

Request for Inspection

Santa Barbara, Chile
April 21, 2010
(electronic version only)

Compliance Advisor Ombudsman
International Finance Corporation
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Executive Secretary
The Inspection Panel
World Bank
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To all those concerned:

Hello. It has been quite some time since we have communicated by mail. From our side it has been very difficult to carry out what we had committed ourselves to doing: that is, on the one part, concerning the IBRD, asking for documentation regarding the Quilleco project from the Buenos Aires WB office and revising what they sent; and on the other, concerning the IFC, to respond to the CAO's office argument that the assessment of the complaint only concerned the Aconcagua project, where the IFC maintains equity.

We cannot go on forever. With the present letter we conclude our presentation of facts and leave it up to your respective offices to investigate and take necessary actions to comply with what we believe are clear WB Group commitments and policies (either stated or recommended).

In this and former letters (November 9, 2009, December 10, 2009) we believe we have presented the basic, and we believe valid arguments, for your respective offices to investigate and recommend severing business relations with Colbun and/other related companies, because of what we believe is an illegal and unethical involvement in a major and destructive hydro project on the Biobio river, despite national and international commitments of the Chilean government and commitments and recommendations of the WB Group.

As before, we are sending this letter to both offices, understanding that your competence and functioning is separate, but also understanding the need to coordinate the investigations that we hope both your offices formally undertake and, in so doing, also better coordinate WB Groups policies and business relations.

1. Regarding the IFC we have received two written responses to our letters and two phone calls.

Even though CAO insists that the other Biobio related investigations (Pangue and Pangue/Ralco) have been closed, the fact that there are commitments made in the past that have not been complied with, among them that the IFC only conduct business with companies that share their values, leads us to reiterate once more that efforts should be made to comply with recommendations (mentioned in the previous letters and detailed in the 2003 CAO Report and

the later Lessons Learned Document, which we attach) and to sever all business relations with a company that is acting in contradiction to WB lessons and commitments.

On the other hand if CAO insists that “the CAO assessment will therefore be limited to social and environmental impacts of the Aconcagua project” then it should consider the social and environmental impacts of conducting business with and having as partners a company that acts against past WB commitments and thus worsens negative social and environmental impacts of the Pangué/Ralco dams.

Should not the CAO Office and other parties within the WB Group seriously consider what was stated in May 2003?:

“The CAO recommends that IFC strengthen its sponsor due diligence to include the environment and social performance and commitment to corporate social responsibility of all potential clients, including the records of parents and subsidiaries. As the CAO has recommended in other reports, including its review of impact and effectiveness of IFC Safeguard Policies, IFC senior management should be satisfied that sponsors, in particular those in whom IFC invests equity, share IFC’s values.”

(Executive Summary of the May 2003 Assessment by the Office of the Compliance Advisor/Ombudsman in relation to a complaint filed against IFC’s investment in ENDESA Pangué S.A.)

2. Regarding the Inspection Panel we have held several phone meetings (two or three) and have requested information from the Buenos Aires office as recommended. We send their response and our counter response as annexes to this letter. Although they responded promptly and send many documents, their response does not satisfy us. Please check our counter-response for more details on this.

In our letter we include information on the lack of coordination and non consideration of cumulative impacts studies of the Quilleco and Angostura projects, which have failed to take into account the impacts of Pangué and Ralco on the endangered fish population. We understand that the WB is even considering supporting (or maybe approved at this point) yet another project in the basin, the Laja hydro project.

Last, but not least, we would like to conclude this brief letter with two recent incidents that we believe speak by themselves regarding the URGENT need for the IFC (and Endesa, and Colbun and the Chilean government) to comply with the recommendations made by the CAO in their 2003 report and the internal Lessons Learned document; and for IBRD to investigate and sever relations with Colbun due to their actions in the Biobío, that are impeding WB commitments from being implemented and that are leading to persistent violations of the rights of Pehuenche and other communities.

The cases relate to two people that suffered directly because of the lack of an adequate early warning system for downstream inhabitants of the Ralco/Pangué dams (Pangué began operating in late 1996, more than thirteen years ago!).

These are not the only cases that have happened in the last few years. Nine people died in the 2006 floods, compounded by the opening of the Pangué floodgates. This fatal incident was informed in the 2008 letter sent to the highest management of the IFC.

On January 25, 2010 Fabian Acuña Escobar, eight years old, died after being swept by an unexpected and unannounced rise in the waters of the Biobio river, while he and his family were spending a summer afternoon at the shores of the river. This happened in the San Jose sector of the Biobio, near the city of Mulchen.

According to an account that appeared in the La Tribuna newspaper Fabian, two brothers and their mother were holding hands when leaving the area after the water began to rise. A sudden and violent rise suddenly dragged Fabian, who could not keep his hands tight. His body was found after days of painful searching.

“...I am not a technician, nor a professional, but I have always lived here and until some years ago, this had never happened...before the dams were built this did not rise as now. It dried up...not as it rises now, up to two meters” Juan Carlos Anabalón, father of Fabian, told the local Los Angeles newspaper.

The lack of downstream impact studies and appropriate compensatory and emergency measures is something bank management has been aware of since late 1992, when a loan was approved PENDING a downstream impact study.

Another incident took place on February 27, the date of the tragic earthquake that recently shook Chile.

We were at our home in Santa Barbara during the quake so we witnessed first hand the total confusion and panic provoked by the lack of a warning system.

