



MEDELLÍN-10/20/15

INTER-AMERICAN DEVELOPMENT BANK (IDB)

Independent Consultation and Investigation Mechanism (MICI)

RE: Complaint against the Inter-American Development Bank and Empresas Públicas De Medellín (EPM)

Dear Sirs:

The leaders of the communities affected by Porce III, Nelson De Jesús Guerra, [REDACTED] from Itagüí, Antioquia, [REDACTED]

[REDACTED]
are filing this complaint on behalf of over two thousand individuals harmed by the Porce III hydroelectric project. EPM came into the region in 2003, affecting the municipalities of Amalfi, Anorí, Guadalupe, and Gómez Plata, as well as the surrounding villages of Bramadora, Bramadorita, El Guaico, El Limón, El Retiro, El Roble, El Zafiro, La Cristalina, La Maguita, Mangos Calentura, Maria Teresa, Plan De Pérez, and Puente A Casias. Some of these villages were directly affected, while others experienced indirect impacts.

EPM came into the area at that time to execute this hydroelectric project, building access routes, establishing means of restitution, and beginning to have a negative impact in the region, creating psychological, physical, and verbal distress within these communities. They began to take a census of the communities with the firm Ingetec, but many of the company's staff members did not go to the areas where significant numbers of miners were settled, due to the long distances involved. This was prejudicial to many of these communities, and to this day EPM refuses to acknowledge that it denied the fundamental rights to which these communities were entitled. EPM issued a statement asserting that anyone who had the right to do so should go to the community services office of Porce III, at the Bramadorita headquarters. The communities presented evidence that these individuals were from the region, including certificates from the mayor's office and the community action boards in the project's area of influence. Even so, EPM ignored their claims and began to mistreat the claimants physically, emotionally, and psychologically, using violent means backed by police and army law enforcement officers. We have video and photographic evidence of this from Territorio, Hondoná, and other villages.

EPM began negotiating and settling with the communities, giving them the option of direct purchase, relocation, or projects. Some of the communities agreed to productive projects and others to direct purchase. These negotiations and settlements began in 2004, 2005, and 2006, but many of these communities did not want to accept the very low monetary sums that EPM was offering. For instance, a family consisting of a mother, father, and four children was offered between 16 and 20 million pesos in 2005. When the father of the family refused that amount because it was insufficient to cover minimum housing costs in either a town or in the city, whereas they had economic, social, and cultural resources and decent housing where they were living. If this father refused the offer, then he would be told at the next scheduled appointment that the amount offered had been lowered, and if he continued to refuse the offer it would keep going down and the little that was left would be deposited in a bank and he would have to hire a lawyer to claim that sum, which was virtually nothing at that point. When this father saw

the harassment and mistreatment meted out by EPM, he would have to agree to what they said. Many similar actions took place in all of these communities.

Below we have specified the names of individual EPM staff members who, from the time of their arrival in the area, treated the communities as invaders, as if they were monkeys that had to be cleared out because the area now belonged to EPM.

These staff members include: [REDACTED] [REDACTED] [REDACTED], Head of Social Management; [REDACTED] Head of the Porc III Project; [REDACTED] [REDACTED] of Assets and Real Property; [REDACTED], Energy Department; [REDACTED], of Assets and Real Property; and [REDACTED], Head of Assets and Real Property. These individuals are the main causes of the extremely serious harm in the communities of Porc III. Many attempts were made to have a dialogue with them, and they have always been rude and unwilling to engage with the communities. Other staff members of this company were even worse in terms of physical, verbal, and emotional abuse, which was always backed by law enforcement (police and army). They caused the displacement and impoverishment of our communities, and this same company (EPM), took advantage of the fact that there were unlawful armed groups in the area to accomplish this displacement. It also capitalized on the violence that we experience in our country, which the paramilitaries availed themselves of to say that we should accept the proposals offered by EPM. Seeing that we were threatened by both Colombian law enforcement and armed groups, we had no choice but to accept what EPM was doing, apparently with the backing of these shadowy forces.

