

IN THE SUPREME COURT OF BELIZE, A.D. 2002

ACTION NO.

**IN THE MATTER of an application for leave to apply for
Judicial Review**

AND

**IN THE MATTER of the decision by the National Environmental
Appraisal Committee on the 9th day of November 2001 to
grant “environmental clearance” to the Macal River Upstream
Storage Facility project conditioned upon the development
of an Environmental Compliance Plan (ECP).**

AND

**IN THE MATTER of the Decision of the Government of Belize to
commence building a road as part of the construction of
the Macal River Upstream Storage Facility site pursuant to
their obligation under the Third Master Agreement**

AND

**IN THE MATTER of The Environmental Protection Act Chapter 237
of the Laws of Belize, Revised Edition, 2000**

**THE ATTORNEY GENERAL
DEPARTMENT OF ENVIRONMENT
MINISTRY OF NATURAL RESOURCES,
ENVIRONMENT, COMMERCE AND
INDUSTRY**

RESPONDENTS

and

**Ex parte BELIZE ALLIANCE OF
CONSERVATION NGO's
BELIZE ECOTOURISM ASSOCIATION
SHARON MATOLA
ELIGORIO SHO**

APPLICANTS

A F F I D A V I T

I, CANDY GONZALEZ of San Ignacio, Cayo, Belize, MAKE OATH AND SAY as follows:

1. I am the Vice-President of the Belize Institute of Environmental Law and Policy (hereinafter called BELPO), a non-governmental organization incorporated under Chapter 206 of the Laws of Belize, R.E. 1980 and having a registered office at P.O. Box 54, San Ignacio.
2. BELPO is one of nine environmental organizations from throughout Belize that presently comprise the Belize Alliance of Conservation NGOs (hereinafter called BACONGO), an environmental organization, also incorporated under Chapter 206 of the Laws of Belize, R.E. 1980 and having a registered office at 1 Eyre Street, Belize City.

3. BACONGO is one of the Plaintiffs in this matter.
4. Each of BACONGO's nine members is an organization mainly concerned with conservation of the environment and has an appointed voting representative to participate in BACONGO meetings. I am BELPO's voting representative to BACONGO.
5. The mission of BACONGO is "To support the efforts of our members and to advocate for natural resource conservation and sustainable development for the people of Belize".
6. Since 15th of August 2001 I have been BACONGO's representative on the National Environmental Appraisal Committee (hereinafter called NEAC), and have been present at and participated in all NEAC meetings since the beginning of the review of the Environmental Impact Assessment for the Macal River Upstream Storage Facility (hereinafter called the EIA and the MRUSF respectively).
7. I am a legal researcher and consultant specializing in environmental law. I earned a J.D. (Doctorate of Jurisprudence) from New England School of Law, Boston, Massachusetts.
8. Having become a member of the Bar in the states of Maine and Massachusetts in the United States, I practiced law for 7 years. I have lived in Belize since 1994 and am a nationalized citizen.
9. I have represented BELPO on the Coastal Zone Advisory Council and on various committees including the Meso-American Biological Corridor Committee, Committee for Sustainable Development.
10. I have run workshops on environmental law in Belize including workshops sponsored by the Protected Areas Conservation Trust (PACT) and have authored various studies on different aspects of the environmental laws of Belize.
11. The EIA for the proposed MRUSF, a five volume, more than 1500 page document, was submitted to the Department of Environment along with a letter dated 24th August 2001 from the developer Belize Electricity Company Limited (hereinafer called BECOL). A copy of this letter and the Environmental Impact Assessment are herein exhibited and marked "CG1" and "CG2" respectively.
12. The Chief Environmental Officer of the Department of Environment responded to BECOL in a letter dated 28th August 2001 acknowledging receipt of the Environmental Impact Assessment for the proposed MRUSF, and directing the developer to distribute copies of the EIA to libraries in order to be available for public inspection and comments until 28th September 2001. A copy of this letter by the Department was provided to each NEAC member in its meeting 29th of August 2001. A copy of this letter is herein exhibited and marked "CG3".
13. There were eleven members present at the 29th August 2001 meeting of NEAC: Ismael Fabro (Chief Environmental Officer, Department of Environment), Andre Cho (Geology and Petroleum Department), Angel Chun (Forestry Department), Barbara Tillet-Abdulahadi (Lands and Surveys Department), Godswell Flores or John Bodden (Public Health Bureau), Janet Gibson (Coastal Zone Management Authority and Institute), Ramon Frutos (Meteorology/Hydrology Department), Francine Magloire, (Department of Agriculture), George Myviette (Fisheries Department), Natalie Rosado (with Belize Audubon Society, representing ANDA) and myself representing BACONGO.
14. At this meeting on 29th August 2001, the Chief Environmental Officer provided all of us with a copy of the Environmental Impact Assessment for the MRUSF stating that it would take two to three meetings to discuss this EIA and that we

