



CORPORACION CARTAGENA HONESTA

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SHI INSPECTION PANEL

Mr. Eduardo G. Abbott
Executive Secretary, The Inspection Panel
The World Bank
1818 H Street NW, MSN 10-1007
Washington, D.C., 20433, U.S.A.

April 19, 2004

Dear Mr. Abbott:

Please find enclosed an original and two copies of a Request for Inspection of the Cartagena Water Supply, Sewerage, and Environment Management Project (World Bank Project ID No. P044140) on behalf of residents of Punta Canoa, Arroyo de Piedra, Manzanillo, and Cartagena.

Should you have any questions or comments, please feel free to contact me at the address below or by phone at (57-5) 664-5895.

Sincerely,

William Dau
Corporación Cartagena Honesta

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**REQUEST FOR INSPECTION OF THE CARTAGENA WATER SUPPLY,
SEWERAGE, AND ENVIRONMENTAL MANAGEMENT PROJECT**

**ON BEHALF OF RESIDENTS OF CARTAGENA, PUNTA CANOA,
ARROYO DE PIEDRA, AND MANZANILLO**

April 19, 2004

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I. CLAIMANTS

We, Corporación Cartagena Honesta, a non-profit public advocacy and anti-corruption organization in Cartagena, Colombia, bring this request on our own behalf and on behalf of 125 residents of Punta Canoa, 139 residents of Arroyo de Piedra, 41 residents of Manzanillo, and 119 residents of Cartagena. The names and signatures of the people we represent are attached in documents providing for power of representation.¹ See Exhibit 1, Power of Representation Forms, and Exhibit 2, Sworn Affidavit of William Dau, Executive Director of Corporación Cartagena Honesta. Punta Canoa, Arroyo de Piedra, and Manzanillo are three villages located to the north of the District of Cartagena de Indias, on the coast of the Caribbean Sea. See Exhibit 3, Map of Affected Area.

II. PROJECT

The people of Punta Canoa, Arroyo de Piedra, Manzanillo, and Cartagena have been harmed, and are likely to suffer further harm, as a result of the World Bank's policy and procedural violations in the Cartagena Water Supply, Sewerage, and Environmental Management Project (World Bank Project ID No. P044140). The project involves a US\$117 million upgrade and expansion of Cartagena's water and sewerage system. The World Bank ("the Bank") is providing a loan of US\$85 million, approved in 1999, that will fund several components of the project. The District of Cartagena ("the City") is the borrower and ACUACAR, a water management company created as a precondition to the loan and jointly owned by the City and Aguas de Barcelona ("AGBAR"), a Spanish company, is the executing agency. Among other things, the Bank loan is earmarked for the construction of a pipeline and submarine outfall that will carry the city's untreated wastewater 20 kilometers (approximately 12 miles) north of the city and discharge it into the Caribbean Sea near the fishing villages of Punta

¹ Please note that Punta Canoa, Arroyo de Piedra, and Manzanillo do not have formal street address systems

Canoa, Arroyo de Piedra, and Manzanillo. See Exhibit 4, Map of Main Wastewater Conveyance System, Treatment Installations, and Submarine Outfall, from the World Bank Project Appraisal Document ("PAD") (28 June 1999).

III. HARMS

The residents of Punta Canoa, Arroyo de Piedra, and Manzanillo are an indigenous people of subsistence fishers and farmers who live in the areas closest to the proposed submarine outfall and fish daily near the proposed outfall discharge site. Corporación Cartagena Honesta ("CCH") and other residents of Cartagena, a city with a population of close to one million and a major sanitation problem, are the intended beneficiaries of the outfall project as well as the taxpayers responsible for repayment of the Bank loan. All of these claimants have already been harmed by mismanagement, misinformation, and exclusion in the planning and appraisal phases of this Bank-financed project and will suffer much greater harm if the project is constructed and implemented.

First, and most importantly, the outfall will pollute the marine environment off the coast of the villages and beyond. This coastal zone supports fisheries that provide the people of the villages with their primary source of food and income. The contamination of this marine life by Cartagena's untreated wastewater will have serious and permanent impacts on the health and livelihood of these people. Pollution from the outfall could also easily reach the nearby beaches of Cartagena which are major tourist attractions in this port city. Cartagena is Colombia's most popular tourist destination and has been designated as a World Heritage Site by UNESCO (United Nations Educational, Scientific and Cultural Organization).

Second, the project will disrupt and threaten the culture and stability of the indigenous communities living in Punta Canoa, Arroyo de Piedra, and Manzanillo. Their way of life is

inextricably linked to the health of the Caribbean Sea; fishing there has been an important focal point of their culture and lifestyle for many generations.

Finally, the residents of Cartagena and the coastal villages make up a larger regional jurisdiction that is affected socially and economically by the policies and economy of the City, the borrower. They have been and will continue to be harmed by mismanagement of the City's fiscal resources through this project.

A. Harm to the Marine Environment and Human Health

The submarine outfall project will deposit the wastewater of the City of Cartagena, a growing urban area of nearly one million residents, into the coastal waters of the Caribbean Sea near the villages of Punta Canoa, Arroyo de Piedra, and Manzanillo. Several aspects of the project pose significant risks to the local environment and ultimately to the health and livelihood of the residents of these villages and others affected by the polluted water.

First, the project is designed to dump an average of 227,000 cubic meters (approximately 60 million gallons) per day of essentially untreated wastewater, that is, wastewater that has been subject only to "preliminary treatment" (filtering for solids such as floatable materials and dirt), into the Caribbean Sea 2.8 kilometers (approximately 1.5 miles) from the shores of these fishing villages and at a depth of 20 meters (approximately 65 feet). See PAD at 40-41. Preliminary "treatment" merely breaks up solid masses that might otherwise damage pipes and other equipment; it does not remove bacteria or chemical pollutants. See PAD at 41 (stating that the preliminary treatment system is designed to remove "floatable materials, grease, oil, sand, and grit" but not bacteria or chemical agents). The potential for this constant deluge of untreated urban wastewater to cause pathogenic and chemical contamination of the coastal waters is very high. The Project Appraisal expressly acknowledges the risk that harmful bacteria from the

waste flow may reach nearby beaches and reports that this problem will be dealt with through "intensive monitoring" of coliforms² and retrofitting if necessary. See PAD at 18, 41 ("Should outfall performance fall short of expectations, additional sewerage treatment systems can be retrofitted.").

Simply monitoring bacteria levels, however, will not provide adequate protection against potentially life-threatening pollution. It is undisputed that pathogenic bacteria that reach fisheries and beaches can cause immediate sickness and even death in humans. Here, the men and boys of these villages fish each morning and evening in the waters off the coast near their homes and very close to the end of the proposed outfall pipe. Using canoes and nets in several traditional fishing techniques, they catch small fish, shrimp, and lobster for daily consumption by their villages and sell the surplus to others. Biological and chemical contamination of these waters by the high-volume untreated discharge would not only deplete the fishing stock on which the villages rely for food and income but could have severe human health impacts for fishermen and anyone else exposed to the tainted fish or water. Retrofitting the system in response to such pollution would require significant and time-consuming capital planning and expenditures in the form of new treatment facilities. By the time any retrofit might be put into place, the outfall would have taken a huge toll on human health, the marine environment, and the general well being of these affected communities. Residents of Cartagena would also bear the cost of repairing any environmental damage and rebuilding this infrastructure. In fact, the terms of the environmental license granted to ACUACAR to operate the outfall system already indicate that a

² Coliforms are bacteria that are not generally pathogenic (disease-causing) themselves but that serve as indicators of the presence of organisms which may be pathogenic. Coliforms themselves can, however, cause fish kills. See, e.g., H.L. Brodie and J.T. Kennedy, "Coliforms—A Measure of Water Pollution," at <http://www.agnr.umd.edu/users/Bioreng/pdf/54.6.pdf>.

costly environmental problem is anticipated: the license effectively requires the addition of at least a primary treatment retrofit within the next ten years.

