

28 February 2010

MR. ROBERT S. MAY

The Office of the Special Project Facilitator
Asian Development Bank
6 ADB Ave., Mandaluyong City
1150 Philippines

Dear **Mr. May**,

We, residents of Barangays Tangke, Tinaan, Central Poblacion, North Poblacion and South Poblacion, City of Naga, Cebu, Philippines, our addresses indicated in the attached document, authorize Mr. Jose Aaron Pedrosa Jr. of the Freedom from Debt Coalition-Cebu and Engr. Vic Obando, a resident of Brgy. Central Poblacion, City of Naga, Cebu to file this complaint on our behalf.

We would like to file a complaint against the ADB-funded project Visayas Base-Load Power Development Project (Proj No. 43906) that will give way to the construction, operation, and maintenance of a 200-Megawatt coal-fired power plant Naga, Cebu, Philippines, as the project will adversely affect our community and the environment.

The Asian Development Bank's support for the project poses direct and material harm to our community and the environment¹. In the course of the formulation, processing and implementation of this project, the Bank failed in the following aspects:

- Lack of consultation with affected people informing them about the project at the earliest stage of the project. Residents of Brgy. Colon, the project site, were not consulted or made part of the consultation on the development of the project.
- Lack of adequate consultation with local communities to ascertain the project's social acceptability.
- Non-disclosure of relevant project documents such as the Environmental Impact Assessment (EIA), preliminary project information were not disclosed to the local community prior the construction of the project and during its public scoping.
- In spite of an assurance to provide a copy of the EIA by ADB staff led by Ms. Mary Abad during their meeting with representatives of key NGOs on November 12, 2009 at the Marco Polo Plaza Cebu Hotel in Cebu City, we have not received the document until now.²

[Note: There was also a lack of consultation for the proposed coal ash dumpsite, which will also be referred to as the Balili property³, which is a component of the coal power plant. (Please see attached Notice to Sue)]

¹ See Environmental Case filed by the Philippine Earth Justice Center (PEJC) against KSPC. Note: Document to follow.

² In an email dated Dec. 11, 2009, the same day the ADB Board approved the KSPC loan, Mary Abad sent an email in reply to urgent queries and among others, provided a link to the EIA. To quote a portion of Abad's email:

"Further to the previous email from DER, you may now download the full EIA (3 volumes, total of 73MB) of Private Sector (Proposed) Project 43906-PHI: VISAYAS BASE LOADPOWER PROJECT at the following link (available only for the next 7 days):

<https://rcpt.yousendit.com/788710344/61352f9b85b95c8024277cc755059b67> "

³ Fact Sheet, Index I, Appendixes, *Financing Naga's Coal-fired Power Plant, FDC Cebu Study*, September 2010.

- Non-compliance and violation of existing environmental laws and regulations:
 - o The release of an environmental compliance certificate (ECC) for the coal ash dumpsite (Balili property) did not include public scoping; the latter being held more than two week after the ECC issuance
 - o The coal ash dumpsite (and its assignment) violated Presidential Decree 1586 and Department of Environment and Natural Resources (DENR) Administrative Order 2003-30⁴ which requires the conduct of an EIA prior the implementation of an environmentally-critical project and/or environmentally-critical area.
 - o The EIA lacks details on the coal ash disposal. The EIA only refers to coal ash being used as raw materials by nearby cement plants. It did not mention any dump site.
 - o The coal ash dumpsite (and its assignment) violated the Ecological Solid Waste Management Act⁵ of 2000 (RA 9003) which prohibits dumping of solid waste into bodies of water. The identified Balili property is a submerged land fronting the sea.

- The Balili property as coal ash dumpsite will result in seepage/leakage of metallic elements⁶ (such as arsenic, lead, mercury, and others) into the sea which are identified harmful elements to marine life resources⁷.

- Operation of the project will lead to adverse impacts on the health of the residents and nearby communities. Proliferation of skin and respiratory illness is expected among residents upon the operation of the coal power plant based on historical data⁸ Specifically:
 - o The circulating fluidized bed combustion (CFBC) technology that will be used in the operation of the project will not be able to prevent the emission of carbon monoxide, sulfur oxide, carbon dioxide and nitrogen oxide that are responsible for respiratory illness⁹
 - o Transport, handling and disposal of coal containing metallic elements relative to the operation of the coal plant pose severe health risks to communities. Based on experience, incidental spillage of coal by land and sea transport will expose residents and the environment to such hazardous and roxic elements.
 - o The Balili property as coal ash dumpsite will result in seepage of harmful elements which will lead to contamination of marine life resources for human consumption

