



Information on public consultation

Santa Rita Hydroelectric Project Ref #9713

We, Peoples' Council of Tezulutlán – Manuel Tot, respectfully send you, honorable members of the CDM Executive Board, the following information on the public consultation linked to the Santa Rita Hydroelectric Project. It is the result of a research that we made on the case in order to enlarge information that we already provided to you.

1. National system of People's participation

The law on Councils of Urban and Rural Development (Decree number 11-2002) lays down that the Community Assembly (which is integrated by the inhabitants of the proper community) is the highest body of the Community Council of Development (COCODE in its Spanish abbreviation). The COCODE Coordination Body is built according to their own principles, values, norms and procedures or, failing, according to the existing municipal regulations.

According to this decree, **decisions are taken in meetings where all the inhabitants of the community are called, informed and consulted.** Representatives of COCODEs can't take decision by themselves but can be a link between companies, municipality, etc. to inform the community in order to make decision.

Identity and Rights of Indigenous People agreement is part of peace agreements and states the obligation to "obtain the favorable opinion of the indigenous communities prior to the realization of any project based on exploitation of natural resources that may affect their subsistence and lifestyle". This agreement was strengthened by the adoption of the ILO Convention No.169.

2. Local stakeholder consultation

The Center for Rural Development, CEDER is a national NGO that is in charge of the implementation of the social responsibility policies of Hidroeléctrica Santa Rita and its specialty is conflict resolution.

Associates Lawyers for Legal Development – JADE in its Spanish acronym - is a NGO working on land dispute resolution that act as a mediator for land negotiation and buying between the communities and landowner (as well as in other legal cases, like divorce, etc.).

The communities of Río Icbolay are the following ones: The stance of the communities in relation to the project is reported in the third column and is the result of communitarian consultations that figure in minutes of these different assemblies. The assemblies were a meeting between various communities all together or only one community.


| # | Comunity | Inhabitants | Posture on meeting 7/19/2012 and other communitarian minutes | Attending the Roundtable of the Departmental Government for Dialogue on November and December, 2013 |
|----|--------------------------|---------------|--|---|
| 1 | Dolores | 87 | No to the project | |
| 2 | Yiquiché Canahú | 546 | No to the project | |
| 3 | Monte Olivo | 620 | No to the project | |
| 4 | Sataño II | 192 | No to the project | |
| 5 | Secocpur | 1.178 | No to the project | Yes |
| 6 | Nuevo Porvenir | 446 | Without a clear position | |
| 7 | Rubel Yum | 170 | No to the project | |
| 8 | San Pedro Canahú | 448 | No to the project | Yes |
| 9 | Santa Valeria | 503 | No to the project | Yes |
| 10 | ECA Sauchil | 147 | No to the project | Yes |
| 11 | Chinacanguinic | 59 | No to the project | |
| 12 | Paso Concepción | 30 | No to the project | |
| 13 | San Isidro Yaxcabnal | 1.345 | No to the project | Yes |
| 14 | Río Cristalino* | 200 | No to the project | |
| 15 | Secucté | 250 | No to the project | |
| 16 | Cantolok | 699 | No to the project | |
| 17 | Saquipec | 88 | No to the project | |
| 18 | Santo Domingo Cunixpur | 202 | No to the project | Yes |
| 19 | Santa Elena Samanzana II | 96 | No to the project | |
| 20 | Cubilguitz | 711 | No to the project | |
| 21 | Semox San Lucas | 435 | No to the project | |
| 22 | Uculá Canguinic | 322 | No to the project | |
| 23 | Amanecer | 132 | No to the project | |
| 24 | La Ceiba Norte* | 100 | No to the project | |
| 25 | La Ceiba Dolores | 537 | No to the project | |
| 26 | Israel | 140 | Yes to the project | Yes |
| 27 | Calihá* | 150 | | Yes |
| 28 | Sactelá | 271 | | Yes |
| 29 | Faisán II | 119 | | Yes |
| 30 | Bella Vista Sactelá** | | | Yes |
| 31 | Xalajá Canguinic | 52 | | Yes |
| | Total | 10.275 | | |

* These communities are settlements that are not legally registered but land disputes

** This is a village of Sactelá

Community meetings:

Below is an overview about the consultation meetings that are described in the project design document. The third column is a summary of observations by the described local communities about how the meetings took place in reality.