should be prepared to discuss the EIA by the first or second week of October 2001.

15. We were further advised by the Chief Environmental Officer that copies of the EIA for the MRUSF would be made available at public libraries throughout the country, the main office of Belize Electricity Limited. Individuals wishing to view the documents would be required to sign a ledger, and the documents were not to be removed from the library.
16. At this meeting, I stated that it hardly seemed enough time to review such a lengthy document. This received no response from the members of the committee or the Chief Environmental Officer.
17. A copy of the minutes of this meeting was later provided to the members of NEAC and states only that the EIA for the MRUSF was distributed and that NEAC members were to give notice of receipt to their respective Head of Department. A copy of these minutes is herein exhibited and marked "CG4".
18. Numerous members of the public told me that they had contacted the Department to request additional time to review the EIA and requested public hearings but all of these requests were ignored.
19. As a member of NEAC several people contacted me and informed me they had contacted DOE requesting not only additional time to review the EIA but also requested public hearings but they received no response to their request.
20. I began to review the EIA and noticed that there were numerous pages missing. I requested copies of pages missing and on 17th September 2001, received those pages I requested along with the original 24th August 2001 letter ("CG1") from BECOL to the Department of the Environment.
21. During a NEAC site visit of an unrelated project on 13th September 2001, I asked whether other members of NEAC were missing pages of the EIA. A number of the members stated that they were missing pages. The Chief Environmental Officer then laughed and stated that he had thought that I was the only person missing pages. Icilda Humes, Environmental Officer with the Department offered to provide any missing pages that members requested.
22. As I continued to review the EIA, I discovered that there were more pages and appendices missing, and I requested these in an email and a letter to the Department dated 19th September 2001. A copy of this letter is herein exhibited and marked "CG5".
23. In this letter I also documented comments I received from someone who was reviewing the EIA at the San Ignacio library, who also noted pages missing, and requested a check of all copies placed for public viewing to ensure that they were not missing pages.
24. I also requested more time for a public review of the EIA once the missing documents had been supplied.
25. The Prime Minister, in his State of the Nation Address, 18th September indicated that the public consultation process had been completed and that the Government of Belize had already reached a decision, stating: "The process of consultation and debate has been lengthy but healthy. At the end of the day we are left with the compelling evidence that the building of the Challilo Dam offers the best alternative for Belize's energy security". A copy of the transcript from this Address, taken from the website of the Government of Belize, is herein exhibited and marked "CG6".
26. NEAC also met on the 31st October to conduct site visits to the location of the existing Mollejon dam, and to the proposed "Chalillo dam" site with Joseph

Sukhnandan, Chief Engineer of Belize Electricity Limited (hereinafter known as "BEL"), Dawn Sampson, Press Officer of BEL, and an engineer who works for BECOL on the Mollejon project.