Just to mention some facts:

1. Radio communications from the Pangué dam to a nearby police station broke down after the quake, which led to a police car having to go physically to the site to see that no major damage had occurred.
2. Santa Barbara firemen, whom are supposed to operate their siren to inform the town of any emergency could not operate the siren because their generator was not the appropriate one!
3. At 5:30 am, that is almost two hours after the quake!, a police vehicle announced through a loudspeaker that people need not worry because the dams were OK.

Of course it was a good thing that the dams didn't go down, although rumors about structural problems continue to haunt us.

Furthermore, the lack of adequate and timely information made most residents in Santa Barbara (and other locations) panic and flee towards nearby hills. As a result Victor Osorio Gonzalez, aged 75, had a stroke while fleeing towards a hill in Santa Barbara and died almost instantly.

If only the IFC and other parties would of followed another recommendation of the CAO office:

“The CAO recommends that IFC as a past and future partner of ENDESA urge ENDESA/Pangué to disclose and consult more fully its emergency response plans and that IFC take steps to ensure that it has emergency response plans in other projects within the portfolio that predate current practice in comment and consultation.”

(Executive Summary of the May 2003 Assessment by the Office of the Compliance Advisor/Ombudsman in relation to a complaint filed against IFC's investment in ENDESA Pangué S.A.)

Time is again running out. It did already for Fabian and Victor and others before them. Should we all just forget about the Pangué and Ralco investigations and lessons? Should we just give up and conclude that it is just all history and that we shouldn't expect more from the World Bank?

Should we?

We don't think so. We hope you also think there is something we can do, regardless of the complexities of the case.

Amidst these developments Colbun workers have arrived massively in the area and are continuing to build another major dam as if nothing ever happened.

We are sending various attachments: the WB Buenos Aires response and our counter-response and also a copy of the Executive Summary of the May 2003 CAO Pangué Report and the Lessons Learned Document, because maybe some of you are not familiar with these important docs.

Regards

_____	_____	Santa Barbara
_____	_____	Santa Barbara
_____	_____	Ralco Lepoy
_____	_____	Ralco Lepoy
_____	_____	Santa Barbara
_____	_____	Concepcion

Cc: Meg Taylor, CAO Office mtaylor@ifc.org, Eduardo Abbott Inspection Panel, eabbott@worldbank.org, Serge Selwan Inspection Panel sselwan@worldbank.org,

Clarifications

To Peter Lallas
Executive Secretary
The Inspection Panel

May 24, 2010

CC: Mr. Serge Selwan

We are writing this note to clarify and supplement our previous letters regarding our request for an investigation of a number of violations by the World Bank of its own operational policies and procedures and related harm. For these purposes we discuss below three main issues and inform you that a new requester that shares our same interests and concerns has joined our group.

1. The Quilleco, Laja and the proposed Angostura are hydroelectric dams in the area where we live and/or close by and in the same river basin. Furthermore, even though the Pangué and Ralco dams were directly and/or indirectly financed by the WB Group, through the IFC, these projects -although not within the formal scope of the Panel and the Inspection- provide the context in which the other IBRD directly or indirectly financed dams (like Quilleco and Laja) are operating and thus should be somehow taken into account, given IFC commitments and CAO recommendations regarding the Biobío basin as a whole.

In that sense we feel that the IFC commitments and CAO recommendations to mitigate and /or avoid harm to the environment and people should be binding for the whole WB Group.

2. Although the information posted in the World Bank website does not presently show that the proposed Angostura is being financed or proposed to be financed by the Bank as administrator of carbon funds, our understanding is that there are plans for selling carbon reduction plans for this project. Such understanding is based on the facts that such financing was unofficially disclosed by a Bank source and also it apparently is mentioned or referred to in a Quilleco supervisory mission report.

Regardless of this not being the case, there should explicit assurances that neither carbon funds and or any other WB Group financing will go to Colbún and/or related companies until, as part of the Bank's appraisal and due diligence evaluation of the project and its sponsor, it is proven beyond a doubt that they are willing to operate according to WB operational policies and standards and WB obtains explicit commitments to comply with these policies and standards and recommendations in ALL their projects.

In short, all of our claims refer to serious violations of Bank policies and procedures in the preparation, appraisal and supervision of these projects and actual and/or potential ecological, environmental, economic and social harm.

3. The recent incidents that were mentioned in our previous presentations took place one in Santa Barbara and the other near Los Angeles, on the Biobío river and/or very near. This is downstream from where the Ralco and Pangué dams are and where the Angostura dam has begun to be built.

Although strictly speaking these incidents were not in areas directly influenced by Quilleco, they were in the same basin. Furthermore, in as much as we believe any dealings of the WB Group with companies that violate policies and commitments in the larger Biobío basin has to be avoided, there is a relationship between what happened some distance away, and the Quilleco project

Another point is that we are glad to inform you that Ms. _____ *, from Tucapel, located right next to the Quilleco project, has agreed to formally be one of the claimants because she feels actually and potentially affected by this project. She explicitly requests that her name be kept confidential by the Panel.

We have recently received digital copies of Quilleco reports from the WB Buenos Aires office, which we will share and further analyze.

Lastly we would like to see if we could have some input regarding the timing and manner of the investigation. Unfortunately the Angostura project, the most serious and urgent issue before us, is being rapidly constructed. In this context, it may be that untimely on the ground visits might be regarded not only as useless, albeit late, but almost as an implicit support for the Quilleco and Angostura projects.

More important perhaps are concrete measures against Colbún and related companies for repeated violations of their social and environmental commitments that WB Group Management and the accountability mechanisms of the Group should explore to better coordinate the operations among its branches and to assure that potential WB Group clients share its, values and that former clients remain accountable even though they may have paid up their loans (as is the case with Endesa, operators of the Pangué/Ralco dams).

