

Unofficial Translation

SEM-24-003 (Sonora Railway Project) Submission

Submitter(s) (enterprise):

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Statement of facts

Facts relating to the Nogales, Sonora Rail Bypass Project

The submission requests the preparation of a factual record concerning the construction of a rail megaproject in northern Sonora state by the Government of Mexico. This project will fragment at least one protected natural area and one crucial habitat for various species, including jaguar, without the filing of an environmental impact statement prior to commencement of the work and without holding the applicable approval process that is required by the General Ecological Equilibrium and Environmental Protection Act (*Ley General del Equilibrio Ecológico y la Protección al Ambiente*—LGEEPA) and its Environmental Impact Assessment Regulation (*Reglamento en Materia de Evaluación del Impacto Ambiental*—RLGEEPAMEIA).

The submission is filed in an unusual context, since the project is being carried out opaquely and without fulfilling the environmental requirements that would normally afford citizens critical information. Measures have been taken to ascertain more details about the rail project and available remedies have been pursued; however, there has been a lack of transparency on the part of the authorities. The facts described herein are derived from official speeches by the president of Mexico and the governor of Sonora, requests for information, official documents, and site visits.

In the absence of environmental impact approval prior to commencement of construction, the total real impacts of the project are unknown. However, the development of the project is known to entail removal of vegetation from an ecologically important habitat within a protected natural area.

Therefore, the Submitters took on the task of documenting the environmental impact by visiting the site and requesting information from various public bodies. To this end, we present videos and photographs as well as official documents obtained through the National Transparency Platform (*Plataforma Nacional de Transparencia*), evidencing the lack of transparency and environmental permits.

1. Location of project and ecosystem

The rail bypass project is being developed between the municipalities of Ímuris, Santa Cruz, and Nogales in the state of Sonora. The route passes through a protected natural area called the El Aribabi Conservation Ranch. The municipality of Ímuris is a small town located in northern Sonora state. It abuts the municipality of Nogales, Sonora on the north. The municipality of Nogales, Sonora is a border municipality at the northern edge of the state of Sonora, adjacent to the US border along the state of Arizona. The city of Nogales is characterized by a strong industrial sector and international trade.¹

The rail line is being developed in a mountainous region surrounded by dry valleys and is home to a wide variety and diversity of species. Historically, the valleys functioned as barriers or corridors between the mountain “islands” in terms of species divergence and gene flow. Changes over time in the structure and dynamics of the “islands” have afforded an opportunity to study the processes influencing the presence of species. These characteristics have led to the region being known as the Sky Island region.²

This region, also known as the Madrean Archipelago, is situated within the Western Sierra Madre range, a border region between Mexico and the United States comprising the states of Sonora, Chihuahua, Arizona, and New Mexico. This ecoregion harbors more than 40 mountain chains where the vegetation at higher elevations includes pine, oak, and mixed conifer woodlands, while the lower-altitude areas are characterized as desert land harboring vegetation such as pasture or scrub. Thanks to the diversity of habitats present, along with the unique convergence of Nearctic and Neotropical species, this area conserves a high degree of floral and faunal biodiversity.³

In Mexico, the Sky Islands region is home to a diverse grouping of land mammals, including large mammals. These comprise species with wide geographical distribution, diverse life histories, species found in certain threatened categories (both domestically and internationally), and game species.⁴

In southern Arizona, parts of New Mexico, and northern Sonora, including the municipalities of Nogales and Ímuris, six ecosystems combine to form the Sky Island region, supporting a rich biodiversity and many species found here and nowhere else (see Figure 1).⁵

¹ A. G. Monroy-Gamboa, L. Cab-Sulub, M. C. Lavariega, and S. T. Álvarez-Castañeda, “Modeling biodiversity changes and conservation issues in a desert sky island,” *Journal of Arid Environments* 189 (2021): 104481.

² T. R. Van Devender *et al.*, “Biodiversity in the Madrean Archipelago of Sonora, Mexico,” in G. J. Gottfried *et al.*, comps., *Merging Science and Management in a Rapidly Changing World: Biodiversity and Management of the Madrean Archipelago III and 7th Conference on Research and Resource Management in the Southwestern Deserts* (Fort Collins, CO: U.S. Department of Agriculture, Forest Service, Rocky Mountain Research Station), 10–16.

