

INTERNATIONAL COURT OF JUSTICE

**DISPUTE CONCERNING
CERTAIN ACTIVITIES CARRIED OUT BY NICARAGUA
IN THE BORDER AREA
(COSTA RICA V. NICARAGUA)**

COUNTER - MEMORIAL
OF THE REPUBLIC OF NICARAGUA



**VOLUME III
(ANNEXES FROM 27 TO 111)**

06 August 2012

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Annex 27

Excerpts of the Political Constitution of the Republic of Nicaragua

POLITICAL CONSTITUTION OF THE REPUBLIC OF NICARAGUA

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TITLE IV RIGHTS, DUTIES, AND GUARANTEES OF THE NICARAGUAN PEOPLE

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CHAPTER I INDIVIDUAL RIGHTS

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Art. 38 The Law does not have retroactive effect, except in criminal matters when favorable to the defendant.

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CHAPTER II POLITICAL RIGHTS

* * *

Art. 60 Nicaraguans have a right to live in a healthy environment. It is the obligation of the State to preserve, conserve, and restore the environment and natural resources.

* * *

TITLE VI NATIONAL ECONOMY, AGRARIAN REFORM, AND PUBLIC FINANCE

CHAPTER I NATIONAL ECONOMY

* * *

Art. 102 Natural resources are national assets. The preservation of the environment and the conservation, development, and rational use of natural resources is the duty of the state; it may enter into contracts for the rational use of these resources, when the national interest so requires.

* * *

Art. 105 It is the obligation of the State to promote, facilitate, and regulate the provision of the basic public services regarding energy, communication, water, transportation, road

infrastructure, ports and airports to the people, and it is their inalienable right to have access thereto. Private investments and the modalities thereof and concessions to private parties to operate in these areas shall be governed by the law in each case.

Education, health, and social security services are irrevocable duties of the State, which is bound to provide them without exclusions, to improve them and to expand them. The facilities and infrastructure for those services belonging to the State may not be alienated in any way.

Free healthcare is guaranteed for the vulnerable sectors of the population, with priority given to the provision of mother-child programs. The state health and education services must be expanded and strengthened. The right to establish private services in the areas of health and education is guaranteed.

It is the duty of the State to guarantee quality control over goods and services, and to prevent speculation and the hoarding of basic consumer goods.

Annex 28

Nicaraguan Decree No. 45-94
Environmental Impact Permit and Evaluation Regulation
28 October 1994

ENVIRONMENTAL IMPACT PERMIT AND EVALUATION REGULATION

DECREE No. 45-94

The President of the Republic of Nicaragua

WHEREAS

I

It is the responsibility of the State to ensure that Nicaraguans live in a healthy environment.

II

Development may lead to consequences that affect the environment, which makes necessary the application of environmental evaluation, regulation, and control systems, in accordance with the various laws existing in matters of environmental protection and the rational exploitation of natural resources.

III

The environmental impact evaluation, so as not to constitute an obstacle to sustainable development, must be performed under homogenous technical criteria using a suitable mechanism and procedures, to which end effective regulations are required.

THEREFORE

In use of the authorities granted by the Political Constitution

The following Decree on:

ENVIRONMENTAL IMPACT PERMIT AND EVALUATION REGULATION

HAS BEEN ISSUED

Art. 1. This Regulation establishes the procedures that the Ministry of the Environment and Natural Resources (MARENA) will use for the granting of an environmental permit, as a mandatory administrative document for products that require an environmental impact study.

Art. 2. Art. 5 specifically lists projects for which an environmental impact study shall be performed.

Art. 3. For the purposes of this law, the following definitions shall be used:

- a) ENVIRONMENT: The system of biotic, abiotic, socioeconomic and elements

that interact with each other, with individuals, and with the community where they live, determining their relationships and survival.

- b) ENVIRONMENTAL PERMIT: A document issued by MARENA, [upon] request of the proponent of a project, which certifies that from the environmental protection point of view the activity can be executed under the condition of fulfilling the established measures.
- c) ENVIRONMENTAL IMPACT STUDY: A set of technical and scientific activities aimed at identifying, predicting, and controlling the environmental impacts of a project and its alternatives presented in the form of a technical report and undertaken as per the criteria established in current regulations.
- d) ENVIRONMENTAL IMPACT DOCUMENT: A document prepared by a multidisciplinary team, under the responsibility of the proponent, which reports, to the competent authority and other interested parties the results and conclusions of the Environmental Impact Study, translating the technical information and data into clear and easy to understand language.
- e) ECOLOGICALLY FRAGILE AREAS. An area vulnerable or susceptible to being damaged by the effect of certain environmental impacts, low stability and resistance and weak capacity for regeneration: springs, aquifers, rivers, lakes, crater lagoons or estuaries, deltas, beaches, rocky coasts, keys, coral reefs, marine plains, wetlands, dunes, lands with inclines of more than 35%, forests and their respective transition areas, and areas declared under protection.
- f) PROPONENT. A public or private, national or foreign, natural or legal person who proposes the execution of a project, for which he requests an environmental permit.
- g) ENVIRONMENTAL IMPACT: Any positive or negative material alteration of one or more of the biotic, abiotic, socioeconomic, cultural, and aesthetic components of the environment.
- h) AREA OF INFLUENCE. The space and the surface where the direct or indirect actions of a project or activity have an effect.
- i) MITIGATION MEASURE. (An action) aimed at preventing and avoiding the negative impacts caused by the execution of a project, or to reduce the magnitude of those that cannot be avoided.
- j) MONITORING. Periodic measuring of one or more parameters indicating the environmental impact caused by the execution of a project.
- k) ENVIRONMENTAL MANAGEMENT PROGRAM. Set of plans and their respective actions for a project to be performed in accordance with the

environmental protection principles established in the environmental permit.

- l) RESOLUTION. This is the administrative act by which an environmental permit is granted or denied.
- m) OPINION. An administrative act prepared under the technical responsibility of the General Environmental Office (DGA) of the Ministry of the Environment and Natural Resources, which presents the results of the review of an environmental impact study and document, to be used to justify the decision by MARENA on the granting of an environmental permit for a project.

Art. 4. Having obtained an environmental permit is indispensable for the performance of the new, expansion, rehabilitation, or reconversion projects cited in Art. 5. The granting of such permit is without Prejudice to such other obligations as are required by domestic law.

Art. 5. The submission of an environmental impact study and document shall be a requirement for the granting of an environmental permit for the projects deriving from the following activities:

- a) exploration and exploitation of gold, zinc, copper, iron, silver, hydrocarbons, and geothermal resources;
- b) exploration and exploitation of other minerals when the deposits are located in ecologically fragile areas or areas protected by law;
- c) semi-intensive and intensive shrimp farms and semi-intensive and intensive aquaculture of other species;
- d) changes in the use of forestry land, forestry management plans in areas greater than 5,000 hectares, forestry exploitation on gradients greater than or equal to 35% or that require the full-time opening of forest roads;
- e) electricity generation plants from any source above 5 MW in power; and electricity transmission lines with voltage greater than 69 KW;
- f) ports, airports, crop-dusting aerodromes, terminals for mining, and hydrocarbons along with their derivatives;
- g) new trunk railways and highways;
- h) oil pipelines, gas pipelines, and ore slurry pipelines;
- i) macro-drainage systems and woks, purification stations, sewer systems, and discharges of sewage water, dams, micro-dams, and reservoirs;
- j) dredging works and works to change the courses of bodies of surface water;

- k) incinerators for industrial use and chemical substances, other forms of handling toxic substances, controlled sanitary landfills and safety fills;
- l) fills for land recovery, tourism complexes, and other development and sports projects when they are located in ecologically fragile areas or areas protected by law;
- m) industrial fishing complexes and plants, industrial slaughterhouse; food and beverage industries; sugary refineries and alcohol distilleries; textile and cloth finishing industries; industrial curing of leather; the manufacture of pulp, paper, and cardboard; production of resins and synthetic products; manufacturers and formulators of agrichemicals; fabrication of paints, varnishes, lacquers, and solvents; oil refineries; iron and steel industries; nonferrous metal industry; chromium industries; chemical, petrochemical, chlorine chemical industries; cement industry; industrial production of batteries or accumulators.

Art. 6. MARENA may request from the office of the president of the Republic expansion of the specific list of projects that require an Environmental Impact Study.

Art. 7. MARENA, upon consultation with the other state entities, whether national, regional, or municipal, will issue the technical and administrative rules that are necessary to implement this Decree.

Art. 8. It is the obligation of the proponent to submit the documentation and information that is requested of it, in accordance with this decree and such supplementary provisions as MARENA issues.

Art. 9. Once the Environmental Permit application is submitted, MARENA may undertake the necessary inspections and visits to the properties, facilities, or places related to the Project.

Art. 10. MARENA, in coordination with the corresponding sectoral body, based on the general Terms of Reference for Environmental Impact Studies, shall define the specific Terms of Reference for each project with the proponent.

Art. 11. The environmental impact study shall be submitted by the proponent, who shall be responsible for it and shall be obligated to submit any response or clarification that MARENA requires.

Art. 12. The costs of the studies, mitigation measures, monitoring, environmental management programs, and other procedures related to the permit process, shall be borne by the proponent.

Art. 13. MARENA shall consult with the competent sectoral bodies with respect to the environmental impact document, in accordance with the established procedure.

Art. 14. The Environmental Impact Document may be discussed, in accordance with the

established procedures, with the MARENA Territorial Offices, and governments of the Municipalities where the project is located.

Art. 15. MARENA shall publish just once, in two national-circulation newspapers, the availability of the Environmental Impact Document for public consultation, as well as the times, places for consultation, and the time frames established to receive opinions, in accordance with the established procedure.

Art. 16. MARENA shall have a maximum period of 10 business days for the preliminary review of the documents received and, if necessary, it shall request additional information in accordance with the terms of reference established. Once they are satisfactorily received, the period starts.

Art. 17. MARENA shall have a minimum period of 30 business days and no more than one-third of the time used to prepare the environmental impact study, without this exceeding 120 business days, to proceed with its technical review and issue the corresponding resolution. Such period may be interrupted upon notification until the information requested is provided.

Art. 18. The Resolution issued by the General Environmental Office, when it is positive, shall establish the mitigation measures the negative impacts generated by the project, the monitoring requirements, and the environmental management program that the proponent commits to.

Art. 19. Against the resolution by the General Environmental Office there is a Motion for Reconsideration by that selfsame body, which shall be filed within a period of 5 business days after notification; against the foregoing resolution there exists only a motion for review by the Minister, which shall be filed within a period of 10 business days after notification. The foregoing motion exhausts administrative remedies.

Art. 20. Noncompliance with the measures established in a MARENA resolution shall be punished as established in the procedures and in accordance with current legal provisions.

Art. 21. The permit may be cancelled because of nonperformance of the actions established for conserving and protecting the environment. The cancellation of the environmental permit implies the suspension or definitive closure of the project's operations.

Art. 22. The application of the provisions on the granting of the Environmental Impact Permit cited in this Decree shall be subject to the issuance by MARENA of the supplementary administrative procedures and general terms of reference.

Annex 29

Nicaraguan Law No. 217
General Environmental and Natural Resources Act
06 June 1996

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[...]

NATIONAL ASSEMBLY OF THE REPUBLIC OF NICARAGUA

GENERAL ENVIRONMENT AND NATURAL RESOURCES ACT

Law No. 217

[...]

Title 1

Chapter I

General Provisions

Art. 1. The objective of this General Environment and Natural Resources Act is to establish the standards for the conservation, protection, improvement, and restoration of the environment and the natural resources that constitute it, ensuring the rational and sustainable use thereof, pursuant to the provisions of the Political Constitution.

Art. 2. The provisions contained in this Act are of a public policy nature. All persons may have citizen participation to bring administrative, civil, or criminal actions against those who violate this Act.

Art. 3. The following are specific objectives of this Act:

1) The prevention, regulation, and control of any of the causes or activities that give rise to the deterioration of the environment and contamination of ecosystems.

2) To establish the means, forms, and opportunities for the rational exploitation of natural resources within a National Plan based on sustainable development, with equality and social justice, and taking into account the cultural diversity of the country and respecting the rights

granted to our autonomous regions of the Atlantic Coast and Municipal Governments.

- 3) The correct use of physical space through territorial regulations that take into account the protection of the environment and natural resources as a basis for the performance of human activities.
- 4) To strengthen the National System of Protected Areas, in order to guarantee biodiversity and other resources.
- 5) To guarantee the use and rational management of water basins and systems, thus ensuring their sustainability.
- 6) To develop and promote environmental education as a means to promote a society in harmony with nature.
- 7) To foster a healthy environment that contributes in the best manner to the promotion of health and the prevention of diseases amongst the Nicaraguan people.
- 8) To promote and incentivize activities and programs that lead to the implementation of and compliance with this Act.
- 9) Such others as are contained in this Act.

Art. 4. The economic and social development of the country shall be subject to the following guiding principles:

- 1) The environment is the common property of the nation and it constitutes a basis for the sustainable development of the country.
- 2) It is the duty of the State and of all inhabitants to protect the natural resources and the environment, to improve them, to restore them, and to attempt to eliminate unsustainable patterns of production and consumption.
- 3) The policy of prevention shall prevail over any other in the public and private management of the environment. The lack of absolute scientific certainty may not be used as a reason not to adopt preventive measures in all the activities that affect the environment.
- 4) The State must recognize and provide support to the indigenous peoples and communities, whether they are part of the Autonomous Regions, the Pacific Region, or the Center of the Country, in their activities for the preservation of the environment and sustainable use of natural resources.
- 5) Property rights have a socio-environmental function that limits and conditions the absolute, abusive, and arbitrary exercise thereof, pursuant to the provisions of this Act and of the special environmental Law in force or those that are approved in the future.

6) The freedom of inhabitants, within the framework of economic and social activities, is limited and conditioned on the social interest, pursuant to the provisions of the Political Constitution, this Act, and current special environmental laws or such as are issued in the future.

7) The conditions and agreements regarding the rational exploitation of natural resources granted by the State in the autonomous regions of the Atlantic Coast shall have the approval of the corresponding Autonomous Council. In rational Exploitation agreements for natural resources located in the respective municipalities, the State shall request and take into account the opinions of the municipal governments, before authorizing them.

Chapter II

Definitions

Art. 5. For the purposes of this law, the following definitions shall be used:

ENVIRONMENT: The system of biotic, abiotic, cultural, socioeconomic and aesthetic elements that interact with each other, with individuals, and with the community where they live, determining their relationships and survival.

EXPLOITATION: The use or rational sustainable exploitation of natural and environmental resources.

BIODIVERSITY: The collection of each and every one of the species of living beings and the varieties thereof, whether terrestrial, aquatic, or if they live in the air or in the ground, whether they are plants or animals or of any type it includes the diversity of a single species, amongst species, and between ecosystems, as well as genetic diversity.

CONSERVATION: The application of all necessary measures needed to preserve, improve, maintain, rehabilitate and restore populations, and ecosystems, without affecting the exploitation thereof.

CONTAMINATION: The presence and/or introduction into the environment of elements harmful to life, flora, or fauna, or such as degrade the quality of the atmosphere, the water, the ground, or natural assets and resources in general.

CONTAMINANT: All materials, elements, compounds, substances, chemical or biological derivatives, energy, radiation, vibrations, noise, or a combination thereof in any of their physical states which when incorporated into being or acting on the atmosphere, water, soil, flora, fauna, or any other element of the environment, alters or modifies its natural composition and degrades its quality, jeopardizing the health of persons and the preservation and conservation of the environment.

ENVIRONMENTAL CONTROL: The supervision, inspection, monitoring, and application of conservation within the environment.
measures for the

ENVIRONMENTAL DAMAGE: All losses, reductions, deterioration, or harm caused to the environment or to one or more of the components thereof.

ENVIRONMENTAL IMPACT DOCUMENT: A document prepared by a multidisciplinary team, under the responsibility of the proponent, which reports to the competent authority and other interested parties the results and conclusions of the Environmental Impact Study, translating the technical information and data into clear and easy to understand language.

SUSTAINABLE DEVELOPMENT: To improve the quality of human life without exceeding the capacity of the ecosystems that sustain it.

CAPACITY: These are the limits that ecosystems and the biosphere can bear without suffering serious deterioration.

ENVIRONMENTAL EDUCATION: A permanent process of citizen training, formal and informal, for becoming aware of and developing values, concepts, and attitudes regarding the protection and sustainable use of natural resources and the environment.

ENVIRONMENTAL IMPACT STUDY

A set of technical and scientific activities aimed at identifying, predicting, and controlling the environmental impacts of a project and its alternatives presented in the form of a technical report and undertaken as per the criteria established in current regulations.

ECOSYSTEMS: The basic Unit of interaction of living organisms with each other and their relationship to the environment.

ENVIRONMENTAL IMPACT EVALUATION:

Environmental Impact Evaluation (EIA) is defined as the environmental policy and management instrument comprised of the set of procedures, studies, and technical systems that allow for an estimate of the effects that the execution of a specific work, activity, or project can have on the environment.

ENVIRONMENTAL IMPACT: Any positive or negative material alteration of one or more of the components of the environment caused by human action and/or natural events in a defined area of influence.

REGULATION: A Planning Process aimed at evaluating and scheduling the use of the land in the National Territory, depending on its potential characteristics and suitability taking into account natural and environmental resources, economic and social activities, and the distribution of the population, within the framework of an ecological system conservation and sustainable use policy.

ENVIRONMENTAL PERMIT: A document granted by the competent authority upon request of the proponent of a project that certifies that from the environmental protection point of view the activity can be executed under the condition of performing the established measures.

NATURAL RESOURCES: Natural elements that man has to meet his economic, social, and cultural needs. (Natural elements subject to being exploited by man.)

EMISSION LEVELS: The release of greenhouse gases or the precursors thereof into the atmosphere in one area during a specified time period.

PROTECTED AREAS: Those areas whose purpose is the conservation, rational management, and restoration of the flora, wild fauna, and other similar life forms, as well as biodiversity and the biosphere.

Likewise included in this category are those species in the national territory that are protected in order to restore and conserve geomorphologic phenomena, sites of historic, archeological, cultural, scenic, or recreational importance.

HAZARDOUS WASTE: Hazardous waste is defined as that which, in any physical state, has significant quantities of substances that may be hazardous to the life or health of living organisms when they are released into the environment or if they are handled improperly due to their size based on their corrosive, toxic, poisonous, reactive, explosive, inflammable, biologically pernicious, infectious, irritating or any other characteristics that represents a hazard to human life, the quality of life, environmental resources or ecological equilibrium.

Title II

Environmental Management

Chapter I

The Environment Commission

Art. 6. The National Commission is created as a forum for analyzing, discussing, and setting environmental policies. It will function as the coordinating authority between the State and Civil Society to obtain the harmonious action of all sectors, as well as a consultative and advisory body of the Executive Branch in relation to the formalization of policies, strategies, design and execution of environmental programs.

Art. 7. The Commission shall be made up permanently of the representatives of the following Institutions and entities:

- 1) Ministry of the environment and Natural Resources, which will preside over it.
- 2) Ministry of the Economy and Development.
- 3) Ministry of Finance.
- 4) Ministry of Construction and Transportation.

- 5) Ministry of Health.
- 6) Ministry of Foreign Relations.
- 7) Nicaraguan Institute of Territorial Studies.
- 8) Nicaraguan Aqueduct and Sewer Institute.
- 9) One delegate from each one of the Autonomous Regional Councils of the South Atlantic.
- 10) One delegate from the Association of Municipalities of Nicaragua.
- 11) Two delegates from environmental nongovernmental organizations, one of them on behalf of the Nicaraguan Environmental Movement.
- 12) Two delegates from Private Enterprise: One from the Industrial Sector and the other from the Agricultural and Livestock Sector.
- 13) One delegate from the Union Sector.
- 14) One delegate from the National Board of Universities.
- 15) One delegate from the National Assembly's Environmental and Natural Resources Committee.

When the subject matter so warrants, Representatives of other Institutions and Entities of the State or Civil Society shall be invited to participate.

The commission shall operate in accordance with such Internal Regulation as it itself issues.

Art. 8. The Ministry of the Environment and National Resources, as the regulatory and normative entity of the environmental policy of the country, shall be the one responsible for compliance with this Act and it shall monitor the implementation of the provisions established herein.

Art. 9. The Environmental and Natural Resource Defense Office is created, as a specialized branch of the Department of Justice. It shall represent and defend the interests of the State and society in this matter.

Art. 10. The Environmental Office shall have the following attributes:

- 1) Take actions and represent the public interest, with the capacity as a party to the proceeding, in all actions for violations of environmental laws.

- 2) Take the other actions stipulated in this Act, in the Organic Act of the Justice Department, and in the other pertinent Acts.

Chapter II

The Instruments for Environmental Management

Art. 11. The set of policies, directives, technical and legal provisions, activities, Programs, projects and institutions that allow for the application of the General Environmental Principles and the achievement of the environmental objectives of the country are instruments for managing the environment, among which are the following:

- 1) Planning and legislation
- 2) Environmental Regulations of the Territory
- 3) Protected Areas
- 4) Environmental Impact Permits and Evaluations
- 5) National Environmental Reporting System
- 6) Education, Dissemination, and Scientific and Technological Development
- 7) Incentives
- 8) Public Investments
- 9) The National Environmental Fund
- 10) The Declaration of Contaminated Areas and Environmental Emergencies.

Section I

Planning and Legislation

Art. 12. The planning for the national, regional, and municipal development of the country shall include environmental elements in their economic and social plans, programs, and projects, respecting the principles of transparency and citizen participation. Within the scope of their competencies, all entities of the government, decentralized entities, and municipal authorities must provide and plan for no irreversible effects, with environmental protection, and recovery of the environment and natural resources to prevent their deterioration and extinction.

Art. 13. The agencies responsible for the formulation and application of Environmental Policy, technical standards and other instruments stipulated in the law, shall observe the following principles:

- 1) The life and productive abilities of the country depend on the equilibrium of the ecosystems.
- 2) The ecosystems and their elements must be used in a manner that ensures optimal and sustained productivity, compatible with their equilibrium and integrity.
- 3) The protection of the environmental equilibrium is a shared responsibility of the State and the citizens.
- 4) The responsibility to ensure the ecological equilibrium includes both present conditions and those that will determine the quality of life of future generations.
- 5) The efficiency of environmental actions requires inter-institutional coordination and agreement with civil society.
- 6) Prevention is the most effective means to avoid ecological disequilibrium.
- 7) The exploitation of renewable natural resources must be performed in a manner that ensures their biodiversity and renewability.
- 8) The optimal exploitation of nonrenewable natural resources prevents adverse ecological effects from occurring.
- 9) The quality of life of the people depends on the control and prevention of environmental contamination, the adequate exploitation of natural elements and the improvement of the natural environments in human settlements.
- 10) Such activities as are performed within the natural territory, shall respect the ecological equilibrium of other countries or areas under international jurisdiction.

Section II

Environmental Regulations in the Territory

Art. 14. The principal objective of the environmental regulations of the country shall be to achieve the utmost harmony possible in the interrelationships between society and its environmental surroundings, taking into account:

- 1) The topographical, geomorphologic, and meteorological characteristics of the different environmental regions in the country.
- 2) The vocations of each region as a function of its natural resources, conservation, recovery, and improvement of the quality of sources of water.
- 3) The distribution and cultural criteria of the people.

- 4) The ecological disequilibria existing due to human or natural causes.

Art. 15. The Nicaraguan Institute of Territorial Studies and the Ministry of the Environment and Natural Resources shall issue and put into effect the rules, guidelines, and policies for regulating the territory, taking into account:

- 1) The priority uses that will be given to the areas of the National territory according to their economic potentials, specific conditions, and ecological capacities.
- 2) The location of the principal industrial, agro-industrial, agricultural and livestock, forestry, mining, and services areas.
- 3) The general guidelines for the urban development and city system process.
- 4) The delimitation of protected natural areas and other spaces subject to a special environmental conservation and improvement regime, with absolute protection and restricted management.
- 5) The location of large works and infrastructure related to energy, communications, transport, exploitation of water resources, cleanup of extreme areas, and other analogous ones.
- 6) The general guidelines for road and transportation corridors.

Art. 16. The preparation and execution of territorial regulation plans will be the responsibility of the municipal authorities who shall make them based on the established guidelines and directives. In the case of the Autonomous regions of the Atlantic Coast, it shall fall under the jurisdiction of the Autonomous Regional Councils with Technical Assistance from the specialized Institutions.

Section III

Protected Areas

Art. 17. The National System of Protected Areas is created, which includes all of the areas declared as such on the date this Act takes effect, and such as are declared in the future.

Art. 18. The basic objective of the establishment and legal declaration of protected natural areas is:

- 1) To preserve the ecosystems representative of the different bio-geographic and ecological regions of the country.
- 2) To protect water basins, water cycles, aquifers, specimens of biotic communities, genetic resources, and wild genetic diversity of flora and fauna.

- 3) To favor the development of technologies appropriate for the improvement and rational and sustainable exploitation of natural ecosystems.
- 4) To protect natural landscapes and the areas surrounding historic, archeological, and artistic monuments.
- 5) To promote recreational and tourism activities in harmony with nature.
- 6) To favor environmental education, scientific research, and the study of ecosystems.

Art. 19. The inhabitants of protected areas shall be recruited and become the true guardians of these sites, the State guaranteeing them all the rights and guarantees to which Nicaraguans have a right.

Art. 20. The declaration of protected areas shall be established by Law; and its initiatives shall therefore be regulated pursuant to the provisions of Cn. Article 140. The following shall be taken into account prior to the declaration:

- 1) The identification and delimitation of the area.
- 2) The technical Study, which contains the biophysical, social, cultural, and environmental characteristics and conditions.
- 3) The socioeconomic conditions of the people and surrounding areas.
- 4) The management categories recognized internationally and those that are formulated nationally.
- 5) The budget line to pay, in cash and in advance, any owners who are affected.
- 6) The indigenous communities when the protected area is established on the lands of those communities.
- 7) For the effects of this Act the following shall be the recognized categories of protected areas:

- 7.1 Natural Reserve
- 7.2 National Park
- 7.3 Biological Reserve
- 7.4 National Monument
- 7.5 Historic Monument
- 7.6 Wildlife Refuge
- 7.7 Biosphere Reserve
- 7.8 Genetic Resource Reserve

7.9 Protected Land and Marine Landscape.

Art. 21. All the activities that are performed in protected areas shall necessarily be performed in accordance with management plans supervised by MARENA, which shall be in accordance with the categories that are established for each area. Both in the achievement of the protection objectives and in management and supervision, attempts will be made to include the community.

Art. 22. The regulation and control of the protected areas shall be the responsibility of the Ministry of the Environment and Natural Resources, which may authorize the construction of service and research stations, as well as give the protected areas owned by the State to third parties under management, provided that they are nonprofit Nicaraguan legal persons, under the conditions and rules that are established in that regard in the respective management plan.

Art. 23. All private property lands situated in protected areas are subject to the management conditions established in the laws that govern the matter. The acquired rights of the owners who do not agree to the new conditions that are established shall be subject to a declaration of public utility prior to payment in cash of fair compensation.

Art. 24. Buffer zones shall be established around the protected areas with the dimensions and the usage limitations that are stipulated in the respective Management Plan.

Environmental Impact Permit and Evaluation

Art. 25. Projects, works, industry, or any other activity which by its nature might cause deterioration of the environment or natural resources, shall obtain, prior to their execution, an environmental permit granted by the Ministry of the Environment and Natural Resources. The regulation shall establish the specific list of types of works and projects.

The projects that are not included on the specific list shall be obligated to submit to the corresponding Municipality the environmental form that the Ministry of the Environment and Natural Resources establishes as a requirement for the respective permit.

Art. 26. Public or private, and national or foreign investment activities, works, or projects, during their pre-investment, execution, expansion, rehabilitation, or reconversion phases, shall be subject to the performance of environmental impact studies and evaluation, as a requirement for the granting of an Environmental Permit.

Those which do not meet the requirements, recommendations or controls set shall be sanctioned by the Ministry of the Environment and Natural Resources. The cost of the Environmental Impact Study shall be borne by the party interested in developing the work or project.

Art. 27. The system of Environmental Impact permits and Evaluations shall be administered by the Ministry of the Environment and Natural Resources in coordination with the corresponding institution. With respect to the study, MARENA shall be obligated to consult with the competent sectoral bodies as well as Municipal governments. In the case of the autonomous regions of the Atlantic Coast, the system shall be governed by the respective regional council, in coordination

with the authority that administers or authorizes the activity, work, or project, based on the regulatory provisions, respecting citizen participation and guaranteeing the corresponding dissemination.

Art. 28. The Environmental Permits shall include all the obligations of the owner of the project or institution responsible for it, establishing the method of follow-up and compliance with the Permit obtained.

Art. 29. The permit binds the person to whom it is granted:

- 1) To maintain the controls and recommendations established for the execution or performance of the activity.
- 2) To assume administrative, civil, and criminal liability for the damages caused to the environment.
- 3) To observe the provisions established in the special rules and regulations in effect.

Art. 30. The Ministry of the Environment and Natural Resources, based on the classification of the investment works and the sizing thereof, shall issue the technical rules, provisions, and methodologies that are necessary for the preparation of the Environmental Impact Studies.

[...]

Title III

Natural Resources

Chapter I

Common Rules and Methods of Acquiring Rights

Art. 54. Natural resources are the property of the nation; their ownership, use, and exploitation shall be regulated by the provisions of this act, the special laws, and their respective regulations. The State may grant a right to exploit natural resources, through concessions, permits, licenses, and fees.

Art. 55. For the sustainable use and exploitation of renewable natural resources, the following criteria, amongst others, must be taken into account:

- 1) The sustainability of the natural resources.
- 2) The convenience of preserving the environment, the socioeconomic costs and benefits thereof.
- 3) The plans and priorities of the country, municipality, or autonomous region and

indigenous community where the resources are found and the benefit of exploiting them for the communities.

Art. 56. The term for exploiting the natural resource shall be set in the specific laws taking into account the nature of the resource, its availability, and its individual and social profitability.

Art. 57. The State, for reasons of public interest, may limit, in whole or in part, permanently or temporarily, the use and exploitation of natural resources. This matter shall be governed through the specific laws.

Art. 58. Noncompliance with this Act and the special laws shall be general causes for the termination of exploitation permits.

Art. 59. The special laws that regulate the ownership, use, and exploitation of natural resources shall fall within the provisions of this Act.

Art. 60. The Ministry of the Economy and Development has the authority to manage the use of the natural resources under the ownership of the State that have been assigned or are assigned to it by law, guaranteeing compliance with the technical rules and regulations established by the Ministry of the Environment and Natural Resources. In the Autonomous Regions this management shall be undertaken in coordination with the Autonomous Regional Councils.

Art. 61. The Ministry of the Environment and Natural Resources has the authority to regulate the use of renewable and nonrenewable natural resources, and to monitor and control the quality and appropriate use thereof. In the Autonomous Regions this regulation shall be undertaken in coordination with the Autonomous Regional Councils.

Chapter II

Biodiversity and National Genetic Assets

Art. 62. It is the duty of the State and all of its inhabitants to watch over the conservation and exploitation of biological diversity and national genetic assets, in accordance with the principles and rules contained in national legislation and in International Treaties and Conventions signed and ratified by Nicaragua.

In the case of indigenous peoples and ethnic communities who provide genetic resources, the State shall guarantee that such usage shall be granted in accordance with conditions determined in consultation with them.

Art. 63. The natural or legal persons that perform studies on biotechnology, shall have approval from the competent authority in accordance with the Regulation established to that end. In the authorized cases the effective participation of the people must be ensured, especially those groups that provide genetic resources, and all the information available on the use, safety, and possible effects derived from the transfer, manipulation, and utilization of any resulting organism must be provided to them.

Art. 64. In virtue of this Act, the germoplasms and each one of the native species in the national territory, particularly the endemic ones, are registered and patented in favor of the Nicaraguan State and People, for their sole or preferential use. A Regulation shall be established to that end, which shall set the procedure.

Art. 65. For the use and exploitation of Biological Diversity, both Wild and domesticated, the following shall be taken into account:

- 1) The diversity of the animal and plant species.
- 2) The endemic species and those in danger of extinction.
- 3) The biological inventorying and monitoring of Biodiversity.
- 4) Knowledge and traditional use by the local and indigenous communities.
- 5) The technology for managing the species of greatest use.

Art. 66. The Ministry of the Environment and Natural Resources shall determine the list of the species in danger of extinction, threatened, or protected, which shall be subjected to rigorous control and protection mechanisms *in situ* and *ex situ*, that guarantee their recovery and conservation according to the special laws and/or regional and international conventions.

Art. 67. The establishment of wild animal breeding farms for commercial purposes or scientific activities for threatened species, endangered species, or species in danger of extinction, shall be regulated by Law.

Art. 68. The introduction into the country and the removal therefrom of animal and plant species, must be authorized in advance by the competent authority, according to the principles and standards set in national law, in the International Treaties and Conventions signed and ratified by Nicaragua.

Art. 69. The Ministry of the Environment and Natural Resources shall inventory and record the biological diversity of the country, for which it may coordinate with and rely on national and Foreign research centers.

Art. 70. In order to regulate the safekeeping and preservation of the biological diversity of the country, a maximum period of six months is established to present a draft Biodiversity Act, from the effective date of the present Act, which shall reflect, among other things, the following:

- 1) The Protected Natural Areas.
- 2) Genetic Resources.
- 3) Species – animal and plant.

- 4) *In situ* and *ex situ* conservation.
- 5) Sustainable use and exploitation of the Biodiversity resources.

Art. 71. For the purposes of safeguarding biological diversity, the Ministry of the Environment and Natural Resources shall:

- 1) Establish closed systems.
- 2) Set export quotas for species of fauna, hunting and capture.
- 3) Prohibit shipments of wildlife products, both those originating in Nicaragua and those in transit, in any phase of their shipment or transfer, when it is suspected that it is an illegal trade or the provisions of this Law and its Regulations are being violated, remaining exempt from any type of liability.

Chapter II

Water

Section I

Common Rules

Art. 72. Water, in any of its states, is in the public domain. The State also reserves ownership of ocean, river, and lake beaches; the beds of flowing waters and the beds of natural deposits of water; salty lands, dry land up to thirty meters after the maximum line or the permanent course of rivers and lakes and the stratum or deposits of subterranean waters.

Art. 73. It is the obligation of the State and of all natural or legal persons who perform activities in the national territory and its jurisdictional waters to protect and conserve the aquatic ecosystems, guaranteeing their sustainability.

Art. 74. The use, handling, and exploitation of aquatic, coastal ecosystems and the hydro-biological resources contained therein, shall be performed on a sustainable basis and in accordance with management plans that guarantee the conservation thereof.

Art. 75. Human consumption and public service needs shall enjoy priority in the use of water.

Health Centers and Health Stations, where there are such, and the Municipal and Communal authorities, shall include in their programs related to environmental health, a chapter that establishes and expands upon the subject of Education on the Management, Obtainment, conservation and use of water for human consumption. The use thereof does not protect any form of abuse of the resource.

Art. 76. All people have a right to use water to meet their basic needs, provided that this does not cause harm to third parties nor imply diversions or storage, nor the use of a machine or the performance of activities that in any manner damage the bed and its shores, alter them, contaminate them or prevent their exploitation by third parties.

Art. 77. Save the exceptions contained in this law, the use of water shall require prior authorization, especially in the following cases:

- 1) Establishing transportation, tourism, recreation, or sporting services in lakes, lagoons, rivers, and other bodies or currents of water.
- 2) Commercial Exploitation of the Fauna and other life forms contained therein.
- 3) Exploitation of the biodiversity existing in the aquatic resources.
- 4) Use of beaches or riverbanks.
- 5) Dumping wastewater or water from rainwater drainage systems.
- 6) Injecting wastewater resulting from geothermal activity.
- 7) Any other use that leads to profit for those that undertake it.

Art. 78. To authorize the use of water, institutions with a mandate shall take the following provisions into account:

- 1) Consider the balanced interrelationship with the other resources and the functioning of the water cycle, especially protection of the soil, wooded areas, geological formations, and the areas where aquifers are recharged.
- 2) Promote the integrated management of water basins.
- 3) Protect the species of the Ecosystem of the aquatic and coastal land System, especially the endemic and threatened ones, and those in danger of extinction.
- 4) Avoid the use or processing of any element in the water system that could harm the physical, chemical, or bacteriological conditions of the water.

Art. 79. The competent authority, if the sustainable use of the water resource is jeopardized because of accidents, natural disasters, contamination, or abuse of use, may restrict, amend, or cancel such concessions, permits, or authorizations granted.

Art. 80. The duration of the concessions and authorizations, their requirements and procedures for processing, shall be subject insofar as applicable to the provisions established by law.

For the granting of water rights, the principle of transparency and public bidding shall be used as

basic criteria, with preference given to those that lead to the most rational use of the water and its surroundings.

Art. 81. The following constitute obligations of the beneficiaries of water-usage concessions or authorizations:

- 1) Obtaining prior approval for works to capture, control, conduct, store, or distribute water.
- 2) Having instruments that allow them to ascertain and measure the amount of water diverted or consumed.
- 3) Exploiting the water with efficiency and economy, using optimal capture and utilization systems.
- 4) Returning excess water to its original source or give it the use stipulated in the concession or authorization.
- 5) Avoiding overflows, on public roadways and other properties, of stored water or rainwater.
- 6) Performing on a provisional basis defensive works in case of flash flooding or other similar situations of *force majeure*.
- 7) Setting up the systems necessary to allow the passage of aquatic fauna, when waterworks are built.
- 8) Assisting the competent authority in its monitoring and inspection work and providing it such information as it requires on the use of water.
- 9) Contributing in the terms that are established in the concession or authorization, to the conservation of hydraulic structures, suitable plant coverage, security roads and other common works and facilities.
- 10) Immediately establishing the necessary measures and building works that prevent physical, chemical, or biological contamination that implies a hazard to the ecosystem and to human health.

Art. 82. Authorizations for the exploitation of subterranean waters may be revised, amended, or canceled, when the hydrogeological circumstances of overexploitation or the risk of such so require. Likewise, closed periods for the use of the water in the subsoil may be established.

Art. 83. The competent authority, in view of the use that is given to the water, the availability thereof, and the special characteristics of the water table, may establish annual volume standards for maximum extraction, the control and application of which shall fall under the jurisdiction of the Autonomous Regional Governments and the Municipalities.

Section II

Continental Waters

Art. 84. Continental surface waters, as well as the subterranean water that forms part of the water cycle, constitute a single resource, subordinated to the general interest, which forms part of the public domain. The ownership, use, and limitations thereof must be regulated.

Art. 85. In no case may private parties artificially modify the atmospheric phase of the water cycle, without express authorization from a competent authority,

Art. 86. Compliance with the rules, recommendations, and other measures that the Ministry of the Environment and Natural Resources establishes shall be binding upon the owners, holders, or managers of water usage.

Art. 87. Thermal, medicinal waters, and waters with other special properties shall be exploited by the State, through its own entities or through concessions.

[...]

Chapter III

The Soil

Section I

Common Rules

Art. 95. For the use and management of the Soil and terrestrial ecosystems, the following shall be taken into account:

- 1) Compatibility with the natural use thereof, ensuring maintenance of the physiochemical characteristics and productive capacity thereof. All human activities shall respect the equilibrium of the ecosystems.
- 2) Avoid practices that cause erosion, degradation, or modification of the Topological and geomorphologic characteristics with negative effects.

Art. 96. In lands with a slope Greater than or equal to 35%, the owners, tenants, or users shall maintain the plant coverage of the soil and introduce crops and technologies suitable to prevent or correct the degradation thereof.

Art. 97. In those areas where the soil has high levels of degradation or the threat thereof, the Ministry of Agriculture and Livestock, in coordination with the Ministry of the Environment and Natural Resources and the respective Municipal Councils and Autonomous Regions, may declare

soil conservation areas within defined limits, establishing standards for management whose purpose is to stop the its deterioration and ensure its recovery and protection.

Section II

Rules for Protection of Forestland

Art. 98. Lands defined as forested or suitable for forestry must be exploited on a sustainable basis and they may not be subjected to changes of use.

Art. 99. The management of forestland shall be governed by the following classification:

- 1) Forestry production area: Where the use must be for the sustainable development of forestry resources.
- 2) Forestry conservation area: That which must be kept permanently with forest coverage for the protection and conservation of the biodiversity, soil, and/or water.

Art. 100. For the use and exploitation of the forestry production areas with timber-yielding non-timber-yielding products [*sic*], they must be subjected to forestry management on a sustainable basis, with the application of suitable methods and technologies that guarantee an optimal yield.

Art. 101. For the use, administration, and management of forestland, the following principles shall be taken into account:

- 1) The sustainability of the forestry ecosystem.
- 2) The interdependence existing between the forest and the soil.
- 3) The function that the forests perform in the water cycle.
- 4) The protection of the Soil, sources and flows of water, such that they maintain their quality and basic volume flows.
- 5) The importance of the forest as a habitat for wild fauna and flora, protecting biodiversity.
- 6) The economic, social, and cultural benefits consistent with sustainable development.

Chapter IV

Nonrenewable Natural Resources

Art. 102. Nonrenewable Resources are those which cannot be returned to their natural state,

such as minerals, hydrocarbons, and other substances in the soil and subsoil, the purpose of the exploitation of which is the extraction and utilization thereof.

Art. 103. Nonrenewable natural resources, as they are under the ownership of the State, may have their exploration and exploitation assigned by the latter through a concessions regime in such manner and under such conditions as are established in the specific laws and their regulations.

Art. 104. For the exploration and exploitation of nonrenewable natural resources, beyond respecting the restrictive measures of protection for the mineral resources or the subsoil in general, the competent authority shall necessarily:

- 1) Ensure the rational exploitation of raw materials and the rational exploitation of deposits.
- 2) Demand safe processing and disposal of waste materials.
- 3) Promote the efficient use of energy.
- 4) Prevent the direct or indirect alteration of ecosystem elements, especially cuttings, tailings, and runoffs from mines.
- 5) Ensure the protection of protected areas and fragile ecosystems and the restoration of the environments that are degraded because of the activities exploiting nonrenewable resources.

Art. 105. Concessionaires of mining and hydrocarbon explorations and exploitations are prohibited from dumping toxic and nontoxic waste on land, in rivers, lakes, lagoons, and any other course or source of water without being properly treated, which harm human health and the environment.

Art. 106. Renewable and nonrenewable natural resources that are in legally protected areas shall not be subject to exploration and exploitation.

Art. 107. Mineral deposits and other geological resources are classified for the effects of this act into the following groups:

- 1) Minerals whose principal commercial or industrial content are metallic elements.
- 2) Minerals whose principal commercial or industrial content are nonmetallic elements.
- 3) Mineral substances and rocks used directly in infrastructure and construction works that do not require operations other than digging, fragmentation, and classification.

Art. 108. The Extraction of metallic and nonmetallic minerals, the extraction of stone and sand, the extraction and industrialization of salt and the manufacturing of cement, shall be subject to the technical rules that are established by the specific law and the regulation thereof in order to prevent the negative impact that such activities might cause to the environment and to human health.

Title IV

Environmental Quality

Chapter I

Common Rules

Art. 109. All inhabitants have a right to enjoy a healthy environment in natural landscapes and the duty to contribute to the preservation thereof. The State has the duty to guarantee the prevention of adverse environmental factors that affect the health and quality of life of the people, by establishing the corresponding rules.

Art. 110. To promote and preserve the environmental quality of human settlements, it shall be obligatory to ensure a balanced relationship between the natural elements that serve as support and surroundings, delimiting the industrial, services, and residential areas, urban/rural transition areas, green spaces, and areas of contact with nature, as well as the prevention and adoption of good environmental quality criteria in building construction.

Art. 111. The Ministry of the Environment and Natural Resources, in coordination with the institutions of the State, Autonomous Governments and municipal governments:

- 1) Shall guide the monitoring and control of the fixed and mobile sources of contamination, contaminants, and the quality of ecosystems.
- 2) Shall issue ecosystem quality standards and rules, which shall act as guidelines for environmental regulation and management.
- 3) Shall issue rules for technology, processes, treatment and standards for emissions, spillage, waste and noise.
- 4) Shall issue rules on the location of contaminating or hazardous activities and on the areas of influence thereof.

Art. 112. All processes, machinery and equipment, consumables, products, and waste, whose importation, exportation, use, or handling could damage the environment or natural resources or affect human health, shall be subject to regulation and control by the competent authorities.

Art. 113. The direct dumping of contaminating substances or waste in the soil, rivers, lakes,

lagoons, and any other course of water, is prohibited.

The Ministry of Health, in coordination with the Ministry of the Environment and natural Resources, shall issue regulations for the disposal, discarding, or elimination of Substances, materials, and products, or their containers, which because of their toxic nature could contaminate the soil, the subsoil, aquifers, or surface waters.

Art. 114. The Natural or Legal Persons responsible for an activity who because of their own or accidental actions have caused environmental degradation, shall immediately take the measures necessary to control the effect thereof, and shall notify the Ministry of the Environment and Natural Resources, and the Ministry of Health.

Art. 115. All natural or legal persons are obligated to provide any information requested to the environmental authority, and to facilitate inspections, in accordance with established procedures, on the properties, in the facilities or places where contaminating activities originate.

Art. 116. In case of noncompliance with resolutions issued in environmental matters, the competent authority shall limit or suspend that activity, temporarily or permanently.

Art. 117. In urban development Plans the competent authority shall take into account the topographical, geomorphologic, climatologic, and meteorological conditions in order to reduce the risk of any contamination that might occur.

Art. 118. No contaminating systems, procedures, materials, or products whose use is prohibited in the country of origin may be introduced into the national territory.

Art. 119. The importation of equipment, processes, or systems and materials that use atomic energy, cobalt, or another radioactive material, shall be regulated by the competent authority.

Art. 120. Industrial, commercial, or service activities deemed hazardous because of the seriousness of the effects that they can cause on ecosystems or to human health, shall be governed and controlled by the Ministry of the Environment and Natural Resources and the Ministry of Health. The Regulation shall include rules on the location, construction, functioning, and rescue plans to reduce the risk and impact of a possible accident.

Chapter II

Air, Water, and Ground Contamination

Art. 121. Activities that affect health through their odor, noise, or lack of hygiene shall be governed and regulated by the Ministry of Health.

Art. 122. The Ministry of the Environment and Natural Resources, in coordination with the Ministry of Construction and Transport and the National Police, shall regulate the control of contaminating gaseous emissions caused by motor vehicles.

Art. 123. Filming in closed public locations is prohibited, among them: cinemas, theaters, transportation media, restaurants, public offices, and hospitals as is, the burning of toxins on public roads, such as tires and other toxins that damage the respiratory systems of people.

Art. 124. Crop dusting with agricultural chemicals shall be governed by the competent authority, establishing application distances and concentrations, further considering the existence of towns, hamlets, tourism centers, and sources of water.

Art. 125. The Ministry of the Environment and Natural Resources, as the competent authority, shall determine, in consultation with the sectors involved, the ultimate destination of wastewater, the characteristics of receptacle, and prior treatment, as well as allowable concentrations and quantities.

Art. 126. The location in potable water storage areas, of facilities whose waste, even when treated, causes contamination of physical, chemical, organic, thermal, radioactive objects or objects of any other nature, or that have potential risks of contamination, shall be prohibited.

Art. 127. Sewage may be used only after having been subjected to purification processes and upon authorization from the Ministry of Health.

Art. 128. Any activity that causes salinization, alteration, desertification, or aridification, is prohibited.

Chapter III

Nonhazardous Solid Waste

Art. 129. Municipal governments shall operate systems for the collection, treatment, and final disposal of the Municipality's nonhazardous solid waste, pursuant to the official standards that are issued by the Ministry of the Environment and Natural Resources and the Ministry of Health, to protect the environment and health.

Art. 130. The State shall foster and incentivize the recycling of household and commercial waste for industrialization thereof, through the technical and sanitary procedures that are approved by the competent authorities.

[...]

Chapter III

Applicable Penalties

Art. 148. The following are established as administrative sanctions: retention or intervention, closing, cancellation, suspension, and fines.

Art. 149. Violations of this Act and its regulations shall be penalized administratively, gradually,

with the following penalties:

- 1) Warning through notification by a competent authority, evaluated under an evaluation criterion of the magnitude of the environmental impact, establishing the measures and times for the correction of the factors that damage the environment.
- 2) A fine whose amount shall be established by taking into account the seriousness of the consequences and recidivism, in a Range of one thousand to fifty thousand cordobas, depending on economic capacity and the damage caused.
- 3) Temporary suspension or cancellation of permits, authorizations, licenses, concessions, and/or any other right to perform the activity.
- 4) Partial, full, temporary, or permanent suspension of activities or closing of facilities.

Art. 150. When the seriousness of the violation so warrants, the competent authority shall suspend, revoke, or cancel the concession, permit, license, and in general the authorization granted for the performance of partial, industrial, or service activities or for the exploitation of natural resources that has given rise to paying for the violation.

Art. 151. All fines or penalties shall become active within the time frames that are established for each case. Twenty-five percent of the revenue derived from fines shall be deposited with the Government of the Municipality where the damage occurred, and the remaining seventy-five percent to the national Environment fund, to be used for programs for the preservation of the environment and quality of life of the inhabitants of the Country.

Annex 30

Excerpt of “Dictamen Juridico 351, (C-351-2006),
Mauricio Castro Lizano, Deputy Attorney General
(Procurador Adjunto)”, 31 August 2006. (1)

Available at: [http://www.pgr.go.cr/scij/busqueda/normativa/
pronunciamiento/pro_ficha.asp?param6=1&nDictamen=14094](http://www.pgr.go.cr/scij/busqueda/normativa/pronunciamiento/pro_ficha.asp?param6=1&nDictamen=14094)

Excerpt of “Northern Channels (Tortuguero)” (2)

Available at [http://www.japdeva.go.cr/adm_desarrollo/
proyectos_regionales/canales.html](http://www.japdeva.go.cr/adm_desarrollo/proyectos_regionales/canales.html)

Excerpt of "Dictamen Juridico 351, (C-351-2006), Mauricio Castro Lizano, Deputy Attorney General (Procurador Adjunto)", 31 August 2006.(1)

Available at:

[http://www.pgr.go.cr/scij/busqueda/normativa/pronunciamiento/pro_ficha.asp?param6=1&nD
ictamen=14094](http://www.pgr.go.cr/scij/busqueda/normativa/pronunciamiento/pro_ficha.asp?param6=1&nDictamen=14094)

"5) Twentieth Century, development of canals in the lagoons, springs and rivers of the Northern Caribbean.

On 21 April 1908, engineer Luis Fournier presented a report to the Public Works Directorate on the Palmas Spring canal project and a study on the connection of Norte Tortuguero Lagoon with Simon Lagoon and the Colorado River. The report indicated that the Palmas Spring was very swampy and twisted and required draining 18 kilometres, therefore, it was a very costly and unrealistic route. In its place, he suggested use of Northern Tortuguero Lagoon which has a 13 kilometre 822 meter stretch which can be navigated, and only four kilometres 200 meters would have to be opened for the canal. (1907-08 Development Archives quoted by the Public Works Ministry, Preliminary Canal Project, Atlantic Lagoons, 1961, pgs. 10-13; see also the plan design 7015, dated 26 February 1908, developed by engineer Fournier – in the National Archives).

Law No. 45 of 4 August 1916 authorized the Executive Branch to allocate 50 million *colones* for the opening of the springs that connect Simón Lagoon of the Colorado River with Tortuguero Lagoon, which have capacity for the navigation of ships that could transit the Parismina Rivera. (Second Semester Laws and Decrees, pgs. 118-119.)”

Further: “Law No. 20 of 17 June 1924 allocated resources for the Executive Branch to appoint a Commission to study engineer Fournier’s reports, and issue a report regarding the difficulty of navigating through the lagoons, how to facilitate use of the waterway and how much that would cost (First Semester Laws and Decrees, pg. 312).

Law 21 of 22 June 1888 was cited as an antecedent as it declared that the territory between the mouth of Tortuguero through to Cape Santa Elena in Murciélago could not be ceded (National Archives of the 9498 Congress). The budget was increased through Law No. 69 of 6 February 1925. This law included a study regarding the connection of the Northern Zone and the Tortuguero Plains with a port in any area of the coast from the Colorado River to Moín. Engineer W. Sprung was in charge of the study (First Semester Laws and Decrees, pg. 355; National Archives of the 14.120 Congress).

In his report on the creation of a canal between Colorado River and Moín, engineer Sprung explained the advantages Moín presented as a natural port, and the geomorphologic factors that came into play in the formation of the coastal strip:

“The Moín Lagoon has the advantage that it drains into a protected bay, the Moín bay, and it has no jetties as is generally the case at the mouths of rivers. Thus, that lagoon could give easy and safe exit to the ocean at any time of year and in any weather conditions. This circumstance, as such very rare, is explained by the fact that the Moín Lagoon has a scant current because the water that feeds into it does not flow from rivers at high altitudes; also by the fact that its current does not carry much sediment... a peninsula that extends north forms a natural barrier against the currents of the ocean and their movements. This neutralizes the negative effect of the northern winds that blow there. Through this circumstance and the sudden depths of the water, nature has made this area appropriate for a natural port, contrary to the Limón roadstead which is exposed to the effect of its winds. However, we are not attempting to demonstrate the advantages of the Moín Port, but rather to indicate that the projected waterway will give easy access to the railroad and to the ocean. Costa Rica’s northern coast between Limón and San Juan del Norte is irrigated by a number of rivers which through their carriage of debris and sediment have contributed to the formation of the coastal strip. According to the opinion

of geologists, the coastal region is assumed to be subject to gradual elevation which means underwater land is gained. This opinion is based on the fact that white sea coral was found at the bottom of some of the rivers... Near the mouths of rivers there are banks of sand and clay in their natural state. The sedimentation of sand and clay carried by the river does not always depend on the strength of the current. Upon meeting the river the strength of the sea's water currents and the capacity for the river water to carry debris and sediment diminish so that floating material does not follow the course of the water and it is deposited at the mouth. This local accumulation forms the jetties.” (Public Works Ministry, Preliminary Canal Project, Atlantic Lagoons, 1961, pgs. 27, 29-31).

Engineer Sprung concluded that extraordinary topographical conditions were present for a canal between the lagoons because out of a 110 kilometre extension, 85 kilometres had good conditions for navigation, and the interruptions could easily be surpassed. The 110 kilometres from Colorado to Moín constituted only an additional 10 per cent as compared to the 100 kilometre length through the coast (Op.cit., pgs. 33-36).”

Further: “In 1961, the Public Works Ministry presented the “Preliminary Canals Project for the Atlantic Lagoon”, with descriptions of the areas where the canals would be created. The proposal was developed in August 1960 by Consultécnica, Ltd. (National Library, file Cr 386.4/C8375p; National Archives aa series, files 17.896, 17.897 and 17.898). The area where the canal would be created would connect Moín with Barra de Colorado through a navigable stretch of 112 kilometres.

Law No. 512 of 4 June 1973 ratified the Loan Agreement between the Government and the Central American Bank for Economic Integration signed on 9 February 1973. It also increased the original loan of 1.5 million dollars by 390,000 dollars in order that the

project for the canals in the Atlantic Lagoons could be completed (First Semester Laws and Decrees, pgs. 993-994).

After almost ten years of work, Decree No. 3729 of 3 May 1974 (*La Gaceta*, No. 85 of 7 May 1974) declared the inauguration of a navigation system in the 112 kilometres of natural and artificial canals between Moín and Barra de Colorado, with the Moín, Pacuare, Parismina, Tortuguero and Barra del Colorado terminals. The canals were created between the following areas: 1. Moín – Dos Bocas; 2. Dos Bocas – Matina River; 3. Matina River – Urpiano Lagoon; 4. Urpiano Lagoon – Santa Marta River; 5. Santa Marta River – Pacuare River; 6. Pacuare River – Chiquero River; 7. Chiquero River – Parismina; 8. Parismina – Northern Penitencia Spring; 9. Northern Penitencia Spring – Samay Lagoon; 10. Samay Lagoon – Barra de Colorado.

Canales del Norte



Excerpt of "Northern Channels (Tortuguero)" (2)

Available at:

http://www.japdeva.go.cr/adm_desarrollo/proyectos_regionales/canales.html

Through its Northern Canals Department, JAPDEVA issued a study which indicated that: “One of the activities JAPDEVA has invested in and which has stimulated development of the tourism sector for years, has been the northern canals. This investment has been concerned with good maintenance of water arteries in order that tourists may enjoy the best eco-tourism in the zone and that the populace may easily engage in its daily activities.

The whole of the northern basin of Limón Province drains into the Northern Canals, large amounts of sediment are carried by rivers from higher lands to the water arteries where the sediment settles and obstructs the navigation of vessels loaded with merchandise, tourists, etc. In recent decades, this is where JAPDEVA has invested a part of its financial resources in order to maintain these arteries in optimal conditions for navigation. It has continuously carried out suction dredging and other maintenance activity here.

The earthquake that hit Limón Province in 1991 accelerated deterioration of the canals leaving some stretches obstructed.

Besides that, different projects including banana growing and other agricultural activities, cattle raising, work by the ICE, the municipalities and the MINAE, involved cultivation, draining, building of roads, extraction of rocks from the rivers, cleaning of dams (Cachi) and rerouting the paths of waterways. This affected and significantly increased the sediment deposited in the canals.