Regards

*Aside from feeling directly affected by the Quilleco project, Ms. _____ is a former _____ city supervisor and chaired a local government commission _____

Related Correspondence

First Correspondence

From " _____ " < _____ >

12/09/2008 12:44 AM

To rzoellick@worldbank.org, lthunnel@ifc.org, mtaylor@ifc.org, rkyte@ifc.org, dhunter@ciel.org, morellana@ciel.org, adurbin@foe.org, eabbott@worldbank.org, pmacully@irn.org, downing@azstarnet.com, downing@u.arizona.edu, "tom d. dillehay" <tom.d.dillehay@vanderbilt.edu>, environ@ifc.org

cc

Subject Urgent from the Biobio

Santa Barbara, Chile
December 8, 2008

Mr. Lars H. Thunell
Executive Vice President and CEO
International Finance Corporation
(by email to lthunnel@ifc.org and hard copy to)
2121 Pennsylvania Avenue
Washington DC 20433

Dear Mr. Tunell:

This brief note is to express our dismay at recent events in the Biobio and a petition for those that view this letter to use their influence in order to take appropriate action so that Colbun, a client and partner of the WB Group, comply with WB environmental and social standards, and immediately cancel their plans for further irresponsible daming of the Biobio, particularly in lands of special spiritual and strategic value such as the El Piulo sector, contrary to the findings and recommendations of the WB investigations that have taken place in 1995-1996 (Downing Report), 1997-1998 (Hair Report) and in the period 1999-2000 and 2002-2003 (CAO Office investigations).

On September 2, 2008 the Chilean electrical company Colbun presented to Chilean authorities an Environmental Impact Assesment, in order to obtain environmental permits for its Central Angostura dam, a 305 MW facility that would be constructed where the Biobio and the Huequecura rivers meet, some ten miles upstream from Santa Barbara. Some 43 families would have to be forcefully relocated, among them a half dozen families that were already relocated, against their will, when the Panguue dam became operational in 1996.

Furthermore, Colbun, the company responsible for this project, through its related company

Hidroelectrica Guardia Vieja, maintains commercial relations with the WB Group, through the Purchase of Certified Carbon Emissions Reductions by the Netherlands Clean Development mechanism facility from Hidroelectrica Guardia Vieja S.A.

This means that starting in June 2008 and for the next three years, until 2011, the WB will be extending a check for one million dollars, on behalf of the Dutch facility, to a company that is supposedly saving our atmosphere from harmful emissions, but that is also, according to recent and reliable testimony, responsible for disregarding WM commitments and in this case, apparently very far from sharing IFC values, a condition that is viewed as mandatory for IFC partners.

This is the third such deal between Hidroelectrica Guardia Vieja, principal shareholder of Colbun, and the WB in the green carbon reduction business, having seen the light, before the Quilleco project: those of Chacabuquito and Hornitos.

The issue today is quite simple, albeit of tremendous negative consequences, once again for the Mapuche-Pehuenche indigenous and other local communities, and also for the Biobio as a whole: the new hydroelectric project, named Central Angostura, that is being proposed for the basin, some 25 miles downstream from Pangué, would, among other impacts, drown the main summer recreation spot for Santa Barbara, a nearby town of 6.000, and also mean the forced relocation, ¡for A SECOND TIME! of some five families now residing in the Los Nostros sector, that were among the original nine families that were forcefully relocated for the Pangué project in the mid 90s.

The project, if ever implemented, would also directly and/or indirectly affect a very old Mapuche Pehuenche religious-cultural-political site, made up of an extended compound where at least four possible kuel sites have been identified.

Used as sacred ceremonial and funerary sites, some seven ago eight hundred years ago, kuelles are Mapuche pyramid like structures that have only recently been recognized by mainstream scientist. The potentially affected area also includes sacred dance sites used for "guillatunes" and important, territory demarking and observation posts such as the Calavario Hill, that according to Pehuenche oral accounts, would also include a kuel.

Central, and inseparable element of this ceremonial compound are certainly the two magnificent rivers, the Biobio and the Huequecura, that meet each other in an extended area, with stoned river canyons and multiple natural pools, that provide free, healthy and exciting entertainment.

The sector is also home to the El Piulo bridge, a narrow bridge crossing a deep rock canyon that extends precisely from where the dam wall is proposed. That place was the last seen by several political prisoners from Mulchen, Quilaco and Santa Barbara, and as such should be protected and kept accessible to all, at all times, as is the monument located in the Biobio-Quilaco bridge, where the majority of illegal executions took place. In December 2006, at the time of the inauguration of the Biobio Bridge Memorial, a petition bearing some sixty signatures was handed to the Intendente, asking for the protection of the site and its declaration as a historical monument

These cultural blows would add to the environmental impact on local fish, bird and other species, already heavily impacted by the other upstream megadams.

Colbun should be forced to comply with IFC and WB Policies. Apart from these "green" power projects, the IFC maintains a 17% share in Hidroelectrica Aconcagua, a power project controlled by Minera Valparaíso, controlled on the other hand by the Matte Group, also controllers of Hidroelectrica Guardia Vieja.

"..Senior management should be satisfied that sponsors, in particular those in whom IFC invests equity, share IFC's values." read one of the recommendations of the CAO 2003 Report, which also added that "in response to this complaint, IFC should as it moves forward with other investments with ENDESA and its subsidiaries, ensure that the problems that the CAO suggests have plagued this project and its relationship with ENDESA, are not repeated".

