

SUBMISSION
No. SALA-CA-PMA/001/2021

BARU VOLCANO NP Factual Record

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ACRONYMS

ECA	Environmental Cooperation Agreement
ANAM	National Authority of the Environment
BPPS	Palo Seco Protector Forest
KBAs	Key Biodiversity Areas
PILA	La Amistad International Park
PNVB	Barú Volcano National Park
RBA	La Amistad Biosphere Reserve
SEEM /SALA	Secretariat for Environmental Enforcement Matters
SINAP	National Protected Areas System
SINIA	National System of Environmental Information
TPA	Trade Promotion Agreement
UICN	International Union for Conservation of Nature
UNESCO	United Nations Educational, Scientific and Cultural Organization

MAIN ACTORS WITHIN THE SUBMISSIONS AND FACTUAL RECORD MECHANISMS

THE SECRETARIAT FOR ENVIRONMENTAL ENFORCEMENT MATTERS

The Secretariat for Environmental Enforcement Matters (SEEM) was established by the Agreement Establishing a SEEM Under the United States-Panama Trade Promotion Agreement (Secretariat Agreement), pursuant to Articles 17.8 (Submissions on Enforcement Matters) and 17.9 (Factual Records and Related Cooperation) of the Environment Chapter of the United States-Panama Trade Promotion Agreement (TPA).

The following are functions of the Secretariat, according to the Secretariat Agreement:

1. Perform the functions established for it under Articles 17.8 and 17.9 of the TPA and take appropriate additional actions to carry them out:
 - a) Receive and review submissions,, in accordance with paragraphs 1 and 2 of Article 17.8 of the TPA.
 - b) Determine whether a submission merits requesting a response from the Party and receive that response, in accordance with the provisions set forth in paragraphs 4 and 5 of Article 17.8 of the TPA.
 - c) Consider whether the submission, in light of any response provided by the Party, warrants developing a factual record, in accordance with paragraph 1 of Article 17.9 of the TPA.
 - d) Prepare a factual record, if the Environmental Affairs Council (Council), by a vote of either Party, instructs it to do so, in accordance with the provisions set forth in paragraphs 2 and 4 Article 17.9 of the TPA.
2. Apply working and other procedures established by the Council.

3. Take further actions as the Council may direct. Promote public awareness and understanding of the public submissions and assertions records process.

Persons filing the Submission (Submitters)

Any person of a Party, in this case Panama, who files a submission with the Secretariat, as set forth in Article 17.8 of the TPA. In this case, the following:

- **Ezequiel Miranda**, personal identity document number No. 4-119-1576, a resident of Bajo Mono, district of Boquete;
- **Ángel Aguirre Sánchez**, personal identity document number No. 4-159-353, resident of Guadalupe, Cerro Punta, district of Tierras Altas; and
- **Ariel Rodríguez Vargas**, personal identity document number No. 4-237-244, resident of David, Province of Chiriquí.

Environmental Affairs Council (Council)

The Council was established by Article 17.6 of the TPA. It is comprised of representatives of the Parties at the cabinet-level or equivalent, or their designees. The functions of the Environmental Affairs Council are the following:

1. Oversee the implementation of and review progress under the Environment Chapter of the TPA and consider the status of the cooperation activities developed under the Environmental Cooperation Agreement (“ECA”) between the Governments of the United States and the Republic of Panama).

2. Ensure a process for promoting public participation in its work, including by engaging in a dialogue with the public on environmental issues of interest.
3. Seek appropriate opportunities for the public to participate in the development and implementation of environmental cooperation activities, including through the ECA.

Executive Summary

Work Plan

In accordance with the procedure established in Chapter 17 of the TPA (Articles 17.8 and 17.9), the Secretariat received the Council instruction to develop a Factual Record regarding Submission No. SALA-CA-PMA/001/2021, “Barú Volcano National Park.”

As stipulated in article 17.9 FACTUAL RECORDS AND RELATED COOPERATION, paragraph 4:

“In preparing a factual record, the secretariat shall consider any information furnished by a Party and may consider any relevant technical, scientific, or other information:

- a. that is publicly available;
- b. submitted by interested persons;
- c. submitted by national advisory or consultative committees;
- d. developed by independent experts; or
- e. developed under the ECA.”

