

MOST SHOCKING EVIDENCE OF GROSS NEGLIGENCE AND INCOMPETENCE BY VE

The following shockingly incompetent acts by George Burn, next to the Kill Shot of not putting the audio recording into evidence, is the worse grossly negligent conduct by VE Attorneys. You will see shortly is truly inexplicable. We don't know the reason for all of this incompetence and gross negligence, but what we do know for certain that it exists. In fact, I would say what you are about to read rises to the level of malfeasance, which is bad faith that worked directly against VE clients best interest. You will see this in the following emails and letters and goes to the heart of the question asked by the Tribunal at the end of the trial.

The question asked of both attorneys was to tell the Tribunal who they thought was the final authority on wetlands in Costa Rica. I spoke to George Burn about this saying I was concerned by that question because it showed the arbitrators were unclear about that after six days of a trial which was very troubling for our case. Obviously, the VE attorneys didn't make that clear to the Tribunal that SETENA was the top authority. In their confusion they asked the question for clarity. I instructed Burn to tell the Tribunal that it was SETENA, however, without consulting me he said MINAE was the top agency, agreeing with Costa Rica's attorneys.

On the following pages you will see his answer was dead wrong. Why? Because in their own words MINAE/SINAC's said told the MUNICIPALITY they didn't have the competency to demarcate wetlands, and for that they needed to contact IGN. National Geographic Institute. Here are a list of documents Burn never used in our trial in his cross of any state witness or in his redirect.

1. Letter from Gustavo Steller, the Administrator of the Water company in Esterillos Oeste stating there are no wetlands on the project site. (05/20/2011)
2. Copy of the minutes of the meeting of the Council for the municipality of Parrita where they stated that "according to article No. 50 of the constitution SETENA is the maximum technical and environmental authority, according to the valid legislation" (09/13/2012)
3. Letter from SINAC/MINAE (09/30/2012) to Monica Vargas, in reply to a question from the MUNI to demarcate the wetlands at Las Olas, where SINAC/MINAE responded that they did not have the competency to demarcate the wetlands and for that they would have to go to IGN.
4. Letter from the municipality to David Aven telling him they didn't have the money to pay for the IGN study and asked that we pay for it. (20/11/2012)
5. Letter from David Aven, (11/25/2012) to the municipality telling them we didn't have the money to pay for the study either. However that letter covers much more than just that subject and gets into the relevant facts of the dispute we were having with the Government of Costa Rica over the Las Olas project.
6. Letter from Mayor 12/04/2012 stating no complaints mad about Las Olas projects.
7. Email to George Burn and Louise Woods, date of (11/20/2014) I point out that MINAE wrote the municipality telling them they didn't have the competency see to demarcate the wetlands and that had to be done buy another government agency. This proves that

George Burn and Louise Woods knew that man I was on record saying they didn't have the competency to demarcate wetlands.

8. Email from Louise Woods dated (12/01/2014) acknowledging receipt of my email
9. Email to George Burn from Aven about false charge I was duping SETENA 12/18/2016
10. The next email listen to George Burn, Louise Woods and Jim Loftis, 03/07/17, where I give them detailed information and instructions that SETENA is the final authority of wetland determination's in Costa Rica. Why? Legal authority comes from the laws passed by a government. SETENA was the only agency that was given the authority by the courts and the government of Costa Rica stating that when SETENA issues an environmental determination resolution, clearing a project property for development, it becomes the law of the land that everyone is required to comply with. That email covered that point by point. Burn refused to follow that blueprint in his final submissions to the tribunal. Further, I attached a memo to that email which clearly pointed out what we needed to convey to the tribunal in that final submission. Burn paid no attention to any of what I instructed him to do, it was like I was talking to a wall.
11. Copy of MEMO attached to above email 03/7/17
12. Burns Response to Tribunal question in Final submission telling Tribunal MINAE was top authority. How in the world could Burn do that when he knew that MINAE in their letter of 2012 to Monica Vargas, said they had no competency and put that in her CAFTA Statement. Here is what she said in her statement:

(Para 45) On October 17, 2012, we requested that the ACOPAC demarcate the wetland and declare that *"our purpose [was] to prevent any damage to the natural heritage and in turn decide the status of the project so that they can continue their work"*.⁵³ On October 30, 2012, the ACOPAC replied that it was not competent to carry out the demarcation of the wetland in the Las Olas project since that task is the responsibility of the National Geographic Institute ("IGN").⁵⁴

(Para 46) On November 6, 2012, the Municipal Council decided to accept the request to lift the closure of the project based on the decision by the SETENA in Resolution No. 2850-2011 and formally inform Mr. David Aven that the Municipal Council agreed that the Las Olas project could continue, as long as it complies with prevailing legislation on the matter, pursuant to the central issue of the presence of a wetland, whose demarcation efforts were ongoing, without this being an obstacle to the development of the project in the rest of the territory.⁵⁵

BURN MENTIONED NONE OF THIS IN HIS CROSS OF VARGAS. How could Burn tell the Tribunal that MINAE was that top authority when MINAE in their own words wrote they don't have the competence. What was the result of this gross negligence and incompetence carried out by VE Attorneys? **WE LOST OUR CASE AND WERE ORDERED TO PAY 1 MILLION TO COSTA RICA FOR ARBITRATION COST.**

The following letter was written by Gustavo Steller, the administrator of the water company saying he lived in the Las Olas community for 15 years and it's not a wetland.