The study goes on to state that “As the result of an accord of Special Session 5-97 of the Administration Council, Article XX, which took place on 30 October 1997, Public Solicitation AD-3-97 was granted for the purchase of suction draining equipment from the HT

Canales del Norte



Purdy Company, Inc., for a total of 598.560.12 us dollar (144 millon colones). Another piece of equipment was purchased for a total of ¢41.500.000 million colones." ¹

The same document indicates that “On the operational level the Northern Canals Region is responsible for:

- Dredging 350,000 cubic meters of sediment, and the elimination of 100,000 square meters of water vegetation.
- Controlling land use and development (control of de-forestation, and extreme exploitation of the land).
- Elimination of tree trunks and other objects that may obstruct the waterways.
- Support to government and private institutions as well as other divisions of JAPVEDA involved in the development of the zone.

In order to engage in these maintenance functions, the Northern Canals has two suction drainage machines, boats and motors, and other equipment, as well as 15 workers including the secretary and the chief officer.”

The study also indicates that “In this study the Northern Canals are considered to encompass the whole of the waterways network where the canals are located between the Moín Terminal all the way to Puerto Lindo, including Moín Lagoon, Las Vueltas River, the Moín Plaset artificial canal, Plaset Lagoon, Matina River, the Matina River canal, the Madre de Díos Lagoon, Pacuare River, the Pacuare-Chiquero artificial canal, Chiquero River, Parismina River, the Black Spring, Tortuguero Lagoon, Penitencia River, artificial canal, the Penitencia-Sammy Spring, Sammy River, Colorado River, Aguas Dulces Lagoon.”

¹ http://www.japdeva.go.cr/adm_desarrollo/proyectos_regionales/canales.html

Annex 31

Nicaraguan Decree No. 01-2007
Regulation of Protected Areas in Nicaragua
8 January 2007

**OFFICE OF THE PRESIDENT OF THE
REPUBLIC OF NICARAGUA**

DECREE No. 01-2007

The President of the Republic of Nicaragua

In use of the authorities granted to him by the Political Constitution

HAS ISSUED

The following:

DECREE

REGULATION OF PROTECTED AREAS IN NICARAGUA

**CHAPTER I
GENERAL PROVISIONS**

Art. 1. The objective of this Regulation is to establish the necessary provisions related to the protected areas under Title II, Chapter II, Section III of the General Environment and Natural Resources Act.

Art. 2. When reference is made in this Regulation to the Act, it shall be understood as referring to Law No. 217, General Environment and Natural Resources Act, published in *La Gaceta* Official Gazette No. 105 on June 6, 1996.

**CHAPTER II
DEFINITIONS**

Art. 3. For the effects of this Regulation, the following concepts have the definitions that are herein assigned to them:

1. MANAGEMENT OF PROTECTED AREAS: This includes the performance of planning, organization, management and control actions that are performed in a protected area of the National Protected Areas System, SINAP, for the development and protection of the natural resources existing therein, as established in the management category and the respective management plan for the protected area. The management of the SINAP protected areas appertains to the Ministry of the Environment and Natural Resources, MARENA, which may assign it in Co-Management pursuant to the laws in force and the procedures established to that end.

2. PROTECTED AREAS: Those areas whose purpose is the conservation, rational management, and restoration of the flora, wild fauna, and other similar life forms, as well as biodiversity and the biosphere. Likewise included in this category are those species in the

national territory that are protected in order to restore and conserve geomorphologic phenomena, sites of historic, archeological, cultural, scenic, or recreational importance.

3. MANAGEMENT ACTIVITIES: Those activities that are performed by legal and/or natural persons who, without having been granted co-management of a protected area or part thereof, are authorized by MARENA to perform management and conservation activities in the protected area.

4. CAPACITY: These are the limits that ecosystems and the biosphere can bear without suffering serious deterioration.

5. CATEGORY OF PROTECTED AREA MANAGEMENT: The name that is given to a protected area as a function of the evaluation of the biophysical and socioeconomic characteristics intrinsic to the area and the conservation objectives that it must meet. Each management category represents different degrees of human involvement and has its own restrictions regarding the use of its resources.

6. CONSERVATION: The application of the measures that are necessary to preserve, improve, maintain, rehabilitate and restore populations, and ecosystems, without affecting the sustainable exploitation thereof.

7. BIOLOGICAL CORRIDOR: A geographical space that provides connectivity between landscapes, ecosystems, natural habitats and the protected areas, whose objective is conservation of biodiversity, sustainable local development, and the ecological viability of the system.

8. CO-MANAGEMENT OF PROTECTED AREAS: This is a model for managing protected areas, under which MARENA, as administrator of the National Protected Areas System (SINAP), pursuant to the management directives of each protected area, may assign the management of a protected area to nonprofit Nicaraguan entities and institutions, municipalities, universities, scientific institutions, cooperatives, and indigenous and ethnic communities as established in the legislation that governs the matter, called Co-Managers in a relationship of shared responsibilities, that involves and coordinates all of those involved who affect a protected area.

9. SUSTAINABLE DEVELOPMENT: To improve the quality of human life without exceeding the capacity of the ecosystems that sustain it.

10. DGAP: Initials of the General Department of Protected Areas of the Ministry of the Environment and Natural Resources (MARENA).

11. TERRITORIAL OFFICES: A decentralized technical, operational, and administrative unit in the national territory, with the mandate to represent MARENA in its institutional management of natural resources and the environment.

12. BIOLOGICAL DIVERSITY: Biological diversity is construed as the variability of living

organisms of any source, including, among other things, land and marine ecosystems and other aquatic ecosystems and the ecological complexes of which they are part; it includes diversity within each species, amongst species, and ecosystems.

13. ECOSYSTEMS: A basic unit of interaction among living organisms and their relationship with the environment.

14. EXOTIC SPECIES: These are those species that are not native to a zone or region.

15. NATIVE SPECIES: Plant or fauna species that are inherent to a zone or region, whose ability to reproduce and survive depends on the environment conditions in their natural environment.

16. WILD FAUNA: Animal species that subsist subject to processes of natural selection, whose populations develop in nature.

17. WILD FLORA: Plant species that subsist subject to process of natural selection and that develop freely in nature.

18. PARK RANGER: A person authorized by the competent authority to perform security, promotion, education, interpretation, monitoring, maintenance and control activities in the SINAP protected areas, as established in the Management Plan, this regulation, and other resolutions that are issued by the competent authority.

19. SCIENTIFIC RESEARCH: An activity that involves gathering or not gathering data, gathering or not gathering samples, for the subsequent processing and analysis thereof in order to deepen or discover new theories, hypotheses, or ideas. Included within this context are all specific forms and activities of research, such as applied research, and action or participatory research, recompilations and/or systematizations of traditional knowledge, etc.

20. COLLABORATIVE MANAGEMENT: An institutional mechanism or arrangement through joint agreement between MARENA and others, for the implementation of actions in a specific part of a protected area, in order to achieve the final conservation and sustainable use objectives in the area. This agreement is not subject to the criteria established under the definition of co-management.

21. MANAGEMENT PLAN: A technical / scientific instrument required to manage and/or operate a SINAP Protected Area and its buffer zone.

22. ANNUAL OPERATING PLAN (POA): An annual planning document that facilitates the management of a SINAP protected area.

23. PROPERTY MANAGEMENT PLAN: This is a planning tool that guides the management of properties located in SINAP protected areas, according to the management directives of each protected area.

24. ENVIRONMENTAL PERMIT: A document granted by the competent authority upon request by the proponent of a project, that certifies that from the environmental protection point of view, the activity can be executed under the condition of complying with the measures established in the respective permit.

25. PRESERVATION: Maintaining the original condition of a protected area, reducing human involvement itself.

26. PROVISION OF SERVICES: Those activities performed by natural or legal persons within the protected area, authorized by the Ministry of the Environment and Natural Resources, aimed at providing a service compatible with the management category and/or management plan of the protected area.

27. SPORTS FISHING. That which is done for recreational, tourism, entertainment, or competitive sports purposes.

28. PRIVATE WILDLIFE RESERVES: Private areas used for the conservation of biodiversity and representative ecosystems, recognized by MARENA.

29. ENVIRONMENTAL SERVICES: These are benefits that ecosystems provide to society and that directly or indirectly affect the protection and improvement of the environment and the quality of life of people.

30. NATIONAL SYSTEM OF PROTECTED AREAS (SINAP): Set of Protected Areas declared in accordance with current law and those that will be declared in the future, whose natural, social, and cultural relevance, locally, nationally, and internationally, are recognized in the management categories established by Law and this Regulation. Private Wildlife Reserves, as well as the legal and administrative environmental management instruments, for part of this system with their specific regulations.

31. DEPARTMENT OF BIOSPHERE RESERVES. A decentralized administrative agency of MARENA, whose objective is the management, planning, coordination, and fostering of integrated development and protection of the Biosphere Reserves.

32. WILDLIFE: Species of undomesticated flora and fauna that develop freely in nature without human intervention.

33. BUFFER ZONE: An adjacent or surrounding area that has a direct effect on the SINAP protected areas, subject to the promotion of sustainable development activities, which support the management objectives and minimize the negative impacts inside of the SINAP protected areas. Buffer zones perform biological connection and corridor functions, where sustainable production models are implemented that reduce vulnerability and environmental impacts and foster social and inter-institutional cooperation.

34. ZONING. A concept used in the planning of protected areas, which allows us to organize the territory in accordance with its potentials, to facilitate the management and operation thereof.

CHAPTER III JURISDICTION AND AUTHORITIES

Section I Competent Authority

Art. 4. The Ministry of the Environment and Natural Resources (MARENA) is the competent authority to apply this Regulation and such other provisions as are issued on the matter.

Art. 5. MARENA may agree with the Regional Governments and Municipal Governments upon the performance of actions to manage the protected areas within the framework of their competencies.

Section II Jurisdiction of MARENA in the SINAP Protected Areas

Art. 6. MARENA, as the governing, regulatory, management, and administrative entity of the protected areas, shall have the following competencies:

1. To promote and facilitate processes for the conservation of the natural and cultural resources and biodiversity in the SINAP protected areas, through the formulation and execution of plans and programs that favor the protection of biodiversity and the application of the existing legal and regulatory framework.
2. To promote management, scientific research, environmental education, and sustainable development activities in the SINAP protected areas.
3. To administer such resources as are assigned in the Budget of the Republic and other forms of financial revenue, for the performance of its functions and authorities.
4. In the cases of protected areas located in border zones, to manage for the Ministry of Foreign Relations the signing of cooperation agreements with the neighboring country or countries, to the benefit of the respective protected areas. These agreements, to be valid and take effect, shall be published in *La Gaceta*, the Official Gazette.

Art. 7. The General Department of Protected Areas is responsible for:

1. Administering the National System of Protected Areas.
2. Preparing, executing, and ensuring compliance with the national, regional, and international policies and strategies for the development of the National System of Protected Areas, in coordination with the Offices of the Biosphere Reserves, if applicable.
3. Proposing to the corresponding authorities the creation of new national protected areas and/or the expansion or reduction of the existing ones based on the pertinent technical studies.

4. Defining and establishing the limits of the SINAP protected areas to be made official by the Nicaraguan Institute of Territorial Studies (INETER).
5. Preparing rules, laws, regulations, and procedures to facilitate the sustainable management and use of the national protected areas and Private Wildlife Reserves.
6. Directing and coordinating the processes of granting protected areas in co-management with interested entities.
7. Approving the terms of reference for the formulation of Management Plans.
8. Providing technical assistance to the Territorial Offices of MARENA in the processes of formulating and monitoring the annual operating plans of the SINAP protected areas.
9. Reviewing, reporting on, and approving the Management Plans for the SINAP protected areas.
10. Preparing the criteria, requirements, and administrative procedures for the performance of activities to use and exploit natural resources and produce goods and services in the SINAP Protected Areas.
11. Promoting and coordinating the formulation and implementation involving the communities, municipal governments, government institutions, productive sectors, and autonomous regions, in a manner in accord with the management mechanisms and sustainability criteria in the buffer zones of the SINAP protected areas,
12. Authorizing the Scientific study and research activities in the SINAP protected areas.
13. Preparing the SINAP training schedule and plan and coordinating the implementation thereof with the persons involved.
14. Providing technical assistance to the Territorial Offices in the processes of issuing authorizations for activities to use and exploit natural resources and produce goods and services in Protected Areas.
15. Promoting and supporting integrated sectoral programs and projects for developing and exploiting the protected areas and their resources for the national economic benefit and as a function of the self-sustainability of the protected areas.
16. Ensuring compliance with international agreements in matters of national and cross-border protected areas.
17. Implementing technical guidelines and operational practices in protected areas for the management of ecosystems shared bi-nationally.
18. Facilitating inter-institutional support of the activities for consolidating local sustainable

development biological corridors that ensure the connectivity of the National System of Protected Areas.

19. Establishing and managing a permanent database of the current information existing or which might be generated in the future in the SINAP protected areas, which shall fall within the guidelines of the National Environmental Information System. The database shall include information on at least the following subjects:

19.1 Legal basis of the protected areas.

19.2 Statistical records of visits.

19.3 Information on land tenancy in the protected areas.

19.4 Annual summary of the most important matters occurring in the SINAP protected areas.

19.5 Legal and administrative provisions appertaining to the management of the protected areas.

19.6 Studies and research on biodiversity undertaken in the protected areas.

19.7 Record of permits issued annually in the protected areas.

19.8 Record of current personnel who work in the protected areas.

19.9 Governmental structures related to the administration thereof.

Art. 8. The Offices of the Biosphere Reserves are responsible for:

1. Directing, organizing, and administering the Biosphere Reserves in accordance with the policies, rules, and other regulations that are approved.
2. Proposing and participating in the preparation of policies, rules, and regulations to be applied in the Reserve.
3. Preparing the terms of reference for the formulation of management plans for Biosphere Reserves and the protected areas that form them, in coordination of the respective Territorial Offices.
4. Monitoring the process of formulating, approving, and implementing management plans for the Biosphere Reserve and its protected areas.
5. Promoting and proposing research, tourism, and sustainable production activities in the Biosphere Reserves and the protected areas that form them.
6. Monitoring the scientific study and research activities in the Biosphere Reserves and the protected areas that form them, in coordination with the corresponding Territorial Offices.
7. Participating in the processes for authorizing forestry management plans in the Biosphere Reserves, at the sites allowed in accordance with current law.
8. Providing technical assistance to the MARENA Territorial Offices in the process of formulating and monitoring the annual operating plans of the Biosphere Reserves and the protected areas that form them, in coordination with the General Department of Protected Areas.

9. Assisting the Territorial Offices of MARENA in such administrative processes as are instituted by the commission for an offense or crime in a Biosphere Reserve.

10. Systematizing the information generated in the Biosphere Reserves to feed the SINAP information database.

Art. 9. The MARENA Territorial Offices are responsible for:

1. Enforcing and ensuring compliance with environmental law in matters regarding protected areas.

2. Proposing and participating in the preparation of policies, rules, and regulations to be applied in the SINAP Protected Areas.

3. Directing, accrediting, and training the Park Ranger Corps, who shall watch over the conservation of natural resources within the SINAP protected areas.

4. Approving the annual operating plans prepared by the co-managers of protected areas.

5. Participating in the process of approving management plans for the SINAP protected areas.

6. Monitoring the implementation of management plans, annual operating plans, and co-management agreements in the SINAP protected areas.

7. Authorizing and monitoring the infrastructure transportation and installation activities for the storage of hydrocarbons destined for local consumption and production in the SINAP protected areas, in coordination with DGAP and the Offices of the Biosphere Reserve, if applicable.

8. Monitoring the sustainable production and development activities in the SINAP protected areas, in coordination with the General Department of Protected Areas and the Biosphere Reserve Offices, if applicable.

9. Monitoring the scientific research activities for natural resources and biodiversity in the SINAP protected areas, duly authorized by the competent authority.

10. Authorizing firewood exploitation activities in the SINAP protected areas, in accordance with the procedures established by MARENA for that purpose.

11. Systematizing the information generated in the protected areas of their corresponding territorial jurisdiction, to feed the SINAP information database.

12. Promoting the implementation of management mechanisms and sustainability criteria in the buffer zones of the SINAP protected areas.

13. As established in the regulations established to this end, issuing a ministerial certification to the owners of real property, who fall under any of the following categories:

13.1 Properties in protected areas used for research activities, protection, development, and conservation of the environment and natural resources.

13.2 Properties used in their entirety or in part for Private Wildlife Reserves, provided that investment projects are being performed such as reforestation, land conservation, wild species conservation, security and control, among others.

13.3 Properties in protected areas and buffer zones where investment is being made in conservation projects, duly supported by the General Department of Protected Areas.

CHAPTER IV NATIONAL SYSTEMS OF PROTECTED AREAS SINAP

Section I Declaration of Protected Areas

Art. 11. For the declaration of new protected areas, the following shall be performed beforehand:

1. Identification and delimitation of the proposed area and its potential buffer zone:
 - 1.1 Definition of the objectives of its creation.
 - 1.2 Location and delimitation of the area and its potential buffer zone in coordination with INETER with its limits expressed in rectangular coordinates.
 - 1.3 Specification of the criteria used to define the limits of the proposed area.
 - 1.4 Preliminary study of the landholdings with an indication of the following components:
 - 1.4.1 Study of property registry of the properties located in the area whose protection is sought, where applicable.
 - 1.4.2 Certifications from the Public Property Registry, for the recorded real properties located within the area, for the purpose of considering the potential effect on property rights.
 - 1.4.3 Identification of properties subject to being declared of public usefulness as established in the laws that regulate the matter, given the importance and significance of the resources they house, which shall limit to a large degree the possibilities of uses other than the preservation of the resources.
 - 1.4.4 Study and Analysis of the landholdings in the area of interest, which includes among other things existing easements, history of the landholdings and properties in tenancy conflicts.
2. Technical studies of the proposed area that contain the following environmental, socioeconomic, and cultural characteristics and conditions:
 - 2.1 Ecological representativeness and viability.
 - 2.2 Identification of the environmental goods and services.
 - 2.3 Identification of genetic importance, endemism, and threatened and endangered species.

- 2.4 Identification of the principal environmental impacts that affect the area.
 - 2.5 Identification of the principal socioeconomic, cultural, and historic activities in the proposed area.
 - 2.6 Identification of indigenous communities and areas that those communities cover.
 - 2.7 Cultural traditions in the use of the natural resources.
3. Consideration of the management category.

Establish the compatibility of the demand for goods and services with respect to the objectives that are established for the management categories. MARENA shall define through a ministerial resolution the scheme for determining the management categories of the SINAP protected areas.

4. Calculate the budget line required to pay the affected property owners in cash and in advance, as well as the pertinent information related to the size, quality of the land, market value and assessed value.

Art. 12. Prior to the formulation of a draft law to declare a new protected area, the interested entities shall establish the respective technical coordination with MARENA, through the General Department of Protected Areas, for compliance with the requirements established in Art. 11 of this Regulation.

Section II

Protected Area Management Categories

Art. 13. The designation of the category of each Protected Area and the management thereof, shall be in accordance with the following provisions:

1. BIOLOGICAL RESERVE

Definition.

Surfaces that have unaltered representative eco-regions and ecosystems, ethnic values and species of importance, used principally for scientific research and/or ecological monitoring activities.

Management Objectives:

1. Preserve the essential ecosystems, habitat, species, and ecological processes in the most natural state possible.
2. Maintain the genetic and hydrological resources and processes in a dynamic and evolving state.
3. Safeguard the structural features of the countryside.

Criteria for the designation of the category;

1. Have a large area, with significant diversity and biological wealth, well conserved so as to guarantee the integrity of the eco-region and allow for the achievement of the management objectives for which it is protected.
2. Be a representative sample of an eco-region or of plant formations as ecological units and be exempt from direct human intervention to remain in that condition.

Directives for management:

1. Be managed by MARENA.
2. Allow, only within the limits of the reserve, the building of the infrastructure required for protection, research, and monitoring.
3. Allow scientific research, activities, and monitoring in the area with the corresponding authorization from MARENA.
4. Limit access to the general public, except persons authorized by MARENA to perform allowable actions in accordance with the Protected Area's management plan.
5. Not allow the establishment of human settlements within the limits of the protected area, respecting indigenous rights.
6. Prohibit the introduction of exotic species within the limits of the reserve.
7. Prohibit, within the limits of the protected area, mining, oil exploration and exploitation, forestry, fishing concessions, and others in conflict with the objectives of the area.

Art. 17. WILDLIFE REFUGE**Definition**

A land and/or aquatic surface subject to active intervention to guarantee maintenance of the habitat and/or to meet the needs of certain resident or migratory animal species or communities that are of national or international importance, unique, threatened, and/or in danger of extinction.

Management objectives:

- 1) Conserve the habitat and flora and fauna of national and/or international interest.
- 2) Improve knowledge through scientific research and the monitoring of the biological species in the area as main activities related to the sustainable use of the resources.
- 3) Establish limited areas for educational purposes and for the public to appreciate the characteristics of the habitat that is being protected and the wildlife management activities.
- 4) Manage the habitat for the protection of one or more resident or migratory species of national, regional, or worldwide interest.

Criteria for the designation of the category:

- 1) They are areas that can perform an important function in the protection of nature and the survival of species of aquatic or terrestrial fauna that are unique, threatened, or in danger of extinction through the protection of their reproductive population, feeding or reproduction areas, and critical habitats.
- 2) The size of the area will depend on the needs of the habitat of the species that must be protected and can vary between small to very large.

Management directives:

- 1) Be managed by MARENA, though it may be assigned under co-management.
- 2) Allow research, monitoring, education, and environmental interpretation activities, ecotourism and recreation in accordance with the regulations and procedures established by MARENA.
- 3) Allow for the sustainable exploitation and use of flora and fauna and their products only under proven practices in the management of wild species in accordance the exploitation standards and plans approved by MARENA in accordance with the laws in force.

- 4) Allow the handling of species, animal or plant populations, and products when required to ensure the ecological equilibrium.
- 5) Allow infrastructure in the area, upon approval from MARENA, in accordance with the approved management and design plan.
- 6) Allow the planting of noninvasive trees in degraded areas, as established in the protected area's management plan and the law that governs the matter.
- 7) Allow for the performance of silvicultural, agricultural, wildlife breeding and livestock practices in accordance with the management objects and the provisions established in the corresponding management plan, as well as other activities that are implicit in sustainable development.
- 8) Condition the use of the land on the regulations established in the corresponding management plan and other instruments that regulate the matter.
- 9) Prohibit mining, petroleum exploration and exploitation concessions, forestry, fishing concessions, or others in conflict with the objectives of the area within the limits of the protected areas.

Art. 18. GENETIC RESOURCE RESERVE

Definition

A land and/or aquatic surface that protects some species of wildlife because of the quality of their genetic resources, which are of national interest and which might be used for genetic improvement programs for species of flora or fauna of economic or nutritional interest.

Management objectives:

- 1) Conserve wild genetic resources in order to obtain selected germoplasms.
- 2) Maintain the habitat in the conditions necessary to protect and restore particular species, groups of species, and biotic communities with genetic resources of commercial or scientific importance.
- 3) Facilitate scientific research and the biological monitoring of selected species, as principal activities associated with the sustainable use of genetic resources.

Criteria for designation of the category:

- 1) The area must play an important role in the protection of wild aquatic or land species, that have commercial or scientific importance due to their genetic quality.
- 2) The size of the area will depend on the needs of the habitats of the species that must be protected.

Directives for management:

- 1) Be managed by MARENA, though it may be assigned under co-management.
- 2) Allow scientific research and monitoring in the Area, as well as the exploitation of its resources in accordance with the rules and procedures established by MARENA.
- 3) Allow for selective enrichment and exploitation practices for the species that it protects in order to improve genetic quality; promote research, education, and environmental interpretation; the monitoring of the selected species and the sustainable use of the genetic resources for socioeconomic purposes as established in the respective management plan.
- 4) Allow for manipulation of the genetic, biological, and habitat resources in accordance with the provisions of the respective management plan.

- 5) Allow infrastructure in the area, upon approval from MARENA, in accordance with the management plan for the area.
- 6) Condition the use of the land on the regulations established in the corresponding management plan and other instruments that regulate the matter.
- 7) Prohibit the construction of infrastructure that fragments the habitats of the endemic species [or] that alters the natural processes of those species.
- 8) Prohibit the introduction of exotic species within the limits of the reserve.
- 9) Prohibit mining, petroleum exploration and exploitation, forestry and fishing concessions, or others in conflict with the objectives of the area within the limits of the protected areas.

Art. 19. NATURE RESERVE

Definition

A land surface and/or marine or lacustrine coastal surface conserved or influenced that contain species of fauna and/or flora of interest that produce environmental benefits of national and/or regional interest. Those termed Forestry Reserves shall be considered as Nature Reserves.

Management Objectives:

- 1) Conserve and restore the natural ecosystems and habitat of wildlife that is in the process of reduction and degradation because of natural and human intervention in their ecological environments.
- 2) Produce goods and services in a sustainable manner, when these may be: water, energy, wood, or wildlife, including fishes or other marine products, and outdoor recreation.

Criteria for the designation of the category:

- 1) Be surface areas that allow for the production of goods and services and that have natural or scenic traits of unique or exceptional national significance, such as: volcanoes, crater lagoons with their hillsides, and other geological formations.
- 2) Contain ecological traits of interest for conservation of the wild flora and fauna of importance for the regional economy and/or local subsistence.
- 3) Be surfaces that are protecting ecosystems of interest and that are functioning as biological corridors, which are zones that produce water or surfaces that protect the high parts of basins to prevent erosion.

Art. 20. PROTECTED LANDSCAPE OR SEASCAPE

Definition

Surface of land, coasts, and/or seas, as the case may be, where the interactions of human beings and nature over the years has produced an area with a character defined by cultural practices, with important aesthetic, ecological, and/or cultural values, and which often house rich biological diversity whose protection, maintenance, and evolution requires safeguarding of the integrity of that traditional interaction.

Management Objectives:

- 1) Improve and protect the harmonious interaction between nature and culture, by protecting landscapes and/or seascapes and maintaining the traditional practices for land use, building methods, and manifestations of society and culture.
- 2) Conserve the diversity of the landscape, habitat, species, and associated ecosystems, and

promote recreation and tourism.

3) Maintain the environmental quality of the landscape.

Criteria for designation of the category:

1) The area must have a landscape and/or seascape with coasts and islands, as the case may be, of great scenic quality, with different habitats and associated species of flora and fauna, as well as examples of land use practices and unique or traditional social organizations, which must give witness to human settlements and customs, the means of subsistence and local beliefs.

Directives for management:

1) Be managed by MARENA, though it may be assigned under co-management.

2) Allow sustainable productive activities, research, restoration of landscapes, monitoring, education, and environmental interpretation, sustainable tourism and recreation.

3) Allow the performance of economic activities that are in harmony with nature and the preservation of the social and cultural web of the communities involved.

4) Allow for the performance of agricultural and livestock production activities under silvopastoral and agroforestry systems, as established in the corresponding management plan for the protected area or the annual operating plan.

5) Allow the manipulation of species or populations of animals and plants to ensure ecological sustainability.

6) Allow the planting of noninvasive trees in degraded areas, as established in the protected area's management plan and the law that governs the matter.

7) Condition the use of the land on the regulations established in the corresponding management plan and other instruments that govern the matter.

8) Allow the planting of noninvasive exotic species in degraded areas, provided that the genetic integrity and survival of the native species existing in the protected area are not jeopardized, in accordance with the feasibility of the technical proposal that is presented in advance by the interested parties, as well as the provisions of the corresponding management plan and the technical standards that are established by MARENA for these purposes.

9) Prohibit mining, petroleum exploration and exploitation concessions, forestry, fishing concessions, or others in conflict with the objectives of the area within the limits of the protected areas.

Art. 21. BIOSPHERE RESERVES

Definition

Biosphere Reserves are land and/or aquatic territories or a combination thereof, with significant and diverse natural and cultural biodiversity assets of national and international importance, that contain one or more protected areas, which when administered as a whole achieve sustainable development. They are comprised of one or several core zones and a buffer zone and they are created to promote and demonstrate a balanced relationship between human beings and the biosphere.

The areas proposed as a Biosphere Reserve may also include territories that are legally declared to be protected areas in any category, and others not protected by law. The management of the SINAP protected areas that comprise the Biosphere Reserve shall be in accordance with the

management category, the conservation objectives and the management directives of the respective category of the protected areas in accordance with the provisions of the law, this regulation, and the corresponding management plans.

Management Objectives:

- 1) Conserve units and/or samples representative of eco-regions and/or natural ecosystems and cultural values through one or more protected areas and the interconnections thereof, which contribute to the economic, social, ecological, and cultural feasibility and sustainability of the region.
- 2) Promote regional development based on the sustainable production and use of natural resources, diversifications, and application of low environmental impact technologies, maintaining natural environments with high environmental service values and ecological processes essential for sustainability, respecting the management of each protected area that forms part of it.

The criteria for the designation of a Biosphere Reserve:

- 1) Contain a mosaic of ecological systems representative of important bio-geographical regions, which includes a progressive series of forms of human intervention.
- 2) Maintain the importance of the conservation of biological diversity.
- 3) Offer possibilities to test and prove methods of sustainable development on a regional scale.
- 4) Apply organizational rules that enable the adequate and effective integration and participation of key social sectors such as public institutions, local communities, indigenous ethnicities and communities, private producers, universities, and NGO's, among others, in the implementation of the concept and functions of the Biosphere Reserves.

Zoning of Biosphere Reserves

- 1) Biosphere Reserves may have one or several core zones dedicated to long-term protection in accordance with the conservation objectives thereof, which in turn may contain one, several, or part of protected areas declared by Law.
- 2) Biosphere Reserves shall establish a buffer zone, where socioeconomic activities may be performed with an eco-systemic focus, which ensure the conservation objectives of their core zone(s). Protected areas located in the buffer zone of a Biosphere Reserve shall be administered and managed in accordance with their respective management plans.

Functions of Biosphere Reserves

- 1) Conservation function:** Contributing to the conservation of landscapes, ecosystems, species, and genetic variation.
- 2) Development function:** Fostering sustainable economic and human development, from the sociocultural and ecological point of view.
- 3) Support function:** Providing support to demonstration, education, environmental training, research, and ongoing observation projects in relation to local, regional, and worldwide conservation and sustainable development matters.

Directives for the Management of Biosphere Reserves

- 1) Be administered by MARENA through the Offices of the Biosphere Reserves.
- 2) Guide the management of this type of reserve, through a zoning system that has room for different degrees of intervention that allow for conservation, research, education, tourism, and sustainable productive activities, respecting the provisions inherent to the categories of the protected areas that comprise it.
- 3) Zoning based on biophysical evaluation and the identification and definition of core zones or areas, interconnection areas, buffer zones, the socioeconomic development plans and the area of interest for the regional economy.
- 4) Allow for scientific research and monitoring in the area in accordance with the rules of MARENA.
- 5) Allow for the planting of noninvasive trees in degraded areas, as established in the management plan for the area and the law that governs the matter.
- 6) The indigenous areas demarked and named by Law located in the protected areas that comprise the Biosphere Reserves shall be managed under the joint management system with the indigenous communities through the Office of Biosphere Reserves.
- 7) Allow, in the buffer zone of a Biosphere Reserve, agribusiness, agriculture and livestock, forestry, fishing, and tourism production activities, in accordance with the laws in force.

CHAPTER V MANAGEMENT OF PROTECTED AREAS

Art. 30. The SINAP Protected Areas shall have a management plan, which guides their short-, medium- and long-term development, which shall be approved by MARENA upon consultation with the municipalities, regional governments, private-property owners, local communities, and indigenous communities living in the protected area.

If there is no approved management plan then there shall be an annual operating plan, which guides the performance of management activities within the protected area and the preparation of the respective management plan.

Art. 31. MARENA, through the management plans, shall define the limits of the protected areas that have not been defined through its creation instrument. Likewise, in the implementation of the corresponding management plans, land marking and signage activities shall be performed for the physical delimitation of the area, in coordination with INETER.

In the case of protected areas that do not have approved management plans, MARENA shall establish and make official *a priori* the limits of the respective protected area, through the application of technical criteria for the preliminary delimitation of such areas.

Art. 32. MARENA shall support the consolidation of biological corridors to provide biological interconnection areas between the protected areas, coordinating such action with the municipalities, communities, and private-property owners.

Section I Management Plan

Art. 33. The content of the Terms of Reference for the preparation of the management plans for the SINAP protected areas, shall include the particularities of each protected area, as well as the mechanisms that facilitate a participative process with local and regional authorities, private-property owners, local communities and indigenous communities existing in the protected area.

Art. 34. The Terms of Reference for the preparation of management plans shall be issued by MARENA within a maximum period of thirty (30) business days from the date on which the request is received. The management plans for SINAP protected areas shall be prepared by a multidisciplinary technical team.

Art. 35. MARENA, through the DGAP, may prepare an administrative file for each process to prepare a Management Plan, which evidences the consultation, review, approval, and monitoring process thereof, assigning it a permanent number and paginating it properly.

Art. 36. DGAP, within a period of 10 business days from receipt of the proposal for the management plan, through an institutional technical team, shall review and verify that the general content of the proposal agrees with the Terms of Reference. If it does not agree with the Terms of Reference, it shall request that the interested party supplement the corresponding information.

Art. 37. Once the management plan proposal is satisfactorily received, it shall have a period of five (5) business days to send, officially, the Management Plan proposal to the corresponding Municipal and Regional Council, if applicable, for them to issue their opinions within a period of 30 business days from receipt thereof.

Art. 38. If DGAP does not receive the opinions requested from the Municipal and/or regional Council, if applicable, it shall continue with the approval process for the management plan proposal.

Art. 39. Once the foregoing criteria have been met, DGAP shall request from the Minister of MARENA approval for the management plan, through a Ministerial Resolution which shall be published in *La Gaceta*, the Official Gazette, for it to take effect.

Art. 40. The management plan shall be signed and sealed by the Director of MARENA's General Department of Protected Areas, on all its pages.

Art. 41. The management plans for the SINAP protected areas shall have five-year planning periods, which may be revised when deemed necessary by the competent authority.

Art. 42. MARENA shall through a Ministerial Resolution approve a manual which shall establish the content of the management plan for the protected areas.

Section II Buffer Zone

Art. 43. The management plan shall establish the delimitation of the buffer zone for each protected area. In this zone social and inter-institutional cooperation processes will be fostered to promote sustainable production models.

Art. 44. If a protected area has no management plan, MARENA shall preliminarily establish the buffer zone for the protected area, in cooperation with social and inter-institutional sectors based on management directives,

Art. 45. To delimit the buffer zone of each protected area, the technical criteria established in the manual for the methodology of the preparation of management plans prepared by MARENA must be followed.

Section IV Environmental Permits in Protected Areas

Art. 51. The works, activities, and projects to be performed in protected areas that require an environmental permit, shall be subject to:

- 1) The procedures established in the Ministerial Resolutions that regulate the matter.
- 2) The management plans and/or annual operating plans for current protected areas.
- 3) The technical conservation policies for their natural resources, biodiversity, landscapes, habitats, and ecosystems, which ensure continuity of the ecological and evolutionary functions and processes in the protected areas.
- 4) The other sectoral regulations in effect which obligate the undertaking of an environmental impact study (EIA).

Art. 52. The process for obtaining an environmental permit is applicable to new projects, which includes: expansion, rehabilitation, or re-conversion within the protected areas, during the pre-investment and planning phase, which because of their characteristics might cause damage to the environment and natural resources, introduce changes to the landscape or directly or indirectly affect the environmental quality, biological diversity, and cultural heritage.

Art. 53. The MARENA Territorial Offices shall be responsible for the monitoring and control of the environmental permits applied in SINAP.

Section V Authorizations for Activities in Protected Areas

Art. 54. All activities using or exploiting natural resources and producing goods and services in Protected Areas require authorization from MARENA, in order to ensure that they are performed in accordance with the management plan, annual operating plan, and management objectives and directives for the area.

Art. 55. The authorization cited in the prior article shall be granted by the Territorial Delegate of MARENA in coordination with the General Department of Protected Areas, upon completion of the requirements and procedures established in the rules that regulate the matter. The respective authorization shall establish the conditions and type of charges for performing the activity.

Art. 56. MARENA shall establish through Ministerial Resolutions the technical criteria and administrative procedures for the authorization of sustainable use and exploitation activities for natural resources in the SINAP protected areas.

CHAPTER X VIOLATIONS AND PENALTIES

Section I Violations

Art. 77. All actions or omissions that violate the provisions of this Regulation shall be deemed a violation and shall be penalized administratively in accordance with the procedure established in the General Environment and Natural Resources Act, Law No. 217, Executive Branch Organization, Jurisdiction, and Procedures Act, Law No. 290, and the respective Regulations thereof, without prejudice to the crimes and violations established in the Criminal Code and other laws.

Art. 78. MARENA, as a regulatory, standards, and administrative agency for the environmental management of the protected areas, shall be the authority competent to take cognizance of, decide, and apply the corresponding administrative penalties.

Art. 79. Violations of this Resolution are classified as minor, serious, and very serious.

Art. 80. The following constitute minor violations:

1. Violating the provisions established in the management directives and management plan for the protected areas in accordance with this regulation without causing damage to the environment and to natural resources.
2. Cutting and/or extracting from the protected area without due authorization, wild flora and fauna products and/or sub-products, for household purposes.
3. Denying or preventing inspections by duly identified MARENA officials within the protected area under its jurisdiction.
4. Conducting grazing activities in areas where this activity is restricted as established in the management plan.
5. Holding sports fishing events and competitions without authorization.
6. Performing within the protected area tourism service activities for commercial purposes without the corresponding authorization.
7. Performing research and monitoring activities in the protected area without authorization.
8. Entering into the protected area with weapons and hunting gear.

Art. 81. the following constitute serious violations:

1. Cutting and/or extracting from the protected area without authorization, wild flora and fauna products and/or sub-products for commercial purposes.
2. Depositing nontoxic solid waste and contaminants on the land or in the water within the protected areas.
3. Performing wild animal hunting activities within the limits of the protected area.
4. Performing fishing activities without authorization for commercial purposes.
5. Firing weapons within the protected areas.
6. Destroying signs and landmarks in the protected area.
7. Developing infrastructure without the corresponding environmental permit within the SINAP protected areas.
8. The use of explosives, poisonous substances, pesticides, or other chemical products within the limits of the SINAP protected areas.
9. Presenting completely or partially false data to the competent authorities.
10. Recidivism of minor violations.

Art. 82. The following constitute very serious violations:

1. Recidivism in the violation of the provisions established in the management directives and the management plans of the protected areas, producing changes and damage to the environment and to natural resources.
2. Burning without authorization.
3. Causing fires in protected areas as a result of a negligent situation attributable to a natural or legal person authorized to perform controlled burnings.
4. Hunting, fishing, or capturing species, products or sub-products of threatened wild animals or those in danger of extinction.
5. Not respecting closed seasons for established flora and fauna.
6. Performing activities replacing natural forest with forest plantings, grazing land, or other uses in the SINAP protected areas.
7. Collecting protected species of flora, products, and sub-products without the corresponding permit.
8. Depositing or discharging, within the limits of the protected areas, hydrocarbons or oily mixtures and toxic substances, as well as contaminated water and solid waste.
9. Extracting genetic material from the SINAP protected areas without the corresponding authorization.
10. Performing unauthorized activities which cause or may cause effective and/or irreversible damage to the protected areas
11. Recidivism of serious violations.

MARENA through ministerial resolution shall establish the criteria that will determine the volumes and quantities of natural resources from the protected areas to be used for household purposes and the volumes and quantities to be used for commercial purposes, as established in the management categories of the SINAP protected areas.

Section II Penalties

Art. 83. Minor violations shall be punished with a warning that MARENA shall make through notification, establishing the measures and the time for correcting the damage and factors related to the violation that damaged the environment. The seizure of products and/or sub-products extracted illegally from the protected area is also possible.

Art. 84. Serious violations shall be punished by fines equivalent to twice the commercial value of the product or sub-product extracted or the damage caused, plus the cost of curing the damage caused. Jointly with the fine, the seizure of the products and/or sub-products extracted illegally, as well as the seizure of the means and instruments used to commit the violation, shall be applicable.

Art. 85. Very serious violations shall be punished with fines equivalent to four times the commercial value of the product or sub-product extracted or the damage caused, plus the cost of curing the damage caused, as well as the temporary suspension or permanent cancellation of the permits, authorizations, licenses, and/or any other type of right in the Protected Area. Jointly with the fine the seizure of the products and/or sub-products extracted illegally and the seizure of the means and instrument used in the commission of the violation, shall be applied.

Through a Ministerial Resolution, MARENA shall establish the mechanism for establishing the value of the damage caused in the SINAP protected areas.

Annex 32

Nicaraguan Law No. 647

3 April 2008

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[...]

NATIONAL ASSEMBLY OF THE REPUBLIC OF NICARAGUA

LAW No. 647

[...]

AMENDMENT AND ADDITIONS ACT TO LAW No. 217, “GENERAL ENVIRONMENTAL AND NATURAL RESOURCES ACT,”

Article 1. The objective of this Act is to amend and add to Law No. 217, the “General Environmental and Natural Resources Act,” approved by the National Assembly on March 27, 1996 and published in *La Gaceta*, Official Gazette No. 105 of June 6 of the same year, in accordance with the provisions established herein.

Art. 2. An addition is made to Art. 4 of Law 217, number 8), which shall read thus:

“8) The principle of precaution shall prevail over any other in the public and private management of the environment. The State shall take preventive measures in case of doubt on the negative environmental impact or consequences of any action or omission, even if there is no scientific evidence of the damage.”

[...]

Art. 7. Art. 17 of Law No. 217 is amended, which shall read thus:

“**Art. 17.** The National System of Protected Areas (SINAP) is created, which includes all of the protected areas declared to date and those that will be declared in the future. Private Wildlife Reserves, as well as the legal, environmental management, and administrative instruments required for the implementation thereof, are incorporated into this system, along with their particular regulations.

Protection of the natural resources of the country is a national security concern, as well as the most important responsibility and priority of the State, and within that spirit a full and complete

prohibition is established for forestry resources in the protected areas.

Art. 8. Two numbers are added to Art. 18 of Law No. 217, which shall read thus:

“7) Promote sustainable local development; foster the implementation of clean processes and technologies for the improvement and rational and sustainable exploitation of natural ecosystems.

8) Systematically strengthen the environmental services provided by the protected areas for the benefit of the inhabitants in the area, the national economy, and sustainable development.”

Art. 9. Art. 21 of Law No. 217 is amended, which shall read thus:

“**Art. 21.** All of the activities that are performed in protected areas must be performed in accordance with the provisions of the respective Management Plan approved by the Ministry of the Environment and Natural Resources (MARENA), which shall be in accordance with the categories that are established for each area. In the case of protected areas that do not have a management plan, the activities shall be performed in accordance with the provisions of an Annual Operating Plan approved by MARENA, which shall be discussed with the institutions that have an effect on the area, including the respective Municipal Governments, aimed at creating the conditions for the preparation of the respective management plan within a period of no more than two years. Both in the achievement of the protection objectives and in management and supervision, the participation of the community shall be guaranteed.”

Art. 10. Art. 22 of Law No. 217 is amended, which shall read thus:

“**Art. 22.** The Ministry of the Environment and Natural Resources shall be the institution with jurisdiction for the administration, standardization, authorization of activities, supervision, monitoring, and regulation of the protected areas that form part of SINAP. It may likewise grant the management of the protected areas, under the status of co-management, in accordance with the criteria, requirements, and administrative procedure established to that end.”

Art. 11. Art. 24 of Law No. 217 is amended, which shall read thus:

“**Art. 24.** A Buffer Zone shall be established bordering or surrounding each Protected Area, for which the following shall be adhered to:

1. In the case of a declaration of new protected areas, the buffer zone shall be established by the Law creating such.
2. When there are already declared protected areas, that do not have buffer zones, the provisions of the approved Management Plan or that which is approved, in accordance with the provisions of Art. 8 of this Act, shall be adhered to.

For effective control, monitoring, and follow-up that guarantees sustainable development in the buffer zones, the instruments that are necessary shall be created with the participation of and in

coordination with the institutions and/or participants who have an effect on the zone.

In the buffer zones of the Bosawas Biosphere Reserve, the Protected Area of the Southeast, and the Cerro Wawashang Nature Reserve, as well as the future ones that are granted, an external perimeter area of ten kilometers is established measured from the border of the protected area that constitutes it, in which only forestry exploitation for domestic noncommercial purposes and for exclusive use in the area shall be allowed.”

Art. 12. The name of SECTION IV of CHAPTER II, “ENVIRONMENTAL IMPACT PERMITS AND EVALUATION” of Law No. 217 shall be amended, as well as Articles 25, 26, and 27, which shall read thus:

**“SECTION IV
THE ENVIRONMENTAL EVALUATION SYSTEM**

Art. 25. The Environmental Evaluation System shall be administered by the Ministry of the Environment and Natural Resources in coordination with the corresponding institutions.

In the case of the Autonomous Regions, the Environmental Evaluation System shall be administered by the respective Regional Council in coordination with MARENA, for the purpose of being involved in the decision-making process, in the control and follow-up of the provisions of the Environmental permits granted by the respective Regional Council.

Art. 26. The Municipal and Sectoral Investment and Development Plans and Programs shall be obligated to perform a Strategic Environmental Evaluation (EAE), for which MARENA shall establish the criteria, methodologies, requirements, and administrative procedure to follow.

Art. 27. The projects, works, industries, or any other activity, whether public or private, domestic or foreign investment, or during the pre-investment, execution, expansion, rehabilitation, or reconversion phase which because of the characteristics thereof can cause damage to the environment or to natural resources, in accordance with the specific list of the categories of the works or projects which are established in the respective Regulation, shall obtain an Environmental Permit or Environmental Authorization prior to the performance thereof. All tourism or urban development usage projects in coastal regions shall have an Environmental Impact Study to obtain the corresponding permit.

The works or projects that require an Environmental Permit based on the specific list, shall first perform an Environmental Impact Study. MARENA and the Autonomous Regional Councils are obligated to discuss the studies with the competent sectoral bodies as well as with the respective Municipal governments. If an Environmental Authorization is required, the work, industry, or project shall be subjected to an Environmental Evaluation, under penalty of Law.

The fragmentation of works or projects to avoid the responsibility of all the aspects of the Study is prohibited. The proponent shall present the Full Project Investment Master Plan to MARENA.

Obtaining the land usage and building permits for any type of horizontal and/or vertical works or

infrastructure, necessarily require having the corresponding Environmental Permit in advance, issued by MARENA in accordance with the provisions of the Strategic Evaluation System.”

Art. 13. Three new articles are added to SECTION IV, THE ENVIRONMENTAL EVALUATION SYSTEM, which shall read thus:

“**Art. 31.** The activities that are not in the standard list of works or projects cited in the preceding article, shall be obligated, to request the corresponding Environmental Permit from the Municipality prior to execution thereof, after completing the environmental form established by MARENA. The Autonomous Regional Councils and the Municipal Governments shall evaluate the request to approve or deny such permit.

Art. 32. All those natural or legal persons who do not comply with the requirements, provisions, or controls that are set, shall be sanctioned by MARENA, without prejudice to such civil or criminal actions as may be taken against them in accordance with current law.

Art. 33. The Environmental Bond is established as a financial guaranty, in favor of the State of Nicaragua, taken out by all natural or legal persons who in virtue of performing an activity, work, or project, are obligated to have an Environmental Permit. The purpose thereof is to guarantee compliance with the conditions established in the Environmental Permit and compensation of the costs for such environmental damage as is caused.”

Art. 14. The full force and effect of Arts. 44 and 34 of Law No. 217, which were repealed by Law No. 257, “Tax and Commercial Justice Act,” approved by the National Assembly on May 15, [truncated] and published in *La Gaceta*, Official Gazette No. 106 of June 6, [truncated], is reestablished, becoming, respectively, Articles 47 and 48. Art. 48, which has been reestablished, is amended, and shall read thus:

“**Art. 48.** Equipment and machinery whose use is identified as clean technology shall be exempt from import duties, upon certification from the Ministry of the Environment and Natural Resources.”

Annex 33

MARENA Administrative Resolution No. 038-2008

22 December 2008

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DIRECTORATE GENERAL OF ENVIRONMENTAL QUALITY

ADMINISTRATIVE RESOLUTION No. 038-2008

Following examination of the application for an Environmental Permit dated the 25th day of January two thousand six, filed by the Empresa Portuaria Nacional company (EPN), for execution of the *“Improvement of Navigation on the San Juan de Nicaragua River”* project, the record for which is identified as Record Number 037-2006, before the Ministry of the Environment and Natural Resources, Directorate General of Environmental Quality.

The project consists of the design and construction of a navigation channel by means of the dredging of 41,963.57 linear meters of the section extending from the site known as Punta Chingo Petaca to the mouth of the San Juan de Nicaragua River, and the construction of an access canal permitting the movement of dredge from the Caribbean Sea to the San Juan de Nicaragua River, which shall have a length of 2,000 meters. The project is located in the jurisdiction of San Juan de Nicaragua Municipality, Río San Juan Department, within the boundaries of the San Juan de Nicaragua River Wildlife Refuge.

In response to this application, notices were sent to the agencies involved for the creation of the inter-institutional group responsible for evaluating the project and issuing a technical determination therein, in accordance with the established procedures, in which representatives of the Office of Executive Secretary of the Southeast Nicaragua Biosphere Reserve, the Nicaraguan Institute of Territorial Studies (INETER), the Directorate General of Water Transport of the Ministry of Transportation and Infrastructure (DGTA – MTI), and the MARENA San Juan River Territorial Delegation participated, with coordination by the MARENA Directorate General of Environmental Quality.

Three technical inspections were performed in the area of the proposed project, with the participation of the inter-institutional group and the project’s representatives.

The Terms of Reference for the formulation of the Environmental Impact Study (EIS) were drawn up, the first preliminary and detailed technical reviews of the EIS and the Environmental Impact Document (EID) were carried out, and the required meetings with the inter-institutional team and the project’s representatives were held to clarify technical aspects reflected in the Terms of Reference, as well as in the period of detailed technical review of the Environmental Impact Study and the review of Addendum I.

The Public Comment process was conducted during the period from Wednesday 9 August to Tuesday 15 August 2006, and comments and remarks were received from five individuals, as well as from the Director of the Office of Executive Secretary of the Southeast Nicaragua Biosphere Reserve and the Municipal Mayor of San Juan de Nicaragua. All the comments were analyzed and considered in the Administrative Resolution by the

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MARENA – Directorate General of Environmental Quality

[Illegible Signature] [Handwritten: Received 9 July 2009]

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Inter-institutional team that issued a determination on the Environmental Impact Study submitted by the Proponent.

In response to the substitution of authorities at the EPN following the election of two thousand six, the request for complementary information by the institutional evaluation team, to correct certain weaknesses found in the EIS, was sent to the MARENA by the EPN's new authorities. All the requests were fulfilled and the procedure for the corresponding environmental impact permit was resumed.

WHEREAS

I

The Political Constitution of Nicaragua prescribes the right of all Nicaraguans to live in a healthful environment, and the Nicaraguan State is responsible for ensuring this right through the implementation and use of environmental management arrangements and instruments. The Ministry of the Environment and Natural Resources is the agency charged with formulating, proposing, and directing the national environmental policies.

II

Law 217, General Environment and Natural Resources Act, provides as follows in its Article 4, part 3: *"The criterion of prevention shall prevail over any other in the public and private management of the environment. The absence of absolute scientific certainty cannot be invoked as a reason for not taking preventive measures in all activities which have an impact on the environment."* Additionally, Article 4, part 5, provides that: *"Property rights have a social and environmental function which limits and conditions their absolute, abusive, and arbitrary exercise, in conformity with the provisions of this act and the special environmental laws in force."*

III

The Regulations on Protected Areas of Nicaragua (Decree No. 01-2007) provide in their Article 51 *"that the works, activities, and projects to be carried out in the protected areas which require environmental permits must be in accordance with the procedures prescribed for them, the approved Management Plans, and the technical criteria for conservation of their natural resources biodiversity, landscapes, habitats, and ecosystems so as to ensure the continuity of the ecological and evolutionary functions and processes in the protected areas."*

IV

The provisions of Law 585, Prohibition of Cutting, Utilization, and Marketing of Forestry Resources Act, published in Official Daily-Gazette No. 120 on the twenty first day of June, two thousand six, and the provisions of Law 620, General National Waters Act, and its Regulations,

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published in Official Daily-Gazette No. 169 of the fourth day of September, two thousand seven, prescribe measures, restrictions, and prohibitions in the field for each legal instrument, which cannot be reflected in the provisions of this Environmental Permit because they are Laws which entered into force subsequent to the application, in fulfillment of the principle prescribed in Article 38 of the Political Constitution of Nicaragua, whereby “The Law has no retroactive effect”

V

The San Juan River is the only communication route at the disposal of San Juan de Nicaragua Municipality, wherefore the improvement of that river’s navigability is of vital importance to satisfy the basic needs of said municipality’s inhabitants.

VI

The current degree of sedimentation in the last section of the San Juan River, from Punta Chigo Petaca to the San Juan River’s mouth, poses serious problems for navigation, which impedes the entire San Juan de Nicaragua Municipality’s full participation in the national life, impairing the entire population’s access to basic public services and the enjoyment of their rights as Nicaraguan citizens which are conferred on them by the Political Constitution of Nicaragua.

VII

The activities of the “*Improvement of Navigation on the San Juan de Nicaragua River*” Project may cause potentially significant environmental impacts. According, in the framework of Decree 45-94, Regulations for Environmental Permits and Environmental Impact Assessments, Article 5, part j, it is mandatory to have an Environmental Permit prior to the project’s execution, which requires the performance of an Environmental Impact Study by the *Empresa Portuaria Nacional (EPN)* company.

VIII

The procedures prescribed in the currently applicable legal framework have been fulfilled in the procedure carried out in response to the application for an Environmental Permit, and the inter-institutional technical team has determined that the project is environmentally viable, *provided the proponent strictly complies in its entirety* with all the environmental measures and actions stipulated in the Environmental Impact Study, its corresponding Environmental Management Program, and the Addendum, which include all the preventive and mitigating actions prescribed for handling of the material extracted from the river bed and its disposal at the final dumping sites identified in the environmental impact study, as well as the final disposition of the domestic effluents and handling of the project’s solid wastes.

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NOW, THEREFORE

The Ministry of the Environment and Natural Resources, Directorate General of Environmental Quality, acting in the use of the powers conferred on it by the Regulations of Law 290, Executive Branch Organization, Competence, and Procedures Act, Decree 25-2006, Article 294, Law 217, Article 27 of the General Environment and Natural Resources Act, and Articles 28 and 29 of Decree 45-94, Regulations on Environmental Permits and Environmental Impact Assessments, as well as on the basis of the technical criteria and considerations adopted by the inter-institutional technical team which issued the determination on the Environmental Impact Study.

RESOLVES

First: To grant an **Environmental Permit** to the **Empresa Portuaria Nacional (EPN)** company for execution of the ***“Improvement of Navigation on the San Juan River of Nicaragua.”***

Second: For the intents and purposes of this environmental permit, the Empresa Portuaria Nacional (EPN) company shall henceforth be referred to as the Proponent.

