



January 30, 2012

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Ten Commentaries by Casa Pueblo, Puerto Rico

USACE Environmental Assessment Draft
Permit No. SAJ – 2010 – 02881 (IP – EWG)

Mr. Pantano:

You are aware that on September 2010 the Technical and Scientific commission of Casa Pueblo documented and informed USACE that the Vía Verde project lacked an adequate supply of gas to operate and demanded the permit be denied. **This single vital deficiency should have been sufficient cause for USACE to immediately reject the project.** However, you continued your assessment for an additional 16 months and finally on November 30, 2011 issued an EA favoring the Vía Verde.

You are aware that USACE did not carry out a detailed evaluation to confirm whether the Vía Verde alternative was viable and if it was able to meet the required standards to satisfy the “needs and interests of proponent and the people of Puerto Rico in general”.

You are aware that USACE merely resigned itself to state: "**A reduction, of any amount, will benefit the economy**" but failed to execute a detailed cost evaluation so has to assure the project complied with its “stated purpose”.

You are aware that the north pipeline is not a viable alternative able to meet the project’s stated goals, since it will be unable to **lower energy costs, lessen oil dependency or decrease atmospheric contamination in accordance with EPA regulations.**

You are aware that proponent blatantly lied to Federal Agencies and to the people of Puerto Rico by stating in several documents that: "***Its is the applicant’s position that EcoEléctrica will be able to fully meet delivery needs.***"

You are aware that you acted negligently in the EA by approving the encasing of 40 miles of pipeline in concrete to mitigate the threats of flooding, when you should know that concrete will hamper repairs should a leak or maintenance problem occur, that any explosion will result in concrete debris flying in all directions, and that a concrete slab will not stop flooding and high-speed currents from lifting the pipeline from its moorings.

You are aware that your public statement to the effect that a single building had a greater environmental impact than the 92-mile gas pipeline demonstrated despotism, prepotency and a complete disregard for

the opinions of well-known and respected Puerto Rican scientists.

You are aware that your refusal to translate into Spanish the complete EA-Draft constitutes yet another unilateral imposition of power by the US Army over the people of Puerto Rico, a blatant disregard of basic democratic participatory processes, another instance of environmental discrimination, and an act of contempt for the life and property of over 200,000 citizens.

The time has come for you and USACE to immediately reject the permit application for Vía Verde and apologize to the people of Puerto Rico for your behavior.

The ten commentaries included below evince that the Vía Verde EA lacks any scientific rigor, that it is biased and rigged from inception, and that USACE and the government of Puerto Rico appear to be in cohorts to achieve the approval of an unviable and unnecessary project.

COMMENTARY # 1: Vía Verde is unable to fulfill its stated purpose

Commentary: The Vía Verde Proposal is entirely dependant on the EcoEléctrica Terminal to supply its natural gas. Vía Verde is meant to have a generating capacity of 1,529 MW. EcoEléctrica will only be able to supply Vía Verde a maximum of 93 MM scf/day —the equivalent of generating 507 MW— by utilizing the natural gas already approved for the Costa Sur plant (a grave error). Thus, the Vía Verde will operate with less than 30% of its intended capacity; an investment of over \$800 million to operate two of the thirteen units of the three northern power plants.

The inadequacy of EcoEléctrica to supply the natural gas make the Vía Verde Project a non-viable alternative to accomplish the stated purposes of **lowering energy costs, lessening oil dependency and decreasing atmospheric contamination in accordance with new EPA regulations.**

Evidence A: Letter from FWS to USACE – December 15, 2010.

- "The public notice states that the overall proposed purpose of the project is to deliver an alternate fuel source to three existing electric power generating facilities located in Arecibo, Toa Baja and Palo Seco operated by PREPA. EcoEléctrica was the first and remains the only source of natural gas in Puerto Rico. We believe the proposal may **not include all elements necessary to meet this purpose.**"

- "The PN fails to discuss necessary changes to EcoEléctrica's currently authorized facilities and operations to supply natural gas to PREPA's three facilities in the north. The Service issued a Biological Opinion for the original development of the EcoEléctrica facility, and modifications of the facility would require a **reinitiation of consultation** under Section 7 of the Endangered Species Act, which we discuss latter in this letter."

- "Because the Via Verde pipeline would require additional storage and modifications to the EcoEléctrica terminal, these projects are interrelated and should be viewed as one single and complete project. Should EcoEléctrica fail to obtain FERC authorization for the physical and/or operation modification that may be necessary to serve the pipeline, the **Corps would be permitting a fragment of a project** that could not fulfill the stated purpose and need and would have irreversible impacts."