ADMINISTRATIVE ASSOCIATION FOR AQUEDUCTS AND SEWERS
[AYA]
OF ESTERILLOS DE PARRITA
CORPORATE id 3 002 221114

May 20, 2011

To whom it may concern

I, Gustavo Salazar Steller, National ID 6-222-547, and resident of Esterillos Oeste, in my capacity as administrator of the Aqueduct of Esterillos for the past 15 years, and knowledgeable on the site under discussion, regarding whether the site is a wetland or is simply a deposit of water that collects during winter and dries during summer, hereby express as follows:

Said site is not a wetland. I have known the site for a very long time, and that lagoon dries up in summer; therefore, the project being developed is beneficial for the entire community of Esterillos and for the tourists who visit us.

Thank you for your help. Best regards,

Gustavo Salazar Steller
Gustavo Salazar Steller
AYA Administrator

For more information, call Gustavo Salazar at 2778 8138 / 8361 9111



119

ASOCIACIÓN ADMINISTRADORA DE ACUEDUCTOS Y
ALCANTARILLADOS
DE ESTERILLOS DE PARRITA
CEDULA JURIDICA 3'002 221114

20 de Mayo de 2011

A quien corresponda.

Yo, Gustavo Salazar Steller, Cédula 6-222-547 y vecino de Esterillos Oeste, hago constar que como administrador del Acueducto de Esterillos por 15 años y conocedor del terreno en discusión de si es humedal a simplemente un depósito de agua en época de invierno, el cual se seca en verano, expreso lo siguiente.

Dicho terreno, no es humedad, yo conozco hace mucho tiempo y en verano dicha laguna se seca por lo tanto el proyecto que desarrollan es de beneficio para toda la comunidad de Esterillos y para el turismo que nos visitan.

Le agradezco su ayuda y se despide de ustedes.

Gustavo Salazar Steller
Gustavo Salazar Steller
Administrador AYA

Para mayor información llamar al 2778 8138 / 8361 9111 con Gustavo Salazar

The importance of the municipality minutes on September 13, 2012, stating that "SETENA is the maximum technical environmental authority, according to the valley legislation.

Here is the Muni's statement, see full minutes on the back page.

"After an exhaustive investigation from SETENA, it was dictated a resolution indicated as the first conclusion revoking one injunction, to continue the development of this project. Is this tribunal nose, and according to the article 50 of the constitution, SETENA is the maximum technical environmental authority, according to the valid legislation."

What is that valid legislation? It's found in every SETENA Resolution and reads as follows.

"Article 19 of the environmental organic law states that: the resolutions of the national technical secretariat of the environment must be well founded and justified. They shall be mandatory both for individuals in public entities and organisms".

I said it before and I will say it again, SETNEA Resolutions become Costa Rica laws that required everyone's compliance, and that goes for Criminal Prosecutors and Judges. The problem was that neither the Prosecutor, or the Judges, complied with Costa Rica law in complying with a number of SETENA Resolutions that determined there were no wetlands on the project site. That fact proved bias on the part of both the prosecutors and judges.

I told George Burn that many, many times. He was then asked by the panel to respond to their question at the end of the Trial about who is the top environmental authority in Costa Rica. I clearly told him it was SETENA, however, he again refused to follow my instruction and instead sided with Costa Rica's attorney who said it was MIANE. Can you get any clearer proof that he was working against the interests of his clients in a grossly negligent way? At every turn, Burn made incompetent decisions that hurt our case, that caused our case to be lost. I have to say it again, the kill shot decision was not following my instruction to put the bribery audio into evidence.

TRIBUNAL DE JUICIO PUNTARENA SEDE AGUIRRE Y PARRITE

CAUSE N.11-000009-611-PE

BREACHE/CRIME TO THE FORESTAL LAW AND OTHER

IMPUTED: DAVID AVEN AND JOVAN DAMJANAC

The subscribed, in a Parrita's Municipal Council Members rank, manifest:

By this means, we formally ask to this honorable tribunal to dismiss the current penal action against the imputed, by the absence of any breach, according to SETENA.

In fact, by the resolution No.2850-2011, with the date November 15th of 2011, it was resolved that *"according to all the preview information and the evidence requested to resolve as administrative record, in absence of motive of nullity on the granted environmental viability"* should be revoked every single injunction against the project CONDOM-INIO HORIZONTAL RESIDENCIAL LAS OLAS. In this sense the resolution is to revoke the resolution N.839-2011, of April 13th of 2012 at eight hours and forty minutes, which ordered the paralyzation as an injunction any activity or work of this project.

After an exhaustive investigation from SETENA, it was dictated a resolution indicated as first conclusion, revoking any injunction, to continue the development of this project. As this tribunal knows, and according to the article N.50 of the politic constitution SETENA is the maximum technical and environmental authority, according to the valid legislation. Precisely, based on these determinations the tribunal can act.

This way, with SETENA's dictation of the resolution No.2850-2011, revoking the injunction and which is based on MINAES' reports and of the competent techniques of the ministry organs, it was confirmed the complete absence of forests and wetlands or any other breach, because of this the project was allowed to continue.

Also, the Parrita's Municipal Council founds David Aven and Jovan Damjanac and the project "Condominio Horizontal Residencial Las Olas" fulfill all the permissions required emitted by Parrita's Municipality. In conclusion we approve and support the project Las Olas and we will like to see its progress.

September 13th of 2012, San Jose

The following letter was written by MINAE to Monica Vargas and the MUNI on October 20, 2012 telling them they don't have competency to demarcate the Wetland.

