

OVERSEAS PRIVATE INVESTMENT CORPORATION
WASHINGTON, D.C. 20527, USA



OFFICE OF
ACCOUNTABILITY

November 22, 2011

To: Mr. Marc Frishman (Comexhidro), Mr. Carlos Jinich (Comexhidro), Ms. Angelica Ocampo Narciso (Ejido Cerro de Oro), Mr. Fidencio Flores (Ejido Paso Canoa), and Mr. Leonardo Soto (Ejido Santa Ursula)

From: Keith Kozloff, Director, Office of Accountability

Subject: Response to request for compliance audit

I wish to acknowledge receiving a request on November 14, 2011, from the ejido authorities of Santa Ursula, Paso Canoa, and Cerro de Oro through the Sindico for the Municipality of Tuxtepec. The request is for OPIC's Office of Accountability (OA) to initiate a compliance audit of the Cerro de Oro hydroelectric project. The original request for a compliance audit was contained in the complaint filed with the OA on November 30, 2010. A compliance audit is intended to determine whether the relevant OPIC policies and procedures, in effect at the time when OPIC approved the project, were appropriately applied and implemented. An audit report may include both project-specific and general recommendations. The focus of a compliance audit is on what OPIC did (not what the client did), and the process of conducting it does not directly affect the construction or operation of a project.

The original complaint also requested a problem-solving process. OA's practice is to conduct problem-solving and compliance review sequentially rather than simultaneously. Because OA believes that problem-solving offers a more immediate and direct service to address the concerns of local communities, it decided to initiate the problem-solving process first.

The principle tool of OA's problem-solving services is the dialogue table, which seeks provide the conditions for the complainants and the OPIC client to reach a mutually acceptable resolution to the expressed concerns. Based on the willingness of the parties, OA conducted this process from March through November, 2011. On November 14, 2011, OA determined that continuing the dialogue table was unlikely to achieve such a resolution, despite the implementation of several important measures designed to build trust in the process and between the parties. OA therefore terminated the dialogue table and executed a transition to a consultation to be conducted by the Oaxaca state authorities. OA is engaging with these authorities to determine if any other problem-solving services that it could offer would be useful to reach a final decision on the project.

As OA has concluded its most active involvement in problem-solving for this case, it has initiated the compliance review process. The steps in this process are as follows:

- 1) OA performs an appraisal to determine if conducting a compliance audit is appropriate. In making this determination, OA considers the magnitude of the environmental and social risks posed by the project, the extent to which those risks could be realized as a result of any deficiencies in the implementation of applicable OPIC policies and procedures, the extent to which a detailed investigation is needed to identify and correct the underlying causes of these risks, and the extent to which an audit is necessary to yield useful information that would inform the application of OPIC policies to future projects. These considerations help OA determine whether the potential benefits to the requestors, OPIC, and the client from conducting an audit are worth the resources invested in doing so.
- 2) After consulting with the OPIC CEO, OA notifies the parties and OPIC management in writing of the results of its appraisal. OA's determination will be final.
- 3) If the result of the appraisal is to conduct a compliance audit, OA identifies its scope.
- 4) OA prepares a draft audit report to be circulated to OPIC management and relevant departments for factual review and comment.
- 5) The final audit report is sent to OPIC's CEO.
- 6) Once OPIC's management responds to the report in writing, OA posts both on the OA website. The audit report may include both project-specific and general recommendations.
- 7) OA monitors the implementation of any recommendations accepted by OPIC management.
- 8) If OA determines through its appraisal that an audit is not warranted, OA closes the case.

Cc:

Mr. Mauricio Justus (Comexhidro)

Ms. Natalie Bridgeman Fields (Accountability Counsel)

Mr. Felix Lopez (Ejido Los Reyes)