A second major environmental risk posed by this project involves the geological sensitivity of the outfall site. According to studies by INGEOMINAS (Institute for Research and Information on Geosciences, Mining and Environment), a national agency charged with performing geochemical mapping of Colombia for application in environmental studies, and Dr. George Vernet, a researcher with the Colombian Navy's Center of Oceanographic and Hydrographic Investigations (and a geologist at the University of Bordeaux, France), the area around Punta Canoa and Arroyo de Piedra is subject to diapirism, also known as mud volcanism. This phenomenon is characterized by the sudden, violent expulsion of thousands of cubic meters of mud, clay, and gases. The INGEOMINAS study prepared in 2000 indicated that because this condition exists under the land and seabed through which the 2.8 kilometer outfall pipeline will be laid, a geological event could rupture the line without warning at any time and cause wastewater to be released much closer to shore. Dr. Vernet also characterized the Punta Canoa area as a "high risk area" and explained that in 1979, diapirism caused a large explosion and eruption of a submarine mud volcano in the area just off of Punta Canoa. The event cracked the coastal ground and formed a volcanic island that remained for several days. According to INGEOMINAS, a similar event could cause a rupture in the outfall pipe and consequent large-scale pollution and disruption along the shores of Punta Canoa and its neighbors.³ Were this to occur, residents of the coastal villages would feel the most immediate impacts of the potentially severe environmental degradation, and residents of Cartagena would face the long-term financial burden of rethinking and rebuilding the sanitation infrastructure.

³ For more detailed information on this phenomenon and references to the INGEOMINAS and Vernet studies, see Exhibit 5, 1 June 2001 Letter from Jairo Morales Navarro, William Dan Chamat et al. to Dr. Carlos Ossa Escobar, Controller General of Colombia at 12-15.

As this brief overview reveals, the outfall project poses risks of the most serious kind to its involuntary "host" and taxpaying communities. The environmental uncertainties at issue involve questions of when and how, not whether, this wastewater disposal system will harm the marine environment surrounding the outfall discharge and the people whose nourishment and livelihood depend on that environment. The impacts of an outfall pollution problem on the residents of the City of Cartagena could be similarly grave: even the threat of pollution of the waters around the City's prized beaches, just several miles south of the Punta Canoa area, could cause a public relations scandal and the loss of valuable tourist business.

B. Harm to the Indigenous Communities and Their Way of Life

The nature of the submarine outfall project also threatens to upset and even destroy the culture and way of life that has existed in these villages for generations. At best, the construction of major sewerage infrastructure and the associated increase in noise, traffic, and workers in the area will bring rapid and unwelcome change to these peaceful and close-knit Afro-Colombian villages that currently live without even basic modern amenities. At worst, the arrival of the project will unjustly force one of Colombia's poorest but most self-sufficient communities to bear the cost of the following negative effects: long-term, disruptive construction⁴; foul-smelling, noisy, and ugly sewage conveyance infrastructure; pathogenic bacteria and chemical contaminants in their coastal waters and fisheries, their most important natural resource; and sewage matter on their beaches. Ultimately, these nuisances and dangers could permanently undo these communities by driving village residents to move elsewhere.

⁴ The outfall pipeline and other infrastructure will be built through or near the village of Punta Canoa. According to the Project Appraisal, "[t]he construction of a pipeline and outfall of such length and diameter will entail potentially significant negative impacts on communities and surrounding natural habitats. The proper management of excavation materials, river and drainage crossings, and the reduction of nuisances such as dust, noise, increased traffic, pedestrian safety concerns, and the presence of a large work force in or near small rural communities, will necessitate careful engineering planning, closed [sic] supervision, and a continuous and intense community information program." PAD at 95-96.

While project planners have set aside money for constructing water and sewerage facilities to service the villages in an attempt to compensate them for these burdens, see PAD at 23, such facilities will not provide adequate compensation for permanent negative impacts on the health, food sources, and way of life of these indigenous people.

C. Undue Fiscal Strain on the City and Region

A third and final area of harm involves the potential for the fiscal instability of the borrower, combined with the expected increase in the total cost of the outfall project, to result in a default on the loan. The consequences of such a default would be felt by residents of Cartagena and surrounding areas who pay taxes and rely on the City for important public resources.⁵ Because the City of Cartagena has been plagued by fiscal mismanagement and corruption for decades and has only recently and slowly begun working to put its finances in order, it is not at all clear that it is currently equipped to take on a US\$85 million debt from the World Bank, especially where the actual cost of the outfall system is likely to be much higher due to the environmental and other uncertainties mentioned above.

In its 1999 Project Appraisal, the World Bank suggested that Cartagena had put the fiscal problems of the last few decades behind it. See PAD at 16. In fact, high-level corruption continued to be rampant in Cartagena in the mid- to late-1990s. The Bank loan was approved in the midst of major scandals surrounding the misappropriation of public funds by consecutive mayors of Cartagena, Mayors Gabriel Garcia, Guillermo Paniza, and Nicolas Curi. Not surprisingly, Cartagena's Mayoral Office of Internal Control has also certified that the City's Statement of Finances does not present a reasonable assessment of its economic situation; in both 1999 and 2000, the Office issued reports recommending that the City create a department of accounting, prepare a fiscal inventory of the City's real property and assets, open its public

⁵ The loan agreement requires the City to raise property taxes to help pay for the loan. See PAD at 24, 27.

finances for full assessment, and implement a system of accounting and supervision among the City's departments. See Exhibit 6, 17 November 1999 Letter From the Office of Internal Control to Mayor Gina Benedetti De Velez and 17 March 2000 Letter From the Office of Internal Control to William Dau with attached report of 9 March 2000. To our knowledge, Cartagena's government has not heeded these reports.

Meanwhile, the City's fiscal problems threaten to worsen in the future. Currently, 84% of the City's population is categorized as low-income and at least 31% is extremely poor. See PAD at 4. The population and the percentage who are poor are expected to increase as those displaced by civil wars in rural areas of Colombia continue to flow into the City. In fact, since the 1999 Project Appraisal, the population has expanded from about 750,000 to over 900,000 citizens; most of the new residents are poor. See <http://www.citypopulation.de/Colombia.html>.

The City's fiscal disarray and increasingly strained resources indicate a high risk of default on the existing Bank loan and/or on additional loans needed to cover anticipated retrofitting of the outfall system. A default would trigger the national government's obligation as the loan's guarantor but would undoubtedly hit hardest at home by sending the City into a cycle of restructuring that would extend the burden of the loan(s) far longer than anticipated, divert resources from other social projects, and generally injure the already fragile local economy. In addition, a default on this or a related loan would blemish the City in the eyes of other investors and prevent it from obtaining funding for municipal projects for years to come.

IV. VIOLATIONS OF WORLD BANK POLICIES

In the course of approving and implementing this project, the Bank has failed to observe or otherwise violated the following operational policies and directives:

- OP 4.01 – Environmental Assessment
- OP 4.04 – Natural Habitats

OP 4.07 – Water Resources Management
OD 4.20 – Indigenous Peoples
OP 10.02 – Financial Management
OP 10.04 – Economic Evaluation of Investment Operations
OP 13.05 – Project Supervision
OD 4.15 – Poverty Reduction

The Bank's violations thus fall under three general policy areas: environmental, indigenous peoples, and economic and financial.

A. Violations of Environmental Policies

First, the Bank, in appraising and approving this project, failed to meet the strict standards set out in its own environmental policies.⁶

OP 4.01 – Environmental Assessment requires that the borrower conduct an Environmental Assessment (“EA”) that helps “ensure that [projects] are environmentally sound and sustainable.” OP 4.01 (1). The EA must consider, among other things, project alternatives that would minimize the project's adverse environmental impacts and follow the Bank's preference for “preventive measures over mitigatory or compensatory measures.” OP 4.01 (2). The EA should account for project impacts on the natural environment and human health and safety as well as other social aspects (including effects on indigenous peoples). See OP 4.01 (2), (3). In fact, in cases like this one, where the Bank's initial screening identifies the project as a “Category A” project because it “is likely to have significant adverse environmental impacts that are sensitive, diverse, or unprecedented,” OP 4.01 requires that the borrower conduct an especially thorough Environmental Impact Assessment (“EIA”). PAD at 21; OP 4.01 (6), (8)(a). In addition, Category A projects require the borrower to contact and consult project-affected communities during the EA process and take their concerns into account. See OP 4.01 (15). The Bank's EA policy also requires an identification of relevant national legislation and international

⁶ Further support for the claims made below can be found in Exhibit 5, 1 June 2001 Letter from Jairo Morales Navarro, William Dau Chamat, et al. to Dr. Carlos Ossa Escobar, Controller General of Colombia.

obligations and indicates that the Bank “does not finance project activities that would contravene such country obligations.” OP 4.01 (3). Finally, the EA policy requires that the Bank review the EA “to ensure its consistency with this policy.” OP 4.01 (5).