Pursuant to this provision, the Working Procedures of the United States-Panama Secretariat for Environmental Enforcement Matters (Working Procedures) stipulates the following in Section 8, “What is a Factual Record?”:

“A Factual Record is a document prepared by the Secretariat that compiles all of the information, starting with the submission that initiated the proceedings, and objectively presents the facts related to the assertion raised in the submission.

The Secretariat prepares a preliminary Factual Record no later than 120 calendar days from the receipt of Council’s communication instructing its preparation. The preliminary Factual Record is submitted to the Council to provide comments on the accuracy of the draft within 45 calendar days. Having received comments from either of the Parties on the certainty of the facts, or having fulfilled the deadline for comments, the Secretariat incorporates those comments and/or contributions that it deems are pertinent; prepares the final Factual Record, and submits it to the Council within 30 calendar days.

The development of a Factual Record by the Secretariat is carried out without prejudice to any further steps that may be taken with respect to any submission.”

A calendar of activities was initially prepared, and it was distributed throughout the 16 weeks of the

term, in accordance with the 120-calendar day deadline, established by the Working Procedures, to compile the necessary information to consolidate the draft of the factual record. This calendar contains the main activities to be covered by the Secretariat to comply with the objective. Six additional weeks were added to the calendar per an extension request authorized by the Council.

General Description of the SEEM activities																						
Factual Record preliminary draft preparation (120 days)																	Extension period (45 days)					
Weekly activities	Sept.			Oct.				Nov.				Dec.					Jan.			Feb.		
	11- 18	19- 25	26- 30	1- 9	10- 16	17- 23	24- 31	1- 6	7- 13	14- 20	21- 30	1- 11	12- 18	19- 25	26- 31	1- 8	9- 15	16- 22	23- 31	1- 6	7- 13	14- 22
Analysis of documents and assertions identified																						
Research and information compendium																						
Request/withdrawal of formal information																						
Contact with expert																						
Public Hearings																						
Site Visit																						
Factual record draft																						
Submission to the Environmental Affairs Council																						

Table 1. Calendar which details the distribution of the activities by the Secretariat to prepare the preliminary draft of the factual record.

The following are brief descriptions of the purpose of each one of the activities scheduled to be carried out:

- **Analysis of the documents and identification of the facts:** The Submission reported several types of situations in different areas, not only in Barú Volcano National Park, but also in other areas surrounding it and La Amistad International Park. During this period, the information described above was analyzed, in order to list and group the facts identified, and thus be more precise regarding the information to be gathered. Likewise, the response by the Party was treated as a reference, since it was submitted after the deadline, and could not be considered a formal response.
- **Period for investigation and compilation of the information:** This activity sought to gather the information that is available to the public, particularly that associated with the applicable legal provisions, according to the subject matter and technical documents published for the areas stated in the Submission. A meeting was held with the persons filing the Submission and members of their organizations, to explain to them the nature of the Factual Record and the process for its preparation. They were also invited to share any relevant information in their possession, to compile it, and send it to the Secretariat. This activity was carried out mainly through digital means, using the databases of the Ministry of the Environment of Panama, non-governmental organizations, and academia. A meeting was also held with the Office of the Regional Director of the Ministry of the Environment in the Province of Chiriquí, to review documents.

- **Request/disclosure of formal information:** As was previously mentioned, the Party sent a response that, since it was tendered after the deadline established for the Party to submit its response, could not be analyzed as such. Considering said response, the content of which included the reply sent by the Party to the persons filing the Submission, the Party was requested to submit additional information. The purpose of this request was for this data to formally enter the process to clarify specific points on the facts that were communicated by the persons filing the submission. This request for information was submitted in the month of October 2021, and partial replies were received in early January and February 2022.¹
- **Contact with experts:** Two meetings were held with Ciencia in Panamá, an organization of natural and social sciences professionals in the country, for the purpose of finding within its database a professional whose services could be used to collect geospatial data. The purpose for collecting this data was to allow a site view of the statements made by the persons filing the Submission, in those cases with available access to compile this information. After these conversations took place, Dr. Iuri Herzfeld was hired to collect this data at Barú Volcano National Park and to participate in public hearings and site visits. During the period of contact with experts, individual conversations and a meeting were held with professionals who, at different times in the last 15 years, served as National Directors of the Directorate of Protected Areas and Biodiversity of the Ministry of the Environment (formerly

¹ The corresponding notes can be accessed in the digital file appendix that has been included.