27. NEAC met on 24th October 2001 for the first time to review the Environmental Impact Assessment for the MRUSF.
28. At this meeting, members of NEAC showed concern that the EIA contained confusing and misleading pagination, missing pages and documents poor hydrological studies that had been done, inconsistencies in the geological studies, the lack of mitigation plans in virtually every area, lack of specific information on the construction of the dam and a general concern that the EIA provided no planning for potential problems.
29. In response to the many discrepancies that members of NEAC reported in the copies they received of the EIA, the Chief Environmental Officer said that anyone who was missing pages could obtain from the Department a CD-Rom of the full EIA for the MRUSF. He reasoned that it was too confusing to try to photocopy all of the pages missing for all NEAC members. I obtained a copy of this CD-Rom.
30. As part of the discussions at the 24th October 2001 meeting, the Chief Environmental Officer asked the representative from the Archaeology Department what his Department's view was on the loss of cultural heritage sites that would be destroyed by the proposed MRUSF project, the response was to the effect of "Drown it" or "Flood it", and there was no further discussion on this subject.
31. The Chief Environmental Officer decided that a letter should be sent to the developer requesting all of the information NEAC members felt was needed, the letter would be sent on the morning of the 26th October 2001. NEAC members could submit any additional requests they wanted to include in this letter. BECOL would be given a week to respond and NEAC would meet sometime after that.
32. It was my understanding that the EIA had not been accepted for review at this meeting and would not be accepted until at least we received the additional information requested and had an opportunity to review it properly.
33. The Chief Environmental Officer made no mention at this meeting of any comments on the EIA for the MRUSF that had been received from the public and he did not provide NEAC members with any such comments.
34. I considered the missing pages and other missing information as necessary for NEAC to evaluate the purported benefits, and determine the significant harmful effects of the MRUSF and thought that it was impossible to begin reviewing the project without this information.
35. The Department sent a letter about noon on the 25th October 2001 to BECOL, a day after the NEAC meeting, and a day earlier than the Chief Environmental Officer had told NEAC members this would be done.
36. As a result, and as I will describe, much critical information requested at the NEAC meeting and the day afterward by email and phone calls, was not mentioned in this letter to BECOL.
37. This information has still not been provided to NEAC.
38. I requested a copy of the 25th October letter that the Department had sent to BECOL. I received this letter on the 6th of November 2001. This letter is herein exhibited and marked "CG7". This letter described some, but not all, of the concerns and requests for information that had been expressed at the NEAC meeting and reflected the general sense of NEAC that the EIA had been presented

in a confusing and sometimes misleading way, and that much information was missing.

39. The above mentioned letter addressed NEAC's concerns regarding "the omission of several pages of information from several sets of documents", as well as pagination that was "sometimes very confusing and misleading giving the impression that some information could have been inadvertently omitted".
40. The Department further wrote in this letter that: "The NEAC felt that this [confusing and misleading presentation] could have been avoided if more care, importance and attention was placed on its [EIA's] review prior to submission."
41. The letter did not address my request for further information on the methods and plans for construction of the facility—the full description of many of these activities in the EIA of the MRUSF is given as: "using standard procedures".
42. I requested this information in an email and follow-up phone call to the Department on 25th October 2001 in accordance with instructions by the Chief Environmental Officer at the meeting the day before. A printed copy of this email is herein exhibited and marked "CG8".
43. Environmental Officer Icilda Humes told me during this phone call on the afternoon of the 25th October 2001 that the Department letter was in preparation but assured me that if I sent further requests by email during the day, they would be included in an addendum to the Department's letter.
44. I sent a second email requesting the relevant contracts related to the proposed Chalillo dam and the existing downstream hydroelectric facility owned by BECOL at Mollejon. This email is herein exhibited and marked "CG9".
45. In this email, I specifically requested the contract for the purchase of Mollejon by Fortis Inc. and the current power purchase agreement from the existing downstream hydroelectric dam owned by BECOL.
46. I also requested the current price of power from different producers so that NEAC could compare the alternative of the Chalillo dam fairly.
47. In this letter I also requested information on further studies specified as necessary in the EIA itself.
48. These included a "full geology study as stipulated to determine karst formations": The EIA briefly mentioned the existence of karst limestone outcroppings—typical of cave entrances—in the area of the proposed reservoir, and said that further study would need to be done in order to ensure that these did not cause leakage or other problems for the proposed MRUSF (see "CG2", EIA Main document, section 6.6.1; "given the nature of the geological formations in the area and the possibility that geological contacts may be inaccurate in some instances, additional investigations are warranted...").
49. I also requested a full archaeological study, as the EIA also indicated that this further study is necessary before work begins on the project. (see "CG2", EIA Main document, p.153, "Results of the studies in the reservoir area indicate that these sites are undocumented and no archaeological information is known about the settlement and historical data of this region.").
50. I requested the complete environmental review specified as necessary in the wildlife report from the EIA, conducted by the Natural History Museum.
51. The wildlife report in the EIA indicates clearly that much additional study is necessary to determine the extent of effects on wildlife. (See "CG2", EIA Part II, volume 2, "NHM Scope of Work and Wildlife Impact Assessment", Executive Summary).