³ *Ibid.*

⁴ *Ibid.*

⁵ S. Avila-Villegas and J. Lamberton-Moreno, “Wildlife survey and monitoring in the Sky Island region with an emphasis on neotropical felids,” *USDA For. Serv. Proc.* 67 (2013): 441–7.

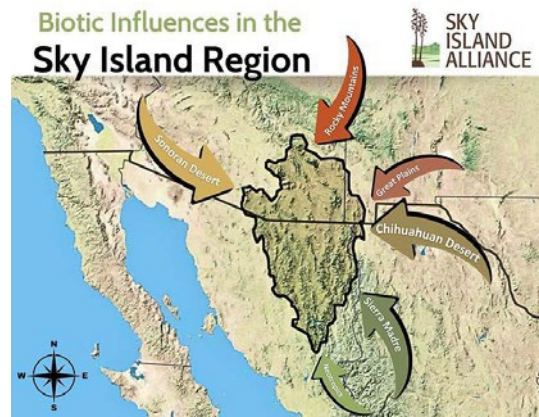


Figure 1. Six ecosystems combine to form the Sky Island region. Source: Sky Island Alliance.

El Aribabi Conservation Ranch is located in the municipality of Ímuris, in the Sky Island region of northeastern Sonora, approximately 60 km south-southeast of Nogales (Sonora) and Arizona. It is a conservation ranch certified by the National Protected Natural Areas Commission as a type of protected natural area called a “voluntarily designated conservation area.”⁶

El Aribabi comprises parts of the Sierra Azul-El Pinito corridor, an important regional north-south wildlife migration corridor.

Here, some neotropical species reach the northernmost parts of their range, including jaguar (*Panthera onca*) and ocelot (*Leopardus pardalis*),⁷ both endangered, as well as the endemic Sonora mud turtle (*Kinosternon sonoriense longifemorale*). An inventory of mammals on El Aribabi Conservation Ranch taken from 2006 to 2018 documented 36 mammal species in 20 families.⁸ Furthermore, the certificate of designation acknowledges the presence of fauna listed in a protected category of NOM-059-SEMARNAT-2010, including Western red bat (*Lasiurus blossevillii*), Arizona gray squirrel (*Sciurus arizonensis*), coyote (*Canis latrans*), desert pocket mouse (*Chaetodipus penicillatus*), American badger (*Taxidea taxus*), American black bear (*Ursus americanus*), ringtail (*Bassariscus astutus*), raccoon (*Procyon lotor*), white-nosed coati (*Nasua narica*), skunk (*Mephitis* sp.), bobcat (*Lynx rufus*), collared peccary (*Tayassu tajacu*), white-tailed deer (*Odocoileus virginianus*), American hog-nosed skunk (*Conepatus leuconotus*), gray fox (*Urocyon cinereoargenteus*), cougar (*Puma concolor*), jaguar (*Panthera onca*), ocelot (*Leopardus pardalis*),

⁶ CONANP-317/2012, CERTIFICATE RECOGNIZING “EL ARIBABI, SUBDIVISION B” AS A PROTECTED NATURAL AREA IN THE CATEGORY OF VOLUNTARILY DESIGNATED CONSERVATION AREAS, issued to C. Fernando Robles Pesqueira in recognition of his voluntary designation of 3,955.1836 hectares (three thousand nine hundred fifty-five hectares, eighteen ares, thirty-six centiares) of his property, located in the municipality of Ímuris in the state of Sonora, as an area for preservation of ecosystems and their biodiversity as well as for environmental education and ecotourism, pursuant to Articles 46 paragraph XI, 55 BIS, 74, and 77 BIS of the General Ecological Equilibrium and Environmental Protection Act; Articles 4, 5, 128, 129, 131, 132, 133, 134, 135, and 136 of the Protected Natural Areas Regulation to the General Ecological Equilibrium and Environmental Protection Act; Articles 40, 41, 141 paragraph XIV, and 143 paragraph 111 of the Internal Regulation of the Ministry of the Environment and Natural Resources; it shall be considered a productive area dedicated to a function of public interest.

⁷ S. Avila-Villegas and J. Lamberton-Moreno, *op. cit.*

⁸ J. C. Rorabaugh *et al.*, *Mammals of Rancho El Aribabi in the Sky Island Region of Northern Sonora, Mexico* (St. David, AZ: Hirsute Beast Press, 2023).