ANAM). These efforts were made to obtain their opinion about the assertions stated by the persons filing the submission.

- **Public hearings:** Two public hearings were scheduled to allow for the participation of all interested actors. The hearings were held on November 16 and 18, 2021, in the communities of Volcán and Boquete, respectively, since they were located the closest to the protected areas described in the Submission. In addition to asking for participation by the public, it was reiterated that if they have information related to the facts stated in the Submission, this information could be provided during the hearing. It was also announced that the pertinent information could be found on the webpage of the Secretariat. This announcement was made in a national-circulation newspaper, on social media, and in radio interviews.
- **Site visits:** To take advantage of the deployment to participate in the public hearings, two site visual inspection visits were scheduled in coordination with the persons filing the Submission. The purpose of these visits was for them to serve as a guide, and to show the Secretariat and the contracted expert some of the locations described in their Submission. The visits were also used to take photographs and to collect general information relevant to the record. These inspections were carried out on November 17 and 19, 2021 in areas of the district of Tierras Altas and in the district of Boquete, respectively.
- **Consolidation of the preliminary draft of the factual record:** A significant portion of the general information needed to consolidate a draft Factual Record with the facts stated in the Submission, and the applicable environmental legislation was available at this

time. Nevertheless, an extension was requested to consolidate the information, due to the amount of documentation collected through the beginning of December 2021. The extension was also requested to wait for the report prepared by the contracted expert, and for the information which had been formally requested from the Party.

- **Preliminary draft sent to the Environmental Affairs Council:** Upon the expiration of the 120 days, as well as the additional 45 days of the extension granted for the Secretariat to prepare the preliminary Factual Record, the version in Spanish of the latter was sent to the Council. The version in English was submitted to the Council after its translation, in order to officially receive the comments of both Parties pertaining to the accuracy of the document and the adjustments to be made.

All the activities that were scheduled and carried out within the process for the preparation of this document were directed at the compilation of the greatest amount of information, technical as well as legal, which bears a relevant relation with the assertions made by the persons filing the Submission, and thus deliver to the Environmental Affairs Council a Factual Record prepared in an objective, impartial manner.

It is stated, for the record, that no value judgment or determinant or equivalent conclusions of any kind are to be reached in this document. This is why the Secretariat and the Factual Record itself adhere to the assertions made by the persons filing the Submission; the interested parties who participated in the public hearings or as experts; and the legal and technical provisions which have been quoted verbatim and within their context.

I

ABOUT THE ENVIRONMENT CHAPTER OF THE TPA AND THE SECRETARIAT FOR ENVIRONMENTAL ENFORCEMENT MATTERS.

The TPA entered into force on October 31, 2012, after approximately 20 years of negotiations, with the best interest in maintaining, consolidating, and broadening the trade ties between the two countries, which have been historic partners since the construction of the Interoceanic Canal.

Several objectives guided the negotiations for this TPA, among them the environmental objective, which was pursued to “Ensure that the framework of norms and principles adopted at the international regulatory level is extended to existing national legislation in such a way that there is no weakening of national provisions as a condition for the establishment and promotion of investments.”²

The TPA entered into force with a total of 22 chapters, establishing provisions which broadly regulate the commercial exchange between the markets of Panama and the United States. It includes disciplines for access to services, investment, and non-tariff barriers among others; ensuring stability and legal certainty for the development of these activities.

The environmental topic addressed during the negotiations was finalized in Chapter 17, which consists of 14 articles and two annexes. These articles and annexes set out obligations on issues such as Levels of Protection (Article 17.1); the Enforcement of Environmental Laws

² Trade Promotion Agreement (TPA) between Panama and the United States of America, Explanatory Document, Ministry of Commerce and Industries, International Trade Negotiations Office, General Directorate for the Administration of International Commercial Treaties. Panama, 2012. Page 22.

(Article 17.3); Procedural Matters (Article 17.4); Voluntary Mechanisms to Enhance Environmental Performance (Article 17.5); Opportunities for Public Participation (Article 17.7); Submissions on Enforcement Matters (17.8); and Environmental Cooperation (Article 17.10), among others.