52. I requested the full GE Report, a document cited often in the Project Justification, and the basis that the EIA used to claim that the MRUSF would be the least cost electricity option of those considered.
53. I requested a report on water quality at Christo Rey, a community downstream from the dam, referred to in the EIA as ruling out the existing Mollejon dam as the cause for villagers' concerns about water quality impacts that the existing dam had caused.
54. These concerns are documented in the Consultation program portion of the EIA. see "CG2" EIA Part II, volume 4, p.78 "There is a view that the water quality has changed significantly since 1991 to the present. Consequently it is perceived that water quality will get worse with the Chalillo dam".
55. None of these requests were included in the Department's letter to BECOL, and NEAC has not received information satisfying any of these requests.
56. While not including many of these requests for information, the Department's letter to BECOL ("CG7") did request the following under the heading "General Information":

"more details on management of the project, mitigative measures proposed and monitoring plan."
A "Detailed Emergency Response/Disaster Management Plan".
"Information on the linkage between the existing Mollejon and proposed Chalillo [dam]"
Appendix D mentioned in the hydrology section—important data for determining potential power production from the proposed MRUSF.
The names and curriculum vitae of persons involved in the EIA studies.
The "Terms of Reference for the EIA"
57. The letter ("CG7") also requested detailed information on Public Health effects, description of and mitigation measures related to blasting procedures, and more detail and information on the geological studies done for the MRUSF. The section on geology specifically requested, in part, information on rock types at the dam site, as well as the "mitigative measures" in the event of dam failure.
58. The letter also requested a response from BECOL by the 1st November 2002, one week before NEAC's next scheduled meeting on the 8th November 2001.
59. The Department did not provide NEAC members with any of the information until 5th November, three days before the second meeting to discuss the EIA, and four days before a final vote was taken.
60. In an email to all NEAC members dated 5th November 2001, Ms. Humes said that the Department would provide a copy, in electronic form on CD-Rom, of the response from BECOL to NEAC's request. This email is herein exhibited and marked "CG10".
61. In this 5th November 2001 email, Ms. Humes stated that "**vital information**" was not included in the main report, and was only available in the appendices provided in this CD-Rom.
62. Ms. Humes further urged NEAC members to "ensure that you thoroughly review the information contained in the appendices".
63. I wrote to the department by email on the 5th November that this was a lot of information to review in such a short time and that I was not sure I could do this. This email is herein exhibited and marked "CG11".

64. BECOL's answers to the specific questions posed in the Department letter were provided in a letter dated 7th November 2001, the day before the NEAC meeting. This letter is herein exhibited and marked "CG12".
65. This letter from BECOL was largely unresponsive to NEAC's major requests for information, with the much of the required information being put off until later in the "detail design phase".
66. The information that BECOL said that it would complete later, with the "participation of the Government of Belize", included essential elements required before an EIA is considered complete according to Section 20 of the Environmental Protection Act, and Section 19 of the Environmental impact assessment Regulations.
67. These required elements that were put off later include: mitigation and monitoring measures and plans, as well as emergency response measures, or measures that would be taken in the case of a malfunctioning or accident.
68. The letter from BECOL dismissed the possibility of dam failure, and did not provide any mitigation measures in that event. ("CG12" page 5).
69. In this letter, BECOL repeated its insistence that the dam site consists "almost entirely of granitic intrusives" ("CG12" page 4 and attached map).
70. BECOL also stated that "there were no geologic faults encountered during the drilling and mapping program which would prevent dam construction".
71. This is in subtle contrast to the EIA itself, which states that "There were no geological faults of any significance encountered during the drilling and mapping program".
72. It is also in contrast to the determination of NEAC Geologist Andre Cho, as I will describe, and to the determination by respected local geologist Brian Holland, who has told me, and provided me with his report showing that the dam site geology was incorrectly mapped.
73. According to both Mr. Cho and Mr. Holland, the dam site does not contain any granite.
74. NEAC had requested further information about the dam site based on Mr. Cho's misgivings about the geologic makeup of the dam site, and communications to me from Mr. Holland orally and in a report that there are numerous significant faults at the dam site itself.
75. One further significant discrepancy with information presented in the EIA is that BECOL states in this letter that the additional energy available from Mollejon would be, "on average an additional 40 GWh/annum", and that "Chalillo will generate an average of about 30 GWh per annum." ("CG12" page 2)
76. This total of 70GWh per year is in stark contrast to the 80GWh per year additional energy that is claimed as the basis for the project justification in the EIA (see "CG2", Part II, Volume 1, Project Justification section 3.1, page 4).
77. Eighty (80) GWh is also the figure currently used by BEL and BECOL in terms of their power purchase agreement, which was publicized in the local press.
78. One of the documents that was requested by NEAC in its 24th October meeting was the Terms of Reference for the EIA of the MRUSF.
79. The Chief Environmental Officer said that the Department of Environment had this document and that it would be provided. Despite repeated oral and written