Third: Based on the criteria and recommendations of the inter-institutional technical team which evaluated the Environmental Impact Study, and in compliance with the legal and environmental provisions currently in force, the Directorate General of Environmental Quality of the MARENA adopts the following provisions, which are mandatory and require strict compliance:

- 1) This Environmental Permit is issued exclusively for improvement of the navigation route to permit the communities in the south-eastern corner of the national territory to be in contact by river with the rest of the country. The navigation channel shall have the following dimensions: in its cross-section it shall be 20 meters wide at the bottom, 30 meters wide at the surface, and with a minimum depth of 2 meters in the dry season, throughout a section 41,963.57 meters in length which runs from the site known as Punta Chingo Petaca to the [mouth] of the San Juan River, plus the construction of an access channel to carry the equipment required for the clean-up operation from the Caribbean Sea to the Estuary of the San Juan de Nicaragua River, which shall have a cross-section 40 meters wide at the bottom, 60 meters wide at the surface, and with a minimum depth of 6 meters, along a total length of 2,000 meters.
- 2) The material extracted from the river bed, calculated at **(1,693,787 m³)** shall be deposited at the sites previously identified in the Environmental Impact Study, located on the left bank of the San Juan River along the length of the section where the project’s activities will be conducted. In consideration of the conditions in the area and the project’s importance at the national level, the MARENA accepts the use of the sites proposed in

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the Environmental Impact Study as the only alternative for dumping of the extracted material. The authorized sites, by UTM coordinates, are as follows:

No.	NAMES OF THE DUMPING SITES	UTM COORDINATES		AREA (MZ)	VOLUME M ³
		NORTH	EAST		
0	Public property*	1 211 244	202 220	00	
1	Public property	1 209 201	206 250	2.25	60,704
2	Public property	1 207 483	207 205	00	98,273
3	Public property	1 207 319	207 736	2.08	14,579
4	Juan Popa	1 206 540	207 309	15.73	110,532
5	Public property	1 205 357	207 314	5.61	39,404
6	Chepe Nuevo	1 204 649	208 162	1.19	16,744
7	Daniel Reyes	1 203 662	208 278	13.39	188,184
8	Noel Castellano	1 202 463	207 727	2.13	29,958
9	Calixto	1 200 692	207 477	14.65	102,941
10	José Gómez	1 199 981	207 762	4.73	66,436
11	José Gómez	1 198 453	208 250	27.41	192,571
12	Alejandro Reyes Aragón	1 197 832	208 809	19.22	135,019
13	Socorro López S.	1 196 615	208 689	9.01	63,283
14	Darío Sánchez (El Jobo)	1 194 306	205 891	2.40	33,700
14-A	Isla Salomón	1 193 874	205 266	2.12	21,226
14-B	Isla Salomón	1 194 151	204 172	2.12	21,226
15	Ricardo Salinas	1 194 453	203 651	1.86	26,090
16	Silvio Reyes	1 193 900	202 322	25.16	

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17	Rubén Reyes	1 193 247	200 549	13.73	363,801
18	Felipe Espinoza	1 193 136	199 890	5.34	75,074
19	Gregorio Chamorro	1 192 607	198 443	0.52	7,334
20	San Juan River Delta	1 192 386	197 532	1.19	2,050
21	Public property	1 192 429	197 088	1.30	--
22	Public property	1 192 535	196 203	0.39	5,544
23	Public property	1 191 939	194 134	1.20	16,874
24	Public property	1 189 857	189 947	6.65	46,742

- 3) It is necessary to protect and preserve the riverbank vegetation at all the sites used as dumps for extracted materials. At the sites where there is no riverbank vegetation or where this type of vegetation may be adversely affected by the activities to be conducted, the project's executor is obligated to restore it in accordance with a reforestation plan, making use of native species. No exotic species may be introduced for recovery of the vegetable cover in the ecosystem affected by the project's activities. The protective barriers on the left bank of the San Juan River must include the construction of a structure that does not permit erosion or overflowing of the banks when the river rises; the structures must be built prior to or concurrently with the process of extraction of the sediment material from the river bed, according to the construction specifications shown in the environmental impact study.
- 4) Thirty (30) days before commencing activities in the project, the Proponent must mark all the sites that have been identified as material dumps in order to facilitate their localization, identification, and management. Pennants, stakes, or other kinds of marking devices which are easily identifiable from a distance may be used for this purpose. The number or name given to the dump site, the area to be used, and the volume of material to be dumped must appear on the markers.
- 5) Before material begins to be dumped in the spaces selected as dumping sites, each of said sites must first be cleared of all vegetation and the barriers, which will ensure the material's confinement, must be built, to avoid the material's return to the river bed. Material may not be dumped on existing vegetation at the dump site. At no time may material be dumped at a distance of less than 50 meters from the river bank, except at those sites whose characteristics so permit, but this must be compensated for with the conservation works to be built.
- 6) The wood resulting from the removal of vegetation at each of the dumping sites must be offered to the nearby inhabitants for their use, for either energy or lumbering purposes. The remains of plants which cannot be utilized shall be used in environmental recovery

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work in the affected spaced. These vegetable remains may not be buried under the extracted material. The MARENA prohibits the burning of any residues of cut vegetation. The Proponent must make a record of the origin and volume of the vegetation removed (wood to be utilized), as well as a classification and the subsequent uses made thereof.

- 7) Tree remnants which are extracted from the river bed, such as trunks and branches, must be used in the construction of barriers to confine the dumped dredged material or to stabilize the river banks.
- 8) The Proponent must make certain that the fuel required for the dredging is supplied by personnel trained for said operation, to prevent leaks or spills of substances of this kind into the San Juan River.
- 9) The Proponent must ensure the permanent existence of floating barriers and absorbent material in the vessel to be used for the cleaning process in the river, so as to respond to, and quickly contain, any quantity of hydrocarbons which might be generated by an accidental leak or spill of substances of this kind, and to immediately extract from the water any hydrocarbon residues that might be recovered, so as to prevent the propagation of pollution in the event of an emergency.
- 10) The equipment and machinery to be used to clean the river must carry the containers and recipients required to store the residues generated in the maintenance work on its motors and equipment. Residues must be handled as prescribed in the international maritime navigation agreements. The MARENA does not permit residues of this kind to be abandoned at any of the river ports on the San Juan River.
- 11) The Proponent must provide for environmental supervision of the project throughout its period of execution, and to that end it must retain the services of a professional who has the necessary qualifications and experience, who shall perform the function of permanent environmental manager in the area and in all project activities. The Proponent must inform the MARENA of the retained professional's name prior to the project's execution; he shall receive instructions on the environmental aspects to be supervised and the reports which must be submitted pursuant to this Resolution's provisions, to ensure environmental compliance and control in view of the area's characteristics. The MARENA Delegation at Río San Juan shall delegate an environmental inspector, who shall provide ongoing monitoring throughout the performance of the activities, and his expenses shall be borne by the project's Proponent.
- 12) The Proponent must ensure that the company and/or personnel hired to perform the river clean-up work respect and protect the local flora and fauna, as well as the rest of the environmental factors present in the area where the project's activities are conducted. The

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MARENA prohibits hunting, capture, and utilization of all kinds of fauna and flora species present in the area, in accordance with the provisions of the currently applicable legislation and the San Juan River of Nicaragua Wildlife Refuge Management Plan.

- 13) The inhabitants who live in places close to the dumping sites for dredged material must be informed of the commencement of operations near their homes at least thirty (30) business days in advance. The Proponent must guarantee the restrictions on movement at the site where the dredged material will be dumped, as well as the necessary security.
- 14) In the event work is done at night, and at the sites where the machinery and equipment must remain during the night, it is necessary to ensure lighted signs of the area, to prevent accidents to persons and public and private vessels.
- 15) The material extracted from the riverbed must be dumped at the selected sites in laminar form over a relatively flat surface no more than 1.1 meters higher than the maximum altitude of the land. All the material must be confined in order to prevent its return to the riverbed, as prescribed in the Environmental Impact Study.
- 16) Dumping of material generated by the clean-up on the river bank and nearby areas between the outlet of Caño Sucio and Boca de San Juanillo is to be avoided, so as to prevent alterations in the circulation of waters in view of the very gentle slope in that natural drainage area for the Ebo, La Barca, and Sillico lagoons, in consideration of the importance of the area's primary production and to support the potential of its fishing resources, with special protection for the swamp and mangrove habitats in the area of the San Juan River's mouth, which forms the tideland facing the sea, in accordance with the fishing biology study's findings.
- 17) When the dumping of material extracted from the river bed is completed at each dump, it is necessary to immediately ensure the conditions for the natural regeneration, reforestation, and restoration of the vegetation at the affected site. The Proponent must coordinate with the MARENA Delegation at Río San Juan and the San Juan de Nicaragua Municipal Government in regard to the measures taken for the protection and vigilance of these spaces, so as to prevent their being used for the construction of houses.
- 18) The MARENA may authorize the dumping of extracted material at places where the population needs it, and especially the populating living in hamlets along the bank of the San Juan de Nicaragua River, provided the technical assessment so permits, with the aim of elevating the land and reducing the risk of flooding of said inhabited areas. The measures for protection of the population must be coordinated between the Proponent, the Municipal Government of San Juan de Nicaragua, and the local village leaders.

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- 19) Since the use of the material extracted from the San Juan River in useful works for the population is a good environmental practice, the MARENA recommends coordination of efforts and resources between the Proponent and the government agency responsible for the construction of the San Juan de Nicaragua airstrip, for the formation of a material bank to be used in the construction of said airstrip, houses, streets, and sidewalks in the municipality, with a view to reducing the volumes of material to be dumped in the most vulnerable areas of wetlands.
- 20) The Proponent must allocate the human, technical, economic, and material resources needed to fulfill its undertakings for protection of the environment and the natural resources of the area, arising from this Administrative Resolution and the provisions of the Environmental Management Program, a copy of which is attached to this Environmental Permit.
- 21) Any accident or event which occurs and threatens to adversely affect the environment and natural resources in the area, even when it has been brought under control, must be immediately reported by the Proponent to the representatives of the following authorities, in verbal form (first notification) and in writing, with the details of the incident and the actions taken to control it:
- The MARENA Departmental Delegation at Río San Juan.
 - The Office of the Executive Secretary of the Southeast Nicaragua Biosphere Reserve.
 - The Directorate General of Environmental Quality at the MARENA Central Headquarters.
 - The Directorate General of Natural Patrimony at the MARENA Central Headquarters.
 - The Municipal Government of San Juan de Nicaragua.
 - The Directorate General of Water Transport in the MTI.
- 22) The MARENA prohibits the construction of any temporary or permanent buildings on “dry land up to **30 meters** behind the line of maximum marks or that of the permanent course of rivers and lakes ...,” pursuant to Article 72 of Law 217, General Environment and Natural Resources Act.
- 23) The MARENA Central Headquarters or the MARENA Territorial Delegation at Río San Juan shall inspect the area of the project when they see fit, with or without prior notice.
- 24) In the event of any noncompliance or the violation of any of the foregoing clauses, the Proponent shall incur warnings, fines, temporary suspension, or cancellation of the

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Environmental Permit, as prescribed in the environmental legislation in force in the country.

- 25) The holder of the Environmental Permit undertakes to comply with the financial security prescribed in **Article 33 of Law 647, Reform of and Additions to Law No. 217, General Environment and Natural Resources Act**, once it has been defined by the Ministry of the Environment and Natural Resources and published in The Gazette-Official Journal.

The Environmental Permit granted hereby is valid only for the activities specified in the information sent to the Ministry of the Environment and Natural Resources. If the Proponent intends to introduce any broadening or modification of the approved project, it must first apply to MARENA for the appropriate permit.

This resolution determines that the project's execution is environmentally feasible, subject to compliance with the conditions prescribed therein, but it does not relieve the project's legal representative or owner of the obligation to comply with the other permits required by the laws in force in the country, *nor does it substitute for any other requirement which might be prescribed by other authorities.*

This permit shall enter into force as of the date of delivery to the Proponent, a record of which must be left, and if the project is not executed in the next 18 months, it must be renewed, for which the MARENA shall evaluate the conditions prevailing at the date thereof, being empowered to authorize its renewal provided no changes or variations of the original environmental parameters in the area of the project have occurred.

Done in the city of Managua on the twenty second day of December, 2008.

[SIGNED]

Hilda Espinoza Urbina
Director General
Directorate General of Environmental Quality

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Annex 34

Ministry of the Environment and Natural Resources (MARENA)

Administrative Resolution No. 038-2008-A1

30 October 2009

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DIRECTORATE GENERAL OF ENVIRONMENTAL QUALITY

DGCA RESOLUTION No. 038-2008 – A1

Following examination of the application filed by Mr. Virgilio Silva, acting in his capacity as Legal Representative of the Empresa Portuaria Nacional (EPN) company, for a broadening of the Environmental Permit for the **“Improvement of Navigation on the San Juan de Nicaragua River,”** approved under Administrative Resolution No. 038-2008 of the twenty eighth day of August, two thousand nine, Registration No. 037-2006.

Following the review of the information in support of the change in the project’s components, and specifically, part **1 of the environmental permit**, which is reproduced verbatim as follows: *“This Environmental Permit is issued exclusively for improvement of the navigation route which permits the communities in the southeastern corner of the national territory to be in contact by river with the rest of the country. The navigation channel shall have the following dimensions: in its cross-section it shall be 20 meters wide at the bottom, 30 meters wide at the surface, and with a minimum depth of 2 meters in the dry season, throughout a section 41,963.57 meters in length which runs from the site known as Punta Chingo Petaca to the Estuary of the San Juan River, plus the construction of an access canal to carry the equipment required for the clean-up operation from the Caribbean Sea to the Estuary of the San Juan de Nicaragua River, which shall have a cross-section 40 meters wide at the bottom, 60 meters wide at the surface, and with a minimum depth of 6 meters, along a total length of 2,000 meters.”*

WHEREAS**I**

The Environmental Permit under Administrative Resolution **038-2008**, for the **“Improvement of Navigation on the San Juan de Nicaragua River”** project stipulates that the Proponent must submit a timely application to the Directorate General of Environmental Quality of MARENA for the review and approval of any proposed modification of the project.

II

Law 217, General Environment and Natural Resources Act, as amended, provides in Article 27 that: “Projects, works, industries, or any other activity, whether public or private, by national or foreign investment, during their pre-investment, execution, expansion, rehabilitation, or conversion stages, which in view of their characteristics may provoke any deterioration of the environment or natural resources in accordance with the specified list of categories of works or projects established in the respective Regulations must obtain an Environmental Permit prior to their execution.”

III

According to the information submitted by the Proponent, the changes consist of cleaning a stream which connects the San Juan River with the Harbor Head Laguna in Nicaraguan territory,

[logo]

Ministry of the Environment and Natural Resources
Km 12 ½, North Highway, facing Corporación de Zonas Francas
Telephone: 22331112
e-mail: www.marena.gob.ni

[logo]

DIRECTORATE GENERAL OF ENVIRONMENTAL QUALITY

using manual equipment. The clean-up work shall be performed along a length of 1,560 linear meters with a maximum of 30 meters in width, with the starting point at reference coordinates North 1208638 and East 863133, and the end point at coordinates North 1209823 and East 863450. The clean-up work will be performed with a dredge on a section that has become sedimented, located at reference coordinates North 1208439 – East 863131, and (final) coordinates North 1208134 – East 863136 and North 1208138 – East 963196, with a width of 59 meters by 300 meters in length and 6 meters in depth. A total of 37,500 m³ of sediment will be removed in this activity, to facilitate navigation in these sections of the river.

Following performance of the technical inspection in the area in which the project's field activities will be conducted, in coordination with the project's representatives.

THEREFORE:

The Ministry of the Environment and Natural Resources, acting through the Directorate General of Environmental Quality and in the use of the powers conferred by **Law 290, Executive Branch Organization, Competence, and Procedures Act, Article 28, part b, Regulations of Law 290, Decree 25-2006, Article 294, Law 217, General Environment and Natural Resources Act, Articles 27, 28, 29, and all the foregoing technical considerations.**

RESOLVES

First: To modify the Environmental Permit for the “**Improvement of Navigation in the San Juan River of Nicaragua**” project, which has been requested by the Empresa Portuaria Nacional company.

Second: Administrative Resolution No. **038-2008** is modified in regard to the components of the third resolution, number 1, relating to the project's location and components, so as henceforth to read as follows:

Part 1) This Environmental Permit is issued exclusively for the rehabilitation of the navigation route which improves contact by river between the communities in the southeastern corner of the national territory and the rest of the country. The navigation channel shall have the following dimensions: in its cross-section it shall be 20 meters wide at the bottom, 30 meters wide at the surface, and with a minimum depth of 2 meters in the dry season, throughout a section 41,963.57 meters in length which runs from the site known as Punta Chingo Petaca to the Estuary of the San Juan River. In addition, the company shall perform clean-up activities on a caño which connects the San Juan River with the Harbor Head Lagoon, in Nicaraguan territory

The clean-up work shall be performed along a length of 1,560 linear meters with a maximum of 30 meters in width, with the starting point at reference coordinates North 1208638 and East 863133, and the end point at coordinates North 1209823 and East 863450. The clean-up work will be performed with a dredge on a section that has increased in sediment, located at reference

[logo]

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[logo]

DIRECTORATE GENERAL OF ENVIRONMENTAL QUALITY

coordinates North 1208439 – East 863131, and (final) coordinates North 1208134 – East 863136 and North 1208138 – East 963196, with a width of 59 meters by 300 meters in length and 6 meters in depth. A total of 37,500 m³ of sediment will be removed in this activity, to facilitate navigation in these sections of the river.

Third: The following modal charges are added to the third resolution element of this environmental permit, under Administrative Resolution No. 038-2008:

26. The sediment dump sites must be identified and delimited, chiefly making use of areas cleared of vegetation to reduce the impact on the flora and fauna typical of the ecosystem in question.
27. The sediments extracted as a consequence of the activities performed by the dredging equipment may not be deployed within a minimum distance of 50 meters in length from the river bank, to avoid erosion and run-off of the sediments in question back to the river channel.
28. Tree trunks or sections are to be used as barriers in the sediment dump areas.
29. All works must be supervised by EPN and have environmental monitoring by MARENA specialists and the environment regent delegated by the EPN.
30. The clean-up work for maintenance of the stream must be done for the most part with manual equipment such as (picks and shovels).
31. Ecological (mobile) latrines must be installed for use by the personnel working in the project.
32. The equipment must be insured, and safety precautions must be taken to prevent accidents among the workers, chiefly in the form of snake bites.
33. The requirements of the contingency program established in Resolution 038-2008 must be fulfilled for the movement and storage of hydrocarbons used in the project's activities in this stage.
34. During the performance of the activities, all domestic wastes must at all times be collected and disposed of outside the area, in accordance with the technical environmental rules for handling of non-hazardous wastes.
35. If it is not possible to avoid clearing vegetation, the affected vegetation must be replaced and compensated for in the amount of 10 trees for every tree cut down, with species native to the area. Natural regeneration of species must also be promoted.

[logo]

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Fourth: All the remaining provisions of **Administrative Resolution No. 038-2008** remain in force.

Done in the city of Managua on the 30th day of October, two thousand nine.

[SIGNED]

Hilda Espinoza Urbina
Director General
Directorate General of Environmental Quality

[seal]

[logo]

Ministry of the Environment and Natural Resources
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Annex 35

Official Daily Gazette No. 46, Decree No. 36440-MP, Year CXXXIII.

La Uruca, San José, Costa Rica (1)

7 March 2011

By-Laws and Regulations, Presidency of the Republic,
National Commission on Risk prevention and attention to
emergencies Decision No. 0362-2011, Specific By-Laws regarding
purchasing and contracts procedures under exception mechanisms
regimen by virtue of the Declaration of a State of Emergency by
virtue of Decree No. 36440 (2)

21 September 2011

(1) Official Daily Gazette No. 46**Decree No. 36440-MP**

Year CXXXIII

La Uruca, San José, Costa Rica **Monday, 7 March 2011****THE PRESIDENT OF THE REPUBLIC AND THE MINISTER OF THE
PRESIDENCY**

In the exercise of the authority conferred on them by Articles 140, sections 3) and 18) and 180 of the Political Constitution, Articles 25 section 1), 2.7 section 1) 28 section b), of Law No 6227 of 2 May 1978 which is the General Public Administration Law, and Law No. 8488 of 11 January 2006 which is the National Law on Emergencies and Risk Prevention.

Bearing in mind:

I.- That the constitutional system provides for special norms that allow the Executive Branch to address emergency situations so that action in that regard can be as agile and decisive as merited by the circumstances so as to discard or minimize the consequence wrought by natural and human made disasters.

II.- That the Costa Rican State has the essential function of the protection of national sovereignty, and in its preservation and defense the State is called upon to exercise all necessary measures in observance of the civil and pacifist vocation that guides the Costa Rican State, particularly those with regards to the abolition of the army, peace, neutrality and the peaceful settlement of disputes by the use the mechanisms provided by International Law.

III.- That the Ministry of Foreign Affairs is the vehicle by which the State carries out all its tasks before any foreign Governments and Institutions. Furthermore, the Ministry for Public Security is the entity responsible for defense of the territorial integrity of Costa Rica. Equally, other entities of the State will be available to provide institutional support, in conformity with their competence and responsibilities for those purposes.

IV.- That the military invasion and occupation of Costa Rica by Nicaragua, since October 2010, brought Nicaraguan troops that now occupy a part of the territory of Costa Rica, in clear violation of its national sovereignty, territorial integrity and dignity.

V.- That the aforementioned represents a constant violation of the territorial, aerial and maritime spaces of Costa Rica, thus impacting not only on its national sovereignty, but also causing serious environmental damage through the destruction of fragile national wetlands zones which are duly registered and recognized at the international level.

VI.- That to this day Nicaragua continues to occupy and damage a part of the Costa Rican territory with the presence of the Nicaraguan armed forces, in particular, in Isla Portillo-Isla Calero, and that it also continues to carry out dredging activity which has caused serious environmental damage to the abovementioned zone.

VII.- That as a result of actions carried out by the army of Nicaragua and the Government of that country, normal functioning conditions for activity in several Costa Rican communities along the border area, and of government institutions, have been disrupted, because some have even become isolated as they lack the means to access basic services such as health, food provisions, education, among others, and thus have been placed in an evident vulnerable situation.

VIII.- That the zone that has been affected by the actions of the Nicaraguan Government and Army is also under constant threat of natural phenomena that causes flooding among other effects.

IX.- That the National Law on Emergencies and Risk Prevention determines that “Those within the national territory should count with the protection of their life, their physical integrity, their property and the environment in the face of dangerous disasters or events that may occur.”

X.- That the National Law on Emergencies and Risk Prevention defines as a disaster a situation “or process that unfolds as the result of a phenomenon with a natural, technological or man-made origin where a population is brought under conditions of vulnerability, that causes intense disruption of the community’s normal functioning conditions, such as the loss of lives and health within the population, destruction or loss of the collective’s property and severe damage to the environment.”

XI.- That the National Law on Emergencies and Risk Prevention understands an emergency to be the crisis state created by the disaster.

XII.- That up until the present attention to the disaster created by the actions of the Army and Government of Nicaragua has been enabled by resources and the ordinary procedures that regulate Public Administration; however, at the present moment resort to mechanisms of exception provided by the Constitution and the Law is merited.

Therefore,

THEY DECREE:

“TO DECLARE THAT THE SITUATION UNFOLDED BY THE VIOLATION OF COSTA RICAN SOVEREIGNTY ON THE PART OF NICARAGUA CONFORMS A STATE OF EMERGENCY”

Article 1- A State of Emergency is declared in the following villages on the border with Nicaragua: La Cruz, Upala, Los Chiles, Sarapiquí, San Carlos and Pocosi; and also the situations and/or processes that are being unleashed as a result of the activities illicitly

carried out by Nicaragua on Costa Rican territory, which threaten the life, physical integrity and property of those within national territory, as well as the national sovereignty and the environment.

Article 2.- To that effect, the present declaration of a state of emergency includes the three phases established in the National Law on Emergencies and Risk Prevention which are as follow:

- a) Response phase.
- b) Rehabilitation phase.
- c) Reconstruction phase.

Article 3.- The present declaration of a state of emergency encompasses all the actions and projects necessary for the protection of life, physical integrity, property and the environment, as well as those necessary for attention, rehabilitation, reconstruction and restoration of infrastructure, housing, communications and disrupted production activities as well as all damaged public services within the zone covered under article 1) of this Decree, all of which actions should be included in the General Emergency Plan approved by the Governing Board of the National Commission on Risk Prevention and Attention to Emergencies, in order that such attention and projects take place in conformity with the concept of emergency.

Article 4.- In conformity with the stipulations of articles 15 and 38 and also the following articles of the National Law on Emergencies and Risk Prevention, the Ministry for Public Security will coordinate with the National Commission on Risk Prevention and Attention to Emergencies, the Center for Emergency Operations (COE by its Spanish acronym), and other coordination entities to facilitate the development of a General Emergency Plan.

Article 5.- In conformity with stipulations of the National Law on Emergencies and Risk Prevention, the Executive Branch, public institutions, autonomous and quasi autonomous entities, State corporations, municipalities, as well as any other entity or public organism are authorized to contribute, donate, transfer, and lend the necessary help and collaboration to the National Commission on Risk Prevention and Attention to Emergencies.

Article 6.- For implementation of the present declaration of an emergency, the National Commission on Risk Prevention and Attention to Emergencies, in conformity with the National Law on Emergencies and Risk Prevention may assign funds and accept donations from public and private entities.

Article 7.- As part of its attention to the present emergency, the National Commission on Risk Prevention and Attention to Emergencies may use unassigned funds remaining from other resolved or remaining emergencies as determined by the Governing Board of this entity.

Article 8-. The grounds of private property situated in the geographic area defined by this declaration of an emergency state shall be bound to allow all the legal easements necessary for the execution of these actions, processes and projects to be carried by public entities in response to the emergency, as long as these are indispensable to the opportune attention to the emergency in conformity with the stipulations of the Phase 1 of the emergency.

Article 9-. The present declaration of an emergency state will be in effect during the period of time determined by the Executive Branch, depending on reports issued by the National Commission on Risk Prevention and Attention to Emergencies, or during the maximum period of time established in Law 8488.

Article 10-. The present decree is in effect as of the moment of signature.

[The present decree was] signed in the Presidency of the Republic the twenty-first of February of the year two thousand eleven.

LAURA CHINCHILLA MIRANDA. – The Minister for the Presidency, Marco A. Vargas Díaz. – 1 time. – O.C. No. 10971. – (Request No. 030-2011). – C-64820. – (D36440-IN2011016261).

(2)

**BY-LAWS AND REGULATIONS, PRESIDENCY OF THE
REPUBLIC, NATIONAL COMMISSION ON RISK PREVENTION
AND ATTENTION TO EMERGENCIES Decision No. 0362 – 2011,
SPECIFIC BY-LAWS REGARDING PURCHASING AND
CONTRACTS PROCEDURES UNDER EXCEPTION MECHANISMS
REGIMEN BY VIRTUE OF THE DECLARATION OF A STATE OF
EMERGENCY BY VIRTUE OF DECREE NO. 36440, 21 September
2011.**

Digital signature of: José Luis Vargas Espinoza

/signature/

Identification number (DN, by its

Spanish acronym):

Serial number: CPF 02-0255-0227,

sn: Vargas Espinoza

Given name: Jorge Luis,c-CR, or

physical person

ou-citizen, cn- Jorge Luis Vargas

Espinoza/signature/

Date: 2011-09-22, 14:27:50-06 '00'

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**BY-LAWS AND REGULATIONS
PRESIDENCY OF THE REPUBLIC
NATIONAL COMMISSION ON RISK PREVENTION
AND ATTENTION TO EMERGENCIES
Decision No. 0362 – 2011
SPECIFIC BY-LAWS REGARDING PURCHASING AND CONTRACTS
PROCEDURES UNDER EXCEPTION MECHANISMS REGIMEN
BY VIRTUE OF THE DECLARATION OF A
STATE OF EMERGENCY BY VIRTUE OF DECREE NO. 36440**

Government of Costa Rica
**BY LAWS AND REGULATIONS
PRESIDENCY OF THE REPUBLIC
NATIONAL COMMISSION ON RISK PREVENTION AND ATTENTION TO
EMERGENCIES**
Governing Board
DECISION No. 0362-2011

21 September 2011.

DECISION No. 0632-2011

SPECIFIC BY-LAWS REGARDING PURCHASING AND CONTRACTS

PROCEDURES UNDER EXCEPTION MECHANISMS REGIMEN

BY VIRTUE OF THE DECLARATION OF A

STATE OF EMERGENCY BY VIRTUE OF DECREE No. 36440

BEARING IN MIND:

1. That in carry out the specific purchasing and contracting process necessary by virtue of the emergency resulting from the violation of Costa Rican sovereignty by Nicaragua, on Isla Calero in particular, as well as the environmental damage infringed on national territory, the declaration of an Emergency under Executive Decree No. 36440 a specific mechanism under said decree is required for purchasing and contracting processes.
2. That the specific nature of the event that created the emergency, which was an act of aggression on the part of the neighbor country of Nicaragua, imposes taking actions that are different from those generally carried out under the regimen of exception and under the control of the National Commission on Risk Prevention and Attention to Emergencies (from here on referred to as the Commission); the situation requires highly specialized criteria from the institutions responsible for attending to the problem, especially regarding characteristics of the equipment, supplies and services that have to be purchased or contracted.
3. That the By-laws Regarding Procedures for the Institutional Purchasing by the National Commission on Risk Prevention and Attention to Emergencies, published in *La Gaceta (The Gazette)* No. 172 of Thursday, 3 September 2009, is deficient regarding purchasing and contracting norms in the case of emergencies in which it is not possible to delineate the first-response phase, rehabilitation and reconstruction as established by article 30 of Law 8488. It is also deficient regarding the option of extending Executive Units the purview, under the exceptions mechanisms regimen, of institutional purchasing and contracting by these institutions.
4. That by reason of the former the present procedure has the purpose of allowing institutional purchasing by the entities appointed as Executive Units by the Governing Board of the Commission carry out the purchasing and contracting necessary for carrying out the General Emergency Plan, without undermining obligations of the Commission of administering National Emergency Fund regarding administration of designated resources, and to oversee procedures, project development and disbursements, under Law No. 8488, the Executive Units By-laws and the By-laws Regarding Procedures for the Institutional Purchasing by the Commission.

5. That under Law 8488, which regulates this Commission, the functions and scope of the Governing Board arise from its stipulations:

- a. By virtue article 180 of the Political Constitution and due to the budgetary constraints declaration of the emergency allows for procedural exceptions in order that the Government may swiftly obtain sufficient economic, material, or other resources necessary for safeguarding persons, property and services impacted upon by war, internal strife or public calamities. (art. 31)
- b. Declaration of an emergency is the option of the Executive Branch in order that it may resort to flexible and agile mechanisms that override the juridical order that regulates the ordinary activity of the Administration to address urgent and unforeseen needs of persons and protect property when surprise and unforeseen events take place, and even when they can be foreseen but are inevitable; unusual situations that generally cannot be controlled, managed or handled through ordinary measures.

In the face of such events the immediate need to address human needs and protect endangered lives and property, the Constitution allows acts by way of exception. This implies that criteria regarding need and urgency override legal criteria that regulate the usual institutional activities (Vote 9410, Constitutional Chamber).

- c. The exception mechanisms regimen encompasses administrative activity and the designation of funds and public resources, so long as they are strictly necessary for the solution of commanding personal needs and for the protection of property and services at a time of and unequivocal connection between the event that provokes the state of emergency and the damages provoked thereof. (art. 32)
- d. Under the declaration of an emergency, all agencies, public institutions and local governments are obliged to coordinate with the Commission, which will have sole command over activities in the affected areas.

The general emergency plan developed by the Commission must have priority over the plan of each institution that affects it, until the Executive Branch declares an end to the state of emergency. (art. 33)

- e. In order to execute actions, projects and contracts, the Commission will appoint as executive units public institutions with power over the area where they are active, as long as they have the necessary structure to fulfill commitments; the Commission as well as the executive units will be obliged to develop investment plans with details regarding the actions, projects and financial resources to be employed to address assigned roles, which should be approved by the Governing Board of the Commission. (art. 39).

- f. The Commission has exclusive jurisdiction over the administration of National Emergency Fund resources which it will use to address and deal with emergency situations, according to the declaration and in conformity with the general emergency plan and the investment plans approved by the Governing Board of the Commission.
- g) In conformity with stipulations regarding compliance with jurisdiction and responsibilities assigned to the Commission as contained in article No. 18 of the Law, it is within the purview of the Governing Board of the Commission to approve the procedures regulating the administration and use of National Emergency Fund resources.

THEREFORE:

In conformity with the above, the Governing board of the National Commission for Risk Prevention and Attention to Emergencies decides:

A. To create SPECIFIC BY-LAWS REGARDING PURCHASING AND CONTRACTS PROCEDURES UNDER EXCEPTION MECHANISMS REGIMEN BY VIRTUE OF THE DECLARATION OF A STATE OF EMERGENCY BY VIRTUE OF DECREE NO. 36440, which will be governed by the following articles:

Regarding procedures for the Authorization of Contracts:

1. Once a public institution is designated the Executive Unit in conformity with a specific decision for that purpose, the governing Board of the Commission can authorize the purchasing entity of the designated public institution to take responsibility for contracting procedures for the purpose of executing the actions and projects contained in the corresponding investment plan presented by the public institution.
2. It is the responsibility of the Commission's Purchasing and Contracts division to advise in the implementation of the Exceptions Mechanisms Regimen and the corresponding norms that will govern the said regimen.
3. Oversight of procedures and contract compliance are the responsibility of the comptroller department of the Executive Units.

Regarding Contract Procedures:

4. Prior to initiation of contract implementation the Executive Unit must sign a Letter of Intention based on the stipulations of the Executive Unit's by-laws and on necessary considerations for this special procedure.
5. In conformity with stipulations of the By-laws on Functions and Oversight of the Executive Units, all contracts for goods and services requiring executive units shall be undertaken in strict compliance with stipulations of the National Law on Emergencies and Risk Prevention, its by-laws and the By-laws of the Purchasing and Contracts division of the CNE with the necessary considerations regarding contracting under the exceptions regimen, in complement to pertinent stipulations of the Administrative contracting Law and its By-laws.

6. Authority in order that the Executive Units carry out their contractual activity shall be exercised under the strict and exclusive application of the procedure described in article no. 39, as of section b) of the By-laws of the Commission's Purchasing and Contracts division regarding the role of the division in contracts executed as a result of the emergency.

7. Such authority does not include the purview over administration of National Emergency Fund resources, it is limited to execution of emergency contracting procedures in the framework of the Exceptions Mechanisms Regimen permitted by Law 8488. In this regard, prior to forwarding to the Executive Directorate investment plans to be presented to the Governing Board, it is the responsibility of the Commission through Executive Units comptroller departments to ensure garnering of the resources necessary to ultimately honor monetary commitments, when the Executive Unit requests them. These reserves ensure the budgetary content required to give effect to the recruitment process, as required by the Law on Administrative Contracting and its By-laws.

8. Payment procedures by the executive units shall be carried out in conformity with article no. 27 of the By-law on Functions and Oversight of Executive Units.

Final Stipulations:

9. The present By-laws govern contracts related to the execution of the General Emergency Plan developed on the basis of Decree No. 36440 which declares a state of emergency in the face of the violations of Costa Rican sovereignty by Nicaragua, and regarding this particular situation, it suspend norms of inferior hierarchy.

10. The present By-laws shall be suspended and without effect once Decree No. 36440 is overruled.

11. Supplementary application of the By-laws for Purchasing and Contracts, Law on Administrative Contracting and its By-laws.

12. That which is not specifically governed by these By-laws shall be governed by the By-laws for the Functions on Purchasing and Contracts division of the CNE, as well as by the Law on Administrative Contracts and its By-laws.

13. These By-laws shall be in effect as of their publication.

Msc. Sigifredo Pérez Fernández, Administrative Director for Finances.

- One time. - O. C. No. 14772. - Request No. 49892. - C-173650. - (IN2011074828).

Annex 36

Order n° 005 from the Chief of the South Military Detachment for compliance of order from the Chief of staff regarding the implementation of special measures based on provisional measures of protection ordered by the International Court of Justice and maintenance of the anti-drug trafficking plan, rural, security plan and presidential Decree 79/2009 at the San Juan de Nicaragua directorate.

9 March 2011



ARMY OF NICARAGUA
"SECRET"
Copy No. <u>02</u>
C/Pages: <u>-1-</u>
SOUTH MILITARY DETACHMENT

ARMY OF NICARAGUA

SOUTH MILITARY DETACHMENT

TO: Chief, San Juan de Nicaragua Operations Directorate

ORDER N° 005 FROM THE CHIEF OF THE SOUTH MILITARY DETACHMENT FOR COMPLIANCE OF ORDER FROM THE CHIEF OF STAFF REGARDING THE IMPLEMENTATION OF SPECIAL MEASURES BASED ON PROVISIONAL MEASURES OF PROTECTION ORDERED BY THE INTERNATIONAL COURT OF JUSTICE AND MAINTAINANCE OF THE ANTI-DRUG TRAFFICKING PLAN, RURAL SECURITY PLAN AND PRESIDENTIAL DECREE 79/2009 AT THE SAN JUAN DE NICARAGUA DIRECTORATE, MAP SCALE 1: 50.000, LAST EDITION, DATED MARCH 9, 2011.

Pursuant to instructions from the Nicaraguan Army Chief of Staff regarding the implementation of the resolution issued by the International Court of Justice on 8 March 2011 and the regulation and maintenance of the operational functionality of the San Juan de Nicaragua Operations Directorate, I provide as follows:

1. It is prohibited to carry out operations, patrols or any type of presence in the territory defined by the International Court of Justice as *Disputed Territory*, located north of the disputed channel, bordered on the west by the right bank of the San Juan de Nicaragua River (0806-7), (1005-8) and on the east by Harbour Head Lagoon (0907-6), (1007-3).
2. To maintain operations against drug-trafficking and other criminal activities in the *disputed territory*, operations shall be conducted as provided by the International Court of Justice. In this regard, operations and patrols shall be carried out in the San Juan de Nicaragua River and Harbour Head Lagoon.

Owing to its content, this order shall remain in force until another order is issued to revoke it.

Chief of the South Military Detachment
DEM Infantry Colonel

/s/ Illegible
CESAR BLADIMIR PERALTA JARQUIN

[Seal:] ARMY OF NICARAGUA
CHIEF
SOUTH MILITARY DETACHMENT

Annex 37

Letter from Ricardo Echandi Z., Minister of Transport to
the Manager of the Institute of Lands and Colonies

11 February 1965

San José, 11 February 1965

Mister
Manager of the Institute
of Lands and Colonies
Your Office

Dear Sir,

This ministry has initiated, with its own resources and assisted by funds derived from the hiring of the refinery, the canalisation of Tortuguero in other words the opening of channels for the inland waters of the Mohín Bay and San Juan River, to resolve in part the demand for export and import, considering it advisable to make the Pacuar river suitable as a waterway, up to a point near the Indiana canal, where the Pacuar river receives the waters of the Reventazón and allows entry of barges with medium wing engines.

As this latest project serves and greatly benefits the property recently acquired by your Institute from the Compañía Bananera, I beg you to bring to the board of directors my request for assistance to bring this project to a successful conclusion, especially if we could use the dredger that in the negotiation of your Institute with the Compañía Bananera passed into your possession and which is currently in Bataán.

Hoping for a prompt resolution of my petition, I take this opportunity to renew to you, Mr. Manager, my most expressive thanks.

Sincerely,

Ricardo Echandi Z.
MINISTER OF TRANSPORT.

Annex 38

Work Report of Official Pedro José Minas Núñez, National Police
to the Assistant Commissioner, Chief of the National Police,
Rio San Juan.
2 August 2000

NATIONAL POLICE
RÍO SAN JUAN

Assistant Commissioner
Luis Fernando Barrantes Jiménez
Chief of the National Police
Río San Juan

San Carlos, 2 August 2000

RE: WORK REPORT

Dear Chief,

According to your orders, we have concluded our information gathering visit to San Juan del Norte related to the security of the President of the Republic, Dr. Arnaldo Alemán Lacayo, during his upcoming visit there.

For this purpose we made a trip on the San Juan River from the place known as The Delta, to the mouth of the river and and to the place known as Harbour Head Lagoon, entering through a caño that connects to the same and to the place where there is a small garrison of the Nicaraguan Army in a house on stilts.

This is a somewhat inhospitable area where conditions are not conducive to stationing a permanent police outpost, although a security surveillance patrol could be established there during the time or the days that the President will be there.

During our visit no member of the Costa Rican National Guard was observed there. However, we did come to know that there are sometimes clandestine hunters in the area who attempt to penetrate into the Indio Maíz Biological Reserve to steal wood, mountain hogs and some bird species which they transport to Costa Rica in small boats.

Regarding security among the populace of San Juan del Norte, we obtained no information that would indicate that anyone would attempt to undermine the President's visit, except that the populace complains about their economic and housing problems in order to receive reconstruction aide from the government.

With nothing further to report, I extend my greeting to you and await your instructions.

[Signed]
Official Pedro José Minas Núñez

Annex 39

Letter from Mr. Norman Caldera Cardenal, Former Minister of Foreign Affairs of Nicaragua to Mr. Alejandro Fiallos, Executive President of the National Ports Company, Reference MRE/DM/037/01/06

10 January 2006

REPUBLIC OF
NICARAGUA
CENTRAL AMERICA
[EMBLEM]

MINISTRY FOR FOREIGN AFFAIRS
Managua, 10 January 2006
MRE/DM/037/01/06

Office of:
Mr. Alejandro Fiallos, Esq.
Executive President
National Ports Company

Dear Mr. Fiallos:

I have the pleasure of addressing you to inform you that as per my recommendation, last Sunday, 4 December of the present year, a group from the Ministry for Foreign Affairs and the National Army, and including the Nicaraguan representative for the case regarding the Río San Juan of Nicaragua, Dr. Mauricio Herdocia Sacasa, toured the border posts along the river in the areas of San Carlos, Sarapiquí and San Juan de Nicaragua. As a result of this visit an issue has come up which must be addressed as an urgent matter.

The deputy mayor of San Juan de Nicaragua, José Juan Zambrana, brought up the problem that the river dries up during the summer which becomes an obstacle for trade with San Carlos because it forces trade to take place on the Costa Rican side of the river. This increases the cost of the transactions, dependence and the trans-cultural dynamic in the area, besides the circulation of foreign currency along with ours. I firmly believe that Nicaragua should dredge the Río San Juan de Nicaragua as a task of prime importance and urgency, even if only from the Delta area down to the mouth of the river at San Juanillo (32 kms.)

This is a way of maintaining navigation unobstructed by sedimentation in view of the rechanneling of water to the Colorado tributary. As Mr. Alejandro Bolaños would say, this would be a way of returning to life a town that has been "Buried in oblivion," the title of one of his most patriotic and wonderful books. It goes without saying that because it is a National River, we should protect it as historical and cultural patrimony and as a source of development and national identity. Dredging is the best way to affirm our Sovereignty.

Stamped
Received

12 Jan 06

I have conversed with President Bolaños who has fully endorsed this project as a matter of priority. I should note that there is the real possibility of working with the Belgian company engaged in the Puerto de Corinto and El Escondido dredging projects.

Given the urgency of the matter, it is fundamental to proceed immediately with this dredging project which the people of Nicaragua will surely receive with much enthusiasm.

Dredging of the river, which has not been done in a long time, is a national imperative indispensable to bring development to our people and facilitate navigation along the river.

/Signed and sealed/
Norman Caldera Cardenal

Annex 40

Letter from Mr. Alejandro Fiallos Navarro Executive President of
National Ports Company to Mr C. Arturo Harding Lacayo,
Ministry for the Environment and Natural Resources

18 January 2006

National Ports Company

[Stamped Received
by Environmental Protection
25 June 2006]

[Stamped Received
by Minister's office as MARENA
25 June 2006]

[Importance noted by hand on 25 June 2006 with instructions urgently respond and advise material needs.]

PE-AFN-0051-01-2006

Managua, 18 January 2006

Office of:
Engineer
C. Arturo Harding Lacayo
Ministry for the Environment and Natural Resources

Dear Mr. Harding:

In conformity with the decision made at the meeting held with Dr. Mauricio Herdocia, Adviser to the Minister, on 21 December 2005 in the offices of the Ministry under your command, I would like to cordially ask that you expedite as much as possible the Environmental Impact Study (EIA, by the Spanish acronym) regarding the zone known as Río San Juan.

This request is based on the fact that there are real possibilities that the Jan De Nul Company, based in Belgium and which is presently engaged in dredging projects in Puerto Corinto and El Bluff, can also carry out dredging projects needed in the above-mentioned river in order to facilitate navigation and promote commerce along its length. I should also mention the interest and unconditional support by the Presidency of

Bolonia Residences, From Nicaragua Optical 2 Streets to the Lake

One Street down; Managua Nicaragua

Tel.: 505-266-2545, 266-4271, Fax: 505-266-2555

Post Office Box 2727-3570, e-mail presidenciaepn@ibw.com.ni

the Republic regarding this project, which is considered a project of national scope and

much importance for the country.

Going ahead with the Environmental Impact Study will allow the Jan De Nul Company to better plan its work and thus reduce as much as possible and take mitigation measures regarding the negative impacts that may arise in the course of the project.

For your information, I am attaching the letter from the Foreign Minister of the Republic requesting that this project be executed.

On the other hand, I wish to inform you that Engineer Julio C. Ordóñez, Deputy Technical Manager, will be the EPN's liaison in everything having to do with this project. He may be contacted at the following telephone numbers: 222-059; and 222-3837, Ext. 231 and 245.

I await your welcome instructions on this matter. It is a pleasure to convey my best wishes and personal greeting.

Cordially,

[Signed]
Alejandro Fiallos Navarro
Executive President

cc: Engineer Julio Ordóñez L.
Deputy Technical Manager

Annex 41

Letter from Hilda Espinoza, General Director for Environmental Quality, Ministry for the Environment and Natural Resources to Mr. Alejandro Fiallos Navarro Executive President of National Ports Company
3 February 2006

REPUBLIC OF
NICARAGUA
CENTRAL AMERICA
[EMBLEM]
**MINISTRY FOR THE ENVIRONMENT
AND NATURAL RESOURCES**
M A R E N A

[Stamped Received
by The Ministry for the Environment
and Natural Resources
8 Feb 2006]

[Stamped Received
by the National Ports Co.
Executive President
and Natural Resources
7 Feb 2006]

[Stamped Received
by Minister's office at MARENA
25 June 2006]

General Directorate for
Environmental Quality

Managua, 3 February 2006

REF: DGCA-HEU-C083

Office of:
Mr. Alejandro Fiallos Navarro
Executive President
National Ports Company

Dear Mr. Fiallos:

This is in response to your letter referenced PE-AFN-0051-01-2006, requesting that the Ministry for the Environment and Natural Resources (MARENA by its Spanish acronym) proceed to carry out an Environmental Impact Study regarding the

**Km. 12.5 Carretera Norte, In front of the Duty Free Zones Corp.
Telef.: 263-2830 and 263-2832/Fax: 263-2354, 263-2620, and 233-1505
Post Office Box 5123, Managua, Nicaragua, C.A.**

dredging of part of the Río San Juan. In this regard, I would like to convey that on the basis of Decree 45-94, “The Rules and Regulations for Permits and Evaluation of Environmental Impact,” which defines the administrative procedures for the issuance of Environmental Permits, the MARENA is empowered to determine the Points of Reference for the Environmental Impact Study which must be prepared by the proponent of the project and/or the party responsible for the execution of the project.

On the other hand, once information on water depth in the area is available, and with information from other government entities and the MARENA itself, we will proceed to establish the specific Points of Reference for this project. It is important to notice that the Environmental Impact Study is a prerequisite for the granting of an Environmental Permit.

It should also be mentioned that MARENA is committed to providing available information, and to expediting review of the Environmental Impact Study and the pertinent environmental permit.

With nothing further to add, I remain,

Cordially,

[signed]
Hilda Espinoza Urbina
General Director for
Environmental Quality
DGCA-MARENA

cc: Engineer Cristóbal Sequeira / Minister in MARENA
José Santos Mendoza, Esq., Secretary General of MARENA
Dr. Mario Meléndez, MARENA Legal Adviser
File

Annex 42

Memorandum from Mr. Engineer Cristóbal (Tito) Sequeira Minister,
Ministry for the Environment and Natural Resources to
Mr. Bayardo Quintero, Director General for Protected Areas,
Reference CSG-091-02-06

28 February 2006 (1)

Memorandum from Mr. Engineer Cristóbal (Tito) Sequeira Minister,
Ministry for the Environment and Natural Resources to
Dr. Iván Ortega Director, Secretariat of the Southeast
Nicaragua Biosphere Reserve, Reference CSG-091-02-06

28 February 2006 (2)

Memorandum from Mr. Engineer Cristóbal (Tito) Sequeira Minister,
Ministry for the Environment and Natural Resources to
Dr. Juan José Romero Coordinator, PROCUENCA
Río San Juan, Reference CSG-091-02-06

28 February 2006 (3)

Memorandum from Mr. Engineer Cristóbal (Tito) Sequeira Minister,
Ministry for the Environment and Natural Resources to
Engineer Arcadio Choza Head of the General Directorate for
Natural Resources and Biodiversity, Reference CSG-091-02-06

28 February 2006 (4)

Memorandum from Mr. Engineer Cristóbal (Tito) Sequeira Minister,
 Ministry for the Environment and Natural Resources to
 Mr. Bayardo Quintero, Director General for Protected Areas,
 Reference CSG-091-02-06

28 February 2006 (1)

REPUBLIC OF
 NICARAGUA
 CENTRAL AMERICA
 [EMBLEM]

GOVERNMENT OF NICARAGUA
Ministry for the Environment
and Natural Resources
 M A R E N A

Office of the Minister

[Stamp Received
 by Reception, MARENA General Directorate for
 Environmental Control
 2 March 2006
 (Reception)]

MEMORANDUM

Ref. CSG-091-02-06

TO : Mr. Bayardo Quintero, Esq.
 Director General for Protected Areas

FROM: Engineer Cristóbal (Tito) Sequeira [Signed and sealed.]
 MINISTER

CC : Lillian Osejo, Esq., Deputy Minister, MARENA
 Hilda Espinoza, Esq., Dir, General Directorate, Environmental Protection

REF : Río San Juan Dredging Project

DATE: 28 February 2006

This is to inform you that we have received request for an environmental permit for the Río San Juan Dredging Project from the National Ports Company- EPN by its Spanish acronym, which has been proposed for the Río San Juan Province.

I hereby cordially request your support to this project, which is of national interest, in the form of the appointment of experts Milton Camacho, Esq., and Alejandro Sevilla, Esq., from the Directorates for the Promotion of Protected Areas and Management Directorate of the SINAP, respectively, in order that they become a part of the institutional and multidisciplinary technical team that will attend to this environmental permit request.

Km. 12.5 Carretera Norte, In front of the Duty Free Zones Corp.
Telef.: 263-2830 and 263-2832/Fax: 263-2354, 263-2620, and 233-1505
Post Office Box 5123, Managua, Nicaragua, C.A.

Further, it is important to point out that we are in the stage where we need to complete the Points of Reference which will be the basis for the Environmental Impact Study of this project. For this reason it is of vital importance that we conclude the stage where we attend to the technical aspect that must be addressed based on your area of expertise. This will facilitate the development of accurate Points of Reference.

We avail ourselves of the opportunity to invite the mentioned experts to a meeting at the MARENA Environmental Protection Directorate (DGCA) Conference Room, on Monday, 6 March at 9:00am, where we will discuss and agree on criteria for the above mentioned Points of Reference. This is something that needs to be concluded as soon as possible due to its importance to this project.

Please confirm your participation in this meeting with Siglinda Baldelomar, Esq., at tel. 233-1504 and/or 263-2830, fax 263-2620 (General Directorate for Environmental Protection. Attached is the proposed Points of Reference document.

Thank you in advance for your support. Please receive my cordial greeting.

Memorandum from Mr. Engineer Cristóbal (Tito) Sequeira Minister,
 Ministry for the Environment and Natural Resources to
 Dr. Iván Ortega Director, Secretariat of the Southeast
 Nicaragua Biosphere Reserve, Reference CSG-091-02-06

28 February 2006 (2)

REPUBLIC OF
 NICARAGUA
 CENTRAL AMERICA
 [EMBLEM]

GOVERNMENT OF NICARAGUA
Ministry for the Environment
and Natural Resources
 M A R E N A

Office of the Minister

 [Stamped Received
 by Reception, MARENA General Directorate for
 Environmental Control
 2 March 2006]

 [Stamped Received
 by Southeast Nicaragua Biosphere Reserve
 2 March 2006
(Executive Secretary)]

MEMORANDUM
 Ref. CSG-091-02-06

TO : Dr. Iván Ortega
 Director, Secretariat of the
 Southeast Nicaragua Biosphere Reserve

FROM: Cristóbal (Tito) Sequeira
 MINISTER

CC : Lillian Osejo, Esq., Deputy Minister, MARENA
 Hilda Espinoza, Esq., Dir, General Directorate, Environmental Protection

REF : Río San Juan Dredging Project

DATE: 28 February 2006

This is to inform you that we have received request for an environmental permit for the Río San Juan Dredging Project from the National Ports Company- EPN by its Spanish acronym, which has been proposed for the Río San Juan Province.

Km. 12.5 Carretera Norte, In front of the Duty Free Zones Corp.
Telef.: 263-2830 and 263-2832/Fax: 263-2354, 263-2620, and 233-1505
Post Office Box 5123, Managua, Nicaragua, C.A.

I hereby cordially request your support to this project, which is of national interest, by becoming part of the institutional and multidisciplinary technical team that will attend to this environmental permit request.

Further, it is important to point out that we are in the stage where we need to complete the Points of Reference which will be the basis for the Environmental Impact Study of this project. For this reason it is of vital importance that we conclude the stage where we attend to the technical aspect that must be addressed based on your area of expertise. This will facilitate the development of accurate Points of Reference.

We avail ourselves of the opportunity to invite you to a meeting at the MARENA Environmental Protection Directorate (DGCA) Conference Room, on Monday, 6 March at 9:00am, where we will discuss and agree on criteria for the above mentioned Points of Reference. This is something that needs to be concluded as soon as possible due to its importance to this project.

Please confirm your participation in this meeting with Siglinda Baldelomar, Esq., at tel. 233-1504 and/or 263-2830, fax 263-2620 (General Directorate for Environmental Protection. Attached is the proposed Points of Reference document.

Thank you in advance for your support. Please receive my cordial greeting.

Memorandum from Mr. Engineer Cristóbal (Tito) Sequeira Minister,
Ministry for the Environment and Natural Resources to
Dr. Juan José Romero Coordinator, PROCUENCA
Río San Juan, Reference CSG-091-02-06
28 February 2006 (3)

REPUBLIC OF
NICARAGUA
CENTRAL AMERICA
[EMBLEM]

GOVERNMENT OF NICARAGUA
Ministry for the Environment
and Natural Resources
M A R E N A

Office of the Minister

[Stamp
[Stamped Received
by Reception, MARENA General Directorate for
Environmental Control
2 March 2006]

MEMORANDUM
Ref. CSG-091-02-06

TO : Dr. Juan José Romero
Coordinator, PROCUENCA
Río San Juan

FROM : Engineer Cristóbal (Tito) Sequeira [Signed and sealed.]
MINISTER

CC : Lillian Osejo, Esq., Deputy Minister, MARENA
Hilda Espinoza, Dir., General Directorate, Environmental Protection

REF : Río San Juan Dredging Project

DATE: 28 February 2006

This is to inform you that we have received request for an Environmental Permit for the Río San Juan Dredging Project from the National Ports Company- EPN by its Spanish acronym, which has been proposed for the Río San Juan Province.

I hereby cordially request your support to this project, which is of national interest, by becoming a part of the institutional and multidisciplinary technical team that will attend to this environmental permit request.

Km. 12.5 Carretera Norte, In front of the Duty Free Zones Corp.
Telef.: 263-2830 and 263-2832/Fax: 263-2354, 263-2620, and 233-1505
Post Office Box 5123, Managua, Nicaragua, C.A.

Further, it is important to point out that we are in the stage where we need to complete the Points of Reference which will be the basis for the Environmental Impact Study of this project. For this reason it is of vital importance that we conclude the stage where we attend to the technical aspect that must be addressed based on your area of expertise. This will facilitate the development of accurate Points of Reference.

We avail ourselves of the opportunity to invite the mentioned expert to a meeting at the MARENA Environmental Protection Directorate (DGCA) Conference Room, on Monday, 6 March at 9:00am, where we will discuss and agree on criteria for the above mentioned Points of Reference. This is something that needs to be concluded as soon as possible due to its importance to this project.

Please confirm your participation in this meeting with Siglinda Baldelomar, Esq., at tel. 233-1504 and/or 263-2830, fax 263-2620 (General Directorate for Environmental Protection. Attached is the proposed Points of Reference document.

Thank you in advance for your support. Please receive my cordial greeting.

Memorandum from Mr. Engineer Cristóbal (Tito) Sequeira Minister,
Ministry for the Environment and Natural Resources to
Engineer Arcadio Choza Head of the General Directorate for
Natural Resources and Biodiversity, Reference CSG-091-02-06
28 February 2006 (4)

REPUBLIC OF
NICARAGUA
CENTRAL AMERICA
[EMBLEM]

GOVERNMENT OF NICARAGUA
Ministry for the Environment
and Natural Resources
M A R E N A

Office of the Minister

[Stamp
[Stamped Received
by Reception, MARENA General Directorate for
Environmental Control
28 Feb 2006]

MEMORANDUM
Ref. CSG-091-02-06

TO : Engineer Arcadio Choza
Head of the General Directorate for
Natural Resources and Biodiversity

FROM : Cristóbal (Tito) Sequeira [Signed and sealed.]
MINISTER

CC : Lillian Osejo, Esq., Deputy Minister, MARENA
Hilda Espinoza, Esq., Dir., General Directorate, Environmental Protection

REF : Río San Juan Dredging Project

DATE: 28 February 2006

This is to inform you that we have received request for an environmental permit for the Río San Juan Dredging Project from the National Ports Company- EPN by its Spanish acronym, which has been proposed for the Río San Juan Province.

I hereby cordially request your support to this project, which is of national interest, in the form of the appointment of expert Engineer Silvia Martínez, from the Directorate for Water Resources, in order that she become a part of the institutional and multidisciplinary technical team that will attend to this environmental permit request.

Km. 12.5 Carretera Norte, In front of the Duty Free Zones Corp.
Telef.: 263-2830 and 263-2832/Fax: 263-2354, 263-2620, and 233-1505
Post Office Box 5123, Managua, Nicaragua, C.A.

Further, it is important to point out that we are in the stage where we need to complete the Points of Reference which will be the basis for the Environmental Impact Study of this project. For this reason it is of vital importance that we conclude the stage where we attend to the technical aspect that must be addressed based on your area of expertise. This will facilitate the development of accurate Points of Reference.

We avail ourselves of the opportunity to invite the mentioned expert to a meeting at the MARENA Environmental Protection Directorate (DGCA) Conference Room, on Monday, 6 March at 9:00am, where we will discuss and agree on criteria for the above mentioned Points of Reference. This is something that needs to be concluded as soon as possible due to its importance to this project.