- The ADB assured that the project will make use of clean coal technology to lessen/mitigate the impact of the plant's operation on climate. However, the use of Circulating Fluidized Bed Comubustion (CFBC) Technology will not prevent carbon dioxide among emissions which are responsible for global warming. CFBC plants

⁴ See [www.emb.gov.ph/laws/environmental impact assessment/DAO30.doc](http://www.emb.gov.ph/laws/environmental%20impact%20assessment/DAO30.doc)

⁵ See <http://www.chanrobles.com/republicactno9003.htm>. Cited on February 27, 2011

⁶ Dr. Romy Quijano's findings, pp.11-12, *Financing Naga's Coal-fired Power Plant, FDC Cebu Study*, September 2010

⁷ Round Table Discussion (RTD) Narrative, Index III, Appendixes, *ibid*. Also see attached Department of Health Memorandum 2010-0184.

⁸ See pp 17-18, *Naga Comprehensive Land Use Plan 1996-2005, Annex 2*. Also see *Morbidity and Mortality Data (2005-2009)*, Index V, *ibid*

⁹ See page 7, *ibid*

produce about four (4) times more coal combustion waste per megawatt of electricity than conventional coal burning plants

We seek the following outcome and remedies through the help of the Special Project Facilitator:

- The conduct of a comprehensive review of the EIA on the project with the active and meaningful participation by the public at large: local communities, civil society organizations, local government units and agencies, academe, and the legal community
- The conduct of a comprehensive review of the EIA on the proposed/identified coal ash disposal site with the participation of the public at large pertaining to the above the mentioned sectors.
- Disclosure of all project-related documents that will enable communities to participate meaningfully in the project development such as feasibility studies, socio-economic impact assessment and EIA, among others.
- Withholding of the remaining appropriated funds for the implementation and completion of the project up until resolution of the above-mentioned issues
- Should there be a determination of actual health hazards brought about by the project, the ADB should provide immediate relief in the form of compensatory damages, considering the long-term effects of the project, to the affected communities
- Conduct of a due diligence by the ADB regarding the track record of Salcon Power Corporation (SPC) as a partner in the joint venture undertaking with the Korean Electric Power Corporation (KEPCO). A number of violation of environmental and labor laws have been attributed to SPC in its operation of the existing 100-MW coal-fired power plant.
- Should there be a determination that the project was poorly designed and implemented (proven violation of national and local laws), ADB should withdraw its funding support from the project without prejudice to the compensation by way of damages caused by the project to the communities and the environment

We have previously made a good faith effort in address in our problems with ADB staff and representatives in the following period:

- Meeting with Mary Abad by the NGO Forum on ADB on behalf of FDC-Cebu on 23 September 2009 requesting for a monitoring visit by the project officer regarding the identified site for coal ash disposal and indiscriminate dumping by SPC
- Meeting with Mary Abad and her team with a number of residents regarding the issue on the identified coal ash disposal site, non-disclosure of project information, EIA, among others, lack of consultation in the beginning of the project, and other adverse impacts of the project

- A letter¹⁰ sent to President Kuroda dated December 9, 2009 outlining the issues raised by the community regarding the project
- Meeting with Ms. Kurumi Fukaya¹¹, ADB's principal investment specialist, together with other specialists. Petitioners on the environmental case were present. The meeting was about the issue of coal ash disposal, specifically the identified Balili property.

We cannot provide the information about the minutes of the meeting between ADB representatives and NGO representatives in November 2009.

We submit the following documents (arranged as attached):

1. Financing Naga's Coal-fired Power Plants: FDC Cebu Study, September, 2010
2. Comprehensive Land Use Plan of Naga (1996-2005)
3. Notice to Sue
4. Department of Health (DOH) Memorandum No. 2010-0184
5. Letter to ADB President Haruhiko Kuroda
6. Letter to ADB President Kuroda from Bacolod Bishop Vicente Navarra
7. Minutes of the Meeting with Ms. Kurumi Fukaya

To follow:

1. PEJC Petition on the Environmental Case against KSPC et al.

We authorize the SPF to publicly release the information on this complaint.

To protect us from possible harassment by the local government, we request that our identities be kept confidential.

Signature:

Jose Aaron Pedrosa, Jr.
(Cebu City, Cebu)

Engr. Vicente Obando
(Brgy. Central Poblacion, City of Naga)

On our behalf,

The names and addresses of six other signatories to this complaint have been deleted per their request for confidentiality.

¹⁰ See annex

¹¹ See attached minutes of the said meeting.