requests, the Department of Environment at no time provided a copy of any written agreement by the Department for Terms of Reference for the MRUSF.

80. The inclusion of the request for a "Terms of Reference" in the Department's letter to BECOL ("CG7") indicates that, in fact, the Department was not in possession of the Terms of Reference, or not aware of it.
81. At no time in the NEAC meetings did the Chief Environmental Officer indicate that the Department had done any comparison between the EIA for the MRUSF and a Terms of Reference.
82. I once again requested a copy of the Terms of Reference in an email to the Department dated 29th October 2001. A copy of this email is herein exhibited and marked "CG13".
83. By November 5, I had still not received a copy of the Terms of Reference from the Department.
84. The CD-Rom provided by the department and referred to in the 5th November 2001 email ("CG10") contained five sets of "terms of reference" that the Department said had been received from the developer.
85. None of these alleged "terms of reference" had a specified date, or indicated written authorization from the Department. Printed copies of these alleged "terms of reference" documents are herein exhibited and marked "CG14", "CG15", "CG16", "CG17", "CG18".
86. The CD-Rom from BECOL also included a set of curriculum vitae (hereinafter called c.v.) of the people who prepared the EIA, as requested in the Department's letter ("CG7").
87. In examining these c.v.s, it is apparent that the only experts on wildlife among those listed are the scientists from the Natural History Museum of London.
88. None of the c.v.s demonstrated geological expertise.
89. From the 24th October 2001 NEAC meeting, the NEAC Department of Geology representative demonstrated concern that the geology section of the EIA was suspect.
90. On 31st October 2001 members of NEAC made a site visit to the location of the existing Mollejon dam, as well as to the proposed MRUSF or "Chalillo" site.
91. During this site visit, the Department of Geology representative walked around with his pick and examined the site.
92. He stated at that time that he did not believe that the geological survey of the dam site was correct, and that did not believe that the area was made of granite as the EIA clearly states.
93. BEL Chief Engineer Joseph Sukhnandan, who accompanied NEAC on this site visit insisted that the proponent's geological studies were accurate and that the site is granite.
94. The question of the geology was also discussed at the second meeting to discuss the EIA on the 8th November NEAC.
95. Due to continued concerns from the Department of Geology representative, it was agreed that BEL would allow access to any NEAC members who wanted to view the core drillings the following morning, and would arrange a conference call with a geologist from Canada representing the proposed developer.