Please confirm your participation in this meeting with Siglinda Baldelomar, Esq., at tel. 233-1504 and/or 263-2830, fax 263-2620 (General Directorate for Environmental Protection. Attached is the proposed Points of Reference document.

Thank you in advance for your support. Please receive my cordial greeting.

Annex 43

Letter from Mr. Engineer Cristóbal (Tito) Sequeira Minister,
Ministry for the Environment and Natural Resources to
Mr. Claudio Gutierrez, Executive Director, INETER,
Reference DM-CSG-101-02-06

28 February 2006 (1)

Letter from Mr. Engineer Cristóbal (Tito) Sequeira Minister,
Ministry for the Environment and Natural Resources to
Mr. Ricardo Vega Jackson, Minister MTI,
Reference DM-CSG-101-02-06

28 February 2006 (2)

Letter from Mr. Engineer Cristóbal (Tito) Sequeira Minister,
Ministry for the Environment and Natural Resources to
Mr. Claudio Gutierrez, Executive Director, INETER,
Reference DM-CSG-101-02-06

28 February 2006 (1)

REPUBLIC OF
NICARAGUA
CENTRAL AMERICA
[EMBLEM]

GOVERNMENT OF NICARAGUA
Ministry for the Environment
and Natural Resources
M A R E N A

Office of the Minister

[Stamped Received
by Reception, General Directorate for
Environmental Control
MARENA
3 March 2006]

Managua, 28 February 2006
Ref.: DM-CSG-101-02-06

Office of
Engineer CLAUDIO GUTIÉRREZ
Executive Director
INETER

Dear Mr. Gutiérrez,

This is to inform you that we have received request for an environmental permit for the Río San Juan Dredging Project from the National Ports Company- EPN by its Spanish acronym, which has been proposed for the Río San Juan Province.

I hereby cordially request your support to this project, which is of national interest, in the form of the appointment of expert Engineer Isaías Montoya Blanco from the Technical Directorate for Water Resources, in order that he become a part of the institutional and multidisciplinary technical team that will attend to this environmental permit request.

Km. 12.5 Carretera Norte, In front of the Duty Free Zones Corp.
Telef.: 263-2830 and 263-2832/Fax: 263-2354, 263-2620, and 233-1505
Post Office Box 5123, Managua, Nicaragua, C.A.

Further, it is important to point out that we are in the stage where we need to complete the Points of Reference which will be the basis for the Environmental Impact Study of this project. For this reason it is of vital importance that we conclude the stage where we attend to the technical aspect that must be addressed based on your area of expertise. This will facilitate the development of accurate Points of Reference.

We avail ourselves of the opportunity to invite the mentioned expert to a meeting at the MARENA Environmental Protection Directorate (DGCA) Conference Room, on Monday, 6 March at 9:00am, where we will discuss and agree on criteria for the above mentioned Points of Reference. This is something that needs to be concluded as soon as possible due to its importance to this project.

Please confirm your participation in this meeting with Siglinda Baldelomar, Esq., at tel. 233-1504 and/or 263-2830, fax 263-2620 (General Directorate for Environmental Protection. Attached is the proposed Points of Reference document.

Thank you in advance for your support.

Cordially,

[Signed and sealed]
CRISTOBAL (Tito) SEQUEIRA
Minister

cc: Engineer Lillian Osejo / Deputy Minister MARENA
Hilda Espinoza U. , Esq / Dir. DGCA - MARENA
Engineer Luis Palacios, Dir., General Directorate,
Water Resources, INETER
File

Study of this project. For this reason it is of vital importance that we conclude the stage where we attend to the technical aspect that must be addressed based on your area of expertise. This will facilitate the development of accurate Points of Reference.

We avail ourselves of the opportunity to invite the mentioned experts to a meeting at the MARENA Environmental Protection Directorate (DGCA) Conference Room, on Monday, 6 March at 9:00am, where we will discuss and agree on criteria for the above mentioned Points of Reference. This is something that needs to be concluded as soon as possible due to its importance to this project.

Please confirm your participation in this meeting with Siglinda Baldelomar, Esq., at tel. 233-1504 and/or 263-2830, fax 263-2620 (General Directorate for Environmental Protection. Attached is the proposed Points of Reference document.

Thank you in advance for your support.

Cordially,

[Signed and sealed]
CRISTOBAL (Tito) SEQUEIRA
Minister

cc: Engineer Lillian Osejo / Deputy Minister MARENA
Hilda Espinoza U. , Esq / Dir. DGCA - MARENA
Libio Bendaña, Esq. / Dir. Environmental Initiatives MTI
Engineer Jurgen Sennelman / Dir. Maritime Transport MTI
File

Annex 44

Memorandum from Arcadio Choza, Director General of
MARENA's Department of Natural Resources and Biodiversity
to Silvia Martinez E., MARENA Director for Water Resources

3 March 2006

REPUBLIC OF
NICARAGUA
CENTRAL AMERICA
[EMBLEM]

GOVERNMENT OF NICARAGUA
Ministry for the Environment
and Natural Resources
M A R E N A

Directorate for Natural Resources
and Biodiversity

[Stamped Received
by Reception, MARENA
General Directorate for
Environmental Control
3 March 2006]

MEMORANDUM

TO : Engineer Silvia Martínez E. [Signed and sealed]
Director for Water Resources

FROM : Engineer Arcadio Choza L., Director General

REF : **AS INDICATED**

DATE: 3 March 2006

This is to inform you that upon the request of the DISUP, we are assigning you to report on 6 March at 9am to Environmental Protection Directorate Conference Room in order that you join the technical and multidisciplinary institutional team that will be in charge of the request for an Environmental Permit regarding dredging of the Río San Juan.

The memorandum requesting this permit is attached; it includes the Points of Reference that will govern the Environmental Impact Study.

Your attention to this matter would be appreciated. I extend greetings.

cc: Engineer Cristóbal (Tito) Sequeiro, Ministro at MARENA
Lillian Osejo, Deputy Minister, MARENA
Hilda Espinoza, Head of the General Directorate for Environmental Protection
Chron file

Km. 12.5 Carretera Norte, In front of the Duty Free Zones Corp.
Telef.: 263-2830 and 263-2832/Fax: 263-2354, 263-2620, and 233-1505
Post Office Box 5123, Managua, Nicaragua, C.A.

Annex 45

Letter from Hilda Espinoza, General Director for Environmental Quality, Ministry for the Environment and Natural Resources to Mr. Alejandro Fiallos Navarro Executive President of National Ports Company, Reference DGCA-HEU-C 189-03-2006

20 March 2006

REPUBLIC OF
NICARAGUA
CENTRAL AMERICA
[EMBLEM]

GOVERNMENT OF NICARAGUA
Ministry for the Environment and Natural Resources
M A R E N A

[Stamped Received
by Office of the Minister, MARENA
Protected Areas
24 March 2006]

[Stamped Received
by Legal Division
MARENA
24 March 2006]

[Stamped Received
by Public Service Center
MARENA
24 March 2006]

MEMORANDUM

Managua, 20 March 2006
DGCA-HEU-C 189-03-2006

Mr. Alejandro Fiallos N.
Executive President, EPN
Fax no. 222-2059
Managua

Dear Mr. Fiallos,

This is to follow up on decisions made at the meeting which took place at the Foreign Ministry of the Republic on 20 February 2006. Regarding duties required for dredging projects by environmental legislation and which the National Ports Company (EPN by its Spanish acronym) must comply, last 9 March 2006 we forwarded

Km. 12.5 Carretera Norte, In front of the Duty Free Zones Corp.
Telef.: 263-2830 and 263-2832/Fax: 263-2354, 263-2620, and 233-1505
Post Office Box 5123, Managua, Nicaragua, C.A.

to you the Official Points of Reference for the development of the Environment Impact Study on the Río San Juan Dredging Project along the 42 kilometres singled out for dredging the end of the river.

On 20 February 2006 we also forwarded you the list of professionals with expertise in the development of Environmental Impact Studies and who can be called upon to integrate the team put together to carry out the Río San Juan Dredging Project Environmental Impact Study on behalf of the EPN. Later, on 3 March 2006, we forwarded the budget for the project's onsite assessment visit.

Regarding your statement in correspondence PE-AFN-244-03-2006 on the time and estimated cost of the studies, as well as issues to be taken into account in evaluating bids you receive from consultants you contact, we regret we cannot help you because in responding to this we would be getting involved in matters pertaining strictly to the investor interested in launching a project, which would make us both judge and jury, which would not be healthy for proper decision-making.

We reiterate our support for this project due to its importance for the nation.

Cordially,

[Signed and sealed.]
Hilda Espinoza U.
Director General for
Environmental Protection
MARENA

cc: Mr. Cristóbal Sequeira, Minister, MARENA
Mr. Norman Caldera, Foreign Minister of
the Republic
Mr. Mauricio Herdocia, Advisor to the
Foreign Ministry of the Republic
Mr. Noel Salinas, Technical Manager, EPN
Mr. Mario Meléndez, Legal Advisor, MARENA
File 037-2006

Annex 46

Letter from Engineer Noel S. Salinas Alvarado, Technical Manager,
National Ports Company to Members of the Institutional Commission,
Río San Juan Dredging Project, Engineer Milton Medina MARENA
Delegate, Engineer Sergio Cordonero, INETER delegate,
Reference GT-0237-03-2006

25 March 2006

REPUBLIC OF
NICARAGUA
CENTRAL AMERICA
[EMBLEM]

GOVERNMENT OF NICARAGUA
National Ports Company
EPN, by its Spanish acronym

TECHNICAL MANAGEMENT DEPT.

[Stamp]
[Stamp] Received
by Reception, MARENA
27 March 2006

[Stamp]
[Stamp] Received
by EPN Admin. Management
27 March 2006

[Stamp]
[Stamp] Received
by INETER
27 March 2006

[Stamp]
[Stamp] Received
by EPN Purchasing Unit
27 March 2006

Managua, 25 March 2006
GT-0237-03-2006

Members of the Institutional Commission
Río San Juan Dredging Project

Engineer Milton Medina
MARENA Delegate

Engineer Sergio Cordonero
INETER Delegate

Km. 12.5 Carretera Norte, In front of the Duty Free Zones Corp.
Telef.: 263-2830 and 263-2832/Fax: 263-2354, 263-2620, and 233-1505
Post Office Box 5123, Managua, Nicaragua, C.A.

Engineer Luis García
DGTA-MTI Delegate

Dear Engineers:

I hereby call you to a meeting on Tuesday, 28 March 2006 at 3pm in my office for the purpose of discussion on several topics having to do with the Río San Juan Dredging Project.

With nothing further to address, I thank you in advance for your punctual attendance.

Cordially,

[Signed and sealed.]
Engineer Noel S. Salinas Alvarado
Technical Manager

cc: Advisor to the Executive President
Engineer A. Smith C.
Purchasing Unit (U. de A.)
Chronological File

Annex 47

Letter from Hilda Espinoza, General Director for Environmental Quality,
Ministry for the Environment and Natural Resources to
Mr. Alejandro Fiallos Navarro Executive President of National Port Authority,
Reference DGCA-HEU-C-413-07-2006

3 July 2006 (1)

Memorandum from Hilda Espinoza, General Director for Environmental
Quality, Ministry for the Environment and Natural Resources to
Dr. Ivan Ortega G. Director of the Secretariat of the Biosphere Reserve
of Southeast Nicaragua , Reference DGCA-HE-324-07-06

4 July 2006 (2)

Letter from Hilda Espinoza, General Director for Environmental Quality,
Ministry for the Environment and Natural Resources to
Mr. Alejandro Fiallos Navarro Executive President of National Port Authority,
Reference DGCA-HEU-C-413-07-2006

3 July 2006 (1)

[coat of arms]
Government of Nicaragua
Ministry of Environment
And Natural Resources
MARENA

General Directorate of Environmental Quality

Managua, 3 July 2006.
DGCA-HEU - C -413- 07-2006

Engineer
Alejandro Fiallos
Executive President of
National Port Authority (EPN)
Fax 266 2555
Managua.-

Dear Mr. Fiallos,

In compliance with our work schedule related to the project "Dredging of the San Juan River" we hereby inform you that it has been planned to perform the second visit from 11 to 15 July 2006, for which we have been in contact with Alberta Smith, EPN engineer, to make arrangements with the other institutions that form part of the assessment team for the Environmental Impact Study.

However, due to the limitations faced by the technical assessment team on the first inspection visit conducted last March, regarding payment of accommodation, we request a modification to the budget presented by MARENA in a communication of March 3, 2006, with specific reference to the section on accommodation, defining a travel allowance of C\$350.00 per person per day, which corresponds to the travel allowance that MARENA has defined for that area of the country.

Thanking you for your attention to this, I remain.

Sincerely,

[signature] [seal]
Lic. Hilda Espinoza U
General Director of Environmental Quality
MARENA

Cc. Archive.

Memorandum from Hilda Espinoza, General Director for Environmental Quality, Ministry for the Environment and Natural Resources to Dr. Ivan Ortega G. Director of the Secretariat of the Biosphere Reserve of Southeast Nicaragua , Reference DGCA-HE-324-07-06

4 July 2006 (2)

[coat of arms]

Government of Nicaragua
MINISTRY OF ENVIRONMENT AND NATURAL RESOURCES
MEMORANDUM
DGCA – HE – 324 – 07 - 06

To : Dr. Ivan Ortega G.
Director of the Secretariat of the Biosphere Reserve of Southeast Nicaragua

From : Lic. Hilda Espinoza, General Director of Environmental Quality –DGCA

Date : 04 July 2006

Subject: SECOND VISIT SAN JUAN RIVER DREDGING

.....

In compliance with our work schedule related to the project "Dredging of the San Juan River" we hereby inform you that, in conjunction with the National Port Authority (EPN) responsible for the project, it has been planned to perform the second visit from 11 to 15 July 2006. In this respect we request your cooperation in relation to the use of the panga boat, since the fuel will be taken care of by the National Port Authority (EPN).

Likewise we inform you that we will be coordinating with the Delegation of MARENA / Río San Juan and Mr. Roger Gómez, who is part of the assessment team for the Environmental Impact Study.

Thanking you for your attention to this, I remain.

Sincerely,

Cc: José Luis Galeano, engineer / Delegate San Juan River
Record 037 - 2006

Annex 48

Memorandum from Edda Martínez, Director of Environmental Evaluation and Protection, Ministry for the Environment and Natural Resources (MARENA) to Adelina Ramírez, Documentation Center MARENA, Reference DGCA – EM – M291

2 August 2006 (1)

Memorandum from Edda Martínez, Director of Environmental Evaluation and Protection, Ministry for the Environment and Natural Resources (MARENA) to José Luis Galeano MARENA Delegate Río San Juan , Reference DGCA – EM – M292

2 August 2006 (2)

Letter from Edda Martínez, Director of Environmental Evaluation and Protection, Ministry for the Environment and Natural Resources (MARENA) to Mr. Francisco Díaz Rivas, Municipality El Castillo, Reference DGCA – EM – C208

2 August 2006 (3)

Letter from Edda Martínez, Director of Environmental Evaluation and Protection, Ministry for the Environment and Natural Resources (MARENA) to Mr. César Collado Parada, Municipality San Juan del Norte Reference DGCA – EM – C209

2 August 2006 (4)

Letter from Edda Martínez, Director of Environmental Evaluation and Protection, Ministry for the Environment and Natural Resources (MARENA) to Alejandro Fiallos, engineer, Reference DGCA – EM – C210

2 August 2006 (5)

Memorandum from Edda Martínez, Director of Environmental Evaluation and Protection, Ministry for the Environment and Natural Resources (MARENA) to Adelina Ramírez, Documentation Center MARENA, Reference DGCA – EM – M291

2 August 2006 (1)

[coat of arms]
Government of Nicaragua
MINISTRY OF ENVIRONMENT AND NATURAL RESOURCES
GENERAL DIRECTORATE OF ENVIRONMENTAL QUALITY
MEMORANDUM

REF: DGCA – EM – M291

To : Adelina Ramírez
 Documentation Center
 MARENA

From : **Edda Martínez**
Director of Environmental Evaluation and Protection

Date : 02/08/2006

Subject: Public Consultation

I hereby inform you that the National Port Authority – EPN has requested an environmental permit for the Project “**Dredging San Juan River**”, to be developed in the Río San Juan Department. As part of the administrative procedures for granting such a permit, it is necessary to do a public consultation of the aforementioned project, which will be carried out from Wednesday 9th until Tuesday 15th of August this year at the Municipality of El Castillo, the Municipality of San Juan del Norte and the MARENA Delegation in Río San Juan and on Wednesday 9th, Friday 11th, Monday 14th, Tuesday 15th and Wednesday 16th of August this year at MARENA Central’s Documentation Center.

We request the support of the CEDOC in establishing the necessary arrangements to ensure that the attached document is available to those interested (attached Environmental Impact Document and formats for consultation) in the CEDOC in the period set forth above.

I request that after completion of this consultation, you send us the comments generated in this process, properly sealed, to our address.

With nothing further, I salute you.

Sincerely,

Cc: Hilda Espinoza / Director DGCA
 Medardo López / Director DGCTOC
 Luisamanda Castillo / Director Public Service
 Record 037-2006

Memorandum from Edda Martínez, Director of Environmental Evaluation and Protection, Ministry for the Environment and Natural Resources (MARENA) to José Luis Galeano MARENA Delegate Río San Juan ,
Reference DGCA – EM – M292

2 August 2006 (2)

[coat of arms]

Government of Nicaragua

MINISTRY OF ENVIRONMENT AND NATURAL RESOURCES

GENERAL DIRECTORATE OF ENVIRONMENTAL QUALITY

MEMORANDUM

REF: DGCA – EM – M 292

To : José Luis Galeano
MARENA Delegate
Río San Juan

From : **Edda Martínez**
Director of Environmental Evaluation and Protection

Date : 02/08/2006

Subject: Public Consultation

I hereby inform you that the National Port Authority – EPN has requested an environmental permit for the Project “**Dredging San Juan River**”, to be developed in the Río San Juan Department. As part of the administrative procedures for granting such a permit, it is necessary to do a public consultation of the aforementioned project, which will be carried out from Wednesday 9th until Tuesday 15th of August this year at the Municipality of El Castillo, the Municipality of San Juan del Norte and the MARENA Delegation in Río San Juan and on Wednesday 9th, Friday 11th, Monday 14th, Tuesday 15th and Wednesday 16th of August this year at MARENA Central’s Documentation Center.

We most cordially request your support in establishing arrangements to ensure that the attached document is available to those interested (attached Environmental Impact Document and formats for consultation) in the offices of the delegation in the period set forth above.

I request that after completion of this consultation, you coordinate with the municipality of El Castillo and the municipality of San Juan del Norte, for dispatching of the Environmental Impact Document and the comments generated in the process to the General Directorate of Environmental Quality.

With nothing further, I salute you.

Sincerely.

Cc: Hilda Espinoza / Director DGCA
Medardo López / Director DGCTOC
Record: 037-2006

Letter from Edda Martínez, Director of Environmental Evaluation and Protection, Ministry for the Environment and Natural Resources (MARENA) to Mr. Francisco Díaz Rivas, Municipality El Castillo, Reference DGCA – EM – C208

2 August 2006 (3)

[coat of arms]

Government of Nicaragua

Ministry of Environment
And Natural Resources
MARENA

General Directorate of Environmental Quality

Managua, Wednesday 2 August 2006

REF: DGCA — EM — C208

Mr. Francisco Díaz Rivas
Municipality
El Castillo
Your office.

Dear Mr. Díaz,

I hereby most cordially inform you that the National Port Authority – EPN has requested an environmental permit for the project “**Dredging San Juan River**”.As part of the administrative procedures for granting such a permit, it is necessary to do a public consultationof the aforementioned project, which will be carried out from Wednesday, August 9th until Tuesday August 15th, 2006, at the MARENA Delegation in Río San Juan, the Municipality of El Castillo and Municipality of San Juan del Norte, and on Wednesday 9th, Friday 11th, Monday 14th, Tuesday 15th and Wednesday 16th of August 2006 at MARENA Central’s Documentation Center.

We most cordially request your support in establishing arrangements to ensure that the attached document is available to those interested (attached Environmental Impact Document and formats for consultation) in the offices of the Municipality in the period set forth above.

I request that, after completion of the period of this consultation, you forward the Environmental Impact Document and the comments generated in the process in a sealed envelope to the General Directorate of Environmental Quality.

With nothing further, I salute you.

Sincerely,

[signature] [seal]
EddaMartínez
Director of Environmental Evaluation and Protection
DGCA / MARENA

Cc: José Luis Galeano R. / MARENA Delegate in Río San Juan
Record 037-2006

Letter from Edda Martínez, Director of Environmental Evaluation and Protection, Ministry for the Environment and Natural Resources (MARENA) to Mr. César Collado Parada, Municipality San Juan del Norte Reference DGCA – EM – C209

2 August 2006 (4)

[coat of arms]

Government of Nicaragua

Ministry of Environment
And Natural Resources
MARENA

General Directorate of Environmental Quality

Managua, Wednesday 2 August 2006

REF: DGCA — EM — C209

Mr. César Collado Parada
Municipality
San Juan del Norte
Your office.

Dear Mr. Collado,

I hereby most cordially inform you that the National Port Authority – EPN has requested an environmental permit for the project “**Dredging San Juan River**”. As part of the administrative procedures for granting such a permit, it is necessary to do a public consultation of the aforementioned project, which will be carried out from Wednesday, August 9th until Tuesday August 15th, 2006, at the MARENA Delegation in Río San Juan, the Municipality of El Castillo and Municipality of San Juan del Norte, and on Wednesday 9th, Friday 11th, Monday 14th, Tuesday 15th and Wednesday 16th of August 2006 at MARENA Central’s Documentation Center.

We most cordially request your support in establishing arrangements to ensure that the attached document is available to those interested (attached Environmental Impact Document and formats for consultation) in the offices of the Municipality in the period set forth above.

I request that, after completion of the period of this consultation, you forward the Environmental Impact Document and the comments generated in the process in a sealed envelope to the General Directorate of Environmental Quality.

With nothing further, I salute you.

Sincerely,

[signature] [seal]
Edda Martínez
Director of Environmental Evaluation and Protection
DGCA / MARENA

Cc: José Luis Galeano R. / MARENA Delegate in Río San Juan
Record 037-2006

Letter from Edda Martínez, Director of Environmental Evaluation and
Protection, Ministry for the Environment and Natural Resources
(MARENA) to Alejandro Fiallos, engineer,
Reference DGCA – EM – C210

2 August 2006 (5)

[coat of arms]
Government of Nicaragua
Ministry of Environment
And Natural Resources
MARENA

General Directorate of Environmental Quality

Managua, Wednesday 2 August 2006

REF: DGCA — EM — C210

Alejandro Fiallos, engineer
Dredging San Juan River
Your office.

Dear engineer Fiallos,

I hereby most cordially request your efforts to dispatch the attached Environmental Impact Documents so that they can be delivered to the MARENA Delegation in Río San Juan, the Municipality of El Castillo and the Municipality of San Juan del Norte.

Based on the above, those documents must be submitted to the locations listed above no later than Monday August 7th of the current year and the receipt notes of the documentation must be submitted no later than Wednesday August 9th of the current year, to the Office of Environmental Impact Evaluation of MARENA Central.

Furthermore, I send you the format for the notice of availability which must be published in accordance with the attached provisions.

Any variation to what is stipulated here will be a reason for cancellation of the public consultation process.

With nothing further, I salute you.

Sincerely,

[signature] [seal]
Edda Martínez
Director of Environmental Evaluation and Protection
DGCA / MARENA

Cc: Hilda Espinoza / Director DGCA
Record 037-2006

Annex 49

Letter from Ing. Leonardo Zacarias Coreo T. General Manager Corea y Asociados S.A. (CORASCO) to Liliam Osejo Sacasa Deputy Minister Environment and Natural Resources (MARENA)

21 September 2006

COREA Y ASOCIADOS S.A. (CORASCO)

Managua, 21 September 2006

Engineer

LILIAM OSEJO SACASA

Deputy Minister MARENA

Your office

Ref: **Environmental Impact Study for the Improvement of Navigation on the San Juan River (Delta – San Juan de Nicaragua)**

Dear Deputy Minister,

In fulfillment of the commitment made by our company in a meeting held at the offices of the National Port Authority (EPN) with yourself and personnel of the institution that you run on the day of 13 September 2006, I am hereby transmitting two (2) CDs containing the electronic files from the following studies:

- 1 Environmental Impact Study, which contains the following folders:
 - a. Environmental Impact Study
 - i. Complete document of the Environmental Impact Study
 - ii. Annexes
 - b. Environmental Impact Document (EID)

These documents contain all of the information and analysis of the different specialists who participated in the preparation of the Environmental Impact Study.

Hoping this information satisfies the requirements of MARENA, we are at your disposal together with our team of specialists for any clarification relating to the document.

That being all, please receive my regards, wishing you success in your efforts.

Sincerely,

[signature]

Ing. Leonardo Zacarias Coreo T.

General Manager

Coreo y Asociados S.A. (CORASCO)

Cc: Ing. Milton Medina
Archive

MARENA Reviewer Team Coordinator

Annex 50

Letter from Ing. Noel S. Salinas Alvarado Technical Manager ,
National Port Authority to Hilda Espinoza General Directorate of Environmental
Quality Control, Ministry for the Environment and
Natural Resources (MARENA) Reference GT-0791-09-2006

22 September 2006

[coat of arms]
Government of Nicaragua
National Port Authority
EPN

TECHNICAL MANAGEMENT

Managua, 22 September 2006
 GT-0791-09-2006

Licentiate

Hilda Espinosa U.
 General Directorate of Environmental Quality Control
 MARENA
 Your Office

Dear Licentiate Espinosa,

I am pleased to send you enclosed with this letter a printed set of the Environmental Impact Study of the Rio San Juan de Nicaragua on a stretch of 42 kilometers, between the delta of the Colorado and San Juan de Nicaragua; it consists of three volumes that correspond to the following:

- Environmental Impact Study
- Document (EID)
- Annexes containing separately the information prepared by each member of the CORASCO team

That being all, we take this opportunity to send you a cordial greeting.

Sincerely,

[signature] [seal]
 Ing. Noel S. Salinas Alvarado
 Technical Manager

Cc:	Lic. Alejandro Fiallos	Executive President of EPN
	Lic. Tito Sequeira	Minister MARENA
	Ing. Lilliam Osejo	Deputy Minister of MARENA
	Lic. Gonzalo Rodriguez	Advisor <u>to the Executive President</u> of EPN
	Archive	
	Chronological	

Annex 51

Letter from Ing. Noel S. Salinas Alvarado Technical Manager,
National Port Authority to Cristóbal Sequeira Minister, Ministry for the
Environment and Natural Resources (MARENA)

Reference GT-0794-09-2006

25 September 2006

[coat of arms]
Government of Nicaragua
National Port Authority
EPN

Managua, 25 September 2006
GT-0794-09-2006

Engineer
Cristóbal Sequeira
Minister of MARENA
Your Office

Dear Engineer Sequeira,

Enclosed with this letter I would like to send you the documents mentioned below, relating to the project of IMPROVEMENT OF NAVIGATION ON THE SAN JUAN DE NICARAGUA RIVER.

- A copy of the Design for the Improvement of Navigation in the San Juan River of Nicaragua
- Three copies of the Environmental Impact Study of the San Juan de Nicaragua River
 - a) Environmental Impact Study
 - b) (EID) Environmental Impact Document
 - c) Annex to the Environmental Impact Study

That being all, I am pleased to send you my regards.

Sincerely,

[signature] [seal]
Ing. Noel S. Salinas Alvarado
Technical Manager

Cc: Executive Presidency
Ing. Lilliam Osejo
Archive
Chronological

EPN
Deputy Minister of MARENA

Annex 52

Letter from Ing. Leonardo Zacarías Corea T. General Manager
Corea y Asociados S.A. (CORASCO) to Ing. Noel S. Salinas Alvarado
Technical Manager, National Port Authority

2 October 2006

COREA Y ASOCIADOS S.A. (CORASCO)

Managua, 2 October 2006

Engineer**Noel Salinas****Technical Manager****National Port Authority**

Your Offices

Dear Engineer Salinas,

On Thursday September 28, 2006 there was a work meeting in our offices with Marena officials and staff of the interinstitutional commission (DGTA-MTI, Ineter, Marena and EPN) that handles the dredging project in the San Juan de Nicaragua River. The list of attendees is enclosed with this letter. Corasco was represented by all the consultants who worked on the projects of Environmental Impact Study for the Improvement of Navigation on the San Juan de Nicaragua River and on the project of Improvement of Navigation on the San Juan de Nicaragua River, except Lic. David Ríos, who is out of the country.

A presentation was held on behalf of the Engineers of the Project for Improvement of Navigation on the San Juan de Nicaragua River (Design for the Dredging), by engineers Noel Prado, Félix Romero and Álvaro Flores Mendoza, who explained all the aspects of the design of the navigation channel between Punta Petaca and San Juan de Nicaragua, a length of approximately 42 kilometers.

Then each one of the specialists who carried out the environmental impact study, gave a presentation on the aspects developed by their specialty.

It is important to highlight that the main focus of the questions raised by Marena officials was that they wanted a guarantee that all discoveries made by the specialties would be included in determining and evaluating the impacts, and in the respective Environmental Management Plan, which is incorporated in the Final Report of the study; the Consultant still has to do a detailed review to ensure that the observations of the specialties are included.

Marena officials proposed that the review by the Consultant should include the proposal of solutions appropriate for the type of project that is being studied.

At the end we discussed visiting the project site to verify the results and conclusions of both studies, especially regarding the deposit sites. The Consultant explained that all the information relating to the deposit sites is included in both studies such as: the dimensions of each site, contour lines, storage capacity, the characteristics of each site, laboratory testing of

soil with calculations of bearing capacity, granulometry and the classification of soils, and the georeferencing for each one.

Given that non of the attendees had read the documents, it was decided to plan the visit to the San Juan de Nicaragua river for the week of 9 to 13 october 2006, so that everyone could be properly documented. The visit is expected to take 4 days, two days of travel and two days of visiting the deposit sites. It was requested that EPN would send a copy of the studies to all the members of the commission. (The DGTA-MTI official stated not to know said documents).

We are in the process of reviewing the establishment and evaluation of the impacts, according to the suggestions and observations made during the work meeting, which we will be incorporating into the final document where applicable and we will deliver it to EPN Thursday, October 5. Any changes resulting from the review must be incorporated into the final documents that Marena returned to EPN, so that they can be signed by the Consultants and the legal representative of Corasco.

Awaiting your attention to this, I send my regards.

Sincerely,

[signature]

Ing. Leonardo Zacarías Corea T
General Manager
Corea y Asociados S.A. (CORASCO)

cc.	Lic. Cristóbal Sequeira	Minister of MARENA
	Lic. Alejandro Fiallos	Executive President of EPN
	Ing. Lillian Osejo	Deputy Minister MARENA
	Archive	

**LIST OF ATTENDEES AT THE PRESENTATION
ENVIRONMENTAL IMPACT STUDY AND DESIGN OF THE DREDGING OF THE SAN JUAN RIVER**

Nº	NAME AND SURNAMES	OCCUPATION	INSTITUTION / SPECIALTY	SIGNATURE
01	Santiago Núñez S	Ecologist	CORASCO consultant	
2	Alejandro J Cotto S	Fisheries biologist	Consultant / CORASCO	
3	Yelba Flores Meza	Geologist-hydrogeologist	Consultant	
4	Sylvia Ruth Hernández V	Economics	CORASCO consultant	
5	Jorge Navas Morales	Sociologist	CORASCO consultant	
6	Milton Medina Calero	Mining and environmental engineer	MARENA	
7	Felix Romero	Civil engineer	CORASCO consultant	
8	Sergio Cordonero González	Hydrographer	INETER	
9	Francisco Mayorga T.	Economist	CORASCO consultant	
10	María Lourdes Bravo S.	Civil engineer	EPN	
11	Luis García	" "	DGTA	
12	Milton G. Camacho	Ecologist	DGAP/MARENA	
13	Maurico A. Molina	Agronomist	MARENA/SERBSEN	
14	Alvaro Flores Mendoza	Civil engineer	CORASCO consultant	
15	Mario Aguilar Leiva	Agronomist	CORASCO consultant	
16	Elsa M ^a Vivas Soto	Agronomist	MARENA	

Annex 53

Letter from Alejandro Fiallos Navarro Executive President,
National Port Authority to Mr. Tito Sequeira Minister,
Ministry for the Environment and Natural Resources (MARENA),
Reference PE-AFN-0855-0-06

03 October 2006

[coat of arms]
Government of Nicaragua
National Port Authority
EPN

PE-AFN-0855-0-06

Managua, 03 October 2006

Engineer
Tito Sequeira
Minister
MARENA
Your Office

Dear Engineer Sequeira,

As requested, in order to obtain the environmental permit for the project IMPROVEMENT OF NAVIGATION ON THE SAN JUAN DE NICARAGUA RIVER, I am sending you a list of the professional staff that took part in elaborating the study, with their respective email addresses and telephone numbers; I also attach an original list that contains the data, specialty, Identity Card number, signature and photograph of these professionals who elaborated said Study.

This document that we are sending you in original and copy is being included along with other observations in the final document in all its volumes that are already in our possession.

Thanking you for your kind attention to this, I send you my regards with the highest esteem and consideration.

Sincerely,

[signature]
Alejandro Fiallos Navarro
Executive President

Cc: Technical Management
Archive
Chronological
GT-0823-10-2006
archive

COREA Y ASOCIADOS S.A. (CORASCO)

Managua, 2 October 2006

Engineer

NOEL SALINAS ALVARADO

Technical Manager

National Port Authority (EPN)

Your Office

Dear Engineer,

As requested by you, I am sending attached to this letter, two (2) sheets with the information of all professional staff that took part in gathering field information and in elaborating the Environmental Impact Study for the improvement of navigation on the San Juan de Nicaragua River.

That being all, please receive my regards.

Sincerely.

[signature]

Ing. Leonardo Zacarias Corea T.

General Manager

Corea y Asociados S.A. (CORASCO)

COREA Y ASOCIADOS S.A. (CORASCO)

PROFESSIONAL STAFF THAT TOOK PART IN ELABORATING THE ENVIRONMENTAL IMPACT STUDY FOR THE IMPROVEMENT OF NAVIGATION ON THE SAN JUAN DE NICARAGUA RIVER

N°	Name and surnames	Email	Telephone
1	Lic. David Ríos Obando	david_rios@hotmail.com	2498104 / 6989830
2	Lic. Francisco Mayorga	coreayasociados@yahoo.es	6051951
3	Ing. Yelba Flores Meza	floryel@hotmail.com	2491432 / 8415370
4	Ing. Ramón Dávila López	Ramon_davila_lopez@yahoo.com	2774044
5	Lic. Alejandro Cotto	ictiosp@yahoo.es	2552635 / 8437502
6	Lic. Sylvia R. Hernández	sylviaruthhv@gmail.com	2333226 / 8812854
7	Lic. María A. Martínez	mantmaruz@yahoo.com	8527155
8	Lic. Jorge Navas Morales	jnavasmor@gmail.com	8813289 / 8560631
9	Ing. América Coronado M.	acoronado@hotmail.com	2632370
10	Ing. Mario Aguilar Leiva	mario_aguilar@hotmail.com	2685833 / 8126393
11	Ing. Leonel Corea Aguilar	leo_zac@botmail.com	2685833 / 8897983

PARTICIPATING SPECIALISTS
PROJECT OF IMPROVEMENT OF NAVEGATION ON THE SAN JUAN DE NICARAGUA RIVER
ENVIRONMENTAL IMPACT STUDY

Nº	Name and Surname	Occupation	Specialty	Study carried out	Period	Identity Card No.	Signature	Photograph
1	David Ríos Obando	Lic. in Ecology and Natural Resources. MSc. in Environmental Sciences, MSc. in Environmental Management, Specialist in Ecology and Environmental Impact	Ecology and Environmental Impact	Environmental Impact Study, Biotic Environment	May-August 2006	126-060743-0003U		
2	Francisco Mayorga Toruño	Lic. in Economics, MSc. in Transport Economics	Studies of Technical Economic Feasibility	Economic Diagnostics	May-August 2006	081-150644-0066X		
3	Yelba Flores Meza	Mining Engineer - Geologist. MSc. In Mineralogical Sciences, MSc. In Water Sciences	Integrated Management of Watersheds	Physical Diagnostics - Geology, Hydrogeology, Hydrogeochemistry and Water Quality	May-August 2006	001-040466-0021R		
4	Ramón Davila Lopez	Agricultural engineer	Hydrologist, hydrogeologist	Physical Diagnostics - Hydrology, Dynamics of Segment to Dredge	May-August 2006	001-300858-0024V		
5	Alejandro Cotto Sánchez	Lic. in Biology	Fisheries Biology	Fisheries Biology Study	May-August 2006	201-070460-0004Q		
6	Sylvia Ruth Hernández	Lic. In Economics. MSc. In Perspectives on Gender and Development	Economic Studies	Economic Diagnostics	May-August 2006	084-150756-0003N		
7	Maria Antonieta Martínez	Lic. in Biology	Meteorology Specialist	Climatic Characterization	May-August 2006	001-030665-0020G		
8	Jorge Navas Morales	Lic. in Sociology, Lic. in Psychology, MSc. in Management and Public Policy	Specialist in Researching and performing Socioeconomic Diagnostics	Social Diagnostics	May-August 2006	001-201058-0005R		
9	América Coronado Méndez	Agronomist, specializing in Forestry	Geographic Information System Specialist	Cartographic Base in ARCGis	May-August 2006	001-121162-0057Q		
10	Mario Aguilar Leiva	Agronomist	Environmental Specialist	General Coordination of the Study	May-August 2006	001-160464-0015W		
11	Leonel Corea Aguilar	Civil Engineer	CAD Specialist	Assistant Engineer	May-August 2006	001-251084-0030E		

Annex 54

Letter from Ing Alejandro Fiallos Navarro Executive President,
National Port Authority to Cristóbal Sequeira Minister,
Ministry of Environment and Natural Resources (MARENA)

5 October 2006

REPORT

Regarding the Environmental Impact Study for the Project for improvement of navigation on the Río San Juan de Nicaragua, the undersigned consultants hereby certify having participated in the environmental impact study for the mentioned project and that we, therefore, carried out the whole process of investigation, gathering of samples and testing, and the pertinent tasks and conclusions presented in this environmental impact document.

What follows is a brief list of participants in the study and the main environmental impact projects in which the consultants participated. It is important to point out that all projects that the consultants worked on are in the curriculum vitae they presented when they applied to work on the study.

David Ríos Obando:

- Developed the environmental protection system for the municipality of La Trinidad, FISE, 2005-2006.
- Carried out the environmental assessment in the design of twenty bridges along the road (connecting) Siuna – Rosita – Puerto Cabezas. Corasco – MTI – PAST Danida, 2005.
- Carried out the Environmental Impact Study for the road connecting Ticuantepe – Masaya – Granada. MTI, 2004 – 2005.
- Inventory of the flora and fauna in Chiquilistagua. PROINTEC, 2004.
- Environmental supervision in the Upgrade and Rehabilitation Project for the road between Muhan – Rama, TEC, 2001 – 2002.
- Consultant in the Environmental Impact Study for the Grand Pacific Resort Tourism Project, 2000.
- Environmental restoration of the roads in the Chacocente protected area. MTI 1999.

Francisco Mayorga Toruño:

- Chief economist for the economic evaluation for the study and design of 44.95 kilometers of rural roads in Chinandega. Corasco – MTI, 2006.
- Chief economist for the economic evaluation for the study and design of the road between Nueva Guinea – Naciones Unidas, 24.6 kms. Corasco – MTI, 2005 – 2006.
- Consultant in Phases I and II of the Regional Transport Study for Danida PAST, 2003 – 2005; for the North and South Atlantic Autonomous Regions, and Las Segovias. Corasco – PAST Danida.
- Iberinsa – BID – ALMA consultant in the Managua Urban Development Support Project. Iberinsa – ALMA, 2003-2005.
- Sub-contractor with the BCEOM French Co. in the Central American Transport Study. 1997 – 2000. BCEOM, Sieca.

Yelba Flores Meza:

- Aquifer resources researcher for the Nicaragua Water Resources Research Center. 2003 – 2006.
- Regional studies for the evaluation of aquifers, INETER. 1994 – 2002.
- Geochemical Report, hydro-chemistry and water quality map. Colude – INETER. 2001 – 2002.
- Study of the hydro-geological environment, determination of the possible existence of aquifers. MAGFOR – INETER. 1999 – 2000.

Ramón Dávila López:

- Water capacity of the Río Grande de Matagalpa basins, Basin 64, Basin 68, Río Brito Basin.
- Hydrological study of Río Upa in La Verbena.
- Hydrological study of the Lago de Managua.
- Hydrological study of the Western Aquifer.
- Study on flooding with emphasis on territorial zoning in the Jinotega, Matagalpa, and Nueva Segovia provinces.
- Municipal Study, Evaluation and Plan regarding possible natural disasters (such as flooding and landslides) in the San Ramón and Matagalpa municipalities and Segovia Province.
- Environmental Impact Study in the Río Ochomogo Basin.

Alejandro Cotto:

- Nicaragua FAO Office consultant for training on the codes of conduct required for responsible fishery. Co-management of fishery resources and communication issues in the development of the North Atlantic Region of Nicaragua. FAO, 2003 – 2005.
- Consultant regarding artisan fishery issues for the Spanish Agency for International Cooperation (AECI). 2003.
- Specialist in fishery and aquiculture. General Directorate for the Biodiversity, Policy and Regulations Unit, Ministry for the Environment and Natural Resources. 1999 – 2002.

- Consultant as a biologist for the Executive Directorate of the MEDE Fishery Division. (now the National Fishery and Aquiculture Administration; AdPesca, by its Spanish acronym. 1996 – 1999.
- Biology expert. Research Department, Center for Research on Hydro-biological Resources (CIRH, by its Spanish acronym) of MEDE PESCA.
- In charge of the Inspection Division. Center for Fishery Research (CIP, by its Spanish acronym) of the Fishery Corporation of Nicaragua. 1991 – 1992.

Sylvia Ruth Hernández:

- Contracts and Purchasing Specialist. Supreme Court of Justice. Judicial Consolidation and Access to Justice Program, P.O.[?]: 1074/SF-NI. CSJ-BID. September 2003 to present.
- “Midlevel Qualitative Evaluation of the Program for Licensing and Local Offices – Community Health Centers and Xochipilli Health Centers—in Nicaragua and Honduras.” Marie Stopes International. September – October 2003.
- Eight-year evaluation of the Colchac Nac Luum Project (CNL, by its Spanish acronym) in the towns of Yalambojoch, Yuxquéin and Aguacate de Huehuetenando. ASDI FORUM SYD. Huehuetenando, Guatemala. May 2003.
- Member of policy development team for Institutional Gender Policy of the Agricultural and Forestry Development Ministry (MAGFOR, by its Spanish acronym) and Institutional Gender Strategy of MAGFOR. Arias Foundation for Peace and Human Development. October 2002 – March 2003.
- Outside evaluator of the Juigalpa Community Education Project. FUNPRID. SKN. January – February 2003.

- Workshop: “How to implement the gender equality focus in rural development projects.” Rural Development Institute of the Agro-industry Program for Production Reactivation, IDR / BID. South Pacific Arid Zone Rural Development Project (PROSESUR, by its Spanish acronym.) January 2003.
- Workshops: “Incorporation the gender equality focus at the municipal level in the Municipalities of Matagalpa, San Ramón and Matiguás. Topics covered: Creating Awareness regarding gender equality focus; Basic concepts; Evaluation of Participation with a gender focus; Development of indicators and the participation and empowerment process. Dutch Service for Development Cooperation (SNV). December 2002. January 2003.
- Final Evaluation of the New Millennium Hope Project, of the Juigapa Chapter of the “Los Pipitos” Association of Parents of Disabled Children. SKN. November – December 2002.

Jorge Navas Morales:

- Nicaraguan Children’s Organizations Coordinator (CODENI, by its Spanish acronym). “Design for the Promotion of Children’s Participation by the Municipal Commission on Childhood and Adolescence in 26 municipalities of the country.” 2004.
- Canadian Agency for International Development (ACDI, by its Spanish acronym). Consultancy to the Ministry of Education, Culture and Sports Directorate for Planning and Policy regarding the development of a uniform action plan for 2005 – 2008, and an Operational Action Plan 2005 (Strategic Planning). 2004.

- Denmark Embassy. “Evaluation of Educational Options for Disabled Persons.” 2004.
- National Commission on Energy (CNE by its Spanish acronym). Social Evaluation and Development Plan for the El Ayote and El Bote-Cua-Bocay Communities, Project for Electricity Service in Isolated Rural Areas.”
- PLAN NICARAGUA: “Evaluation of the Pastries Project and Children’s Rights in the Bluebird Home,” and development of the plan for Stage II of the project.
- Nicaraguan Children’s Organizations Coordinator (CODENI, by its Spanish acronym). “Evaluation of participation regarding the situation of Children and Adolescents in 25 municipalities of the country, including workshops for developing skills among municipal personnel that work with children and adolescents.” 2003.

América Coronado Méndez:

- Planning and implementation of Workshop for Training regarding ARC / VIEW 8.2 and ARCGIS 9X Programs. 2005.
- Planning and implementation of Workshop I for Training in the use of popular[?] MapMarker in the development of Digital and GPS Cartography. 2000.
- Researcher on the different aspects of the dry tropical forest (inventory of fossil trees and forestry). 1988 – 1990.
- Assistant, Technology Transfer Department of the “El Recreo” Experimental Center. 1990 – 1992.

I, the undersigned Notary Public of the Republic of Nicaragua, residing at this address and duly authorized by the Honorable Supreme Court of Justice to notarize during the five-year period that concludes on the seventh day of July of the year two thousand and nine, do hereby certify that the present photocopy was diligently reviewed and that it is the same as the original version which consists of four pages on regular paper.- And, in conformity with the Law on Photocopies, I hereby certify the present in the City of Managua at twelve hours and five minutes on the fifth day of October of the year two thousand and six.-

Managua, the fifth day of October of the year two thousand and six.-

[Signed and stamped with the
Notary Public stamp of Nelly Yadira Martínez Obando.]

Nelly Yadira Martínez Obando
Attorney and Notary Public

[A page containing a table regarding the Experts Participating in the Environmental Impact Study for the Project for Improvement of navigation on the Río San Juan de Nicaragua; with their Full names, Profession, Area of Expertise, Area of the Environmental Impact Study covered, Dates of they carried out their particular study, Identification Card Number, their Original signature, and their photograph.]

- - -

I, the undersigned Notary Public of the Republic of Nicaragua, residing at this address and duly authorized by the Honorable Supreme Court of Justice to notarize during the five-year period that concludes on the seventh day of July of the year two thousand and nine, do hereby certify that the above signatures which say David Ríos Obando [s] illegible.- Francisco Mayorga Toruño [s] illegible.- Yelba Flores Meza [s] illegible.- Ramón Dávila López [s] illegible.- Alejandro Cotto Sánchez [s] illegible.- Jorge Navas Morales [s] illegible.- América Coronado Méndez [s] illegible.- Leonel Corea Aguiar [s] illegible.- were executed by the signers and that these signatures are those they use in all the civilian and business affairs; and do certify this in the City of Managua at eleven hours and thirty minutes of the fifth day of October of the year two thousand and six.-

Managua, fifth day of October of the year two thousand and six.-

[Signed and stamped
with the Notary Public stamp of Nelly Yadira Martínez Obando.]

Nelly Yadira Martínez Obando
Attorney and Notary Public

Annex 55

Letter from Edda Martínez Director for Environmental Oversight and Protection DGCA, MARENA to Mr. Jurgen Sengelman Director DGTA/MTI, Reference DGCA-EM-C258

10 October 2006 (1)

Letter from Edda Martínez Director for Environmental Oversight and Protection DGCA, MARENA to Mr. Luis Palacios Director for Water Resources INETER, Reference DGCA-EM-C259

10 October 2006 (2)

Memorandum from Edda Martínez Director for Environmental Oversight and Protection DGCA, MARENA to José Luis Galeno Director SERB – SENMARENA, Reference DGCA-EM-M 396

10 October 2006 (3)

Memorandum from Edda Martínez Director for Environmental Oversight and Protection DGCA, MARENA to Iván Ortega Director for Protected Areas, MARENA, Reference DGCA-EM-M 397

10 October 2006 (4)

Letter from Edda Martínez Director for Environmental Oversight
and Protection DGCA, MARENA to Mr. Jurgen Sengelman Director
DGTA/MTI, Reference DGCA-EM-C258

10 October 2006 (1)

REPUBLIC OF
NICARAGUA
CENTRAL AMERICA
[EMBLEM]

Government of Nicaragua
Ministry for the Environment
and Natural Resources
MARENA

General Directorate for
Environmental Protection

[Signed Received
By Luis García
11 Oct. 2006]

Managua
10 October 2006

REF:DGCA – EM – C258

Mr. Jurgen Sengelman
Director DGTA/MTI

Dear Mr. Sengelman:

I am writing to inform you that we have received the Environmental Impact Study for the Río San Juan Dredging Project to be executed in the Río San Juan Province.

Therefore, I am forwarding herewith a copy of the Final Environmental Impact Study and Addenda for your comments and analysis. I should also express that we are requesting your cooperation in order that we may receive your comments no later than Thursday, 26 October 2006.

Please forward your comments to Ms. Hilda Espinoza, General Director for Environmental Protection – MARENA.

Km. 12.5 Carretera Norte, In front of the Duty Free Zones Corp.
Telef.: 263-2830 and 263-2832/Fax: 263-2354, 263-2620, and 233-1505
Post Office Box 5123, Managua, Nicaragua, C.A.

With nothing further to add, I remain,

Cordially,

[Signed and sealed.]

Edda Martínez

Director for Environmental Oversight and Protection

DGCA, MARENA

cc: Hilda Espinoza, Dir. DGCA – MARENA
Luis García, DGTA - MTI
File 037-2006

Letter from Edda Martínez Director for Environmental Oversight
and Protection DGCA, MARENA to Mr. Luis Palacios Director
for Water Resources INETER, Reference DGCA-EM-C259

10 October 2006 (2)

REPUBLIC OF
NICARAGUA
CENTRAL AMERICA
[EMBLEM]

Government of Nicaragua
Ministry for the Environment
and Natural Resources
MARENA

General Directorate for
Environmental Protection

[Stamped Received
By Juan R. Alemán
16 Oct. 2006]

[Stamped Received
By the INETER
Administrative Office
_____]

Managua
10 October 2006

REF:DGCA – EM – C259

Mr. Luis Palacios
Director for Water Resources
INETER

Dear Mr. Palacios:

I am writing to inform you that we have received the Environmental Impact Study for the Río San Juan Dredging Project to be executed in the Río San Juan Province.

Therefore, I am forwarding herewith a copy of the Final Environmental Impact Study and Addenda for your comments and analysis. I should also express that we are requesting your cooperation in order that we may receive your comments no later than Thursday, 26 October 2006.

Please forward your comments to Ms. Hilda Espinoza, General Director for Environmental Protection – MARENA.

Km. 12.5 Carretera Norte, In front of the Duty Free Zones Corp.
Telef.: 263-2830 and 263-2832/Fax: 263-2354, 263-2620, and 233-1505
Post Office Box 5123, Managua, Nicaragua, C.A.

With nothing further to add, I remain,

Cordially,

[Signed and sealed.]

Edda Martínez

Director for Environmental Oversight and Protection

cc: Hilda Espinoza, Dir. DGCA – MARENA
Sergio Cordonero, Water Resources – INETER
File 037-2006

Memorandum from Edda Martínez Director for Environmental Oversight
and Protection DGCA, MARENA to José Luis Galeno Director
SERB – SENMARENA, Reference DGCA-EM-M 396

10 October 2006 (3)

REPUBLIC OF
NICARAGUA
CENTRAL AMERICA
[EMBLEM]

Government of Nicaragua
Ministry for the Environment
and Natural Resources
MARENA

[Stamped Received
by Executive Secretary
Southeast Nicaragua
Biosphere Reserve
11 October 2006]

MEMORANDUM
REF: DGCA-EM - M 396

TO : José Luis Galeno
Director SERB – SEN
MARENA

FROM : Edda Martínez [Signed and sealed]
Director for Environment Oversight and Protection
DGCA - MARENA

DATE : 10 October 2006

REF : Forwarding Environmental Impact Study

I am writing to inform you that we have received the Environmental Impact Study for the Río San Juan Dredging Project to be executed in the Río San Juan Province.

Therefore, I am forwarding herewith a copy of the Final Environmental Impact Study and Addenda for your comments and analysis. I should also express that we are requesting your cooperation in order that we may receive your comments no later than Thursday, 26 October 2006.

Please forward your comments to Ms. Hilda Espinoza, General Director for Environmental Protection – MARENA.

With nothing further to add, I greet you cordially.

cc: Hilda Espinoza, Dir. DGCA – MARENA
File 037-2006

Memorandum from Edda Martínez Director for Environmental Oversight
and Protection DGCA, MARENA to Iván Ortega Director for
Protected Areas, MARENA, Reference DGCA-EM-M 397

10 October 2006 (4)

REPUBLIC OF
NICARAGUA
CENTRAL AMERICA
[EMBLEM]

Government of Nicaragua
Ministry for the Environment
and Natural Resources
MARENA

General Directorate for
Environmental Protection

[Stamped Received, Reception
by MARENA, Protected Areas
11 Oct. 2006]

MEMORANDUM
REF: DGCA-EM – M 397

TO : Iván Ortega
Director for Protected Areas, MARENA

FROM : Edda Martínez [Signed and sealed]
Director for Environment Oversight and Protection
DGCA - MARENA

DATE : 10 October 2006

REF : Forwarding Environmental Impact Study

I am writing to inform you that we have received the Environmental Impact Study for the Río San Juan Dredging Project to be executed in the Río San Juan Province.

Therefore, I am forwarding herewith a copy of the Final Environmental Impact Study and Addenda for your comments and analysis. I should also express that we are requesting your cooperation in order that we may receive your comments no later than Thursday, 26 October 2006.

Please forward your comments to Ms. Hilda Espinoza, General Director for Environmental Protection – MARENA.

With nothing further to add, I greet you cordially.

cc: Hilda Espinoza, Dir. DGCA – MARENA
File 037-2006

Annex 56

Memorandum from Iván Ortega Gasteazoro, MARENA Director General for Protected Areas to Hilda Espinoza Urbina, Director General of MARENA's Department of Environmental Quality

25 October 2006

REPUBLIC OF
NICARAGUA
CENTRAL AMERICA
[EMBLEM
And slogan: Gobierno Bolaños ¡Nueva Era!]

**Government of Nicaragua
Ministry for the Environment
and Natural Resources
General Directorate for Protected Areas**

[Stamped Received, Reception, #3165
by MARENA, Environmental Control
26 Oct. 2006]

MEMORANDUM

TO : Ms. Hilda Espinoza
General Director for Environmental Protection

FROM : Iván Ortega Gasteazoro [Signed and sealed]
General Director for Protected Areas

REF : Forwarding comments and analysis on Environmental Impact Study
Dredging of Río San Juan

DATE : 25 October 2006

This is in response to the Memo from Ms. Edda Martínez, Director for Environmental Oversight and Protection, dated 10 October 2006, forwarding the Environmental Impact Study regarding the Río San Juan Dredging Project in order that this General Directorate for Protected Areas analyze it and make comments.

In this regard, I am glad to convey that in general this General Directorate finds the Study is acceptable. However, we recommend that the following changes be incorporated during the approval process in order not to delay this initiative which is so important to our national interest.

1. Regarding the Environmental Impact Evaluation:

In Section 4.2 Impact Evaluation and Analysis, symbols used in the Core Cause and Effect, are confusing since they are not explained in the table. Box no. 4.1 uses five symbols (G, M, P, T, t), however, combinations such as BT, PP, Gr, PD, etc., also

appear in the table with no explanation of their meaning. The table should be practical and easy to understand.

2. Regarding the Environmental Action Program

In practical terms, this is the most important program of the study, however, it is not explained with the necessary depth.

It is important that the Environmental Plan Budget be guaranteed by the entity or contractor responsible for implementing the project, to ensure its compliance. The Environmental Plan cannot be implemented without a budget.

Regarding the Contingency Plan in the Event of Hydrocarbons Spills.

Although temporary due to the management imperatives of the Wildlife Refuge in the Biosphere Reserve which is a RAMSAR Site that requires special treatment, the negative environmental impact in the event of hydrocarbon contamination is of huge magnitude. For this reason the Contingency Plan and related activities should include more details.

Regarding “the Contingency Plan in the Event of Hydrocarbons Spills,” in conformity with the highest international standards, and national legislation and regulations, this plan should detail procedures to be followed to avoid leaks and spills.

On Page 20, (2.2.4. Residue Management) the document states that MARENA will specify the characteristics of the system and procedures for preventing leaks and spills (of hydrocarbons). These specifications should conform to international standards and regulations that have been established for the hydrocarbons industry and to the technical rules applicable at ports and Nicaraguan fuel storage facilities.

On the other hand, it is important to emphasize that all procedures and their cost are the responsibility of the contractor. In the project implementation budget the contractor should guarantee the international standards required for the RAMSAR Site Wildlife Refuge in the Biosphere Reserve.