OP 4.04 – Natural Habitats requires the World Bank to “support[], and expect[] borrowers to apply, a precautionary approach to natural resource management to ensure opportunities for environmentally sustainable development.” OP 4.04 (1). The policy also provides that the Bank “does not support projects that ... involve conversion or degradation of critical natural habitats,” OP 4.04 (4), or “projects involving the significant conversion of natural habitats unless there are no feasible alternatives for the project and its siting, and comprehensive analysis demonstrates that overall benefits from the project substantially outweigh the environmental costs.” OP 4.04 (5).

OP 4.07 – Water Resources Management sets forth the rule that “Bank involvement in water resources management [should be] economically viable, environmentally sustainable, and socially equitable.” OP 4.07 (1).

Finally, the World Bank’s “**Guidelines for Marine Outfalls and Alternative Disposal and Reuse Options**,” a non-binding set of best practice rules set out in the Bank’s Environmental Assessment Sourcebook, stress the need to thoroughly evaluate alternatives to submarine outfalls as a solution to the sanitation needs of coastal cities and highlight a number of urban water reuse systems around the world that avoided the use of outfalls. The guidelines also emphasize the requirement that marine discharge projects conform to relevant international agreements and outline specific data collection needs that should precede any feasibility analysis. See “Guidelines for Marine Outfalls and Alternative Disposal and Reuse Options,” World Bank Environmental Assessment Sourcebook Update (March 1996).

The Bank has violated all of these policies and guidelines by approving an EA that was clearly deficient in its scope and level of scrutiny and by supporting a water resources project that will degrade a critical marine habitat and that is neither environmentally sustainable, socially equitable, nor economically viable. The Bank's failure to apply its own rigorous environmental standards to the assessment and approval of the outfall have helped convert a project that was intended to alleviate the poverty and environmental damage associated with Cartagena's existing sanitation shortage into one that will expose poor communities that are not even serviced by the proposed sanitation system to an almost certain environmental and public health catastrophe and subject the rest of the City to a new source of marine pollution and to the long-term unknown financial consequences of correcting an environmentally unsound capital project. These violations are described in greater detail below under three different categories: (1) violations of policies on risk assessment and alternatives analysis; (2) violations of policies on national and international norms; and (3) violations of policies on community concerns and consultation.

1. Violations of policies on risk assessment and alternatives analysis:

First, the EA prepared for the borrower by Hazen & Sawyer, a U.S. environmental consulting firm, and supplemental environmental impact analysis overseen by the Bank,⁷ failed to adequately consider potential damage to human health and the marine environment. This EA paved the way for a project that does little to ensure minimal damage but instead incorporates a "wait and see" monitoring and retrofit approach. In approving this EA and the outfall over several less environmentally-harmful alternatives, the Bank ignored the preference set out in OP 4.01 for preventive over mitigatory or compensatory measures as well as the precautionary

⁷ According to the Project Appraisal, Hazen & Sawyer's work was supplemented by that of a "panel of experts hired by the Bank [who] provided guidance in carrying out the feasibility studies and in selecting the most appropriate solution," PAD at 15. The Environmental Impact Assessment was prepared by "a joint venture of national and local NGOs, Fundacion Neotropicos and Fundacion Vida, [and] reinforced by a group of national and international consultants." *Id.* at 89.

principle that OP 4.04 adopts as a guide for projects that affect natural resources like the fisheries at stake here. Although the Bank promotes itself as a leader in sustainable development around the globe, its procedural safeguards in this case have failed to provide a sustainable solution to Cartagena's sanitation problem.

The Project Appraisal did not completely ignore the potential environmental and human health threats posed by the outfall. For example:

- “[T]he construction of sewage collection networks [...] as well as disposal of untreated wastewater through a submarine outfall has the potential to cause, if not properly mitigated, negative environmental impacts.” PAD at 21.
- “[I]f the monitoring program indicates that a significant portion of the pathogenic coliforms discharged through the outfall diffuser reach bathing beaches, or if some other environmental problem emerges as a result of effluent discharge, additional treatment options would be considered and subsequently implemented.” PAD at 26.
- The industrial wastewater component of the project will include “a system for auditing the status of industrial wastes discharge” and will “[define] strategies for control of small and dispersed sources of industrial pollution discharging to the sewerage networks (gasoline stations and mechanical repair shops).” PAD at 42.

The EA focuses, however, on potential risks to the tourist areas around Cartagena and offers almost no analysis of the impacts the residential, commercial, and industrial waste discharge will have on the immediate coastal zones near Punta Canoa, Arroyo de Piedra, and Manzanillo. The Project Appraisal's summary of the EA, for example, includes the following section on “Biodiversity Impacts”:

Principal concerns initially raised on the project's impact on biodiversity resources in the Cartagena area are related to the impacts on the Islas del Rosario National Park, the Cienaga de La Virgen Lagoon, and impacts on local fisheries. Water quality and ocean dispersion models proved beyond any doubt that solids or nutrients from the outfall discharge would not adversely affect the Islas del Rosario National Park. The

distance from the discharge site to the islands, and the predominant current and dispersion patterns ensure a very low probability of such impacts.

Impacts on the Cienaga de La Virgen wetlands will be mostly positive in nature. The elimination of raw sewage discharge to the wetland will facilitate its recovery....

Impact on fisheries was also deemed of low magnitude and importance. Most artisan fishing takes place in areas like the Cienaga de La Virgen Lagoon and the Cartagena Bay, and the majority of fishermen travel long distances to fishing areas that move according to seasonal variations. ... *Biological activity in and around the outfall site is almost non-existent.*

PAD at 95 (emphasis added). The deficient analysis in the EA of more immediate impacts from the untreated discharge seems especially egregious after the environmental licensing process has revealed that the discharge will, in fact, violate national legislation on criteria pollutants.⁸

The EA also unjustifiably dismissed more environmentally-sound and financially-viable (and certain) alternatives. For example, the EA summarily concluded that a wastewater treatment and reuse system was not a viable option: "The reuse of wastewater for agricultural irrigation requires expensive treatment and pumping, and its use would be limited to the dry season (5 months per year) and would be inoperable during the rainy season." EA at 26. This assertion has since been publicly countered by independent experts from the Sociedad de Ingenieros y Arquitectos de Bolivar ("SIAB") and by a commission appointed by Cartagena Mayor Carlos Diaz to study the outfall project ("Outfall Commission"); both groups offered strong criticism of the outfall and greater support for a reuse system. See Exhibit 7, 16 January 2002 Report from SIAB to Mayor Carlos Diaz (and related SIAB materials), and Exhibit 8, 16 July 2001 Letter with attachments from William Dau of CCH to Dr. Carlos Ossa Escobar, Controller General of Colombia, at 61-69.

⁸ The controversial license granted by CARDIQUE nearly three years after the EA announced that the outfall would not negatively affect the marine environment effectively allows ACUACAR to operate the outfall and violate national pollutant limits as long as it builds a primary wastewater treatment plant within the next ten years

Similarly, the EA presented an alternative that involved the use of oxidation lagoons for treatment before final dumping into the Caribbean Sea as being prohibitively expensive. This analysis, however, was based on unrealistic cost figures. The value of the land on which the lagoons were to be located, for example, was cited as 60 million pesos/hectare. According to the SIAB report, professionals in the local real estate industry indicated that this land could only fetch such a price if it were suitable for residential development, which it plainly is not because of the location and lack of infrastructure services. The real estate professionals indicated that a more appropriate price would be around 10 million pesos/hectare.