96. As I will describe after viewing of the core drillings, the Department of Geology representative stated that he was more convinced than ever that the mapping of the geology in the EIA was wrong.
97. Before the next session of the NEAC meeting, local television reported that the Prime Minister, at a pro-Chalillo demonstration that he had organized, stated that he hoped that his influence would sway NEAC in its decision on the Chalillo project.
98. NEAC met again on 8th November at the offices of Coastal Zone in Belize City.
99. I requested minutes of 25th October 2001 meeting, but was told that minutes for the decision on the MRUSF would all be provided together.
100. This was in stark contrast to the standard practice of NEAC, where minutes of the previous meeting are provided regularly at the next scheduled meeting.
101. At this meeting, the Chief Environmental Officer said that the reason BECOL had provided its response to NEAC's request on CD-rom was that the documents were too lengthy to print.
102. At this meeting, NEAC members raised similar concerns about information gaps and deficiencies in the EIA as were raised at the previous meeting.
103. The Chief Environmental Officer stated that representatives from BEL and BECOL would join NEAC that afternoon to answer our concerns.
104. I felt that discussion of potential effects from the dam project was very cursory.
105. The entire discussion of wildlife impacts lasted for about 5 minutes.
106. The Chief Environmental Officer dismissed the report in the EIA by the Natural History Museum, saying that they [NHM] really overstated their case and that it was like they were "pushing an agenda".
107. Other members agreed with these remarks.
108. Angel Chun of the Forestry Department was asked for his views and he said that there wasn't anything in the area that could not be found anywhere else.
109. The representative from the Fisheries Department, Beverly Wade, stated that there had to be better mitigation for fish populations than was included in the EIA.
110. There was no further detail on this discussion of wildlife impacts.
111. There was no discussion of the effects of the project on the larger ecosystem, or on long-term effects on plants, wildlife or the environment in general.
112. There was no discussion of other energy production alternatives, or comparison of the proposed MRUSF with any alternatives.
113. There was no discussion of the effects on archaeological sites and monuments.
114. There was a brief discussion on the effects on public health, with a consensus that better planning needed to be done in construction camp and for any disease, spillage or impacts on area.
115. Referring to public health effects, Chief Environmental Officer said words to the effect that "We can develop ECPs [Environmental Compliance Plans] to take care of that."

116. When questioned about the hydrology, Ramon Frutos of the Meteorology/Hydrology Department said that because no earlier reports were available from the existing Mollejon dam, he felt that the computer simulation provided in the EIA was accurate.
117. I do not recall any discussion of effects on water quality.
118. At the end of this meeting, the Chief Environmental Officer scheduled the next meeting.
119. As NEAC members had scheduling conflicts over the next week, and the Chief Environmental Officer he scheduled a meeting for the next day, insisting that this could not wait.
120. The Chief Environmental Officer also stated categorically that NEAC would have to come to a decision by the end of the meeting the next day, 9th November 2001.
121. I asked the Chief Environmental Officer to see the comments that had been sent in to the Department from the public and why comments had not been considered.
122. The Chief Environmental Officer replied with words to the effect that “nobody asked to see the comments” or that “the folder [containing comments] was there if anyone wanted to see it.”
123. During the 25th October 2001 meeting, he had also told NEAC members that he had deleted emails from about 10,000 people about the project, saying they were “mostly of the form letter type”.
124. When I finally received a copy of the Department’s letter to BECOL (“CG7”) on 6th November, I was disturbed to find that the Department “accepted for review” such an incomplete document.
125. I sent an email dated 6th November 2001 to the Department and all NEAC members repeating the information I had requested in a 25th October 2001 email. This email is herein exhibited and marked “CG19”
126. I had registered my concerns about the lack of consideration for public comments, and the fact that the Department had deleted or disregarded comments from the public in a letter that I sent to the department on 5th November 2001. I later sent this letter by email to the entire NEAC. This email is herein exhibited and marked “CG20”.
127. I inspected the folder of comments and compiled a list of everything I found there. I sent this list by email to many members of BACONGO and others. A copy of this list of comments is herein exhibited and marked “CG21”.
128. I also added two petitions to the folder, with the permission of the Chief Environmental Officer, that had been sent to the Department much earlier, but were missing from the folder.
129. Upon inspection of the list, I noticed that some comments that I knew had been given personally to the Department were not found in the folder.
130. Specifically, I noticed that the comments provided to the Department at the request of BACONGO in a report by the Natural Resources Defense Council (hereinafter called NRDC) were not in the Department’s folder of comments.
131. On the morning of 9th November 2001, I accompanied the Chief Environmental Officer and the Department of Geology representative to BEL offices in Belize City to view the geological core samples taken from the Chalillo site.
132. No other NEAC members were present.

