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Case: EFFECTIVE ENFORCEMENT OF MEXICAN
ENVIRONMENTAL LAW IN LAGUNA DE CUYUTLÁN,
COLIMA

COMMISSION FOR ENVIRONMENTAL COOPERATION
393, Rue St. JACQUES QUEST, BUREAU 200
MONTRÉAL (QUÉBEC) CANADA H2Y 1N9

**SECRETARIAT OF THE NORTH AMERICAN COMMISSION FOR
ENVIRONMENTAL COOPERATION**

CITIZEN SUBMISSION

Gabriel Martínez Campos, acting as the legal representative of the civil association BIOS IGUANA, A.C., which has legal status, as is attested to by a certified copy of its document of incorporation (Appendix 1), and Esperanza Salazar Zenil affirm that their legal address to receive and take cognizance of any class of written documents and notifications is calle de Santa Margarita número 227, esquina Angel Urraza, Colonia Insurgentes–San Borja, Delegación Benito Juárez, México, D.F. Furthermore, they authorize María del Carmen Colín Olmos, José Alberto Vázquez Martínez, Alejandro Olivera and Carol Berenice Arriaga García to appear before this Commission, and do affirm:

That by means of this written document and based on Articles 14 and 15, and other related and applicable articles of the North American Agreement on Environmental Cooperation (henceforth “NAAEC”), an agreement signed by the United Mexican States, Canada and the United States of America, published in December 1993 and which has been in force since 1 January 1994, we are making a citizen submission:

To denounce the absence of effective enforcement of: the Political Constitution of the United Mexican States, the Ramsar Convention on Wetlands, especially as regards waterfowl habitat, the General Act of Ecological Equilibrium and Environmental Protection (*Ley General de Equilibrio Ecológico y Protección al Ambiente—LGEEPA*), the Organic Act of Federal Public Administration (*Ley Orgánica de la Administración Pública Federal*), the Federal Administrative Procedure Act (*Ley Federal de*

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Procedimiento Administrativo), the Federal Wildlife Act (*Ley General de Vida Silvestre*), LGEEPA Environmental Impact Regulations, LGEEPA Ecological Zoning Regulations, Official Mexican Standard NOM-022-Semarnat-2003, Official Mexican Standard NOM-059-Semarnat-2001, the Environmental Act for Sustainable Development of the state of Colima (*Ley Ambiental para el Desarrollo Sustentable del Estado de Colima—LADSEC*), the Coordination Agreement for the Preparation, Issuance and Implementation of the Regional Ecological Zoning program for the Laguna de Cuyutlán (*Acuerdo de Coordinación para Apoyar la Formulación, Expedición y Ejecución del Programa Regional de Ordenamiento Ecológico Territorial de la Laguna de Cuyutlán*), the Regional Ecological Zoning Program for the Laguna de Cuyutlán Sub-basin (*Programa Regional de Ordenamiento Ecológico Territorial de la Subcuenca Laguna de Cuyutlán—PROETSLC*), and the Urban Development Program of Manzanillo (*Programa de Desarrollo Urbano de Manzanillo*). This absence of effective enforcement refers to the authorization of two projects, “the Liquefied Petroleum Gas (LPG) Plant in the Municipality of Manzanillo, Colima” and “the Manzanillo Liquefied Natural Gas (LNG) Terminal,” which affect the hydrologic cycle, and the flora and fauna found in the Laguna de Cuyutlán area.

Pursuant to Articles 14 and 15 of the North American Agreement on Environmental Cooperation (NAAEC), let us mention the following points:

I. Grounds for the submission: The lack of effective enforcement of environmental acts and of specifically enumerated standards in respect of two projects: “the Manzanillo Liquefied Natural Gas (LNG) Terminal” and “the Liquefied Petroleum Gas (LPG) Plant in the Municipality of Manzanillo, Colima,” both of which are located in the Laguna de Cuyutlán area, in the state of Colima, Mexico.