The IFC then appears not only helping to raise money for the greening" of Colbun, but is actually being a partner with a company that according to credible testimony and first hand investigations, is acting in opposite directions, disregarding legal and political commitments, such as the one made by the Chilean state, that in an OAS sponsored agreement promised that no further hydroelectric development would take place in the indigenous lands of Upper Biobio, something now openly defied..

We realize that the IFC has not held equity in Pangué for some time and we are also aware that, through the CAO office, there has been a program to work with some local Pehuenche leaders, partly as a reparation of mistakes from the past.

Nevertheless, there is an ongoing, global responsibility, by part of the IFC and other members of the WB Group, for what happens with the watershed, particularly hydroelectric development on its course, and its impact on the environments and local communities, among them the Mapuche-Pehuenche population communities and individuals.

This was clearly stated in the findings of the CAO investigation undertaken in 2003-2004, that reaffirmed WB Group responsibility in future course of events:

"With regard to the continued need for downstream monitoring and impact assessment, this is an essential part of any environmental management plan for a project of this type. That an adequate environmental plan is in place, is complied with and is enforced is the joint responsibility of ENDESA, Pangué S.A., CONAMA and IFC as an investor with a specific interest and commitment to the environment and social outcomes of projects" (CAO Official Pangué Report)

The sad proof of the non existence of adequate downstream monitoring plans for the Pangué and Ralco dams came with the tragic death in 2006 of nine people, all of them living in unprotected river banks of the Biobio river where, after a furious storm -and no functioning emergency plans- , extraordinary and rapid flooding of houses occurred in several towns from Santa Barbara to Concepcion. The issue was the subject of a congressional investigation that reached contradictory conclusions and is still undergoing judiciary investigation,

The recent official environmental process begun by Colbun, an IFC client and present partner in the Angostura hydroelectric project, is totally unacceptable and undermines years of trying to mitigate the already enormous impacts of Pangué and Ralco.

Thus, we respectfully, but firmly, ask that you, as IFC Vice-President, WB President, CAO Ombudsman, Inspection Panel staff, each within their possibilities, listen to this request, and :

1. Urgently move to sever all relations with Hidroeléctrica Guardia Vieja, Colbun, Hidroeléctrica Aconcagua and other affiliated companies, until they fully respect WB policies and past commitments of all its member groups. This in relations to investment proposals and joint projects, and also a halt to the use of WB personnel and expertise to process supposed improvements to the environment, as is presently the case with the buying of CERs, under the Kyoto Protocol.

2. We would also appreciate that you share information with CONAMA and/or VIII Region COREMA, local and national environmental authorities that will be reviewing the Colbun EIA and citizen observations, among which are expected those requiring CONAMA to contact and gather information from the World Bank Group. The IBRD, the IFC , the CAO office all have information whose public and prompt release is vital for the defence of community and the environment in the Biobio region.. Urgent consideration should be given to still unfulfilled cumulative impact studies with the other two dams now operating in the region; environmental monitoring plans evaluation and possible restructuring, and the adequate consideration of the special needs and rights of existing Pehuenche families and the lands that they occupy, before even considering further big hydro development in the area.

3. We would finally much appreciate it if you could inform us regarding what your institution is willing, and able, to do concerning the above.

The matter is urgent. Please look into it ASAP.

Thanks

Sincerely

Chile

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Second Correspondence

Santa Barbara, Chile
November 10, 2009

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To whom it may concern:

Almost a year ago we sent an e-mail to your offices, to the Executive Vice-president of IFC, and to the Office of the President of the WB Group (also copied to other interested parties) regarding developments in the Biobio basin, a region that as you may know has been impacted by WB Group (both IBRD and IFC) funded hydroelectric projects (El Toro Project, Pangué/Ralco, Quilleco).

As a result of the controversy surrounding the construction of the first two of a series of dams planned for the Biobio river (Pangué and Ralco dams), the WB Group's involvement has been the object of enormous public concern, and numerous and far reaching internal investigations which we understand have also led to new administrative policies and controls.

Thus our dismay and our appeal for you to take urgent action concerning the imminent construction of yet another dam on the Biobio river, home of the Mapuche Pehuenche indigenous group and one of the countries richest ecosystems, by part of Colbun, a company that we understand presently has business dealings, as client, partner, or other relationships, with institutions of the WB Group.

Neither the Executive Vice President of the IFC nor the President of the WB responded to our urgent request sent by mail in December of last year.

Nevertheless, we were almost immediately contacted by phone and e-mail by members of the Inspection Panel who clarified some basic facts in order for us to proceed with a formal petition.

The CAO Office on the other hand responded promptly, but said that a formal complaint by affected communities had to be filed.

This brief letter, sent and signed by two people who feel seriously and negatively affected by the imminent construction of the Angostura project and by the Quilleco, Chabuquito, Hornitos Hydroelectric Projects (IBRD-Carbon Facility Unit) and Aconcagua, Pangué/Ralco

Hydroelectric projects (IFC) is sent via e-mail AND certified regular mail and should serve as a formal complaint before both the Inspection Panel and the CAO Office.

Concerning the CAO Office it is our understanding that the 2002 complaint which was filed by 78 people and 4 community groups was not formally closed regardless of the funds that were disbursed for some of the members of the local communities. Those who sign this letter were part of the original petitioners (both before the Inspection Panel in 1995 and the CAO Office in 2002) and we never, directly nor thru a third party, have been consulted or agreed to a formal closure of the investigation.

We realize that there have been two CAO investigations concerning Pangué and that it has been a long and persistent issue for many of you. If it is frustrating for your office, you can imagine how it is for us and other affected parties.