| Community meeting | PDD Information | Observations |
|----------------------|---|--|
| Israel 2/6/2009 | Inhabitants of Israel; Representatives of the Local; Education Committees (COEDUCAS); Representation of Communitarian Council for Development (COCODE): 1 (the President); Notary Public recording the minutes; Representatives of Non-Governmental Organizations: 1 (CEDER) | <p>The meeting is only with representatives from the COCODE, committee of education and fathers' families, are invited – not the whole community of Israel. Moreover, the Santa Rita project (and the fact that it is applying for CDM) are not being discussed at all. The objectives of the meeting are to discuss the installation of pylons to transport electricity and to negotiate what they want for their authorization on the pylons installation.</p>  <p>Figure 11. Stakeholders meeting at Israel community</p> <p>The image displayed in the PDD (Figure 11) is not a picture of community members but it was taken in the JADE office and people are inhabitants of Santo Domingo.</p> |
| Monte Olivo2/26/2009 | Inhabitants of Monte Olivo: 28 Representation of COCODE: 1 (the President); Representatives of Non-Governmental Organizations: 1 (CEDER) | Inhabitants of Monte Olivo told that since 2008, CEDER started working in the community and in October, they gave them water tanks and metal sheets. The first time CEDER and Inver Hydro talked about the hydroelectric project was on 01/29/09, when they presented pictures on hydroelectric. This day, representatives of COCODEs from Monte Olivo, San Isidro, Yiquiché Canahú and Paso Concepción were present but not the whole communities (the whole |

| Community meeting | PDD Information | Observations |
|----------------------------|--|---|
| | | <p>communities may have been invited, but for the distance and the cost of transportation, not all the community came). In the minute of the meeting, the conclusion is that CEDER would give time to the communities to decide if they will accept or not the project. There is no information about the next meeting.</p> <p>The meeting that took place on 2/26/2009 was about the negotiation for the acceptance of the project (the minute includes an interesting summary of the convincing process with the translator Tomás Chomo, who was working with another foundation, that were visiting different persons of the community, in order to convince them, and telling that the developers are millionaires and that they have to take advantage of this in order to ask them everything they need in the community) and the delivery of a generating plant for the tele-secondary school. Only fathers' children that are attending the tele-secondary school are present, not the whole community of Monte Olivo.</p> |
| Santo Domingo 4/30/2009 | Inhabitants of Santo Domingo: 20; Representatives of Non-Governmental Organizations: 3 (CEDER, 2; and JADE); Owner of the farmstead | <p>Not the whole community of Santo Domingo is invited to the meeting, only the ones who are buying land to Mrs. Ponce (landowner). The meeting took place in the office of JADE (Associates Lawyers for Legal Development – Figure 11) which is a NGO working on land dispute resolution.</p> <p>The report relates the negotiation of the amount of money that Inver hidro should pay to each person who owes money to the landowner (who is also present) so that they will bring their support to the project in return.</p> |
| San Isidro 2/7/2009 | Inhabitants of San Isidro: 67; Representation of COCODE: 1 (the President); Representatives of Non-Governmental Organizations: 2 (CEDER and Fundación Turcios Lima) | <p>The whole community of San Isidro seems to be invited.</p> <p>Consultation is on "the benefits" of project implementation and CSR.</p> <p>Community states that it isn't against the project but it requests support on different points.</p> |
| Yiquiche Canahu | Inhabitants of Yiquiche Canahu: 20; | Only representatives of the COCODE is invited, not the whole community. |

| Community meeting | PDD Information | Observations |
|-----------------------------|--|---|
| | Representatives of Non-Governmental Organizations: CEDER, 1 | Meeting is about help for poor people that the company would give to the community. The point of the minute that says that the community agrees with the project is not written by the same person and no communitarians' signature is available. The other minute available, dated on 02/19/09, is about delivery of materials to paint. |
| Bella Vista 2/12/2010 | Inhabitants of Yiquiche Canahu: 27; Representatives of Non-Governmental Organizations: CEDER, 1 | We don't have more information available on this meeting |
| San Pedro Canahú 29/04/2010 | Inhabitants of Yiquiche Canahu; Members of the COCODE; Representatives of Non-Governmental Organizations: CEDER, 2 | We don't have more information available on this meeting |

On June 29, 2011 at the Hotel Doña Victoria Alcazar in Cobán: this was the only meeting that was really about CDM and the hydroelectric project. Not the whole communities are invited but only representatives, there is no information if they are part of the COCODEs, hydroelectric employees or people that supports the project implementation.