Crawford's gray shrew (*Notiosorex crawfordi*), Mexican duck (*Anas diazi*), longfin dace (*Agosia chrysogaster*), Sonora chub (*Gila ditaenia*), Gila monster (*Heloderma suspectum*), and coachwhip (*Masticophis flagellum*).⁹

This protected natural area has already been affected by another type of infrastructure. The 2016 rerouting of Highway 2 via El Aribabi has already fragmented the habitat and isolated certain mammal populations, including ocelot.¹⁰ On top of this, **the rail project will cross El Aribabi.**

The route of the rail project also bisects the Sierra Azul-El Pinito corridor at its most critical point: the Cocospera River valley.¹¹ Recent records in Arizona, coupled with habitat connectivity models, indicate that the Sierra Azul-El Pinito corridor in Sonora, Mexico, is the preferred route through which jaguars reach the United States.¹² See Figure 2.

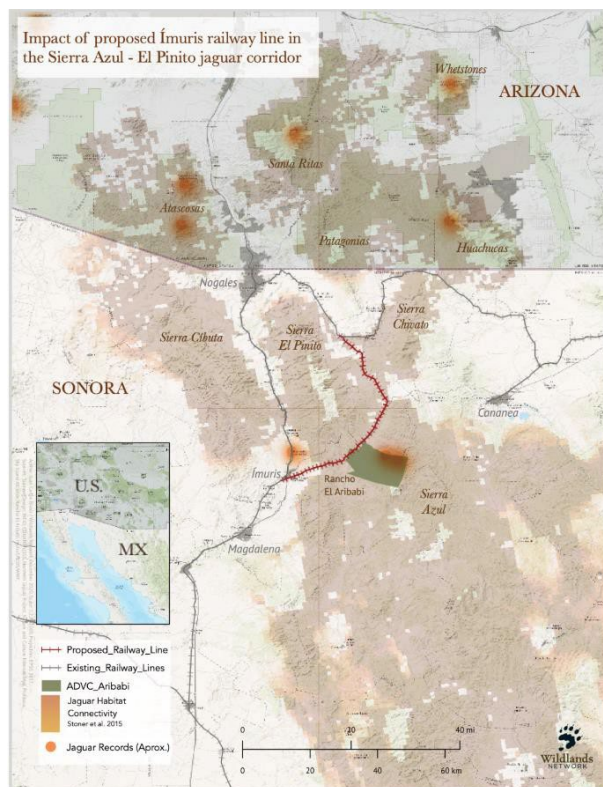


Figure 2. Connectivity model for jaguar through the Sierra Azul-El Pinito corridor, which would be bisected by the proposed rail line (in red). The route would cross a protected natural area listed under the category of voluntarily designated conservation areas, El Aribabi Conservation Ranch, subdivision B. The kmz file of the area can be downloaded here: <http://t.ly/Rvb2f>. Source: Wildlands Network.

⁹ See note 6.

¹⁰ J. C. Rorabaugh *et al.*, *op. cit.*

¹¹ Wildlands Network, “Todos a una - La propuesta del tren Ímuris,” 14 June 2023, online at <https://www.wildlandsnetwork.org/news/propuesta-del-tren-imuris>

¹² Helí Coronel-Arellano *et al.*, “Biodiversity conservation in the Madrean sky islands: community homogeneity of medium and large mammals in northwestern Mexico,” *Journal of Mammalogy* 99(2): 465–77 (2018), <https://doi.org/10.1093/jmammal/gyx151>

As a consequence of the bisection caused by the route of the rail project, the habitat for populations of black bear, jaguar, and ocelot would be further lost and fragmented, resulting in sharp declines in the populations of these species in both Mexico and the United States.

2. Characteristics of the Nogales, Sonora Rail Bypass Project

When construction on the project began, there was no public document explaining the details of the project, its environmental impacts, or their mitigation. What is known about the project, since the commencement of construction, has thus been gleaned from public speeches by the authorities. The following section describes the characteristics of the projects as derived from press conferences given by President Andrés Manuel López Obrador and Governor of Sonora Alfonso Durazo Montaña, taken from their official channels of communication.

Press conference given by President Andrés Manuel López Obrador and Governor of Sonora Alfonso Durazo Montaña, 17 February 2022, during a visit to Sonora.¹³

It was explained during this press conference that the route of the rail line would simply bypass Nogales.

