

In the Roberto González Auditorium at the Universidad Nacional Autónoma de Nicaragua in the city of Managua, Nicaragua gathered at 9:00 a.m. on June the 23rd 2004 the undersigned members of the Jury of the Central American Water Tribunal, Dr. Enrique Beldarraín Chaple from Cuba, Dr. Gabriel Pons from El Salvador, Dr. Héctor Mejía Ávila from Costa Rica and Dr. Francisco Lainez Matamoros and Dr. Jaime Incer Barquero the latter from Nicaragua, once the declarations, evidence and notices from both parties involved were heard, we hereby issue the following verdict:

FACTS

According to the opposing parties:

1. Lake Cocibolca with a surface estimated at 8000 Km², is the main lake body in Central America.
2. Ometepe Island, located in Lake Cocibolca with a surface of 276 km², is a Natural and Cultural Reserve of the Nation, according to the Law 203.
3. The Ministry of Industry and Trade Promotion granted a water concession for the tilapia fish farming and exploitation in floating cages through the Ministry Accord No. DGRN-CONCESION-PA-001-2000.
4. The area granted to such an activity is 86.87 hectares located along the Ometepe Island's coastline, in the Altagracia County, more specifically in the community of San Ramón between Punta el Congo and Punta Los Angeles.
5. Prior to the concession, the Enterprise MARES NICA NORUEGOS SOCIEDAD ANÓNIMA (NICANOR) issued, under file No. 87-2000, the answers to the Ministry of Environment and Natural Resources (MARENA) on 27 questionable issues related to its request, identified in document "Adendum No.1".
6. The above document was considered by the environmental authority to be the Environmental Impact Assessment of the Project: "Tilapia fish farming in floating cages in Ometepe Island".
7. MARENA, through the Administrative Resolution No. 21-2001, granted the environmental permit to the Project: "Tilapia fish farming in floating cages in Ometepe Island".
8. The Municipal Government's participation was fully ignored; hence the local jurisdiction was violated.
9. Legal and administrative actions have been taken before the Nicaraguan legal and administrative authorities to deny the permits granted to NICANOR and to annul the Resolution No. 21-2001 from MARENA. No favourable resolutions as a response to those requests have been issued so far.
10. The enterprise NICANOR is developing the industrial tilapia fish farming in floating cages, whose yield is estimated in three thousand tons for every breeding period of 241 days.
11. The local governments, communities and NGOs have expressed their discomfort as a result of the damages caused to the water they utilize.
12. The 152 municipal governments of Nicaragua expressed their support to the denouncing governorship.

13. The enterprise NICANOR's General Management replied the allegations made by the opposing parties through a letter submitted to the Central American Water Tribunal.