Due to its international importance and international commitments regarding the area, in the execution of this project, due consideration should be given to obtaining letters of guarantee from the company executing the Environmental Action Program and the Contingency Plan once it is more developed. This should be specified in the bidding procedure as a requisite for work in the Protected Area.

Also, the contractor should demonstrate possession of the necessary equipment and trained personnel required in the event of fuel leaks and spills. Further, the contractor should have its own Contingency Plan which should be approved by the authorities.

The document mentions that the “Normal Procedures for the Management of Fuel in Water” will be carried out. In this regard, it is necessary for these procedures to be detailed or that the norms to be applied be specified.

During fuelling for the dredging, transport of fuel, etc., booms should be used around the vessel.

Also, the dredging project and supporting vessels should be adequately supplied with oil-absorbing sheets and absorbent pads in case of leaks or spills.

Permanent and temporary personnel working on the project should be adequately trained in the use of these implements.

The contract should be specific regarding the necessary allocation of resources (a helicopter) for action in the event of an emergency due to a hydrocarbon spill. Also, the plan should identify in advance the company or entities with the helicopters and include telephone numbers, addresses and contact persons.

The description of the project does not mention whether the dredging will also take place at night. If that is the case, the pertinent mitigations measures should be in place.

3. Regarding the Landscape Restoration Program

The Oversight and Monitoring Program is not detailed enough to allow for evaluation of its effectiveness. It should be enhanced.

Material to be deposited in the dumps does not guarantee the growth of the replanted vegetation. According to descriptions of the material to be extracted it will basically consist of a combination of sand and gravel with a low percentage of mud and clay which will not allow for adequate propagation. Monitoring of the growth of replanted vegetation up to the second month (60) days, which is contemplated in the program, does not guarantee appropriate regeneration of vegetation. For this reason it is suggested that monitoring take place for more than a semester and this should be taken into account in the budget.

The origin of the replanted vegetation (greenhouses, etc.) should also specified.

The Landscape Restoration Program should end with a Summation Document (Record) to be authenticated by the Environmental Supervisor who should be designated by the Biosphere Reserve before the evaluation and approval of the measures to be adopted and complied with.

4. Regarding Socio-economic matters

It is important that the plan consider some recommendations for the prevention of problems with the local residents and for developing a good relationship with them.

The speed at which associated vessels travel should be regulated in order to avoid accidents caused by waves created as the vessels move.

To avoid hunting, personnel of the dredging project should be oriented to avoid the purchase of wild animals to be used as mascots or food.

Information on the location and availability of dredging material should be made fully available to the authorities and the local population.

The Contingency Plan should consider immediate communication with the residents downstream who should be oriented to avoid bathing and taking water from the river for the duration of an emergency.

Cordially,

cc: Ms. Edda Martínez, Director for Environmental Oversight and Protection
File

Annex 57

Letter from Noel S. Salinas Alvarado of EPN to Zacarías Corea
of CORASCO, Reference GT-0954-11-2006

23 November 2006

REPUBLIC OF
NICARAGUA
CENTRAL AMERICA [EMBLEM]
Government of Nicaragua
National Ports Company EPN

[Stamped Received, Reception
MARENA
24 Nov. 2006]

23 November 2006
GT-0954-11-2006

Engineer Zacarias Corea
General Manager
CORASCO

Dear Mr. Corea:

In a meeting held between your office and MARENA on 9 November 2006 it was agreed that 15 November 2006 was the deadline for you to submit the Environmental Action Plan for the Río San Juan Dredging Project, with the corrections requested by the MARENA Directorate for Environmental Protection. However, to this date you have not submitted these and thus the document has yet to be approved.

In view of the above we are requesting that at the latest Monday, 27 November 2006 you submit to the MARENA Directorate for Environmental Protection amendments made to the document in order to finalize the Recommendations and Environmental Permit that will make it possible to begin work on the project.

I hope to have your kind attention to this matter and I greet you,

Cordially,

[Signed and sealed.]
Engineer Noel S. Salinas Alvarado
Technical Manager

cc: Directorate for Environmental Protection, MARENA
Engineer María Lourdes Bravo
Chronological File

Annex 58

Work Report of Enrique Jardiel Arteaga Núñez, Second Chief of
the National Police, Río San Juan Delegation to Commissioner
José Miguel Pérez Solís, Head of Police Division
Río San Juan
20 June 2008

Republic of Nicaragua
National Police
Río San Juan

San Carlos, 20 June 2008

Commissioner
José Miguel Pérez Solís
Head of Police Division
Río San Juan

RE: WORK REPORT

Dear Chief,

Yesterday we returned from the visit you ordered to the San Juan de Nicaragua populace for supervision of police work and police surveillance of the coast and for evaluation of navigational conditions along the Río San Juan and nearby springs.

We arrived in San Juan de Nicaragua on 12 June and immediately went to the Chief of Police in the area, Captain Luis Armando González Vega, and informed him of the purpose of our mission.

On the first day of work, 13 June 2008, we evaluated the relationship of the chief with the local authorities, the local civilian judge, the Municipal Mayor, the Assistant Municipal District Attorney, the Immigration Division, MARENA, MINED and SILAS, etc. They all said they have good working relations and collaboration with the Chief of National Police.

On 14 June 2008, we had a work meeting with the staff and reviewed all aspects of police discipline, administrative work, food and clothing needs, as well as compliance with work orders you have communicated; and regarding work plans and proposed objectives of the National Directorate.

On 15 June 2008, we made a review of the aquatic patrol sectors of the San Juan River, using a boat and a 40 HP motor belonging to the division; we thus travelled upriver to an area known as The Delta and observed that some parts of the river are rather dry and difficult to navigate by the larger boats.

On our return, we had the opportunity to enter through a caño that conducted us to a lagoon known as Harbour Head. According to Captain González's explanation, that caño and the lagoon as well as the swamp of the same name are Nicaraguan and periodic surveillance must be carried out given that the area is besieged by Costa Rican poachers who also invade the biological reserve in search of mountain hogs and other animals and even wood which they then trade in their country.

It is advisable to bring this up in a future meeting with the Costa Rican authorities so that they may also engage in surveillance on their border and avoid degradation of the environment.

At the time we passed through the area we did not observe any of these clandestine hunters nor any Costa Rican guards or locals from the area.

On 16 June 2008 we visited the area known as Cangrejera where we have been informed that the populace engages in drug dealing and where drug traffickers presumably travel in search of refuge and places to sell drugs. Thus, the Chief of Police, Captain González, ordered some vigilance and control in the area.

On 17 June 2008, we went through Río Indio and studied the area known as Spanish Creek. It is known that some small drug dealers travel through this area and collect the drugs at sea which they then transport to the interior of the country through Río Indio and then through the Biological Reserve.

Having nothing further to report, I await your instructions and extend my greetings.

Fraternally,

[S]

Commissioner
Enrique Jardiel Arteaga Núñez
Second Chief of the National Police
Río San Juan Delegation

Annex 59

Letter from EPN Executive President, Virgilio Silva Munguía to
Hilda Espinoza Urbina, Director General of MARENA's Department
of Environmental Quality, Reference PE-VSM-0754-07-2008

15 July 2008

[Logo]

Government of National Reconciliation
and Unity of Nicaragua
The People are the President!

[Logo National Ports Company
of Nicaragua

Stamped received
16 July 2008
Public Information Service
MARENA

Managua, 15 July 2008
PE-VSM-0754-07-2008

Ms. Hilda Espinoza, Esq.
Director for Environmental Protection
MARENA

Dear Ms. Espinoza:

In response to a request from the community of San Juan de Nicaragua, the National Ports Company is proceeding to begin the preliminary activities to initiate clean up of the course of the Río San Juan in the most critical areas. These activities that are labor intensive.

Therefore, we are requesting environmental authorization for work which consists of the clean up of inorganic waste. As part of this request we are submitting attached the Report of Exploration of the Río San Juan and Observations Regarding its Clean Up and Dredging for guaranteeing its navigation, written by our Company and which is in the possession of your institution.

With nothing further to report, I thank you for your attention to this matter and I greet you,

Cordially,

[Signed and sealed.]
Virgilio Silva Munguía
Executive President

cc: Juanita Argeñal – Minister, MARENA
MARENA Office, Río San Juan
Technical Div.
Chronological file: GT-LAQG-1106-07-08

Annex 60

Memorandum from Julio C. Ordoñez L. to Executive President,
Virgilio Silva Munguía (accompanying report)

13 August 2008

[Logo]
 Government of National Reconciliation
 and Unity of Nicaragua
 The People are the President!

 Signed received
 18 August 2008

MEMORANDUM

TO : MR. VIRGILIO SILVA M., ESQ., EXECUTIVE PRESIDENT

FROM : ENGINEER JULIO C. ORDOÑEZ, TECHNICAL ADVISER

REF : MARENA ENVIRONMENTAL PERMIT

DATE : 13 AUGUST 2008

I am pleased to forward herewith a brief report regarding meetings held with representatives of MARENA for the purpose of obtaining an Environmental Permit for the Project for Improved Navigation on the Río San Juan.

As decided with MARENA the most important thing is to carry out a site visit so that once this requisite has been met the above mentioned permit may be issued. Once the EPN has the Administrative Resolution issuing the Permit, work can start on development of the Project budget which would take into consideration all details and requisites specified by Marena.

In this regard, I suggest that the Technical Management assign as soon as possible the pertinent functionary to coordinate and carry out the visit to the project together with functionaries of INETER, MTI, MARENA, and CORASCO, in order to comply with this requisite for obtaining an Environmental Permit.

Cordially,

[Handwritten note: “Coordinate jointly with Mr. Ordoñez visit to San Juan de Nicaragua with these institutions.)

cc: Engineer Lester A. Quinte
 Engineer José Genet B.
 File

REPORT REGARDING PERMIT FOR ENVIRONMENTAL STUDY OF THE RÍO SAN JUAN NAVIGATION IMPROVEMENT PROJECT

This report has its origin in the letter dated 18 July 2008 addressed to Mr. Virgilio Silva M., Esq. by Engineer Roberto Araquistáin Cisneros (Vice Minister) of the Ministry for the Environment and Natural Resources (MARENA, by its Spanish acronym), regarding the Environmental Permit that should be issued by said institution in order that the Río San Navigation Improvement Project may be executed. The Executive President of the EPN designated Engineer Julio C. Ordoñez to follow up on this correspondence.

The first meeting in MARENA was held on 6 August 2008 as requested by Engineer Araquistáin who was accompanied by Ms. Hilda Espinosa, Esq., Director for Environmental Protection of said institution. The EPN was accompanied by Engineer Mario Aguilar of Corasco who acted as the representative of the consultant.

After reviewing the pertinent documentation prepared by the consulting firm Corea & Associates, S.A.) – CORASCO, MARENA concluded that it would approve all the deposit sites for dredge residue material proposed by the consultant **except those located between the mouth of the Río San Juanillo and the Bocana (surge) of the Río San Juan.** In this regard, MARENA suggested that these sites could be substituted by the space on the strip of land facing the San Juan de Nicaragua village. This strip of land presently separates the Río Indio from the Caribbean Sea.

As a courtesy we were allowed access to the Draft of the Technical Order and Administrative Decision on the case. This document was given to the representative of the EPN who gave it to the consultant so he could review it and prepare for the following meeting everything that is pertinent to his responsibilities.

Ms. Espinosa stated that in order to retake up the authorization of the environmental permit applied for by the EPN it was necessary to at least carry out a visit to the site of the project to confirm that conditions prevalent at the time of the study are the same, besides verifying the site recommended by MARENA as a substitute for the two deposit sites. Other details regarding issuance of the MARENA permit were to be discussed at the next meeting which was to take place on 12 August 2008.

As proposed by MARENA, the second meeting took place on the morning of 12 August in the EPN offices. It was presided by EPN and attended by the following persons:

Engineer Milton Medina	Marena
Engineer Elsa Vivas	Marena
Engineer Álvaro Flores	Corasco
Engineer Mario Aguilar	Corasco
Engineer Julio Ordoñez	EPN

The meeting began with a request by the EPN to know the minimal requisites it should comply with in order to obtain as soon as possible the Marena Environmental Permit for the Río San Navigation Improvement Project.

Two fundamental aspects discussed in the meeting as to the project were as follows:

- Compliance with the Minimal Requisites for obtaining the Environmental Permit.
- Other requisites to be complied with, as contained in the Draft Administrative Resolution and which are applicable to the Project but certainly should not delay issuance of the Environmental Permit.

Regarding the first point, it was agreed that a Commission would visit the site as a requisite for issuance of the Environmental Study permit. The Commission's members were as follows:

Engineer Sergio Cordonero	INETER
Engineer Luis García	MTI (DGTA)
A Representative from the MARENA Directorate for Environmental Protection	MARENA
A Representative from the Dept. of Protected Areas	MARENA
A Representative of the San Juan de Nicaragua Office	MARENA
Two representatives	CORASCO

One representative	EPN
One oceanographer, pending to be designated	CORASCO

Marena would provide the boat for the trip.

As recommended by Marena, the EPN representative would be Engineer Alberta Smith, from Technical Management, who during the time that the Study was taking place had participated in several missions with the same purpose.

Engineer Roberto Araquistáin and Hilda Espinosa, Esq., requested that for the purpose of facilitating this mission, EPN cover the costs of personnel and logistics required by Marena, Ineter and DGTA, as has been the practice regarding this same project. Once the visit had taken place and with the ensuing recommendations, it was expected that Marena would be amenable to issuing the Environmental Permit for the Project.

The second point discussed was everything related to what the institution or contractor in charge of the project should comply with, including the clarification of certain concepts, for example, the protection of riverbanks, the use of wood waste as protective structures and for social availability, the stripping and restoration of topsoil in corresponding areas for the deposition of dredged material, reforestation, etc.

The Administrative Resolution Document contains innumerable rules that must be complied during execution of the project. These rules in fact constitute a series of technical specifications that must be observed in the contract for execution of the project. The Administrative Resolution Document also suggests the costs involved.

It is good to remember that the Administrative Resolution specifies that in estimating the project's costs, contracting the services of a trained and experienced professional Environmental Overseer must be taken into consideration.

Project costs estimates must also include an inspector designated by MARENA-SERBSEN whose function will be to follow up on environmental protection throughout work on the project. This is necessary due to the characteristics of the zone.

The entity responsible for the project must ensure vigilance of the residue deposit sites in order that living quarters not be constructed there; it must also ensure the security of industrial personnel.

Because the project will be developed in a border area, the EPN must coordinate personnel's security with other local institutions such as the Army, the Police, the Municipal Government, etc.

Another point to be taken into account regarding issuance of the Environmental Permit, is its renewal in the event that the project is not completed within the 18 months following its issuance.

Annex 61

EPN Memorandum from Arosman Mendieta Jerez,
Supervising Engineer to Lester Quintero Gomez,
Technical Div. Manager, National Ports Company
(accompanying minutes), Reference IS-AMJ-12-09-08

23 September 2008

[Logo]
 Government of National Reconciliation
 and Unity of Nicaragua
 The People are the President!

[Logo: of the National Ports Company]

 Stamped received
 23 September 2008
 National Ports Company
 Technical Management

MEMORANDUM

SUPERVISING ENGINEERS-TECHNICAL MANAGEMENT IS-AMJ-12-09-08

TO : **ENGINEER LESTER QUINTERO G.**
Technical Div. Manager

FROM : **ARCHITECT AROSMAN MENDIETA JEREZ**
Supervising Engineer [Signed and sealed.]

REF : **RÍO SAN JUAN VISIT REPORT**

DATE : **Tuesday, 23 September 2008**

This is to hereby inform you that in compliance with programmed visits by the Institutional Commission (MARENA, INETER, MTI and EPN) as of 17 September 2008 with the representative of CORASCO who did the Environmental Impact Study, a trip through the stretch of the Río San Juan between the Río Colorado Delta and the mouth of the Río San Juan into the Caribbean Sea was carried out in order to do an onsite inspection of sites selected for the dumping of residue dredge material, which are crucial according to MARENA.

We visited the following points:

Dumping site #0:

This is an island in front of a warehouse owned by Cdr. Edén Pastora; a possible site for depositing residue dredge material from the Río San Juan jitney, if necessary.

[Logo and slogan:

In Unity the People Triumph.]

National Ports Company

The locations of Dumping sites no. 1 and 2 were changed due to their proximity to river plant areas; river plants are a prime source of food for manatees.

The locations of Dumping sites no. 3 and 4 were changed, as well as two sites on Isla Salomón (island).

MARENA, INETER AND MTI request that EPN determine the type of dredging equipment to be used as well as their technical specifications.

It was recommended that the volume of residue dredge material to be dumped in Dumping sites no. 0, 1 and 2 be revised as a change in the dredging equipment may be necessary.

The Inspection Team integrated by representatives of MARENA, INETER, MTI and EPN will submit a Technical Report on the visit and its results will be incorporated in the final resolution issued by the EPN as a request for the Environmental Permit.

cc: Chronological file

[Logo and slogan:

In Unity the People Triumph.]

National Ports Company

[Handwritten]

Minutes of site visit to the Río San Juan Dredging Project.

Meeting in the San Carlos, Río San Juan offices of MARENA on Saturday, 20 September 2008 at 8:00am of the Institutional Commission integrated by MARENA, EPN, MTI-DGTAN, INETER and CORASCO, as a consultant, after the Inspection Visit to each of the locations referred to as dumping sites in the document entitled “Final Report of the Environmental Impact Study for the Río San Juan Navigation Improvement Project” and those added as per the letter addressed to Hilda Espinoza, Esq., by Engineer Mario Aguilar (CORASCO) on 31 October 2006.

The following points were discussed:

1. Except dumping site locations no. 1 and 2, all dumping site locations indicated in the document entitled “Final Report of the Environmental Impact Study for the Río San Juan Improvement Project” are confirmed, as well as other locations selected during the Inspection Visit of the Institutional Commission which took place on 11-16 October 2006. During the visit dumping site locations no. 1 and 2 were relocated to the following coordinates: site no. 1, 206250E and 120920N; and site no. 2, 207205E and 1207483N.
2. The Commission recommends that the volume of residue dredge material to be dumped in Dumping sites no. 1 and 2 be revised to clarify the dimensions of these sites and their impact on the environment.
3. It was agreed that a meeting should be held on 26 September at 9:00am in the EPN offices.
4. It was recommended that EPN state the dredging equipment and their technical specifications.
5. The Inspection Team integrated by MARENA, INETER, and MTI wrote a detailed Technical Report on the visit and its results will be included in the Final Resolution issued by the EPN as the applicant for the Environmental Permit.

Signed:

Milton Medina Caled	MARENA	[Signature]
Arosmán Mendieta Jerez	EPN	[Signature]
Félix Romero López	EPN	[Signature]
Luis García Olivares	MTI-DGTA	[Signature]
José [illegible.] P.	INETER	[Signature]
Elsa Vivas Soto	MARENA	[Signature]
Rigoberto López V.	MARENA	[Signature]
Mario Aguilar L.	CORASCO	[Signature]

Annex 62

Letter from Engineer Leonardo Zacarias Corea T. General Manager
Corea & Associates (CORASCO) to Roberto Araquistáin
Vice Minister MARENA

21 October 2008

[Co. Logo.]

COREA Y ASOCIADOS S.A. (CORASCO)

[Corea & Associates (Corasco, by its Spanish Acronym)]

De estatua Montoya 1½ al Norte, Managua, Nicaragua – No. Ruc 060791-9534

Tel.2685833-5 and 266-8174 and 266-8176, Fax 2685834, E- mail coreayasociados@yahoo.com

 Stamped received
 21 October..

Managua, 21 October 2008

Engineer
 Roberto Araquistáin
 Vice Minister
 MARENA

Project: Río San Juan Improved
 Navigation Project

Dear Mr. Araquistáin:

Our company, Corea & Associates (CORASCO) was responsible for the Environmental Impact Study for the Río San Juan Improved Navigation Project. In the context of our consulting collaboration with the National Ports Company (EPN) in the site visit to dredge residue material dumping sites for their approval, we are forwarding three (3) sets of two (2) pages each, containing:

1. Blueprint for the location of the dumping sites definitely decided upon, and;
2. Table with the coordinates of the location of the dumping sites.

As the company responsible for support to the EPN in final submission to MARENA of the document which conduce to the issuance of the Environmental Permit for the above mentioned project, we are thus complying with our responsibility.

With nothing further to inform on this matter, I reiterate that I am at your service.

Cordially,

[Signed and sealed.]
 Engineer Leonardo Zacarias Corea T.
 General Manager
 Corea & Associates (CORASCO)

cc: Engineer José Santos Genet Director for Operations, EPN
 Architect Lester Quintero G. Technical Manager, EPN
 Ms. Hilda Espinoza, Esq. Director DGCA – MARENA
 Engineer Milton Medina MARENA
 File

Annex 63

Letter from Carlos Robelo Raffone, Nicaraguan Ambassador in Geneva
and Permanent Representative of Nicaragua before the United Nations
and other International Organizations to Anada Tiéga, Ramsar Secretary
General, RAMSAR

30 November 2010



*Misión Permanente de Nicaragua
Organización de las Naciones Unidas
y otras Organizaciones Internacionales
Ginebra*

URGENTE

CONFIDENCIAL

Geneva, November 30th, 2010.

Excellency:

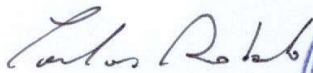
Allow me to express my appreciation for receiving Ambassador César Vega and myself at the RAMSAR Office this morning.

I would appreciate an official statement from your office with regard to reports by the media in Costa Rica to the effect that the Ramsar Officials visiting that country have made overflights of inspection along the Nicaraguan border.

Furthermore, I would like to express the deep concern of the Nicaraguan Government with respect to alleged declarations made by RAMSAR officials that appeared in local Costa Rican newspapers apparently expressing a position on the dispute in favor of the Costa Rican authorities. If these press statements were in fact given by the Ramsar Officials in Costa Rica, I would appreciate your indication whether these Officials were duly authorized to give such a press declaration and whether this is an official position of the Ramsar Secretariat.

In order to acquire balanced information from both parties, I would like to confirm the invitation extended this morning on behalf of my Government for an objective Ramsar mission to visit Nicaragua, in the same conditions as the one that has visited Costa Rica.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.


Carlos Robelo Raffone
Ambassador, Permanent Representative



His Excellency
Mr. Anada Tiéga
Secretary General
Convention on Wetlands
Gland, Switzerland

Annex 64

Letter from Carlos Robelo Raffone, Nicaraguan Ambassador in Geneva
and Permanent Representative of Nicaragua before the United Nations
and other International Organizations to Anada Tiéga,
Ramsar Secretary General

2 December 2010



*Misión Permanente de Nicaragua
Organización de las Naciones Unidas
y otras Organizaciones Internacionales
Ginebra*

Geneva, December 2nd, 2010.

Excellency;

Following my communication dated November 30th, 2010, on behalf of the Government of Nicaragua, I would like to reiterate the Secretariat of the Convention on Wetlands an official invitation to visit Nicaragua in the upcoming days with an objective mission.



In order to obtain an objective result of this mission, due to the fact that our country has a dispute with Colombia at the International Court of Justice, the Government of Nicaragua respectfully requests to the Secretariat of the Convention on Wetlands, not to include Mrs. María Rivera, Senior Advisor for the Americas as part of this mission, since she has a Colombian nationality, and for this particular aspect, Nicaragua considers that it could mean a conflict of interests.

At the same time, the Government of Nicaragua also kindly requests to the Secretariat the Convention on Wetlands not to prepare any report before sending an objective mission to Nicaragua and without taking into consideration our position on this matter.

In this regard, the report of the Ramsar Mission to Costa Rica must refrain from expressing or making neither explicit nor implicit references regarding the border dispute between Nicaragua and Costa Rica; as well as not mentioning damages that Nicaragua has supposedly caused to Costa Rica's wetlands without taking into account the point of view of Nicaragua.

Finally, let me reiterate the deep concern of the Government of Nicaragua for the continuous newspaper publications that express several accusations against Nicaragua as a result of the visit of the Ramsar Mission to that country, and the references made by them, stating that any report of the Ramsar Mission will be used at the 16th Conference of the States Parties of the United Nations Climate Change Convention and the Kyoto Protocol, as well as at the Organization of the American States, given the fact that it is a regional forum that has no authority as a political forum, to intervene in this case. Let me remind you that this case is under the jurisdiction of the International Court of Justice.

I avail myself on this opportunity to renew to your Excellency the assurances of my highest consideration.

Carlos Robelo Raffone
Ambassador, Permanent Representative

His Excellency
Mr. Anada Tiéga
Secretary General
Convention on Wetlands
Gland, Switzerland

Annex 65

Letter from Eng. Lester A. Quintero G. Technical Manager,
National Port Authority to Ms. Hilda Espinoza Director General
Environmental Quality MARENA,
Reference GT-LACQG-0402-04-2011

5 April 2011



Managua, April 5, 2011
GT-LACQG-0402-04-2011

Ms. Hilda Espinoza
Director General
Environmental Quality
MARENA
Hand delivered

Dear Ms. Espinosa:

We hereby inform you that as a result of the high cost of dredging forty-two kilometers and with the understanding that the priority at this stage is to ensure navigability of smaller vessels, the Office of the President of the Republic has decided to modify the dimensions and length of the navigation channel along the stretch between Delta and San Juanillo to 32.77 kilometers, according to the study carried out by consultant CORASCO S.A.

It should be noted that EPN shall perform the necessary topographic and bathymetric surveys to quantify the volume and determine the definitive length.

Having no other matters of reference, I remain

Cordially yours,

/s/ Illegible
Eng. Lester A. Quintero G.
Technical Manager

Cc: Executive Presidency
General Manager
MARENA Minister
MARENA Deputy Minister
File
Chronological file



Nicaragua
en el ALBA
CRISTIANA, SOLIDARIA,
SOCIALISTA



Annex 66

Letter from H.E. Mr. Jorge Urbina-Ortega, co-Agent of Costa Rica
to the Registrar of the ICJ, Reference ECRPB-025-12

3 July 2012



Embajada de Costa Rica
Países Bajos

The Hague 3 July, 2012
ECRPB-025-12

Excellency,

I have the honour to refer to the Order of the Court of 8 March 2011 in the case concerning *Certain Activities carried out by Nicaragua in the Border Area (Costa Rica v. Nicaragua)*.

The purpose of this communication is to provide the Court with an updated record of the activities carried out by Costa Rica in compliance with the Court's Order, as well as to place on record further breaches of the Order committed by Nicaragua. In regard to the latter, Costa Rica wishes to stress that the Government of the Republic of Nicaragua has not only maintained its policy of sending "contingents" of members of the Sandinista Youth to the area of Isla Portillos, north of the *caño*, which Nicaragua now refers to as "Isla Harbour Head" or simply "Harbour Head"—but has also expanded its presence to additional new sites within the relevant area designated by the Court.

1.- Continuous and expanded presence of Nicaraguans in the area indicated by the Court

In addition to the site where the Sandinista Youth first set up camp in April 2011,¹ in recent months two more camps have been established: one at the mouth of the *caño*; and the other some 800 metres further inland in the direction of Laguna Los Portillos. The existence of these new camps is documented in a series of photographs annexed to this communication.² These two new camps started out as groups of small

¹ CRM, 5 December 2011, paras. 6.1-6.53. See also Note from Ambassador Jorge Urbina Ortega, Co-Agent of the Republic of Costa Rica, to His Excellency Phillipe Couvreur, Registrar of the International Court of Justice, Ref: ECRPB-030-11, 13 April 2011.

² New Nicaraguan camp at the mouth of the *caño* (15 February 2012), Annex **CR22**; Aerial view of new Nicaraguan camp at the mouth of the *caño* (23 February 2012), Annex **CR23**; New Nicaraguan camp at the mouth of the *caño* (6 March 2012), Annex **CR24**; Nicaraguan citizens in the new camp at the mouth of the *caño* (6 March 2012), Annex **CR25**; New Nicaraguan camp at the mouth of the *caño* with a larger tent (7 April 2012), Annex **CR26**; New Nicaraguan camp at the mouth of the *caño* with a larger tent (20 April 2012), Annex **CR 27**; Second new Nicaraguan camp located 800 metres along the *caño* towards the Lagoon (6 March 2012), Annex **CR28**; Second new Nicaraguan camp located 800 metres along the *caño* towards the Lagoon with a larger tent (12 May 2012), Annex **CR29**; Second new Nicaraguan camp located 800 metres along the *caño* towards the Lagoon with a larger tent and Nicaraguan flag (12 May 2012), Annex **CR30**; Aerial view of the second new Nicaraguan camp located 800 metres along the *caño* towards the Lagoon with a larger tent (10 June 2012), Annex **CR31**.

camping tents in February 2012, which were later replaced by larger tents in April 2012. The photographs also show a signboard that was erected at the mouth of the *caño*, which reads “Isla Harbor Head”, as well as Nicaraguan and Sandinista flags.

This communication includes as annexes media reports and two videos which document the presence of numerous Nicaraguans in the area at the locations of the two new camps adjacent to the *caño*.³ A third video shows Mr Edén Pastora, head of the Nicaraguan “dredging” operations, walking along the *caño* with a reporter in the area designated by the Court.⁴ According to the annexed Nicaraguan press article entitled “*Harbour Head, sinónimo de soberanía nacional*” (“Harbour Head, synonymous with national sovereignty”),⁵ since April 2011 “thousands of young people from all the municipalities in the country have maintained a presence in the area of Harbour Head, a site which has become a symbol of our national sovereignty”. An official online bulletin of the Nicaraguan Ministry of Natural Resources and Environment (MARENA) quotes Ms. Juana Argueñal, Minister of MARENA, explaining that at least “3 thousand 600 youths from the Guardabarranco Movement have been mobilized to carry out cleaning works in the area.”⁶ To date, at least fifty-two successive contingents of Nicaraguans have maintained a continuous presence in the area.⁷ The most recent contingent comprised fifty-four Nicaraguans.⁸

The activities carried out by Nicaraguans in the area include the planting of trees under the guise of a so-called “reforestation plan”. This is shown in two videos produced by Nicaraguan television annexed to this communication entitled “*Hostigan a jóvenes ambientalistas en Harbour Head*” (“Young Environmentalists in Harbour Head are Harassed”), and “*Juventud nicaragüense realiza labores ambientales en Harbour Head*” (“Nicaraguan Youths carry out Environmental Work in Harbour Head”),⁹ both released on 16 February 2012. The uncontrolled planting of trees in the internationally protected wetland poses a serious risk of altering the ecological balance of the wetland, and constitutes serious damage to the area currently being caused by Nicaragua, in clear contravention of the Court’s Order. According to the Court’s Order, only Costa Rican personnel charged with the protection of the environment, in coordination with the Ramsar Secretariat, can enter the area and carry out activities to prevent irreparable damage. These Nicaraguan activities are not only in open violation of the obligations

³ Canal 13 (Nicaragua) “*Hostigan a jóvenes ambientalistas en Harbour Head*” (“Young Environmentalists in Harbour Head are Harassed”), 16 February 2012, Annex **CR32**; Multinoticias Canal 4 (Nicaragua) “*Juventud nicaragüense realiza labores ambientales en Harbour Head*” (“Nicaraguan Youths carry out Environmental Work in Harbour Head”), 16 February 2012, Annex **CR33**.

⁴ En Portada (RTVE) “*El Viejo Camaleon*” (“The Old Chameleon”), 11 March 2012, Annex **CR34**.

⁵ El 19 Digital (Nicaragua) “*Harbour Head, sinónimo de soberanía nacional*” (“Harbour Head, synonymous with national sovereignty”), 15 February 2012, Annex **CR11**.

⁶ Ministry of the Environment and the Natural Resources (Nicaragua), official on-line bulletin, *Inauguran diplomado sobre Río San Juan como reserva de biosfera y patrimonio nacional* (“Diploma on the San Juan River as a Biosphere and National Heritage Reserve is Inaugurated”), Annex **CR18**.

⁷ El 19 Digital “*Movimiento Guardabarranco envía contingente 52 a Río San Juan*” (52nd Guardabarranco Movement contingent sent to San Juan River), 10 May 2012, Annex **CR16**.

⁸ El 19 Digital “*Nuevo grupo de jóvenes parte hacia nuestro Río San Juan*” (“New group of youngsters go to our San Juan River”), 30 June 2012, Annex **CR21**.

⁹ Canal 13 (Nicaragua) “*Hostigan a jóvenes ambientalistas en Harbour Head*” (“Young Environmentalists in Harbour Head are Harassed”), 16 February 2012, Annex **CR32**; Multinoticias Canal 4 (Nicaragua) “*Juventud nicaragüense realiza labores ambientales en Harbour Head*” (“Nicaraguan Youths carry out Environmental Work in Harbour Head”), 16 February 2012, Annex **CR33**.

determined by the Court's Order, but also constitute open defiance by Nicaragua of the principle of territorial integrity.

These actions are attributable to Nicaragua pursuant to Article 8 of the International Law Commission's Articles on State Responsibility because the continuous presence of different contingents in the area designated by the Court, and the activities they have undertaken thereon – including so-called reforestation activities – took place under the instructions, support and the effective control of Nicaragua. A recent media report describes the sending of a new contingent of Nicaraguans to the area “as part of the Sandinista Government's policies”, and a member of this new contingent notes that it is “thanks to the Sandinista government” that he is travelling to the area.¹⁰ These instructions, support and effective control have recently been institutionalized in the form of an “academic” program run by the Government of Nicaragua in which Nicaraguans are instructed to defend the national sovereignty of Nicaragua by carrying out alleged environmental activities in the area designated by the Court. The establishment of this “academic” program is discussed in greater detail below. In any event, Nicaragua is in breach of its due diligence obligation set out in paragraph 86(1) of the Court's Order on provisional measures requiring Nicaragua to prevent and discourage any of its citizens from entering the relevant area, and to take appropriate measures in line with the Court's Order to ensure that any such persons are not maintained in the relevant area.

2.- Second visit to the area by Costa Rican environmental protection personnel

In accordance with the Ramsar-approved program for the environmental protection of the area in compliance with the Court's Order, Costa Rica's Ministry of the Environment scheduled a second visit to the area, which was carried out on 30 January 2012. This visit was previously notified to the Government of Nicaragua,¹¹ as well as to the Ramsar Secretariat and the Court. Nicaragua responded in its note MRE/DM/AJST/0061/01/12 of 30 January 2012, stating that the said visit was contrary to the Court's Order.¹² In this note, the Nicaraguan Minister of Foreign Affairs claimed that “to this date, my Government does not have any knowledge of any report about purported damages to the disputed territory or of any working plan approved by the Secretariat of the RAMSAR Convention on 7 November 2011”.

Both the report and the Ramsar Secretariat's note of approval were included in Costa Rica's Memorial, filed on 5 December 2011. This was pointed out by Costa Rica in its note DM-AM-076-12 of 9 February 2012,¹³ which also noted the presence of Nicaraguans in the area who attempted to impede the carrying out of the mission.

¹⁰ El 19 Digital “*Nuevo grupo de jóvenes parte hacia nuestro Río San Juan*” (“New group of youngsters go to our San Juan River”), 30 June 2012, Annex **CR21**.

¹¹ Note from the Minister of Foreign Affairs of Costa Rica to the Minister of Foreign Affairs of Nicaragua, Ref. DM-AM-046-12, 27 January 2012, Annex **CR1**.

¹² Note from the Minister of Foreign Affairs of Nicaragua to the Minister of Foreign Affairs of Costa Rica, Ref. MRE/DM-AJST/0061/01/12, 30 January 2012, Annex **CR2**.

¹³ Note from the Minister of Foreign Affairs of Costa Rica to the Minister of Foreign Affairs of Nicaragua, Ref. DM-AM-076-12, 9 February 2012, Annex **CR3**.

Nicaragua responded in its note MRE/DM-AJ/117/02/12 of 13 February 2012,¹⁴ in which it claimed that it “has not sent any civilian or military officials to the area in dispute” and that in the case of the “young environmentalists” who carry out environment protection activities in the area, these activities “are of a private character and have not been directed or coordinated by any governmental authority.” This attempt by Nicaragua to distance itself from these activities cannot be sustained in light of the numerous repeated statements by Nicaraguan authorities endorsing the activities.

Costa Rica responded in its note DM-AM-147-12 of 15 March 2012,¹⁵ in which it reiterated its protest against Nicaragua’s program of sponsoring the presence of Nicaraguan citizens in the area and jeopardizing the efforts undertaken by Costa Rica to safeguard the environment. In this note, Costa Rica urged Nicaragua to remove its citizens from the area, and to facilitate the joint coordination of environmental protection programs of the transborder wetland in good faith. To date, these requests by Costa Rica have met with no response. Instead Nicaragua has persisted in its failure to comply with the Court’s Order. Nicaragua has not responded to this note.

3.- Nicaragua seeks to institutionalize its presence in the disputed area through the establishment of an academic course

An official bulletin by Nicaragua’s Ministry of Foreign Affairs dated 17 February 2012, annexed to this communication,¹⁶ quotes statements by the Nicaraguan Minister of the Environment and Natural Resources, Ms. Juana Argueñal, during the inauguration of an “academic” course for the obtainment of a “Diploma on the San Juan River as a Biosphere and National Heritage Reserve”, stating that the “diploma is an important act by which *the government* continues to prioritize the teaching of values focused on organized youth” [emphasis added]. According to the bulletin, “the Minister highlighted the work carried out by the Guardabarranco Movement ‘mobilizing itself to Harbour Head Lagoon in San Juan de Nicaragua for on-site schooling...’”. She later refers to the “reforestation activities” carried out by the youths in the area. The Nicaraguan Ministry of Natural Resources and Environment (MARENA) acknowledges that the course is “given by officials of [MARENA].”¹⁷ The diploma is described in a media report as consisting of two days of study almost immediately followed by “reforestation days” carried out by participants in the area designated by the Court.¹⁸

There is no doubt that it is the Nicaraguan Government which organizes and supports the continuous presence of large numbers of persons in the area, and the inauguration of

¹⁴ Note from the Minister of Foreign Affairs of Nicaragua to the Minister of Foreign Affairs of Costa Rica, Ref. MRE/DM-AJ/117/02/12, 13 February 2012, Annex **CR4**.

¹⁵ Note from the Minister of Foreign Affairs of Costa Rica to the Minister of Foreign Affairs of Nicaragua, Ref. DM-AM-147-12, 15 March 2012, Annex **CR7**.

¹⁶ Ministry of Foreign Affairs (Nicaragua), official online bulletin, “*Inauguran diplomado sobre Río San Juan como reserva de biósfera y patrimonio nacional*” (“Diploma on the San Juan River as a Biosphere and National Heritage Reserve is Inaugurated”), 17 February 2012, Annex **CR13**.

¹⁷ Ministry of the Environment and the Natural Resources (Nicaragua), official on-line bulletin, “*Reciben diplomado sobre protección de nuestros humedales*” (“Receiving a Diploma on Protecting our Wetlands”), Annex **CR15**.

¹⁸ El Pueblo Presidente (Nicaragua) “*Jóvenes ambientalistas de Granada y Carazo participan en Diplomado Ambiental*” (“Young environmentalists from Granada and Carazo participate in Environmental Diploma”), 7 June 2012, Annex **CR20**.

this purported “academic course” is simply an attempt to institutionalize this policy, which clearly aggravates the dispute inasmuch as it constitutes a violation of the Court’s Order and also serves to heighten tensions between the two countries. Costa Rica once again protested the continuous presence of Nicaraguans in the area, as well as the inauguration of the so-called “academic course” in its note DM-AM-301-12 of 15 May 2012,¹⁹ to which Nicaragua again has not responded.

Following a more recent announcement that a new group of Nicaraguans would be deployed to the disputed area under the guise of the purported academic program, which was described in the official Nicaraguan media report entitled “*Jóvenes ambientalistas de Granada y Carazo participan en Diplomado Ambiental*” (“Young environmentalists from Granada and Carazo participate in Environmental Diploma”),²⁰ Costa Rica once again presented a formal protest to Nicaragua in its note DM-AM-386-12 of 13 June 2012.²¹ Nicaragua again has not responded to this note.

4.- Nicaragua interferes with Costa Rica’s efforts for the environmental protection of the area

The visit carried out by Costa Rica’s environmental protection personnel had the purpose of surveying the area after the first visit carried out in April 2011, to evaluate any progress on the recovery of the area, including the natural closing of the artificial *caño* dug by Nicaragua, and the determination of additional actions needing to be taken. For this purpose, stakes were positioned at selected locations along the artificial *caño*, and some marks were made in some trees as reference for future visits. The stakes were removed shortly afterwards by Nicaragua, arguing that they constituted a “provocation” by Costa Rica. This was documented in the official press release entitled “*Nicaragua: Relatos de chavalos en Harbour Head*” (“Nicaragua: Stories of Kids in Harbour Head”).²²

5.- New developments with the dredging program and its link with an inter-oceanic canal project.

Statements by Mr. Edén Pastora indicate that the ongoing dredging program carried out by Nicaragua on the San Juan River is in fact a preparatory work for the Interoceanic Canal project which the Nicaraguan Government has recently begun to promote worldwide. Mr. Pastora’s statement is included in the press note entitled “*Edén Pastora afirma que estamos listos para la construcción del canal interoceánico*” (“Edén Pastora says that we are ready for the construction of the inter-oceanic canal”).²³ This statement contradicts the assurances that Nicaragua gave the Court during the Oral

¹⁹ Note from the Minister of Foreign Affairs of Costa Rica to the Minister of Foreign Affairs of Nicaragua, Ref. DM-AM-301-12, 15 May 2012, Annex **CR8**.

²⁰ El Pueblo Presidente (Nicaragua) “*Jóvenes ambientalistas de Granada y Carazo participan en Diplomado Ambiental*” (“Young environmentalists from Granada and Carazo participate in Environmental Diploma”), 7 June 2012, Annex **CR20**.

²¹ Note from the Minister of Foreign Affairs of Costa Rica to the Minister of Foreign Affairs of Nicaragua, Ref. DM-AM-386-12, 13 June 2012, Annex **CR10**.

²² El Pueblo Presidente (Nicaragua) “*Nicaragua: Relatos de chavalos en Harbour Head*” (“Nicaragua: Stories of Kids in Harbour Head”), 16 February 2012, Annex **CR12**.

²³ 100 % Noticias (Nicaragua) “*Edén Pastora afirma que estamos listos para la construcción del canal interoceánico*” (“Edén Pastora says we are ready for the construction of an inter-oceanic canal”), 22 February 2012, Annex **CR14**.

Hearings on provisional measures that the dredging of the San Juan was a minor cleaning project.²⁴ After Mr. Pastora's statements were made public by the press on 22 February 2012, Costa Rica sent diplomatic note DM-AM-144-12 of 14 March 2012, in which it raised its concerns with Nicaragua that the dredging works were connected to the construction of an inter-oceanic canal.²⁵ In note DM-AM-145-12 also of 14 March 2012, Costa Rica requested information from Nicaragua about the canal project.²⁶ Again Nicaragua has not replied to these notes.

On 5 June 2012, Nicaraguan President Daniel Ortega formally announced the presentation of a Bill on the Inter-oceanic Canal to Nicaragua's National Assembly. As reported in the press note "*Ortega envía a la AN proyecto de ley para su discusión*" ("Ortega sends bill to the National Assembly for discussion"), the Coordinator of the Communication and Citizenship Council, First Lady Rosario Murillo, stated that "There (in the National Assembly) there are going to be discussions about this strategic project for the development of our San Juan de Nicaragua River with justice, christianity, socialism and solidarity".²⁷ Mr. Paul Oquist, Presidential Secretary for Public Policies, confirmed that "the canal would use waters from the San Juan River and Lake Cocibolca", as documented in the press report entitled "*Proyecto de Ley de Canal Interoceánico en la Asamblea*" ("Bill on the inter-oceanic canal in the Assembly").²⁸

Following these statements, Costa Rica sent note DM-DVM-374-2012 of 6 June 2012 to Nicaragua,²⁹ in which it recalled that although Nicaragua has a sovereign right to carry out works of infrastructure on its own territory, in the case of the construction of an inter-oceanic canal Costa Rica has a right to be consulted, in accordance with the 1858 Treaty of Limits and the 1888 Cleveland Award, and to the extent that Costa Rican rights may be affected, said opinion would be compulsory. Again Nicaragua has not responded to this note.

²⁴ CR 2011/2, 11 January 2011, p. 8, para. 5 (Argüello Gómez).

²⁵ Note from the Minister of Foreign Affairs of Costa Rica to the Minister of Foreign Affairs of Nicaragua, Ref. DM-AM-144-12, 14 March 2012, Annex **CR5**.

²⁶ Note from the Minister of Foreign Affairs of Costa Rica to the Minister of Foreign Affairs of Nicaragua, Ref. DM-AM-145-12, 14 March 2012, Annex **CR6**.

²⁷ El Nuevo Diario (Nicaragua) "*Ortega envía a la AN proyecto de ley para su discusión*" ("Ortega sends bill to the National Assembly for discussion"), 5 June 2012, **CR17**.

²⁸ El Nuevo Diario (Nicaragua) "*Proyecto de Ley de Canal Interoceánico en la Asamblea*" ("Bill on the Inter-oceanic Canal in the Assembly"), 6 June 2012, Annex **CR19**.

²⁹ Note from the Minister of Foreign Affairs of Costa Rica to the Minister of Foreign Affairs of Nicaragua, Ref. DM-DVM-374-2012, 6 June 2012, Annex **CR9**.

Costa Rica will inform the Court of further developments in connection to the situation in the area of Isla Portillos in so far as they may be relevant to Nicaragua's compliance with the Court's Order of 8 March 2011.

Accept, Sir, the assurances of my highest consideration,

Jorge Urbina- Ortega
Ambassador of Costa Rica to the
Kingdom of the Netherlands
Co-Agent

His Excellency
Mr. Philippe Couvreur
Registrar
International Court of Justice
Peace Palace 2517 KJ The Hague

Certification

I Certify that the following documents annexed to this letter dated 3 July 2012 are true copies and conform to the original documents and that the translations into English made by Costa Rica are accurate translations.

Signature

List of Annexes

Diplomatic Correspondence

CR1. Original and English translation of Note from the Minister of Foreign Affairs of Costa Rica to the Minister of Foreign Affairs of Nicaragua, Ref. DM-AM-046-12, 27 January 2012.

CR2. Original and English translation of Note from the Minister of Foreign Affairs of Nicaragua to the Minister of Foreign Affairs of Costa Rica, Ref. MRE/DM-AJST/0061/01/12, 30 January 2012.

CR3. Original and English translation of Note from the Minister of Foreign Affairs of Costa Rica to the Minister of Foreign Affairs of Nicaragua, Ref. DM-AM-076-12, 9 February 2012.

CR4. Original and English translation of Note from the Minister of Foreign Affairs of Nicaragua to the Minister of Foreign Affairs of Costa Rica, Ref. MRE/DM-AJ/117/02/12, 13 February 2012.

CR5. Original and English translation of Note from the Minister of Foreign Affairs of Costa Rica to the Minister of Foreign Affairs of Nicaragua, Ref. DM-AM-144-12, 14 March 2012.

CR6. Original and English translation of Note from the Minister of Foreign Affairs of Costa Rica to the Minister of Foreign Affairs of Nicaragua, Ref. DM-AM-145-12, 14 March 2012.

CR7. Original and English translation of Note from the Minister of Foreign Affairs of Costa Rica to the Minister of Foreign Affairs of Nicaragua, Ref. DM-AM-147-12, 15 March 2012.

CR8. Original and English translation of Note from the Minister of Foreign Affairs of Costa Rica to the Minister of Foreign Affairs of Nicaragua, Ref. DM-AM-301-12, 15 May 2012.

CR9. Original and English translation of Note from the Minister of Foreign Affairs of Costa Rica to the Minister of Foreign Affairs of Nicaragua, Ref. DM-DVM-374-2012, 6 June 2012.

CR10. Original and English translation of Note from the Minister of Foreign Affairs of Costa Rica to the Minister of Foreign Affairs of Nicaragua, Ref. DM-AM-386-12, 13 June 2012.

Media Reports

CR11. Original and English translation of El 19 Digital (Nicaragua) “*Harbour Head, sinónimo de soberanía nacional*” (“Harbour Head, synonymous with national sovereignty”), 15 February 2012.

CR12. Original and English translation of El Pueblo Presidente (Nicaragua) “*Nicaragua: Relatos de chavalos en Harbour Head*” (“Nicaragua: Stories of Kids in Harbour Head”), 16 February 2012.

CR13. Original and English translation of Ministry of Foreign Affairs (Nicaragua), official online bulletin, “*Inauguran diplomado sobre Río San Juan como reserva de biósfera y patrimonio nacional*” (“Diploma on the San Juan River as a Biosphere and National Heritage Reserve is Inaugurated”), 17 February 2012.

CR14. Original and English translation of 100 % Noticias (Nicaragua) “*Edén Pastora afirma que estamos listos para la construcción del canal interoceánico*” (“Eden Pastora says we are ready for the construction of an inter-oceanic canal”), 22 February 2012.

CR15. Original and English translation of Ministry of the Environment and the Natural Resources (Nicaragua), official on-line bulletin, “*Reciben diplomado sobre protección de nuestros humedales*” (“Receiving a Diploma on Protecting our Wetlands”).

CR16. Original and English translation of El 19 Digital “*Movimiento Guardabarranco envía contingente 52 a Río San Juan*” (52nd Guardabarranco Movement contingent sent to San Juan River), 10 May 2012.

CR17. Original and English translation of El Nuevo Diario (Nicaragua) “*Ortega envía a la AN proyecto de ley para su discusión*” (“Ortega sends bill to the National Assembly for discussion”), 5 June 2012.

CR18. Original and English translation of Ministry of the Environment and the Natural Resources (Nicaragua), official on-line bulletin, “*Inauguran diplomado sobre Río San Juan como reserva de biósfera y patrimonio nacional*” (“Diploma on the San Juan River as a Biosphere and National Heritage Reserve is Inaugurated”).

CR19. Original and English translation of El Nuevo Diario (Nicaragua) “*Proyecto de Ley de Canal Interoceánico en la Asamblea*” (“Bill on the Inter-oceanic Canal in the Assembly”), 6 June 2012.

CR20. Original and English translation of El Pueblo Presidente (Nicaragua) “*Jóvenes ambientalistas de Granada y Carazo participan en Diplomado Ambiental*” (“Young

environmentalists from Granada and Carazo participate in Environmental Diploma”), 7 June 2012.

CR21. Original and English translation of El 19 Digital “*Nuevo grupo de jóvenes parte hacia nuestro Río San Juan*” (“New group of youngsters go to our San Juan River”), 30 June 2012.

Photographs

CR22. New Nicaraguan camp at the mouth of the *caño* (15 February 2012)

CR23. Aerial view of new Nicaraguan camp at the mouth of the *caño* (23 February 2012)

CR24. New Nicaraguan camp at the mouth of the *caño* (6 March 2012)

CR25. Nicaraguan citizens in the new camp at the mouth of the *caño* (6 March 2012)

CR26. New Nicaraguan camp at the mouth of the *caño* with a larger tent (7 April 2012)

CR27. New Nicaraguan camp at the mouth of the *caño* with a larger tent (20 April 2012)

CR28. Second new Nicaraguan camp located 800 metres along the *caño* towards the Lagoon (6 March 2012)

CR29. Second new Nicaraguan camp located 800 metres along the *caño* towards the Lagoon with a larger tent (12 May 2012)

CR30. Second new Nicaraguan camp located 800 metres along the *caño* towards the Lagoon with a larger tent and Nicaraguan flag (12 May 2012).

CR31. Aerial view of the second new Nicaraguan camp located 800 metres along the *caño* towards the Lagoon with a larger tent (10 June 2012).

Videos

CR32. Canal 13 (Nicaragua) “*Hostigan a jóvenes ambientalistas en Harbour Head*” (“Young Environmentalists in Harbour Head are Harassed”), 16 February 2012.

CR33. Multinoticias Canal 4 (Nicaragua) “*Juventud nicaragüense realiza labores ambientales en Harbour Head*” (“Nicaraguan Youths carry out Environmental Work in Harbour Head”), 16 February 2012.

CR34. En Portada (RTVE) “*El Viejo Camaleon*” (“The Old Chameleon”), 11 March 2012.

Annex 67

Diplomatic Note from the Minister of Foreign Affairs of Nicaragua
to the Minister of Foreign Affairs of Costa Rica,
Reference MRE/DGAJ/127/03111
24 March 2011

**MINISTRY OF FOREIGN AFFAIRS**

Managua, Nicaragua

Note No. MRE-DGAJ/127103111

The Department of International Legal Affairs, Sovereignty and Territory cordially salutes the Honorable Foreign Policy Directorate General of the Ministry of Foreign Affairs and Worship of the Republic of Costa Rica and presents its most energetic protest for reiterated violations to our air space, which have been acknowledged and publicized through statements by the highest ranking authorities of the Government of Costa Rica and verified by Nicaragua.

Such violations occurred in Nicaraguan territory on March 8, 9, 11, 14, 15, 16 and 19 of 2011 in the sectors of Harbor Head, Punta de Castilla and Delta, including the disputed territory, and were carried out by Costa Rican Cessna 172-type airplanes, Bell 206 and H-500 MD helicopters, all of them belonging to the air surveillance service of the Ministry of Public Security of that country.

Such actions constitute a violation and contempt of the order issued by the International Court of Justice in its resolution of March 8, 2011 and tend to aggravate the situation in the disputed territory.

The Republic of Nicaragua demands that facts like these not be repeated as such practices do not contribute to improve neighbourly relations between our countries.

The Department of International Legal Affairs, Sovereignty and Territory of the Ministry of Foreign Affairs of the Republic of Nicaragua avails itself of this opportunity to present to the Foreign Policy Directorate General of the Ministry of Foreign Affairs and Worship of the Republic of Costa Rica the assurances of its distinguished consideration.

Managua, March 24, 2011

HONORABLE
FOREIGN POLICY DIRECTORATE GENERAL
Ministry of Foreign Affairs and Worship
Republic of Costa Rica

Annex 68

Diplomatic Note from the Minister of Foreign Affairs of Costa Rica
to the Minister of Foreign Affairs of Nicaragua,
Reference DM-DVM-217-2011
30 March 2011



The Minister of Foreign Affairs and Worship

**San Jose, March 30, 2011
DM-DVM-217-2011**

Dear Mr. Minister:

I am pleased to salute Your Excellency on the occasion of addressing you in relation to the provisional measures ordered by the International Court of Justice on March 8, 2011. In this regard, in paragraph 86 of the order issued, the Court indicated the following provisional measure:

“Notwithstanding point (1) above, Costa Rica may dispatch civilian personnel charged with the protection of the environment to the disputed territory, including the caño, but only in so far as it is necessary to avoid irreparable prejudice being caused to the part of the wetland where that territory is situated; Costa Rica shall consult with the Secretariat of the Ramsar Convention in regard to these actions, give Nicaragua prior notice of them and use its best endeavours to find common solutions with Nicaragua in this respect.”

Accordingly, Costa Rica informs the Government of Nicaragua that, in coordination with the Secretariat of the Ramsar Convention, a visit has been scheduled to the place of the wetland indicated by the Court as the disputed territory –ex hypothesi- by a mission comprised by technical staff from the Secretariat of the Ramsar Convention and Costa Rican civil personnel charged with the protection of the environment. The purpose of the aforesaid mission is to make a preliminary evaluation of the situation of the wetland, in order to determine those actions as may be necessary to avoid irreparable prejudice to that part of the wetland.

His Excellency
Mr. Samuel Santos Lopez
Minister of Foreign Affairs
Republic of Nicaragua

...No. 2
DM-DVM-217-2011

For that purpose, the aforesaid mission will be entering into the wetland on April 5 through 7, with the possibility of broadening the mission if, in consultation with the Secretariat of the Ramsar Convention, such extension is deemed necessary. Further, the mission shall enter into the place in a leased civilian helicopter. Upon carrying out the aforesaid evaluation and the respective consultations with the Secretariat of the Ramsar Convention, the actions that are deemed necessary for the protection of the wetland in accordance with the provisions set forth by the International Court of Justice will be communicated in a timely manner.

Accept, Mr. Minister, the assurances of my distinguished consideration.

/s/ illegible
Carlos A. Roverssi Rojas
Minister ad interim

[Seal:] Minister of Foreign Affairs and Worship
San Jose, Costa Rica

Annex 69

Diplomatic Note from the Minister of Foreign Affairs of Nicaragua
to the Minister of Foreign Affairs of Costa Rica,
Reference MRE/DM/AJST/349/04/11

1 April 2011

Ministry of Foreign Affairs of Nicaragua
Managua, April 1, 2011
MRE/DM/AJST/349/04/11

His Highest Excellency Mr. Minister

I am writing to you, regarding the Note DM-DVM-217-2011 dated March 30, 2011, signed by the Acting Minister Roverssi Carlos Rojas, in which is communicated to the Government of Nicaragua, that in coordination with the Secretariat of the Ramsar Convention, a visit has been scheduled from 5 to 7 April, to the territory that the International Court of Justice, has qualified as a disputed territory in its order issued on March 8 this year.