In accordance with the commitments of the TPA, representatives of the governments of the United States and Panama signed the Secretariat Agreement, in December 2015. The Secretariat established under this Agreement was tasked with carrying out the functions set out in Articles 17.8 and 17.9 on Submissions on Enforcement Matters Factual Records, and Related Cooperation, respectively.

Under the provisions set forth in that Agreement, the Secretariat performs its functions under the guidance and supervision of the Environmental Affairs Council established in Article 17.6 of the TPA. The Council is comprised of representatives of each Party at the cabinet-level or their equivalent or their designees. The Secretariat Agreement also established that the Secretariat is not a representative of either Party or the Council.

Pursuant to the Agreement, and to Articles 17.8 and 17.9 of the TPA, the Secretariat shall promote public awareness and the understanding of the public submissions and factual record process, which provides that “any person of a Party may file a submission asserting that a Party is failing to effectively enforce its environmental laws...”³

The Secretariat began operations in May 2017, with the appointment of its Executive Director. The Working Procedures of the Secretariat were signed during a meeting of the Environmental Affairs Council, held in Panama in October 2018.

³ Article 17.8.1 of the Panama-United States TPA, on Submissions Pertaining to the Environmental Legislation Enforcement.

II

REGARDING THE PROCEDURE FOR SUBMISSIONS AND FACTUAL RECORDS.

The procedure to be followed for the presentation and handling of the submissions and factual records is regulated by Articles 17.8 and 17.9 of the TPA, and are elaborated in the Working Procedures of the Secretariat.

Article 17.8 of the TPA regulates submissions related to the environmental enforcement matters and states verbatim:

- “1. Any person of a Party may file a submission asserting that a Party is failing to effectively enforce its environmental laws. Such submissions shall be filed with a secretariat or other appropriate body (“secretariat”) that the Parties designate.
2. The secretariat may consider a submission under this Article if the secretariat finds that the submission:
 - a. is in writing in either English or Spanish;
 - b. clearly identifies the person making the submission;
 - c. provides sufficient information to allow the secretariat to review the submission, including any documentary evidence on which the submission may be based;
 - d. appears to be aimed at promoting enforcement rather than at harassing industry;
 - e. indicates that the matter has been communicated in writing to the relevant authorities of the Party, and indicates the Party’s response, if any; and
 - f. is filed by a person of a Party.”

Once the verification of the formal requirements for the admission of the

Submission is carried out, the Secretariat is responsible for the verification of the substantive content. Article 17.8 states the following in this respect:

- “4. Where the secretariat determines that a submission meets the criteria set out in paragraph 2, the secretariat shall determine whether the submission merits requesting a response from the Party. In deciding whether to request a response, the secretariat shall be guided by whether:
- a. the submission is not frivolous and alleges harm to the person making the submission;
 - b. the submission, alone or in combination with other submissions, raises matters whose further study in this process would advance the goals of this Chapter and the ECA, taking into account guidance regarding those goals provided by the Council and the Environmental Cooperation Commission established under the ECA;
 - c. private remedies available under the Party’s law have been pursued; and
 - d. the submission is drawn exclusively from mass media reports.”

Once the substantive content is analyzed according to the previously mentioned parameters, if the Secretariat determines that the submission merits requesting a response from the Party, it shall proceed to make

the notification, by sending the Party a copy of the submission and all supporting information provided with it.⁴ Article 17.8 stipulates the following regarding this request for a response from the Party:

- “5. The Party shall advise the secretariat within 45 days or, in exceptional circumstances and on notification to the secretariat, within 60 days of delivery of the request:
- a. whether the precise matter at issue is the subject of a pending judicial or administrative proceeding, in which case the secretariat shall proceed no further; and
 - b. of any other information the Party wishes to submit, such as:
 - i. Whether the matter was previously the subject of a judicial or administrative proceeding;
 - ii. whether private remedies in connection with the matter are available to the person making the submission and whether they have been pursued; or
 - iii. information concerning relevant capacity-building activities developed under the ECA.”

Once the response from the Party is received, or the term established for submitting the response has expired, the Secretariat is responsible for evaluating the submission and the response sent by the Party, should one exist and to determine based on this information whether the information warrants developing a factual record. The Secretariat shall so inform the Environmental Affairs Council and provide its reasons.⁵

⁴ Section 5 of the Working Procedures for Submissions Pertaining to the Environmental Legislation Enforcement.

⁵ Section 7. Op. cit.