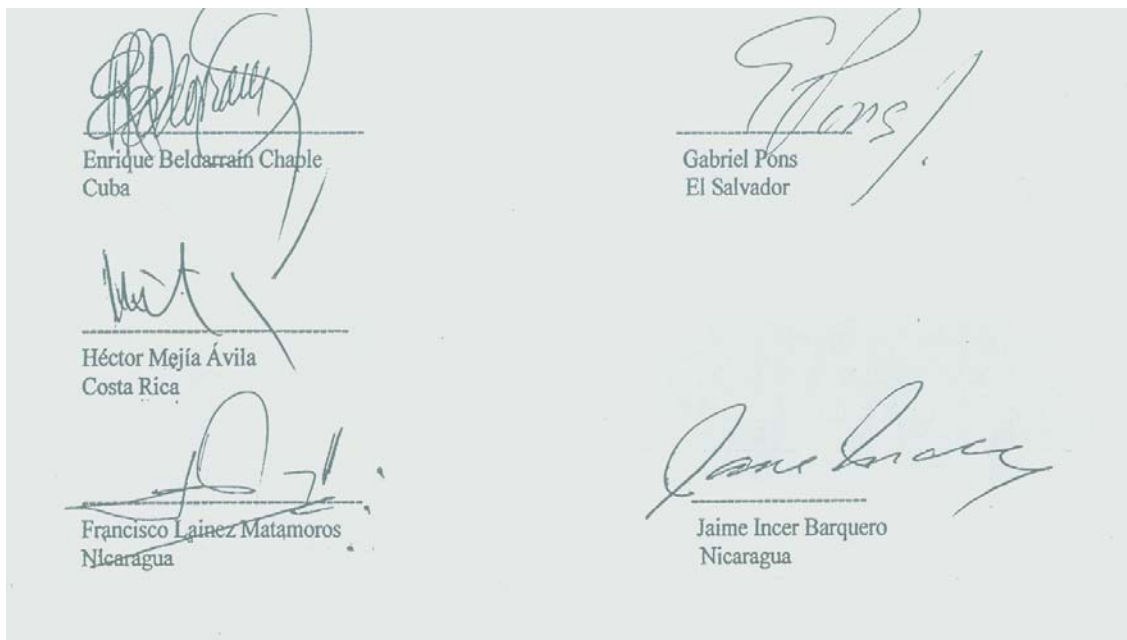
WHEREAS

1. That water is an undeniable and universal good whose priority is human consumption and any other possible use is secondary to this principle.
2. That the benefits generated by any productive activity, particularly the one project under our examination, must respond to the common good.
3. That Lake Cocibolca is the largest tropical freshwater body in the western hemisphere, situation shown in its rich biodiversity.
4. That the Lake's conservation responds to an increasing concern worldwide in preserving the freshwater sources in terms of quality and quantity, situation outlined in several international treaties ratified by Nicaragua.
5. That Lake Cocibolca is regarded as the potential drinking water source to the growing populations of the cities on the pacific coast, the irrigation supply source to 625.000 of the 930.000 hectares of fertile soils of the country, the consumption and sport fishing source, tourism development, biodiversity and other benefits.
6. That there is scientific evidence that Lake Cocibolca is subject to environmental stress and for the reasons explained by the opposing parties, the industrial tilapia fish farming would worsen the current situation.
7. That some efforts have been undertaken on behalf of the Great Lake's Basin Association of Municipal Governments in order to rescue this valuable water body so that it serves to activities compatible with the sustainable development of its basin.
8. That the tilapia (*Oreochromis spp*) is an exotic species, native of Africa, omnivorous, extremely voracious and a parasite carrier, harmful to the local fish populations and a competitor to the local fauna.
9. That it is estimated that the net pollution generated by faeces from the floating cages, poured into Lake Cocibolca, is highly contaminating and contributes to the environmental misbalance.
10. That the organic waste contamination would generate a decrease in the dissolved oxygen concentrations with harmful consequences to the lake's wildlife as well as to the inhabitants using the water for human consumption.
11. That according to certified reports, there is harmful organic waste associated to the tilapia fish farming activity in Lake Cocibolca.
12. That it is acknowledged that this project is financed with international cooperation funds, in disregard of international environmental guidelines.
13. That the remarks made by the opposing parties are backed up with technical norms from the United Nations Food and Agriculture Organization (FAO) referred to in the *Models for calculating the capacity and the repercussions of fish farming in cages and barns to the environment*, as well as briefings from the University of Purdue such as the *Fish farmer's guide to understanding of water quality* and studies by Centro de Investigación de Recursos Acuáticos from Universidad Nacional Autónoma de Nicaragua (CIRA-UNAN).

In the view of the facts and considerations preceding, the jury of the Central American Water Tribunal

RESOLVES

1. To support the requests pointed out by the opposing parties, in order to review the permit conceded by the national authorities for such an activity within the lake, and not to grant further permits for this kind of industrial exploitation in the future.
2. To request the international agencies and cooperation organizations that their approved loans for this sort of activities, do enforce the environmental legislation and do not contribute to harm the environment.
3. To request the national government to enact the Lake Cocibolca's Master Plan for the Lake basin's sustainable development.



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El Salvador

Héctor Mejía Ávila
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Francisco Lainez Matamoros
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