Porc III is conducting an investigation with respect to an EPM staff negotiator who collected on the contracts of compensated individuals by altering contracts that had already been paid out in order to collect on them again. This demonstrates the corruption inside the company and the fact that its unscrupulous staff members also stole from the communities of Porc III. The following investigation is being conducted by the comptroller's office:

Case File: [REDACTED]

DATE: 03/10/2013 2:25 PM

AGAINST: [REDACTED]

In a September 12, 2003 letter addressed to [REDACTED], legal representative of ASOMIBRA [La Bramadora Miners' Association] and president of the Bramadora community action board, [REDACTED] [REDACTED] [REDACTED] [REDACTED] informed him of the following:

RE: Response to your request regarding mining activity in the area of influence of the Porce III hydroelectric project

With respect to the request made in your official letter of September 1, 2003, with internal filing number [REDACTED], addressed to the head of the project area, we inform you that Empresas Públicas de Medellín (EPM) sent the authorization to the fourth brigade for the storage of explosive materials in the project's arsenals, which must be done in compliance with all requirements of the military and civilian authorities for the handling, transportation, and storage of such materials.

We also inform you that the community of the town of La Bramadora has for some time been engaged in seam mining activities in the area of the Porce III project, for which it requires explosive material. In addition, according to the project's declaration of public utility, the mining area is included within the tracts of land that need to be acquired for the construction of the project, and Empresas Públicas de Medellín is operating on the premise that, according to the construction work timeline, gold mining activities will be allowed to continue until a dam is built or until the land is needed for the execution of some infrastructure work required for the project. This timeline was never followed because EPM never complied with a manual of unit values, an environmental license, or its agreement with all of the communities. In 2008, Empresas Públicas de Medellín was sued in Medellín, Antioquia, but the 15th Administrative Court dismissed the suit. It was alleged that EPM had an undue influence in this decision, which is under investigation and has been appealed to the Superior Court of Antioquia.

This is a summary of the entire report we have against EPM. We have so much video, photographic, and testimonial evidence of how EPM displaces, mistreats, steals from, and disappears leaders who demand their rights. Now, [REDACTED] [REDACTED] I, Nelson De Jesús Guerra, leaders of the communities affected by Porce III, hold you, the IDB, directly responsible for the harm caused by EPM to the communities of Porce III, because according to the socioeconomic record prepared by the Codesarrollo Foundation together with EPM:

International banking guidelines condition foreign currency financing on the appropriate treatment of the impacts it creates. In particular, the Inter-American Development Bank requires the analysis of different variables that highlight the risk of impoverishment of the population and affirms that:

“When the baseline information indicates that a significant number of the persons to be resettled belong to marginal or low-income groups, special consideration will be given to the risks of impoverishment to which they may be exposed as a result of resettlement, through:

- a) loss of housing, land, access to common property or other rights to real property, due to lack of clear title, economic pressure or other factors;
- b) loss of employment;
- c) loss of access to means of production;
- d) food insecurity, increased morbidity and mortality;
- e) disarticulation of social networks; and
- f) loss of access to education.”

The first thing that happened was impoverishment, displacement, and the loss of everything they had in the region. The communities that emerged from Porce III 8, 9, or 10 years ago are living in absolute poverty, and we can demonstrate and prove that neither the Inter-American Bank nor EPM complied. Therefore, we will file an international claim against the Bank and show evidence to the international media—including radio, television, and the press—and to other entities that support the rights of these communities affected by projects in Colombia. As the

international bank that lent the money for this megaproject, you had the obligation to verify what that company was doing from the initial stages of its execution. Accordingly, as the affected community, we will go to the highest courts and prove that you are directly responsible for this harm.

I am going to send you a video containing evidence of EPM's abuse of the municipal governments of Anorí, Amalfi, Guadalupe, and Gómez Plata, showing how they mistreated and displaced families to whom they did not want to provide compensation, and that is just the beginning of all the evidence to be shown. We also have some letters in each person's own handwriting. I will send 7 of them (I have more than 2000 letters that I will send to international media outlets), so you can see the pain and suffering these people are now experiencing because they were brutally and arbitrarily uprooted by EPM, together with law enforcement (police and army).

