

September 20, 2013

Mr. James Anaya
UN Special Rapporteur on the Rights of Indigenous Peoples
c/o OHCHR-UNOG
Office of the High Commissioner for Human Rights
Palais Wilson
1211 Geneva 10, Switzerland

Re: Request for recommendations that the Clean Development Mechanism (CDM) take action to protect the rights of indigenous people affected by the Barro Blanco dam and other CDM projects

Dear Special Rapporteur Anaya:

The undersigned organizations express our gratitude for your recent visit to Panama and in particular to the Ngäbe-Buglé Comarca. We greatly appreciate your efforts to visit the Ngäbe-Buglé Comarca, and learn firsthand of the human rights abuses associated with the Barro Blanco hydroelectric dam and other development projects in the region. We also appreciate your concluding statement, which clearly articulates the international human rights obligations that apply in the case of the Barro Blanco project. Given the urgent nature of the situation, we request that you **make recommendations that the Clean Development Mechanism (CDM) take necessary actions to protect the rights of indigenous people affected by the Barro Blanco dam and other CDM projects.**

We agree with your assessment in your concluding statement that Barro Blanco – a project registered under the CDM – is emblematic of the many development projects that are threatening the lives and livelihoods of indigenous peoples in Panama. Adverse impacts on indigenous peoples have been documented in other CDM projects around the world, including elsewhere in Panama (Bonyic hydroelectric project),¹ Honduras (Aguan biogas plant),² and India (Nallakonda

¹ CDM Secretariat, Project 7822 : Bonyic Hydroelectric Project, *available at* <http://cdm.unfccc.int/Projects/DB/ICONTEC1350921218.31/view>; *see also* Jennifer Kennedy, *Panama: Situation Turns Critical for the Naso*, IC MAGAZINE (Aug. 27, 2013), *available at* <http://intercontinentalcry.org/panama-situation-turns-critical-naso-20062/>; Javier Castillo, *Martinelli ordena a jefe policial abrir vía hacia hidroeléctrica Bonyic*, LA ESTRELLA (Aug. 22, 2013), *available at* <http://www.laestrella.com.pa/online/noticias/2013/08/22/martinelli-ordena-a-jefe-policial-abrir-via-hacia-hidroelectrica-bonyic.asp>; International Rivers, *Bonyic Dam*, *available at* <http://www.internationalrivers.org/taxonomy/term/1015>; Environmental Defender Law Center, *The Naso Indigenous People of Panama*, *available at* <http://www.edlc.org/cases/communities/naso-of-panama/>.

² CDM Secretariat, Project 3197: Aguan biogas recovery from Palm Oil Mill Effluent (POME) ponds and biogas utilisation - Exportadora del Atlántico, *available at* <http://cdm.unfccc.int/Projects/DB/TUEV-SUED1260202521.42/view>; *see also* APRODEV et al., *Honduras: Violaciones de Derechos Humanos en el Bajo Aguán* (Mar. 25, 2011), *available at* http://www.viacampesina.org/downloads/pdf/sp/Informe_mision_final.pdf; FIAN International et al., *International organizations welcome the World Bank Ombudsman’s initiative to scrutinize an investment project of the International Finance Corporation due to allegations of human rights violations of peasant communities in the Lower Aguán valley*, Honduras, *available at* http://www.fian.org/fileadmin/media/publications/International_Statement_CAO_-_Lower_Aguan_Honduras_-_01-.pdf.

wind farm project³ and Mundra coal project⁴). Although the Parties to the Kyoto Protocol must fully respect human rights in all climate change-related actions,⁵ the CDM has failed to ensure that projects are designed, implemented and monitored in a manner that guarantees the full and effective enjoyment of human rights.

