

ELLIS J. JUAN.

**AVENIDA PASEO DE LA REFORMA NO. 222, 11TH FLOOR.
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FED. DIST.
POSTAL CODE 6600. TEL. (55) 9138-6200DR.
INTER-AMERICAN DEVELOPMENT BANK (IDB).
MEXICO CITY, FED. DIST., OFFICE.**

**TO THE ATTENTION OF THE OFFICE OF THE MICI.
INDEPENDENT CONSULTATION AND INVESTIGATION
MECHANISM OFFICER. (sic)
INTER-AMERICAN DEVELOPMENT BANK
1300 NEW YORK AVE., N.W., WASHINGTON, D.C. 20577.
UNITED STATES OF AMERICA.
E-mail: mecanismo@iadb.org.
TELEPHONE: 202-623-3952.**

HAND-DELIVERED.

RE: "GULF THERMOELECTRIC PROJECT." PROJECT NO.
ME-0218. LOAN 1223/OC.ME.

FINAL REPORT TO THE BOARD OF DIRECTORS OF THE
INVESTIGATION PANEL OF THE FORMER INDEPENDENT
INVESTIGATION MECHANISM.

The undersigned, **ERNESTO MÁRQUEZ TORRES, SAMUEL
CELIO MARTÍNEZ and EFRAÍN POZOS ADRIÁN**, in our capacity as
principal CHAIRMAN, SECRETARY and TREASURER, respectively, of the
**COLLECTIVE COUNCIL OF THE LAS PALMAS COLLECTIVE
(EJIDO), IN THE MUNICIPALITY OF TAMUÍN, SAN LUIS POTOSÍ,**
appointed by Resolution adopted at an Assembly of Collective Members
held on October 12, 2008, as recorded in the certified copy of [the minutes of?-
Trans.] such Assembly, which is attached hereto, indicating as its domicile for

receiving notices **number 57-b, on calle Serapio Rendón, Colonia San Rafael, in Mexico City, Federal District, Postal Code 06470**, and authorizing on broad terms under Article 27 of the Law Governing Suits for Constitutional Protection (*Amparo*), Messrs. ADOLFO ALEJANDRO LÓPEZ AGUAYO, JUAN MENESES AGUILAR, ALBERTO LEONEL TORRES PLASENCIA, MS. ALBA ENGRACIA BUGARÍN CAMPOS, as well as MESSRS. ERNESTO MÁRQUEZ TORRES and SAMUEL CELIO MARTÍNEZ, who may act jointly or separately, to participate in this lawsuit, in the capacity of judicial attorneys-in-fact, with all general powers and any special powers that require a special clause under the Law, according to the provisions of Article 2554, first paragraph, 2586, 2587 and 2588 of the Federal Civil Code, applicable for supplementation, and authorizing for the purpose of receiving notices and service of process only, Messrs. JAQUELINE SÁENZ ANDUJO, ANDRÉS MARCELO DÍAZ FERNÁNDEZ and LEOPOLDO FRANCISCO MALDONADO and SIMÓN ALEJANDRO HERNÁNDEZ LEÓN, we respectfully appear before you to

S T A T E :

That, in view of the **new evidence and circumstances not available at the time that the Opinion was issued in the above-referenced matter, and in view of the adverse environmental impacts** caused by the startup of the thermal power companies TERMOELÉCTRICA DEL GOLFO, SOCIEDAD DE RESPONSABILIDAD LIMITADA DE CAPITAL VARIABLE and TERMOELÉCTRICA PEÑOLES, SOCIEDAD DE RESPONSABILIDAD LIMITADA DE CAPITAL VARIABLE, in the LAS PALMAS COLLECTIVE, in the MUNICIPALITY OF TAMUÍN, SAN LUIS POTOSÍ, MEXICO, we, and its inhabitants, hereby inform you of the following:

F A C T S:

1.- On August 16, 2001, the Secretariat of the Environment and Natural Resources, the Federal Environmental Protection Agency, the Government of the State of San Luis Potosí, the Secretariat of Ecology and Environmental Management, the Municipality of Tamuín, San Luis Potosí, and the companies Termoeléctrica del Golfo, Sociedad de Responsabilidad Limitada de Capital Variable, hereinafter “TEG,” and Termoeléctrica Peñoles, Sociedad de Responsabilidad Limitada de Capital Variable, hereinafter “TEP,” signed a document titled “BASES FOR COOPERATION TO HELP IN THE PROTECTION OF THE ENVIRONMENT AROUND THE FACILITIES OF TERMOELÉCTRICA DEL GOLFO, S. DE R.L. DE C.V., UNDER CONSTRUCTION IN THE MUNICIPALITY OF TAMUÍN, SAN LUIS POTOSÍ,” hereinafter the “BASES OF COOPERATION,” and since such document imposed various obligations on the parties, which are indicated in ATTACHMENT 1, titled “MATRIX OF ENVIRONMENTAL CONDITIONS,” hereinafter the “MATRIX OF CONDITIONS,” and in ATTACHMENT 2, titled “MATRIX OF SELF-REGULATION,” which would be complied with and performed at locations within the Collective and near the Populational Nucleus of the aforementioned Collective, of which we are members, the LAS PALMAS COLLECTIVE, in Tamuín, S.L.P. IGNORING, AS OF THIS DATE, THE TOTAL AND EXACT COMPLIANCE WITH SUCH CONDITIONS, TO OUR DETRIMENT.

2.- One of the factors that most concerns the undersigned is the use of a fuel that has not been previously used in our country, PETROLEUM COKE, which is used by these companies in their industrial processes: THE AES CORPORATION, TERMOELÉCTRICA DEL GOLFO, SOCIEDAD DE RESPONSABILIDAD LIMITADA DE CAPITAL VARIABLE, TERMOELÉCTRICA PEÑOLES, SOCIEDAD DE RESPONSABILIDAD LIMITADA DE CAPITAL VARIABLE, CEMEX MÉXICO, SOCIEDAD ANÓNIMA DE CAPITAL VARIABLE. The use of coke with a high sulfur content generates emissions of sulfur dioxide into the atmosphere, which is a pollutant that is very harmful to health and causes acid rain, which damages vegetation and metals.

The fact that COKE ASH and possibly COKE are now being used causes us serious concern, since we do not know the impacts that it might have on human health, natural resources and the essential resources of the Collective - farming and ranching.

As of this date, it is not known whether there is an Official Mexican Standard for the use of COKE and COKE ASH, since it appears that there is

no provision of law specifically covering petroleum coke, in addition to the fact that Coke is a solid fuel to which no rule applies, and that its use carries with it, because of its constituent elements, risks to health in the event of inappropriate use; **in any case, it is unknown whether, assuming there is an Official Mexican Standard for the use of coke as a hazardous waste, its application – coke ash – has been in strict compliance with applicable rules and standards.**

3.- On **June 2, 2010**, we, the undersigned, filed a suit for constitutional protection against the aforementioned authorities for the **improper authorization, to our detriment, by the HON. MUNICIPAL COUNCIL OF TAMUÍN, SAN LUIS POTOSÍ and the companies THE AES CORPORATION, TERMOELÉCTRICA DEL GOLFO, SOCIEDAD DE RESPONSABILIDAD LIMITADA DE CAPITAL VARIABLE, TERMOELÉCTRICA PEÑOLES, SOCIEDAD DE RESPONSABILIDAD LIMITADA DE CAPITAL VARIABLE and CEMEX MÉXICO, SOCIEDAD ANÓNIMA DE CAPITAL VARIABLE, to repair, on May 26, 2010 et seq. the main streets “Benito Juárez,” which is the right-of-way of the train named “Cementos Anáhuac” in the town of Las Palmas, in the Municipality of Tamuín, San Luis Potosí, apparently with COKE and/or COKE ASH, wastes that are very hazardous to the health of the collective members and that have harmful effects on the property and rights of the collective members themselves, in addition to the fact that it is the place of normal transit of the inhabitants of the Collective, without the affected Collective and the collective members having been consulted about, and informed on, the impacts on health, the environment and our rights, in particular on an area 2 kilometers long by 10 meters wide (20,000 [square?-Trans.] meters) of the aforementioned streets in the above-referenced town, as well as against the acts of support and performance to the authorities responsible for the various acts ordered, which are referred to above, related to the use of COKE and COKE ASH, residues that are very hazardous to the health of the Members of the affected Collective, COKE, a hazardous waste used in the operation of the thermal power plants run by the companies TERMOELÉCTRICA DEL GOLFO, SOCIEDAD DE RESPONSABILIDAD LIMITADA DE CAPITAL VARIABLE, TERMOELÉCTRICA PEÑOLES, SOCIEDAD DE RESPONSABILIDAD LIMITADA DE CAPITAL VARIABLE, THE AES CORPORATION, as well as in the operation of the Cement Plant belonging to CEMEX MEXICO, SOCIEDAD ANÓNIMA DE CAPITAL VARIABLE.**

The suit for constitutional protection is on file as Case No. 395/2010 in the Fifth District Court in Ciudad Valles, San Luis Potosí, and the permanent injunction was granted to us.

