

[Stamp:] Received, May 17, 2002, 4:45 p.m., The Inspection Panel UNOFFICIAL TRANSLATION

Request for Inspection

The Federation of Persons Affected by Yacyreta in Itapua and Misiones (*Federación de Afectados por Yacyreta de Itapua y Misiones – FEDAYIM*), entered in the public Register under No. 262, hereby submits the following request for inspection by the World Bank and by the independent investigative mechanism of the Inter-American Development Bank, doing so on its own behalf and on behalf of the more than 4,000 families affected by the pending liabilities at what is referred to as 76 meters above sea level (76 masl), with the backing and a similar request from our authorities, the mayor of the city of Encarnación, the supervisor of the district of Cambyreta, and the chairmen of the councils of both communities.

Summary

These liabilities are pending because the social and environmental impacts were neither fully identified, nor was their true extent quantified, and as a result, thousands of families have been unaccountably excluded from the compensation and mitigation plans, despite the fact that they have owned and occupied the lands for more than twenty years.

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First Complaint: Take the example of the 110 petitioning families from the district of Cambyreta on the banks of the Potiy river, whose municipality granted Mrs. Norma de Gutmann a permit for the subdivision of lands in 1978. Today, these lands suffer from flooding whenever there is rainfall in the community, making life impossible for these people, and this has continued, despite numerous efforts and reports submitted to the Banks, the Yacyreta Binational Authority (*Entidad Binacional Yacyreta – EBY*), the local and the national authorities. There are no proposed solutions. There are numerous families settled along the banks of the Mboy Cae, Santa Maria and Yacú Paso streams who find themselves in the same situation. Attached are photographs showing what these communities have had to endure.

This organization believes that the Banks have failed in overseeing the implementation of the resettlement projects. They are financing the project without even having undertaken the duty of finding out the true number of people to be compensated for the damage, both social and environmental.

Nevertheless, the organizations' endeavors, backed by the NGO Sobrevivencia (Friends of the Earth Paraguay), have managed to get various inspection panels to come that corroborated the complaints, and as a result, the Yacyreta company issued Resolution 3874/98 (Document No. 1), which clearly states, in the preambular clauses, that this program was approved to deal with those affected by the flooding of the streams.

Similarly, the Program Evaluation Mission on the river flooding, which took place September 27–29, 1999, recommended seven conditions that were to be taken into account by the heads of EBY to deal with these families (Document No. 2). Nonetheless, these were ignored or rejected.

Our first specific complaint that we would like the mission to verify is that the families for whom the stream flooding program was created are being replaced by families from the neighborhoods of Pacu Cúa, Santa Rosa, Mboi Caé, Ita Paso and San Blas, who are in no way affected by the devastating situation being borne by those living on the stream banks for whom this program was created.

We have been making this complaint ever since the program was initiated, as evidenced by the various memorandums we have attached, and to date, there has been no response, nor have they been addressed by the heads of EBY. We also denounce the housing situation of property owners included in the 1980 census, whose homes have now been destroyed by the continuing floods, yet to date, they have received no compensation. We also denounce the fact that the EBY claims it is not responsible for the ravaged lands located on the Cambyreta district side of the Potiy stream, which are now all unused because of the current elevation above sea level. The concern of the affected families making this request is that, with the program currently underway, for 700 homes in Ita Paso and 400 in Arroyo Porá, the program will end with no solutions having been found for the families afflicted by the situations shown in the photos, enduring extreme conditions that are truly life threatening.

This situation was reported years ago, on two different occasions, as evidenced by the memorandum delivered: a) to the representative of the World Bank in Paraguay, Mr. Peter Hansen, on July 25, 2000, b) to the President of the Republic of Paraguay on July 5, 2000, c) to Mr. Walter Reisser on July 5, 2000, d) to Mr. David de Ferranti in October 2001, e) another memo reiterating the complaint in October 2001, as noted in the response sent by David de Ferranti, and f) in the notarized instrument dated July 13, 2000.

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Second Complaint: The environmental pollution caused by the dam and its impact on health.