In this regard, the Government of National Reconciliation and Unity of the Republic of Nicaragua, as a faithful compliant of the decisions of that International Tribunal, and in accordance with the provisions of the Charter of the United Nations, wishes to express to the illustrious Government of Costa Rica the following:

1. The first provisional measure issued by the Court in paragraph 86 (1) of the Order, contains the general rule governing the situation in the disputed area until the Court rules on the merits. This rule mandates that:

"Each Party shall refrain from sending to, or maintaining in the disputed territory, including the *caño*, any personnel civilian, police or security"

2. Paragraph 86 (2) contains a single and very limited exception to this general rule by stating that:

"Notwithstanding point (1) above, Costa Rica may dispatch civilian personnel charged with the protection of the environment to the disputed territory, including the *caño*, but only in so far as it is necessary to avoid irreparable prejudice being caused to that part the wetland where that territory is situated: Costa Rica shall consult with the Secretariat of the Ramsar Convention in regard to these actions, give Nicaragua prior notice of them and use its best endeavours to find common solutions with Nicaragua in this respect"

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MRE/DM/AJST/349/04/11

3. To use this exception Costa Rica must have elements that indicate that there is danger of irreparable damage being caused to the disputed territory, the Ramsar Secretariat should be consulted in this regard and also consider that there is danger of irreparable harm and finally giving notice to Nicaragua but also "use its best endeavours to find common solutions with Nicaragua in this regard"

4. In this regard, the dispatch of costa rican civilian personnel can not be in order to make a "preliminary assessment" of the wetland as expressed in your note, but as deemed necessary to prevent irreparable harm. Nicaragua considers that since the date of the Order of the Court being this less than a month ago, no irreparable harm was found or demonstrated in the disputed area, the deployment of staff to the disputed area could only be justified if there was a need that arose after the Order to make that visit.

5. In any case, the Ramsar authorities should make an assessment of the information on which Costa Rica bases it request to seek entry to the disputed area. This information and RAMSAR ´s assessment should be communicated to Nicaragua in order to comply with the mandate of the Court that Costa Rica should use "its best endeavours to find common solutions with Nicaragua"

6. In relation to RAMSAR, Nicaragua recalls that experts of that Organization visited Nicaragua on March 12 to make an assessment of the wetlands. RAMSAR ´s inspection did not include a visit to the disputed area in order not to contravene the provisions of the Court, but it did include the areas in which Nicaragua has sovereignty not disputed by Costa Rica, including the so-called Head Harbor Lagoon and contours of the disputed area. Nicaragua has not received any report from RAMSAR on its findings from the visit and thus express our observations, prior to formalizing the report, so there is no information that would indicate a fact that could motivate the need to coordinate action to ensure environmental protection and / or help to avoid actions that cause irreparable damage to both sides from the disputed area.

7. The exception to the general rule prohibiting the entrance of the Parties to the disputed area is explained by the Court in paragraphs 79 and 80 of the Order. These paragraphs also refer and quote verbatim the article 5 of the

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MRE/DM/AJST/349/04/11

RAMSAR Convention which emphasizes the need for cooperation of the Parties in cases of transnational wetlands.

8. Because of this, Nicaragua considers that in order to comply with the mandate of the Court to notify Nicaragua and to make "its best endeavours to find common solutions", a simple notification 2 days prior to the visit, in which no explanation of the compelling reasons is given, it's not enough.

9. Nicaragua considers that the correct way to proceed is to receive from Costa Rica the reasons for the visit and evaluation of those reasons by RAMSAR. We also consider necessary that the assessment by RAMSAR takes into account the visit by its experts to Nicaragua on March 12, that included the areas around the disputed area located in undisputed Nicaraguan territory, including the Harbor Head Lagoon and the San Juan River that surround and feed the wetlands in dispute.

10. Because of this, Nicaragua considers that the entrance to the disputed area on the terms set by Costa Rica does not comply with the provisions of the Order of the Court of March 8, 2011.

11. Nicaragua considers that the most appropriate time to coordinate these activities would be at the meeting scheduled for April 12 in which high authorities of both Parties will attend. To this date we believe that there is sufficient time for Costa Rica and RAMSAR Authorities to report the elements mentioned above.

I take this opportunity to express the assurances of my highest esteem and consideration.

(Signature)

Samuel Santos López

His Excellency

Rene Castro Salazar

Minister of Foreign Affairs

Republic of Costa Rica

Annex 70

Diplomatic Note from the Minister of Foreign Affairs of Costa Rica
to the Minister of Foreign Affairs of Nicaragua,
Reference DM-225-11

4 April 2011

THE FOREIGN MINISTER [OF COSTA RICA]

04 April 2011

DM-225-11

His Highest Excellency Mr. Minister

I refer to your note MRE/DM/AJST/349/04/11 of April 1, 2011, regarding the activities coordinated by Costa Rica with the Ramsar Secretariat to be carried out in Humedal Caribe Noreste, whose purpose is to evaluate the necessary measures to prevent irreversible damage to the wetland.

Costa Rica acknowledges receipt of the aforementioned note, but rejects Nicaragua's interpretation of the provisional measures indicated by the International Court of Justice, as well as the application of this interpretation to the activity duly reported by Costa Rica in its note DM-DVM-217-2011 dated March 30 2011. This activity will take place in full compliance with the second provisional measure indicated by the International Court of Justice in its providence of March 8, 2011. The existence of a risk of irreversible damage is the very reason why the Court indicated such a measure. Civilian personnel responsible for the protection of the environment of Costa Rica, in consultation with the technical mission of the Secretariat of the Ramsar Convention, based on existing technical evidence, considers necessary an in situ visit for an assessment of the situation of the wetland as a result of human activities conducted in the northern area of Isla Portillos, in order to implement those actions necessary to avoid causing irreparable damage to that part of the wetland. Consequently, Costa Rica reiterates in its entirety the notice sent to Nicaragua in the note DVM-DM-217-2011 of March 30, 2011.

Costa Rica will inform Nicaragua in a timely manner the results of the visit and the technical assessments resulting from it, and will advocate so that both countries take joint actions required to protect both Humedal Caribe Noreste and the Humedal Refugio de Vida Silvestre Rio San Juan, which coexist in area.

Also in the spirit of cooperation and good neighborliness required for the conduction of our relations, and considering that the order of the International Court of Justice of March 8, 2011 calls on both countries to cooperate in the protection of the environment, Costa Rica considers that there is no reason why the protective measures to be implemented in the Humedal Caribe Noreste, to prevent irreparable damage, be a cause for the manifestations of disapproval that have been made public by Nicaragua.

Moreover, in the same spirit Costa Rica attaches to this note, the minutes of the meeting held between the technical mission of the Secretariat of the Ramsar Convention, and officials of the Ministry of Environment, Energy and Telecommunications, in charge of environmental protection in Costa Rica.

Costa Rica takes note of the information mentioned in note MRE/DM/AJST/349/04/11 on the visit of a delegation of the Secretariat of the Ramsar Convention to the Nicaraguan area surrounding Isla Portillos, including Los Portillos Lagoon. In accordance with Article 5 of the abovementioned Convention and the providence issued by the Court on March 8, 2011, Costa Rica expressed the wish that both parties share all actions necessary for the protection of wetlands Costa Ricans and Nicaraguans in this area.

Receive, Your Excellency, the assurances of my highest consideration.

/Signed and sealed/
Carlos Roverssi Rojas
Minister a.i.

His Highest Excellency
Samuel Santos Lopez
Minister for Foreign Affairs
Republic of Nicaragua

Annex 71

Note from the Minister of Foreign Affairs of Nicaragua
to the Minister of Foreign Affairs of Costa Rica,
Reference MRE/DVM/AJST/500/11/11
29 November 2011

Note from the Minister of Foreign Affairs of Nicaragua, to the Minister of Foreign Affairs of Costa Rica, Ref: MRE/DVM/AJST/500/11/11, Managua, 29 November 2011.

Managua, 29 November 2011

MRE/DVM/AJST/500/11/11

Mr. Minister:

I have the honor to address you on the occasion of referring to aspects of the construction of a 120 kilometer road (approximately) which your Government is developing in the area between Boca San Carlos and the Delta.

This road runs parallel to, and is a short distance from, the San Juan River of Nicaragua and drains into the river. Besides destroying the flora and fauna of a very extensive zone of common wetlands as a result of these activities, there is also the dumping of the residue resulting from land removal and other forms of residue into our San Juan River.

These projects have been covered extensively by the press in your country. The 17 October 2011 edition of Costa Rica's **Diario La Nación** points out that "The Government is constructing a 120 kilometer road parallel to the border with Nicaragua, in order to avoid the use of the San Juan River by the population and the Police for their travel". The article further states that the route will extend to the area which was determined by the International Court of Justice as an area in dispute by its 8 March 2011 order.

Also, the authorities of your country have confirmed the advanced stage of the project. In statements to Costa Rican newspaper, **La Prensa Libre**, The Minister for Public Security, Mr. Mario Zamora Cordera, revealed that the road parallel to the Río San Juan will be completed in December 2011.

The Government of Nicaragua reminds the Government of Costa Rica that a project of this nature should have an Environmental Impact Assessment due to their characteristics. Furthermore, this study should have been sent to the Government of Nicaragua due to the proximity to Nicaragua of this project and in conformity to International Law and the Order of the International Court of Justice on 8 March 2011 and Article 5 of the RAMSAR Convention, which stipulates that "in the case of a wetland extending over the territories of more than one contracting party or where a water system is shared by Contracting Parties. They shall at the same endeavor to coordinate and support present and future policies and regulations concerning the conservation of wetlands and their flora and fauna".

In this regard, the National Reconciliation and Unity Government of the Republic of Nicaragua can only qualify this construction project as contrary to the cited norms of

International Law as well as paragraph 86, number (3) of the abovementioned International Court of Justice Order.

Because of the above the Government of Nicaragua demands the immediate suspension of these projects until their environmental impact can be assessed.

Mr. Minister, I extend the assurances of my distinguished consideration.

Manuel Coronel Kautz
Minister by Law

To H.E. Enrique Castillo Barrantes
Minister of Foreign Affairs
Republic of Costa Rica

Annex 72

Diplomatic note from the Minister of Foreign Affairs and Worship
of Costa Rica to the Minister of Foreign Affairs of Nicaragua,
Reference DM-AM-601-11

29 November 2011

Note from the Minister of Foreign Affairs and Worship of Costa Rica to the Minister of Foreign Affairs of Nicaragua, Ref: DM-AM-601-11, 29 November 2011.

The Minister for Foreign Relations and Cult

29 November 2011

DM-AM-601-11

His Excellency Mr. Minister:

I extend my greeting to your Excellency on the occasion of referring to statements of high level authorities of the Government of Nicaragua. According to these statements a road being constructed by Costa Rica in an area on the common border with Nicaragua will supposedly cause environmental damage to Nicaraguan territory.

In relation to this issue, the Government of Nicaragua knows very well that the reasons Costa Rica has been obliged to develop this infrastructure project are related to Nicaragua's activities in the border area.

At the same time, Costa Rica considers that the project mentioned is not affecting Nicaraguan territory. Nonetheless, in the spirit of a good neighbor policy and environmental protection, as well as in compliance with pertinent agreements on this matter, the Government of Costa Rica is willing to hear Nicaragua's concerns regarding the construction of this road.

In this regard, my Government invites the Government of Nicaragua to present formally the reasons for which it considers that there may be environmental damage or damage to Nicaragua's interests. For this purpose, Costa Rica requests to receive serious and objective scientific information that proves Nicaragua's allegation. In the same spirit, my country expects the same attitude from the Government of Nicaragua regarding projects that may affect Costa Rican territory.

Finally and also in the context of the facilitation process led by the Governments of Guatemala and Mexico, Costa Rica is in the best disposition to accept the participation of both States in the discussion and analysis of common environmental issues.

Mr. Minister, please receive the assurances of my consideration.

/s/ [seal]

Enrique Castillo Barrantes

H.E. Samuel Santos López
Minister of Foreign Affairs
Republic of Nicaragua

[Stamped:]
Nicaragua Embassy
San José, Costa Rica
Office of the Ambassador
29/11/11, 10
Received by: /s/ [illegible]

Annex 73

Note from the Minister of Foreign Affairs of Nicaragua to
the Minister of Foreign Affairs of Costa Rica,
Reference MRE/DVS/VJW/0685/12/11
10 December 2011

Note from the Minister of Foreign Affairs of Nicaragua, to the Minister of Foreign Affairs of Costa Rica, Ref: MRE/DVS/VJW/0685/12/11, Managua, 10 December, 2011.

MINISTRY OF FOREIGN AFFAIRS

Managua, 10th December 2011

MRE/DVS/VJW/0685/12/11

Dear Mr. Minister:

The National Reconciliation and Unity Government regrets to communicate that, in relation to your note DM-AM-601-11 dated 29th November 2011, considers inappropriate and inadmissible to request Nicaragua to point out the damages that may result from the project that your government is constructing in the right bank of the San Juan of Nicaragua River.

The Government of Nicaragua considers that such expression is the result of a wrong interpretation of the obligation of your distinguished government to present to Nicaragua, prior to the commencement of the road, the Environmental Impact Assessment and the Environmental Management Plan, both of them being a fundamental requisite to carry out a project of such a magnitude.

Trying to invert the logic in regard to the obligations of Costa Rica implies not assuming the commitments with mother nature, International Law and the bilateral and multilateral Conventions and Treaties that your government has subscribe in defense of the environment and biodiversity, among which we can mention the Regional Convention for the Management and Conservation of the Natural Forest Ecosystems and the development of forest plantations signed in Guatemala on 29th October 1993, Stockholm Declaration, Rio Declaration, Agenda 21 and the February 2, 1971 Convention on Wetlands of International Importance especially as Waterfowl Habitat (RAMSAR), whose Article 5 was highlighted in paragraph 79 of the Order of the International Court of Justice dated March 8 2011: *“Article 5.- The contracting parties shall consult with each other about implementing obligations arising from the Convention especially in the case of a wetland extending over the territories of more than one Contracting Party or where a water system is shared by Contracting Parties. They shall at the same time endeavor to coordinate and support present and future policies and regulations concerning the conservation of wetlands and their flora and fauna”*.

The government of Costa Rica far from informing its own people and Nicaragua about the project, has kept them hidden. Furthermore, high ranking people of the government have made misleading statements in the media by affirming that the project had been ceased.

Independently of the above mentioned, it is evident that the construction of the road seriously affects the environment and the rights of Nicaragua. If the project is not ceased it would have irreversible and transcendental ecological and environmental consequences.

Among the many consequences that can be highlighted are the following:

- 1- Dumping of trees and soil along the route of the road into the river flow, difficulting and risking the navigation in its waters, over which Nicaragua has the dominion and sovereign jurisdiction based on the Treaty of 15th April 1858 and the Cleveland Award of 22nd March 1888.
- 2- Removal and sedimentation of fragile soils resulting in an increased and excessive sedimentation of the waters of the Nicaraguan river.
- 3- Impact over the hydrological resources, particularly affecting fishing in the river because of the changes in the quality of the water.
- 4- Destruction of the natural habitat of the bank by removing the immediate vegetation to the river flow for the construction of the road, affecting the tree diversity around it.
- 5- Interception of the natural flow of the waters that flow through the south basin to the San Juan River by modifying the drainage of the surrounding wetlands at the lower San Juan and its delta.
- 6- Erosion of the soil banks in places where a certain slope exists and resulting in the sedimentation of clay soils to the San Juan of Nicaragua River.
- 7- Decrease or alteration of the aquatic life due to the water cloudiness resulting from the sediments of the road construction.
- 8- Destruction of the inherent scenic values and eco-tourism potential of the river course.

I point out that the above list does not exhausts all the consequences and responsibilities of Costa Rica related to the execution of this project, including the incursions in Nicaraguan territory and the violations of the demarcation monuments.

The obligation of Costa Rica to inform Nicaragua about the Environmental Impact Assessment prior to the commencement of the project cannot be reinstated by calling upon facilitators. Nicaragua cannot accept anything less than the ceasing of the project until it has had the chance to receive and analyze the Environmental Impact Assessment on the project.

I take this opportunity to express the assurances of my consideration.

His Excellency Enrique Castillo
Minister of Foreign Affairs and Cult
Republic of Costa Rica

Seal
Embassy of Costa Rica
Managua, Nicaragua
Date: 10/12/2011
Time: 7:05 pm
Received by: Edwin Arias

Annex 74

Diplomatic note from the Minister of Foreign Affairs and Worship of
Costa Rica to the Minister of Foreign Affairs of Nicaragua,
Reference DVM-AM-286-11

20 December 2011

Seal of the Republic of Costa Rica

The Deputy Minister of Foreign Affairs and Cult

December 20, 2011

DVM-AM-286-11

Honorable Minister:

I greet Your Excellency on occasion of referring to notes MRE/DVM/AJST/500/11/14 dated November 29 and MRE/DVS/VJW0685/12/11 dated December 10, both of the current year.

In reference to both notes, the Government of Costa Rica rejects the affirmations that construction of a dirt road in the northern area of Costa Rica "severely affects the environment and the rights of Nicaragua". The alleged "consequences" of this work, enumerated by the Government of Nicaragua, is in no way evidence that it caused damages to Nicaragua, and it therefore rejects the alleged protest. Costa Rica is still waiting for Nicaragua to contribute strong evidence as to the location of the irreversible damages caused to the San Juan River alleged by Nicaragua.

It is contradictory that Nicaragua should demand from Costa Rica the "presentation to Nicaragua prior to beginning road construction, of the Environmental Impact Study and the Environmental Management Plan". Nicaragua itself has systematically refuses to provide information to Costa Rica and to submit the corresponding studies for all of the works that it develops in the border area, including dredging of the San Juan River. These works also include stream cutting and deviation of the natural riverbed. Allow me to remind Nicaragua that it continues dredging works in the San Juan River, which according to Nicaragua's own studies, suppose the removal of more than three million cubic meters of sediment. All of these sediments currently dumped in the San Juan River Wildlife Refuge wetlands, a Ramsar Convention Site, in addition to the sediments already dumped in the North Caribbean Wetlands of Costa Rica, also a Ramsar Site.

Likewise, I recall that Nicaragua has also built an airport with an extension of two kilometers directly in the same San Juan River Wildlife Refuge Wetlands, in an area adjacent to Costa Rican territory and the San Juan del Norte Bay, joint property with Costa Rica. Nicaragua did not fulfill its international obligation to serve notice to the Secretariat of the Ramsar Convention, much less to inform Costa Rica, about either of the works, neither dredging with the subsequent dumping of sediments into the wetlands or the airport construction.

Nicaragua also builds a large-scale bridge in the San Juan River and announced construction of a dam that in the words of President Ortega himself will have devastating effects for the environment in the region. Costa Rica neither received notice about any type of studies for these works.

The purpose of the works carried out by Costa Rica, under the protection of a National Emergency Decree, is to safeguard the integrity of its territory and bring development to that area of the

country. These works, undertaken with minimum possible impacts, are a consequence of the serious actions that Nicaragua made and continues to make in the borderline area. This includes the continuous defilement of the Ruling that Dictates Interim Measures issued by the International Court of Justice on March 8, 2011, by sponsoring the constant presence of members of the Sandinista Youth Organization in Costa Rican territory in the northern sector of Portillos Island, known as Aragon Farm. All of the above, without mentioning the devastation of several hectares of primary forest, as well as construction of an artificial canal in the North Caribbean Wetlands, in Costa Rican Territory.

Despite evidence that the reasons that move Nicaragua to launch the aggressive campaign against Costa Rica are not environmental; nevertheless, Costa Rica maintains its willingness to listen to any legitimate concern with due backup. In this sense, and given that Nicaragua alleges that this could cause damages to the San Juan River, Costa Rica requests immediate remittance of the existing studies about such river. Costa Rica especially request information relating to historical records on turbidity in its waters, chemical composition, historical sediment load, and all scientific data pertinent to the assessment of the river's condition, and detect any possible affectations.

Lastly, and given its relation with the Nicaraguan policy to disavow the established boundaries and threatening Costa Rican national security, the Government of Costa Rica avails itself of this occasion to introduce its most energetic protest for the events that took place yesterday, Monday December 29. Given that, a group of about 15 Nicaraguan soldiers penetrated approximately on kilometer into Costa Rican territory in the Punta Castilla sector, uttering threats against officials of the Costa Rican Public Forces in the area. This documented event is an unacceptable violation of Costa Rican sovereignty. This confirms that Costa Rica has sufficient reasons to take measures provided by international law to protect its national territory, as well as those civil works that ensure protection of its territorial integrity. It also includes those civil works that ensure full exercise of its territorial sovereignty and monitor actions carried out by foreign forces in our country. Allow us to demonstrate those violations before the respective international organizations.

Receive, Honorable Minister, the assurances of my consideration

Illegible Signature,
Carlos A. Rovers Rojas,
Deputy Minister

Stamped Seal: Ministry of Foreign Affairs
Office of the Deputy Minister
San Jose, Costa Rica
Excellency

Mr. Samuel Santos Lopez
Minister of Foreign Affairs
Republic of Nicaragua
English: NCM

Annex 75

Diplomatic Note from the Minister of Foreign Affairs of Costa Rica to
the Minister of Foreign Affairs of Nicaragua,
Reference DM-AM-046-12
27 January 2012

The Minister of Foreign Affairs and Worship

January 27, 2012

DM-AM-046-12

Mr. Minister:

I salute your Excellency on the occasion of addressing you in reference to the provisional measures ordered by the International Court of Justice on March 8, 2011, specifically relating to sending civilian personnel charged with the protection of the environment to the “disputed territory” *–ex hypothesi–* in order to avoid irreparable prejudice caused to that part of the Northeast Caribbean Wetland.

According to the work plan presented to, and approved by the Ramsar Convention Secretariat through letter dated November 7, 2011, Costa Rica will be making a new technical visit to the aforesaid territory at the beginning of next week for purposes of complying with the provisions of the court order.

Both the Ramsar Convention Secretariat and the International Court of Justice are being informed about this visit.

Accept, Sir, the assurances of my consideration.

/s/ illegible
Carlos A. Roverssi Rojas
Minister ad interim

[Seal:] Minister of Foreign Affairs and Worship
San Jose, Costa Rica

His Excellency
Mr. Samuel Santos Lopez
Minister of Foreign Affairs
Republic of Nicaragua

Annex 76

Diplomatic Note from the Minister of Foreign Affairs of Nicaragua to
the Minister of Foreign Affairs of Costa Rica,
Reference MRE/DM-AJ/116/02/12
13 February 2012

The Minister of Foreign Affairs

Managua, February 13, 2012

MRE/DM-AJ/116/02/12

Mr. Minister:

I am writing to you on this occasion to let you know that this Ministry has been duly informed of violations of Nicaraguan air space in the last months.

In this regard, the Government of Reconciliation and National Unity of the Republic of Nicaragua has refrained from sending formal protest notes to the Republic of Costa Rica to avoid situations that could cause tension in the relations between both countries, and striving to achieve mechanisms that promote the adoption of mutually agreed solutions, it has been proposing dialogue mechanisms between Nicaragua and Costa Rica before the national and international public opinion. In this regard, diverse media have informed about the proposals made by President Daniel Ortega Saavedra in 2011 and during this year.

In accordance with the information obtained and verified, Cessna-type airplanes flying the Costa Rican flag have flown over Nicaragua's air space on various occasions during this year. According to this information, this type of violation acts have occurred, inter alia, on the June 17, 22 and 29, July 21 and 25, August 4, 8, 19 and 27, September 3, 7, 9, 22 and 23, October 22 and November 3, all in 2011, and on January 24 of this year, and it should be added that 15 illegal overflights were reported during the period comprised between the months of August and December of 2010, as well as 17 illegal overflights during the period comprised between January and May of two thousand eleven.

[Seal:] MINISTER OF FOREIGN AFFAIRS
Managua
REPUBLIC OF NICARAGUA
CENTRAL AMERICA
/s/ illegible /s/ illegible

His Excellency
Mr. Jose Enrique Castillo Barrantes
Minister for Foreign Affairs and Worship
Republic of Costa Rica

Page N° 2
MRE/DM-AJ/116/02/12
February 13, 2012

The aforesaid overflights have not counted with the authorization of the competent Nicaraguan authorities. I wish to inform you that among the places illegally flown over in the Republic of Nicaragua are Harbor Head Lagoon and San Juan de Nicaragua River.

In second place, on behalf of the Government of Reconciliation and National Unity of the Republic of Nicaragua, I wish to express that this Ministry has been informed about the NOTAM issued by Mr. Jorge Fernandez, Director General of Costa Rica's Civil Aeronautics Directorate General, including location coordinates found in Nicaraguan territory and air space, to name a few, latitude 10°55.00'N and longitude 083°40.00'W, as well as the line that unites the points between latitude 10°51.64'N and longitude 083°40.12'W and latitude 10°55.15' and longitude 083°39.86'W.

Finally, my Government has seen with great surprise the statements made by Mr. Luis Alberto Rojas Bolaños, Director of the Tortuguero Conservation Area, published in the mass media, in which he affirms that overflights are carried out in the disputed territory and along the border together with that country's Public Force. In this respect, such affirmations show that failing to process and obtain the respective "overflight and/or landing" permits violates national sovereignty, international law, the order issued by the International Court of Justice on March 8, 2011, and provisions of Articles 3, 11 and 12 of the Chicago Convention.

Based on the foregoing, I present the most energetic protest and request your Government take the necessary measures so that acts of this nature are not repeated.

My Government considers that these facts do not contribute to the compliance of your Government with the provisional measure ordered by the International Court of Justice on March 8 last, so as not to aggravate or extend the dispute before the Court, or make it more difficult to resolve.

I avail myself of this opportunity to assure Your Excellency of my highest consideration.

/s/ illegible
Samuel Santos Lopez

[Seal:] MINISTER OF FOREIGN AFFAIRS
Managua
REPUBLIC OF NICARAGUA
CENTRAL AMERICA

Annex 77

Diplomatic Note from the Minister of Foreign Affairs and Worship of
Costa Rica to the Minister of Foreign Affairs of Nicaragua,
Reference DM-AM-045-12,
26 January 2012 (1)

Diplomatic Note from the Minister of Foreign Affairs of Nicaragua
to the Minister of Foreign Affairs and Worship of Costa Rica
Reference MRE/DM-AJ/118/02/12,
13 February 2012 (2)

Diplomatic Note from the Minister of Foreign Affairs and Worship of
Costa Rica to the Minister of Foreign Affairs of Nicaragua,
Reference DM-AM-144-12,
14 March 2012 (3)

Diplomatic Note from the Minister of Foreign Affairs and Worship of
Costa Rica to the Minister of Foreign Affairs of Nicaragua,
Reference DM-AM-045-12,
26 January 2012 (1)

The Minister of Foreign Affairs and Worship

26 January 2012
DM-AM-045-12

Dear Excellency the Minister:

I am greeting your Excellency with reference to your note DVM-AM-286-11, dated 20 December 2011.

In referenced note my government requested yours to send all the existing studies about the San Juan River, especially those having to do with the historical records of the turbidity of its waters, the chemical composition, the historical sediment load, and all scientific data that is relevant for the evaluation of the condition of the river, in order to scientifically assess its situation.

In the same note Nicaragua was requested to send all studies about the impact on the San Juan River caused by the construction of a bridge, in a sector close to San Carlos de Nicaragua, to be able to determine joint courses of action, should they be necessary.

A request was also made for technical and environmental information about the construction of an airport near the San Juan del Norte Bay, in the Río San Juan wetland wildlife refuge, to be able to determine if this bay, of which Costa Rica is co-owner, is being impacted.

Given that Costa Rica has not received any information to this respect, I reiterate again our interest in receiving it promptly.

Please accept the assurances of my consideration.

[firma] [sello]
Carlos A. Roverssi Rojas
Minister a.i.

His Excellency
Samuel Santos López
Minister of Foreign Affairs
Republic of Nicaragua

Diplomatic Note from the Minister of Foreign Affairs of Nicaragua
to the Minister of Foreign Affairs and Worship of Costa Rica
Reference MRE/DM-AJ/118/02/12,

13 February 2012 (2)

The Minister of Foreign Affairs
Managua, 13 February 2012
MRE/DM-AJ/118/02/12

Dear Minister,

I am writing to you with reference to your Notes DVM-AM-286-11 dated 20 December 2011 and DM-AN-045-12 dated 26 January of this year, in which you wish to refer among other things, to aspects of sovereignty and the environment.

With regards to the request for studies about the impact on the environment that the 160 kilometer long road that your country is building parallel to the San Juan River will cause; Nicaragua is surprised that Costa Rica is unaware of the obligations for burden of proof provided under International Law, as conventions relative to the environment are, particularly de RAMSAR Convention.

For this reason, in regard to your specific request for technical documents, it was up to your government to present them even before starting the construction work.

It surprises my government that the Republic of Costa Rica continues to emphasize supposed damages caused by Nicaragua's cleaning of the San Juan River. Your government presented this issue to the International Court of Justice during the Public Hearings that took place in January 2011, without providing any supporting evidence as was expressed by the Court in its Order of 8 March 2011, paragraph 82 that states:

"82. Whereas it cannot be concluded at this stage from the evidence adduced by the Parties that the dredging of the San Juan river is creating a risk of irreparable prejudice to Costa Rica's environment or to the flow of the Colorado river; whereas nor has it been shown that, even if there were such a risk of prejudice to rights Costa Rica claims in the present case, the risk would be imminent; and whereas the Court concludes from the foregoing that in the circumstances of the case as they now stand the second provisional measure requested by Costa Rica should not be indicated"

His Excellency
José Enrique Castillo Barrantes
Minister of Foreign Affairs and Worship
Republic of Costa Rica
Your office

[signature] [seal]

Page 2

MRE/DM-AJ/118/02/12
13 February 2012

A contrario sensu, the road that Costa Rica is constructing parallel to the River is causing damages to navigation and the environment by spilling sediment into the riverbed, and the small handicraft cleaning equipment hardly competes with the more than seven hundred pieces of equipment and machinery of your country that are destroying the soil, the vegetation and the water sources that feed the San Juan River.

As to your reference to the construction of an airport in an area "adjacent" to Costa Rican territory and of a major bridge over the San Juan River, I would like to state that both projects were properly open to public tendering and have received advice, supervision and financing of International Organizations and donating countries respectively. For the airport I would like to mention the International Civil Aviation Organization and the Inter-American Development Bank, and for the bridge, funds of the Japanese Cooperation, and it has even been shown that this bridge would benefit both countries.

Prior to their approval, the consulting and donating organizations and countries have seen the required documentation, about technical matters and matters relating to the protection of the environment among other things, unlike the procedure for the construction of a road parallel to the San Juan River by your country, which was carried out without tendering and without fulfilling basic requirements like the environmental impact study and action plan.

Both projects are far away from Costa Rican territory and not at a few meters distance like the mentioned road that Costa Rica is building. As regards your allusion to the fact that the airport is located adjacent to what you identify as "San Juan Bay, jointly owned by Costa Rica", I should clarify to you that this bay ceased to exist many years ago, hence so did any right that Costa Rica can claim over it.

About the announcement of the construction of a dam; that is a project for which the respective studies of feasibility are still being conducted, and it will be carried out with all the requirements imposed by International Law.

Page 3

MRE/DM-AJ/118/02/12
13 February 2012

As regards to what is stated in the last paragraph of Note DVM-AM-286-11 concerning the supposed incursion of 15 soldiers of the Nicaraguan Army on Costa Rican territory in the Punta de Castilla sector on 19 December 2011, on the ground of which, unsubstantiatedly, you attempt to justify the construction of a road parallel to the San Juan River, to which I have referenced in Notes MRE/DVM/AJST/500/11/11 and MRE/DVS/VJW/0685/12/11 dated 29 November 2011 and 10 December 2011 respectively; after investigating the case, in the name of the Government of Reconciliation and National Unity, I strongly reject such a claim, because this never happened.

The only incursions known to my country are the ones carried out by officers and officials of your Government on Nicaraguan territory, by overflights as we have indicated in Note *MRE/DM-AJ/116/02/12* as well as by individuals coming from your country to prey on the Nicaraguan plant and animal life, which will occur more often with the construction of the road.

I take this opportunity to renew the assurances of my consideration.

[firma]

[sello]

Samuel Santos López

Diplomatic Note from the Minister of Foreign Affairs and Worship of
Costa Rica to the Minister of Foreign Affairs of Nicaragua,
Reference DM-AM-144-12,
14 March 2012 (3)

The Minister of Foreign Affairs and Worship

San José, 14 March 2012
DM-AM-144-12

Excellency:

I am writing to you with reference to your note MRE/DM-AJ/118/02/12, dated 13 February 2012, by means of which your Government responds to two Costa Rican notes.

Firstly, I refer to the request made by Costa Rica about technical information relating to the quality of the waters of the San Juan River, and about the impact of the infrastructure works that are being carried out by Nicaragua in the border area. The information requested by Costa Rica from your country about the situation of the waters of the San Juan River and that your country refuses to provide, only demonstrates that the alleged damages of which Nicaragua accuses Costa Rica are non-existent.

Also, the fact that infrastructure works, being carried out by Nicaragua in the border area, are financed or endorsed by third countries or financial organizations, in no way implies that these works don't affect the environment or Costa Rica. Nicaragua never presented reports of any kind to the Republic of Costa Rica about these works.

As to your rejection of the damages caused by the dredging of the San Juan River by Nicaragua, my country reiterates that they are real. The mere fact that representatives of your government have acknowledged that the dredging is really intended for the construction of an interoceanic canal, is irrefutable proof of this and of the non-compliance by Nicaragua with its international obligations.

In relation to you allusion to the fact that Costa Rica has supposedly lost its rights over the San Juan del Norte Bay, or, where appropriate, over the territory that comprises the area where the Bay was situated in 1858 – if indeed it has ceased to exist--, this is entirely unsupported and unfounded and my country rejects it outright. In accordance with the referenced Treaty and international law, Costa Rica's rights of condominium over the San Juan del Norte and Salinas Bays are intact and they include not only the water column but also the airspace, the soil and subsoil of the aforementioned bays.

Finally, Costa Rica reaffirms the contents of its letter of protest against the illegitimate incursion of Nicaraguan soldiers on Costa Rican territory.

I take this opportunity to renew the assurances of my consideration.

[firma] [sello]
Enrique Castillo Barrantes
Minister

His Excellency
Samuel Santos López
Minister of Foreign Affairs
Republic of Nicaragua

Annex 78

EXCERPTS

Joint Declaration of the Presidents of the Republics of Costa Rica,
Rafael Angel Calderon Fournier and Nicaragua,
Mrs. Violeta Barrios de Chamorro, Managua,
Republic of Nicaragua

31 January 1991 (1)

Final Record of the IV Binational Nicaragua-Costa Rica meeting
12 – 13 May 1997 (2)

Final Record of the V Binational Nicaragua-Costa Rica meeting
19 – 20 October 2006 (3)

VII Meeting of the Nicaragua-Costa Rica, Bi-national Commission
3 October 2008 (4)

Joint Declaration of the Presidents of the Republics of Costa Rica, Rafael Angel Calderon Fournier and Nicaragua, Mrs. Violeta Barrios de Chamorro, Managua, Republic of Nicaragua, 31 January 1991 (1)

VII.- Upon analyzing and assessing the state of the bilateral relations between their countries, they agreed to create a Binational Commission in order to strengthen and deepen the bonds of cooperation between their respective peoples and governments

Final Record of the IV Binational Nicaragua-Costa Rica meeting, 12 – 13 MAY 1997 (2)

2.b.1.2. Development of a project for detailed, large-scale maps in the border area between Punta de Castilla and Peñas Blancas

Final Record of the V Binational Nicaragua-Costa Rica meeting, 19 – 20 October 2006 (3)

3. SUB COMMISSION FOR BORDER AFFAIRS

The delegations agreed that in the first semester of 2007 it was necessary to organize a work plan for the restoration and replacement of the main border markers, as well as the border markers installed in conformity with the 1858 Jérez-Cañas Border Treaty and the Alexander Decisions.

...

The Delegations agreed that the IGN and the INETER should continue geodesic studies in order to determine the precise location of Marker I. For this purpose, during the first quarter of 2007, they will carry out the necessary coordination.

VII Meeting of the Nicaragua-Costa Rica, Bi-national Commission, 3 October 2008 (4)

19. Also, both Delegations welcomed the signing of a Letter of Agreement between the National Geographic Institute of the Public Works and Transport Ministry of Costa Rica and the Nicaraguan Territorial Studies Institute on Geographical Information, Cooperation and Exchange. See addendum.

In the first actions derived from the Letter of Agreement both Institutes agree to exchange during the fourth trimester of the year 2008, all the necessary information in order that geodetic coordinates be consistent with the land border markers between both countries in view of the ratification of the process for increasing the markers jointly installed to date. They also agree to initiate coordinated preparatory measures for the development of the basic compatible cartography in the common border area.

Annex 79

Minutes of the Public Consultation in San Juan de Nicaragua

9 August 2006 (1)

Certification of the Municipal Council of San Juan de Nicaragua

10 August 2006 (2)

Minutes of the Public Consultation in San Juan de Nicaragua

9 August 2006(1)

San Juan de Nicaragua, 9 August 2006**RECORD**

The Municipality of San Juan de Nicaragua, MARENA and the National port Authority (EPN) invited the population, the civil and military authorities, of this Municipality, to the presentation of the Environmental Impact Document FOR THE IMPROVEMENT OF NAVIGATION ON THE SAN JUAN DE NICARAGUA RIVER (Delta of the Colorado - San Juan de Nicaragua). This activity was held in the auditorium of the soup kitchen for children of this town.

The Study was prepared and presented by the experts hired for that purpose by the company COREA Y ASOCIADOS S.A.

After having heard the analysis and technical explanations of the Social, environmental, hydrogeological, situation and the environmental management program and its plans for monitoring and environmental control, contingency planning, environmental education program, and the environmental restoration program.

These programs are all integrally designed to minimize, protect and restore the negative impacts that the project might have on the ecological environment of the river due the action of the Dredging.

We, the local authorities, the population and the institutions present, have been satisfied, not only with the explanations but that a project of great importance for the development of this municipality is becoming a reality, that we have been requesting for a long time, and it is only in this year 2006 that a promise, made so many times, is fulfilled.

Given in the Municipality of San Juan de Nicaragua of the Río San Juan Department on the ninth day of the month of August of the year two thousand and six.

Therefore, to attest to our satisfaction we sign:

[seal] [signatures]

Certification of the Municipal Council of San Juan de Nicaragua

10 August 2006 (2)

MUNICIPALITY
SAN JUAN DE NICARAGUA
Río San Juan Department

CERTIFICATION No.

The undersigned Secretary of the Municipal Council certifies that after having heard the analysis and technical explanations of the Social, Environmental situation, and the environmental management program and its programs for monitoring and environmental control, contingency planning, environmental management program and environmental restoration program.

We know that all these programs are integrally designed to minimize, protect and restore the negative impacts that the project might cause to the ecological environment of the river due to the action of the dredging.

We, the local authorities, the public, and the representatives of the institutions present, have been satisfied, so that during the debate on the report about the environmental impact that the dredging might cause there was no disagreement from the population, since a project of great importance for the development of this municipality is becoming a reality.

Given in the Municipality of San Juan de Nicaragua (Greytown) Río San Juan Department on the tenth day of the month of August of the year 2006

[signature]

Hilario Alberto Ballestero Casanova
Secretary of the Municipal Council
San Juan de Nicaragua, R.S.J.

Annex 80

Affidavit of José Magdiel Pérez Solis (Police)

15 December 2010

AFFIDAVIT OF JOSÉ MAGDIEL PÉREZ SOLIS (POLICE)

AFFIDAVIT

[SEAL] **LEGAL INSTRUMENT NUMBER ONE HUNDRED FIFTY TWO (152).- (NOTARIZED STATEMENT).**- In Managua City, at six in the afternoon of December fifteen two thousand ten.- Before me, **WALNER ABRAHAM MOLINA PÉREZ**, Lawyer and Notary Public of the Republic of Nicaragua, with domicile and residence in this city, duly authorized by its Excellence Supreme Court of Justice to practice in this profession of Notary Public during the five years prior to April fifteen two thousand and thirteen, personally appears Mr. **JOSÉ MAGDIEL PÉREZ SOLIS**, identifying himself with Identification Document Number: **uno, seis, cuatro, slash, two, eight, cero, nine, five, seven, slash, cero, cero, cero, cero, M (164-280957-0000M)**, adult, married, Major Police Commissioner of the Nicaraguan National Police, with domicile in San Carlos City, Department of Río San Juan, in transit in this city; whom I attest to personally know, and whom under my judgment has the necessary civil and legal capacity to contract and obligate himself, and specially to execute this instrument. Manifests as follows: **First:** I am a citizen of the Republic of Nicaragua, born in Estelí City, Department of Estelí, on September twenty eight, nineteen fifty seven. I currently have my domicile in San Carlos, Department of Río San Juan.- **Second:** I was appointed Chief of the Departmental Delegation of the National Police in the Río San Juan Department on March, two thousand and eight (2008), a position that I have until this day. The San Juan Delegation has fifteen (15) officers located in San Juan de Nicaragua, and twenty one (21) officers that constitute the Rural Intervention Group (GIR), which is activated accordingly with the operations done in the zone, against narcotics trafficking and so on. In San Juan de Nicaragua we have a one hundred fifteen horsepower motorboat with capacity for ten people, which we use for constant patrol activities in the Harbor Head Lagoon area and its streams, when they are navigable. During winter, patrol activities have, as an access point, the bar located in the Caribbean just in front of the Harbor Head Lagoon, due to the water flood that creates this access point. Also, during winter, the streams turn navigable, and so we can carry out inspection patrol activities there. Nevertheless, we cannot cover certain parts of the streams that are not navigable due to sedimentation. Patrol activities are carried out once or twice a week, sometimes jointly with the Nicaraguan Army and sometimes only by the National Police. Since two thousand and eight (2008), up to this day, I have never seen Costa Rican presence in the zone.- In two thousand and eight (2008) we received a visiting delegation of the Costa Rican Public Force, in San Carlos, for meeting the

Nicaraguan National Police, where police-related information was exchanged, and where the presence of Nicaraguan National Police throughout the south east zone of Nicaragua, including the Harbor Head zone, was informed. Communications between the Nicaraguan National Police and the Costa Rican public Forces have always been fluent and it is valid to comment that we have never had any problems, even more, we have always exchanged, in a reciprocal manner, all kind of information for fugitive capturing.- The National Police Operational Plan in the Harbor Head zone, and all the San Juan River zone has not changed, keeping its permanent nature.- - As this was expressed by the party in appearance, well instructed by Me, the Notary Public, about the scope, merit and legal consequences of this act, its purpose, the one in its General Provisions that assure its validity, of the Special ones it contains, of the ones involving waivers and explicit or implicit provisions.- I read this affidavit to the party in appearance, whom agrees, approves and ratifies.- Signed jointly with Me, the Notary Public that certify all what was done.- (s) José M. Pérez S.-

Done before Me, from the back of the Folio Number One Hundred Thirty Seven (137) to the front of the Folio Number One Hundred Thirty Eight (138) of my REGISTRY NUMBER TWENTY THREE (23) that I file this year.- On the request of the Ministry of Foreign Affairs of the Republic of Nicaragua, I issue this FIRST AFFIDAVIT, composed of ONE (1) Useful Folio, that I rubric, sign and seal in Nicaragua City at six thirty on the afternoon of December fifteen, two thousand and ten.-

[SEAL]

[SIGNED]

Annex 81

Affidavit of Gregorio de Jesús Aburto Ortiz (Police)
15 December 2010

AFFIDAVIT OF GREGORIO DE JESÚS ABURTO ORTIZ (POLICE)

AFFIDAVIT

[SEAL] **LEGAL INSTRUMENT NUMBER ONE HUNDRED FORTY EIGHT (148).- (NOTARIZED STATEMENT).**- In Managua City, at two in the afternoon of December fifteen two thousand and ten.- Before me, **WALNER ABRAHAM MOLINA PÉREZ**, Lawyer and Notary Public of the Republic of Nicaragua, with domicile and residence in this city, duly authorized by its Excellence Supreme Court of Justice to practice in this profession of Notary Public during the five years prior to April fifteen two thousand and thirteen, personally appears Mr. **GREGORIO DE JESÚS ABURTO ORTIZ**, identifying himself with Identification Document Number: **zero, four, one, dash, zero, eight, zero, five, five, five, dash, zero, zero, zero, one, Q (041-080555-0001 Q)**, adult, married, Major Police Commissioner of the Nicaraguan National Police, with domicile in Jinotepe City, Department of Carazo, in transit in this city; whom I attest to personally know, and whom under my judgment has the necessary civil and legal capacity to contract and obligate himself, and specially to execute this instrument. Manifests as follows: **First:** I am a citizen of the Republic of Nicaragua, born in Jinotepe City, Department of Carazo, on May eight, nineteen fifty five. I currently have my domicile in Jinotepe City, Department of Carazo- **Second:** From nineteen seventy nine (1979) to nineteen eighty three I was appointed Chief of the Police Delegation of Río San Juan. Our main duty consisted in keeping public security at south east Nicaragua, specifically at the San Juan, El Castillo, Greytown, Harbor Head and the Caribbean coast line zones, and to cooperate with the Popular Sandinista Army, today's Nicaraguan Army, in the defense of the country's sovereignty. At that time, the nearest town to the Harbor Head lagoon was Greytown, point in which the Army had the Borderline Guard Troops (TGF).- I recall that the TGF detachment was located in a rustic construction, a stall, supported by a wooden base in the Harbor Head swamp.- The Police Delegation, of which I was appointed Chief, was located up river, in San Carlos. Under our patrol and security activities, it is important to point out that we had permanent presence in the Harbor Head zone, where we carried out constant patrol activities. The patrol activities were carried out by two methods, one by small "panga" boats, and the other by walking where it was possible. Our patrols in "pangas" or low powered boats, were carried out through the different entrance routes of the Head Harbor lagoon. Due to the vegetation characteristics in the zone, we had to be preventive and cautious while carrying out patrols, which is the reason why we used the streams that connect the San Juan River with the Harbor Head lagoon, looking for counter

revolutionaries, narcotics traffickers, law fugitives and, in general, all kinds of operations that were and are included in the National Police mandate.- Since two thousand four (2004) through two thousand five (2005) I was appointed Chief of the Police Detachment at Río San Juan. In this new period, the Police post was in the same position where it is now, with a strong structure; I have to say that during 2004 and 2005 there was no presence of Costa Rican civil authorities or public forces in the Harbor Head zone. The Costa Rican public force body always kept itself up in the Sarapiquí River. Our patrol missions were sometimes conducted jointly with the Naval Force members, whom had a post point in Greytown. The operations carried out basically consisted in contingents against wild life trafficking and drug trafficking. Related to the later, it is important to point out the capture of the “Tarzanes” criminal organization that was involved in the assassination of four policemen located in Bluefields. We also shared patrol activities with public servers of the Ministry of Natural Resources and Environment (MARENA), to prevent natural resources trafficking.- As this was expressed by the party in appearance, well instructed by Me, the Notary Public, about the scope, merit and legal consequences of this act, its purpose, the one in its General Provisions that assure its validity, of the Special ones it contains, of the ones involving waivers and explicit or implicit provisions.- I read this affidavit to the party in appearance, whom agrees, approves and ratifies.- Signed jointly with Me, the Notary Public that certify all what was done.- (s) Gregorio Aburto O.- (s) Molina.- Notario.-

Done before Me, from the back of the Folio Number One Hundred Thirty Four (134) to the front of the Folio Number One Hundred Thirty Five (135) of my REGISTRY NUMBER TWENTY THREE (23) that I file this year.- On the request of the Ministry of Foreign Affairs of the Republic of Nicaragua, I issue this FIRST AFFIDAVIT, composed of ONE (1) Useful Folio, that I rubric, sign and seal in Nicaragua City at two thirty on the afternoon of December fifteen, two thousand and ten.-

[SEAL]

[SIGNED]

Annex 82

Affidavit of Luis Fernando Barrantes Jiménez (Police)

15 December 2010

AFFIDAVIT OF LUIS FERNANDO BARRANTES JIMÉNEZ (POLICE)

AFFIDAVIT

[SEAL] **LEGAL INSTRUMENT NUMBER ONE HUNDRED FIFTY (150).- (NOTARIZED STATEMENT).**- In Managua City, at four in the afternoon of December fifteen two thousand and ten.- Before me, **WALNER ABRAHAM MOLINA PÉREZ**, Lawyer and Notary Public of the Republic of Nicaragua, with domicile and residence in this city, duly authorized by its Excellence Supreme Court of Justice to practice in this profession of Notary Public during the five years expiring April fifteen two thousand and thirteen, personally appears Mr. **LUIS FERNANDO BARRANTES JIMÉNEZ**, identifying himself with Identification Document Number: **zero, zero, one, dash, two, seven, zero, seven, five, nine, dash, zero, zero, two, nine, H (001-270759-0029 H)**, adult, married, Major Police Commissioner of the Nicaraguan National Police, with domicile in Chinandega City, Department of Chinandega, in transit in this city; whom I attest to personally know, and whom under my judgment has the necessary civil and legal capacity to contract and obligate himself, and specially to execute this instrument. Manifests as follows: **First:** I am a citizen of the Republic of Nicaragua, born in Managua City, Department of Managua, on July twenty seven, nineteen fifty nine. I currently have my domicile in Managua City, Department of Managua- **Second:** Since nineteen ninety seven (1997) through nineteen ninety nine (1999), I was appointed Chief of the Police Delegation at San Juan River.- At that time the National Police presence at San Juan River of Nicaragua was constant, and had the duty of ensuring public order and security in the zone between the Harbor Head lagoon and the surrounding streams, where we constantly had patrols to prevent crime and drug trafficking, which was already serious, a zone in which we never found the presence of any Costa Rican civil authority or public force, there were only Nicaraguans. We were also present at the more sedimentary zone, at the river margin, which was considered a high risk zone.- At that time, Arnolando Alemán, ex President, visited the zone of San Juan River twice, as is usual, security operations were set up which included the presence of three fellow officers at the Harbor Head swamp. The duty of these officers of the National Police at Harbor Head was to secure the perimeter. As part of the security operations the Harbor Head, San Juan River, San Juan del Norte and surrounding zones were flown over by a helicopter belonging to the Nicaraguan Army; Harbor Head was an area that was included in our security operations, in special operations and in constant patrol activities of the National Police because it was considered Nicaraguan territory. During the period in which I rendered my service as Chief

of the Delegation of the National Police at San Juan River, we never received any complaint or protest from any Costa Rican authority or public force and, in the same way; we never saw any presence of Costa Rican civil or public force authorities at Harbor Head.- As this was expressed by the party in appearance, well instructed by Me, the Notary Public, about the scope, merit and legal consequences of this act, its purpose, the one in its General Provisions that assure its validity, of the Special ones it contains, of the ones involving waivers and explicit or implicit provisions.- I read this affidavit to the party in appearance, whom agrees, approves and ratifies.- Sing jointly with Me, the Notary Public that certify all what was done.- (s) L. F. Barrantes.- (s) Molina.-

Done before Me, from the front of the Folio Number One Hundred Thirty Six (136) to the back of the same Folio of my REGISTRY NUMBER TWENTY THREE (23) that I file this year.- On the request of the Ministry of Foreign Affairs of the Republic of Nicaragua, I issue this FIRST AFFIDAVIT, composed of ONE (1) Useful Folio, that I rubric, sign and seal in Nicaragua City at four thirty on the afternoon of December fifteen, two thousand and ten.-

[SEAL]

[SIGNATURE]

Annex 83

Affidavit of Douglas Rafael Pichardo Ramírez (Police)

15 December 2010

AFFIDAVIT OF DOUGLAS RAFAEL PICHARDO RAMÍREZ (POLICE)

AFFIDAVIT

[SEAL] **LEGAL INSTRUMENT NUMBER ONE HUNDRED FORTY NINE (149).- (NOTARIZED STATEMENT).**- In Managua City, at three in the afternoon of December fifteen two thousand and ten.- Before me, **WALNER ABRAHAM MOLINA PÉREZ**, Lawyer and Notary Public of the Republic of Nicaragua, with domicile and residence in this city, duly authorized by its Excellence Supreme Court of Justice to practice in this profession of Notary Public for the five years prior to April fifteen two thousand and thirteen, personally appears Mr. **DOUGLAS RAFAEL PICHARDO RAMÍREZ**, identifying himself with Identification Document Number: **zero, eight, four, dash, zero, one, one, zero, five, six, dash, zero, zero, zero, zero, Y (084-011056-0000Y)**, adult, married, Major Police Commissioner of the Nicaraguan National Police, with domicile in Chinandega City, Department of Chinandega, in transit in this city; whom I attest to personally know, and whom under my judgment has the necessary civil and legal capacity to contract and obligate himself, and specially to execute this instrument. Manifests as follows: **First:** I am a citizen of the Republic of Nicaragua, born in Chinandega City, Department of Chinandega, on May first, nineteen fifty six. I currently have my domicile in Chinandega City, Department of Chinandega- **Second:** From nineteen eighty two (1982) to nineteen eighty seven (1987), I was appointed Chief of the Police Delegation of San Juan del Norte, now known as San Juan de Nicaragua, period in which the regional conflicts were related to armed conflicts with the counter revolutionary forces.- From nineteen ninety two (1992) to nineteen ninety-four (1994), I was appointed as Second Chief of the National Police Delegation in San Carlos, San Juan River, years during which the nature of the patrol activities had changed. In such days, the counter revolutionary forces were already expelled from the country's south east, and our patrol activities corresponded to keeping the security of those citizens that lived in what was known as Greytown, as well as a constant battle against narcotics trafficking groups in what is now known as San Juan de Nicaragua, which covered the zone between Harbor Head and the Caribbean coast line up to Punta Castilla.- In two thousand eight (2008), I was appointed as Second Chief at the [illegal] Drug Directorate of the Special Forces Detachment of the National Police in that zone, carrying out several operations, including the one known as "Plan Todo Incluido", that covered among other things, overseeing the commonly utilized routes for narcotics trafficking, as it was the case in Harbor Head. At that time we fluidly navigated from the river's Delta to its mouth using one hundred fifteen (115) horsepower motor

boats. During winter time, the Harbor Head's canals became navigable, but not all of them, there were some places in which we pushed the boats. Even though, these canals were included in our patrol activities. Things are different in summer time when the river conditions change and most of the streams become dry and not navigable. During our constant patrol activities throughout all the Harbor Head zone and its streams, Indio River, the lagoon and the San Juan River we never found any Costa Rican authorities neither civil servants.- As this was expressed by the party in appearance, well instructed by Me, the Notary Public, about the scope, merit and legal consequences of this act, its purpose, the one in its General Provisions that assure its validity, of the Special ones it contains, of the ones involving waivers and explicit or implicit provisions.- I read this affidavit to the party in appearance, whom agrees, approves and ratifies.- Signed jointly with Me, the Notary Public that certify all what was done.- (s) Douglas R. Pichardo R.- (s) Molina.- Notario.-

Done before Me, from the front of the Folio Number One Hundred Thirty Five (135) to the front of the Folio Number One Hundred Thirty Six (136) of my REGISTRY NUMBER TWENTY THREE (23) that I file this year.- On the request of the Ministry of Foreign Affairs of the Republic of Nicaragua, I issue this FIRST AFFIDAVIT, composed of ONE (1) Useful Folio, that I rubric, sign and seal in Nicaragua City at three thirty on the afternoon of December fifteen, two thousand and ten.-

[SEAL]

[SIGNED]

Annex 84

Affidavit of Suban Antonio Yuri Valle Olivares (Police)

15 December 2010

AFFIDAVIT OF SUBAN ANTONIO YURI VALLE OLIVARES (POLICE)

AFFIDAVIT

[SEAL] **LEGAL INSTRUMENT NUMBER ONE HUNDRED AND FIFTY ONE (151).- (NOTARIZED STATEMENT).**- In the city of Managua, at five in the afternoon on the fifteenth day of December of the year two thousand and ten.- Before me, **WALNER ABRAHAM MOLINA PÉREZ**, Lawyer and Notary Public of the Republic of Nicaragua, with domicile and residence in this city, duly authorized by its Excellence Supreme Court of Justice to practice in this profession of Notary Public during the five years that expires on the fifteenth of April of the year two thousand and thirteen, appears the person of Mr. **SUBAN ANTONIO YURI VALLE OLIVARES**, identifying himself with Identification Document Number: **zero, zero, one, dash, zero, seven, zero, six, six, one, dash, zero, zero, five, six, B (001-070661-0056B)**, adult, married, Mayor Police Commissioner of the Nicaraguan National Police, with domicile in Masaya City, Department of Masaya, in transit in this city; whom I attest to personally know, and whom under my judgment has the sufficient necessary civil and legal capacity to contract and obligate himself, and specially to execute this action. Manifests as follows: **First:** I am a citizen of the Republic of Nicaragua, born in Managua City, Department of Managua, on June seven, nineteen sixty one. I currently have my domicile in Masaya City, Department of Masaya.- **Second:** Since nineteen ninety eight (1998) through nineteen ninety nine (1999), I was designated Second Chief of the National Police Delegation in San Juan River, period during which I recall carrying out patrols, in cooperation with members of the Nicaraguan Army, along all the San Juan River zone, to strength the presence of the government. These patrols were carried out by land, sea or by the air. The National Police has had a permanent presence in Harbor Head, boat patrols have been carried out throughout the streams and constant security contingents have been taken in different zones when required.- The only Costa Rican presence has been the rural guard or public force post located in the Delta, from the San Juan River Delta throughout the river's mouth we never saw any presence of Costa Rican civil authorities or public force.- As this was expressed by the party in appearance, well instructed by Me, the Notary Public, about the scope, merit and legal consequences of this act, its purpose, the one in its General Provisions that assure its validity, of the Special ones it contains, of the ones involving waivers and explicit or implicit provisions.- I read this affidavit to the party in appearance, whom agrees, approves and ratifies.- Signed jointly with Me, the Notary Public, that certify all what was done.- (s) Yuri Valle.- (s) Molina. Notario.-