PRESIDENT ANDRÉS MANUEL LÓPEZ OBRADOR: In the case of the Nogales route, we are going there today and they are going to present their proposal to us. This has been the situation for decades, ever since the line has existed in Nogales, since the time of Porfirio Díaz, and the rail line bisects the city. I don't know if you have a map of Nogales, that part. The population grew and the rail line stayed there. With the neoliberal period, they privatized the railways, the passenger trains were eliminated and only the freight trains remained. So the customs office lies along the old route. The current plan is to create a bypass so that the train doesn't go through the city.

But there is one that was sent to me, but I don't know if...

ALFONSO DURAZO MONTAÑA: Sorry, but just to be clear, the yellow line is the rail line and you can clearly see that it divides the city in two.

PRESIDENT ANDRÉS MANUEL LÓPEZ OBRADOR: The idea is to put a detour in here, a bypass.

The customs office is here. The original idea was to move the customs office over here, the US office. In fact, now that President Biden is in office, I suggested something, which is that I wanted him to help us by moving the customs office on the US side, since the president of the United States has exclusive discretion over moving the sites of customs offices, and he said yes, that the arrangements would be made.

But what the military engineers are saying is that if this bypass is built, it would meet up with another rail line on the Mexican side and it wouldn't be necessary to move the customs office and the city would be freed up; that is, the only way to avoid running the trains through the middle of the city is to shunt the traffic onto another line, that is what we are going to look at today.

¹³ <https://lopezobrador.org.mx/2023/02/17/version-estenografica-de-la-conferencia-de-prensa-matutina-del-presidente-andres-manuel-lopez-obrador-desde-sonora-5/>

This may include land in the municipality of Ímuris, but there is no human settlement, we would have to talk with them for authorization of right-of-way. Because Ímuris isn't right there; I mean, I know Ímuris well, it's closer to the centre of the state, so we'll take a look at that.

In any case, work is ongoing, the engineers are there, and I think progress must already be continuing on obtaining the right-of-way.

But, did you want...

ALFONSO DURAZO MONTAÑO: If I may.

PRESIDENT ANDRÉS MANUEL LÓPEZ OBRADOR: Yes.

ALFONSO DURAZO MONTAÑO: Yesterday, I spoke with the municipal president. He circled an erroneous route, one that divides the city in two. It would be absurd for us to try to avoid bisecting Nogales while bisecting Ímuris. But he circled an erroneous route, it has absolutely nothing to do with the route that is being planned.

Press conference by Alfonso Durazo Montaña, 21 November 2023:¹⁴

This press conference reveals that construction work by the Ministry of National Defense (*Secretaría de la Defensa Nacional*—Sedena) is underway, that it is a federal project to build a transportation line with federal funds, and that the state government's role is to assist the Ministry of National Defense.

The speaker is Omar del Valle Colosio, former Sonora minister of infrastructure and urban development:

“Let's take this in pieces. With respect to the Nogales rail bypass, the first point is that this is an investment of approximately 7 billion pesos. If we look at the state budget, it is nearly ten percent of the total budget. That's the magnitude of the project that is in progress.

“There are two main benefits of the project:

“The governor mentioned the first one: This Nogales rail bypass, running from Ímuris to Nogales, is planned or conceived as part of the larger Mexico-United States-Canada trade corridor, particularly the Guaymas-Nogales corridor. This is the reason for the investment in the port of Guaymas, the investments along Highway 15, the modernization of customs (and on this point, Sedena is currently investing 2.8 billion pesos in all of the state's border crossings). About 70% of this investment is security infrastructure, the remaining 30% is for facilities to house the Sedena regiments engaged in border policing.

“In the second phase, in conjunction with the National Customs Agency, funds will be allotted to modernizing the ports of entry, particularly San Luis Río Colorado and Agua Prieta 2, at a new border crossing.

¹⁴ <https://www.youtube.com/live/VF3n5wz97C8?si=Uxo2y-TgVdIIIsjKR&t=3161>

“Characteristics of this project: It is worth mentioning that this is a project being directly carried out by the Ministry of National Defense. It is a federal project with federal funding to build a transportation line. The state government’s role is to assist the Ministry of National Defense in various aspects, such as the following:

“Particularly concerning the right-of-way: 63 km of new track will be laid, connecting to another 30–36 km of existing track from Nogales to Santa Cruz, with lines to Agua Prieta and Cananea.