The analysis of other alternatives seems to have been made with similarly suspicious figures that effectively inflated their costs in comparison to those of the chosen outfall system. For example, one proven ecologically sustainable and economically advantageous alternative, the combination of biological treatment lagoons and irrigation of Cartagena's mangrove swamps with the treated effluent, was not even considered in the environmental assessment. The feasibility study and EA prepared by Hazen & Sawyer and approved by the Bank thus clearly lacked the requisite comprehensive and accurate analysis of viable project alternatives. The cursory and misleading nature of the analysis suggests that ACUACAR and the World Bank had decided from the beginning that the solution to Cartagena's sewage problem was a major submarine outfall.

Hazen & Sawyer's feasibility study and the EA also failed to properly account for the geological conditions surrounding the project and entirely ignored the potential impact a geological event could have on the outfall line itself and consequently on the environment and the health, safety, and culture of the people of the villages of Punta Canoa, Arroyo de Piedra, and Manzanillo. INGEOMINAS warned of these risks in the Seminar on Geoenvironmental Risks it

sponsored in Cartagena in the Summer of 2000. There, INGEOMINAS experts announced that no engineering design could provide an outfall that could withstand the effects of a submarine explosion like those that have already occurred in the Caribbean near Punta Canoa. See Exhibit 9, "Advertien sobre volcanes de lodo," El Universal (1 August 2000). See also Exhibit 10, Geologic Map of Colombia (detail) and key (showing diapiric structures in the affected region). The complete failure of those preparing and approving the EA to recognize and discuss this potentially grave geological and environmental risk renders the EA an incomplete and highly misleading report. While INGEOMINAS and others made the Bank aware of this serious omission, the Bank has done nothing to correct it or make sure the precautionary principle it promotes is followed. Where World Bank policy would seem to dictate that a reassessment be done to consider this new information, the World Bank Task Manager responded to the INGEOMINAS report by threatening the jobs of INGEOMINAS scientists. See Exhibit 11, 4 September 2000 Letter from Adolfo Alarcon Guzman, Director General of INGEOMINAS, to Menahem Libhaber.

2. Violations of policies on national and international norms:

Second, the EA failed to adequately identify and account for the international and domestic legal norms that the project will implicate and potentially violate, as required by OP 4.01. These violations include acquiescence in the terms of the environmental license that was recently granted to the project and that, to our knowledge, effectively gives the executing agency, ACUACAR, ten years to come into compliance with existing national environmental standards. The Bank's approval of such a concession runs contrary to its obligation, under OP 4.01 (3) to "not finance project activities that would contravene such country obligations."

The primary domestic norm that will be violated by this project is Decree 1594 of 1984, the section of Colombia's Code of Natural Resources that establishes water quality criteria and limits on the discharge of contaminants into bodies of water. The EA notes that Colombia's fecal coliform standards are stricter than those of most Latin American countries but offers no explanation for how the untreated discharge of Cartagena's waste could possibly meet the strict standards imposed by the law, including the removal of over 80% of suspended domestic solids, heavy metals, and bacteria. See EA at 15. Furthermore, Article 49 of Decree 1594 requires heightened pollutant standards for multi-use sites like the coastal areas at risk here that are used for fishing and recreation. Article 45 of Decree 1594 also sets more stringent toxicity limits for discharges to marine areas in which preservation of aquatic flora and fauna, including fish, is desired.

Additionally, the EA does not discuss or even mention another national law that will be violated by the outfall, Decree 2811 of 1974. Articles 42 and 43 of this law establish quality criteria for water resources with primary and secondary recreational uses and set standards for levels of coliform bacteria, phenolic compounds, nitrogen, phosphorus, and other contaminants. Nothing in the EA supports the underlying assumption that high levels of these organic and chemical contaminants in the untreated discharge of Cartagena will not reach concentrations that will pollute and cause eutrophication in the near-shore marine environment.

The EA was also prepared in contravention of national and local environmental norms on the biological studies necessary to determine environmental impacts on ecosystems like these coastal fisheries. Resolution No. 0842 (2000) by CARDIQUE, the local environmental licensing agency, required ACUACAR to complete biological analysis of waters in the region that would be affected by the outfall project, including the fishing areas off of Punta Canoa. ACUACAR

has not undertaken this analysis. Instead, the EA used outdated and deficient studies of the biotic nature of the area directly affected by the outfall and indicated only that Hazen & Sawyer or some other consultant would at some future point design a program of biological sampling to determine the characteristics of the existing biological community in the water column affected by the sewage discharge. The Outfall Commission set up by Cartagena Mayor Carlos Diaz in 2000 determined that this kind of ex-post monitoring approach to the environment was insufficient. Citing Article 24 of Colombian Decree 1753 of 1994, which requires that an environmental assessment characterize and analyze, among other things, the biotic setting of any proposed project, the Joint Commission reported:

The studies that have been presented up until now lack biological information supported by laboratory studies to permit the evaluation of the negative impacts on the biota in the ecosystem in question One must study the indices of stability, diversity, abundance and rarity, and the use of bioindicators, which mark the effect of untreated discharges from the submarine outfall on the marine water quality. The assessment of these impacts, which has not been done, must be undertaken in order to compare the proposal of the submarine outfall with the alternatives.... It is evident, therefore, that the environmental baseline or initial state of reference has not been properly studied, at least in its biotic and geologic components and so there is a serious deficiency in the study of the environmental impact, which was supposed to be included in the feasibility study that was done by Hazen & Sawyer and also contracted with the Neotropicos firm....

Exhibit 8 at 61-68 (reprinting the Commission's report in part) (translation from Spanish).

The project also violates Colombia's obligations under the 1983 Cartagena Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region, signed by Colombia and 21 other United Nations Member States at the 1983 Conference on the Caribbean in Cartagena. Colombia ratified the Convention in 1988. Article 7 of the Convention covers "Pollution from Land-Based Sources" and provides that "[t]he Contracting Parties shall take all appropriate measures to prevent, reduce and control pollution of the Convention area

caused by coastal disposal or by discharges emanating from rivers, estuaries, coastal establishments, outfall structures, or any other sources on their territories.” Available at <http://www.cep.unep.org/pubs/legislation/cartxt.html>. As a follow-up to this section of the Convention, Colombia and 20 other countries adopted the Protocol Concerning Pollution from Land-Based Sources and Activities in Aruba in 1999. Available at http://www.cep.unep.org/pubs/legislation/lbsmp/final%20protocol/lbsmp_protocol_eng.html. Under the Protocol, wastewater dumped into Class 1 Caribbean waters (including water used for recreation and mangrove swamps) must meet stringent standards for total suspended solids, biological oxygen demand, pH, greases and oils, fecal coliforms, enterococci (fecal bacteria), and floating substances. See id. With only a preliminary treatment component and no removal of biological or chemical contaminants, the submarine outfall proposal will violate these norms. By discharging inadequately treated wastewaters from the outfall as planned, Colombia will set a very bad example for the Caribbean and broader international community by violating a Convention that Cartagena itself hosted and for which it continues to serve as the repository for all related agreements.

Finally, the assessment and nature of the Cartagena outfall project undermines Colombia’s strong commitment to environmentally and socially sustainable development as expressed in its signing of the 1992 Rio Declaration on Environment and Development and its adoption of that treaty as the foundation of its environmental policy.

3. Violations of policies on community concerns and consultation:

Project officials blatantly failed to even take community concerns seriously. Because this was a Category A project, this omission constitutes a clear violation of OP 4.01 (15) which requires that the views of project-affected groups be respected and taken into account during the

EA process. Ranulfo Aguilar, a lifelong resident of Punta Cana, and Niley Gonzalez, a schoolteacher who lives in Punta Cana, have provided further evidence of this policy violation in interviews they gave to CCH. According to Aguilar and Gonzalez, ACUACAR representatives held a town meeting in Punta Cana in 1998 during which they promised residents that they would soon receive many benefits from ACUACAR, including a system for potable water. Later, after the more unsavory details of the project had been made public and had engendered widespread popular opposition, Punta Cana residents were told at a second meeting at ACUACAR headquarters (which a Bank representative also attended) that they had already approved the outfall project in writing. Aguilar, Gonzalez, and the other village residents were understandably shocked and angered when ACUACAR representatives brandished the *attendance sheet* from the prior meeting and claimed that it proved the villagers' support for the project. See Exhibit 12, 20 March 2004 Memo from William Dau re: Interview with Residents of Punta Cana. This egregious episode is symbolic of the disregard shown to the health and culture of the people of Punta Cana and nearby communities throughout the EA and approval processes.