But we understand that as long as there are outstanding issues, among them non-implemented recommendations made by the own CAO Office, efforts should continue, be it in the compliance, advisory and/or ombudsman roles.

This should be of interest not only for those on the ground, but also for the strengthening of the role of CAO.

This letter will be very brief and “to the point”.

Complaints filed in 1995 before the Inspection Panel and the CAO Office in 2002, and the internal investigations of Downing, Hair and Anderson should provide more background on what is at stake in the Biobío (both for local inhabitants as well as for the Bank) and should be considered part of this complaint.

Other direct negative social and environmental issues concerning the Aconcagua, Quilleco, Chabuquitos and Hornitos projects are under investigation and may not be limited to what is stated in this petition.

We wish our names to remain anonymous.

THE COLBUN COMPANY'S ANGOSTURA PROJECT

On September 2, 2008 the Chilean electrical company Colbun presented an Environmental Impact Assessment to Chilean authorities, in order to obtain environmental permits for its Central Angostura dam, a 305 MW facility that would be constructed where the Biobío and the Huequecura rivers meet, some ten miles upstream from Santa Barbara, in the south of Chile.

Some 43 families would have to be forcefully relocated, among them a half dozen families that were already relocated!, against their will, when the IFC funded Pangué dam became operational in 1996.

On September 14, 2009 the Regional Environmental Authority (Corema) approved the project. The approval occurred one day before the ILO 169 Treaty related to Indigenous Peoples Rights, recently approved by Congress, became legally binding.

Angostura was originally called Huequecura and was one of six dams projected for the area, which were never the subject of a cumulative impact study (for the IFC funded Pangué dam nor for the Ralco and Angostura dams). The only such study is said to have been conducted by the IFC and has yet to be publicly released.

Endesa, owner of the Pangué/Ralco dams transferred water rights to Colbun thus effectively bypassing political, moral and legal obligations concerning the Biobío basin.

Furthermore Colbun and Endesa are partners in a highly controversial hydroelectric project called Hidroaysen in the southernmost part of the country.

Colbun on the other hand is we understand presently also a client and partner of the WB Group (directly and/or through affiliated companies). As such Bank management should by every means possible force Colbun and/or its affiliated companies to comply with WB environmental and social standards, and immediately cancel their plans for further irresponsible damming of the Biobio.

At the least appropriate personnel within IBRD and IFC should review Colbun's environmental assessments and their handling of the Pangué relocated families, other affected Pehuenche and downstream inhabitants to make sure they comply with environmental and social policies and WB Group commitments.

This should be mandated regardless of the existence or not of direct investments in the project.

¡We understand in fact that the company even expects to be paid –through the World Bank's Carbon Facility Unit- for continuing to destroy the Biobio basin and its people by selling carbon reduction bonds, as it presently does with the other Colbun projects!

The findings and recommendations of the WB investigations that have taken place in 1995-1996 (Downing Report), 1997-1998 (Hair Report), 1999-2000 and 2002-2003 (CAO Office investigations), 2004 (Anderson Pangué:Lessons Learned Report) make a point not only on the extremely valuable ecological and cultural resources of the area, and on the shortcomings of the EIAs conducted, but also on the continuing responsibility of the WB Group not only in developments in the area, but also in assuring that it does business with companies that have a proven commitment with its environmental and social policies.

“..Senior management should be satisfied that sponsors, in particular those in whom IFC invests equity, share IFC's values.” read one of the recommendations of the CAO 2003 Report, which also added that “in response to this complaint, IFC should as it moves forward with other investments with ENDESA and its subsidiaries, ensure that the problems that the CAO suggests have plagued this project and its relationship with ENDESA, are not repeated”.

This is exactly the opposite of what Colbun's practices in the area have been.

ANGOSTURA: ANOTHER DISASTER ABOUT TO BE CONSTRUCTED

The issue today is quite simple, albeit of tremendous negative consequences, once again for the Mapuche-Pehuenche indigenous and other local communities, and also for the Biobio as a whole: the new hydroelectric project, named Central Angostura, that is being proposed for the basin, some 25 miles downstream from Pangué, would, among other impacts:

-Result in the forced relocation, ¡for A SECOND TIME! of some five families now residing in the Los Nostros sector, that were among the original nine families that were forcefully relocated for the Pangué project in the mid 90s.

-Would directly and indirectly affect a very old Mapuche Pehuenche religious-cultural-political complex, made up of an extended compound where at least four possible “kuel” sites have been identified. These have been recognized by preliminary government studies. Used as

sacred ceremonial and funerary sites, beginning some seven to eight hundred years ago, “kueles” are Mapuche pyramid like structures that have only recently been recognized by mainstream scientists.

-The potentially affected area also includes sacred dance sites used for “guillatunes” and important, territory demarking and observation posts such as the Calvario Hill, that according to Pehuenche oral accounts, also includes a “kuel”.

-Central, and inseparable elements of this ceremonial compound, are certainly the two magnificent rivers, the Biobio and the Huequecura, that meet each other in an extended area, with stoned river canyons and multiple natural pools, that provide free and healthy entertainment and which is the most popular summer recreation spot for people from Santa Barbara, a nearby town of 6.000.

-The sector is also home to the El Piulo bridge, a narrow bridge crossing a deep rock canyon very near to where the dam wall is proposed. That place was the last seen by several political prisoners from Mulchen, Quilaco and Santa Barbara, who were executed at the site following the 1973 military coup. This site should be protected and kept accessible to all, at all times, as was expressed in a petition bearing some sixty signatures that was handed to the Intendente in December 2006.