Before the dam elevated the Paraná River to the current height above sea level, the river and streams surrounding the city of Encarnación flowed at a rate that precluded the presence of stagnant waters. Neighborhoods got along through the use of borehole latrines and drinking water wells. The wealthiest families had modern baths and pit latrines. Drinking water was clean and healthy. When the financing banks let the resettlement programs proceed as a component disassociated from the civil works, and allowed the dam to begin operations before completing the transfer of all affected families, they ordained that the water table would pollute the drinking water wells and flood the pit latrines, a situation that forced numerous families to live in a totally contaminated and unhealthful environment. This situation was further aggravated by the housing developments built by EBY in Buena Vista and San Pedro, where the wastewater spills into the Potiy, Santa María and Mboi Caé streams, leaving them totally contaminated. This is still further aggravated by the fact that the work planned to resolve the pollution problems will not meet that objective, since, according to a document the organization holds, the planned Wastewater Treatment Plant will not benefit these neighborhoods built by EBY, nor others affected by the rise in the water table. As such, the chance to recover or clean up these streams will be lost for good, and numerous families will be condemned to live in a polluted environment. Attached, on disk, is a study done by the Catholic University, with photos and dates that relate to the degree of environmental pollution. A. Added to this is the fact that the inhabitants of the neighborhood where the plant is supposed to be built (Barrio La Esperanza) are opposed to the resolution for these very reasons. B. According to documentary evidence that we have attached, the above was decided in violation of the environmental laws (Document No. 1). Document No. 2 was issued by the Office of the Controller. C. There are no plans for connecting the neighborhood where the plant is supposed to be built to the sewer system, meaning that the neighborhood will become contaminated by the rise in the water table. D. The selected site needs to be filled in and will not allow for future expansion, meaning that future generations will have trouble benefiting from appropriate sanitation networks. E. The environmental impact report on the project was defective on various counts, including a lack of participation by the affected parties and by the NGOs, who were concerned about the consequences of the work. According to a note we have attached from the meeting held in Ituzaingó, EBY is supposed to build a wastewater treatment plant in the towns of San Juan del Paraná and Cambyreta, but these works are not included in the EBY's plans or projects, meaning that once again, it is committing a gross omission.

Impact on Health. The reservoir has caused severe health problems. The lake, filled with stagnant, polluted water with sewage waste, is an ideal habitat for microorganisms that are vectors of serious disease, such as malaria, leishmaniasis, schistosomiasis, dengue fever and other diseases. Statistical data from the Ministry of Public Health and Social Welfare (Sanitation Region Seven) for the years 1990, 1992 and 1994 show that diseases related to the reservoir's existence are among the main causes for doctor's visits, e.g., diarrhea, anemia, parasitic infection, skin diseases such as pyoderma and ectoparasites. Since the reservoir was filled, people living in the area of influence have complained of a high incidence of fevers. We denounce the fact that there were no programs for monitoring and controlling disease-causing microorganisms, and if this remains unresolved, it could lead to an alarming and catastrophic health situation.

Third Complaint: The banks have failed in their duty to ensure that EBY provides people with suitable compensation and resettlement.

For example: This includes the requesting families living in the Santa Rosa, Arroyo Pora and Ita Paso neighborhoods. A photocopy of the valuations is attached.

In the Santa Rosa neighborhood, EBY's appraisal department has approved negligible amounts that will in no way make it possible for the families to buy new land and rebuild their homes. Similarly, EBY has no plans to restore the families' productive infrastructure.

[Stamp:] Received May 17, 2002; The Inspection Panel

Yacyreta Binational Authority

RESOLUTION NO. 3874/98 – DOCUMENT NO. 5

By which the Board of Directors is asked to approve the program for awarding compensation for flooding by urban streams on both banks.