The EA addressed the project's social and economic effects on the villages of Punta Cana, Arroyo de Piedra, and Manzanillo in only the most cursory fashion, and, as a result, the Project Appraisal and EA reflect neither the magnitude of the project's impact on these communities nor their residents' level of concern and opposition. For example, while the Project Appraisal acknowledges that the Punta Cana villagers had concerns about the environmental impacts of the project, it states confidently that "[n]either fishing, nor the quality of beaches will be affected." PAD at 104-105. The EA also mentions this point and notes further, in response to community concerns about fishing, that there is "very little marine life" near Punta Cana and

that fishing will not be affected. EA at Annex I, p. 19. This answer was understandably not comforting to the residents of Punta Cana: if, as claimed, there is not much marine life near their part of the Caribbean coast, even a small fish-kill could decimate their major food source. The EA also dismissed community concerns by claiming that the untreated discharge would actually add to the biological life along the coast of Punta Cana. See EA at Annex I, p. 20. It is clear, however, that the primary life form that will be added to these waters is harmful bacteria and that any fish able to inhabit such an environment will be toxic.

B. Violations of Indigenous Peoples Directive

Second, the Bank violated its directive on consulting and protecting indigenous communities.

OD 4.20 – Indigenous Peoples sets forth policies that aim to “(a) ensure that indigenous people benefit from development projects, and (b) avoid or mitigate potentially adverse effects on indigenous people caused by Bank-assisted activities.” OD 4.20 (2). The directive seeks to meet its broad objective of ensuring that the development process “fosters full respect for [indigenous peoples’] dignity, human rights, and cultural uniqueness,” OD 4.20 (6), through the “*informed participation* of the indigenous people themselves.” OD 4.20 (8). It describes the following “core activities for any project that affects indigenous peoples and their rights to natural and economic resources”: “identifying local preferences through direct consultation, incorporation of indigenous knowledge into project approaches, and appropriate early use of experienced specialists.” OD 4.20 (8).

The Bank violated its indigenous peoples directive in this project by failing both to identify the affected communities as indigenous and to ensure that the project’s adverse effects on these communities would be avoided or adequately mitigated and that the project would have

a net benefit for them. Furthermore, the Bank should not have approved the project or loan without an appropriate "indigenous peoples development plan" as required under OD 4.20 (13).

First, the communities of Punta Canoa, Arroyo de Piedra, and Manzanillo clearly meet the requirements for classification as "Indigenous Communities" under OD 4.20. The residents of these villages together constitute a group "with a social and cultural identity distinct from the dominant society that makes them vulnerable to being disadvantaged in the developmental process." OD 4.20 (2). They also possess many of the qualities outlined in OD 4.20 (5) as characteristic of indigenous peoples, including: a close attachment to ancestral territories and natural resources in the area; self-identification and identification by others as members of a distinct cultural group; distinct customary social and political institutions; and engagement in primarily subsistence oriented-production.

Punta Canoa is a village of about 622 inhabitants living in 154 houses. See Exhibit 13, Fundación Social, "Punta Canoa," in *Elementos de la Cultura Tradicional de las Comunidades de la Zona Norte de Cartagena* (Doris Zuluaga ed.) 63-74, 65 (1998). According to residents and to a recent article in Cartagena's main newspaper, the village was founded several centuries ago and has remained a traditional fishing village. See Exhibit 14, Elvis Martinez Bermudez, "Punta Canoa, en busca del turismo," El Universal (5 April 2004). See also Exhibit 15, 1895 Map of Department of Bolivar (showing Punta Canoa and Arroyo de Piedra). The Project Appraisal acknowledges that the majority of the families in these villages go back at least three generations. See PAD at 103. Punta Canoa's residents live without running water and with only one phone line and unreliable electrical service. Over 50% of adults in the village have no formal education. See Exhibit 13 at 67. Similar conditions exist in the neighboring coastal villages of Arroyo de Piedra and Manzanillo and are typical of these small Afro-Colombian

communities that populate the Pacific and Caribbean coasts of Colombia and are historically among the poorest in the country. In fact, one study reports that 98% of the Afro-Colombian population lacks basic services. See Exhibit 16, The Global Internal Displacement Project of the Norwegian Refugee Council, "Indigenous People and Afro-Colombians are the Groups Most Affected by Displacement" (2003), also available in article database at <http://www.idpproject.org>.

These villages also have a way of life distinct from the rest of Colombian society. As the Project Appraisal notes, the residents "live under the traditions and culture of their ancestors and keep the structure of rural families." PAD at 103-104. Villagers make a living through subsistence farming and fishing, for which they use their own hand-crafted boats and tools. See Exhibit 13 at 64-66; Exhibit 17, Photos of Punta Canoa Fishermen. Punta Canoa also has a number of unique religious and social customs derived from their ancestors, including festivals, games, dances, and marriage rituals. See Exhibit 13 at 69-74.

The Project Appraisal and EA reveal a failure on the part of project officials, including those from the Bank, to appreciate these cultural characteristics and the extent to which they are vulnerable to destruction by the outfall. The Appraisal claims that during the preparation of the EA, public consultation meetings were held in Punta Canoa and the other villages, that "community concerns were registered," PAD at 23, and that the communities accepted the nuisance of construction. See PAD at 104. It does appear that ACUACAR held two public hearings or meetings in Punta Canoa in 1998. However, these meetings did not adequately register public concern. Residents' accounts of at least two meetings indicate that executing agency ACUACAR was not honest with them about the potential effects of the outfall and even

used deception to portray village support for the project as higher than it actually was. See Exhibit 12.

Perhaps the most troubling omission is the failure on the part of the Bank, the borrower, and ACUACAR to appreciate the centuries-old reliance by these villages on the marine environment into which the outfall will discharge the city's wastes. The Project Appraisal and EA are largely silent on the nature and location of the fishing activities of Punta Canoa and its neighbors. Had the project managers from the Bank and other entities properly recognized the communities as indigenous, they would have been required under OD 4.20 (13) to prepare an "indigenous peoples development plan" and to have better accounted for these existing conditions and the potential adverse trends associated with the outfall project. See OD 4.20 (14). They would also have had to consider more carefully whether and how the project might benefit these communities. The compensatory supply of potable water and other token infrastructure improvements offered by ACUACAR surely do not meet the benefit standard of OP 4.20(2), especially when weighed against the serious long-term harms the project is likely to inflict on these communities. Residents of Punta Canoa made this clear to ACUACAR by requiring the water company to sign a document stating that the village's acceptance of potable water did not mean that they approved the submarine outfall. See Exhibit 18, Agreement Between ACUACAR and Punta Canoa Representatives (6 November 2002).

C. Violations of Economic and Financial Policies

The third category of Bank violations involves serious omissions in the appraisal and supervision of financial and economic aspects of the project.

OP 10.02 -- Financial Management requires that in Bank-funded projects, "the borrower and the project implementing entities maintain financial management systems --including

accounting, financial reporting, and auditing systems—adequate to ensure that they can provide to the Bank accurate and timely information regarding project resources and expenditures.” OP 10.02 (1). The policy also requires, among other things, that “[a]ccounting information submitted to the Bank by all commercial, industrial, and business entities, whether in the public or the private sector ... adhere to accounting standards acceptable to the Bank...” OP 10.02 (2).