133. After inspecting these core drillings, the Department of Geology representative stated that his review of the core showed that they were not granite, and that he was more convinced than ever that the mappings done in the EIA were wrong.
134. After viewing the core samples, we went upstairs where there was a conference call between the Department of Geology representative and a geologist from Canada, arranged by BEL.
135. The Canadian geologist insisted that their reports were correct, and the Department of Geology representative disputed this view.
136. John Evans, an engineer from Fortis and Jeremy Gilbert from AMEC, the company that prepared the EIA, were present at the 9th November meeting of NEAC.
137. When questioned if the geology of the dam site would affect the construction of the dam, they concurred that they could “build a dam on anything” or words to that effect.
138. This ended discussions on the geological foundations of the dam.
139. After little additional substantive discussion, the Chief Environmental Officer on 9th November called for an immediate decision by NEAC.
140. Before the vote, I stated that I felt that NEAC was being forced into a decision before meeting NEAC’s legal responsibilities. I then gave the Chief Environmental Officer with a letter to this effect. A copy of this letter is herein exhibited and marked “CG22”.
141. Specifically in this letter I pointed out that public hearings had not been held, despite requests from members of NEAC and the general public and despite the fact that the EIA for the MRUSF “fits all the criteria for public hearings as outlined in 24(2)(a-c)”.
142. I recorded that NEAC members had not seen or been aware of all of the comments that had been submitted regarding this project, and had not taken consideration of them.
143. NEAC voted to “approve” the EIA conditioned upon completion of an “Environmental Compliance Plan”.
144. I objected, and voted against this plan, since the ECP was to include mitigation measures and other elements that are required by law before an EIA is considered complete and a decision is taken.
145. After deciding to “conditionally approve” the EIA, NEAC voted to have public hearings. I argued that to have public hearings AFTER a decision defeats the purpose of such hearings.
146. NEAC has had one meeting about the MRUSF after 9th November, on 16th November, 2001 as mentioned in an email from the Department dated 13th November 2002. This email is herein exhibited and marked “CG23”
147. At this meeting, there were no further discussions of the EIA for the MRUSF.
148. The only agenda item was to “devise the Environmental Compliance Plan for the [MRUSF].” This is confirmed in an email I received from the Department dated 13th November, 2001. This email is herein exhibited and marked “CG24”.
149. On 13th November, the Government of Belize issued a press release stating that “a decision was made on Friday, November 9th, 2001 to grant environmental

clearance for the project to proceed.” This press release, printed from the website of the Government of Belize, is herein exhibited and marked “CG25”.

150. We have not had any further meetings to date to discuss the MRUSF.
151. The Department of Environment advised NEAC members in an email 21st November that a second meeting to discuss the “Environmental Compliance Plan” was cancelled. This email is herein exhibited and marked “CG26”.
152. In an email sent 10th January 2002, I repeated my request for minutes of the NEAC meetings on the EIA for the MRUSF, and for a copy of the letter to BECOL/BEL regarding NEAC’s decision of 9th November 2001. This email is herein exhibited and marked “CG27”
153. I repeated these requests once again in an email sent 11th January 2002. This email is herein exhibited and marked “CG28”.
154. To date I have not received either the minutes of the NEAC meetings relating to the MRUSF or a copy of a letter to BECOL/BEL regarding the 9th November 2001 decision.
155. During the week of the 14th January 2002 I went to the proposed Chalillo site.
156. I saw that trees had been cut and brush cleared recently.
157. I then wrote a letter on behalf of BACONGO to the Chief Environmental Officer stating my observations that work had begun and requesting that he issue a “stop order”, and enforce the order no later than 25th January 2002. I sent this letter by fax on 22nd January 2002. A copy of this letter is herein exhibited and marked “CG29”.
158. I asked the Chief Environmental Officer about the work I had seen done at the Chalillo site and whether he would issue a stay order, during a NEAC site visit on an unrelated project on 24th January 2002.
159. With the other members of NEAC present, he said that no road work was being done.
160. When I clarified and asked specifically about the cut trees that I had seen, he said that those were simply survey lines.
161. I said that this is considered “work” on the project, and he said that it was not work.
162. I asked if he would respond to my request in writing, and he said he would.
163. Immediately after this exchange, I documented the conversation in handwritten notes. A copy of these notes are herein exhibited and marked “CG30”.
164. I have not received any response to these questions from the Department to date.
165. I verily believe that the action of NEAC in approving the EIA was not consistent with the Law and pray that this honourable court will grant the application herein.

SWORN at Belize City)
)
this day of)
)
 2002) _____
) CANDY GONZALEZ

Before me,

COMMISSIONER OF THE SUPREME COURT

This Affidavit is filed on behalf of the Applicants