4.- Once again, on Tuesday, June 8, 2010, the HON. MUNICIPAL COUNCIL OF TAMUÍN, SAN LUIS POTOSÍ, through its Municipal President and Director of Public Works, with the approval of the above-referenced responsible authorities, again used and dumped, and apparently continues to dump, on the main Streets Benito Juárez, on the right-of-way of the train called “Cementos Anáhuac” in the town of Las Palmas, in the Municipality of Tamuín, San Luis Potosí, apparently COKE and/or COKE ASH, wastes that are very hazardous to the health of the collective members and that have harmful effects on the property and rights of the collective members themselves, in addition to the fact that it is the place of normal transit of the inhabitants of the Collective, without the affected Collective and the collective members having been consulted about, and informed on, the impacts on health, the environment and our rights, in particular on an area 2 kilometers long by 10 meters wide (20,000 [square?-Trans.] meters) of the aforementioned streets in the above-referenced town.

5.- Since the undersigned and the Collective are afraid that the harm caused to health and life will be difficult to repair, since there is evidence that the use thereof can be irreparable on the health [*sic.* “can cause irreparable harm to”?-Trans.]) of the undersigned, as occurred in Venezuela, Chile and other countries, that is, there is EVIDENCE of the impacts on health; particularly, that is, the permanent exposure to materials considered hazardous can cause cancer, skin diseases and other injuries, in the event of exposure to such ash, for the use of which there is no rule regulating its treatment.

As we have already mentioned, one of the factors that is of most concern to the undersigned is the use of a fuel that has not been previously used in our country, PETROLEUM COKE, which is used by these companies: THE AES CORPORATION, TERMOELÉCTRICA DEL GOLFO, SOCIEDAD DE RESPONSABILIDAD LIMITADA DE CAPITAL VARIABLE, TERMOELÉCTRICA PEÑOLES, SOCIEDAD DE RESPONSABILIDAD LIMITADA DE CAPITAL VARIABLE, CEMEX MÉXICO, SOCIEDAD ANÓNIMA DE CAPITAL VARIABLE. The use of coke with a high sulfur content generates emissions of sulfur dioxide into the atmosphere, which is a pollutant that is very harmful to health and causes acid rain, which damages vegetation and metals.

The fact that COKE ASH and possibly COKE are now being used causes us serious concern, since we do not know the impacts that it might have on human health, natural resources and the essential resources of the Collective - farming and ranching.

6.- Likewise, the companies THE AES CORPORATION, TERMOELÉCTRICA DEL GOLFO, SOCIEDAD DE RESPONSABILIDAD LIMITADA DE CAPITAL VARIABLE, TERMOELÉCTRICA PEÑÓLES, SOCIEDAD DE RESPONSABILIDAD LIMITADA DE CAPITAL VARIABLE, CEMEX MÉXICO, SOCIEDAD ANÓNIMA DE CAPITAL VARIABLE, apparently without proper authorizations and without measuring environmental impacts, continue, to this date, discharging the hot water that comes from its condensers into the RÍO CHOY AND TAMPAÓN RIVER, which runs through the LAS PALMAS collective in TAMUÍN, SAN LUIS POTOSÍ.

In fact, recent studies by the Chemical Pharmaco-biological Expert DIANA GARCÍA GARCÍA show that the analysis of the water of the CHOY River, one of the principal sources of supply to the activities in the Tamuín area, carries in its waters lavibrio cholerae, escherichia coli (which cause cholera), campylobacter jejuni and yersinia enterocolítica, which cause gastroenteritis.

The reporting expert DIANA GARCÍA GARCÍA is very persuasive and also found the bacteria *cryptosporidium parvum*, *criptosporidiosis*, *guardia lambia* and *giardiasis*, which cause nausea, diarrhea, headaches, abdominal pain, intestinal problems and death in humans: “The untreated wastewater from the Las Palmas Collective threatens health, and it is urgent for the Sec. of Health and the municipal authorities to treat the wastewater in the town of two thousand to 15,000 thousand (sic) inhabitants....”

7.- In addition, in her report presented in Case 395/2010, Chemical-Pharmalogical-Biological Expert DIANA GARCÍA GARCÍA concludes, with regard to COKE and COKE ASH:

“... Petroleum coke can cause dust that is hazardous because of its capacity of absorption. The inhalation of coke dust is irritating to the nose, throat and lungs and causes long-term chronic bronchitis. The ingestion of large amounts can cause abdominal pain, nausea and diarrhea.