SINAC
 SISTEMA NACIONAL
 DE ÁREAS DE CONSERVACIÓN
 30 de octubre del 2012
 ACOPAC-D-738-2012

SISTEMA NACIONAL DE ÁREAS DE CONSERVACIÓN
ÁREA DE CONSERVACIÓN PACÍFICO CENTRAL
DIRECCIÓN REGIONAL

MDIA
 MINISTERIO DEL
 INTERIOR
 Y JUSTICIA

Señores (a)
 Mónica Vargas
 Luis Mario
 Nelson Masís
 Alejandro Montiel
 Comisión de Asuntos Ambientales
 Municipalidad de Parí

123
 2489-2012
 Comisión de Asuntos Ambientales

Asunto: Solicitud de demarcación de humedal palustino ubicado en el proyecto "Las Olas"

Estimados (a) señores (a):

El Área de Conservación Pacífico Central (ACOPAC) comprende su interés en la protección del humedal palustino ubicado en el proyecto "Las Olas". No obstante, la solicitud de demarcación por su pretendida competencia únicamente del Instituto Geográfico Nacional (IGN). Por tal motivo, fuera de nuestro alcance atender su petición.

Así las cosas, me permito recomendar que el gobierno local que ustedes representan dirija la solicitud a la Dirección de la entidad mencionada, en atención del licenciado Max Lobo Hernández.

Atentamente,

[Firma]
 Ing. Alfonso Duarte Marín
 Director Área de Conservación Pacífico Central



ACOPAC/Expositor Proyecto Las Olas-10

CS Origeno Viverón, Jefe al Departamento de Registro del Terreno
 Archivo de gestión, Dirección Regional ACOPAC.

Nota Informativa: El Sistema Nacional de Áreas de Conservación (SNAC) de Costa Rica protege, administra, conserva y maneja sostenible de la vida silvestre, los recursos naturales, los sitios culturales, las áreas hidrográficas y sistemas naturales; en conjunto con otros se ocupan para el bienestar de las generaciones presentes y futuras.
 Teléfono: (506) 2411-7000 R. (506) 2411-8077



To Make the above even more inexplicable, Monica Vargas a MUNICIPAL employee made the following statement in her witness Statement.

9. "On October 17, 2012, we requested that the ACOPAC demarcate the wetland and declare that *"our purpose [was] to prevent any damage to the natural heritage and in turn decide the status of the project so that they can continue their work"*.⁵³ On October 30, 2012, the ACOPAC replied that it was not competent to carry out the demarcation of the wetland in the Las Olas project since that task is the responsibility of the National Geographic Institute ("IGN").⁵⁴

So here in MINAE/SINAC own words they say they're not competent, but Burn agrees with Costa Rica's attorney to say that MIANE is the final authority against my direct instruction to tell the panel it's Below is the letter in English that Ms. Vargas received from SINAC?MINAE in regard to her letter. On the next page is the letter in Spanish notice the logos of SINAC and MIANE at the top and their Seal on the bottom.

SINAC

October 30th of 2012

ACOPAC-D-736-2012

TO

Monica Vargas

Luis Mario

Melson Masis

Alejandro Montiel

Environmental Management

Parrita Municipality

SUBJECT: Wetlands demarcation request, Las Olas Project

ACOPAC understands your request of the protection of the wetland located

In Las Olas Project, but the demarcation request is competency of the

National Geographic Institute (IGN) Reason why this request is out of our competency.

I recommend that the local government should redirect the request to this entity in attention to Lic. Max Lobo Hernandez.

SIGNED BY ALFONSO DUARTE MARIN ACOPAC

The following letter was written to David Aven by the Municipality asking me to pay for the demarcation of the wetlands since MINAE wrote and said they don't have the competency.



MUNICIPALIDAD DE PARRITA
SECRETARÍA MUNICIPAL
Tel. 2779 5454, fax 2779-9967
shernandez@municiparrita.com
Nº SM - 2012-841

Parrita, 20 de Noviembre de 2012.



TRANSCRIPTION DE ACUERDO

Sr. David Richard Aven
Presidente
Inversiones Cotsco CYT S.A

Estimado señor:

Por este medio le saludo y le comunico la siguiente Transcripción de acuerdo, del Concejo Municipal de Parrita.

Acuerdo N°03, Artículo Tercero, Informes, Punto N°02, Asunto N°01, sesión ordinaria N°2490-2012, celebrada el diecinueve de Noviembre del dos mil Doce.

PUNTO N°02:

INFORME DE LA COMISION DE ASUNTOS AMBIENTALES DEL CONCEJO MUNICIPAL, MUNICIPALIDAD DE PARRITA.

SESION N°01 DEL 15 DE NOVIEMBRE DEL 2012.

MIEMBROS PRESENTES:

ALEJANDRO MONTIEL LARIOS
LUIS GERARDO MERLO BRENES
NELSON MASIS CAMPOS

AC-03-2490-2012

ASUNTO N°01: Atención al oficio ACOPAC-736-2012 de fecha 30-10-2012 dirigido a las siguientes personas Mónica Vargas, Luis Gerardo Merlo Brenes, Nelson Masis, Alejandro Montiel, todos miembros de la Comisión de Asuntos Ambientales del Concejo Municipal, en su condición de Gestora Ambiental, la señora Mónica Vargas y en calidad de Regidores las demás personas en mención, en el cual proceden a contestar la solicitud de demarcatoria de humedal Palustrino ubicado en el proyecto denominado las Olas en la comunidad de Esterillos de Parrita.