For Q'eqchi' communities, they are more used to meet in their community, the whole inhabitants who are interested in discussing the subjects that affect them. As explained in the first paragraph, members of the COCODE are the representatives of the communitarian assembly so they can only transmit a decision, not take it by themselves.

3. Questions and answers during the consultation process

Will the Project cause the resettlement of communities? The Project will be developed entirely within the Xalajá Cangüinic farmstead, which formerly belonged to the Ponce family (known in the area). A part of this farm was bought by the Project Participant. Since there are not any communities within this farmstead, it will not be necessary to relocate populations.

>Actually, the project resettled 400 persons that nowadays are spread in the 22 communities of the Dolores River and the town of Cobán. (See in annex the document beginning by "Sección de operaciones, comisaría 51, Alta Verapaz")

Does the Project Participant have the permits and licenses required by the government and the municipality? All permits have been acquired and the information is public and accessible to those who want to consult it. These include the authorizations from the Ministry of Energy and Mines (MEM), the Ministry of Environment and Natural Resources (MARN) and the building permit approved by the Municipality of Cobán.

>At the time of the first meetings with the communities (February 2009 to February 2010), the company didn't really have all the permits as the EIA of the Project Activity was approved by the MARN on May 8, 2009 through resolution No. 1808-2009/ECM/GB and on June 22 2010, Hidroeléctrica Santa Rita, S.A. obtained the authorization of the Ministry of Energy and Mines to use the water resources from Icbolay River to develop the Project.

Are they going to dry and/or contaminate the river? The river will not become dry; water taken to generate electricity is returned to the river.

At the moment, the river is polluted and when the project is implemented, joint committees may be set up (company-community) to monitor water quality.

Permissions given by the MEM and MARN would not have been granted if there is a risk that something as suggested could happen.

>When the machinery started the work in the river, people saw that the river was turning into mud and that there was no more water so they decide to have a meeting between 20 communities, started negotiation with the company to manifest their opposition and ask to remove the equipment and they succeeded.

4. Relationship with the government

Since 04/29/09, communities asked the Mayor and the municipality of Cobán (as the communities are villages of this municipality) to involve himself and to convene a consultation as established in the Municipal Code (Article 65. "Consultation to indigenous communities or indigenous municipal authorities. When the nature of a particular matter affects the rights and interests of indigenous communities of the municipality or of their authorities, the Municipal Council held consultations at the request of indigenous communities or authorities, including the application criteria of the indigenous communities' customs and traditions."), but he responds that he knew nothing about the project and denied them their rights.

The Departmental Governor established a roundtable for a dialogue on the hydroelectric construction on November 2013 that turned out to be an appliance to frighten communitarians and communities as he "proceeds also to ask the name of the communities and the persons that create conflict and the name of institutions that finance them, reserving the fact that this will be used to make peace going back in the area; that the information can be given loudly or written in the paper that they gave them, without written down personal data in order to avoid problem". In the same meeting, he also told that "exists a process of some communitarians' arrest warrants of this region, but they won't be effective until exhausting first the dialogue, for what they will call for a third meeting..."

At a national level, Ministry of Environment nor Ministry of Energy and Mine didn't open spaces in order to facilitate dialogue between company and communities as they are expected to do as People's rights warrant. As you can see in the following article, the President and Minister of Energy and Mines met the directive of the company and the conclusion is that "The company has thrived in the socialization of the project and compliance with technical, legal and environmental requirements, these were carried out without any problems".

<http://www.agn.com.gt/index.php/component/k2/item/13120-avanza-di%C3%A1logo-para-construcci%C3%B3n-de-hidroel%C3%A9ctrica-en-guatemala>

5. Annex



NOVENO: El presidente de COCODE pide a las comunidades ellas dicen que no es obligación comprometerse de cambiar el techo sanitario de Instituto Basico y construir un Instituto Basico de la comunidad. - - -

DECIMO: La Comunidad Yiguiche Canau se compromete en apoyar el proyecto hidroeléctrico y como también la Empresa INVER-HIDRO se compromete en apoyar a la referida comunidad con los proyectos para un beneficio comunitario. - - -