II. Authorities responsible for the lack of effective enforcement of environmental acts and standards: the Secretariat of the Environment and Natural Resources (*Secretaría de Medio Ambiente y Recursos Naturales—Semarnat*, formerly Semarnap), the Federal Attorney for Environmental Protection (*Procuraduría Federal de Protección Ambiental—Profepa*), the Attorney General of the Republic (*Procuraduría General de la República—PGR*), the Mexican Geological Service

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(*Servicio Geológico Mexicano*, formerly *Consejo de Recursos Minerales*), the Federal Electricity Commission (*Comisión Federal de Electricidad—CFE*), the Government of the state of Colima, the Secretariat for Urban Development and the Environment of the state of Colima, the Attorney General of the state of Colima, the Manzanillo municipal government, the Armería municipal government, and the University of Colima.

III. Object of the submission: The object of this submission is to have the Commission for Environmental Cooperation (henceforth the “CEC”), declare its support in favor of the effective enforcement of Mexican environmental legislation in the Laguna de Cuyutlán area (Colima), by all three levels of the Government of Mexico, in compliance with the provisions of Articles 5, 6, and 7 of the NAAEC.

IV. Facts of the case: The facts which we shall presently adduce concern the irregularities in the procedures and authorizations that have been carried out in respect of two projects: “the Manzanillo Liquefied Natural Gas (LNG) Terminal” and “the Liquefied Petroleum Gas (LPG) Plant in the Municipality of Manzanillo, Colima.”

CHARACTERISTICS OF LAGUNA DE CUYUTLÁN, COLIMA, MEXICO

Laguna de Cuyutlán, which accounts for 90% of the wetlands in the state of Colima, is the fourth largest coastal wetland in the country and the largest between the National Marshlands (*Marismas Nacionales*) in Nayarit and central Guerrero (Mellink, E. and Riojas-López, M., *Non-breeding waterbirds at Laguna de Cuyutlán and its associated wetlands*, Colima, Mexico).

According to the most recent inventory of the National Commission for the Knowledge and Use of Biodiversity (*Comisión Nacional de Uso y Aprovechamiento de la Biodiversidad—Conabio*), this zone includes 1,500 hectares of mangrove, which represent 23% of the mangroves in Jalisco, Colima and Michoacán, and is considered a priority mangrove conservation area.

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Furthermore, Conabio has classified this area as a Priority Marine Area, a Priority Hydrological Area and a Priority Biological Research Area. It should also be mentioned that this is a priority conservation area for migratory birds from North America.

FLORA. The following are among the species inhabiting this lagoon: *Laguncularia racemosa* (white mangrove), *Rhizophora mangle* (red mangrove) and *Orbignya guacoyule* (*coquito de aceite*), all of which are specified in la NOM-059-Semarnat-2001. In total, 9 families, 127 genuses and 257 species of flora may be found in the lagoon.

FAUNA. The following are among the local or migratory species inhabiting this lagoon: *Ctenosaurus pectinata*, *C. sinilis*, *Iguana iguana*, *Procyon insularis*, *Balaenoptera spp.*, *Echrichtius robustus*, *Nasua nelsoni*, *Caiman spp.*, *Chelonia agassizi*, *Lepidochelys olivacea*, *Dermochelys coriacea*, *Cocodylus moreleti*, *C. acutus*, *Macrobachium spp.*, *Ancistromesus mexicanus*, *Pinctada mazatlanica*, *Pinna rugosa*, *Pternia sterna*, *Crocibullus escutellatum*, *Purpura pansa*, *Noctilio leporinus mexicanus*, *Felis pardalis*, *Felis wiedii*, *Felis yagouaroundi*, *Icterus cucullatus* and *I. walgleri*, *Nomonyx dominicus*, *Aramides axillaris*, *Tachybaptus dominicu*, *Egretta rufescens*, *Mycteria americana*, *Chondrohierax uncinatus*, *Rostrhamus sociabilis*, *Buteo platypterus*, *Buteo albonotatus*, *Micrastur semitorquatus*, *Larus Herman*, *Sterna antillarum*, *Artinga canicularis*, *Glaucidium palmarum guatemalensis*. Of the 327 bird species found in Laguna de Cuyutlán, 56 are aquatic, 104 are land birds, 103 are resident species and 49 are migratory. Two of these species are specified in NOM-059-Semarnat-2001 as threatened and 15 as requiring special protection.