RESULTANDO

- 1- Esta comisión ha procedido el día de hoy a el respectivo análisis del oficio ACOPAC-D-36-2012 y al respectivo análisis del expediente de origen que sirvió de base para solicitar la demarcatoria del humedal Palustrino al ACOPAC-MINAET y se considera lo siguiente:

CONSIDERANDO

- 1- Esta comisión considera que lo señalado en la moción presentada por el regidor propietario, Nelson Masis Campos ante el Concejo Municipal el día 05 de Noviembre del 2012 es lo correcto en el procedimiento y que como parte complementaria indica sobre las gestiones que se realizan para identificar si es que existe un humedal Palustrino en ese sector debe ser identificado y demarcado, esto con el fin de que no se obstaculice el desarrollo del proyecto.
- 2- Que se considera muy importante la gestión que se realizó en el ACOPAC-MINAET con el fin de obtener la demarcatoria del Humedal mencionado.
- 3- Que el día 06 de Noviembre del 2012 al ser las 10:20 am se recibe vía fax en la Secretaría del Concejo Municipal, el oficio ACOPAC-D-736- del 2012 en el que el área de ACOPAC comprende nuestro interés por realizar la demarcatoria del humedal señalado, sin embargo la demarcación pretendida es competencia únicamente del Instituto Geográfico Nacional, por tal motivo esta fuera del alcance del MINAET-ACOPAC atender lo solicitado por lo que recomienda se realice la gestión ante el IGN.
- 4- Esta comisión procedió a revisar el contenido presupuestario para los ejercicios del año 2012 y para el año 2012 y no existe contenido presupuestario que permita contratar dicha contratación por lo que es recomendable que el IGN sea contratado por un particular y que el Concejo Municipal lo autorice para que lo contrate.

PORTANTO

Esta comisión procede a recomendar para ante el Honorable Concejo Municipal que en vista del oficio N°ACOPAC-D-736- del 2012 no es posible continuar con la gestión ya que no se cuenta con contenido presupuestario para cancelar



MUNICIPALIDAD DE PARRITA
SECRETARÍA MUNICIPAL

Tel. 2779 5454, fax 2779-9967

shernandez@municiparrita.com

Nº SM - 2012-841

al IGN los costos de la demarcatoria y por lo consiguiente se debe de trasladar copia de dicho oficio al señor David Richard Aven, Presidente de Inversiones Cotsco CYT S.A para que se le informe que lo gestionado por la Municipalidad para realizar la demarcatoria no es posible ya que no se cuenta con contenido presupuestario, por lo que en caso de tener interés de forma particular la Municipalidad en sede el Concejo Municipal puede autorizarlo para que contrate los servicios del IGN, tanto a él como a cualquier otro representante de Sociedad alguna que tenga propiedad en la finca madre donde se ubica el Desarrollo denominado Proyecto las Olas.

Se somete a votación el informe de la Gestión Ambiental y el mismo es aprobado con cinco votos a favor, se somete a votación para que se declare en firme y es aprobado con cinco votos a favor.



Sandra Hernández Chiriquilla
Secretaria Concejo Municipal

cc.

The following letter was written by David Aven to Monica Vargas and the municipality of Parrita on November 25, 2012. It covers many things and I specifically referred to MINAE's statement that they don't have competency to demarcate the wetlands and tell them we don't have the money to pay for that study.

November 25, 2012

Senores (a)
Monica Vargas
Luis Mario
Nelso Masis
Alejandro Montiel
Comision ds Asuntos Amblerales
Municipalidad de Parrita

RE: Response to your request that we pay for a study to determine if wetlands exist at Las and where they exist.

On November 23, 2012, the Municipality sent me a copy of a letter they received from a Mr. Alfonso Duarte Marin, the director of Area de Conservacion Pacifico Central. This letter was in response to a letter that you sent to SINAC in which you requested them to identify and mark where wetlands exist at Las Olas.

In Mr. Marin's letter to you he clearly states that SINAC does not have the expertise to determine and mark where wetlands are and stated that only "Insittuto Gerografico Nacional (IGN) can do that. He then suggested you contact them and request they do a study.

You then sent a letter address to me, David Richard Aven, President of Inversiones Cotsco CYT S.A. in which you stated that the Municipality doesn't have the money to order such a study and you ask me to pay for it. Be advised that we don't have any money to pay for it either. This illegal action taken by various Governmental agencies against the project and me personally has essentially bankrupted the project and me personally. The criminal charges filed against me has permanently damaged my reputation in the community and has made it impossible for me to do any further business in Costa Rica. I am known as a fraudster who the Government has gone after criminally and has shut down the project due to wetlands.

In reviewing the letters we have gotten from various Government files, we see that the main culprit in the Municipality that has been spreading false allegations about wetlands at Las Olas to TAA, SINAC and the Fiscalia Adjunta Agrario Ambiental, has been Ms. Monica Vargas. We have a statement of minutes from a Consejo meeting dated where you clearly state that Ms. Vargas acted without the authority of the consejo or the Mayor in sending our letters on Municipal letter head, alleging wetlands at Las Olas and asking for an investigation, which resulted in the TAA shutting down the project in April of 2011. Her complaints could have also very well been responsible in having Fiscalia Adjunta Agrario Ambiental file criminal charges against me and Jovan as well. Her statements were being sent out on Municipal stationary caused the recipients to believe that Ms. Vargas was acting and speaking on behalf of the municipality. Her actions were illegal and did not follow proper SETENA procedures and I will explain why that is so now.