-These cultural blows would add to the environmental impact on local fish, bird and other species, already heavily impacted by the other upstream megadams.

-Further damming would take place despite the withholding of crucial information concerning the downstream environmental impacts of the existing dams and the lack of publically available emergency contingency plans for volcanic and/or seismic emergencies.

-Last, but certainly not least, the implementation of the Angostura project would weaken the policies and the institutions of the WB, by in fact having a WB Group partner and client disregard lessons learned and recommendations specifically detailed by WB Group’s own investigations and/or others made on its behalf.

COLBUN ONGOING TIES WITH THE WORLD BANK GROUP

Colbun and its affiliated companies (mainly thru Matte Group, controllers of Minera Valparaiso and Guardia Vieja) are conducting ongoing business with the WB Group thru:

- The **WB** , through its **Carbon Facility Unit** maintains commercial relations with Colbún by purchasing carbon emission reductions from the **Quilleco** (located in the larger Biobio basin), **Chacabuquito** and **Hornitos hydroelectric projects**, owned also by Guardia Vieja S.A, a subsidiary of Colbún.

- According to WB documents, the **IFC** maintains an equity share in **Hidroeléctrica Aconcagua S.A.** The Corporation maintains a 14 – 17% share in this power project controlled by Hidroeléctrica Guardia Vieja, which in turn is controlled by Colbun.

Although, as stated by an official document concerning the Quilleco project “the project does not include World Bank Group financing”, nevertheless “the World Bank acts as Trustee of the NCDMF for payment of CERs under the ERPA.”

This *Purchase of Certified Carbon Emissions Reductions by the Netherlands Clean Development mechanism facility from Hidroeléctrica Guardia Vieja S.A* means, among other things, that starting in June 2008 and for the next three years, until 2011, the WB would be extending a check for one million dollars, on behalf of the Dutch facility, to a company that is supposedly saving our atmosphere from harmful emissions, but that is at the same time - according to recent and reliable testimony- responsible for disregarding WB Group commitments in the area, and very far from, if not in the opposite direction of WB Group values, a condition that is viewed as mandatory for present and potential partners.

This is the third such deal between Hidroeléctrica Guardia Vieja, subsidiary of Colbun, and the WB in the green carbon reduction business, having seen the light, before the Quilleco project: those of Chacabuquito and Hornitos.

Colbun should be forced to comply with WB Policies, specially regarding a geographical location such as the Biobio, where past WB Group practices were subject to such an intense scrutiny and where efforts continue to this day to remedy past weaknesses and mistakes.

The IBRD by validating Colbun’s supposedly environmentally friendly practices appears not only helping to raise money for the “greening” of Colbun, but is actually being a partner with a company that according to credible testimony and first hand accounts, is acting in opposite directions, disregarding legal and political commitments made by the WB and also by the Chilean state, that in an OAS sponsored agreement promised that no further hydroelectric development would take place in the indigenous lands of Upper Biobio, something now openly defied by the Angostura project and that has been communicated to the Interamerican body OAS.

We realize that the IFC has not held equity in Pangué for some time and we are also aware that, through the CAO office, there has been a program to work with some local Pehuenche communities, partly as a reparation of mistakes from the past.

Nevertheless, we understand that -despite formal sale of equity in the Biobio projects- the IFC has an ongoing engagement with Colbun thru equity held in the Hidroeléctrica Aconcagua project. Furthermore CAO itself recognizes IFCs responsibilities in the region, regardless of maintaining or not formal financial interests. The July 2002 claim indeed was investigated regardless of the abrupt selling of the equity days after receiving the claim.

There is clearly an ongoing, global responsibility, by part of the IFC and other members of the WB Group, for what happens with the watershed, particularly hydroelectric development on its course, and its impact on the environments and local communities, among them the Mapuche-Pehuenche population communities and individuals.

This was clearly stated in the findings of the CAO investigation undertaken in 2003-2004, that reaffirmed WB Group responsibility in future course of events:

“With regard to the continued need for downstream monitoring and impact assessment, this is an essential part of any environmental management plan for a project of this type. That an adequate environmental plan is in place, is complied with and is enforced is the joint responsibility of ENDESA, Pangué S.A., CONAMA and IFC as an investor with a specific interest and commitment to the environment and social outcomes of projects” (CAO Official Pangué Report).

One sad proof of the non existence of adequate downstream monitoring plans for the Pangué and Ralco dams came with the tragic death in 2006 of nine people, all of them living in unprotected river banks of the Biobío river where, after a furious storm -and no functioning emergency plans- , extraordinary and rapid flooding of houses occurred in several towns from Santa Barbara to Concepción. The issue was the subject of a congressional investigation that reached contradictory conclusions and is still undergoing judiciary investigation,

The latest and perhaps even more tragic example is the implementation of yet another mega dam in indigenous territory, disregarding cumulative impacts with the Pangué and Ralco dams, forcefully relocating some of those earlier relocated by the Pangué project and disregarding WB Group recommendations and an international agreement under the auspices of the OAS.

Thus, we respectfully, ask that your bodies initiate a formal investigation that leads to:

WHAT WE ARE ASKING FOR

1. Urgently have IBRD and IFC move to sever all business relations with Hidroeléctrica Guardia Vieja, Hidroeléctrica Aconcagua, Colbun, and other affiliated companies, until they fully respect WB policies and past commitments of all its member groups in the Biobío region. This should be applied to both present and future investment proposals and joint projects, including transactions of the Carbon Facility Unit.