1. FACTS PERTAINING TO ECOLOGICAL ZONING

1.1. On 16 August 2000, Semarnat, the National Ecology Institute (*Instituto Nacional de Ecología—INE*), the Mexican Geological Service (then known as the *Consejo de Recursos Minerales*), the government of the state of Colima, and the municipal governments of Manzanillo and Armería signed the Coordination Agreement for the Preparation, Issuance and Implementation of the Regional Ecological Zoning Program

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for Laguna de Cuyutlán, located in the state of Colima (henceforth, the Agreement). The Agreement was published on 27 October 2000, in the *Diario Oficial de la Federación* (Official Gazette of the Federation) and came into effect indefinitely (Appendix 2).

1.2. Under Clause No. 5 of said Agreement, the Government of Colima undertook to:

- a) “Carry out the actions incumbent upon it pursuant to the execution of the Regional Ecological Zoning Program of Laguna de Cuyutlán,”
- c) “Oversee compliance, in the areas under its jurisdiction, of the concessions, permits, licenses, authorizations, environmental feasibility studies, rulings and resolutions granted or made by state public administration with legal land uses and vocations, as well as with the ecological regulatory standards resulting from the regional ecological zoning program of Laguna de Cuyutlán”
- d) “Monitor the compatibility of urban development plans and programs, and the instruments that may derive from them, with the provisions arising from the Program...”

1.3. For their part, the Municipalities undertook, under Clause No. 6 of the Agreement, to:

- a) “Carry out the actions incumbent upon them pursuant to the execution of the Program...”
- b) “Ensure that within their areas of jurisdiction, concessions, permits, licenses, authorizations, rulings and resolutions comply with the ecological precautions and criteria contained in the Program...”
- c) **“Effect whatever adjustments may be required to ensure that local zoning programs – along with the urban development plans and programs and instruments that may derive from them – are compatible with the provisions arising from the Program...”**

1. 4. The Government of Colima failed to comply with the obligations contained in the Agreement in that it:

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a. Did not execute the regional ecological zoning program of Laguna de Cuyutlán, known as the Regional Ecological Zoning Program of the Laguna de Cuyutlán Sub-basin (*Programa Regional de Ordenamiento Ecológico de la Subcuenca Laguna de Cuyutlán—PROETS LC*), decreed by the Governor of Colima on 5 July 2003, in that it failed to carry out its administrative and oversight obligations, which are stipulated in Clause No. 5 of the Agreement.

This Program establishes conservation and protection policies that are incompatible with “human settlements, infrastructure and equipment” – see PROETS LC regarding Environmental Management Unit (*Unidad de Gestión Ambiental—UGA*) Ent5 39 and UGA Ent4 40 (Appendix 3).

This is demonstrated by the fact that on 23 June 2004 the Government of Colima improperly approved, within the purview of its jurisdiction, the construction and operation of the “the Liquefied Petroleum Gas (LPG) Plant in the Municipality of Manzanillo, Colima” by the company Zeta Gas del Pacífico, S.A. de C.V., in the conservation and protection zones of UGA Ent5 39 and Ent4 40 of the Campos Ejido, a project which implies industrial infrastructure and equipment that is expressly prohibited by PROETS LC.

Furthermore, this action was a violation of Article 40 of the Environmental Act for Sustainable Development of the state of Colima (Appendix 4).

1. 5. The municipal authorities of Manzanillo failed to comply with the Agreement in that:

They modified the Manzanillo Urban Development Program under its jurisdiction. Said modification was published in the *Periódico Oficial del Estado de Colima* (the state of Colima’s Official Gazette) on 12 June 2004 (Appendix 5) and entailed changing the land use from forested area to a medium-term urban use reserve, and changing the zoning from ecotourist to high impact, and risk, heavy industry.

In so doing, it failed to comply with PROETS LC ecological criteria by effecting modifications unfavorable to the area’s protection and conservation. In the Agreement (Clause 6, paragraph c), the municipalities undertook to adapt or harmonize their urban development programs with PROETS LC. However, the Municipality violated this

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provision by adjusting its urban development program to accommodate industrial projects and interests, such as the “the Manzanillo Liquefied Natural Gas (LNG) Terminal” and the “the Liquefied Petroleum Gas (LPG) Plant in the Municipality of Manzanillo, Colima” projects. This also constitutes a violation of Article 40 of LADSEC.