Coincidentally, last week on November 21, 2012 we had a meeting with Mr. at the SETENA office in San Jose. At that meeting was myself, David Aven, Mr. Manual Ventura, our administrative attorney, Mr. Esteban Bermudez, our environmental representative and Jovan Damjanic. The purpose of that meeting

was to inquiry with SETENA about what they knew concerning the criminal charges that were filed against me personally for violating wetlands, the criminal charges that were filed against Jovan Damjanic for cutting a forest and the challenges that were filed against the environmental permit that SETENA issued.

What we learned from SETENA was the following:

1. They were not very familiar with about what was going on since no one had contacted them about the various proceedings or challenges to the legal and lawful environmental permit that SETENA had issued.
2. In checking the SETENA file we saw no communication from Ms. Monica Vargas, TAA, Fiscalia Adjunta Agrario Ambiental, or SINAC in the file regarding the challenges they were making to the legally issued SETENA permit.
3. There were no copies of charges filed against us and no copies of reports that were done by SINAC stating there were wetlands, after SETENA issued their permit in June of 2008.
4. According to our study of the SETENA file we could find no letters to them from MS, Monica Vargas, TAA, Fiscalia Adjunta Agrario Ambiental, or SINAC asking them for their input in any way regarding a challenge they were making against the legally issued SETENA permit, which stated that there were no wetlands or forest at Las Olas.
5. I asked Mr. directly is SETENA the only Government agency that has been granted authority by the Government and the courts to issue environmental permits and his answer was yes.
6. I asked him do you take that responsibility seriously, His response was of course.
7. I asked him that once permits are issued by SETENA should other Government agencies respect those permits and honor them. His response was absolutely.
8. I asked him that once SETENA issues an environmental permit based upon those permits the developer acquires construction permits from the municipality, should the developer have confidence that they can then proceed with the construction of the project without fear that another Government agency will come along and close the project for environmental reasons and sue the developer. He response absolutely that's the whole purpose for issuing Government permits so people will have confidence that can proceed without fear or problems..
9. I asked him if after a SETENA permit is issued and anyone challenges that legally issued SETENA permit and makes a claim of wetlands, what does the law say how that is to be handled. His response was this;
 - A. Anyone making a claim about wetlands has to immediately contact SETENA about that claim and tell them with specificity why they are making that claim and the basis for making it. It will then be SETENA's responsibility to investigate the merits of that claim.
 - B. Any letters sent to anyone regarding an assertion about wetlands on a permitted project must be immediately filed with SETENA.
 - C. Any reports or studies that pertain to wetlands on a permitted project must by immediately filed with SETENA.
 - D. SETENA will then spear head the investigation and will review the original studies and reports that were filed with them prior to their approving and issuing the environmental permit. They will have to determined if a mistake was made before the permits was issued and by whom or if a mistake was made now, after the fact, and the charges being made now are without merit.
 - E. Any claims against legally issued SETENA permits has consequences for the developer and SETENA, since they were the ones that issued the environmental permit and they are the ones responsible for those permits and they must be the ones that spearheads the investigation to the challenges being made against the SETENA permit.
 - F. When SETENA issues a permit it's only done after SETENA has received reports from MINAE, studies and reportd done by an environmental company recognized by SETENA and

input from other agencies. Only after they receive extensive reports from all parties that state there are no wetland, no forests and no problem with the environment, will they issue an environmental permit. That permit carries the full weight of Costa Rica law and it should be respected and honored. And any challenges to that legally issued permit must be handled in strict accordance to the law and SETENA is the agency that will handle that investigation.

10. I had one final question for Mr. [redacted] and I asked him that if a challenge was made to the permit, should the developer be charged criminally for violating wetlands or forest when the permit by its very nature already established there were no wetlands, forest or any environmental problem with the project property. His response was of course not. The developer had nothing to do with the studies or reports and did not issue the permit to himself. If there is a problem or challenge to a SETENA permit, it must be taken up with SETENA.

Let me make this very clear, according to what we could see in the SETENA file, the above legal requirements were not followed by Ms. Vargas, TAA, Fiscalía Adjunta Agrario Ambiental, or SINAC. Instead they filed criminal charges against me and totally ignored SETENA who is the Governing agency with regard to legally issued SETENA permits.

I would highly recommend that you train your people to start following and obeying the law before flying off and making false assertions and accusations and to first determine what is the legally correct course of action to follow. That's why the Government has laws and procedures in place and they expect them to be followed. Mr. Vargas acted illegally in this matter and should be held accountable for her illegal actions. The Municipality failed to train and supervise her and whoever failed in that area should be held accountable as well.

This is a serious situation and is not a game of marbles; there are millions of dollars at stake here and the lives of individuals. I am being charged criminally by the Fiscalía Adjunta Agrario Ambiental, the project has been shut down by TAA and MINAE issued an illegal shut down notice of the project. All based upon false charges of wetlands. I go to trial to face criminal charges. The first time in my life I have been charged with a crime. The project has been destroyed and bankrupted by the illegal conduct by a number of different Government agencies. The property has been in effect expropriated by Government actions since we cannot use it for what it has been legally permitted for. The investors in the project have lost millions of dollars in invested capital and lost profits due to this illegal Government action in not respecting legally issued Government SETENA permits and not following the law in challenging those permits.