Done before Me, from the back of the Folio Number One Hundred Thirty Six (136) to the front of the Folio Number One Hundred Thirty Seven (137) of my REGISTRY NUMBER TWENTY THREE (23) that I file this year.- On the request of the Ministry of Foreign Affairs of the Republic of Nicaragua, I issue this FIRST AFFIDAVIT, composed of ONE (1) Useful Folio, that I rubric, sign and seal in the City of Managua City at five thirty on the afternoon of December fifteen, two thousand and ten.-

[SEAL]

[SIGNATURE]

Annex 85

Affidavit of Mr. Juan Francisco Gutierrez Espinoza
15 December 2010

AFFIDAVIT

[SEAL] **LEGAL INSTRUMENT NUMBER ONE HUNDRED FOURTY THREE (143).- (NOTARIZED STATEMENT).**- In the city of Managua, at eight in the morning on the fifteenth day of December in the year two thousand and ten.- Before me, **WALNER ABRAHAM MOLINA PÉREZ**, Lawyer and Notary Public of the Republic of Nicaragua, with domicile and residence in this city, duly authorized by its Excellence Supreme Court of Justice to practice in this profession of Notary Public during the five years prior to April fifteen two thousand and thirteen, personally appears Mr. **JUAN FRANCISCO GUTIÉRREZ ESPINOZA**, identifying himself with Identification Document Number: **zero, zero, one, dash, one, three, zero, one, six, one, dash, zero, zero, four, eight, X (001-130161-0048 X)**, adult, married, Military in active duty, with domicile in Managua; whom I attest to personally know, and whom under my judgment has the necessary civil and legal capacity to contract and obligate himself, and specially to execute this instrument. Manifests as follows: **First:** I am a citizen of the Republic of Nicaragua, born in Managua City, on January thirteen, nineteen sixty one. I currently have my domicile in Managua City, Department of Managua- **Second:** During nineteen eighty two (1982) through nineteen eighty three (1983); nineteen eighty eight (1988) through nineteen ninety one (1991) I was an officer of the War Marine Force, now known as the Nicaraguan Naval Force, my duties included carrying on patrol throughout the San Juan River and the south east zone of Nicaragua, and from two thousand (2000) through two thousand two (2002), I was located at the Bluefields base, patrolling the Nicaraguan coast line up to Punta Castilla. My instructions were to carry on guarding patrols throughout the entire zone of the Nicaraguan coast line, including Punta Castilla up to Cabo Gracias a Dios. During winter months, when the barrier located at Harbor Head was broken, we were allowed to enter in boats, twenty-three feet long with fifty five and seventy five horsepower.- Since nineteen eighty seven (1987) 115 horsepower boats were used; during winter we used to enter Harbor Head through the streams that connect it to the san Juan River, even during summer the Harbor Head lagoon was accessed through its streams, even though it was more complicated and more than once we had to push the boats stuck in the sedimentary sand banks due to the river's low flow. Our orders were always to defend our territory and protect our sovereignty, therefore we patrolled the northern and southern parts of the country.- During my service time we never saw any Costa Rican civil authority or public force in the zone that covers Harbor Head, the San Juan River,

and San Juan del Norte, or boats different than Nicaraguan.- During the eighties, our patrol activities mainly responded to fighting against the counter revolutionary forces led by Comander Edén Pastora. To effectively comply with our duty as the Nicaraguan Army we had to protect the zone so as to protect our national territory, therefore the Border Guard Troops had a base in the swamps of Harbor Head, which was burned together with the town in Greytown, under Comander Edén Pastora's orders.- In the nineties (90), our mission turned to be, among others, protecting our security against narcotic traffickers, poachers, and keeping a permanent protection of our sovereignty.- As this was expressed by the party in appearance, well instructed by Me, the Notary Public, about the scope, merit and legal consequences of this act, its purpose, the one in its General Provisions that assure its validity, of the Special ones it contains, of the ones involving waivers and explicit or implicit provisions.- I read this affidavit to the party in appearance, whom agrees, approves and ratifies.- Sing jointly with Me, the Notary Public that certify all what was done.- (s) J. F. Gutiérrez.- (s) Molina.- Notario.-

Done before Me, from the front of the Folio Number One Hundred Thirty One (131) to the back of the same Folio of my REGISTRY NUMBER TWENTY THREE (23) that I file this year.- On the request of the Ministry of Foreign Affairs of the Republic of Nicaragua, I issue this FIRST AFFIDAVIT, composed of ONE (1) Useful Folio, that I rubric, sign and seal in Nicaragua City at eight thirty in the morning of December fifteen, two thousand and ten.-

[SEAL]

[SIGNED]

Annex 86

Affidavit of Mr. Manuel Salvador Mora Ortiz
15 December 2010

AFFIDAVIT

[SEAL] **LEGAL INSTRUMENT NUMBER ONE HUNDRED FORTY FOUR (144).- (NOTARIZED STATEMENT).**- In Managua City, at nine in the morning of December fifteen two thousand and ten.- Before me, **WALNER ABRAHAM MOLINA PÉREZ**, Lawyer and Notary Public of the Republic of Nicaragua, with domicile and residence in this city, duly authorized by its Excellence Supreme Court of Justice to practice in this profession of Notary Public during the five years prior to April fifteen two thousand and thirteen, personally appears Mr. **MANUEL SALVADOR MORA ORTIZ**, identifying himself with Identification Document Number: **five, six, seven, dash, one, six, zero, two, five, three, dash, zero, zero, zero, zero, V (567-160253-0000V)**, adult, married, Military in retirement, with domicile in Managua City, whom I attest to personally know, and whom under my judgment has the necessary civil and legal capacity to contract and obligate himself, and specially to execute this instrument. Manifests as follows: **First:** I am a citizen of the Republic of Nicaragua, born in San Jorge City, Municipality of the Department of Rivas, on February sixteen, nineteen fifty three. I am currently retired and have my domicile in Managua City.- **Second:** I entered the Port Captaincy in El Castillo, Municipality of Río San Juan, on nineteen seventy nine (1979). My duties included patrolling from San Carlos to Greytown. I was designated as the Caribbean Commander, a position that I held from nineteen eighty one (1981) through nineteen eighty three (1983) and from two thousand two (2002) through two thousand seven (2007). In the Caribbean I used to patrol the whole coast line through Punta Castilla. During the period in which I patrolled the Caribbean coast line, Harbor Head zone was accessed through two points: during winter and on certain occasions during summer, with difficulties due to the low flow, through the streams that connect the San Juan River with Harbor Head, and during winter through the bar in front of Punta Castilla, this because during winter due to the water flows Harbor Head was straightly accessible through the Caribbean and then going up to the San Juan River through its different streams, and accordingly complying with the patrolling orders in defense of sovereignty, during summer it was even possible to walk through the sand bar up to Harbor Head, occasions in which I never saw any Costa Rican authority. During my service time, we never found official Costa Rican boats sailing through the San Juan River, the Caribbean coast line, Harbor Head, or the streams that connect it to the San Juan River. During nineteen eighty three (1983) multiple operations were conducted in the south east zone of Nicaragua up to Punta

Castilla; for search and control of the counter revolutionary forces that had San Juan del Norte and its neighboring zones as base points. Part of these operations were conducted for controlling narcotics trafficking activities and smuggling of general consumption products, which was common in that period. After nineteen eighty four (1984), in which the “contra” was “kicked out” from San Juan del Norte, patrolling activities from the San Juan River to Punta Castilla increased through the sea and through the streams that connect the river with Harbor Head.- Until two thousand seven (2007), we never saw Costa Rican civil authorities or public forces in the Harbor Head zone, neither in its streams, the River San Juan or the Caribbean coast line; only in one occasion we stopped a Costa Rican Coast Guard in the sea, near Punta Castilla, on superior orders we released it 25 miles prior arriving to Bluefields, in Monkey Point, place to which it was being transported by us.- As this was expressed by the party in appearance, well instructed by Me, the Notary Public, about the scope, merit and legal consequences of this act, its purpose, the one in its General Provisions that assure its validity, of the Special ones it contains, of the ones involving waivers and explicit or implicit provisions.- I read this affidavit to the party in appearance, whom agrees, approves and ratifies.- Signed jointly with Me, the Notary Public that certify all what was done.- (s) M. MORA O.- (s) Molina. Notario.-

Done before Me, from the back of the Folio Number One Hundred Thirty One (131) to the back of the Folio Number One Hundred Thirty Two (132) of my REGISTRY NUMBER TWENTY THREE (23) that I file this year.- On the request of the Ministry of Foreign Affairs of the Republic of Nicaragua, I issue this FIRST AFFIDAVIT, composed of ONE (1) Useful Folio, that I rubric, sign and seal in Nicaragua City at nine thirty in the morning of December fifteen, two thousand and ten.-

[SEAL]

[SIGNED]

Annex 87

Affidavit of Norman Javier Juárez Blanco (Military)

15 December 2010

AFFIDAVIT OF NORMAN JAVIER JUÁREZ BLANCO (MILITARY)

AFFIDAVIT

[SEAL] **LEGAL INSTRUMENT NUMBER ONE HUNDRED FORTY FIVE (145).- (NOTARIZED STATEMENT).**- In Managua City, at ten in the morning of December fifteen two thousand and ten.- Before me, **WALNER ABRAHAM MOLINA PÉREZ**, Lawyer and Notary Public of the Republic of Nicaragua, with domicile and residence in this city, duly authorized by its Excellence Supreme Court of Justice to practice in this profession of Notary Public during the five years prior to April fifteen two thousand and thirteen, personally appears Mr. **NORMAN JAVIER JUÁREZ BLANCO**, identifying himself with Identification Document Number: **zero, eight, six, slash, zero, five, zero, two, seven, three, dash, zero, zero, zero, zero, X (086-050273-0000X)**, adult, married, active Military, with domicile in Managua City, Department of Managua, whom I attest to personally know, and whom under my judgment has the necessary civil and legal capacity to contract and obligate himself, and specially to execute this instrument. Manifests as follows: **First:** I am a citizen of the Republic of Nicaragua, born in El Viejo City, Municipality of the Department of Chinandega, on February five, nineteen seventy three. I currently have my domicile in Managua City, Department of Managua.- **Second:** In two thousand (2000) I was transferred to San Juan de Nicaragua, as a Marine of the Naval Force of the Nicaraguan Army, our duties consisted in three or four patrol journeys per week in the Harbor Head zone, Indio River and San Juan River, the patrol activities were carried out in motorboats for six people. During our patrol activities we used to verify boat documentation such as patents, navigational permits, and all the necessary documentation for navigating the San Juan River. It usually took us from fifteen to twenty five minutes to go from my base post in San Juan de Nicaragua to Harbor Head through the Caribbean pass, sometimes entering through the bar, during the rainy season, or through different streams and arriving Harbor Head, to continue our pre established patrol route. Being the defense, security and protection of sovereignty a typical mission of the Army, it corresponds to us constant patrol activities in our territory, which include navigating in 115 horsepower boats through the streams located in Harbor Head, which are navigable during the winter season, although not in all of them.- As this was expressed by the party in appearance, well instructed by Me, the Notary Public, about the scope, merit and legal consequences of this act, its purpose, the one in its General Provisions that assure its validity, of the Special ones it contains, of the ones involving waivers and explicit or implicit provisions.- I read this affidavit to the party in appearance, whom agrees, approves and ratifies.- Signed

jointly with Me, the Notary Public that certify all what was done.- (s) Noman J. Juárez B.- (s) Molina.-

Done before Me, from the back of the Folio Number One Hundred Thirty Two (132) to the front of the Folio Number One Hundred Thirty Three (133) of my REGISTRY NUMBER TWENTY THREE (23) that I file this year.- On the request of the Ministry of Foreign Affairs of the Republic of Nicaragua, I issue this FIRST AFFIDAVIT, composed of ONE (1) Useful Folio, that I rubric, sign and seal in Nicaragua City at ten thirty on the morning of December fifteen, two thousand and ten.-

[SEAL]

[SIGNED]

Annex 88

Affidavit of Denis Membreño Rivas (Military)

15 December 2010

AFFIDAVIT OF DENIS MEMBREÑO RIVAS (MILITARY)

AFFIDAVIT

[SEAL] **LEGAL INSTRUMENT NUMBER ONE HUNDRED FOURTY SEVEN (147).- (NOTARIZED STATEMENT).**- In the city of Managua Department of Managua, at one in the afternoon on the fifteenth day of December of the year two thousand and ten.- Before me, **WALNER ABRAHAM MOLINA PÉREZ**, Lawyer and Notary Public of the Republic of Nicaragua, with domicile and residence in this city, duly authorized by its Excellence Supreme Court of Justice to practice in this profession of Notary Public during a five year period before the fifteen day of April in the year two thousand and thirteen, personally appears Mr. **DENIS MEMBREÑO RIVAS**, identifying himself with Identification Document Number: **two, eight, one, dash, one, six, zero, seven, five, six, dash, zero, zero, zero, seven, V (281-160756-0007 V)**, adult, married, Military in active duty, with domicile in Managua, Department of Managua.- Manifests as follows: **First:** I am a citizen of the Republic of Nicaragua, born in León City, Department of León, on July sixteen, nineteen fifty six (1956), I have been a member of the Nicaraguan Army since July nineteen, nineteen seventy nine (1979). I am currently Major General, acting as Inspector General of the Nicaraguan Army.- **Second:** On the day of March ten, two thousand eight, in Managua City, before Notary Public Walner Abraham Molina Pérez, I rendered my Notary Affidavit, which, by this public instrument I will extend.- **Third:** The creation of the Militar Sur Detachment in nineteen ninety two (1992) for separate attention of San Juan river, coincides with the current San Juan de Nicaragua town foundation.- Intelligence reports to that date suggested that San Juan de Nicaragua was turning into a focal point of criminal activity, due to the distance, its access to the Indio and San Juan de Nicaragua rivers, the Caribbean Sea and its closeness to Costa Rican territory.- Initially it was decided to take care of the situation by carrying on periodical patrol activities and in approximately nineteen ninety-five (1995) a military base point was installed for dealing with these criminal activities.- This military base point was equipped with a small motor boat for fluvial patrol activities in the Indio and San Juan de Nicaragua rivers, in the boundary zone of Punta Castilla, the Harbor Head lagoon and its adjacent streams, which were used for smuggling and other criminal activities.- Costa Rica never placed any forces in the Punta Castilla sector, the Harbor Head lagoon or its adjacent streams.- The closest post to the border zone in the Caribbean Sea were located in Puerto Lindo and Barra de Colorado, where they continue to be.- They never requested any navigational permits on the San Juan de Nicaragua Delta, neither for security nor for tourism reasons.- As this was expressed

by the party in appearance, well instructed by Me, the Notary Public, about the scope, merit and legal consequences of this act, its purpose, the one in its General Provisions that assure its validity, of the Special ones it contains, of the ones involving waivers and explicit or implicit provisions.- I read this affidavit to the party in appearance, whom agrees, approves and ratifies.- Sing jointly with Me, the Notary Public that certify all what was done.-

Done before Me, from the back of the Folio Number One Hundred Thirty Three (133) to the front of the Folio Number One Hundred Thirty Four (134) of my REGISTRY NUMBER TWENTY THREE (23) that I file this year.- On the request of the Ministry of Foreign Affairs of the Republic of Nicaragua, I issue this FIRST AFFIDAVIT, composed of ONE (1) Useful Folio, that I rubric, sign and seal in Nicaragua City at one in the afternoon of December fifteen, two thousand and ten.-

[SEAL]

[SIGNED]

Annex 89

Affidavit of Farle Isidro Roa Traña
16 December 2010

AFFIDAVIT

[SEAL] **LEGAL INSTRUMENT NUMBER ONE HUNDRED AND FIFTY-THREE (153). (NOTARIZED STATEMENT).**- In the city of Managua, at eight o'clock in the morning on the sixteenth day of December in the year two thousand and ten. Before me, **WALNER ABRAHAM MOLINA PÉREZ**; Attorney and Notary Public, of the Republic of Nicaragua, domiciled in and resident of this city, duly authorized by the Most Honorable Supreme Court of Justice to practice the profession of Notary during the five-year period that expires on the fifteenth day of April in the year two thousand and thirteen, appears for himself and in his own behalf Mr. **FARLE ISIDRO ROA TRAÑA**, identified with Identification Card Number **two, eight, one, dash, zero, five, zero, eight, six, eight, dash, zero, zero, one, nine, B (281-050868-0019B)**, of legal age, single, Assistant Commissioner of the National Police of Nicaragua, Licentiate in Law, with domicile in the city of Managua, Department of Managua, whom I certify that I know personally and who in my judgment has the sufficient civil and legal capacity necessary to bind and contract, especially for the granting of this act, manifests the following: **FIRST**: I am a citizen in the Republic of Nicaragua, born in the city of León, Department of León, on the fifth of August, nineteen hundred and sixty-eight. Currently I have my domicile in the city of Managua, Department of Managua. **SECOND**: I have been a member of the Police Institution since the year nineteen hundred and eighty-seven. During my years of service I have worked in the Department of Public Security, National Police of León, in the year two thousand I was transferred to the position of Investigation Specialist at the National Judicial Assistance Department, in the year two thousand and three I was named Section Head of Drug Crimes, at the Judicial Assistance Department, and in the year two thousand and five I was named Head of the Drug Department at the Judicial Assistance Department, which position I currently hold. Among my functions as Head of the aforementioned Department I am responsible for investigating cases of drug trafficking, organized crime, and money laundering on a national level. As a result of my position I was appointed to handle the case of the Organized Crime family called "Los Tarzanes," and other members. **THIRD**: Within the framework of the joint operations between the National Police and the Nicaraguan Army to fight Drug Trafficking and Organized Crime, an operation was begun on the first of October in the year two thousand and ten, at approximately 4:50 in the afternoon on the Indio Maíz River, Caño Roca, jurisdiction of the Autonomous Region of the South Atlantic (RAAS); where Officers from the Naval Force of the Nicaraguan Army, First Lieutenant Albert William Solís, who was in command of the

speedboat registered 061, along with Gabriel Enrique Olivas and other officers, was performing patrol work due to information from the Department of Police Intelligence and the Naval District of the South Atlantic. The information indicated that in this location, illegal activities had been performed for three weeks to the day. **FOURTH:** Once the officers of the Naval District were close to the bank of Caño Roca, they were able to observe two citizens in a suspicious and nervous posture, and therefore they proceeded to follow those two citizens, who fled to a rustic encampment on the same bank of Caño Roca (sixty-three kilometers to the south of the city of Bluefields); and therefore First Lieutenant Albert William Zapata Solís and his subordinates in pursuit of these two citizens were able to detect another four citizens, and they proceeded to arrest the six citizens. When interviewing the six citizens they identified themselves with the following names: Carlos Alberto Barriendo Lovo, Policarpo Casildo Blanco, Pedro Alberto Ortega Ramírez, José Israel Ayala Funez, Lorenzo Casildo Alvarez, and Rafael Antonio García Rivera, all Honduran nationals. In the inspection performed onsite, forty plastic barrels were found with the capacity to store approximately sixty gallons each; of these twenty-seven barrels were filled with gasoline and three were empty; six combat weapons and their ammunition were also seized from them, which were as follows: A CAL brand 5.56 rifle, Serial Number FN1320 with number 1-75; an AKM rifle serial number BA225230; an AKM rifle Serial Number AH2657P; an AKM rifle Serial Number 544463; and AKM rifle Serial Number KR9225; and a AKM rifle Serial Number 2554. **FIFTH:** Once the inspection was performed, both the suspects and the evidence found were transferred to Coast Guard 401 of the Naval Forces of the Army of Nicaragua, and the Commandant thereof, Lieutenant Commander Roberto Scoot Campos Barrios, proceeded to interview the suspects, ascertaining that they had another encampment in San Juan de Nicaragua, the area of the caños [i.e., small channels] around the Harbort [*sic*] Head lagoon, where there were two speedboats and fuel, and therefore he notified his superiors who ordered him to go to San Juan de Nicaragua, together with the suspects. They were remanded into custody at the San Juan de Nicaragua Post of the Southern Military Detachment of the Nicaraguan Army. **SIXTH:** Then, at six in the afternoon on that same day, October first in the year two thousand and ten, Commodore Jesús Wilfredo Castañeda Arosteguí, aboard Speedboat 065, left the Naval base, Atlantic Naval District of the Naval Forces of the Nicaraguan Army, located in the Port of El Bluff, headed toward San Juan de Nicaragua, spending the night in that locale. At five o'clock in the morning on the second day of October in the year two thousand and ten, Commodore Castañeda Arosteguí, with an team of marine infantry from the Naval Forces, moved onboard speedboat 065 and

auxiliary boat 061, headed toward the Harbor Head zone and its surrounding caños, conducting an exploration in the caños and swamps of the Harbor Head Lagoon, finding two unnamed Cigarette speedboats, which were as follows: A Cigarette fiberglass boat, light blue on the outside and white inside, unnamed, containing eleven plastic barrels with a capacity of approximately sixty gallons each; of these barrels some were full and others empty; a black Ritchie brand compass; two black Duncan 1000 brand 12-volt batteries, one double control and one single control; a rudder; two sump pumps; three Yamaha brand outboard engines, each 200 hp with no model or serial number; and three steel propellers. The second was an Eduardono boat, fiberglass with no name, blue on the outside and lead, containing three plastic barrels with a capacity of sixty gallons each, a rudder, a black Dantorth compass, a Yamaha brand double control, two Comber brand twelve-volt batteries and a sump pump, two Yamaha brand outboard engines, 200 hp each, model 6G6, serial number 200AET-C1043168 and model 6G6 Serial Number 200AET-X1043393, and two steel propellers. These naval vessels were being guarded by two people who, when seeing the armed forces, fled to the south; they were not captured, but it was possible to ascertain that one of the two people who ran away was [Nicaraguan] citizen Agustín Reyes Aragón, who was fully identified by Commodore Castañeda Arosteguí, who is familiar with this citizen's connection to illegal activities, from intelligence sources in the Police and in the Army. **SEVENTH.** On the fourth day of October in the year two thousand and ten, the National Police of Nicaragua began an investigation into the crime of Organized Crime, Fabrication, Trafficking, Holding, and Using Restricted Arms and Illegal Financing of Psychotropic Narcotics and other Controlled Substances. During the investigation undertaken in this case it was determined that the Honduran citizens arrested were the persons in charge of the transfer of fuel, custody, and food to other boats that transported drugs on the high seas and needed to be refueled to continue their route that runs from the south to the north in the Caribbean sea, indicating citizen Agustín Reyes Aragón as the person who had contracted them to perform such work. **EIGHTH:** In relation to the Nicaraguan citizen Agustín Reyes Aragón, with Identification Card Number **604-050563-0000F**, an investigation has been under way since the year two thousand and eight in the area of the municipality of San Juan de Nicaragua, by the National Police of Nicaragua; in the course of that investigation it was ascertained that there is a organization of drug traffickers comprised of **Agustín Reyes Aragón, Simeón Reyes Aragón,**

with Identification Card Number **601-0250273-003B**, Alejandro Reyes Aragón, with Identification Card Number **603-240469-0002S**; **Silvio Reyes Aragón**, with Identification Card Number **604-271167-0002X**; these are known as “*Los Tarzanes*.” In the same intelligence work, the aforementioned persons work with and rely on the citizens named **Marcos Reñazco Padilla, Miguel Reñazco Padilla, Carlos Padilla Oporta, and José Angel Padilla**. In the case of the Reñazco Padilla, they were investigated and indicted for the deaths of four members of the National Police, which event occurred in the Bluefields Police Delegation, on the fourth of May of two thousand and four, when they were on shift. The aforementioned persons have a police record of drug trafficking of which they were convicted, having completed their sentence and been released.

NINTH: In the case of the “*Los Tarzanes*” group, through police intelligence work it was ascertained that they are led by Agustín Reyes Aragón, these people are hired by international drug trafficking structures for logistical support and security when loading drugs, specifically cocaine that crosses from the south to the north through our jurisdictional waters on the Caribbean coast, where this band “*Los Tarzanes*” assume responsibility for performing the refueling work for the boats coming from the South, and they also perform the work of receiving and storing cargos of drugs to subsequently transfer those drugs to the north of the continent. In the case of citizens Reñazco Padilla, they are used to drive the boats that Mr. Agustín Reyes Aragón uses, which they hide in the Harbor Head area and its caños, for subsequent transfer on its route toward the North.

TENTH: As background, the National Police of Nicaragua has neutralized cases of drug trafficking related to Agustín Reyes Aragón, among which I mention the following: In the middle of the year two thousand and eight, a drug operation was performed in the place known as “Tiara Key,” where fifteen kilos of cocaine and Two Hundred and Eighty Five Thousand Nine Hundred and Forty Dollars were seized; an AK rifle, a 38 revolver and two boats and their engines were also seized. These drugs had been sold by Agustín Reyes Aragón, Simeón Reyes Aragón, Alejandro Reyes Aragón, and Silvio Reyes Aragón. A second case that is known from intelligence information related to Agustín Reyes Aragón is the seizure of forty-nine FAL rifles and 85 magazines with three hundred and twenty projectiles seized in the Tiara Keys. It was ascertained that the destination of these rifles was San Andrés Island; it was not possible to ascertain the source of these rifles. But it was determined that the rifles were transferred to the place, where they were seized by the National Police, in a boat owned by Agustín Reyes Aragón. A third operation that involved Agustín Reyes Aragón and the other three aforementioned persons was called Operation “Zapatera,” where the

seizure of two hundred and fifty kilos of cocaine was made. In this case Agustín Reyes Aragón and three aforementioned people received the drugs on the high seas and then they delivered those drugs to an unidentified person who lives in the Department of Chontales; the Aragón brothers delivered these drugs in the Rio San Juan area. This person transferred the drugs to Zapatera Island by boat; that island is located in the area of Lago de Nicaragua. The drugs were seized by the National Police in this area, but the person who hid the drugs on that island, when he detected the presence of the police, left the drugs hidden in the place where the Police seized them. The last case that I am aware of occurred in the year two thousand and nine, in the sector known as Kukalaya, jurisdiction of Bluefields, where seven sacks containing cocaine were seized, for a total of two hundred and nine kilos; these drugs were transferred to that location by Agustín Reyes Aragón, with the support of Simeón, Alejandro, and Silvio, all with surnames Reyes Aragón. These are the four cases that the National Police of Nicaragua has investigated which, through intelligence work, implicate Agustín Reyes Aragón and the three aforementioned people, as well as Marcos Reñazco Padilla and his brothers. **ELEVENTH.** After the operations undertaken from the first through the fourth of October in the year two thousand and ten, when the six Honduran citizens were arrested, and the two boats, barrels of fuel and other evidence linked to the supplying of fuel to boats that transport drugs to the north of the continent were seized, and as a result of this investigation, the participation of Agustín Reyes Aragón and his aforementioned family members in this case was ascertained, as well as the participation of Marcos Reñazco Padilla; a request for information was made at the end of the month of October to Mr. Jorge Rojas, Director of the Judicial Investigation Agency (OIJ) in Costa Rica, which we attached to this **Notarized Statement**; as well as from Mr. Juan José Andrade, Director of the Public Forces of Costa Rica. **TWELFTH:** The investigations undertaken by the National Police together with Naval Intelligence of the Army of Nicaragua, were duly documented and remitted to the Public Ministry, which took criminal action against the six Hondurans arrested and against Agustín Reyes Aragón, who is currently a fugitive from Nicaraguan justice. So stated by the appearer, well instructed by Me the Notary, on the scope, value, and legal importance of this act, its purpose, that of the general Clauses that ensure its validity, that of the special ones that it contains, that of those that involve waivers and explicit and implicit stipulations. I read this document to the appearer, who is

in agreement with it, approves, approves [*sic*] and ratifies. He signs together with me the Notary, I certify everything that is stated. (s) F.I. ROA T. (s) Molina. Notary.

Executed before Me, from the front of Folio Number One Hundred and Thirty-Eight (138) to the reverse of Folio Number One Hundred and Forty (140) of my **REGISTER NUMBER TWENTY-THREE (23)** which I keep in this year. And at the request of the Ministry of Foreign Relations of the Republic of Nicaragua, I issue this **FIRST OFFICIAL COPY** comprised of THREE (3) Used Pages, which I sign, seal, and stamp in the city of Managua, at eight thirty o'clock a.m. on the sixteenth day of December in the year two thousand and ten.

[stamp:] WALNER ABRAHAM MOLINA PEREZ
Attorney and Notary Public
REPUBLIC OF NICARAGUA
CENTRAL AMERICA

[signature]

[logo]

[logo]

Republic of Nicaragua
NATIONAL POLICE
Legal Advice
“Always at your service”

PHOTOCOPY CERTIFICATION

The undersigned Deputy Chief of the Legal Advice Division of the National Police, Commissioner Jaime Antonio Vanegas Vega, Attorney and Notary Public, certifies and attests that the present photocopy conforms to its original which was duly collated and corresponds to the Request for Cooperation from Mayor Commissioner Glenda Zavala Peralta, Head of the Directorate of Legal Assistance of the National Police of Nicaragua, to Mr. Jorge Rojas, Director of the Judicial Investigation Organization of Costa Rica, the twenty-third of October in the year two thousand and ten, and contains two useful pages that were signed, initialed, and sealed in the city of Managua, on the twenty-seventh day of December, in the year two thousand and ten.

[Signature; Seal]

Commissioner

JAIME ANTONIO VANEGAS VEGA
 Deputy Chief of the Legal Advice Division

HONOR, SECURITY, SERVICE

*Faustino Ruiz Building, Managua, Nicaragua, Tel. (505) 2774130-9 Ext.1049-1061 Fax. 1214
 E-mail: asesorialegal@policia.gob.ni*

[logo]

[logo]

**Republic of Nicaragua
NATIONAL POLICE
Directorate of Legal Assistance
National Police...always at your service!**

Managua 23 October 2010

Mr. Jorge Rojas
Director of the Judicial Investigation Organization (OIJ)
SAN JOSE, COSTA RICA
Release-

RE: Request for cooperation.

On the date 1 October 2010, at approximately 16:30 hours in an operation conducted by the Naval Force of the Army of Nicaragua, against Organized Crime, in the area of Rio Punta Roca to the north of Barra del Rio Maiz, in Nicaraguan territory, six individuals of Honduran origin were captured, who were being pursued based on intelligence that they were conducting activities linked to drug trafficking.

The captured people were:

- 1- **Carlos Alberto Barrientos Lobo, age 29, laborer, and with domicile in Sinai Colon, Honduras.**
- 2- **Policarpo Casildo Blanco, age 33, sailor, and with domicile in Departamento Gracias a Dios, Honduras.**
- 3- **Pedro Alberto Ortega Ramirez, age 20, refrigerator technician, with domicile in La Ceiba, Honduras.**
- 4- **José Israel Ayala Fúnez, age 45, laborer, and with domicile facing Hotel Faria, La Ceiba, Honduras.**
- 5- **Lorenzo Casildo Alvarez, age 25, laborer, and with domicile in La Ceiba, Honduras.**
- 6- **Rafael Antonio Garcia Rivera, age 38, farmer, and with domicile in Colonia Esperanza, La Ceiba, Honduras.**

In the same operation, a boat, 40 plastic barrels with a capacity of 60 gallons, and six guns of different types and calibers were also seized from the arrested individuals.

The aforementioned arrested individuals were indicted for the crimes of FINANCING OF NARCOTIC, PSYCOTROPIC AND CONTROLLED SUBSTANCES ORGANIZED

CRIMES, AND OTHERS, according to the police file number 1188-2010. They are currently in custody under the jurisdiction of the court of the Criminal District of Bluefields, Autonomous Region of the South Atlantic (RAAS).

In the fulfillment of the investigations undertaken, the group known as “los Tarzanes” was identified, comprised of the following individuals: Agustín Reyes Aragón, identified with card number 604-050563-0000F, leader of the group, Ermenegildo Santos Reyes Aragón, identified with identity card number 603-130454-0001Y, Alejandro Reyes Aragón who is identified with identity card number 603-240469-0002S, Simeón Eladio Reyes Aragón, who is identified with identity card number 601-020273-0003B, José Inocencio Reyes Aragón with identity card number 601-281275-0003M, Nicolás Antonio Reyes Aragón, identity card number 601-100977-0001Q, Silvio Reyes Aragón, identity card number 604-271167-0002X, all of Nicaraguan nationality, who, at the moment of the operation, were participating together with the arrested individuals, in drug trafficking activities, and during the pursuit fled and entered Costa Rican territory, from the southern part of the municipality of San Juan de Nicaragua.

These individuals are accused of being responsible for crimes of organized crime, drug trafficking, and others under Nicaragua’s criminal laws.

Based on the information and history known, we considered it important to alert you about the dangers of these individuals.

Pursuant to the commitment and common interests of our countries to combat organized crime and drug trafficking, as well as the mutual cooperation, assistance and exchange between our police institutions, we request your support for the location and arrest or seizure of the above-referenced people, requesting that we please be informed about any news about these issues.

All of the foregoing is for the purpose of law enforcement and the judicial formalities still pending against these individuals in our country.

I thank you for your attention, and I reiterate my highest consideration and esteem.

Attentively,

[Signature; Seal]

Mayor Commissioner

Glenda Anabell Zavala Peralta

Head of the Directorate of Legal Assistance

National Police of Nicaragua

Annex 90

Declaration of Elsa Maria Vivas Soto, Agrochemical Engineer,
General Department of Environmental Quality of the Ministry
of the Environment and Natural Resources

20 December 2010

[seal]
 REPUBLIC OF NICARAGUA
 CENTRAL AMERICA

Government of National
 Reconciliation and Unity
The People, President!

**DECLARATION OF ELSA MARIA VIVAS SOTO, AGROCULTURAL ENGINEER,
 GENERAL DEPARTMENT OF ENVIRONMENTAL QUALITY OF THE MINISTRY
 OF THE ENVIRONMENT AND NATURAL RESOURCES**

1. My name is Elsa María Vivas Soto and I am an Agricultural Engineer, with a Master's in Environmental Management. I work for the General Department of Environmental Quality (DGCA) of the Ministry of the Environment and Natural Resources (MARENA).

2. My position is Specialist in Environmental Management, for which I have the professional skills that DGCA requires for performing the work of a technician in charge of inspecting projects that require an Environmental Permit, the principal functions being: answering requests for projects, works, or activities that require an environmental permit that DGCA receives and reviews in accordance with the precepts of the Environmental Assessment System; supporting the MARENA Territorial Offices when so required, with supervision for compliance with the environmental requirements established in the Environmental Permits issued; preparing regulatory instruments regarding environmental quality; and participating on institutional and inter-institutional committees. Likewise I am part of the inter-institutional technical team that evaluated the Environmental Impact Study for the ***IMPROVEMENT OF NAVIGATION ON THE SAN JUAN DE NICARAGUA RIVER*** Project.

3. The National Port Company of Nicaragua (EPN) requested authorization for an Addendum to the project called ***IMPROVEMENT OF NAVIGATION ON THE SAN JUAN DE NICARAGUA RIVER***, related to cleaning a caño [i.e., small channel] that connects the San Juan river to the Habor Head lagoon.

4. Based on the aforementioned request, I made two visits to the site, the first being between September 7 and 8 of 2009, and the second from November 24 to 26, 2010.

5. My inspection visits were made under the direction of the General Department of Environmental Quality (DGCA) and the Director of MARENA's Department of Environmental Evaluation and Protection, as part of the procedures established in the Environmental Assessment System of Nicaragua, to answer and process the request for an environmental permit.

September 2009 Visit

6. I made my first visit in the company of members of EPN, and the objective of the visit was to inspect the site where EPN wanted to perform the activities indicated in the Addendum to the project ***IMPROVEMENT OF NAVIGATION ON THE SAN JUAN DE NICARAGUA RIVER***.

7. The information presented by EPN established that one of its expansion activities would

consist in the cleaning of the caño that connects the San Juan River to the Harbor Head Lagoon, in Nicaraguan territory, which was going to be performed with manual equipment (through the use of shovels, pickaxes and manual saws), to recover navigability in a section of approximately 1,560 meters.

8. My visit started at MARENA's Management Center Office, located in the Municipality of San Juan de Nicaragua. We proceeded to visit the facility where the local administration and management office for the project's operations was located, which belongs to EPN, and after that we started the inspection tour of the caño, which was mostly performed in a small boat, the starting point being the Harbor Head Lagoon.

9. While we were traveling through the caño, the fluidity of the water could be seen, which allowed small vessels such as the boat that we were in to navigate up to a certain point. The caño had a width of some five meters, surrounded by a riparian, flooded forest. We traveled through the caño until we found a layer of sediment and dried fallen trees that prevented the passage of water and transportation toward the San Juan River side [of the caño], thus affecting the flow volume, the depth and the width of the caño. Due to this sedimentation of the section, we were forced to continue the trip on foot, because the sedimentation made navigation through the caño difficult.

10. The need to remove the sediment to restore the flow volume of the caño was visible, so that it could again flow from the Lagoon to its natural mouth in the San Juan River. The need to remove the vegetation that obstructed the caño was also visible, to improve its navigability as part of the sustainable development of the region.

11. Based on the field inspection, together with the information in the Addendum presented by EPN, I was able to determine that the work would be environmentally viable for the following reasons:

- The activities would be performed using traditional methods, which would cause low, insignificant and reversible environmental impacts.
- The weather conditions and the type of ecosystems would allow for the natural regeneration of the plant life on the banks of the caño; principally pioneer and rapid-growth species.
- The sediment extracted from the manual cleaning would not represent any danger to the natural species of the area because the soil is silty, the plant material is organic, and when it is deposited in another site it would aid in the natural regeneration of plant species.
- The impacts on the water quality are considered low-intensity, which would only temporarily affect, for example, parameters such as: transparency, color, and turbidity due to suspended sediment; this quality would return once the activities were over.
- Moreover the activities would be performed under the conditions to be established in the environmental permit.

12. With respect to a change in the hydrological regime, it was obvious that the proposed project was limited, very specific and it would not be capable of significantly altering the natural characteristics of the area (that is, the River or the Lagoon), because the recovery of the natural flow volume of the caño does not represent any risk, either to the river or to the Lagoon, taking into account that the volume of water that flows through the caño is insignificant compared to the volume of water that flows through the San Juan river.

13. Upon completing the visit I informed my MARENA colleagues that the recovery of the navigability of the caño, by clearing it under certain conditions, was legal and environmentally viable, because it would comply with the applicable legal standards.

I attach as ANNEX I photographs taken during this first visit.

November 2010 Visit

14. I made my second inspection visit in the company of members of EPN and the MARENA delegates for San Juan de Nicaragua. The visit consisted of evaluating compliance with the conditions established in the Environmental Permit granted by MARENA for the Addendum to the ***IMPROVEMENT OF NAVIGATION ON THE SAN JUAN DE NICARAGUA RIVER*** project issued under Administrative Resolution No. 38-2008, and its expansion under Administrative Resolution No. 38-2008-A1.

15. The visit began in the facilities of the project office located in San Juan de Nicaragua; from there we went to the site, located off the San Juan River, where the caño clearing activity was being performed.

16. In a brief meeting, prior to starting the trip through the caño, I had the opportunity to speak with project personnel and the environmental specialist that EPN had designated to ensure environmental supervision and compliance. In my capacity as representative of the environmental authority (MARENA), I explained to them the objectives of the visit, which was aimed at the environmental control and monitoring of the expansion activities started and the verification and evaluation of compliance with the conditions established in the permit.

17. On that occasion, our entire trip through the caño was undertaken in a small boat, from the San Juan River to the Harbor Head Lagoon. The caño area near the river, which a year ago was filled with sediment, had become a section navigable by small boats. The depth at the time of my visit was between 1 to 1.20 meters.

18. While we advanced we were able to see that the workers, who were performing the caño clearing activities, were civilians, workers from the area, with manual equipment, such as shovels, pickaxes and buckets. Fine dirt, branches and parts of trees that were in the caño were being extracted, without using machinery, dredging equipment, or other specialized equipment, according to the information presented by EPN and in accordance with the requirements of the MARENA resolution.

19. At that time I saw a manual saw, which was not being used, however it is worth mentioning that it can be used to cut down trees, branches, and roots embedded in the water, typical of flood-prone forests.

20. I did not see any worker present on the Costa Rican bank of the caño, nor did I see any destruction of vegetation on the Costa Rican side indicating that it was done during the cleaning activities.

21. In some specific areas, within the area covered by the trip, I was able to see that some trees were being cut down, which had to be cut down to be able to finish clearing the caño. That cutting represented a minimum impact, because it was very limited and they would be replanted using a ratio of ten trees for every one cut down, according to MARENA's orders.

22. During the trip, we also saw that the workers were extracting from the caño small amounts of sediment (sandy and silty soil), pieces of roots and trees and they were placing them on the Nicaraguan bank, in order to be moved to more stable sites at a distance of between 30 and 50 meters from the bank, so as to avoid their returning to the river through runoff. During my visit I did not see any debris at all deposited on the Costa Rican bank of the caño.

23. At no time did we see the construction or presence of permanent encampments of any type. The only thing that was seen was the work of a group of laborers who live in the area, who were working in different shifts, comprised of between 60 to 80 people per shift, due to the type of physical cleaning activity.

24. All of the workers traveled daily on boats from the town of San Juan de Nicaragua to the cleaning site. We also saw in the area near the caño that no stores of fuel were kept that could jeopardize the quality of water or the area. The progress of the cleaning activities in the caño at the time of the visit was approximately 50%.

25. In general, based on the information provided by EPN, as well as my own detailed tour through the area, I reached the conclusion that the work was being performed in accordance with the requirements of the Environmental Permit, which I reported to MARENA as required by internal regulations.

I attach as ANNEX II photographs taken during this second visit.

Given in the city of Managua on the twentieth day of the month of December of the year two thousand and ten.

[signature]
Elsa María Vivas Soto, Engineer
Specialist in Environmental Management
General Department of Environmental Quality, MARENA

Annex I Photos



The tour began at Harbor Head Lagoon.

Photo 1. Tour through a section of the caño that was still navigable.



Photo 2. From this point on, navigation begins to be difficult. The tour was conducted in two small boats.



Photo 3. Section of the caño with sedimentation. The tree branches hanging over the caño's channel impeded continuation of the tour in the small boat.

Annex II Photos



Vegetation (*Yolillo* and grass) when entering the caño from the San Juan River



Deposits of small quantities of sediments and tree branches on the Nicaraguan bank



Manual cleaning work



Manual cleaning work



Sediment deposits on the Nicaraguan shore; observe the small hills and adjacent area with little vegetation due to other activities.



Workers on the Nicaraguan bank of the caño, adjacent area without vegetation (trees). Observe the natural regeneration.



On the Nicaraguan shore, area affected by human activities with little vegetation, not caused by the cleaning activities. The bank was only used to deposit sediments and tree branches.



Observe area with some felled trees. Observe also the type of soil (sandy), firm land (not flooded).



Observe another area on the Nicaraguan side with felled trees on the bank.



More conserved area, where some tree branches and trunks are deposited.



Observe the uncleared state, in the intermediate part of the caño, with sedimentation (without clearing activity)



Mangrove-type vegetation at the exit of the caño towards Harbor Head

Annex 91

El Nuevo Diario, Press Notice of the Availability of the
Environmental Impact Document for the Project
“Dredging of the San Juan River”

7 August 2006

[EPN logo]

[MARENA logo]

GOVERNMENT OF NICARAGUA
NOTICE OF AVAILABILITY OF THE ENVIRONMENTAL IMPACT DOCUMENT

DREDGING OF THE SAN JUAN RIVER

MINISTRY OF THE ENVIRONMENT AND NATURAL RESOURCES MARENA

Informes the general public that the *Empresa Portuaria Nacional* [National Port Company] – EPN, has requested an Environmental Permit for the Dredging project of the San Juan River.

The Environmental Impact Document will be available for consultation by any interested party, from Wednesday the 9th to Tuesday the 15th of August of this year, in the following locations at the following times:

MARENA DELEGATION FOR THE SAN JUAN RIVER, from 8AM to 5PM,
TOWN HALL OF EL CASTILLO, from 8AM to 5PM,
TOWN HALL OF SAN JUAN DEL NORTE, from 8 AM to 5PM,

And Wednesday the 9th, Friday the 11th, Monday the 14th, Tuesday the 15th and Wednesday the 16th of August of this year at:

DOCUMENTATION CENTER AT MARENA CENTRAL, Kilometer 12.5 highway north, Managua, from 8AM to 5PM.

Opinions regarding the environmental impacts of the project should be made in writing and submitted to the *Dirección General de Calidad Ambiental* [Department of Environmental Quality] (DGCA) of MARENA, Post Office Box No. 5123, duly signed by their authors who must record their relevant particulars, until Monday, the 14th of August, 2006.

[logo] Government of Nicaragua
Ministry of the Environment
and Natural Resources

[Handwritten: *El Nuevo Diario*, Edition No. 9332, Monday, 7 August 2006, page 4B]

Annex 92

Ticotimes.net, “Costa Rican Police Forces Sent to Nicaraguan Border”

22 October 2010 (1)

El Nuevo Diario, Nicaragua Encourages Costa Ricans to join the
military reserves on the anniversary of the abolition of the Costa Rican army

1 December 2010. (2)

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<http://www.ticotimes.net/Current-Edition/News-Briefs/Costa-Rican-Police-Forces-Sent-to-Nicaraguan-Border> Friday-October-22-2010

Costa Rican Police Forces Sent to Nicaraguan Border

Posted: Friday, October 22, 2010 - By Adam Williams

BREAKING NEWS UPDATE: Costa Rican police arrive near Río San Juan.



Costa Rican policemen load supplies onto a plane at Base 2 of the Juan Santa Maria airport in San Jose, on October 22, 2010. Tensions on the Costa Rica-Nicaragua border grew on Thursday evening regarding the dredging of the San Juan river. Costa Rican authorities are accusing the neighbouring country of dumping sediments on their side while residents of the area have reported Nicaraguan intrusion. AFP PHOTO/ Yuri CORTEZ

Costa Rican policemen load supplies onto a plane at Base 2 of the Juan Santa Maria airport in San Jose, on October 22, 2010. Tensions on the Costa Rica-Nicaragua border grew on Thursday evening regarding the dredging of the San Juan river. Costa Rican authorities are accusing the neighbouring country of dumping sediments on their side while residents of the area have reported Nicaraguan intrusion. AFP PHOTO/ Yuri CORTEZ

Early this morning, about 70 members of the Costa Rican National Police boarded planes at Juan Santamaría International Airport near San José and flew to the Barra del Colorado airstrip in the northeast corner of the country, near the Nicaraguan border. The deployment of

police to the zone was ordered by the Security Ministry. On Thursday evening, the ministry said that Costa Rica would send officers to investigate reports that Nicaraguan troops had entered Costa Rican territory along the Río San Juan, which forms the eastern portion of the border between the two countries.

According to a statement from the foreign minister's office, the reason for the deployment was to “assure the safety of Costa Rican citizens” near the border and to investigate the legitimacy of reports by residents of the zone of intrusions by the Nicaraguan military into Costa Rican territory.

On Thursday, Marco Reyes, who owns a 210-hectare farm along the Río San Juan, told *The Tico Times* that Edén Pastora, known as Comandante Cero, had entered into his property during the week and claimed that the land belonged to Nicaragua. Pastora, who is a Sandinista revolutionary hero, said that Nicaragua needed the land for the dredging of the Río San Juan, which began Monday in San Juan del Norte, at the mouth of the river at the southern end of Nicaragua's Caribbean coast.

In an interview with a Nicaraguan television network, *La Prensa TV*, Pastora stated that the land, which is on Isla Calero in northeast Costa Rica, “doesn’t belong to anyone” and that “no one had defined the border” between the two countries.

“We have received several reports of Nicaraguan activity on the Costa Rican side of the Río San Juan,” said Costa Rican Security Minister José María Tijerino in a press conference Thursday night. “We plan to go to the region to assess the reports and assure that no further harm is done to Costa Rican land or citizens.”

On Thursday, the foreign minister’s office submitted a formal protest to the Nicaraguan ambassador in Costa Rica, Harold Rivas, demanding that Nicaragua cease the dredging until the issues of reported harm to Costa Rican interests was addressed. The protest claimed that the dredging had resulted in large amounts of sediments being pushed to the Costa Rican side of the river and that several Costa Rican citizens had reported damages to goods and property.

On Friday, a representative of the Nicaraguan Embassy in San José told *The Tico Times* that Rivas would not issue a response to the Costa Rican protest until a later date.

According to the personnel of several fishing lodges in Barra del Colorado, dozens of armed Costa Rican police in military fatigues were participating in training activities on the village soccer field, in the small town's center. Throughout the day, helicopters and planes came and left the Barra del Colorado airstrip, reportedly to get aerial views of activities along the Río San Juan, north of the town.

“We are hearing very loud helicopters and planes,” said RoseAnne Cody, the general manager of the Silver King Lodge in Barra del Colorado. “It is not our quiet little village anymore.”

For daily updates on the border conflict along the Río San Juan, visit www.ticotimes.net

El Nuevo Diario, Nicaragua Encourages Costa Ricans to join the military reserves on the anniversary of the abolition of the Costa Rican army

1 December 2010. (2)

December 1, 2010

Encourages Costa Ricans to join the military reserves on the anniversary of the abolition of the Costa Rican army

San José, Costa Rica | END

Chinchilla calls Ortega a coward

- * In a strong speech, she ordered to accelerate the formation of the Border Police and meanwhile further militarizes the border zone
- * Police posts located at the mouth of Rio Colorado and at the mouth of the San Carlos and Sarapiquí rivers will be boosted.

Sixto Valladares | National news

President Laura Chinchilla instructed the security minister to send more police forces to the Nicaraguan border, especially to increase surveillance in the posts located near Rio Colorado, while calling the acts of President Ortega bully-boy acts, and “only cowards are valiant with the defenseless”.

“I have instructed the public security minister (José María Tijerino) to boost the police presence along the northern border, without affecting at all our compliance of the resolution approved by the OAS over the zone of Isla Portillo in Calero Island”, announced Chinchilla in an act to celebrate the abolition of the Costa Rican army.

“Special attention will be received by the posts located at the mouth of Rio Colorado and at the mouth of the San Carlos and Sarapiquí rivers, as well as patrolling in the Barra del Colorado and Tortuguero channels”, she added.

“I have also asked to speed up the process of formation of the border police through special training sessions that will be received by a group of security officers”, indicated Chinchilla, who asked Costa Ricans to join the reserves of the security force.

The deployment of more Costa Rican troops was announced two days after Daniel Ortega indicated that part of the San Juan River near Rio Colorado will be dredged in mid-December.

Earlier, Ortega had expressed interest in asking the International Court of Justice to grant Nicaraguans the right to navigate on the Colorado River while the San Juan River was dredged.

Call to Reserve

“I also asked to speed up the process of formation of the border police through special training sessions that will be received by a group of security officers”, added Chinchilla, who asked Costa Ricans to join the reserves of the security force.

In the same speech, Chinchilla said that “we will not allow, listen carefully, any more violations to our territorial integrity”.

Earlier, Chinchilla said that “today let me remind these gentlemen in the north with their overblown words, bully-boy acts and use of force, I want to remind them that only cowards are valiant with the defenseless. We will not allow, listen carefully, any more violations to our sovereignty and territorial integrity”.

“We will not be derailed by the shenanigans and whims of political leaders from other confines. It will not be those who will steer us away from our country’s almost sacred tradition (of not having an army). We will not be dragged by their repeated provocations into scenarios of violence and aggression to which they are accustomed”, she added.

While Chinchilla read a bellicose speech, Foreign Minister René Castro continued to hold briefing meetings in New York with delegations from the member States of the UN Security Council.

Annex 93

El 19 Digital, “Nicaragua will go to The Hague for delimitation of the border with Costa Rica”

available at http://www.el19digital.com/index.php?option=com_content&view=article&catid=23:nacionales&id=17616:presidente-de-nicaragua-sentara-posicion-oficial-sobre-tema-del-rio-san-juan&Itemid=12

2 November 2010

Government committed to peace

Nicaragua will go to The Hague for delimitation of the border with Costa Rica

2 November 2010 | El 19 Digital



The president of Nicaragua, Commander Daniel Ortega Saavedra announced that our country will go to the International Court of Justice (ICJ) in The Hague to clearly define the border with Costa Rica, which aims to take over our San Juan River, source of National Pride.

The Nicaraguan president made the announcement late this Tuesday, after Costa Rica's threat of wanting to go to the Organization of American States (OAS) to get Nicaragua to stop the cleanup of the San Juan River and withdraw the troops that are protecting the south of our territory from the presence of drug traffickers.

On that topic, he pointed out that it is not up to the OAS to rule on issues of border delimitation between countries, that it falls under the jurisdiction of the ICJ.

In addition, he confirmed that Nicaragua will not stop the cleanup of our San Juan River, or the fight against drug trafficking, which is a fight of principles, said the president.

"I want to officially make it known that Nicaragua will take the appropriate steps, in the immediate future, to present this case before the International Court of Justice in The Hague and then may the Court say who is right (...) don't let weapons say it, don't let threats say it,

let the Court say it; it is the one that has the power to do so, that has the tools to do so, that has the information to do so, the OAS does not have any of that”, Daniel said in announcing the official position of the Government of Nicaragua on this topic.

The president read excerpts of the Judgment of the International Court of Justice (ICJ) in The Hague, about the rights of our nation over the San Juan River. In it, the supreme rule of our country over the River is recognized and the Nicaraguan people are granted the power to dredge or clean this body of water.

“Nicaragua has the right to dredge the San Juan in order to return the flow of water to that obtaining in 1858 even if this affects the flow of water to other present day recipients of this flow such as the Colorado River “, indicates the Judgment of The Hague, read by the Nicaraguan president.

Imperialist interests

President Daniel affirmed that our country has been the victim of foreign imperialist interests that want to make us lose more Nicaraguan territory at our borders.

Commander Daniel noted that, historically, foreign imperialist powers have sought to make Nicaragua lose its territory, and that Colombia is currently signing agreements with Honduras and Costa Rica for this very purpose.

“It has been in the geopolitical vision of Costa Rica, fueled by Colombia, to take over the San Juan River”, the president categorically stated.

He denied that cleaning our river is affecting Costa Rican territory. He further noted that this work will have its greatest impact when coming closer to the mouth of the San Juan, which is also Nicaraguan territory.

He also affirmed that Nicaragua has reinforced military presence in some areas of the San Juan River where drug traffickers have tried to cross the border.

He reiterated the need to form a binational commission to clearly establish, through the placement of markers, the border between Nicaragua and Costa Rica.

“They're sending a belligerent message in Costa Rica, there is a belligerent message in Costa Rica”, he said, even though that country says it has no army.

He stated that these belligerent messages are not appropriate in Latin America, when what one is looking for is the solution of conflicts in a peaceful way.

Government committed to peace

He recalled that historically, Nicaragua has always turned to The Hague, which has resulted in rulings favorable for our country.

He further affirmed that Nicaragua is not falling for any provocation, despite the fact that Costa Rica has doubled its military presence along the border and the Costa Rican media are presenting a fictitious war atmosphere.

If only this movement of Costa Rican “military forces” to the area were to combine forces with Nicaragua to fight drug trafficking, he said.

That is why there must be a definitive delimitation of the border, through the placement of markers, he said.

“We submit to the judge, we do not submit to force, or the use of force”, he explained.

He hopes that Costa Rican President Laura Chinchilla shares this view, as well as her officials.

Moreover, he called on comrade Dennis Moncada, Ambassador of Nicaragua to the OAS, to address the organization this Wednesday to confirm this position worthy of our nation.

This is a government that wants Peace and that is committed to those sacred lyrics of our National Anthem, which read that the blood of our brothers should no longer flow, not only of Nicaraguans, but of Central Americans and Latin Americans, he said.

“The outcome should not be an outcome of confrontation, not a single drop of blood should flow here, there must be an outcome and the challenge we give the Costa Rican authorities, is to go to the International Court of Justice in The Hague”, he pronounced.

Annex 94

A.M. Costa Rica Third NewsPage, Costa Rica mobilizes troops
along Nicaraguan line, available at
<http://www.amcostarica.com/102210.htm>
(*last visited* 21 July 2012)

22 October 2010

<http://www.amcostarica.com/102210.htm>

A.M. Costa Rica

Your daily English-language news source - Monday through Friday

Costa Rica mobilizes troops along Nicaraguan line

By the A.M. Costa Rica staff

Posted at 12:45 p.m.

Costa Rica has begun a military operation along its northern border in response to reports that Nicaraguan soldiers have entered an area along the Río San Juan, ran off farm workers, killed cattle and began dredging.



The security ministry released this photo Friday of dredging operations on the San Juan

Barra del Colorado, the small village in northeast Costa Rica, has become an armed camp. The local community center has been taken over as a command center, and security ministry aircraft, fixed wing and helicopters, are making numerous flights.

At least 50 security ministry troops are on the ground, and many are in battle dress with heavy weaponry, said reports from the community.

The Barra del Colorado airport was closed to civilian flights earlier today. Planes were diverted to Tortugero.