HAVING REVIEWED:

File DOC-MD No. 556/98 and File POS No. 1370-P-1998 submitted with Memorandum No. 1.084/98 dated December 22, 1998 from the Department of Complementary Works, and:

WHEREAS:

In the high-level meeting that took place at the headquarters of the Inter-American Development Bank in Washington D.C., it was agreed that “Prior to December 31, 1998, the Yacyreta Binational Authority (EBY) shall submit to the Governments and to the Banks: (i) a list of the allocations that need to be met on a priority basis due to the prolonged operation of the reservoir at 76 masl (meters above sea level) and the flooding by urban streams, and (ii) the costs and potential financing methods for the plan of action needed to deal with this, including the use of mechanisms similar to the ones already in use in the Base Program.”

Because of this, it is necessary to approve the Preliminary Program to be submitted with a view to awarding compensation for flooding by urban streams on both banks, consisting of a series of studies, actions and works that will enable resettlement of the families who have frequently been affected by the elevated level of the streams.

The aforementioned program was developed using similar criteria for each side of the stream, and the respective files were opened for individual consideration, with plans for the construction of 1,185 residences for the beneficiary families (right bank, 500 families and left bank, 685 families), in addition to 2,520 residences for additional families (right bank, 1,320 families and left bank, 1,200 families).

For this program, plans have been made to use US\$51.0 million from IDB loan 760/OC-RG; US\$16.059 million from IBRD loan 2854-AR, and US\$6.361 million from internal funds, for a total investment of US\$73.42 million.

The Financial and the Legal Departments have performed their assigned roles, and have submitted no comments.

Under Articles 4, 20 and 15, paragraph (s) of the Internal Regulations, the Executive Committee is responsible for submitting the respective draft resolution.

[Initials]

THIS IS A TRUE COPY ...//...
OF THE ORIGINAL

COMPLAINTS FROM THE COORDINATOR FOR THE FAMILIES AFFECTED BY THE PENDING DEBTS AT 76 METERS ABOVE SEA LEVEL (76 MASL)

1) There are families who have traditionally lived on the banks of the streams in Encarnación, who, in light of the current operating level of the dam—76 masl—are already suffering the effects of the secondary damming of these streams caused by the reservoir, and the EBY has neither recognized this situation nor considered it to be an affected area, nor has it been incorporated in its social and environmental impact mitigation plans, i.e., the Plan for Resettlement and Rehabilitation (PARR) and the Master Environmental Management Plan (PMMA).

After an extensive battle organized by civil society and environmental groups, along with requests for inspection by the banks involved in the project, with partial investigations, an onsite verification by the Vice President of the World Bank, and more, the problem, however obvious, was only recently acknowledged (in 1999) by the financing banks and EBY as being a consequence of the Yacyreta reservoir. Accordingly, EBY drew up the “Stream Flooding Program,” and once again, it did so unilaterally, without effective participation from the affected parties, and with the serious risk that many of the affected families would not be covered by the program, since even after multiple requests for a list of families considered by the program, the EBY officers continue to say they will provide it (as always), but to date, they have not done so.

There are families listed in the census arbitrarily (and others not included in the census, omitted through EBY’s negligence) whose homes will become flooded at 83 masl, who are being pressured to accept involuntary relocation, which they have objected to, in the Arroyo Porá and Ita Paso resettlement areas, at sites very distant from their places of origin, with plans and compensation not being drafted jointly (EBY and affected families), as provided by law. The EBY officers say that if their terms are not accepted, the families will not be compensated at all, losing all their rights.

With this, they are clearly trying to clear out or vacate lands that will be flooded at 83 masl, at the expense of or using the funds that should be used to settle the large socioenvironmental liability still pending at the reservoir’s current operating level (76 masl), leaving this problem unresolved, yet again. Furthermore, the true extent of this pending debt has yet to be evaluated on a participatory basis, much less quantified, as we have been requesting for two years now, and there is not even an Environmental Impact Report on this project, as required by our laws. For this reason, we are opposed to amending Expropriation Act 394/94, since its revision has not been participatory; it would allow the reservoir to be raised without resolving the severe pending problems faced by the affected families, and we would be mortgaging the elevation of the reservoir with our lives and our property, with no solution to our problems, with a serious increase in as yet unquantified irreparable damages, with no guarantees of compensation and with the experience of the current situation, in which six years after raising the level of the reservoir, the problems brought about by operating at that level have yet to be resolved.