DECIMO PRIMERO: Todo de acuerdo, no habiendo más que hacer constar se finaliza la presente, en el mismo lugar y fecha cuando transcurrió dos horas después de su inicio, firmamos los que en ella intervenimos para su validez. - - -

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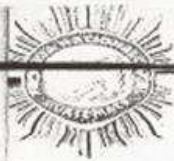
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El día de 04-abril-2012, a eso de las 11:30 horas, se tuvo conocimiento via teléfono por parte del Coronel Eder Amilcar Batres García, de la Sexta Brigada del Ejército Nacional, Con Sede en Cobán A.V. manifestó que en la Aldea Monte Olivo del Municipio de Cobán Alta Verapaz, altura kilometro 264 ruta hacia la transversal de norte, que aproximadamente 600 personas de diferentes comunidades se aglomeraron alrededor del destacamento militar que se encontraban instalada en la referida Aldea. Quienes manifestaron a prito que los soldados que se encontraban en el destacamento que se retire inmediatamente, en virtud que ellos manifiestan que no necesitan al Ejército Nacional en el lugar. Por lo que de inmediato se coordinó elementos de la Policía Nacional Civil, de esta comisaría, al mando del suscrito Sub Comisario, el Oficial Primero de PNC Abelino Lajuj López, Jefe Sección de Operaciones y el Oficial Tercero de PNC Hermelindo González García, Jefe Núcleo de Reserva y 28 Agentes de PNC, a bordo de la unidades: AV-057, AV-067, AV-082 y AV-084 y el Coronel Carlos Francisco Sagastume Ramos, comandante de la Sexta Brigada con sede en Ixcán Playa grande, al mando de 16 soldados, nos constituimos al lugar llegando a las 14:30 horas, donde se encontraba la manifestación. Abocándose ante nosotros el Teniente Juan Alberto Ríos Meléndez, al mando de 28 soldados asignados en el destacamento, manifestando que verdicamentamente que las comunidades estaban inconforme por el destacamento instalado y bajo presión y amenazas de ser desequipados, vapuleados y hasta tomarlos de rehenes los obligaron a sacar sus pertenencias que se encontraba en el lugar donde habitaban y retirarse del lugar. Pero es el caso al notar nuestra presencia Policial, las personas de las Comunidades de inmediato interceptaron el paso y a gritos incitaron aglomerarse nuevamente aproximadamente 600 personas que portaban machetes y palos, manifestando que la presencia Policial, no necesitaba en ese lugar y el Ejército Nacional, con la idea de ellos que estamos a favor de la señor. Victoriano Sajba Pop, empleado de la empresa Hidroeléctrica sarita y que ellos están inconforme por la hidroeléctrica que se encuentra funcionando en esa comunidad. El suscrito les indico a los líderes de las comunidades que la presencia policial se trata en relación a la seguridad ciudadana que se brinda en las comunidades y se dialogo durante seis horas con los líderes comunitarios de las comunidades, donde accedieron de retirarnos del lugar juntamente con el Ejército Nacional, con la salvedad de firmar acta que se redactó por parte de los líderes comunitarios en donde plasmaron, que no quieren que regrese el ejército a instalar destacamento así como también la presencia Policial, en el lugar nos retiramos a las 23:00 horas. Del caso Se hizo del conocimiento del Ministerio Publico Oficio No. 4998-2012. Ref:RR/wh. Fecha 5 de abril del año 2012.

El día 10 de abril año 2012 se recibió el oficio Sin Numero, firmado por los miembros del Consejo Comunitario de Desarrollo de la Colonia Nueva Esperanza, zona 12 de Cobán Alta Verapaz, manifestando que aproximadamente cuatro días han venido observando un grupo de personas indígenas, aproximadamente unas cuatrocientas personas entre hombres, mujeres y niños, en los límites de la Comunidad y la Colonia antes descrita, mismos al comunicarse con ellos, manifestaron ser un grupo de personas que integran el COMITÉ UNICO CAMPESINO "CUC", y que los han desterrado por problemas y diferencias por una hidroeléctrica que se estableció en sus comunidades. Así mismo manifiestan que no confían en la versión en mención; y como autoridades comunitarias, temen que sean personas invasoras o de otra índole similar, y que no se responsabilizan por actos ilícitos o daños a terceras personas que estos puedan ocasionar. Del caso se hizo del conocimiento del Ministerio Publico Oficio No OFICIO No.5257-2012.
Ref: RR/igr