OP 10.04 – Economic Evaluation of Investment Operations requires the Bank to “evaluate[] investment projects to ensure that they promote the development goals of the borrower country.” OP 10.04 (1). Under this policy, “Bank staff conduct economic analysis to determine whether the project creates more net benefits to the economy than other mutually exclusive options for the use of the resources in question.” Id. The evaluation of alternatives is required to account for nonmonetary benefits and risks, including environmental risks, and to estimate the “direct effect on public finances of the project’s capital outlays and recurrent costs.” OP 10.04 (4), (5). In addition, the risk analysis component of the economic evaluation is meant to “identify the scope for improving project design, increase the project’s expected value, and reduce the risk of failure.” OP 10.04 (6).

OP 13.05 – Project Supervision requires the Bank to supervise the borrower’s implementation of Bank-financed projects and “to ensure that the proceeds of any loan are used only for the purposes for which the loan was granted, with due regard to economy and efficiency.” OD 13.05 (1). This policy provides for a carefully structured process aimed at monitoring: the borrower’s due diligence in carrying out the objectives of the project; implementation inadequacies requiring changes in the project concept or design; and critical risks to project success. OD 13.05(2).

OD 4.15 – Poverty Reduction provides direction to Bank employees on fulfilling “the Bank’s overarching objective” of “[s]ustainable poverty reduction.” OD 4.15 (6). The directive affirms that “every project should be consistent with the poverty reduction strategy,” OD 4.15 (27), and calls for the Bank, in investment lending projects like this one, to support “sustainable, high return projects and project components that benefit the poor....” OD 4.15 (28).

The Bank has violated these financial and economic policy mandates since it first became involved in supporting Cartagena’s outfall project.⁹ As previously noted, the Bank approved both inadequate environmental and economic analyses of alternative solutions to the outfall and an inaccurate assessment of Cartagena’s financial capacity to take on the loan and future costs associated with the outfall system. As a result, the project poses serious environmental and financial risks and a high likelihood of creating rather than reducing poverty in Cartagena and the villages near the outfall. Finally, the Bank has consistently turned a blind eye on irregularities in the institutional framework and activities of those under its supervision who are charged with executing the project. The Bank’s violations are described in greater detail below under three different categories: (1) violations of financial management policies; (2) violations of project supervision policies; and (3) violations of policies on economic evaluation and risk assessment.

1. Violations of financial management policies:

First, the Bank has violated the financial management standards of OP 10.02 by accepting inaccurate financial and accounting statements from the borrower, the City. In both 1999 and 2000, during the time that the Bank was evaluating and approving the project and loan to Cartagena, Cartagena’s Mayoral Office of Internal Control issued reports showing the

⁹ Many of the following claims were previously submitted to the World Bank in the form of Exhibit 8, 16 July 2001 Letter with attachments from William Dau of CCH to Dr. Carlos Ossa Escobar, Controller General of Colombia (forwarded to World Bank President James Wolfensohn on 2 August 2001).

unreliability of the City's accounting system and indicating that the City's Statement of Finances did not provide an accurate assessment of the City's economic situation. See Exhibit 6, 17 November 1999 Letter From the Office of Internal Control to Mayor Gina Benedetti De Velez and 17 March 2000 Letter From the Office of Internal Control to William Dau with attached report of 9 March 2000. These reports undoubtedly reflect the legacy of corruption and financial mismanagement instilled in Cartagena by three successive mayors in the mid- to late-1990s. First, after overseeing the creation of ACUACAR, Cartagena Mayor Gabriel Antonio Garcia left office and fled the city in 1994 amid a scandal that involved the disappearance of public money. He was later apprehended and put on trial before the Fifth Criminal District Court of Cartagena for corruption and misappropriation of funds.¹⁰ His replacement, Mayor Guillermo Paniza, who served as Chairman of the Board of ACUACAR, was also charged with taking bribes. Paniza's successor, Mayor Nicolas Curi, also Chairman of ACUACAR, resigned after accusations of corruption and was later arrested as a result of investigations by Colombia's Comptroller General. Curi is currently on trial in the First and Fifth Criminal District Courts of Cartagena.

It is not clear that the Bank appropriately considered these and other uncertainties about Cartagena's capacity either to responsibly manage public funds and partnerships with private companies like AGBAR or to take on the large loan and long-term capital commitment associated with the outfall project. This commitment apparently now includes, for example, the need to finance, within the next ten years, the construction of a US\$50 million primary treatment plant for Cartagena's wastewater in order to meet the terms of the environmental license granted to ACUACAR for the outfall system.

¹⁰ Garcia's acquittal is pending appeals filed by both government agencies (Fiscalia, Procuraduria) and an NGO.

2. Violations of project supervision policies:

Second, a number of potential conflicts of interest and signs of corruption have clouded the legitimacy of the outfall project and the economic and environmental evaluations on which it is based. These irregularities, some of which appear to be rooted in Bank actions that date back to the 1994 creation of ACUACAR, the executing agency for the outfall project, implicate the Bank's project supervision policy, OP 13.05. For example, ACUACAR's Project Engineer for the outfall project previously served as General Manager of Cartagena's public water utility and then as Deputy Mayor under Mayor Gabriel Garcia. As Deputy Mayor, he, along with Bank officials, pushed for and achieved privatization of the water system. See Exhibit 8 at 53. The alliances and circumstances involved in the privatization do not support the success story, as told by the Bank, of a clean transfer of public resources to private management.¹¹ In any case, ACUACAR now operates almost beyond any external checks on its control over: designing and executing the City's Master Water and Sewage Plan, of which the outfall project is now the major component; evaluating bids and awarding contracts; and managing project finances. The Project Appraisal explains, for example, that ACUACAR has been the primary source of all project data, including "data regarding market demand and supply, project specifics, comprehensive cost and investment data, project financing details, expected returns, and market distortions." PAD at 51.

¹¹ The Bank made privatization of Cartagena's municipal water and sewerage system a pre-condition to future loans for improving the infrastructure. The outcome was a public-private partnership through which the City was initially left with a 10% stake in the newly-created system operator, ACUACAR. Mayor Garcia's successor, Guillermo Paniza, renegotiated the arrangement to increase the City's holding to 50% and reduce to 44% the holding of Aguas de Barcelona (AGBAR) (the remaining 6% belongs to private individuals). AGBAR was the sole bidder for the new operator role and paid only about US\$3 million for infrastructure worth about US\$200 million. AGBAR recovered this investment in dividends during the first four years of ACUACAR's operation and has consistently made a significant profit while the City has been left to cover employees' pensions. For a detailed case study of the privatization, see David Hall and Robin de la Motte, Public Services International Research Unit, Dogmatic Development: Privatisation and Conditionality in Six Countries, 16-19 (2004), at <http://www.psiru.org/reports/2004-02-U-conditions.pdf>.

The Bank has also failed to adequately address the following possible conflicts of interest between Bank officials and both ACUACAR and the local environmental licensing agency. First, Juan David Quintero, a Cartagenero and the World Bank's Senior Environmental Specialist on the project, is related to Raul Quintero, a manager at ACUACAR, the executing agency. Two documents we have obtained indicate that, despite statements to the contrary by Juan David Quintero, Raul Quintero did work on aspects of the Cartagena submarine outfall project, including ACUACAR's community consultation effort. See Exhibit 19, ACUACAR Report by Raul Quintero, "El Emisaro Submarino de Cartagena," and Exhibit 20, Schedule and Documents from a Workshop on Community Consultation for the Cartagena Sanitation Project. Juan David Quintero is also the cousin of Cecilia Bermudez Sagre, who at the time of project appraisal (and up until shortly before the project's license was approved) was the director of the local environmental licensing agency, CARDIQUE. These connections clearly had the potential to unduly advance the outfall project. We also know that the Bank's Task Manager for the outfall project, Menahem Libhaber, met with officials at CARDIQUE during the time that CARDIQUE was considering the environmental license application for the outfall and offered CARDIQUE financial support for other projects. Shortly after that meeting, CARDIQUE approved the license.

The Bank has also violated OP 13.05 by failing to follow up on a promise by its Task Manager to require the borrower and ACUACAR to promote or use Pacts of Integrity with bidders on contracts awarded under the outfall project. The recent history of corruption problems with public contracts in Cartagena should obligate the Bank, as lender and Project Supervisor, to help ensure a strict and transparent procurement process. Instead of using its authority and expertise in this area, however, the Bank shifted the burden of improving

Cartagena's bidding policies to the Colombian chapter of Transparency International (TICOL). TICOL's entreaties to ACUACAR and Cartagena's Mayor to consider making Pacts of Integrity a requirement for public bidding have been met with opposition.