2) The Wastewater Treatment Plant planned for the city of Encarnación:

- a) Will not fix the pollution created by the EBY settlements, such as relocation of the Oleros (brick-makers) neighborhood.
- b) Will leave many neighborhoods without sanitation facilities, there already being problems with six pit latrines at 76 masl, e.g., the Quiteria and La Esperanza communities.

3) The municipal slaughterhouse, whose relocation will cause problems for 19 workers who have been on the job for 30 years.

WE REQUEST

1) That a general and participatory census be taken

2) A participatory assessment and quantification, by working committees consisting of the affected parties, EBY, the authorities and NGOs, of the true magnitude and scope of the damages and socioenvironmental problems, and with the EBY's compliance with all the terms set by the World Bank in its November 29, 1999 memorandum to EBY director Patiño. And with the funds remaining from the loans to be used to start this process at once.

3) A participatory assessment and quantification of the true magnitude and scope of the socioenvironmental damages that will be caused if the reservoir is raised to 84 masl, to determine the viability and benefits for our country, or the lack thereof.

[Handwritten:] Received by David de Ferranti, Oct. 14, 2000.

Complaint Regarding the Situation of Brick-Makers and Ceramists

The land on either side of the Paraná River, in both Itapúa and Misiones, holds rich deposits of clay that encouraged the installation of brick makers and a ceramics industry. EBY proceeded to compensate a large number of these establishments and relocated the productive units of others to an area located far from the clay deposits. When the compensation was paid, it went to the owners of these establishments, neglecting the personnel, leaving a large number of people without jobs. This forced many of them to come up with and set up their own brick-making businesses in order to continue subsisting along with their families, with which they are now surviving precariously, since EBY now owns the clay deposits. This has forced them to buy the raw material from some of the owners who still have their land and who have available clay. As such, it is urgent that the independent mission confirm the status of these families, so as to force EBY to undertake a serious program of job retraining for these affected communities.

LIST OF POLICIES THAT HAVE BEEN VIOLATED

It is our understanding that the World Bank has the following policies and/or procedures: Environmental Policy for Dam and Reservoir Projects (OD 4.00, Annex B), Environmental Assessment (OD 4.01), Involuntary Resettlement (OD 4.30), Supervision (OD 13.05), Project Monitoring and Evaluation (OD 10.70), and Supervision [sic] of Disbursements (OD 13.40). In addition, the Inter-American Development Bank has policies and procedures for classifying and evaluating the Environmental Impact of the Bank's operations, strategies and procedures on sociocultural matters relating to the environment. In the course of designing and building the Yacyreta Hydroelectric Project, each of these policies was violated.

This occurred because the financing banks were unwilling to carry out proper supervision and monitoring of the work. This led to nothing more than the dismantling of productive systems; community structures and social connections were weakened and families were dispersed.

No attention is being paid to the needs of the most disadvantaged groups, and at this time, the affected parties run a serious risk of ever increasing poverty if the heads of EBY are not pressured into correcting their policies. For this reason, we believe that the presence of an Independent Inspection Panel is urgent and necessary.

We hereby authorize any publication of this request for inspection.

Please direct inquiries to:

Dr. Angela Vergara de Miranda

Cerro Corá 269 c/o Juan Leon Mallorquín

Fax: 071-207202/207203

Phone: 071-207313/204512

Mobile: 0975-606240

/s/ Dr. Angela V. de Miranda
Chairman

/s/ Victorio Ortellado B.
Secretary

[FEDAYIM stamp]

/s/ Antonio Tapia
Coordinator for San Cosme and Damian

/s/ Carlos Sanabria
Coordinator for Cambyreta District

/s/ Rodolfo Navarro
Coordinator for Pacu Cua

/s/ Dilma de Guerrero
Coordinator for Santa Rosa Mboi Cae

/s/ Cresencia de Aranda
Coordinator for Arroyo Potiy

/s/ Blas Cabral
Coordinator for Ayolas

/s/ Elena Vera de Riberos
Coordinator for Santa Rosa

[FEDAYIM stamp]

[Stamp:] Received, May 17, 2002, 4:46 p.m., The Inspection Panel

Municipality of Encarnación
Taxpayer ID No. MENI 846450 E
Phone: 203942 – 204253

MEMORANDUM No. 0236/2002

Encarnación, April 9, 2002

To the Members of the
Independent Inspection Panel
of the World Bank and IDB
for the Yacyreta Project
Hand delivered.