“Negotiation processes concerning rights-of-way: This has enabled the Ministry of Defense, through agreements with ejidos and/or private property owners, to gain access to the worksite. Currently, the work being carried out is not being done without social approval. To achieve social approval, there is a process of negotiation between landowners, ejido members, and Sedena, which has also taken part in supporting various social petitions relating to road issues, water well issues, relocation of housing, etc.

“The process is being carried out from north to south, particularly the larger lots, which are the property of the ejidos. That is the progress so far. Our role is to assist the Ministry of Defense with regard to administrative procedures and permits, as well as rights-of-way, but particularly with development (the developer is Sedena, in collaboration with the Ministry of Communications and Transportation) because ultimately the railway agency reports to SCT. This is a nationally coordinated project that is being done federally. Our role is to assist in carrying the project to prompt and successful completion. The project is to be completed before October of next year. Sedena has clear instructions on this from the president, who has committed to building this project with the state government. The amount of the investment is 7 billion pesos.”

Press conference by Governor of Sonora Alfonso Durazo Montaña, 28 November 2023¹⁵

At this event, the governor stated that a route has been decided upon and that remediation of environmental impacts is being coordinated with Profepa and Semarnat, with an admission that these will occur.

ALFONSO DURAZO MONTAÑA: We have to finish the track. We already have a route. We are working closely with Profepa and Semarnat, with both institutions. We will remediate all environmental impacts resulting from construction of the project.

We will be holding a meeting with environmentalists tomorrow, to explain the project to them. Obviously, like any road, there will be environmental impacts. The important thing is that the environmental harm or impact is not unmanageable, and that the environmental impact is remediated.

If we build the bypass from Ímuris to Cananea, whatever route we choose will have environmental impacts. The important thing is that the environmental impacts are not unmanageable and that they will be corrected, whatever they are. To give you an example, if trees are felled, we have to replant trees in proportion to the environmental service that was due to them.

What I want to tell you is that, contrary to what has been said, absolutely, the route of the rail line... We already have rights-of-way for 43 of the 63 km. We are negotiating for the rest and are making good progress. We have permission from every one of the landowners to cross their land. By law,

¹⁵ <https://www.youtube.com/live/-WvvlZuQu0k?si=aVF0xE-aGjZoqwsH&t=3995>

you cannot invest in land over which the federal or state government does not have registered rights. So, obviously, we too had to provide information.

3. Requests for information

What with the lack of information, we filed various requests for information from various bodies, in an attempt to obtain the environmental impact assessment for the rail project. However, in response to each request, the bodies stated that either the records do not exist or they are classified, firmly suggesting that the government has not produced an environmental impact assessment for the project. In contrast, the state of Sonora indicated that it had requested “provisional authorization” for the project. The law does not provide for “provisional authorization” as a substitute for an environmental impact statement pursuant to LGEEPA Article 28.

Questions submitted through the National Transparency Platform

Ministry of National Defense (Sedena)

Request no.: [330026423004041](#)

Question:

“COPIES OF ENVIRONMENTAL IMPACT STATEMENTS, LAND-USE CHANGE STATEMENTS, AND UNIFIED FORESTED LAND USE CHANGE PROCEDURE, MODALITY A, FOR THE PROJECTS CONTEMPLATING THE CONSTRUCTION OF RAIL LINES IN THE MUNICIPALITY OF ÍMURIS, SONORA IN THE LAST FIVE YEARS.”

Response:

“YOU ARE HEREBY NOTIFIED THAT **FURTHER TO AN EXHAUSTIVE SEARCH** IN THE PHYSICAL AND DIGITAL ARCHIVES OF THIS MINISTRY, **NO DOCUMENTARY EVIDENCE WAS FOUND** IN RESPONSE TO YOUR REQUEST. **THIS IS BASED ON THE POWERS AND RESPONSIBILITIES OF EACH ADMINISTRATIVE AREA** AS SET OUT IN THE INTERNAL REGULATION OF THE MINISTRY OF NATIONAL DEFENSE, **RULE NO. 07/17**, ISSUED BY THE NATIONAL TRANSPARENCY, ACCESS TO INFORMATION, AND PROTECTION OF PRIVACY INSTITUTE (**RULE ATTACHED**).

“IN ADDITION, THE **ENGINEERING BRANCH** SUGGESTS THAT YOUR REQUEST BE RELAYED TO THE SONORA STATE GOVERNMENT SINCE IT IS RESPONSIBLE FOR PROCESSING AND ADMINISTERING THE ENVIRONMENTAL IMPACT STATEMENT.”