1.6. On 3 May 2007, the Government of Colima arbitrarily modified PROETSLC (Appendix 6). This modification consisted of changing the conservation, protection and restoration status of certain UGAs into industrial and port status. The UGAs in question correspond to the locations of the “Manzanillo Liquefied Natural Gas Terminal” and the “the Liquefied Petroleum Gas (LPG) Plant in the Municipality of Manzanillo, Colima” projects.

1.7. Under sub-section VIII of Article 1 of LADSEC, Articles 6, 36, 48, 49 and 50 of the LGEEPA Zoning Regulations are applicable. Therefore, the Government of Colima and the municipalities are authorized to modify PROETSLC to lessen the adverse environmental impacts generated by productive activities, but they may not authorize the increase of such impacts, as occurred with the Laguna de Cuyutlán projects.

1.8. Under sub-section VIII of Article 1 of LADSEC, Articles 7, 13 and 14 of the LGEEPA Zoning Regulations are applicable. Pursuant to these articles the Government of Colima and the Municipalities must maintain a public ecological zoning registry. Be that as it may, the competent authorities have not complied with this statutory requirement.

1.9. In addition, Article 40 of LADSEC establishes that works or activities carried out in the state shall be subject to the provisions of the pertinent ecological zoning programs, as shall the granting of land use or construction permits, and of zoning certificates. The state and municipal authorities violated this rule when they permitted and/or approved a change in land use to enable the realization of the “the Manzanillo Liquefied Natural Gas (LNG) Terminal” and the “the Liquefied Petroleum Gas (LPG) Plant in the Municipality of Manzanillo, Colima” projects in the Laguna de Cuyutlán area.

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1.10. For this reason, on 4 June 2007, a formal criminal complaint was lodged with Attorney General of the state of Colima charging the Governor of the state, the mayors of Manzanillo and Armería and the Minister for Urban Development of the Government of the state of Colima with illegally modifying the Regional Ecological Zoning Program of the Laguna de Cuyutlán Sub-basin (PROETSLC). The Justice Department took no action in response.

1.11. On 24 May 2007, a nullity action was initiated in respect of the decree that modified PROETSLC. This action remains to be adjudicated.

2. FACTS REGARDING SEMARNAT'S ENVIRONMENTAL IMPACT ASSESSMENT

2.1. On 24 February 2004, the company Z Gas del Pacífico S.A. de C.V. submitted its Environmental Impact Statement to Semarnat, the agency responsible for evaluating the project "Liquefied Petroleum Gas (LPG) Plant in the Municipality of Manzanillo, Colima" (Appendix 7).

2.2. Said project consists of the construction and operation of a Liquefied petroleum gas (LPG) and propane gas storage and distribution plant that includes twenty spherical storage tanks, each with a capacity of 43,380 barrels. Sixteen would be for LPG storage and the remaining four for propane. The plant would be located at kilometer 3.5 of the Manzanillo state highway in Colima, on the stretch between Campos and Cuyutlán. Such activities are classified as high risk.

2.3. On this particular issue, we must point out that the Environmental Impact Statement (or MIA, the acronym in Spanish) submitted by the company Z Gas del Pacífico S.A de C.V. lacked a serious and realistic description on the possible effects on the ecosystem which may arise from either the construction of the installation or its future operations. The MIA also failed to consider the elements forming such

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ecosystems in a comprehensive manner. Nor did it address the preventive and mitigation measures or any other measures necessary to avoid and minimize negative effects on the environment, a requirement stipulated in the first paragraph of Article 30 of the LGEEPA.

2.4. On page 188 of the MIA, the company Z Gas states that “there does not exist any specific regional ecological zoning that includes the project site.” This is totally false, whereas the MIA is dated 24 February 2004, PROETSLC dates from 5 July 2003.

2.5. On 23 June 2004, Semarnat issued an environmental impact authorization to Z Gas del Pacífico (ANEXO 8), via official communication S.G.P.A./DGIRA.DEI.-1443.04. Said document acknowledged the controversies regarding land use and zoning policies (see pp. 11 and 12 of this authorization). However, it did not consider the fact that this Program was modified after Z Gas del Pacífico submitted its MIA on the project “Liquefied Petroleum Gas (LPG) Plant in the Municipality of Manzanillo, Colima.”