A factual record is a document prepared by the Secretariat that compiles all of the information, beginning with the submission that started the proceedings, and objectively presents the facts related to the assertion raised in the submission.⁶

Article 17.9 of the TPA establishes the following with respect to the factual record:

- “1. If the secretariat considers that the submission, in light of any response provided by the Party, warrants developing a factual record, the secretariat shall so inform the Council and provide its reasons.
2. The secretariat shall prepare a factual record if the Council, by a vote of either Party, instructs it to do so.
3. The preparation of a factual record by the secretariat pursuant to this Article, shall be without prejudice to any further steps that may be taken with respect to any submission.
4. In preparing a factual record, the secretariat shall consider any information furnished by a Party and may consider any relevant technical, scientific, or other information:
 - a. that is publicly available;
 - b. submitted by interested persons;
 - c. submitted by national advisory or consultative committees;

- d. developed by independent experts; or
- e. developed under the ECA.

5. The secretariat shall submit a draft factual record to the Council. Each Party may provide comments on the accuracy of the draft within 45 days thereafter.
6. The secretariat shall incorporate, as appropriate, any such comments in the final factual record and submit it to the Council.
7. The Council may, by a vote of either Party, make the final factual record publicly available, normally within 60 days following its presentation.
8. The Council shall consider the final factual record in light of the objectives of this Chapter and the ECA. The Council shall, as appropriate, provide recommendations to the Environmental Cooperation Commission related to matters addressed in the factual record, including recommendations related to the further development of the Party's mechanisms for monitoring its environmental enforcement.”

As set forth in Section 8 of the Working Procedures:

“...

The Secretariat prepares a preliminary Factual Record no later than 120 calendar days from the receipt of the Council's communication

⁶ Section 8. Op. cit.

instructing its preparation. The preliminary Factual Record is submitted to the Council to provide comments on the accuracy of the draft within 45 days. Having received comments from either Party on the certainty of the facts, or having fulfilled the deadline for comments, the Secretariat incorporates those comments and/or contributions that it deems pertinent, prepares the final Factual Record, and submits it to the Council within 30 calendar days.

The development of a Factual Record by the Secretariat is carried out without prejudice to any further steps that may be taken with respect to any submission.”

The actions and objectives of the Secretariat applicable to Submission No. SALA-CA/PMA/001/2021, “Barú Volcano National Park” are carried out within reference of this legal framework, reason whereby it shall be cited as its basis throughout this document.

III

GENERAL CHARACTERISTICS OF THE AREA

1. Country, province, and district where the events pertaining to the Submission are unfolding

a) General information about the country and area under investigation.

The Republic of Panama is located in the northwestern hemisphere, in the intertropical zone next to the terrestrial Equator, between coordinates 7°12'07" and 9°38'46" Latitude North, and 77°09'24" and 83°03'07" Longitude West. Its borders are the Caribbean Sea to the North; the Pacific Ocean to the South; the Republic of Colombia to the East; and the Republic of Costa Rica to the West. Spanish is the official language.

As described by the information provided by the Tommy Guardia National Geographic Institute, it has a total surface area of 75,319.81 km² comprised of its land surface, territorial sea, continental platform, subsoil, and the air space between Colombia and Costa Rica.⁷

Its political administrative division consists of 10 provinces (Bocas del Toro, Coclé, Colón, Chiriquí, Darién, Herrera, Los Santos, Panama, Panama Oeste, and Veraguas); and six indigenous territories (Guna Yala, Emberá- Wounaan, Ngäbe Buglé, Guna of Wargandi, Guna of Madugandí, and Naso Tjër Di⁸). There are 79 districts or municipalities and 655 corregimientos in the entire country.⁹

⁷ <https://www.inec.gob.pa/archivos/P8551DatosGenerales2.pdf>, pages 1-4.

⁸ Created by Law 188 of 4 December 2020. Official Gazette No. 29170-A

⁹ Political Constitution of the Republic of Panama, Article 5: The territory of the Panamanian State is administratively divided into Provinces, which in turn are divided into Districts, and the Districts into Corregimientos. The Law may create other administrative divisions, either to subject them to special regimes or for reasons of administrative convenience or public service.