Evidence B: Letter from USACE to PREPA – from the San Juan Office, December 22, 2010

- "Also, as per FWS letter of December 15, 2010 enclosure 1, the EcoEléctrica facility has not contemplated the construction of a connection or modification to connect the Vía Verde Project. Also, the letter stated that **the storage capacity of the facility is not sufficient to provide services to the new Via Verde Project.**"

- "The U.S. Army Corps of Engineers (Corps) believes that without an actual connection to a natural gas supply system the Via Verde natural gas pipeline cannot be considered under the National Environmental Policy Act as a single and complete project."

COMMENTARY # 2: Alternative Analysis – Vía Verde Project is unfeasible

Commentary: USACE failed to carry out an economic evaluation of the Vía Verde Project to verify that the needs and interests of proponent and public can be achieved. USACE failed to evaluate to what extent oil dependence would be lessened to determine if the project's goals are reachable. USACE failed to evaluate the generating capacity of the three northern power plants to determine their economic feasibility versus the investment of over \$800 million. USACE failed to evaluate risk issues related to geologic faults, tsunamis, geothermal, and others, to conclude whether Vía Verde is practical alternative that responds to the needs of proponent and the public interest. In a cynical, mediocre and superficial manner USACE stated that any economic benefit is positive, that it places its trust on contractors, and that issues of public safety are the responsibility of the government of Puerto Rico.

Evidence A: USACE Environmental Assessment, page 7.

- "Economics. The primary impetus for this project is to reduce the cost of electricity in Puerto Rico... To summarize the above, PREPA and the commentators disagree as to how much consumers' bills will be reduced, however they all describe a reduction. Therefore the Corps sees no need to conduct a separate evaluation to determine the degree of reduction. A reduction, of any amount, will benefit the economy."

Evidence B: USACE letter to PREPA from the San Juan Office, December 22, 2010.

- "As required by NEPA and the Clean Water Act (CWA) Section 404 (b) (1) Guidelines, the Corps must consider a broad range of alternatives during the evaluation of a permit application. **Under these regulations, the Corps must give detailed consideration to practicable alternatives that focus on the accomplishment of the applicant's and the public's interest and needs.** The regulations define a practicable alternative as an alternative that is available and capable of being done after taking into consideration cost, existing technology, and logistics in light of the overall project purpose".

- "Further, pursuant to 33 320.4, the Corps must evaluate the project to ensure that is would not be contrary to the public interest. In that regard, the Corps must assess the relative extent of the public and private need for the project, and the extent and permanence of the beneficial and/or detrimental effects that the project is likely to have on the public and private uses to which the area is suited."

COMMENTARY # 3: Alternative Analysis – Costa Sur Project and Aguirre

Commentary: Given EcoEléctrica's limited capacity to supply natural gas, **importing gas by other means such as barges is the only viable alternative** to attain the stated purposes of lowering energy costs, lessening oil dependency and decreasing atmospheric contamination.

Evidence A: Aguirre

- OFFSHORE AGUIRRE, PUERTO RICO, DECEMBER 22, 2011 – Exceleerate Energy has executed an agreement with the Puerto Rico Electric Power Authority (PREPA) to undertake the development and permitting of a floating offshore LNG re-gasification facility off the southern coast of Puerto Rico. The facility, named Aguirre GasPort®, will provide fuel to the Central Aguirre Power Plant and is a step forward in the island's strategy to convert power generation from high-cost, high-emissions imported oil to cost-effective, cleaner-burning natural gas. The Central Aguirre Power plant has already converted 600 MW of its available 1500 MW to utilize natural gas and has plans to convert the remaining 900 MW prior to completion of Exceleerate Energy's Aguirre GasPort.

<http://www.exceleerateenergy.com/news/exceleerate-energy-advances-its-seventh-offshore-lng-import-facility-puerto-rico>

Evidence B: Costa Sur.

- \$20 million were spent converting Costa Sur to natural gas and it is estimated that by March 2012 it will be operating with a saving of \$40 million annually. This is a true economic and environmentally viable alternative.

Evidence C: Letter from FWS to USACE – December 15, 2010, page 3, 3rd paragraph.

- **Alternatives Analysis.** "The applicant's alternative analysis does not include PREPA's original plan to build a new natural gas combined cycle power plant close to existing Costa Sur facility, and to retro fit both Costa Sur and Aguirre power plants to use natural gas. This was the applicant's preferred alternative in the past and now is not mentioned in the applicant's alternatives analysis. *We believe that this alternative is reasonable and practicable, as it is already permitted, would have lower environmental impacts, and would be more secure and easier to maintain than the currently proposed gas pipeline.*"

COMMENTARY # 4: Discard using Costa Sur's natural gas for Vía Verde.

Commentary: USACE's consent to using the natural gas allotted for Costa Sur for the Vía Verde Project is anomalous, antiscientific, and reflects a base and simplistic analysis.