2.6. The Manzanillo Urban Development Program (*Programa de Desarrollo Urbano de Manzanillo*—PDUM) dates from 18 September 2000. The PDUM originally classified the area as a forested area and zoned it for ecotourism. The modification to the PDUM, which was made at the late date of 12 June 2004, is arbitrary and illegal. This modification was made nearly four months after Z Gas del Pacífico submitted its MIA to Semarnat.

2.7. In effect, the PDUM was modified in a manner favorable to the interests of Z Gas del Pacífico after the MIA was submitted, without considering the zone’s characteristics and the obligation to protect it. It was thus reclassified from a forested area to a medium-term urban reserve area and its zoning changed from ecotourism to high impact, and risk, heavy industry.

2.8. This, then, was how the provisions of Articles 48 and 66 of the Human Settlements

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Act of the state of Colima (*Ley de Asentamientos Humanos del Estado de Colima*, Appendix 9) were violated. Under said articles, municipal urban development programs shall be consistent with the state urban development and ecological zoning programs, and the formulation or updating of urban development projects or programs shall ensure a certain mechanism for public participation. This did not occur.

2.9. Article 40 of LADSEC was also violated. Under this article, “works or activities carried out in the state shall be subject to the provisions of the corresponding ecological zoning programs, as shall the granting of land use or construction permits and of zoning certificates.”

2.10. On 8 November 2006, by means of official letter 7B/2006/JMRA-00688 the Federal Electricity Commission (CFE) submitted a regional Environmental Impact Statement, or MIA, (Appendix 10) to Semarnat’s Environmental Impact and Risk Directorate (*Dirección General de Impacto y Riesgo Ambiental—DGIRA*) in respect of its Manzanillo Liquefied Natural Gas Terminal project (TGNLM). Said MIA has been registered under the following code number: 06CL2006G0008.

2.11. This project includes the installation of a terminal for the storage and handling of Liquefied natural gas (methane) at levels exceeding the reporting quantity of 500 kilograms. As such it would be considered a high risky activity, in Laguna de Cuyutlán, which is approximately 8 kilometers south of the city of Manzanillo, Colima.

2.12. The MIA submitted by the CFE did not indicate the harm that the installation and operation of the terminal would cause to each and every one of the species of flora and fauna specified in NOM-059-Semarnat 2001 (Appendix 11), which are categorized as threatened, requiring special protection or in danger of extinction. The species in question are: *Ctenosaurus pectinata*, *C. similis*, *Iguana iguana*, *Procyon insularis*, *Balaenoptera spp.*, *Echrichtius robustus*, *Nasua nelsoni*, *Caiman spp.*, *Chelonia agassizi*, *Lepidochelys olivacea*, *Dermochelys coriacea*, *Cocodylus moreleti*, *C. acutus*, *Macrobachium spp.*, *Ancistromesus mexicanus*, *Pinctada mazatlanica*, *Pinna*

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rugosa, Pternia sterna, Crocibullus escutellatum, Purpura pansa, Felis pardalis, Felis wiedii, Felis yagouaroundi, Icterus cucullatus and I. walgleri; Nomonyx dominicus, Aramides axillaris, Tachybaptus dominicu, Egretta rufescens, Mycteria americana, Chondrohierax uncinatus, Rostrhamus sociabilis, Buteo platypterus, Buteo albonotatus, Micrastur semitorquatus, Larus Herman, Sterna antillarum, Artinga canicularis, Glaucidium palmarum, guatemalensis, Laguncularia racemosa (white mangrove), Rhizophora mangle (red mangrove) and Orbignya guacoyule (coco de aceite).

2.13. Semarnat authorized the project on 11 February 2008 via official letter S.C.G.P.A./DGIRA.0465.08 (Appendix 12). This means that Semarnat failed to comply, by omission, with the obligation stipulated in Article 35 of the LGEEPA. In effect, in assessing the MIA, Semarnat was required to review whether it was in compliance with the LGEEPA, with LGEEPA Regulations and with the applicable Official Mexican Standards, such as NOM-059-Semarnat 2001.