Costa Rica does not have an army, but Fuerza Pública officers resembled soldiers. They were wearing battle helmets, carrying M-16 rifles and a few weapons described as 50-caliber machine guns. Some are practicing dismounting from a helicopter, the reports said. Many are dressed in camouflage and wearing bullet-proof vests that say "Police."

In Nicaragua, Eden Pastora, the ex-guerrilla who is in charge of the dredging operation, claimed today on television that an island in the San Juan really belongs to his country. Costa Rica says that the island is Tico soil. It is leased by the government to a farmer, whose son reported being threatened by Nicaraguan troops as long ago as Oct. 8.

Costa Rican troops were being brought to the staging area by the newly remodeled Caribou aircraft. Officials were making overflights of the disputed zone with helicopters.

José María Tijerino, the security minister, said Thursday night that Costa Rica has filed a formal protest with Nicaragua over the dredging operation, which seeks to deepen the mouth of the Río San Juan where it enters the Caribbean. Tijerino said that the material dredged from the river was being depositing via a 12-inch pipe onto Costa Rican soil.

The river is the boundary between the two countries, but the international line is on the south bank.

He made no mention of an impending military action. President Laura Chinchilla told reporters earlier Friday that the troop deployment was preventative.

Barra del Colorado residents have been prohibited from visiting the community center, and red cones have been set out as a line of restriction.

Annex 95

TicoTimes.net, Adam Williams, “Tough talk as Costa Rica - Nicaragua border tightens”

14 January 2011

tico times.net

Tough talk as Costa Rica - Nicaragua border tightens

Posted: Friday, January 14, 2011 - By Adam Williams

While the case against Nicaragua entered the World Court in the Netherlands, the president and Security Ministry made defensive moves along the northern border, vowing to construct roadways, fences and heliports at spots along the Río San Juan.



AFP

International showdown: The Río San Juan dispute reaches The Hague, Netherlands.

As the border dispute between Costa Rica and Nicaragua went before the International Court of Justice this week in the Netherlands, Costa Rican President Laura Chinchilla and Public Security Minister José María Tijerino took steps at home that indicate an increased concern for security along the border.

Last weekend, Tijerino announced that work had begun in late December to enhance security along three Costa Rican rivers that join the Río San Juan, which serves as the border between Nicaragua and Costa Rica.

The Costa Rican government will set up heliports where the Colorado, Saripiquí and San Carlos rivers join the Río San Juan. Tijerino said the heliports will be used to facilitate government air traffic and to monitor security along the border. The only existing airstrip near the border is located in Barra del Colorado, in the northeast corner of the Limón province on the Colorado River.

"If Costa Rica doesn't take seriously the need to protect its territory, not only we are going to continue living in situations as terrible as the last few months, but also drug trafficking will continue unabated," Chinchilla said Tuesday.

The Public Security Ministry also announced plans to install fences around the border's river deltas to control access in an around the area. New roads will provide better access to border regions. According to the Public Works Ministry, an estimated \$2 million will be invested on infrastructure projects to facilitate travel to border communities near the conflict zone, which are currently only accessible by boat.

"We will do whatever it takes," Tijerino told the daily La Nación. "The government has decided to defend territorial integrity. We will be thorough with our defense efforts to defend the sovereignty of national territory."

Tijerino added that the added security measures would be permanent, and any unidentified boats entering Costa Rican territory would be intercepted.

In addition to the new security measures along the border, Chinchilla told members of the press on Tuesday that a potential "national defense tax" may be created to pay for the cost of the increased border security efforts.

Chinchilla said that the number of police forces on the border will likely increase in the next two months. In 2008, former President Oscar Arias reduced the number of border police.

"This government's goal is to have a trained police force along the border," Chinchilla said Tuesday. "To do so, it is very probable that part of the upcoming fiscal reform will include a national defense tax to fund these efforts."

In many border towns, including Barra del Colorado, police presence is scarce in normal times, and those officers that are working there say they often feel powerless to stop crime. Last October, the police force in Barra del Colorado dropped from three to two for a population of 3,000 residents (TT, Oct. 15, 2010).

The Costa Rican plan to boost border security comes only weeks after Nicaraguan lawmakers passed a defense-law package that included a National Defense Law, National Security Law and Border Law. Those laws could result in further militarization of the Nicaraguan side of the border (NT, Dec. 14, 2010).

Will Court Ruling Help?

On Tuesday, Costa Rica presented its case against Nicaragua at the world court in The Hague. The Costa Rican delegation presented satellite imagery contained in a report by the United Nations Institute for Training and Research (UNITAR). Costa Rica commissioned the UNITAR report late last year, and shared it with a handful of Costa Rican environmentalists who signed non-disclosure forms that prevented them from commenting before the case went to trial.

Costa Rican Foreign Minister René Castro hoped input from local environmentalists would help boost the country's case against Nicaragua's destruction of protected wetlands near the border (TT, Dec. 24, Dec. 17, 2010).

The UNITAR report compares satellite images of the Isla Calero during a time frame from 1979 to 2010 to reveal recent environmental alteration to the region, while also alluding to potential effects of the river dredging.

"There is apparently an area of active land removal on a [bend] of the San Juan River approximately 400 meters to the south of the newly created channel," the report says. "If the removal continues, it could redirect the flow of San Juan approximately 175 meters to the west, likely increasing river flow velocity downstream; such an increase in water velocity could also have the effect of accelerating erosion along the newly created river channel to the north."

The report noted that a morphological review of the area was conducted in 1979, 1986, 2005, and from 2007 to 2010. The images show that the area had been relatively stable during the last 30 years, with few indications of change until the late months of 2010.

"Based on an analysis of satellite imagery recorded on Nov. 19 and Dec. 14, 2010, there is strong evidence that a new river channel leading from the San Juan River to the Los Portillos lagoon was constructed between August and November 2010."

Castro posted on his Facebook page that "there aren't rivers, nor have there ever been rivers between the San Juan and the Los Portillos lagoon on the Isla Calero."

Nicaragua also presented its case, claiming that Costa Rica "creates a dispute" every time Nicaragua begins work on the Río San Juan" (see separate story, P. 7). Carlos Argüello, a member of the Nicaraguan delegation, said undefined international borders caused the dispute.

After Tuesday's hearings, Castro said he was confident Costa Rica had presented a strong case during its first day of court.

"We laid out our arguments," he said. "There has been irreversable damage done to Costa Rican territory and we feel the court has heard our arguments. Our position is very consistent, as it has been since this issue began."

President Chinchilla agreed: "The more the world knows about this situation, the more the world will agree with Costa Rica," she said.

Annex 96

La Prensa, Nicaragua, “Costa Rican Foreign Minister
starts tour against Nicaragua”

17 January 2011

(17 January 2011)

Costa Rican Foreign Minister starts tour against Nicaragua

By Josué Bravo

CORRESPONDENT / COSTA RICA

Today in London, UK, the Costa Rican Foreign Minister, René Castro, started a tour of several European nations to speak about what he considers a Nicaraguan military invasion, in addition to asking for suspension of aid to Nicaragua as a means of pressure, as he has previously stated.

During his visit to London, Castro was received at the British Foreign Office by Henry Bellingham, Minister of State responsible for United Nations and Conflict Issues, with whom he discussed issues of the bilateral agenda and spoke about the implications of the conflict with Nicaragua.

“Foreign Minister Castro spoke of the diplomatic efforts being made by the country aimed at achieving the immediate withdrawal of the Nicaraguan troops from (what this country considers to be) Costa Rican territory”, the Costa Rican Ministry of Foreign Affairs informed.

“He also spoke about the hearing held recently before the International Court of Justice and the need for the Court to issue the requested provisional measures aimed at stopping the serious devastation”, added the Ministry.

Annex 97

EFE, “Deputies call the Foreign Minister of Costa Rica
a ‘bully’ and ‘outdated’”

20 September 2011

20 September 2011

Managua, Nicaragua | EFE

Deputies call the Foreign Minister of Costa Rica a “bully” and “outdated”

In response to statements he made about the government of Nicaragua last week

By elnuevodiario.com.ni | Nacionales



The Foreign Minister of Costa Rica, Enrique Castillo. ARCHIVE / [END](#)

Deputies of Nicaragua today branded the foreign minister of Costa Rica Enrique Castillo "a bully" and "outdated". Last week he called the government of Daniel Ortega, whom he accused of invading Costa Rican territory in October 2010, a "xenophobic enemy".

The head of the Sandinista parliamentary group in the National Assembly of Nicaragua, Edwin Castro, said today that Castillo's statements have “no basis whatsoever”.

“These positions are outdated”, Castro told reporters.

Castillo, in statements published last Saturday by Costa Rican newspaper La Nación, criticized the Ortega government for what he called an “invasion” by Nicaragua of a wetland that Costa Rica considers to be in its Caribbean territory of Isla Portillos.

“I think we have to consider (the Nicaraguan government) as an enemy as long as they keep usurping” the Costa Rican territory, Castillo confirmed.

“There is a vengeful motivation, which is based on xenophobia that the Ortega government feeds to the Nicaraguan people, which is also practiced by the Nicaraguan Government. It's a xenophobic government against Costa Rica”, the official added.

Given this statement, today Nicaraguan liberal opposition legislator Wilfredo Navarro described the foreign minister of Costa Rica as “irresponsible” and “a bully”.

“He contradicts the behavior of the Costa Rican people, who are civil people and (Castillo) definitely is a bully, gangster style, who thinks he can intimidate Nicaragua”, said Navarro.

He maintained that the Nicaraguans do not want a war, but stressed that they know “how to respond firmly and rigorously to any attack” on their sovereignty.

Meanwhile, the President of the National Assembly of Nicaragua, Sandinista deputy René Núñez, called for waiting for the International Court of Justice to resolve the conflict.

“We will not support any militaristic action”, he said thereon.

The Nicaraguan deputies referred to the matter at the end of a formal meeting in the San Jacinto hacienda, 42 kilometers north of Managua.

During the meeting this Tuesday, legislators commemorated the 155th anniversary of the Battle of San Jacinto, where General José Dolores Estrada, at the head of 180 patriots, defeated the troops of American filibuster William Walker, who sought to take over Central America.

Nicaragua and Costa Rica maintain a territorial dispute since last October, when the latter accused Nicaragua of invading the wetland Managua knows as Harbor Head with military and civilians and causing environmental damage to it.

The case is in the hands of the International Court of Justice (ICJ) in The Hague, which last March ordered the two countries to refrain from sending security personnel, military or civilian, to the disputed area, and called upon them to coordinate their actions against drug trafficking and organized crime at the border.

Last August, the Costa Rican government protested to that of Nicaragua about the presence in the area of dispute of about a hundred members of the Sandinista Youth, a group sympathetic to Daniel Ortega, and demanded their departure from the place.

However, the following day Ortega publicly supported these young people, which Costa Rica called a mockery of the measures ordered by the ICJ.

Annex 98

University Seminar, “Environmental damage feared due to
construction of highway parallel to Rio San Juan”,

1 November 2011

University Seminar, “Environmental damage feared due to construction of highway parallel to Río San Juan”, Tuesday, 1 November 2011.

Environmental damage feared due to construction of highway parallel to

Río San Juan

Tuesday, 1 November 2011, 23:43

By Ernesto Ramírez (eramag2002@yahoo.com)

University Seminar

Environmentalists and persons involved in natural resources protection fear that the highway being constructed by the Government parallel to the Río San Juan will have a serious environmental impact and that in the end the “medicine will be worse than the illness.”

The highway, planned by President Laura Chinchilla’s administration in the context of the border conflict with Nicaragua, affects the area’s ecology and a large area characterized by biodiversity considered “strategic” and of enormous importance by environmental advocates.

Development of the project is based on an emergency decree (36440) issued by Chinchilla last 21 February and published in the official daily “La Gaceta” on 7 March.

This decree allows several Government entities, including the Transportation Ministry and the National Highway Safety Council, to operate under exception, which allows them to override permit procedures and other regulations.

Have profound environmental impact studies been done regarding the San Juan zone highway? Is Costa Rica really facing an emergency when in March the Court in The Hague issued precautionary measures and Nicaraguan troops abandoned territory of the Caleros-Los Portillos island long ago? How much awareness is there regarding the impact of this route in a zone of enormous environmental importance such as the bi national basin of the San Juan?

This and another series of questions are of concern to several ecologists and environmental advocates who do not hide their fear that the highway will cause serious damage to protected systems in the zone and will, in the context of the conflict that broke out in October of last year, in fact give Nicaragua arms against Costa Rica.

(See separate item: MINAET [Spanish acronym] vigilant against serious impact, said the Deputy Minister.)

According to geologist, Allan Astorga, any project similar to the one promoted for the border with Nicaragua involves environmental risks. He stated to UNIVERSIDAD that for this reason “it should be developed and implemented under an effective environmentally minded procedure in order to avoid damage.”

Environmental lawyer and Costa Riva UNIVERSITY professor, Álvaro Sagot, also expressed concern regarding the project since it is unknown if it is guided by the concepts of environmental viability.

“It is very simple. The necessary Environmental Impact Studies are being passed over by way of a decree. No one can say that there is or will not be any environmental impact regarding biodiversity,” he commented.

Nicolás Boeglin, an international law expert recalled that the San Juan region has biological corridors that are protected by law.

“From the ecological standpoint, this is a vulnerable zone. Certain precautionary measures have to be taken in the construction of a highway,” he indicated.

The vice-president of the Environment Court, Yamileth Mata, admitted that she was even unaware of the construction of the highway. She did not discard eventual intervention by the body regarding the viability of the project.

On the other hand, Uriel Juárez, Secretary General of the National Environmental Technical Secretariat (SETENA, by its Spanish acronym), told UNIVERSITY that this body has not been consulted, nor have its criteria on the highway and its possible risks been requested.

“There has been no request or inquiry regarding criteria here,” he indicated.

The director of the Tortuguero Conservation Area, Luis Rojas, said that that entity of the SINAC (Spanish acronym) “participated in some instances of consultation” regarding about 30 kilometers under its jurisdiction. He commented to this weekly that “Every project involves risks.”

Miguel Zamora, assistant director of the Arenal-Huetar Norte Conservation Area, reported that this entity in carrying out an “routine investigation” to verify what is happening in his area. “We have not been consulted on this project,” he assured.

Mauricio Álvarez, of the Environmental Booths of the University of Costa Rica, as well as Gino Biamonte, director of the ecology group APREFLOFAS, also expressed his fear. Separately they both stated, “The area is too sensitive and vulnerable.”

Legislator Claudio Monge of the Citizens Action Party (PAC, by its Spanish acronym) warned, “We are investigating, I will not allow an environmental disaster.”

MINAET is watchful against serious impact

Environment, Energy and Telecommunications Vice Minister, Lorena Guevara, said that entity is watchful in order that the environmental balance of the San Juan zone not be affected. Below are parts of her answers to questions sent to her by e-mail.

How was MINAET involved in supervision of the project since it is located in protected corridors?

The decree referred to responds to a “particular or *sui generis*” emergency, since it was issued in the middle of the situation and process caused by the Nicaraguan violation of Costa Rica’s sovereignty, particular in Calero island, and because of the environmental damage caused in our homeland.

Due consideration should be given to the particular nature of the event that led to the decree and the General Emergency Plan developed to address it. This was essentially a political phenomenon with many effects and variants that are difficult to pinpoint. Under these circumstances, the constitutional system provides special rules that allow the Executive Branch to address emergency situations, so that action can be as prompt and decisive as the circumstances merit thus minimizing the consequences of natural and other disasters.

Was the risk and environmental impact of this project evaluated?

In the present situation and given latent threat of further incursions from Nicaragua, Costa Rica must design vigilance mechanisms and ensure permanent presence of its police forces in the conflict zone at the southernmost part of the Colorado Delta, and the border side of the Río San Juan. Phase One of the General Emergency Plan includes concrete action by seven institutions: the Ministry for Public Security, the Costa Rican Electrical Energy Institute, the National Risk Prevention and Emergency Commission, the Costa Rican Red Cross, the Costa Rican Social Security Fund, the Environment Energy and Telecommunications Ministry, and the National Highway Commission. Activity of the CONAVI (Spanish acronym) includes the construction of an artery parallel to the Río San Juan, and in the case of the MINAET-National System for Reserve Arjeas, these entities have the role of constant environmental monitoring and surveillance over national wildlife reserves in the region.

Which is the supervising entity? Why wasn’t the SETENA included? Who did the environmental impact studies, if there were any?

In the case of the MINAET, the intention is to provide the SINAC with the necessary conditions and resources for protection and surveillance. The MINAET-SINAC has been careful that the projects cause as little environmental impact as possible, since the primary purpose of the road parallel to the Río San Juan is to safeguard life and physical integrity, property and the environment in the face of disasters and dangerous events that may occur. The other entities have been accountable and have proceeded in compliance with the regulations regarding an extraordinary situation provided by a decree of this nature. As a member of the National Emergencies Commission, the MINAET has been informed of the actions resulting from this emergency decree, and at a technical level the SINAC has been responsible for the actions established in the General Emergency Plan. It should be mentioned the route parallel to the Río San Juan was established along the two kilometer wide northern border strip where human activity has been evident for many years.

Annex 99

El País, Costa Rica, “Chinchilla Defends Highway Criticized
by Nicaragua, Rejects Dialogue”,
(Source: EFE / 13 December 2011).

14 December 2011

El País, Costa Rica “Chinchilla defends highway criticized by Nicaragua, rejects dialogue”, Wednesday, 14 December 2011 (Source: EFE / 13 December 2011)

El País.cr

Wednesday, 14 December 2011 – Costa Rica

Chinchilla defends highway criticized by Nicaragua, rejects dialogue

Source: EFE / 13 December 2011

San José, 13 Dec (EFE) – The president of Costa Rica, Laura Chinchilla, said today that her country the right and the need to construct a highway on territory near the border with Nicaragua. She rejected dialogue with that nation which has criticized the project due to alleged environmental damage.

Everything we are doing is according to the law. We issued an emergency decree due to national necessity and it is on that basis that we have developed the projects. We are not taking even one step back,” express Chinchilla today in the press conference following the weekly meeting with her cabinet.

The 120 kilometer highway is being constructed on Costa Rican territory. It connects 20 communities near the Río San Juan, under Nicaraguan sovereignty, which runs along the border and was the only communication channel between the settlements.

“Our only action has been to bring development to a northern border population which can now enjoy communication through Costa Rica territory,” said Chinchilla.

The president emphasized that the dwellers themselves donated land from cattle ranches to facilitate construction of the highway. She ensured that the communities have also benefitted from newly acquired electrical service, running water and schools, as well as the creation of some 7,000 jobs.

In recent weeks, the Nicaraguan Government has complained to Costa Rica for supposed environmental damage to the Río San Juan provoked by the highway and has demanded that the project be detained until environmental impact studies are revealed.

Nonetheless, Chinchilla reiterated that her country has the right to construct the project with no explanation to Nicaragua and dismissed the idea of serious environmental damage. She ensured that there is a mitigation plan as is the case with any “national project”.

“We have no reason to offer explanations to the Government of Nicaragua,” said the president.

Chinchilla recalled that Nicaragua “has paid no mind” to the precautionary measures mandated by the International Court of Justice (ICJ) in a case regarding Nicaragua’s supposed

invasion of a piece of Costa Rican territory near the Río San Juan where is supposedly caused environmental damage to wetlands protected by international conventions.

“There will be no dialogue until Nicaragua complies with instructions issued by the Court,” said Chinchilla.

The ICJ ordered both countries to abstain from deploying civilian, military or police personal to the zone in controversy, but in recent months Costa Rica has denounced the constant presence there of members of the “Sandinista youth.”

According to the Nicaraguan Government the Sandinista youth have gone there for environmental protection tasks.

On 5 December Costa Rica presented the ICJ in The Hague, an aide memoire with initial written allegations against Nicaragua regarding the territorial dispute.

Annex 100

El Nuevo Diario, Nicaragua, “Outrage everywhere over San Juan River parallel highway, No Studies Done for Costa Rican Highway”

15 December 2011

El Nuevo Diario, Nicaragua, “Outrage everywhere over San Juan River parallel highway, No Studies Done for Costa Rican Highway”, 15 December 2011.

El Nuevo Diario

15 December 2011

Outrage everywhere over San Juan River parallel highway

No Studies Done for Costa Rican Highway

*Costa Rican Foreign Minister Confesses: “Emergency Decree” exempted Costa Rica from environmental impact study on the project

José Adán Silva and Sixto Valladares

[National News Section]

A statement by the Nicaraguan Academy for Geography and History on the ecological disaster caused by Costa Rica in the Río San Juan as a result of its construction of a highway parallel to the waterway calls on the Government of Nicaragua and international environmental protection organizations to sue the Government of San José for this action, which according to the organization, is being carried out out of revenge and resentment, and out of disregard for the Nicaraguan and Central American ecosystem.

The statement by the prestigious cultural and scientific institution of the country points out that the construction of this highway Laura Chinchilla’s government is reflecting “disregard for world concern for the conservation of tropical rain forests, reflects unfortunate resentment toward Nicaragua and discredits Costa Rica as a green country.”

The statement by the Academy consists of five points in which it denounces on the world level and draws attention in Central America, regarding the damage to nature on the istmus caused by the destructive Costa Rican projects at a time when the region is most vulnerable in the face of the climate change due to environmental destruction.

An attack on Central America

According the statement, “The cross-border impact of this near fet acompli is an attack against Central American natural patrimony. In this regard, Nicaragua should resort to the International Court of Justice for precautionary measures directed to mitigating the ravages caused to the present, and to suspension of the mentioned construction.”

This 120 kilometer highway does not contribute to the progress of the almost non-existent Costa Rican Caribbean population, but rather alters the ecosystem created by the river and its basin and prevents Costa Ricans’ practice of eco-tourism through their exercise of their right to limited navigation along the mentioned stretch of the lower course of the Río San Juan. In fact residue dumped into the river will destroy one of the few waterways of the continent (by finishing off its fauna among other irreparable damage) and compromises the

navigability of the Río Colorado, a tributary of the Río San Juan located on Costa Rican territory,” added the Academy.

Developing this highway violates all bilateral, regional and international conventions and treaties signed by the two countries for the promotion of responsibility for environmental protection, and which prohibit dumping sediment and other pollutants into a neighboring country.

Finally, Costa Rica has disregarded Nicaragua’s claim that a country cannot destroy the environment of a neighboring country as this constitutes an unfriendly and irrational attitude,” pointed out the Nicaraguan Academy for Geography and History.

“There are no environmental impact studies”

As if ratifying the “unfriendly and irrational attitude,” the Costa Rican Foreign Minister himself, Enrique Castillo, confessed yesterday to the Costa Rican press that the environmental demolition work was not the subject of environmental impact studies because they were carried out in the context of an emergency decree that “exempted” them from these requirements.

True to their incendiary and nationalist rhetoric, the Costa Rican Foreign Minister reiterated that his country is not obligated to any kind of explanation, “nor to suspend its work being carried out as a consequence of an emergency provoked by Nicaragua, because we are being invaded by 500 Nicaraguan army soldiers disguised as ecology monitors that work along the border.”

“Nicaragua has not presented an environmental impact assessment on the Brito project, on the construction of an airport that is already completed in the wetlands zone protected by RAMSAR to the north of our border, or on its invasion of Isla Portillos (Harbour Head), on its dredging which whereby residue has been dumped on Costa Rican territory,” he expressed.

This is a sovereign project we are carrying out under a decree that exempts us from environmental impact studies, that is why we owe no explanations,” confessed the official thus revealing that behind these projects there is no study for mitigating environmental damage in the zone. We still do not know who will represent Costa Rica in the SICA summit, said Castillo.

And when will the lawsuit be presented?

According to former Nicaraguan foreign minister, Norman Caldera, the government of president Daniel Ortega should request precautionary measures before the International Court of Justice in order to stop environmental demolition while experts jointly request bilateral dialogue to which has been adamantly opposed by Costa Rica.

The government should have acted long ago and requested precautionary measures to detain these projects. It should have filed a lawsuit long ago. This is not a matter of issuing

Notes to an entity that is outright disinterested in dialogue. What is the matter with the government that it has not acted?" Caldera asked.

Religious, environmental, indigenous and community, political, civil society and business voices have joined this demand that Nicaragua act more firmly and decisively to stop the environmental degradation. According to former diplomat Julio Icaza the main problem is that "neither of the two presidents has the will or the political maturity".

To each his role

Icaza is of the opinion that the conflict which begun last year should have been discussed bilaterally "for the good of both nations."

However, since that time the high level officials from both countries have committed countless errors "in that there has been no capacity for a serious dignified dialogue toward imaginative solutions in the management of this rich and promising border area."

Icaza said that each government is using the conflict over the Río San Juan for benefit through so-called patriotic speeches and rousing nationalist sentiment. "He is absorbed in the accumulation of power and uses nationalism to obtain more of it; she seeks to use the conflict to distract from her ineffectiveness and the lack of popularity her government has come to. While they maintain these positions there will be no progress," according to Icaza.

Insistence on dialogue

"This problem will be resolved there are mature government with vision, led by true statesmen with a vision for the future and enough will to resolve the conflict and not for using it for solving internal problems," said Icaza.

Mario Herdocia, an international relations expert agrees, "The best instrument is dialogue between Costa Rica and Nicaragua. There has a been a vacuum in the bilateral relation in that these two neighbors and brothers must learn to solve their differences through dialogue and negotiation.

According to Herdocia the dialogue is "the opportunity for Costa Rica to present the environmental impact assessment and for Nicaragua to present its concerns so they may come to an agreement.

Muscle and rhetoric

The former ambassador to Costa Rica, Mauricio Díaz indicated that even though "to the present they have not come to the boiling point," the tension has precluded the possibility of a solving the conflict through bilateral dialogue.

"Ortega has been all rhetoric and Mrs. Laura's reaction has been more muscle than brains. She is endangering Costa Rican eco-democracy," according to his observation while alerting that regardless of the discourses behind the Costa Rican projects lie true social

concerns for both riverbanks of the waterway, for the potential damage to the ecosystem as a result of the project underway.

Not 120 kilometers but 160

Official information on the projects made public yesterday in San José by the President of Costa Rica, indicate that the highway in reality consists of 160 kilometers and extends from the Costa Rica Delta to the village of Los Chiles. This includes reparation to 300 additional kilometers of accesses to the main highway in order to “connect” 2,500 families living the area.

In Nicaragua the issue has generated total opposition from environmental groups that are taking legal and court action to sue the Chinchilla government: they are doing studies, they are on site filming, taking notes, gathering testimony and other carry out other activity relevant to their competence.

The Ministry for the Environment updated information on the environmental destruction for the Central American Integration System (SICA, by its Spanish acronym), the UNESCO, the Central American Court and the United Nations System for the Environment.

(Matilde Córdova and María Adelia Sandoval collaborated with this article.)

Annex 101

El Nuevo Diario, Nicaragua, “Costa Rica affirms Central American Court is politicized in favor of Nicaragua”. Source: EFE

7 January 2012

Costa Rica affirms Central American Court is politicized in favor of Nicaragua

Source: EFE | 7/1/2012

Costa Rican Foreign Minister Enrique Castillo reaffirmed that his country does not recognize the Central American Court of Justice (CCJ) and denounced that this regional body “is politicized” in favor of Nicaragua within the framework of a bilateral conflict concerning the construction of a road on Costa Rican soil.

“The CCJ, to which Costa Rica is not a member and has never recognized or accepted its jurisdiction and competence, once again tries to forcefully impose itself, claiming attributions it does not have”, said Castillo in a statement published today in the local press.

He added that the Court does this “to serve the interests of the Government of Nicaragua, which opposes the construction of a rural road in Costa Rican territory, and to seek power and legitimacy it lacks”.

On December 19th last, the CCJ, seated in Managua, upheld a complaint filed by two Nicaraguan environmental organizations against Costa Rica for the construction of a 120 km road on the south bank of the boundary San Juan River in Costa Rican territory.

The Government of Nicaragua has affirmed that this road is causing environmental damage to the San Juan River under Nicaraguan sovereignty, and therefore also filed a complaint with the International Court of Justice (ICJ).

Costa Rica has stated that the gravel road is necessary to connect and bring development to some twenty Costa Rican towns, where the only communication route was the San Juan River.

According to the Costa Rican Foreign Minister, “The CCJ is a politicized body and also prejudiced against Costa Rica” and also pointed out that the president of that court “has already prejudged” by publicly referring to the sanctions that the court will impose and by calling his country “the rebel Costa Rica”.

“A court like this attempts against the integrity of SICA (Central American Integration System) and its laudable objectives”, expressed Castillo.

The diplomat recalled that the Costa Rican Legislative Assembly never approved the Statute of 1995, which stipulated “the integration, functioning and attributions” of the Court.

Castillo added that his country did not approve the Statute because the attributions of the CCJ are unconstitutional as it would become “a supranational power”.

The CCJ, created by the Tegucigalpa Protocol in 1991, is composed of two justices from El Salvador, Honduras and Nicaragua and their respective alternates, and it is foreseen that two

justices from Guatemala will soon be incorporated. Belize, Costa Rica and Panama have not yet ratified the Statute of the Court.

This conflict is a new chapter in the tense relation between both countries since October 2010 when Costa Rica denounced a Nicaraguan military and civilian incursion to its territory as part of the San Juan River dredging works.

On that same year, the Costa Rican Government denounced Nicaragua before the International Court of Justice in The Hague for invading its territory and causing serious environmental damage in the zone, especially in wetlands protected by international agreements.

Annex 102

El Nuevo Diario, Nicaragua, “Costa Rican Vice-President suggests eating the San Juan”

23 January 2012

23 January 2012

**With tourism objectives for the debatable road
Costa Rican Vice-President suggests eating the San Juan**

Sixto Valladares, National News Correspondent

San José, Costa Rica

Costa Rican Second Vice President Alfio Piva invited his compatriots to “eat the Río San Juan,” while suggesting the inhabitants of communities on the border with Nicaragua work with their government on a plan for tourism development of the river, including its surrounding land, and taking advantage of the mentioned path which runs parallel to the Nicaraguan waterway.

“This border area is one of Costa Rica’s most beautiful, and you should now use to your advantage the inauguration of the road running parallel to the river. I invite Costa Ricans to visit Tiricías and other areas so you can come and eat the Río San Juan,” said Piva while flanked by First Vice President Luis Liberman during the inauguration of a project bringing electricity to that Nicaragua border area.

Piva, who called himself a seasoned environmentalist, immediately explained, “When I say I will eat the San Juan, this is a metaphor because I believe the river is full of a great variety of fish and shrimp.”

Nicaraguan presence

At 10:30am, before the ceremony had started, a Nicaraguan Government helicopter was seen flying over the Río San Juan.

The unarmed white and light blue aircraft was flying at medium speed a short distance from Costa Rican airspace, according to La Nación daily newspaper published in neighboring Nicaragua.

According to the same newspaper, minutes later while Liberman was speaking a vessel with ten Nicaraguan military personnel seen in the river moved on without stopping.

Seconds later, Liberman said that the government would not waiver in its determination to put an end to the border area path initiated months before the Harbour Head conflict erupted.

Costa Rica’s First Vice President then warned that “no foreign government and no Court that is not recognized by us can tell us what we can and cannot do.”

Lieberman was referring to the recent resolution of the Central American Court of Justice (CCJ by its Spanish acronym) which orders the Laura Chinchilla Government to stop construction of a road with stretches that are parallel to the Río San Juan, and which has apparently caused ecological damage to the Nicaraguan river.

Annex 103

La Nacion, Costa Rica “Conavi Built a Dirt Road along the Border
without a Single Design Plan”

23 May 2012

160 KM CONSTRUCTION WORK PARALLEL TO THE SAN JUAN RIVER LACKED DESIGN

Conavi Built a Dirt Road along the Border without a Single Design Plan

Lack of design plans might have raised costs and cause accelerated deterioration of the road. Government did not anticipate drainage systems nor did it perform a topographic survey to find the best layout.

ESTEBAN OVIEDO eoviedo@nacion.com **12:00 A.M.** 23/05/2012

Conavi built a 160-kilometer dirt road along the border with Nicaragua, without a single design plan to evidence the layout for opening the road or to determine the characteristics it should have.

RELATED NOTES

Absence of design might end up in higher costs, environmental problems and fast deterioration of the project, stated Olman Vargas, Executive Director of the Federated School of Engineers and Architects (CFIA).

The construction work lacked a topographic survey to define the route with the least amount of obstacles. In addition, ditches, culverts or river crossings not designed. Now, as the National Roadway Council (Conavi for its acronym in Spanish) itself admitted, the dirt road has many slopes with gradients greater than those due and curves not apt for proper vehicle transit.

The inexistence of design plans confirmed to this news media by CFIA, Conavi and the company, Compañía Asesora de Construcción e Ingeniería SA (Cacisa for its acronym in Spanish). The latter hired in January of the current year to provide project supervision support.

The dirt road construction began in December 2010, in the wake of the conflict that arose with Nicaragua in October of that same year over the occupation Calero Island.

Conavi spent a bit over €20.000 million in the Project, which includes habilitation of 440 km in access roads.

Nine hundred (900) machines - Fourteen months after works began, when Cacisa joined the work efforts, it found 900 machines working along the border without any design plans.

Roberto Cambronero, an engineer from Cacisa, described it like this: “We arrived at a cutting drawer, a cut on both sides (of the dirt road). Then we asked the person in charge, how much before finishing? What are you doing? ‘Oh, I’m cutting’. Moreover, how much

do you still have to do? He did not know because there were no design plans, and you can perfectly well say, ‘leave it here’”.

José Manuel Sáenz, Cacisa partner, added that a design would allow for calculating the width and the slope cut, which require topographic stakes placed.

To open the route, Conavi hired companies with trucks or excavators that charge on a per hour basis.

According to Cambronero, the Head of Conavi should define the layout. This is an engineer surnamed Serrano who is now suspended due to an investigation about supposed handouts in the project.

Gerardo Prada, also a partner at Cacisa, said the machine operators received orders to open the dirt road on the riverbank. Nonetheless, he and Saenz sustained that even so, it was necessary to avoid topographic obstacles such as hills, wetlands or very steep plots of land.

For Saenz, the kilometers closest to the area in conflict properly made under the chosen manner due to the urgency; but the rest deserved a basic plan: “We are in the XXI Century. This requires a design, this road is like going from San Jose to Moin, and it is a very large road. To think about making 150 kilometers with just machines, without design (...) I’m referring to mere professional diligence... it is not done in this manner”.

The CFIA Director also expressed concern due to the lack of drainage: “A great deal of the investment might end up lost with a few rainfalls.”

No One Responsible – Vargas confirmed that the School of Professionals decided that Conavi did not report to them who was the professional responsible for the work and did not deliver any design plans to them.

According to Vargas, the fact that work began under the umbrella of an emergency decree (signed in March 2011) did not exempt Conavi from making those reports.

Jose Luis Salas, Executive Director of Conavi, sustained that design plans were not available due to an emergency. “There was no time”, he explained.

Salas sustained that Conavi and Cacisa make topographic surveys to review the geometric design, improve slopes, curves and water contention systems. He denied that the absence of design plans due to force majeure caused a rise in costs.

Marcela Cantero collaborated

Annex 104

La Nación, Costa Rica “Government avoided applying
environmental control in border trail”

24 May 2012

Assessment of damage to the environment began a year after the start of construction

Government avoided applying environmental control in border trail

Minaet (the Ministry of Environment, Energy and Telecommunications) discarded environmental Consulting for economic reasons

Environmental report reveals damage to wetlands, forests and rivers

Ernesto Rivera erivera@nacion.com 12:00 a.m. 24/05/2012

For a year the government avoided establishing environmental controls and had no plan to mitigate the damage to nature caused by the construction of the Juan Mora Porras trail, on the border with Nicaragua.

Between December 2010 and December 2011, the machinery advanced along 160 kilometers of forests, grasslands, rivers and wetlands without assessing the impact on the environment, or conducting a forest inventory, or appointing a team to exercise the environmental reGENCY of the project.

In November last year there was an initiative on the board of directors of the National Emergency Commission (CNE) to hire a team of consultants and assess the damage caused by the work and propose mitigation measures during construction.

However, the Deputy Minister of Environment, Ana Lorena Guevara, decided not to make such contracts for economic reasons and to carry out the assessments and recommendations using in-house professionals from her own ministry.

Under the protection of executive decree 36.440, issued on 7 March 2011 by President Laura Chinchilla, the construction was exempted from needing prior approval of an environmental impact study.

A year and a half after the work was started, a study by the Ministry of Environment reveals that during the work wetlands were altered and primary forests were cut down in the area between the Medio Queso River and Boca de San Carlos. Also, sediments were accumulated in a wetland between the river mouth of Sarapiquí River and Caño La Tigra stream.

Deputy minister Guevara claimed that they began to think of assessing environmental damage in October last year, when criticisms were spread from Nicaragua concerning the effects that the construction of the border trail was creating on the environment.

“In November 2011 the road was already in its execution phase, there was no possibility to prevent it; what could be done was to take mitigation and compensation measures because the damage was already done”, Guevara admitted.

Economic reasons. In November last year the Ministry of Environment claimed economic reasons for not hiring a team of biologists, forestry engineers, geographers, sociologists and

lawyers who were to assess the impact of the project and propose measures to mitigate environmental damage.

The then deputy minister of Environment, Andrei Bourrouet, was in charge of elaborating the terms of reference for that contract.

“I was asked to elaborate the terms of reference for an interdisciplinary team that would assess the environmental damage, I did, but a different person had the responsibility to make this initiative happen”, said Bourrouet.

Deputy Minister Ana Lorena Guevara, who succeeded Bourrouet in the post, claimed that she consulted the issue with the high level committee, composed of the deputy ministers of the Presidency, Mauritius Boraschi, of Foreign Affairs, Carlos Roverssi as well as of Security, Walter Navarro, and that the decision not to hire the consultants was taken collegially.

Deputy Minister Boraschi noted that each institution was responsible for its own specific area. “Deputy minister Guevara told us that Minaet had the technical capacity to do the job and we accepted that”.

Deputy minister Carlos Roverssi offered a similar account. “Minaet told us that they could assess the environmental impact and develop a mitigation plan. Each institution is responsible for its own area and the others accepted what deputy minister Guevara proposed to us”.

Annex 105

Press release from CONAVI to the public

25 May 2012

Press release from CONAVI to the public

Because of the serious questions posed by the media about the actions taken by the National Roads Authority (CONAVI) in relation to the construction of Route 1856 and in order to provide citizens with stronger evidence to enable it to form a comprehensive and objective opinion of the circumstances in which the work has been developed, the National Roads Authority clarifies:

1. The first thing that needs to be understood is that the works on Route 1856 were done in a context of national emergency and faced with a situation that clearly and obviously affected the sovereignty and security of our country. Failing to recognize and understand that this was the situation, would lead any person to make judgments of opinion based on an incomplete assessment of the facts and circumstances.
2. The work on Route 1856 was done under those circumstances. Therefore it must be understood that some of the determining factors of the action taken were to act quickly but within the framework of discretion, that is, motivated based on the best interests of the nation. In fact, an Emergency Decree was issued in order to give context to the nature of the situation.
3. As the Costa Rican people will understand, in these circumstances it could not be expected that the works of the route be developed within the framework of standard procedures but rather under the exceptions provided for in the Constitution and the laws of the Republic. In this respect, it should be understood that the work of starting the trail could not be subjected to the procedures for development of infrastructure projects that take into account, for example, stages of conceptualization, feasibility, design and management of the work. But, not having done that is not synonymous with acting without a proper and speedy analysis for the decision that was made.
4. To say at this stage that there was a lack of blueprints or that it was not reported who the professional responsible for the work was, are assessments that we believe are inappropriate within the framework of the best interests of the nation, which have motivated our actions.
5. The route was built as a trail, nothing more or less, under the conditions indicated and that is the way it is; in a development process in which all the work done on it improves it and will increase the level of performance.
6. It is also necessary to clarify that in addition to the trail, whose length is currently estimated at 160 kilometers, significant works were done on several access roads to the trail itself. In fact the total length of access roads that were worked on exceeds 332 kilometers. In other words, the total work done covered over 492 kilometers of roads.
7. The above is very important because we have to understand then that the work associated with Route 1856 must be appraised in a comprehensive way, at a regional level and not as a single communication route. The impact of this set of actions is causing a real transformation of the entire border region of our country, bringing development and hope to the Costa Ricans in that area.

8. Unfortunately the events early this month concerning the management and administration of the work have come to overshadow the positive aspects of the work performed. About this, CONAVI wishes to reiterate that the necessary actions will be taken in order to punish those who should be punished. We respectfully await the processes of the Public Ministry and of our Internal Audit to proceed accordingly.

9. Media coverage should not be the only source of information, but each complex element of what has been presented must be judged. Allow us to say that we at CONAVI are the first to feel committed to care for the the best interests of the nation, but demanding responsibility and punishing those who deserve it.

10. We would like to take this opportunity to inform the Costa Rican people that both MOPT (Ministry of Public Works and Transport) and CONAVI are working to safeguard the route. We would also like to say that we are preparing a work plan for the continuation of the works and we assure you that those works will be done using the prescribed procedures and with levels of control to avoid the mistakes made during the first phase of the project.

11. There is work to do: we need to finish the ballasting, place drainage systems and sewers, we have to put up bridges, some of them very expensive. However, in a gradual way we will be improving the road so that it can be used properly to benefit the people in the area, and in general, for development of the country.

We end this note by stating that despite the vicissitudes that occurred and the difficulties we encounter in our quest to do things right, we at CONAVI will continue to meet our responsibilities while at the same time properly informing the Costa Rican people, not only about Route 1856, but about the large number of projects and work we do on the National Road Network.

25 May 2012

Annex 106

El Pais, Costa Rica, “Faced with Criticism, Conavi Confirms to Have Done Work on 332 Kilometers of Roads around Route 1856”

26 May 2012

Faced with criticism, Conavi confirms to have done work on 332 kilometers of roads around Route 1856

Source: Carlos Salazar Fernández | 2012-05-26. El Pais.cr



Section of Route 1856 near Delta Costa Rica. Photo by Carlos Salazar.

San José, 26 May (elpais.cr) – Given the wave of criticism for corruption, lack of environmental studies and plans, among others, to build the trail known as Route 1856, the National Roads Authority (Conavi) defended all actions taken and says to have done work on 332 kilometers of road, in addition to the 160 of the new road.

In a statement, published on the Presidential webpage, Conavi maintains that these works were done in a context of national emergency, "and faced with a situation that clearly and obviously affected the sovereignty and security of our country".

"Failing to recognize and understand that this was the situation, would lead any person to make judgments of opinion based on an incomplete assessment of the facts and circumstances", says the bulletin.

Conavi argues that with those conditions it was necessary to act quickly, "but within the framework of discretion, that is, motivated based on the best interests of the nation. In fact, an Emergency Decree was issued in order to give context to the nature of the situation".

After insisting on legality, Conavi added that for this reason it should be understood that the work of starting the trail could not be subjected to the procedures for development of infrastructure projects that take into account, for example, stages of conceptualization, feasibility, design and management of the work.

“But, not having done that is not synonymous with acting without a proper and speedy analysis for the decision that was made”, it is added.

“The route was built as a trail, nothing more or less, under the conditions indicated and that is the way it is; in a development process in which all the work done on it improves it and will increase the level of performance”, it is explained.

It is stressed that it is necessary to clarify that in addition to the trail, whose length is currently estimated at 160 kilometers, significant works were done on several access roads to the trail itself. In fact the total length of access roads that were worked on exceeds 332 kilometers.

Conavi went on to say that "the above is very important because we have to understand then that the work associated with Route 1856 must be appraised in a comprehensive way, at a regional level and not as a single communication route”.

On allegations of corruption, the Conavi bulletin says that the necessary actions will be taken in order to punish those who should be punished. "We respectfully await the processes of the Public Ministry and of our Internal Audit to proceed accordingly”, thus is stated.

After promising that the mistakes made will not be repeated, the government promises that the work will continue and that it will be done using the prescribed procedures and with control levels.

“There is work to do: we need to finish the ballasting, place drainage systems and sewers, we have to put up bridges, some of them very expensive. However, in a gradual way we will be improving the road so that it can be used properly to benefit the people in the area, and in general, for development of the country”, thus finishes the statement.

Annex 107

La Nacion, Costa Rica “Serious errors expose trail to risk of
collapse during the rainy season”

28 May 2012

UCR laboratory inspected Juan Mora Porras route

Serious errors expose trail to risk of collapse during the rainy season

Investments could be lost due to lack of drainage and poorly designed landfills

Lanamme: poor quality of work does not reflect the investment of ¢20,000 million

Ernesto Rivera, Esteban Oviedo and Ronny Rojas erivera@nacion.com 12:00 a.m. 28/05/2012

Much of the ¢20,000 million that the country has invested in building the trail bordering with Nicaragua, could be lost during the next rainy season.

That is the warning given by engineers of the National Laboratory of Materials and Structural Models (Lanamme) of the University of Costa Rica, after inspecting, at the beginning of this month, 97 of the 160 kilometers of this road.

In their report, the experts say that the lack of adequate drainage and the instability of the cut and fills that were performed on route 1856 could become a headache with the arrival of the rains.

“In its present condition, the border trail presents a high risk of collapse during the rainy season”, is one of the conclusions of the study.

According to the Lanamme report, the consequences of this possible collapse would result in “a substantial loss of the investments made so far”.

During the tour, carried out between Delta Costa Rica and the Pocosol River, the Lanamme mission determined that the steep slopes and the irregular layout of the road were made based on the experience of the machine operators, without taking into account geotechnical or topographical information.

Government authorities have refused to comment on the implications of the study since they claim that they do not know about it yet.

Expensive transports. The goal for Lanamme was to technically assess the configuration, quality and functionality of the works carried out on the trail border.

Another of their findings was the use of unsuitable materials to stabilize the road surface and their transport from far away.

The inspectors found that in some locations large river rocks had been placed as a surface layer.

In other places, very sandy materials had been used that are easily displaced by traffic, wind or water.

“Most of the time, these river materials were hauled from far away and they represent a significant cost. In any case, it is inadmissible to use materials with undesirable characteristics”, says the report in its conclusions.

The Government announced the construction of the trail as an alternative to using the San Juan River for the transit of people and goods at the border with Nicaragua.

Its construction was carried out under the protection of emergency decree number 36.440, signed by President Laura Chinchilla, which permitted the availability of lots of funds and the avoidance of the controls of environmental legislation.

The Lanamme report advises that, despite the state of emergency, the design problems could have been solved in a short time, using georeferencing techniques and software to guide the engineering of the work.

They used containers. One of the threats that the border trail is currently facing is the lack of adequate drainage to channel the flow of rain that will fall during the coming months.

The engineers found out that during the construction of the route containers were placed (the kind that is used to transport goods) as structures for water drainage.

Due to falling materials, these containers are already deformed and at risk of collapse, as is evidenced by the photographs included in the report.

“As long as it is not clear what the implications of the study are, or what the validity is of the statements made in it, it would be irresponsible to make any comment”, the minister of Communication, Francisco Chacón, said yesterday to *La Nación*.

Meanwhile, Luis Salas, executive director of the National Roads Authority (Conavi), pointed out that he would like to read the document before expressing an opinion.

“The objective was to grow to, not to build immediately, a road as we all may have wanted. Of course the geometric design was not carried out, because it is a trail”, Salas asserted.

Annex 108

Crhoy.com, “Engineers Association: ‘Emergency Decree does not justify absence of engineering principles’”, available at <http://www.crhoy.com/colegio-de-ingenieros-decreto-de-emergencia-no-justifica-ausencia-de-principios-de-ingenieria/>

30 May 2012

Engineers Association: “Emergency Decree does not justify absence of engineering principles”

30 May 2012

12:13 am



Engineers Association assures that the government should acknowledge mistakes made on the trail and find a solution. CRH

The Executive Director of the Costa Rican Association of Engineers and Architects (CFIA), Olman Vargas, stated that in the construction of the border trail the basic principle of engineering was broken and that there is no excuse that can justify the construction of the road without any previous study or construction plan.

Thus he responded to statements that were given yesterday at a press conference by the Deputy Foreign Minister Carlos Roverssi, the Minister of Transport Luis Lack, the Minister of Environment René Castro, the Minister of Communication Francisco Chacon and the Minister of Security Mario Zamora. The ministers said that the emergency decree justified the manner in which the work on the border trail had been started and that the road was only a transit route that did not require the technical details of a more urban street.

“We do not share the views of some representatives of the central government; to perform work without following the proper steps of engineering can not be justified by urgency. I do not know how it is in other fields of endeavor, but at least in engineering everything should be adequately designed and planned. There are basic previous studies that need to be carried out even if it is a trail”, said Vargas.

According to Vargas, there is a process that is logical, natural and inherent to engineering which is to establish a whole series of previous and basic studies to determine the topography and based on that to make a design that allows for solving any technical problems that are found along the way. Following that, the construction work is carried out, but to say “that due to the corresponding emergency (and which in this case we do not understand either; what was it?) that whole process had to be skipped, does not seem logical”, Vargas pointed out.



View of part of the border trail. The CFIA says that the emergency decree can not justify the mistakes made in the work. CRH

The President of the CFIA commented that it could be understood that the reason for creating an emergency decree was to use the emergency funds, which were important and could be used in the development of the project, “but that does not justify that things have not been done the way they should be done in terms of engineering. That's like saying that because a house is of social interest we will build it the wrong way and using bad materials, and it does not matter if it falls down because it is not a house that is going to be built with technical standards”.

According to the director of the CFIA, one should always work with the technical regulations that apply, especially when there are few resources and there is the need to optimize them, as is the case with the public resources used for route 1856; “that requires that things are done in the best way possible”.

Despite the justifications given by the Government regarding the construction of the trail, Vargas considers that just building about 160 km in the conditions and geography of a country like Costa Rica is a substantial construction, even if it is located in a rural area.

“We are going to suggest to the Government, as has been done on other occasions, what should be done from now on to protect the investments that were made, and especially to redirect the investments in a way that allows the project to be brought into the appropriate conditions, particularly from a technical point of view. That should be the Government's position and they should say that they acknowledge everything that is wrong and will seek for what can be done to protect the investments and we will correct everything that has to be done from now on. It would not seem prudent or appropriate to try to defend what has not been done right”, concluded Vargas.

Annex 109

Diario Extra, “Government acknowledges mistakes in
the construction of the trail”, available at
<http://www.diarioextra.com/2012/mayo/30/nacionales13.php>
30 May 2012

GOVERNMENT ACKNOWLEDGES MISTAKES IN THE CONSTRUCTION OF THE TRAIL

MIREN MARTÍNEZ / KRISSIA MORRIS

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After weeks of silence, government officials came forward to meet the information disclosed in the media about route 1856, popularly known as the border trail. They acknowledged errors such as the lack of blueprints and environmental impact studies for the construction of it. They justified that the latter was due to the urgent need to have a road in that area as quickly as possible.



route 1856, Juan Mora Porras, under construction.

According to the Minister of Communication Francisco Chacon, it is justified, in view of the emergency decree issued in February of last year for the construction of the border trail, that not all the requirements had been fulfilled, such as those blueprints.

Meanwhile, Deputy Foreign Minister Carlos Rovessi stated that there is no environmental impact which damages the San Juan River, as the presence of significant sedimentation has not been detected.

On this matter he further argued that there is no evidence proving irreversible damage and that the work will continue with mitigation plans.

Fishman demands accountability

Luis Fishman, faction leader of the Social Christian Unity Party PUSC, misses no chance to clear up any lingering doubts. Taking advantage of the audience with Finance Minister Edgar Ayales that took place yesterday at the meeting of the Ordinary Standing Committee for Financial Affairs, in relation to the presentation of a fiscal strategy, Fishman took the opportunity to hand over a letter demanding information about the 32 companies that have participated in the border trail and that have been paid ¢17,550 million.

“We want to know the tax status of these companies, if they are properly registered, if they have paid taxes and all information concerning the case”, declared Fishman.

Annex 110

La Nación, Costa Rica, “Chinchilla: There may be errors,
but road project should continue”

31 May 2012

President agrees all facts regarding construction should be made public

Chinchilla: There may be errors, but road project should continue

She is open to recognizing and correcting lapses if they were present

Insists above all project should proceed to avoid damage by rains

Carlos A. Villalobos cvilla@nacion.com, 12:00am, 31 May 2012

Geneva, Switzerland. President Laura Chinchilla agreed yesterday that all details regarding the construction of the border road should be revealed and that, if committed, errors should also be recognized. However, she insisted that work on the project should continue.

This was her response after Carlos Roverssi, Vice Minister for Foreign Affairs, on Tuesday described as a smear campaign information disseminated by the press regarding the lack of delineations plans and environmental guarantees in construction of the route parallel to the Río San Juan.

According to a statement by Chinchilla during her last day on a trip to Europe, “Our intention is that everything be clarified and made public, to eliminate doubts regarding the plans and intentions behind the *trocha* construction, and that if errors have to be admitted, or procedures adjusted, this be done.”

She immediately made clear that despite what has happened her Government will assign more resources to the project in order that be completed, “We cannot allow this project to go to waste, the work need not stop.” She also insisted that this will not be a four-lane highway.

“This project began with the opening of the *trocha*, that is why the project has come to be called “La Trocha” (“The Road”). I would like to remind Costa Rica that this is precisely how the road to Limón was initiated, by opening a road,” she affirmed.

What should follow now is the stabilization of the road in order to prevent the winter from rendering a waste the 22 million *colones* invested in the 160 kilometres of road and some 400 kilometres of nearby routes.

The President said that more sophisticated projects are on the way such as “bridges with specific delineation plans,” and that their total cost will be determined in the next few days.

A recent report by the National Laboratory on Structural Materials and Models of the University of Costa Rica (Lanamme) warned that the monies invested in the *La Trocha* could go to waste due to construction errors such as the lack of adequate draining, and instability due to inadequate land removal.

At the beginning of May Chinchilla ordered Francisco Jiménez, then Minister of Public Works, to criminally process two officials of the National Highways Council (CONAVI by its Spanish acronym) for receiving bribes from companies on contract with the project.

The president also demanded Jiménez's resignation and the removal of former CONAVI executive director Carlos Acosta Monge.

Instructions on resources. In a 1 September 2011 meeting of the Highways Council Board of Directors, Acosta stated that Chinchilla had requested that he "assign resources for continuation of work on the Calero routes." The search for more resources was discussed during the meeting.

Yesterday, in response to questions on the matter the President responded "I cannot refer to what may have happened in CONAVI in the past. I can say that in general my message in meetings with officials and in public statements was always that we intended to seek and obtain the necessary financing in order to consolidate the project during our government."

The day before yesterday, **La Nación** also revealed that between December 2010 and March 2011 the CONAVI secretly spent about 6 million *colones*, after the October 2010 Nicaraguan invasion of Calero Island on the Caribbean side of the border.

At that time, the institution rented equipment with no prior public bidding although the Emergency Presidential Decree mandating the project was published later on 7 March 2011. The President expressed her preference that information on the matter be offered in writing.

Annex 111

Crhoy.com, “Path construction supervisors informed problems and the lack of oversight”, available at <http://www.crhoy.com/supervisores-de-trocha-senalaron-problemas-e-inexistencia-de-controles/>

11 June 2012

Path construction supervisors informed problems and the lack of oversight**11 June 2012****12:28 am**

Path construction supervisors informed defects and the lack of oversight. CRH

Since last January the Construction and Engineering Consulting Company (CASISA by its Spanish acronym), responsible for the oversight of work on Route 1856, has been requesting labor, machinery and outside contracts records from the National Highways Council (CONAVI by its Spanish acronym), as well as inventories of supplies. According to a statement by José Manuel Sáenz, an engineer with that company, to crhoy.com, these documents have not been made available.

CASISA has sought them in order to verify justification for CONAVI disbursements and its orders for the operation of more than 900 pieces of equipment used in route 1856.

“If that oversight existed, we were never given access to it. We requested the information from one of those in charge on behalf of the CONAVI (an engineer by the name of Serrano) but it was never made available so we proceeded to gather it on our own,” said Sáenz as he assured that the information was sought from the moment CASISA began to supervise the project in January 2012. “We do not know what the functioning was before we became involved, the CONAVI should have that information, but we never had access to it.”

However, the director of CONAVI, José Luis Salas, assured that these oversight mechanisms did exist. “There was a procedure and when CASISA became involved they integrated into that procedure. The engineer in charge (Serrano) presented the invoices and the information, and wrote a report. Then CONAVI followed the protocol for disbursements for payment because justification for the payments was documented, the protocol was in place and it continued to be observed before and after CASISA became involved,” according to Salas.

He commented that even if records cannot be referred to in the strict sense, the information always existed. “To the extent that I have been able to corroborate, there was always information to back up those decisions.”

Luis Llach, the Minister for Public Works and Transportation said, “I do not know how to answer that question, I don’t know if records were kept or if there was documentation of the projects, or if it is required by entities involved in the investigation. I would not be able to tell you what happened with that information.”

When asked who was responsible for this type of control he said he did not know and that “these questions are very difficult to answer. In this case those responsible for the project could answer and I do not know who they are. What I can say is that ultimate responsibility was with CONAVI.”

Notes:

Sáenz commented that when his company became involved as the oversight entity, besides requesting the documentation, they pointed out a series of “things that were missing and that this was counterproductive to the progress of the project.”

More than 900 pieces of equipment and 35 companies worked on the construction of the path. This, together with what was pointed out by Sáenz and the opinion of Ricardo Castro, the ex-president of the Chamber for Construction, points to a grave error that must now be corrected if the funds are available...