Evidence: Letter from PREPA to USACE – March 7, 2011.

- This absurd and uneconomical measure squanders the \$20 million invested in the conversion of Costa Sur to natural gas and discards the \$40 million in annual savings estimated by PREPA. An economically and environmentally viable project is being replaced by Vía Verde, which is not in the public interest, will place at risk 200,000 citizens and will have a negative impact on the environment, water resources and wetlands.

COMMENTARY # 5: PREPA provides false information to USACE, EPA and FWS.

Commentary: PREPA deceives Federal agencies and the people of Puerto Rico by stating that EcoEléctrica can supply all natural gas needed to operate the three generating plants in the North.

Evidence A: Letter from PREPA to USACE – January 28, 2011, page 3, 2nd paragraph.

• " *At this time PREPA intends to meet gas delivery requirements for the project using the existing EcoEléctrica Facility. There is no plan to construct a separate barge off board operation. **Its is the applicant's position that EcoEléctrica will be able to fully meet delivery needs.***"

Evidence B: DIA-F Chapter 4: Study of Alternatives and Selection of the Alignment - Page 4

• "Puerto Rico has one of these importation terminals, the EcoEléctrica C0-generator in the Municipality of Peñuelas, **which has the capacity to supply our needs.**"

These statements are misleading and false. That EcoEléctrica lacks the capacity to supply the natural gas needs of Vía Verde was first denounced by Casa Pueblo's technical and scientific committee and latter by FWS.

COMMENTARY # 6: Risks of flooding

Commentary: In its EA USACE approved PREPA's position to the effect that in areas prone to flooding damage the pipeline would be encased in a **concrete slab**. A pipeline over 40 miles long encased in concrete is an absurdity and unscientific. Maintenance will require breaking the concrete slab whenever a fault or leak occurs. In addition, an explosion would result in flying concrete debris in all directions. A concrete slab will not stop flooding and high-speed currents from lifting the pipeline. The pipeline route from Arecibo to Cataño crosses areas with a high risk of extreme floods. The Río Grande de Arecibo, Río Grande de Manati, Cibuco River and La Plata flood along the pipeline route on an annual basis causing grave damage in their path.

Evidence A: Environmental Assessment USACE, page 66.

• " -2- Natural Force Damage. Comment letters raised the following concerns regarding pipeline damage from natural forces. One expressed concern is that the pipe could be damaged during flooding. The Applicant states that in areas of high water table the pipe will be coated in **concrete to prevent flotation.**

Evidence B: Environmental Assessment USACE, page 67.

• "-4- Other Outside Force Damage (nearby industrial, man-made, other fire or explosion, vehicles, mechanical damage, intentional damage by vandalism or terrorism). PREPA will develop and implement a written public awareness program, in accordance with 49 CFR 192. 616, that will advise and educate industry and the public of the location of the Via Verde Pipeline. In addition, within freeways and highways the pipeline will be buried at a deeper depth and, for places closer than 12 feet from the road, **have a concrete slab as a cover.**"

COMMENTARY # 7: Risks in the three northern plants

Commentary: USACE incorrectly states that the three north coast plants and EcoEléctrica are all located in uplands which would imply that there is no risk of flooding or tsunamis. This is further proof of the agency's poor evaluation of the Vía Verde Project. Had USACE carried out on-site visits and examined the maps we provided you would have corroborated the existing threats.

Evidence: Environmental Assessment USACE, page 4.

- "There are three groups of endpoints. The first group are the three power plants receiving the gas: Cambalache Termoeléctricas Authority Central electric power plant (PES) in Arecibo, the Palo Seco facility in Toa Baja and the San Juan facility in San Juan. The second group is three proposed connections located along the pipeline. The third group is the EcoEléctrica LNG Terminal in Peñuelas, the proposed source of the natural gas for the pipeline."

"(a) Power plants. **Examination of the aerials indicates plant-sites are uplands**

COMMENTARY # 8: Possible additional Pipelines

Commentary: USACE agreed in its EA on keeping the "T" connections in the pipeline design relying on PREPA's statement that they did not intend to build additional pipelines. If there is no intention of building additional pipelines the "T" connections should be eliminated from the project's design. USACE also disregarded FWS's worries expressed in their Biological Opinion.

Evidence: Environmental Assessment USACE, page 4, and Cumulative Effects – Biological Opinion FWS, page 52.

(b) Proposed connections. The construction drawings show three proposed connections distributed along the route. Each consists of a "T" pipefitting, two legs of the "T" are part of the pipeline and the third leg is simply a stub with no pipe extending laterally from the pipeline. The stubs of the "T" are annotated "Proposed <location> connection", one for Aguirre, Barceloneta, and Bayamón. This implies there will be future additional pipelines extending laterally from these stubs. The following subparagraphs further discuss why the Corps is not including an analysis on the proposed connection stubs.