2.14. Under Article 35 of the LGEEPA, Semarnat should have denied the authorization for the following reasons:

- a) It contravened the LGEEPA, the LGEEPA Environmental Impact Regulations and Official Mexican Standards NOM-059-Semarnat-2001 and NOM-022-Semarnat-2003, specifically subsections 4.0, 4.1, 4.3, 4.12, 4.23, 4.28, 4.29, 4.37, 4.38 and 4.40; and
- b) the works and operations of these projects may result in the declaring of one or more species as threatened or in danger of extinction, particularly when the species specifically listed in NOM-059-Semarnat 2001 are affected (as has already been mentioned, such species do inhabit the Laguna de Cuyutlán area). This issue was brought to the attention of the relevant authorities during the public consultation of 19 May 2006.

2.15. Nor did this MIA cite studies demonstrating that the project guarantees the integrity of the mangrove ecosystem or avoids the fragmentation of coastal wetlands, as stipulated in paragraphs 4.0, 4.1, 4.2, 4.3, 4.12, 4.33 and 4.42 of NOM-022-Semarnat-2003 (Appendix 13).

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2.16. Originally, no linkage was made with planning documents and the applicable legal instruments, such as PROETSLC and NOM-022-Semarnat-2003, as is required under Article 13, subsection III of the LGEEPA Environmental Impact Regulations. The promoter proceeded in this fashion without any additional information being asked of it until the state Government amended the PROETSLC.

2.17. In accordance with Article 4-IV of the LGEEPA Environmental Impact Regulations, a public information meeting was held on 19 December 2006 in the city of Manzanillo at the request of BIOS-IGUANA, A.C. and other citizens. In this meeting, the project's sustainability was questioned. However, the CFE did not demonstrate the technical viability of its project, as required by law.

2.18. On 23 January, by way of official communication S.G.P.A./DGIRA/DG/0175/07, Semarnat's DGIRA requested additional information from the CFE. This request did not require the CFE to justify the TGNLM project, which is industrial in nature, in the context of the PROETSLC, which concerns a zone where land use is reserved for conservation, protection and restoration.

2.19. On 2 February 2007 an amendment to the Chapter on "Species and Populations at Risk and Prioritized for Conservation" of the General Wildlife Act (*Ley General de Vida Silvestre*), incorporating Article 60, came into force. It stipulates: **"Shall be prohibited the removal, filling, transplanting, pruning, or any other works or activities that affect the integrity of the mangrove's hydrologic cycle, that of its ecosystem and zone of influence; that of its natural productivity; that of the ecosystem's natural carrying capacity for tourism projects; that of its nesting, reproduction, refuge, feeding and fry rearing areas; or which affect the interactions between mangroves, rivers, dunes, the adjacent maritime zone and coral, or which provoke changes in ecological characteristics and services."**

2.20. However, the DGIRA did not take this new provision into account, which prohibits the development of a project like the TGNLM, since it is located in a mangrove zone

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and would significantly modify the hydrologic cycle of the mangrove ecosystem in Laguna de Cuyutlán were it to be implemented.

2.21. On 4 May 2007, the CFE provided the DGIRA, by way of official communication 7B/2007/JMRA-00237, with the additional information (see Appendix 14) requested by Semarnat on 2 February 2007 via official communication S.G.P.A./DGIRA/DG/0175/07 (see Appendix 15). This information was not delivered in a timely manner. Article 22 of the LGEEPA Environmental Impact Regulations specifies that the date of delivery of such additional information may not exceed a term of 60 days following notification; and that once such a period has ended, the environmental impact assessment process shall be declared expired, in the event the promoter fails to deliver the information requested.

2.22. The additional information referred to in the foregoing point was incomplete, as the DGIRA itself mentioned, in its whereas clause XLII of the authorization dated 11 February 2008. On 6 July 2007 the CFE provided details on environmental matters in response to a request for additional information, specifically: the coast line, dredging, hydraulic control works, sea turtles, sediments, mangroves, INF criteria 20, irregular settlements, sodium hypochloride, disposal of dredged materials, paragraph 4.0 of NOM-022-Semarnat-2003 and its diagnostic of the lagoon.