In 2011, Nelson De Jesús Guerra [REDACTED] contacted the IDB with the objective of filing a complaint against EPM regarding the Porce III hydroelectric project and following up on our letter No. CCO 2453/2011 of September 12, in which we made allegations against EPM. You appointed Mr. José Ramón Gómez, specialist and project leader, to respond to the request for a meeting by us, the leaders, in the city of Medellín during the week of October 24-28, 2011. That meeting was held, and we thought that a solution might potentially come out of it. However, the project representative displayed indifference and failed to pay attention to what we were really telling him. That claim was unsuccessful, and therefore we asked you for a neutral delegation directly from the IDB in Washington or New York, in order to verify and corroborate our information and situation, the fact that there is in fact harm involving displacement and impoverishment, and that we hold you directly responsible as the bank. We look forward to your prompt reply before we bring an international lawsuit against you.

This is of course covered by Article 56 of 1981, which they use for their own benefit, in violation of the Constitution of Colombia, which clearly states that the government must protect and guarantee the interests of every Colombian citizen,

rather than mistreating or displacing them; it also states—something very important—that water sources belong to the State and the nation. In this case the State consists of all Colombians. While you, the bank, and EPM fill your coffers with money, my communities of Porce III remain in total, abject poverty, since those water sources used to belong to us. I am willing to engage in a dialogue with you to see how this harm, caused by both you and EPM, can be redressed.

Sincerely,

Nelson De Jesús Guerra [REDACTED]
(leaders of the affected communities of Porce III)

Contact information:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

THANK YOU FOR YOUR ATTENTION TO THIS MATTER

MEDELLÍN-12/17/15

INDEPENDENT CONSULTATION AND INVESTIGATION MECHANISM (MICI)

I would like to extend my cordial greetings to Director Victoria Márquez-Mees and her team. Thank you in advance for your attention to and cooperation with this investigation.

RE: Submission of requested document certifying representation and interpretation of the information.

Initially, the communities of Porce III executed a document authorizing me as their agent, leader, and legal representative for all matters concerning the Inter-American Development Bank. These communities want to bring an international claim against the IDB and EPM, as well as to focus international media attention on what these two entities did to the communities affected by Porce III, as the IDB allowed EPM to mistreat, evict, assault, and disappear people for asserting their rights, through the use of law enforcement authorities and armed groups in the region. As the leader of these communities, I am in dialogue with them. What they want and hope for is for the IDB to conduct a proper investigation and to be able to reach a favorable agreement. The community demands justice and the reparation of the situation that is currently the subject of their complaint, namely the harm caused by these two entities.

The lists of the affected communities are specified below:

- 1. Persons involved in direct purchase:** At the time of “negotiation,” these individuals were forced to accept the amount that EPM was offering them. They had to take it and leave *ipso facto*, otherwise law enforcement authorities (police and army) would be sent to remove them by force. They have been poorly compensated, as you will find during the course of your investigation.

- 2. Persons claiming lost wages:** These individuals were on the banks of the Porce River, engaged in gold extraction. Like all of the communities of Porce III, they were removed from their worksites by EPM, who told them they would be paid lost wages for these specific sites that the company needed for its project works. EPM recognized them as miners and they did receive payments for a certain period of time. EPM told these people that they did not have to go back to those sites because they had the right to compensation after being displaced from their worksites. They accepted these types of agreements, and both parties entered into contracts whereby the company would pay them 5 or 6 years' wages; then, when they went to make arrangements, EPM then told them they did not have any rights. As a result, these individuals lost their mining activity, which was their source of employment and means of supporting their families. Their rights were denied and they were completely displaced and left in a state of uncertainty. The rights they asserted were completely denied, and remain so to this day.
- 3. Persons whose rights have been denied:** These individuals were located in the Porce III region, and were threatened, menaced, and subjected to violence by EPM. They asserted rights to which they were entitled and the company told them it was going to study their cases. They looked at the censuses that had been conducted by the firm Ingetec, the Codesarrollo Foundation, and community action boards in the region. EPM deleted people from those censuses and entered by force with law enforcement authorities (police and army) to brutally evict them and threaten to kill them if they did not leave the region. This fear remains to this day, and they cannot return to their lands because EPM owns everything.
- 4. Persons involved with projects:** These were supposed to be quality of life projects, both in terms of housing and in economic respects. EPM would be responsible for building the houses and providing them with a business so that these people could support themselves, and EPM had to follow up with them for 5 years or longer. They were also entitled to a 20% adjustment, which was given to some but not to others. These productive or economic projects supported people for 6 months to a year, and then