According to data compiled by the National Statistics and Census Institute, the population of Panama through 2016 was 4,037,043 inhabitants, of which 59.2% is found in the provinces of Panama, Panama Oeste, and Colón. The provinces of Bocas del Toro, Chiriquí, and the Ngäbe Buglé Indigenous Territory have 20.3%. They are followed by the provinces of Coclé, Herrera, Los Santos and Veraguas, where 17.8% of the population resides in. The province of Darién, along with the Guna Yala, Madugandí, Wargandí, and Emberá-Wounaan indigenous territories, represent 2.7% of the total population.¹⁰

The length of the Panamanian coastal area totals 2,988.3 kilometers, of which 1,700.6 km belong to the Pacific coastline and 1,287.7 km to the Caribbean coastline. The territory is made up of 5 hydrological regions in which 52 hydrographic basins are distributed. Among the latter, 34 belong to Pacific Ocean watershed and represent 70% of the national territory; 18 correspond to the Caribbean watershed, and comprise the remaining 30% of the territory.¹¹

As for the physical characteristics of the Country, land that is hot and of low elevation spans 70% of the country. Most of it lies on elevation below 700 meters above sea level on the Pacific area. This is where most of the population lives. The remaining 30% of the existing territory consists of land of high elevation, 1,500 meters or more above

SOME CHARACTERISTICS OF THE POLITICAL-ADMINISTRATIVE DIVISION
IN THE REPUBLIC OF PANAMA, ACCORDING TO PROVINCE, INDIGENOUS COMARCA
AND DISTRICT: YEAR 2016

Province, Indigenous Comarca, and District	Province capital and District	Year of establishment (1)	Province, Indigenous Comarca, and District	Number of corregimientos (2)	Number of populated places	Estimated population as of 1/1/2016	Inhabitants per km ² Year 2016
REPUBLIC	Panamá	1903	655	12,718	4,037,043	74,177.3	54.4
Bocas del Toro	Bocas del Toro	1903	30	491	160,994	4,657.2	34.6
Bocas del Toro	Bocas del Toro	1895	5	101	19,895	430.7	48.1
Changuinola	Changuinola	1970	13	224	96,334	2,221.8	44.3
Chiriquí Grande	Chiriquí Grande	1903	6	76	13,266	210.0	63.2
Almirante	Almirante	2015	6	90	29,538	1,794.9	16.5
Coclé	Penonomé	1855	43	1,314	259,322	4,948.6	52.4
Aguadulce	Aguadulce	1948	5	83	50,476	469.3	107.6
Antón	Antón	1895	10	229	56,480	747.8	75.5
La Pintada	La Pintada	1948	7	319	29,535	1,030.0	28.7
Notá	Notá	1927	6	141	22,840	605.2	37.7
Oña	Oña	1855	5	158	7,218	385.7	18.7
Penonomé	Penonomé	1855	10	384	92,766	1,708.6	54.3
Colón	Colón	1855	40	963	281,094	4,575.5	61.4
Colón	Colón	1890	14	239	241,817	1,179.9	204.9
Chagres	Nuevo Chagres	1895	7	184	10,933	445.4	24.5
Donoso	Miguel de la Borja	1964	6	372	14,359	1,826.1	7.9
Portobello	Portobello	1997	5	79	10,181	386.9	25.7
Santa Isabel	Falencia	1895	8	89	3,804	727.2	5.2
Chiriquí	David	1849	96	1,322	454,083	6,490.9	70.0
Atarje	Atarje	1991	9	99	17,314	443.3	39.1
Barú	Puerto Armuelles	1941	5	148	58,093	595.0	97.6
Bogotá	Bogotá	1895	8	58	16,082	295.3	54.5
Bogotá	Bajo Bogotá	1911	6	96	23,019	488.4	47.1
Bugaba	La Concepción	1963	13	188	82,930	879.9	94.2
David	David	1837	10	145	166,772	968.4	192.1
Dolega	Dolega	1895	8	61	26,578	250.8	106.0
Gualea	Gualea	1895	5	129	10,313	625.5	16.5
Remedios	Remedios	1989	5	40	4,291	166.8	25.7
Rosario	Rio Sereno	1970	8	62	21,452	529.0	40.6
San Félix	Las Lajas	1895	5	42	6,717	218.3	30.8
San Lorenzo	Huacacitas	1895	5	104	7,945	647.8	12.3
Tole	Tole	1895	8	134	12,577	482.3	26.1
Darién	La Palma	1822	25	697	55,055	11,892.5	4.6
Chepigana	La Palma	1896	16	512	29,763	6,991.1	4.3
Provincia	El Real de Santa María	1896	9	185	25,292	4,901.4	5.2

¹⁰ Source: National Statistics and Census Institute, Panamá en Cifras report, year 2012- 2016, page 62. At the time of the preparation of this statistic, the Naso Tjër Di Indigenous Territory had not been created yet. However, it is relevant for the compilation of this information, since the geographic area of this Indigenous Territory is located within the La Amistad International Park (Spanish-language acronym PILA).