This was a specific recommendation of May 2003 “Assessment by the Office of the Compliance Advisor/Ombudsman in relation to a complaint filed against IFC’s investment in ENDESA Pangué S.A.”

“The CAO recommends that IFC strengthen its sponsor due diligence to include the environment and social performance and commitment to corporate social responsibility of all potential clients, including the records of parents and subsidiaries. As the CAO has recommended in other reports, including its review of impact and effectiveness of IFC Safeguard Policies, IFC senior management should be satisfied that sponsors, in particular those in whom IFC invests equity, share IFC’s values. In response to this complaint IFC should as it moves forward with other investments with ENDESA and its subsidiaries, ensure that the problems that the CAO suggests have plagued this project and its relationship with ENDESA are not repeated.”

Years before, Jay Hair and his team had recommended a similar approach, when stating that: (Annex XXVIII)

“Environmental and social responsibility is being internalised and advocated by more and more private-sector business interests today, and it would be difficult, in our opinion, for the World Bank Group, including IFC, to justify partnering with a company that disregards environmental and social responsibility.... Such an approach should include, among other things, a totally new process for "prequalifying" potential private-sector project sponsors to ascertain objectively, in advance, their capacity and their top management’s willingness (both culturally and from a human/financial resources perspective) to comply with specific World Bank Group requirements.

2. In our December 2008 letter we asked for the sharing of information with local and national environmental authorities that reviewed the Angostura Project EIA. We understand this was not the case. We reiterate that we understand that the IBRD, IFC, the Inspection Panel and/or the CAO office all have information whose public and prompt release is still vital for the livelihood of the community and the environment in the Biobio region. Urgent consideration should be given to the release and translation of these reports, including the preliminary cumulative impact study performed by the IFC, environmental monitoring plans and emergency plans made available by the company, etc. Efforts should also be made to translate and release the Lessons Learned document of the IFC (as was initially promised) and the older Hair and Downing reports.

It is a pity that such information has been denied till this day and effectively hindered local communities and governments from having access to all necessary information relating to an extremely rich and fragile natural and human environment.

The matter is urgent, we said almost a year ago.
Now it is even more so.
Perhaps, at least in some respects, it might not be too late.

Residents of Santa Barbara
Former claimant (years 1995 and 2002)

Santa Barbara
Octava Region
Chile

Cc: Meg Taylor, CAO Office mtaylor@ifc.org
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Third Correspondence

Santa Barbara
Thursday, December 10, 2009

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RE: Clarifications regarding claim related to business ties with companies implementing Angostura Project in Biobio River, Chile

A couple of weeks ago we had a telephone conversation with members of the Inspection Panel regarding the claim we have presented regarding the proposed Angostura dam, that would be built a few miles upstream from Santa Barbara, at the entrance of what Pehuenche have considered their traditional territory.

During the conversation we agreed that it would be useful to clarify two issues:

1. Who the claimants are
2. What specific damages we have suffered and/or could suffer in the future as a consequence of violation of WBG policies.

As you see I am sending this to both offices. I will continue to do so when possible because I believe it is crucial to link both potential investigations and actions.

Regarding the former two issues, and others related to them, we would like to clarify:

-Our claim, filed both at the CAO Office AND the Inspection Panel, is against WBG doing business with Colbun and/or related companies, be it directly in the Angostura project and/or other projects.

We understand that Colbun (through Hidroelectrica Guardia Vieja) might also be planning to sell carbon emission reduction bonds with the Angostura project. In this of course we believe the Bank should not be involved, not even as an intermediary as is the case presently with the Quilleco and Chacabuquito projects.

We believe and are asking that the WBG sever all present business ties with Colbun and its related companies, even if there is no direct involvement with Angostura.

This possibility and the need to have companies respond for their actions through the same or related companies and in the various operations of the World Bank Group was something we asked in our 2002 claim before the CAO office. We understand, as we stated in

our November 10 letter, it is also a practice that is recommended both by the Hair report and the CAO reports.

In this regards we would appreciate if CAO, who recently let us know that the claim complies with requirements for assessing its validity, tells us exactly what investments IFC has with Colbun. Is it through Hidroelectrica Guardia Vieja and its Hidroelectrica Aconcagua project? Do it also include other present or future investments?

In relations to this issue you should know that not only are Colbun and Endesa (who owned the original Angostura project, called Huequecura, and its main water rights) partners in the highly controversial Hidroaysen projects in the Patagonia region, but the IFC, we understand still owns equity in Transelec, company that will be building the power lines to connect the Hidroaysen dams to the central electrical grid.

We believe it is not too far fetched to ask for “sanctions” against companies even if the Bank is not directly involved. On the contrary, we believe this is necessary, might prevent further policy violations in the past and has been recommended by Bank investigators.

Let us remember that Endesa prepaid their outstanding Pangué dam loan in order to avoid imminent default and the IFC sold their shares in the same project days after the 2002 claim had been filed!

-Regarding who the claimants are:

The requirements for filing claims were complied with and we do not understand why this is being questioned, as if two people affected were somehow not enough or not too relevant. But on the other hand, yes, it is useful to mention other affected people and specify that not only the two people that signed the letter would be affected..

It is appropriate to remember that the November 1995 claim presented to the Inspection Panel was signed by 389 people, among them 47 Pehuenche, 194 people from Concepcion (where the Biobío meets the Pacific Ocean) and 145 Chileans from other cities. 49 NGOs from around the world also signed a letter to WB President asking for an investigation.

The 2002 claim on the other hand was signed by 43 Pehuenche, 35 non Pehuenche living downstream and 4 social groups.

So, if you are concerned about who the claimants are, and considering that there are signed mandates from them, we should consider all of the original claimants as present claimants.