See the attached for your records of the various reports that have already been done showing that there are not wetlands or forest. See the SETENA resolutions that were issued, see the SETENA permits and reports that were issued. I find it amazing that after all the permits, studies and reports that were carried out by MINAE, SETENA, and INTA, that SINCA now says, that cannot say what is wetlands at Las Olas and want us to pay for another study and report by "Instituto Geografico Nacional (IGN) to determine that. How many studies and reports have to be done until there is a clear and decisive decision that all the Government agencies will stand behind and collectively speak together and say to all, there are no wet lands at Las Olas? What has happened to the investors and people who bought lots at Las Olas is just outrageous and indefensible. You all better get your act together because these kind of egregious actions are going to cause investor to flee your country for countries that are better managed and have laws in place that actually protect the investment of the investors. From our experience Costa Rica laws are weak or practically nonexistent when it comes to protecting the investor here and the word is getting out. People just stare at me in disbelief then I tell them I have been charged criminally for violating wet lands after receiving Government permits to develop the land. They just can't believe it and neither can I.

Regards,

David Aven
Share holder Representative.
Inversiones Cotsco CYT SA

The following letter was written to David Aven by the Municipality telling me the municipality has no complaints regarding irregularities. Burn did not ask anyone about this during his cross of state witnesses. English on back.



MUNICIPALIDAD DE PARRITA

Despacho Alcaldía Municipal

OAM-721-2012

Tel: 2779-54-54 ext. 111 Fax: 2779-99-65

freddygarro@hotmail.com

Parrita, 04 de diciembre del 2012


Señor
David Richard Aven
Representante Condominio Horizontal las Olas
Presente

Estimado señor:

Por este medio Yo Freddy Garro Arias, mayor de edad, divorciado, con cedula de identidad N°1-689-057, Alcalde de la Municipalidad de Parrita, según resolución N°0024-E11-2011 del Tribunal Supremo de Elecciones al ser las diez horas con cuarenta y cinco minutos del día tres del mes de enero del año dos mil once, para el periodo legal que iniciara el siete de febrero del dos mil once hago constar que esta Alcaldía no ha iniciado denuncia alguna por irregularidades en el Proyecto La Olas.

Así mismo hago constar con vista en los registros de la Alcaldía no ha habido gestión de anteriores Alcaldes para denunciar el proyecto en mención.

Atentamente,


Freddy Garro Arias
Alcalde Municipal



Cc: Archivo

OAM-721-2012

December 04th of 2012

To: David Aven

By this document, I Freddy Garro Arias, legal, divorced, ID -689-057, Municipal Mayor, according to the resolution 0024-E11-2011 of the TSE, on January 03rd of 2011, for the legal period to star on February 7th of 2011, i indicate that this prosecution has not started any complaint against Las Olas because of irregularities.

Also I indicate that according to the register of the mayor's office, there's not any preview Mayor to make a complaint about this projet.

Freddy Garro Arias.

The email dated 11/30/2014 was written to George Burn and Louise Woods talking about the MIANE letter to the MUNI telling them they have no competency to demarcate the wetlands. So Burn knew full well about this letter and yet for some inexplicable reason he agreed with Costa Rica attorney saying that MINAE was top environmental authority.

Also tell them I sent 8 boxes of FEDEX documents and in the email after this one they confirm they received the boxes.



000270
Sd Vg <david3a@gmail.com>

Out of Office: Vannin

KW <david3a@gmail.com>

To: "Burn, George" <gburn@velaw.com>

Cc: "Woods, Louise" <lwoods@velaw.com>

Sun, Nov 30, 2014 at 11:48 PM

George and Louise

Hope you had a brilliant weekend. On Saturday I FEDX 8 boxes of documents, including a box with master site plans and architectural constructions plans. I sent a big box with 4 smaller boxes in them. I marked one box "George important docs" The original purchase docs and trust is in there, so please put that in a safe place. Some of that may also be of interest to Vannin for their due diligence. I had Todd Weiler send the boxes to me in Florida so I could personally go through them to make sure the King and Spalding sent me all of the files that I gave them and also to highlight important documents for you.

Most of the documents are in Spanish, do you have a person that speaks Spanish at VE who can look at these documents and get them organized for both VE and Vannin and perhaps index them so you can know what they are and what the more important ones are for the case?

I think one extremely interesting set of documents was an exchange of letters between the Municipality and MINAE. In the early part of 2012, the MUNI was on our side in trying to get MINAE and TAA to rescind their shut down shut down order and let the project proceed. I will send you a copy of those letters TAA is an administrative environmental court who also shut the project down for wetlands violations based upon the false criminal complaint filed by Steve Bucelato and it was also taken up the Criminal prosecutor. In that exchange the MUNI wrote MINAE and specifically asked them where the wetlands were on the property. Now this was after the first trial was misstrialed by the prosecutor and a year after I was charged with violating wetlands. Now get this, MINAE writes the MUNI and says, we can't tell you where the wetlands are for that you have to get a study done by (they named the Government Agency, I forget right now, but will get those letters for you to reveiw) So the MUNI writes back and says they don't have the money to order that study.

So here you have an admission by MINAE that they didn't have the ability to determine where the Wetlands were, but they were the first agency that sent us the shut down notice in February of 2011, claiming that the existences of wetlands and sent a letter to SETENA and lied to them about the existence of a forged document that SETENA used in their decision to issue the the original permit. Based upon those two lies from a brother department head, SETENA issued a shut down notice for the project in April of 2011.