The patent unwillingness by Task Manager Libhaber to address these and other concerns raised by CCH and other community watchdog groups has been especially disturbing. Numerous requests by CCH and other local NGOs for a community meeting with the Task Manager were ignored or rejected. Even in the face of clear public dissatisfaction with and confusion about the project after its 1999 approval, Libhaber deliberately avoided public contact and met exclusively with ACUACAR and City representatives. See Exhibit 21, 2 February 2000 Letter from Francisco Alberto Castillo Gonzalez to Menahem Libhaber. Libhaber met with a select group of citizens only after the World Bank's Institutional Integrity Department initiated an investigation in 2001. Even then, however, the Bank addressed community concerns by threatening to take its money elsewhere if groups like CCH continued to delay the outfall project by bringing complaints. See Exhibit 22, 22 January 2002 Letter from the Executive Committee of the Red de Veeduría Ciudadana de Cartagena to the General Manager of ACUACAR.

The Bank also appears to have violated its own policy to withhold loan disbursements until a project has obtained all required licenses: it authorized disbursements to Cartagena and ACUACAR more than one year before any environmental license was approved.

3. Violations of policies on economic evaluation and risk assessment:

Next, the Bank violated OP 10.04 by failing to adequately and effectively scrutinize the economic investment and environmental risk evaluations of the outfall and alternative sanitation solutions. In addition to INGEOMINAS and SIAB, who issued the critical expert reports discussed above in the context of environmental assessment deficiencies, several public officials

in Cartagena have scrutinized the economic and environmental viability of the outfall project. First, Cartagena Controller Simon Herrera reported to Mayor Carlos Diaz and the public in May and June 2001 that an audit of ACUACAR and evaluation of the outfall project yielded a number of concerning gaps in the feasibility studies that provided economic and environmental rationale for the outfall. The Controller's report concluded that the project, as designed, was not an appropriate investment for the City and recommended a reconsideration of alternative solutions to the City's sanitation problems, especially those that provide for water reuse. See Exhibit 23, Letters and Report from Controller Simon Herrera to Mayor Carlos Diaz (29 May 2001) and Rafael Calixto Arenas Rosillo (1 June 2001).

The Controller's report echoed many of the findings of the Outfall Commission appointed in 2000 by Mayor Diaz to study the submarine outfall project. The Commission's report strongly criticized the economic and environmental evaluation of alternatives to the submarine outfall and reported in detail many of the inaccuracies and omissions discussed above, including inadequate assessment of environmental and geological risks, flawed cost analysis, and a deficient baseline environmental study. See Exhibit 8 at 61-68 (reprinting the Commission's report in part). The Commission concluded that the outfall was not the best solution to the City's sewerage problem and recommended a new, more comprehensive evaluation of alternatives by an independent panel of experts. See id. The scientists at SIAB followed with their own report and presentation in January 2002 that also concluded that there was a significant basis for questioning and reconsidering the submarine outfall project. SIAB recommended that Cartagena's mayor ask the World Bank to rethink the project and finance only a solution that would include more rigorous treatment of wastewaters and be overseen by an independent group and a project leader other than ACUACAR. See Exhibit 7. Unfortunately, these detailed and

persuasive reports from Cartagena's Controller, the City's Outfall Commission, and SIAB seem to have fallen on deaf ears among the actors they targeted, that is, the City, ACUACAR, and the Bank. ACUACAR's response to the SIAB report was to issue new figures on the cost of the outfall project in a shameful attempt to show that its proposal was really more economical than the alternatives. See Exhibit 24, 1 February 2002 Letter from SIAB to Mayor Diaz.

The Bank's failure to effectively scrutinize these evaluations also implicates OD 4.15, its directive on poverty reduction. Although the project is intended to bring water and sanitation services and environmental benefits to some of the city's poorest communities, the deficient alternatives analysis and risk assessment fail to account for potential negative impacts on the poor both within and outside the district that will be served by the outfall. As discussed above, it is very unlikely that the submarine outfall project is the kind of "sustainable, high return project" that OD 4.15 indicates the Bank will support.

V. PREVIOUS COMPLAINTS TO THE WORLD BANK

We, Corporación Cartagena Honesta, and the residents we represent have complained to World Bank officials on numerous occasions over the past five years about the policy violations described above. We have consistently communicated and thoroughly documented our allegations of project irregularities and Bank wrongdoing and have requested that the Bank ensure more transparent and accountable management of Cartagena's financial and environmental resources. We have worked, with varying degrees of success, to establish open and constructive dialogues with a number of Bank employees over the years, including: Hyun Um and Al Sharp in the World Bank Internal Audit division; John McCormick, Secretariat of the World Bank Oversight Committee on Fraud and Corruption; Menahem Libhaber, the Project Manager from the World Bank; World Bank President James Wolfensohn; Steven Berkman of

the World Bank Anti-Corruption Unit; and Diomedes Berroa and Claudia Alderman, World Bank investigators from the Department of Institutional Integrity.

In addition, we have taken many steps to investigate, expose, and resolve problems through other sources, including the City of Cartagena (especially the Mayor's Office), ACUACAR, local and national environmental agencies, including CARDIQUE, and the Colombian national government, including the Controller General. We have thus taken every opportunity to inform authorities at every level about what we perceive as the improper, inadequate, or corrupt actions by World Bank personnel and others involved in the project.

We have pursued these efforts with the support of and in collaboration with not only the people of Punta Canoa and neighboring villages but also with other local and international non-governmental organizations concerned about the environmental problems and corruption plaguing this project under the Bank's oversight, including Red de Veeduría Ciudadana de Cartagena ("Network of Citizens' Oversight of Cartagena") and the Colombian Chapter of Transparency International.

After bringing our concerns and detailed evidence directly to World Bank President James Wolfensohn in August 2001, the World Bank initiated an investigation through its Institutional Integrity Department and sent a two-person team to Cartagena. Although the Bank has refused to respond directly to our inquiries as to the status and outcome of this investigation, we believe it continued for nearly two years before being terminated with an official finding of no wrongdoing. We do know, however, that the project is currently moving towards the construction and implementation phases without any institutional or substantive corrective measures having been taken.

We are emphatically not satisfied with the responses and explanations we have received from the Bank. Despite clear and convincing evidence of Bank policy violations from the initiation of this project through today, the Bank has allowed the project to proceed as planned under the control of the same entities and individuals responsible for the violations. Our correspondence with the World Bank is outlined below.

1. On 30 July 1999, William Dau, Executive Director of CCH, faxed a note and letter (CH-052.99¹²) to Bank employees Ilyun Um and Al Sharp, then in the World Bank Internal Audit Department. Dau's note referred to a telephone conversation with Um and Sharp on 14 July 1999 and thanked them for listening to his concerns. The attached letter explained in detail Dau's concerns about possible corruption and other problems in the Bank-funded and ACUACAR-operated sanitation project, including a lack of transparency and failures to inform affected communities and adequately document environmental impacts. See Exhibit 25.
2. On 23 August 1999, Dau sent Um and Sharp a letter (CH-065.99) reporting a family relationship between a World Bank employee, Senior Environmental Specialist Juan David Quintero, who had worked on the environmental assessment of the Cartagena project and an ACUACAR employee, Raul Quintero. Dau asked Um and Sharp to investigate this relationship for conflict of interest in light of the problems with local corruption and the existence of widespread community opposition to the project. See Exhibit 26.
3. On 24 August 1999, Dau received a fax from Sharp and Um of the Bank thanking him for his recent letter and reporting that the Bank was looking into his concerns. See Exhibit 27.

¹² CCH identifies each letter it sends with a CH reference number like this.