Sonora State Government Ministry of Infrastructure and Urban Development

Request no.: [260493324000014](#)

Questions: 1. I request an uncertified copy of the public version of the technical opinion for the project titled “Relocation of Nogales, Sonora Rail Lines.”

2. I request uncertified copies of the approvals for the project titled “Relocation of Nogales, Sonora Rail Lines.”

Response:

“...Further to the corresponding exhaustive search, as to question 1, I hereby inform you that the information requested is not found in the files of this ministry. In relation to question 2, it was found that there is a provisional approval issued 12 May 2023 by the Environmental Impact and Risk Branch of the Ministry of the Environment and Natural Resources. As to the request to obtain the provisional approval, evidence of the approval in question is attached to this document, omitting a part thereof as partially classified pursuant to Article 96 paragraph IV of the Sonora State Transparency and Access to Public Information Act.”

Ministry of the Environment and Natural Resources (Semarnat)

Request no. 330026724000005

Questions: 1. I request an uncertified copy of the public version of the application for “provisional approval” of the project titled “Relocation of Nogales, Sonora Rail Lines.
2. I request an uncertified copy of the public version of the decision on “provisional approval” of the project titled “Relocation of Nogales, Sonora Rail Lines.

Response:

“... you are hereby informed that part of the information is classified as **reserved**;...

On April 11, the notice of commencement of environmental impact assessment for the project titled RELOCATION OF NOGALES, SONORA, RAIL LINES, whose developer is the Sonora state government, was published in a supplement to the Environmental Gazette (*Gaceta Ecológica*) of Semarnat under project no. 26SO2024V0008.¹⁶

According to the environmental impact statement for the overall project, it is located in the municipalities of Ímuris, Santa Cruz, and Nogales in northcentral Sonora state. The main construction work on the project corresponds to two sections of track. The first section is called the “Ímuris-Miguel Hidalgo” section; it begins at km 0+000 in the municipality of Ímuris and extends to km 63+152.12 in the ejido of Miguel Hidalgo, municipality of Santa Cruz, with a length of 63.1 km. The second section is called “Conexión Frontera”; it begins at the intersection of the existing rail line near the urban center of Nogales, municipality of Nogales, at km 88+780, and ends at km 98+366.7 of another line, both under concession to FERROMEX, for a length of 9.586 Km. It must be noted that the exact location of the project is redacted (p. 11).

Environmental impact assessment

LGEEPA Article 28 provides that environmental impact assessment is the procedure whereby Semarnat imposes conditions on the execution of works or activities that may cause ecological disequilibrium or exceed the limits and conditions set out in the legal provisions applicable to the protection of the environment and the preservation and restoration of ecosystems, with a view to preventing or minimizing the negative effects of the works and/or activities on the environment. Therefore, in those cases determined by the RLGEEMPAMEIA, anyone wishing to carry out any of the works or activities indicated in LGEEPA Article 28 or RLGEEMPAMEIA Article 5 requires prior environmental impact approval.

¹⁶ Publication no. DGIRA/0016/24, https://sinat.semarnat.gob.mx:8443/Gacetas/archivos2024/gaceta_0016-24.pdf

LGEEPA Article 28 and RLGEEPAMEIA Article 5 provide that construction of rail lines, as well as works or facilities within protected natural areas under federal jurisdiction, require prior environmental impact approval.

The Mexican Supreme Court (*Suprema Corte de Justicia de la Nación*) has ruled as follows:

Digital record: 2024387

Body: First Chamber

Eleventh Epoch

Matters: Administrative, Constitutional

Decision: 1a./J. 13/2022 (11a.)

Source: *Gaceta del Semanario Judicial de la Federación*, book 12, April 2022, volume II, p. 848

Type: Jurisprudence

ENVIRONMENTAL IMPACT STATEMENT. ITS HOLISTIC AND COMPREHENSIVE ASSESSMENT ON THE BASIS OF THE ADMINISTRATIVE PROCEDURE ESTABLISHED FOR THAT PURPOSE IN THE GENERAL ECOLOGICAL EQUILIBRIUM AND ENVIRONMENTAL PROTECTION ACT AND ITS ENVIRONMENTAL IMPACT ASSESSMENT REGULATION MUST GUARANTEE ADEQUATE PROTECTION OF THE ENVIRONMENT.