-1- The Corps analysis will not extend to these future additional pipelines because there is nothing to analyze. The connections were added at the request of Compañía de Fomento Industrial (PRIDCO) to serve various industrial areas. However, the application states the pipeline serves only PREPA. The drawings at these locations do not show metering stations nor laterals, while the other "T"s along the pipeline are shown as serving the power plants. The applicant when questioned at a meeting stated the project remains as is described in the application, the stubs are being installed now since it would be much less expensive than cutting into existing pipe should a decision be made to provide such a supply connection, however there are no plans now. The applicant by letter subsequently expanded that statement, confirming there are no plans to serve industrial users along the route.

COMMENTARY # 9: Documents obtained by FOIA

Commentary: USACE must explain if it accepted or rejected the recommendation by FWS.

Evidence:

From: " SAJ" @usace.army.mil>

Sent: Tuesday, May 31, 2011 7:36 AM

To: daniel_paganrosa@yahoo.com

Subject: FWS letter recommending LNG ship movements be added to Biological Assessment (UNCLASSIFIED)

Classification: UNCLASSIFIED Caveats: NONE

Danny, enclosed is FWS's recommendation that the Corps include in the Via Verde Biological Assessment the effects of additional vessels for the Via Verde project. I'm considering FWS's letter and will advise. Reading from FWS's letter, the Biological Opinion is for up to 25 ships and EcoElectrica currently is using 12 for their generation, 12 for Costa Sur, and is now EcoElectrica advises is adding 6 for a LNG truck facility. Enclosed is one of EcoElectrica's powerpoints to the Corps on the 23rd , I apologize for not sharing this powerpoint prior & at our Friday Work Plan update. EcoElectrica will be presenting this at 9 am, 1 June, at the monthly interagency permitting meeting at the Corps offices.

COMMENTARY # 10: Vía Verde Project Permit Process

The permit request process for Vía Verde by the Government of Puerto Rico and USACE's approval of the Environmental Assessment is deceitful, lacks transparency and suggests acts of corruption.

- In 2009 Federal Agencies FERC, USACE, EPA and FWS granted the first permit to modify EcoEléctrica's Terminal and construct the Gasoducto del Sur (Southern pipeline) to supply natural gas to the **Aguirre plant**.
- With construction underway, on August 2009 the present government administration discarded the project, cancelled contracts, and the people of Puerto Rico lost over \$60 million.
- In 2010 the present administration requested a second permit to supply natural gas, this time for the **Costa Sur plant** instead of Aguirre. A modification to EcoEléctrica's permit was again approved by FERC on August 2011.
- Between 2010-11 the present administration invested \$20 million to convert the **Costa Sur** plant to natural gas with an expected annual saving of \$40 million. In addition, the government issued contracts for over \$50 million to design the Vía Verde pipeline, to supervise construction, to pay lobbyist and consultants, to seize land by eminent domain, and to pay for media propaganda.
- Acknowledging they lack sufficient natural gas to operate the three generating plants of the Vía Verde Project the present administration requests permission to shift the natural gas already approved and allotted to Costa Sur to Vía Verde. **USACE approves this subterfuge in its Environmental Assessment of November 30, 2011.**

• USACE is aware that EcoEléctrica is only able to supply less than 30% of the needed gas for Vía Verde. Such limitation on EcoEléctrica's part renders the Vía Verde Project a non-practical alternative to accomplish the stated purposes of **lowering energy costs, lessening oil dependency and decreasing atmospheric contamination.**

(Another ruse: The present administration expressed in its local EIS-F for Vía Verde that barges were not a feasible alternative to supply natural gas. USACE incorporated said fallacy to its Environmental Assessment. Yet, on December 22, 2011, PREPA signed a contract **to supply natural gas to Aguirre by means of barges.**

We add these commentaries to those submitted by distinguished scientists and jurists, the more than 6,000 comments forwarded by the people of Puerto Rico, the 30,000 people that marched in Adjuntas to oppose the project and the 85% of the population of Puerto Rico that opposes this nefarious project. Our indignation as a result of the wanting process conducted by USACE demands the negation of the Vía Verde Project and we join the request by Congressman Luis Gutiérrez for an investigation of the facts that reflect, among other issues, cronyism, gross racism, environmental discrimination, and contempt for the lives of 200,000 citizens of Puerto Rico.

I demand that these 10 commentaries be incorporated as part of the project's assessment and further request that we be notified confirming this document has been received.

On behalf of the Technical and Scientific Committee of Casa Pueblo,



Ing. Alexis Massol-González, Director
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Adjuntas, Puerto Rico

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C.c.:

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