After we proved to SETENA that the MINAE representations to them were false, they rescinded their shut down notice and issued a formal resolution regarding the entire set of facts and in fact they reconfirmed their permit in November of 2011, at the very same time, literally, that the prosecutor was filing his criminal charges against me for violating wet lands and also against Jovan Damjanc for cutting a forest. So, in effect, SETENA, the only agency that has the power and authority to issue environmental permits was reconfirming their permit and saying there are no wetlands or forest and giving the project another green light to continue. Jovan was our sale and marketing guy who was at our one site project office.

Also, both MINAE and the prosecutor had the INTA report issued in April of 2011. This study was ordered by the prosecutor and INTA reported that their were not wetlands. I heard from the mouth of Luis Martinez, the prosecutor, before he filed his criminal charges against me if he had seen that report, tell me directly "I don't believe that report. Prosecuotrs are not supposed charging people with crimes that can send them to jail and destroy investments, based on their personal beliefs, but on cold hard facts. But this was did not happen in my situation and that is not an acceptable International standard. So the prosecutor in effect threw out the INTA report and instead relied solely on the MINAE report he ordered. However, MIANE had been compromised after they asked me for a bribe and I turned them down and the prosecutor knew that since I told him that personally when I gave him my statement in March of 2011. Yet he throws out the INTA report and clings to the MIANE report. Then MINAE writes the MUNI a letter in 2012 asking where the wetlands are they answer we don't know. You can't make this stuff up and as I told you before every time I write about the facts of this case, I feel like I am in a John Grisham novel.

Both MINAE and the prosecutor had the INTA report, which was ordered by the Prosecutor. Why wasn't that good enough for them? Why didn't they just accept that report, drop all criminal charges and false allegations and let the project continue? Surely both MINAE and the Prosecutor knew that INTA was the top Government authority on wetlands and knew that INTA actually teachers MINAE how to determine wetlands. Dr, Diogenes Curbero, the top guy at INTA did

the wetland studies and testified at the first and second trial and will testify at the third trial of Jovan, that his soil studies concluded that Las Olas did not have Wet Land soils. Why wasn't that good enough for Mr. Lus Martinez when he heard that testimony at the first trial and just dismiss the case instead of engineering a mistrial? AS YOU KNOW NONE OF THIS IS ACCEPTABLE INTERNATIONALLY STANDARDS. This is something that you would expect in Cuba, Venezuela or Iran, which is why we didn't go there to do a real estate project, yet it's the very thing the US Investors experience in the Pura Vida country of Costa Rica.

So I think these are powerful themes to drill down on that clearly demonstrates the both the failure and outrage of Costa Rica's illegal and abusive actions. Although this is not the grounds for our claim, it's something that we can use in a big way to impassion the arbitrators with outrage and give them grounds to give us the higher end of what we are asking for. To that point I want to quickly talk about the Batalla law firm in Costa Rica and why I think they can play a crucial part in our case and be of great value to the team.

Batalla is a small firm of 22 attorneys, but they have a reputation of being one of the best law firms in Costa Rica and frequently go up against the Government on all kind of issues. They specialized in Environmental and Criminal law and they will be the firm that will be representing Jovan in his third trial. Think about that for a moment, this trial started in December of 2012 and its still not over, we are going into 2015, how can you do business in a country like this, the short answer is you can't. Batalla is an experienced litigation firm who knows Costa Rica like the back of their hand and knows how to operate in that country. I met these guys about 6 weeks ago and then can really bring Latin passion into this case and really beat up on state witnesses at trial if you determine we should use them in that capacity. You are the good guys, the knights from the London table and are like the Che Guevara legal team from Costa Rica.

I met three of these guys in Orlando through my girl friends brother, Gabriel Murillo, who has done business with them for years. Gabriel is a very successful economist in Costa Rican and in fact worked many years for a large UK firm and they did all kind of business deals all over the world. The Batalla attorneys are good and passionate and I think can really hammer key Costa Rican people who will be testifying at trial, in a way that foreign attorneys couldn't, at least not without coming off as too harsh and disrespectful. But since they are Costa Rican's they can talk with knowledge and disgust about the cultural of corruption that exist. So the combination could be very powerful as well as the optics of having a Costa Rica law firm going up against their own Government on behalf of the US investors. I think that great optics.

So we will need to think about how to use these guys and perhaps talk to Vannin about this as well so they can understand the possible dynamics about this approach. I will leave that up to you about this. I am going to have Batalla email me an overview of their company and I will send that to you for your evaluation.

George, I keep thinking about the Romanian case and the fact that the original contract damage was 20 million, but the award came out at 250 million, that is the number I have in mind for our case, it may be crazy, but that is my vision board number. I spoke to Craig Miles, from King and Spalding, who represented the damage side of the case for the Romanian investors, and I remember asking him how they got from 20 million to 250 million and he told me that they never expected that, that they were thinking 50 million, but he felt it was because he didn't think the arbitrators liked very much how the Government treated the Romanian investors. I said, well if the arbitrators didn't like the way Romania treated the Romania investors, the arbitrators will hate how Costa Rica treated the US Investors.

Also another attorney there is Manuel Ventura. He will be testifying at the trial and has a lot of good information that he can testify about. Meetings with SETENA where they said that MINAE and the Prosecutor violated the law in not notifying them and bringing them in when they challenged their SETENA permit. They will tell you that the law states that SETENA must be brought into any challenge to their permits, and they will then become the lead investigative agency. What is key here is that Manuel's Father, also name Manuel Ventura, is a judge on the human rights court and worked with Pedro Nikken while he was on the court. Manuel's father is well known and respected in Costa Rica and has served at one time as Costa Rica's ambassador in to the US. So I think this will be impressive and effective for Nikken and the other arbitrators. Manuel also was my translator at the first trial in January of 2012 and we will get him to state that what Costa Rica did was in violation of my human rights and there was no bases for the criminal charge that was filed against me. So George, my vision board number is north of 250 million and I think we can get there.