In light of the growing evidence of human rights violations associated with Barro Blanco and other CDM projects, **we respectfully request that you make formal recommendations to the UNFCCC Secretariat, the Parties to the Kyoto Protocol, and the CDM Executive Board that the Clean Development Mechanism include human rights protections in its governing policies and procedures.** Over 1000 individuals from around the world have signed a petition in support of this request, urging you in your capacity as Special Rapporteur to make these recommendations (see Annex I attached). Our request falls squarely within the Special Rapporteur's mandate to make recommendations on appropriate measures to prevent and remedy violations, as demonstrated by previous occasions on which you have exercised this authority.

We direct our request to you – with urgency – given that the CDM is currently undertaking a comprehensive review of its governing policies and procedures (known as the CDM Modalities and Procedures). This review presents a critical opportunity to establish an institutional safeguard system that effectively prevents human and environmental harm, promotes sustainable development, and maximizes participation, transparency, accountability, equity, and rights protections. Civil society groups, including many of those listed here, repeatedly have raised concerns about the human rights impacts of the CDM and the need for reform.⁶ However, neither the Parties to the Kyoto Protocol nor the CDM Executive Board has taken adequate measures to address these concerns.

For this reason, we ask that you recommend to the UNFCCC Secretariat, the Parties to the Kyoto Protocol, and the CDM Executive Board that the CDM **establish clearly defined international safeguards to protect the rights of those adversely affected by CDM projects,** including that the CDM:

- Establish clearly defined international safeguards to protect the rights of those adversely affected by CDM projects;

³ CDM Secretariat, Project 8791: Nallakonda wind farm in Andhra Pradesh, *available at* <http://cdm.unfccc.int/Projects/DB/LRQA%20Ltd1355495522.4/view>; see also Carbon Market Watch, *Nallakonda – Wind farm project, India*, *available at* <http://carbonmarketwatch.org/campaigns-issues/nallakonda-wind-farm-project-india/>.

⁴ CDM Secretariat, Project 2716: Grid connected energy efficient power generation, *available at* <http://cdm.unfccc.int/Projects/DB/DNV-CUK1245932980.89/view>; see also Carbon Market Watch, *Mundra – Ultra Mega Power project, India*, *available at* <http://carbonmarketwatch.org/mundra-ultra-mega-power-project-india/>.

⁵ UNFCCC COP Decision 1/CP.16, Outcome of the Ad-Hoc Working Group on Long-term Cooperative Action (2010), *available at* <http://unfccc.int/resource/docs/2010/cop16/eng/07a01.pdf#page=2>.

⁶ See, e.g., Submission on views regarding the Revision of the CDM Modalities and Procedures on behalf of AIDA, CIEL, Earthjustice and International Rivers (Mar. 1, 2013), *available at* <http://unfccc.int/resource/docs/2013/smsn/ngo/352.pdf>.

- Strengthen and clearly define requirements on how to conduct local and global stakeholder consultation processes to ensure meaningful and effective participation;
- Develop a process to de-register projects that, at any stage during the project cycle, fail to meet sustainable development criteria, or violate applicable domestic or international environmental, health, labor and human rights standards, laws and policies; and
- Establish a grievance process that allows affected peoples and communities to raise concerns regarding violations of the CDM Modalities and Procedures and/or social and environmental harms associated with CDM projects.

Recognizing that the review of the CDM Modalities and Procedures will conclude at this year's Conference of the Parties to the Kyoto Protocol in November, we ask that you urgently make these recommendations to the UNFCCC Secretariat, the Parties to the Kyoto Protocol, and the CDM Executive Board. We also ask that you include them in your report to the Human Rights Council on the human rights situation of indigenous peoples in Panama.

If you have any questions or would like additional information, please do not hesitate to contact Tania Arosemena at +507-236-0866 or tarosemena@ciampanama.org, or Alyssa Johl at +1-510-435-6892 or ajohl@ciel.org.

Respectfully,



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Diane Dunn
Collective Voices for Peace

Martin Wagner
Earthjustice

Linda and Michael Dunn
Inland Communities Fellowship of Reconciliation

Monti Aguirre
International Rivers

Dale Sorenson
Marin Interfaith Task Force of the Americas

Eva Filzmoser
Nature Code (Carbon Market Watch)