of water resources.

We hope the Board of Directors hears our requests, which come from a vision of development from the community's perspective, validated and supported by the final ICIM report. We also ask the IDB to encourage a national dialogue to discuss hydroelectric development planning in Panama.

ALIANZA AMBIENTAL PRO DESARROLLO INTEGRAL UNIDOS POR PANAMA (AAPRODIUPA) are:

Asociación de Productores de Cultivos Exportables (APCE),
Amigos del Parque Internacional La Amistad (AMIPILA),
Asociación Agroecológica Macho de Monte,

Grupo Expedición Natural Agro Turística,
Grupo Orgánico de Agricultores Cerro Punteños,
Asociación Ecologista de Productores Orgánicos de Rovira,
Grupo Ecologista de Renacimiento para la Protección del PILA,
Asociación de Productores Agroecologistas La Amistad (ADPAELA),
Asociación de Productores de Renacimiento,
Asociación Agroecoturística La Amistad,
Asociación Ambientalista de Chiriquí,
Centro Misionero de la Concepción,
Asociación Conservación de la Biosfera,
Colibrí Asociación Ecologista de Panamá,
Comité por la Defensa del Río Gariché y sus Afluentes,
Fundación para el Desarrollo Integral, Comunitario y Conservación de los Ecosistemas en Panamá.