Nevertheless we are sending signatures from two Pehuenche that were also part of the other claims, another Santa Barbara resident and a person living in Concepcion.

This point is not simple.

One of the reasons that I have not, once again, asked for new signatures from all those affected is that I feel uncomfortable because in some cases they signed in the past and Bank personnel (CAO investigators) met with them and they feel, with reason, that nothing changed. Thus, what arguments should I use to have them sign once again? This particularly happened this time with a member of one of the Pangué relocated families that lives in Los Notros and that is once again impacted (although in this case will not have to relocate).

This person said that he would be willing to talk to the Bank, but questioned asking formally to do so, saying that regardless of a meeting held in 2002 (maybe 2003-during a trip of

Rachel Kyte) nothing had changed for them and that now it was too late to do anything about the new dam, statements that are not without truth.

This also relates to how I believe this claim should be investigated. I am not sure if it would be appropriate to conduct many visits and meetings on the ground. Maybe they are not that necessary and/or maybe they should be very few and conducted in special ways. This should be carefully planned beforehand.

In fact the important thing is that what is mentioned in pages 6 and 7 is carried out.

-Regarding damages

On pages 3 and 4 of the letter we sent on November 10 we mention 8 different specific areas related to actual or aggravated damages that the Angostura project would mean for us.

Furthermore we specifically asked that the 1995 and 2002 claims be considered part of this complaint.

As we talked over the phone we, Pehuenche and Chileans living in the Biobio basin and other Chileans, continue to be affected because of mistakes and/or violations of the past and will be even more so if the Angostura dam is implemented.

These environmental, social and political impacts are amply described in the 1995 and 2002 documents that we imagine are available to both your offices.

Let us give you three examples:

1. Both in 1995 and 2002 we mentioned the lack of downstream emergency plans for floods and earthquakes and eruptions. This in fact was even confirmed by the National Emergency Coordinator that met with a couple of us and a CAO consultant some years ago.

Well, despite recommendations, no emergency plans were put in place by part of the company and in 2006, 9 people perished! when intense flooding occurred.

2. Regarding environmental impacts, the impact on endangered fish for example is very relevant. In fact, the company in its EIA mentions this impact as the main negative impact of the dam project. In 1992, when the IFC approved the loan for Pangué, the first dam built on the Biobio, it did so not only without a cumulative impact assessment of other dams (that were, as many claimed, later built), but also with the promise that a downstream impact study on fish populations would be conducted in the future.

Despite these studies and the CAO office recommending their public release, they have not till this day been made publically available.

How could CONAMA (Government Environmental Agency) evaluate and approve the project without having this basic information? Eula, a prestigious academic institution from Concepción criticized the Angostura EIA for not conducting cumulative studies.

This, as well as other information is available on line at www.e-seia.cl (look for resolución ambiental under expediente of Angostura, reservoir located in VIII Region).

3. Last, but definitely not least, example is what is happening to the Pehuenche population. As with many human communities, but specially in the case of vulnerable indigenous populations, family and social relationships are intimately tied to the land and in particular to ancestral

territories. In the early 90s Endesa and IFC refused to consider the Pangué relocated families as indigenous Pehuenche, despite some of their members being definitely (because of birth and parents) from this ethnic group and others, because of family bonds, cultural ties and upbringing, closely linked to them and in fact legally eligible to be considered as Pehuenche.

Up to this day these families, and others living on potentially inundated land, are denied their rights as indigenous people and are not considered as such. For Colbun, there is no Pehuenche land being affected by their Angostura project, which might be technically correct, but blatantly misleading and disrespectful of the families and their rights under Bank policies and national and international legislation.

One of the persons whose ancestry and rights is denied is _____, close relative of _____, who visited IFC headquarters in person in 1991 (1992?) advising Bank personnel as to the Pehuenche ancestry of Pangué relocated families.

Those relocated by the second dam, that of Ralco, are likewise in a very difficult situation. Alcoholism levels are specially high and family economies mainly dependent on direct aid provided by the company, who should according to original plans, stop such aid completely in the very near future, without having developed an independent and sustainable income. But Angostura will only make this worse, not only for those directly affected, but for all Pehuenche. _____ for example, who is still living in Ralco Lepoy (she has refused to occupy a farm near Santa Barbara because it lacks enough water) has been heavily impacted by Pangué/Ralco projects. Internal family violence among close relatives of _____ that were relocated by Ralco is affecting her directly, having herself been the victim of physical abuse on several occasions these past few years.

Furthermore _____ has actively sought to prevent the implementation of the Angostura project because of its impacts not only on other Pehuenche and sacred sites located in the area, but also because she was one of the four women that resisted the Ralco project for many years and that in the end reached an agreement with the Chilean government and the OAS that said in one of its parts that no more hydro projects would be implemented in their territory. During the environmental process this was disregarded, despite explicit petitions to the government and the OAS.

These are some of the clarifications that we hope should help carry out an investigation that can have a prompt and significant impact. I (_____) should be home these days except the first two weeks of January.

Regards

_____	_____	Santa Barbara
_____	_____	Santa Barbara
_____	_____	Ralco Lepoy
_____	_____	Ralco Lepoy
_____	_____	Santa Barbara
_____	_____	Concepcion

PD: Original Letter and signatures will be sent in the following days

Cc: Meg Taylor, CAO Office mtaylor@ifc.org, Eduardo Abbott Inspection Panel, ebbott@worldbank.org, Serge Selwan Inspection Panel sselwan@worldbank.org, _____, CIEL, _____@ciel.org