2.23. On 21 May 2007, via official communication S.G.P.A./DGIRA/DESEI/0712/07 (Appendix 16), the DGIRA informed the CFE of its decision to extend the deadline by sixty days, on a one-time only basis, due to the complexity of the TGNLM project, as is permitted under the LGEEPA's Article 35, final paragraph, and Article 46 of the LGEEPA Environmental Impact Regulations. However, the authorization was issued beyond the legally permitted period, i.e., on the late date of 11 February 2008, six months after the established deadline. This therefore constituted a violation of the LGEEPA, the LGEEPA Environmental Impact Regulations and the Federal Administrative Procedure Act (Article 60).

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3. FACTS REGARDING THE ADMINISTRATIVE PROCEDURES AND LEGAL ACTIONS BROUGHT AGAINST THE RESPONSIBLE AUTHORITIES

3.1. On 5 September 2007, Esperanza Salazar Zenil requested that the DGIRA declare the process for assessing the environmental impact and risk of the “Manzanillo Liquefied Natural Gas Terminal” project expired (name under which it is registered on page 13, numeral L of its authorization), as under the LGEEPA Environmental Impact Regulations, the DGIRA was required to conclude its assessment by 24 August 2007, at the latest. No response to this request was ever forthcoming.

3.2. On 28 April 2008, Esperanza Salazar Zenil lodged a complaint with the Civil Service Commission (*Secretaría de la Función Pública*) against the Secretary of the Environment and Natural Resources, Juan Rafael Elvira Quezada; the Under-Secretary, Mauricio Limón Aguirre; the Director General for Environmental Impact and Risk, Eduardo Enrique González Hernández; the Director General for Environmental Policy, Antonio Díaz de León; and the local Semarnat official in Colima, in relation to the illegal authorization of the TGNLM project. This complaint was ignored.

3.3. On 14 May 2008, Esperanza Salazar Zenil lodged a complaint with the Federal Justice Department’s Special Investigations Unit for Crimes Committed by Public Servants (*Unidad Especializada de Investigación de Delitos Cometidos por Servidores Públicos de la Procuraduría General de la Republica*) against the Secretary of the Environment and Natural Resources, Juan Rafael Elvira Quezada; the Under-Secretary, Mauricio Limón Aguirre; the Director General for Environmental Impact and Risk, Eduardo Enrique González Hernández; the Director General for Environmental Policy, Antonio Díaz de León; and the local Semarnat official in Colima, in relation to the illegal authorization of the TGNLM project. This complaint was not attended to.

3.4. On 4 June 2008, Esperanza Salazar Zenil and Gabriel Martínez Campos brought an amparo action at the District Court in the state of Colima against the official at table 3 of the Justice Department of the state of Colima and the Attorney General, Arturo Díaz Rivera, for failing to initiate the preliminary inquiries into the complaint referred to

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in the immediately preceding point, as well as against the Governor of the state and other officials. This amparo action prospered. However, prosecutors have not put forth a precise description of the actions or omissions that are considered offenses in this case.

3.5. On 10 July 2008, Esperanza Salazar Zenil lodged a complaint with Profepa concerning the commission of environmental damages by the CFE in the area of the TGNLM project, a project that went ahead despite the CFE's failure to comply, to date, with the conditions established in the authorization of 11 February 2008. Profepa responded that the project was already authorized without, however, reviewing compliance with said conditions.

IV. CONCLUSION: This complaint lodged against all three levels of the Government of Mexico bears on what constitutes a flagrant violation of: Article 4 of the Political Constitution of the United Mexican States; Articles 1 to 4 of the Ramsar Convention on Wetlands, especially concerning waterfowl habitat, which under Article 133 is the Supreme Law of the Republic; and of Mexican environmental acts and regulations applicable to Laguna de Cuyutlán, Colima. As a consequence, we request that the Commission for Environmental Cooperation of North America intervene in order to declare its support for securing the due protection of this area.

V. CITIZEN SUBMISSION: Please acknowledge the present citizen submission and act upon it in accordance with provisions of Articles 14 and 15 of the NAAEC and other related and applicable articles.

Gabriel Martinez Campos
President, Bios Iguana A.C.

Esperanza Salazar Zenil