I am respectfully writing to inform you that, in view of the efforts made by the leaders of the parties affected by the flooding of the streams in the district of Encarnación and other neighboring towns, represented for these purposes by Dr. Angela V. de Miranda and Victorio Ortellado, it is my belief that in the interests of the people involved, it is important to attach the petition from the affected families, requesting the presence of the members of the Independent Inspection Panel from the World Bank and the IDB.

Likewise, I feel it would be appropriate to schedule a joint meeting in Encarnación, with the participation of the various affected sectors, to deal with matters related to the Yacyreta Binational Authority.

In my capacity as Mayor of the city of Encarnación, I concur with the concerns expressed by the leaders of the affected parties, who have been working continually to find appropriate solutions to submit to the international organizations.

I look forward to hearing from you at your earliest convenience.

Sincerely,

/s/ Rogelio R. Benítez Vargas, Esq.
City Mayor

[Stamp]

[Stamp:] Received, May 17, 2002, 4:46 p.m., The Inspection Panel

City Council
City of Encarnación
Phone/Fax: (071) 204564
Itapúa, Paraguay

MEMORANDUM No. 130/2002

Encarnación, April 10, 2002

To the Members of the
Independent Inspection Panel
of the World Bank and IDB
for the Yacyreta Hydroelectric Project
Hand delivered.

On behalf of the City Council, we are writing to you in relation to a memorandum submitted by the Federation of Persons Affected by the Yacyreta Dam in Itapúa and Misiones (FEDAYIM), requesting the support of this Council in its request for a visit by representatives from the Independent Inspection Panel of the World Bank and IDB.

In this regard, the City Council, guided by the Opinion of the Special Task Force on Parties Affected by EBY, has decided to SUPPORT the request of the Federation of Persons Affected by the Yacyreta Dam in Itapúa and Misiones (FEDAYIM), in its request for a visit by representatives from the Independent Inspection Panel, for purposes of inspecting the area affected by the Yacyreta Hydroelectric Project.

Sincerely,

/s/ Juan Luis Regis González
City Council Secretary

/s/ Ricardo Omar Cabrera V., Esq.
City Council Chairman

[Municipal stamp]

[Stamp:] Received, May 17, 2002, 4:46 p.m., The Inspection Panel

Municipality of Cambyreta
2001 – 2005 Term
Phone: (071) 205087
Itapúa, Paraguay

MEMORANDUM No. 53/02

Cambyreta, March, 2002

Dr. Angela V. de Miranda
Hand delivered.

We are writing to notify you that the information contained in the memorandum received by this office on March 18 of this year is accurate, and therefore, the Municipal Supervisor and the Supervisory Council for the District of Cambyreta hereby support the request contained therein.

Sincerely,

/s/ Martin Scheid
District Council Chairman

Luis Alberto Wiedel
District Supervisor

[Municipal stamp]

[Municipal stamp]

Ministry of Agriculture and Livestock
Assistant Secretary of State for Natural Resources
and the Environment

Office of Environmental Regulation

Coronel Bogado, February 15, 1999

Dr. Angela V. de Miranda
Member of the Coordinating Committee

I am writing to notify you and others concerned, in answer to the memorandum dated 26 - 0 [sic]- 99.

In this regard, it is my duty to notify you that, to date, the Yacyreta Binational Authority has not submitted a new Environmental Impact Report to the Office of Environmental Regulation regarding the Master Plan for the Sewer System and Wastewater Treatment Project for the city of Encarnación.

Sincerely,

/s/ José Candia, Agric. Eng.
Regional Coordinator – D.O.A. – Coronel Bogado – Itapúa