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IN THE SUPREME COURT OF BELIZE, A.D. 2002

Action No. 61

IN THE MATTER of an application for leave to apply for
Judicial Review

AND

IN THE MATTER of a decision by the National Environmental
Appraisal Committee made on Friday, November 9, 2001 to
Approve an Environmental Impact Assessment by Belize
Electric Company Limited

AND

IN THE MATTER of a Decision of the Department of the
Environment or of the National Environmental Appraisal
Committee made on Friday, November 9th 2001 to grant
Environmental clearance to the Macal River Upstream
Storage Facility Project

AND

IN THE MATTER of the Environmental Protection Act Chapter 328
of the Laws of Belize, Revised Edition, 2000, and the
Regulations made thereunder

THE QUEEN

And

DEPARTMENT OF ENVIRONMENT

BELIZE ELECTRIC COMPANY

LIMITED

RESPONDENTS

and

Ex parte BELIZE ALLIANCE OF

CONSERVATION NON GOVERNMENTAL

ORGANIZATIONS (BACONGO)

APPLICANT

AFFIDAVIT

I Beverly Wade of #33 Gill Street Belize City Biologist HEREBY MAKE
OATH AND SAY as follows:

1. I am Fisheries Administrator in the Ministry of Agriculture & Fisheries.

2. In 1998 I was awarded a Bachelor of Science Degree in Zoology from the University of the West Indies. I majored in Marine Ecology and Fisheries.
3. I commenced working at the Fisheries Department in 1991. After returning from studies in 1998 I worked at the Coastal Zone Management Authority (the "CZMA") and in the year 2000 was appointed as Fisheries Administrator in the Ministry of Agriculture and Fisheries.
4. I am a member of the National Environmental Appraisal Committee ("NEAC") established under the Environmental Impact Assessment Regulations .
5. The Environmental Impact Assessment (the "EIA") study for the Macal River Upstream Storage Facility Project (the "MRUSF") was delivered to the Fisheries Department in August 2001.
6. There was an earlier version of the EIA which was sent to the Department of the Environment some years before. At that time I was Reef Biologist at the CZMA. I had read the said version of the EIA and had made comments thereon to my supervisor.
7. There was first a meeting of NEAC in August 2001. By that time everybody had received the EIA. A time was then set for the next meeting. This time was for October. In the intervening period I read it properly. It was also submitted to my Senior staff for their input, in particular George Myvett Senior Fisheries Officer because we needed to assess the impact on the fresh water flora and fauna which is also (like myself) his particular area of expertise. By the time the next meeting took place on the 24th of October 2001 we had gone through the document and had noted our comments and concerns. During this time we received two substantial documents of comments from (a) Natural Resource Defence Council (the "NRDC") and (b) the Belize Alliance for Conservation NGO's ("BACONGO") and I went through these documents to understand their concerns and views.
EIA # given out on 29th Aug 01
8. In recent years there has been considerable public discussion and commentary on the MRUSF. Through the public discussion, the comments from the NGO's and the report on public consultation contained in Volume IV Part 2 of the EIA, I was fully aware of the various views and concerns of members of the public and took these into account in my approach to the exercise of reviewing and formulating a position on the MRUSF.
9. As an example I noted that one of the concerns from the public was the economics of the MRUSF. This issue was addressed in the meetings of NEAC. It was and is my own view that it was not even possible or at least realistic for the developer to specify prices and rates at this stage but this being an area of concern the NEAC Chairman Mr. Ismael Fabro obtained from BECOL and Fortis a

commitment that the rates would not be increased in consequence of the project.

10. One of the criticisms in relation to the ^{what first draft} first draft version of the EIA was that it did not reflect consideration of alternative energy generation methods. This later EIA did that. It was pointed out by BEL the hydro was the cheapest method available and indeed if we did not go that route the rate would have to be increased since the demand for capacity was growing and the supply from Mexico was more and more becoming inconsistent and unreliable.

11. BECOL representatives made these presentations at meetings of NEAC on the 8th of November 2001. A representative of the consultant was also present.

12. After the meeting of the 8th November 2001 my concerns on the economics of the project were satisfied.

13. Though additional information was requested from BECOL after the meeting of the 24th of October 2001 I would not say that the EIA was not complete. There were certain specific areas where we felt that more details may provide clarification of issues or assist in addressing certain concerns.

14. The issue of the mitigative measures was addressed at the meeting of the 8th and 9th of November 2001. I felt that some more particulars should be determined but that these could be dealt with in an Environmental Compliance Plan (the "ECP") which could constitute conditions for approval. ^{no authority in law for a "E}

15. NEAC members made clear to the Chairman that the EIA was being approved on the condition that the concerns expressed would be dealt with in the ECP that was to follow and BECOL would have to provide financial support for the mitigation measures since GOB could not be expected to sustain these expenses. ^{Develop.}

16. It is my opinion that the EIA was well done. I think that the developer made every effort to address areas of concern. I was impressed with the level of participation by NEAC members and also their professionalism and competence. It reflected the level of examination of the document by the members. The recommendations made in relation to for instance mitigation measures also reflects the level of examination.

17. In the NEAC meetings for consideration of the EIA the Chairman ensured that the concerns of all members were aired and discussed. After discussions at the meeting of 9th November 2001 the Chairman asked if we had addressed everything before voting on the MRUSF. At that time Candy Gonzalez stated that she could not support the EIA because there was insufficient consultation. I asked what would further public consultation achieve and how would it benefit the process where we are at right now. The project had already been subjected to a whole lot of discussion and ventilation. The question was tabled at the meeting – whether there was a need for further

as no consultation by NEAC to regulator

public consultation and all except Candy voted no. She also said that the EIA was incomplete but did not specify how. So Candy was given the opportunity before the final vote to argue why we should not approve the EIA as it was and I did not find her arguments at all convincing.

18. The copy of the EIA that I had received did not suffer from missing pages. I remember that at the 24th October 2001 meeting there were some members who reported that there were some pages missing. The individual members noted the pages missing and gave the chairman. A couple days later I got a call from Dawn Sampson from BEL asking me if any pages were missing and I explained that my copy was complete.

SWORN by BEVERLY WADE)
At *Belya City*)
On the *30* day of April 2002) *Beverly Wade*

Before me,

AUDREY GRINAGE
Audrey Grinage
Commissioner of the Supreme Court

This Affidavit is filed on behalf of the Department of the Environment and the Ministry of Natural Resources.