One last comment. My brother Sam purchased two lots for himself, one he bought through is IRA self directed retirement investment account for \$100,000. It was in the area they were claiming wet lands. So he couldn't do anything with it. However, the IRA management company was charging him every year a fee to manage the investment. Also the Government was forcing him to pay taxes on the investment once he reached a certain age. He told them about the fact the the investment wasn't worth anything since it was declared a wetland and it was worthless. They told Sam that he needed to get it appraised as such, get it notarized and send it to them. So he did that and as you will see they put a zero value on the lot. So there is good evidence of the lot being valued at Zero due to the illegal government actions. My sister also bought a lot in the same area and Jeff Shioleno also bought 3 lots in the same area. Can they make individual claims for losses suffered on their individual lot purchases or will that have to be incorporated in the Main US Investor law suit.

David



David <david3a@gmail.com>

Out of Office: Vannin

Woods, Louise <lwoods@velaw.com>

Mon, Dec 1, 2014 at 10:56 AM

To: KW <david3a@gmail.com>, "Burn, George" <gburn@velaw.com>

David

Great weekend thanks, hope you had a good one too. I just wanted to confirm receipt of the documents. We will begin working through them and will come back to you with our comments and any questions shortly.

Kind regards

Louise

[Quoted text hidden]

Louise Woods
Associate

Vinson & Elkins RLLP
International Lawyers
CityPoint, 33rd Floor
One Ropemaker Street
London, EC2Y 9UE
Tel +44.20.7065.6045
E-mail lwoods@velaw.com

[Quoted text hidden]

The email dated 12/17/2016 was my comments on our post hearing submission to be made in the near future. What's important in this email was the words "manifest and evident" That was the bar set by the attorney general of Costa Rica that the state had to reach to prove anything. That standard was never meant by the state on any level and I told Burn to argue that. However, as usual, none of what I suggested was ever covered effectively. Again like talking to a wall.

46
Sd Vg <david3a@gmail.com>**SETENA RES JUNE 2008**

Info@mylobc.com <info@mylobc.com>

Sat, Dec 17, 2016 at 2:22 PM

To: "Burn, George" <gburn@velaw.com>

Cc: "Woods, Louise" <lwoods@velaw.com>, "Dr. Todd Weiler" <todd@treatylaw.com>

George

During the course of preparing my post hearing evaluation, I was able to review a copy in English of the June 2 2008 resolution. Attached is a copy of that SETENA Resolution in English.

I was amazed to find a tremendous amount of manifest and evident statements in this resolution that prove SETENA was intimately involved with all aspects of their permit including a field inspections. I bracketed the manifest and evident statements, which Baker had in-depth conversations with Juardo about. These statements are diametrically opposed to what the claimants have been asserting. I guess my question is why wasn't this proffered at the hearing during our cross examination of Costa Rica's witnesses and the statements gone through one by one to get their response, which would have got it right in front of the panel during the hearing?

I sent you my post hearing evaluation which I listed all the various SETENA Resolutions and reports they were issued by the government. We definitely need to talk about these on our post hearing memorials because they will clearly show the panel, that there were numerous resolutions, reports and permits issued. This was not just a one off where we got one SETENA Resolution and they keep saying the I duped SETENA into issuing it. There were many permits and reports issued between 2004 and 2011, that's a 7 year period. We really need to put this in a chronological order and talk about them so the panel clearly understand the Respondents just lying to them; and their representations are all just fake news stories that were never mentioned during the criminal trial and are newly created by the respondents for the CAFTA Arbitration and appears to be their only defense.

We really need to nail Leathley on the fact that when he had the opportunity to cross examine me after I challenged him on his slanderous opening statements about me being a criminal, he failed to raise one question or provide one bit of evidence that would prove any of his outrageous and false charges. The panel has probably taken note of that, but we shouldn't assume so and should state it very clearly in our post hearing memorial.

Let's talk next week about this if your around and have time.

David

 **SETENA RES June 2008.pdf**
708K



4P
Sd Vg <david3a@gmail.com>

SETENA RES JUNE 2008

Sun, Dec 18, 2016 at 8:14 AM

Burn, George <gburn@velaw.com>

To: "info@mylobc.com" <info@mylobc.com>

Cc: "Woods, Louise" <lwoods@velaw.com>, "Dr. Todd Weiler" <todd@treatylaw.com>

Thanks, David.

I agree on both your points: we will be reiterating in or post hearing brief the number, scope and effect of the various Setena resolutions and other permits; and the odd decisions on cross examination will also be laid out.

Regards

George

Sent with Good Work (www.blackberry.com)

[Quoted text hidden]

George Burn
Partner



E	gburn@velaw.com	Vinson & Elkins RLLP
W	+44.20.7065.6055	20 Fenchurch Street
M	+44.795.858.8325	24th Floor
		London, EC3M 3BY

Solicitors and Registered Foreign Lawyers

CONFIDENTIALITY NOTICE: The information in this email may be confidential and/or privileged. This email is intended to be reviewed by only the individual or organization named above. If you are not the intended recipient or an authorized representative of the intended recipient, you are hereby notified that any review, dissemination or copying of this email and its attachments, if any, or the information contained herein is prohibited. If you have received this email in error, please immediately notify the sender by return email and delete this email from your system.

Thank You.