“... Based on what is stated and the principles established in Official Mexican Standard NOM-052-SEMARNAT-2005, which establishes the characteristics, procedure for identification, classification and lists of hazardous wastes, and based on the CRETIB [Corrosive, Reactive, Explosive, Toxic, Flammable and Biologically Infectious-Trans.] analysis of the

petroleum coke ash, it is considered to be a toxic product. The various uses of coke generate pollutants if they are inhaled or aspirated by people, primarily sulfur dioxide.

Inhalation: Coke can produce dust that is hazardous because of its capacity for adsorption.

The inhalation of coke dust is irritating to the nose, throat and lungs and causes long-term chronic bronchitis.

Ingestion: The ingestion of large amounts can cause abdominal pain, nausea and diarrhea.

Contact with the skin: Prolonged contact can cause irritation and arthritis.

Contact with the hot material can cause burns.

Contact with the eyes: Coke dust can produce conjunctivitis and its abrasive action can cause irritation to the surface of the eye.

Contact with hot material can cause burns. (sic)

General toxic effects:

Irritating to the skin and eyes by contact.

Irritation of the respiratory tract by inhalation of coke dust, more because its physical form than because its chemical nature.

The impact or risks that exists for the inhabitants of the Las Palmas Collective is a very high risk, due to the fact that coke ash contains a large amount of sulfur and that increases toxicity upon being inhaled or aspirated over time, frequency and quantity of coke ash upon it being poured into the potholes on the dirt roads in the Collective and having negative repercussions on the health of the inhabitants ...

“... If petroleum coke ash is inhaled or absorbed by the inhabitants of the collective, with time, quantity and frequency of such toxic substance, the lifestyle of the population, public health, wildlife, agriculture and marine life will be affected, above all by the large quantities of toxic substances that the coke ash contains ...

... It is necessary to mitigate the negative impacts on health, since it is the source that generates progress, which legitimizes the clamor of the inhabitants of the Collective of Las Palmas for the efficient implementation of controls on pollution caused by the dumping of coke ash, which alters not only the health of the inhabitants, but also their

environment, their rivers, their natural resources, their tracts of land and agriculture, which is their modus vivendis.

It is essential for activities to be conducted in accordance with the Rules of the Secretariat of Labor, the Secretariat of the Environment and the Secretariat of Health, and for support to be offered in making the optimum decisions in environmental management as an important part of the conservation of natural resources in their Collective or town and that there be good management, transportation and processing of the toxic wastes from the coke ash in accordance with Health, Hygiene and Safety rules.”

No economic growth project in the Las Palma (sic) Collective can be said to be successful without the simultaneous increase of its inhabitants' quality of life....”

8.- In her report submitted in Case 395/2010, the official expert from the Secretariat of the Environment and Natural Resources, BIOLOGIST LUZ MARÍA MARTÍNEZ ARMENDÁRIZ, concludes, with regard to COKE and COKE ASH:

“... The hazardous wastes ... Because of their corrosive, reactive, explosive, toxic, flammable and biologically infectious characteristics, can represent a risk to the ecological balance, the environment and the health of the population in general ...”.

Wherefore, premises considered,

W E R E Q U E S T:

ONE.- That our appearance be entered, on the terms of this petition, acknowledging our representative capacity and our designation of a domicile for receiving any sort of notice.

TWO.- That according to the terms of the Policy of Constitution of the Independent Consultation and Investigation Mechanism of the Inter-American Development Bank, and based on the Report issued by the former Independent Investigation Mechanism, we request that a

PHASE OF VERIFICATION OF OBSERVANCE BE OPENED for the above-referenced project, because of the direct, substantial and adverse environmental impacts, to the detriment of the Members of the Las Palmas Collective, in Tamuín, S.L.P., and in the interest of transparency and access to environmental information, which is the policy of the Institution that you represent, since it has been detected that there is an omission by the Bank with regard to the Operation Financed by the Bank, in this case the GULF THERMOELECTRIC PROJECT ME-0218, LOAN 1223/OC-ME.

THREE.- That it be deemed that we have properly submitted various documents proving and supporting our petition.

Yours truly,

DULY AFFIRMED UNDER PENALTY OF PERJURY.

**Las Palmas Collective, located in Tamuín, San Luis Potosí, on
the date of the presentation hereof.**

**COLLECTIVE COUNCIL OF THE LAS PALMAS
COLLECTIVE, IN THE MUNICIPALITY OF TAMUÍN, S.L.P.**

CHAIRMAN.

ERNESTO MÁRQUEZ TORRES.

**SECRETARY
SAMUEL CELIO MARTINEZ.**

**TREASURER
EFRAÍN POZOS ADRIÁN.**