went out of business, since these individuals only knew how to work in mining and not in other fields; EPM conducted follow-up to meet certain protocols but failed to address their problems in depth. Most of the housing built by EPM is now seriously deteriorated. A number of these properties were mortgaged to banks when the people lost their economic projects or were unable to find resources to work on the Porce River because EPM does not allow them to, and they are on the verge of losing everything. There is evidence that these houses are in poor condition, despite the fact that they are relatively new.

I, Nelson De Jesús Guerra, have also been affected by the Porce III Project, as has my mother [REDACTED]. Our names appear in the report I sent to the Oll and to you, the MICI, and are on the contracts that the EPM employee collected on again. Therefore, as the leader of the communities and an affected person, I am in a very precarious situation. I have no job or house of my own, just like my mother and my family. I will attach a document to this email in which the landlord verifies the debt I owe for back rent. Two years ago I had a serious heart attack and several health problems as a result of these issues surrounding Porce III.

As I have repeated to you on several occasions, I am keeping up the fight with all of the communities of Porce III, through to the bitter end, given what these two entities did (impoverishment, displacement, etc.) in our territory. I am prepared for the investigation, hoping that it will yield significant results, since what I am sending you and what we discussed in the phone call is true and I continue to demonstrate it with evidence and facts. I am also willing to engage in a dialogue between the IDB and our communities.

I will send signatures and lists of people separately from this message, as well as the censuses conducted by EPM with the firm Ingetec, the Codesarrollo Foundation, and community action boards.

Below you will find the document that authorizes me to act as the legal representative of these communities.



AFFECTADAS
PORCELI

MEDELLIN-12/04/15

INDEPENDENT CONSULTATION AND INVESTIGATION MECHANISM (MICI)

RE: Power of attorney to represent the communities affected by the Porce III hydroelectric project

The communities affected by the Porce III hydroelectric project hereby grant general power of attorney to Nelson De Jesus Guerra, identified by I.D. Card No. [REDACTED] from Itagüí, Antioquia, and leader of the communities affected by the Porce III hydroelectric project.

Attached to this power of attorney is a list of names and signatures of the persons from the communities affected by Porce III, who grant Nelson De Jesús Guerra total and absolute authority to represent us in all matters concerning proceedings and negotiations with the Inter-American Bank.

We hereby grant our legal representative all of the powers inherent in a judicial power of attorney, especially the power to receive, substitute, resume, settle, conciliate, and withdraw matters in accordance with Article 70 of the [Colombian Code of Civil Procedure], request any type of document and request evidence related to our mining activity and all of the rights denied to us by EPM, which we seek to have repaired in our communities: the rights of direct purchase (which were not properly paid out), life projects (unfinished projects and projects that were total losses), and [on behalf of] those who were denied these rights (who were unacknowledged, displaced, and mistreated), to sign contracts and in general all of the powers necessary to pursue the aim of this power of attorney.

Nelson de Jesús Guerra (Leader of the communities affected by Porce III)

Signature: [REDACTED]

I.D. No.: [REDACTED]

Thank you for your attention and for taking account of my capacity with regard to the mailing costs, which is why I will only send this through email and NOT the postal service. If you find any errors I hope you will let me know immediately and I apologize in advance for them and for any offenses you may find.