Facts: Two natural persons filed an indirect constitutional relief (*amparo*) motion challenging various acts and omissions aimed at authorizing and executing the project to expand the port of Veracruz, adducing that the responsible authorities failed to guarantee the human right to a healthy environment, since they failed to comprehensively assess various aspects relating to the environmental impact that could be caused by the development of this project and its modification within the protected natural area categorized as a national marine park and known as the “Veracruz Reef System.” The District Judge dismissed the case, finding that the complainants lacked a legitimate interest; a judicial review motion was filed against this decision.

Reasoning: The First Chamber of the Supreme Court finds that the environmental authority has the obligation to conduct a holistic and comprehensive assessment of the various aspects relating to an environmental impact statement, in order to guarantee adequate environmental protection. To do the contrary—that is, to fragment the environmental impact analysis for a large-scale project consisting of a port expansion—constitutes a clear violation of Article 4 of the Constitution, as well as the principles of precaution and prevention, in which the human right to a healthy environment is enshrined.

Justification: Based on the administrative procedure for environmental impact assessment set out in the General Ecological Equilibrium and Environmental Protection Act as well as the Environmental Impact Assessment Regulation, the competent authority must conduct a comprehensive and holistic analysis of the project, plan, or program submitted for its approval, having regard to its nature, objectives, characteristics, spatial distribution of the works and/or principal activities, services, and the like under the standard of the best available scientific evidence and guided by the principles of precaution, prevention, non-regression, and *in dubio pro aqua*. In doing so, it must ensure that the environmental impact statement contains a comprehensive analysis of the information concerning the project subject to approval; that is, there must be a description and assessment of the project, plan, or program as a whole, having regard to its nature, objectives, characteristics, spatial distribution of the

principal works and/or activities, services, and the like; in other words, in issuing the corresponding decision, the environmental authority must rule on the project in its entirety. In addition, in accordance with the aforementioned procedure, the authority must take account of the possible effects of the works or activities on the ecosystems in question, and consider the entirety of the elements thereof, not solely the resources that will be directly used or affected. Furthermore, in issuing the environmental impact assessment, the authority must analyze whether material or relevant cumulative, synergistic, or residual environmental impacts likely to result in the destruction, isolation, or fragmentation of ecosystems are anticipated as a result of the interaction of the works, activities, or projects to be developed with various regional environmental components. In this context, it is an obligation of the authority to issue the corresponding decision with a basis in law and fact, ruling on the entirety of a project submitted for approval, taking into account any relevant, timely, sufficient, and trustworthy information that can facilitate decision-making, and in particular any such information serving to identify the environmental viability of the project under assessment. This is because only by conducting a holistic and comprehensive assessment can it be determined whether to approve or deny the work, activity, or project and, where approval is granted, whether it must be made conditional on modification of the project or on the application of additional preventive or mitigation measures aimed at avoiding, mitigating, or offsetting the adverse environmental impacts likely to be produced. In addition, only a comprehensive and complete analysis can serve to establish the ad hoc conditions and requirements to be observed, both prior to commencement of the work or activity and during the phases of construction, operation, and abandonment, thus guaranteeing adequate protection of the environment.

Appeal on constitutional remedy (*amparo en revisión*) 54/2021. 9 February 2022. Five votes by ministers Norma Lucía Piña Hernández and Ana Margarita Ríos Farjat, and Ministers Juan Luis González Alcántara Carrancá, Jorge Mario Pardo Rebolledo, and Alfredo Gutiérrez Ortiz Mena. Judge: Minister Juan Luis González Alcántara Carrancá. Secretaries: Monserrat Cid Cabello, Víctor Manuel Rocha Mercado, and Fernando Sosa Pastrana.

Jurisprudential decision 13/2022 (11a.). Approved by the First Chamber of this High Court in private session, 23 March 2022.

This decision was published on Friday, 1 April 2022 at 10:05 a.m. in the *Semanario Judicial de la Federación* and is therefore considered mandatory as of Monday, 4 April 2022 for the purposes of the ninth item in General Plenary Accord 1/2021.