4. On 1 September 1999, Dau sent Sharp and Um a fax with a letter (CH-077.99) sent that day by Dau to Jairo Arboleda, World Bank Resident Representative in Bogota, Colombia, discussing the previous World Bank loan to Cartagena that provided for the creation of ACUACAR and the potential for corruption to pervade the privatization of public assets in Colombia. See Exhibit 28.
5. On 3 September 1999, Dau faxed Sharp and Um a letter (CH-082.99) reporting that Bernard Gilchrist, director of Colombia's Presidential Campaign Against Corruption, had met with Menahem Libhaber, the World Bank Task Manager for the Cartagena project, and that Libhaber had told him that Dau should discontinue writing letters to the World Bank because he had already understood the message and had acted upon it. Dau told Sharp and Um that he would continue to press the matter and accused the Bank of putting up a smokescreen in the face of clear corruption in the management of the Bank project. See Exhibit 29.
6. On 3 September 1999, Dau received a fax from Um and Sharp acknowledging receipt of his faxes of September 1 and September 3 and promising to follow up on his concerns. See Exhibit 30.
7. On 22 December 1999, Dau sent a letter (CH-166.99) to John McCormick, then Secretariat of the World Bank Oversight Committee on Fraud and Corruption, expressing frustration with the World Bank's failure to take action in response to the information Dau had sent about corruption in the project. Dau also requested "a written report on actions undertaken and results obtained as consequence to the information we provided" as well as copies of any anti-corruption analysis performed by the Bank with regard to Colombia. See Exhibit 31.

8. On 23 December 1999, Dau received a response from McCormick stating that Bank documents related to investigative actions were not public information and could not be released. McCormick also wrote: "the Bank's investigators have reviewed related Bank documents and interviewed the task management team in Washington. The review found no apparent evidence to support a finding that specific fraud or corruption took or is taking place in the Cartagena city's Water Supply, Sewerage and Environmental Management Project." See Exhibit 32.
9. On 25 May 2000, Dau sent an email to Menahem Libhaber, the Bank's Task Manager, requesting a meeting with him to discuss CCH's concerns about the project. See Exhibit 33.
10. On 12 June 2000, Dau received an email response from Libhaber telling Dau to address his concerns about the project to the Bank employees with whom Dau had already been in contact. See Exhibit 33.
11. On 2 August 2001, Dau sent a letter (CH-216.01) to World Bank President James Wolfensohn remitting a copy of two petitions and attachments sent by Dau on 1 June 2001 (CH-185.01) and 16 July 2001 (CH-211.01) to Colombia's Controller General describing and documenting in detail numerous problems with the environmental assessment of the outfall project and with the Bank appraisal and supervision of the project and loan. See Exhibit 34 (attachments are Exhibits 5, 8).
12. On 29 August 2001, Dau received a letter from Olivier Lafourcade, World Bank Director of the Country Management Unit for Colombia, Mexico, and Venezuela, responding to Dau's letter of 2 August 2001 to Bank President Wolfensohn and advising Dau that the Bank would need time to study Dau's submission in detail. See Exhibit 35.

13. On 14 December 2001, Dau sent a letter (CH-298.01) to World Bank investigators from the Department of Institutional Integrity, Diomedes Berroa and Claudia Alderman, and enclosed a copy of newspaper clippings about the privatization of Cartagena's water company in 1994 and the City's Master Water and Sewer Plan. See Exhibit 36.
14. On 27 December 2001, Dau sent a letter (CH-301.01) to Bank investigator Berroa forwarding a copy of a letter from Colombia's Controller General to Colombia's Prosecutor General requesting that a criminal investigation be opened and forwarding the results of the investigation initiated by the Controller upon Dau's request. See Exhibit 37.
15. On 17 January 2002, Dau sent a letter (CH-005.02) to World Bank President Wolfensohn requesting that the Bank assure him that its investigation into his concerns about the Cartagena project would be thoroughly completed and cautioning him about internal and/or external pressures aiming to thwart the investigation. This letter followed confidential conversations Dau had with Bank investigators. See Exhibit 38.
16. On 3 February 2002, Dau sent a letter (CII-017.02) to Bank investigator Berroa forwarding a number of documents about recent developments, including: (1) a letter of 22 January 2002 from the Executive Committee of the Red de Veeduría Ciudadana de Cartagena to the General Manager of ACUACAR mentioning a threat by Bank officials to take Bank money elsewhere; (2) a news article about and report from Sociedad de Ingenieros y Arquitectos de Bolívar (SIAB), presenting an expert analysis of and opposition to the outfall project; (3) minutes of meetings held by work groups on the project, composed of representatives from ACUACAR, Hazen & Sawyer, and SIAB; (4) a resolution of 24 January 2002 by the Colombian Ministry for the Environment

accepting consideration of a number of appeals presented by citizens of Cartagena against the granting of the environmental licenses for the outfall project by CARDIQUE. See Exhibit 39.

17. On 28 February 2002, Dau received a letter from the Director of the World Bank's Institutional Integrity Department, Maarten de Jong, responding to Dau's letter of 17 January 2002 and advising Dau that the Bank investigation into the project was ongoing. See Exhibit 40.
18. On 4 March 2002, Dau faxed a note (CH-054.02) to Bank investigator Berroa, remitting copies of two letters from the residents of Punta Canoa. The first letter, dated 5 April 2001 and sent from Punta Canoa's Local Administrative Council to Cartagena Mayor Dr. Carlos Diaz Redondo, expresses and explains strong opposition to the submarine outfall project and requests the support of the District. The second letter, dated 4 February 2002 and sent from the School of Punta Canoa to the District Secretary of Education, Dr. Rosario Ricardo Bray, expresses indignation at what were seen as blackmail attempts by ACUACAR. See Exhibit 41.
19. On 19 April 2002, Dau faxed a note (CH-096.02) to Bank investigator Berroa, remitting copies of newspaper clippings reporting the recent approval of environmental licenses for the outfall project. See Exhibit 42.
20. On 13 May 2002, Dau received an email from Bank investigator Alderman indicating that the investigation had not been forgotten and would likely yield positive results. See Exhibit 43.
21. On 23 August 2002, Dau sent a letter (CH-358.02) to Bank investigators Berroa and Alderman providing information from the environmental licensing agency, CARDIQUE.

indicating that the brother of the Bank's Senior Environmental Specialist for the project,

Juan David Quintero, had obtained a contract with CARDIQUE in 2001. See Exhibit 44.

See also Exhibit 45, Miscellaneous Correspondence with Colombian officials regarding the project.

VI. REQUEST FOR INSPECTION AND RELIEF

We request that the Inspection Panel recommend to the World Bank's Executive Directors that the Bank carry out a full investigation of these matters. We also request that the Bank stop disbursing funds to this project until an investigation has been completed and an appropriate remedy adopted. Additionally, we request the opportunity to submit recommendations on and otherwise actively participate in the formulation of any remedial measures taken by the Bank. Finally, we ask that any proposals made by Bank management as a result of an investigation require full and honest consultation with all affected communities.

We also wish to acknowledge the valuable assistance of Columbia Law School's Environmental Law Clinic in clarifying the rights of our claimants and obligations of the Bank. In order to facilitate and ensure ongoing communication with the Bank, we request that all future correspondence on this matter be copied to the Clinic at the address provided below.

Signature: _____



Date: _____

April 19, 2004

Contact Information:

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5	Letter from Jairo Morales Navarro, William Dau, et al. to Dr. Carlos Ossa Escobar, Controller General of Colombia (1 June 2001)	5 (footnote 3), 9 (footnote 6)
6	Letters from Office of Internal Control to Mayor Gina Benedetti de Velcz (17 Nov. 1999) and to Dau (17 March 2000)	8, 26
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8	Letter with attachments from William Dau of CCH to Dr. Carlos Ossa Escobar, Controller General of Colombia (16 July 2001)	13, 17, 25 (footnote 9), 27, 30
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12	Memo from William Dau re: Interview with Punta Canoa Residents (20 March 2004)	19, 23
13	Fundación Social, "Punta Canoa," in Elementos de la Cultura Tradicional de las Comunidades de la Zona Norte de Cartagena (Doris Zuluaga ed.) 63-74 (1998).	21, 22
14	Elvis Martinez Bermudez, "Punta Canoa, en busca del turismo," <u>El Universal</u> (5 April 2004).	21
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