Filing of the environmental impact statement

On April 11, the environmental impact statement for the project titled “Relocation of Nogales, Sonora Rail Lines” (no. 26SO2024V0008) was filed. This document states as follows: “The project consists primarily in the construction of two rail bypasses that will be located in northern Sonora state; they will have lengths of 63.152 km and 9.586 km and are called, for the purposes of this study, the ‘Ímuris-Miguel Hidalgo’ section and the ‘Conexión Frontera’ section, respectively. The first section will begin at point 0+000, at the intersection with km 69+925 of the existing ‘North Pacific’ line in the municipality of Ímuris, and will extend to the northeast up to km 63+152.12 in the municipality of Miguel Hidalgo, connecting there with the existing ‘Nacozari’ short line at km 35+394.34. The second section begins at point 88+780, where it connects to the existing ‘Nacozari’ short line at km 10+274.78 in the municipality of Nogales, and ends at point 98+366.7 of the Project in the same municipality within the urban area of the locality of Nogales in Sonora, both existing lines being operated by the company ‘Ferrocarril Mexicano, S.A. de C.V.’”

However, the document has the geographical coordinates redacted (p. 11). The lack of geographical coordinates makes it difficult to assess the direct impacts of the construction and operation of the project. Furthermore, the appendices are not available in digital format.

On August 12 of the current year, nearly two years after the announcement and commencement of the work, the project received conditional approval.

Conclusions:

The foregoing discussion evidences that the Sonora state government applied for “provisional approval” from Semarnat for track construction, apparently by Sedena and/or the state of Sonora. Furthermore, both Sedena and the government of Sonora denied that they hold “provisional approval.” What is more, Semarnat and the government of Sonora have classified the information as confidential for five years because the project is considered a matter of national security. Notably, the concept of “provisional approval” is found in neither the LGEEPA nor the RLGEEPAMEIA.

4. Progress on the project

In October 2023, we made a visit to the municipality of Ímuris in order to document progress on construction of the project. We observed various types of machinery, vehicles carrying materials, and personnel involved in construction.

Photographic evidence:





Video evidence is available at this link: <https://shorturl.at/hOQR6>

In March 2024, another visit was made to El Aribabi voluntarily designated conservation area to document the route of the rail line through this area.





5. Environmental impacts

We explain here whether this project is causing environmental harm due to failures to effectively enforce the environmental law.

- ☐ X We indicate that the matter has been communicated to the relevant authorities of the Party in question and mention any response provided.
- ☐ X We describe whether reasonable measures have been taken, or private remedies available under the Party's law have been pursued, before filing the submission.
- ☐ X We corroborate that the submission is not based exclusively on media reports or items published in the media.

The matter has been communicated to the relevant authorities of the Party in question

Pursuant to Articles 8 and 17 of the Mexican Constitution and LGEEPA Article 189, a citizen complaint concerning the execution of construction work that is covered by LGEEPA Article 28 without obtaining environmental impact approval was filed with the Office of the Federal Attorney for Environmental Protection (*Procuraduría Federal de Protección al Ambiente*—Profepa).

Appendix 1

Reasonable measures have been taken, or private remedies available under the Party's law have been pursued, before filing the submission.

Various requests were submitted through the National Transparency Platform described in section 3 of the statement of facts (G).

This submission is not based exclusively on media reports or items published in the media.

In the statement of facts, we cite the stenographic versions of official sources taken from press conferences given by President Andrés Manuel López Obrador and Governor of Sonora Alfonso Durazo Montañón.

We also provide documentary evidence of the requests made through the transparency portal, as well as photographs and videos taken to corroborate the facts during a site visit.

H. List of accompanying documents

29. Include full and legible copies of documents referred in your submission. Hyperlinks to download the documents are admissible too. Use the space below to list the documents in the order cited in your submission. Do not include statutes or regulations cited in your submission.

1. Complaint filed with Profepa, <https://tinyurl.com/denunciatrenprofepa>
2. Response to citizen complaint, <https://tinyurl.com/respuestadenuncia>
3. Response to request for public consultation, <https://tinyurl.com/nieganconsulta>
4. Correspondence with Semarnat, <https://tinyurl.com/cartasemarnattren>
5. [Conanp-317 /2012](#), Certificate recognizing as a protected natural area, in the category of

- voluntarily designated conservation areas, “El Aribabi, Subdivision B.”
6. Request no. [330026423004041](#) to the Ministry of National Defense (Sedena).
 7. Request no. [260493324000014](#) to the Sonora State Ministry of Infrastructure and Urban Development.
 8. Request no. [330026724000005](#) to Semarnat.
 9. Videos and photos: <https://shorturl.at/hOQR6>
 10. Project route in kmz format: <http://t.ly/Rvb2f>
 11. [Document from National Human Rights Commission confirming intake of file.](#)