¹¹ <https://www.hidromet.com.pa/es/cuencas-hidrograficaspanama>

**SOME CHARACTERISTICS OF THE POLITICAL-ADMINISTRATIVE DIVISION
IN THE REPUBLIC OF PANAMA, ACCORDING TO PROVINCE, INDIGENOUS COMARCA
AND DISTRICT: YEAR 2016**

Province, Indigenous Comarca, and District	Province capital and District	Year of establishment (1)	Province, Indigenous Comarca, and District	Number of municipalities (2)	Number of populated places	Estimated population as of 1/7/2016	Inhabitants per km ² Year 2016
 Herrera	 Chitré	 1915	 49	 738	 116,334	 2,362.6	 60.1
Chitré	Chitré	1948	5	27	55,968	87.8	638.0
Los Mirós	Los Mirós	1936	7	187	7,801	468.9	16.6
Los Píezos	Los Píezos	1948	9	151	7,836	385.5	20.3
Oco	Oco	1836	8	163	16,292	618.4	26.3
Petta	Petta	1836	7	82	9,402	352.8	26.6
Prest	Prest	1836	8	86	13,067	280.0	42.9
Santa María	Santa María	1850	5	43	7,933	159.6	49.7
 Los Santos	 Las Tablas	 1850	 80	 913	 95,291	 3,809.4	 25.0
Guararé	Guararé	1864	10	74	11,087	215.6	51.5
Las Tablas	Las Tablas	1855	24	191	29,297	711.2	41.2
Los Santos	La Villa de Los Santos	1824	14	134	27,300	433.0	63.1
Macaracas	Macaracas	1948	11	151	9,343	504.6	18.6
Pedasi	Pedasi	1940	5	104	4,658	378.1	12.3
Puerto	Puerto	1855	5	65	3,433	280.2	12.2
Tonosí	Tonosí	1882	11	194	10,162	1,286.5	7.9
 Panamá	 Panamá	 1719	 54	 598	 1,544,185	 8,409.3	 183.6
Baños	San Miguel	1864	6	26	3,196	332.9	9.6
Chepo	Chepo	1855	8	347	56,396	4,837.0	11.4
Chimán	Chimán	1886	5	81	3,509	1,046.0	3.4
Peromá	Panamá (Ciudad de)	1519	23	155	1,119,681	2,631.2	351.3
San Miguelito	Mateo Barrios	1970	9	9	960,101	50.1	7,187.6
Tubogá	Tubogá	1855	3	4	1,300	12.1	107.7
 Panamá Oeste	 La Chorrera	 2012	 59	 816	 564,901	 2,880.1	 196.1
Amajón	Amajón	1855	8	95	276,999	418.4	662.1
Capira	Capira	1855	13	247	45,255	977.7	46.3
Chame	Chame	1855	11	114	26,146	376.7	79.0
La Chorrera	La Chorrera	1855	18	151	190,093	789.8	248.9
San Carlos	San Carlos	1848	9	209	22,808	337.6	67.6
 Veraguas	 Santiago	 1719	 100	 2,793	 245,284	 10,587.5	 23.2
Atalaya	Atalaya	1936	5	74	11,189	156.2	71.6
Cabre	Cabre	1855	12	344	12,063	806.2	15.0
Cañas	Cañas	1955	8	230	17,940	788.7	22.7
La Mesa	La Mesa	1824	7	212	12,011	511.0	23.5
Las Palmas	Las Palmas	1855	13	361	18,448	1,015.4	18.2
Montijo	Montijo	1855	8	87	6,988	779.8	9.0

**SOME CHARACTERISTICS OF THE POLITICAL-ADMINISTRATIVE DIVISION
IN THE REPUBLIC OF PANAMA, ACCORDING TO PROVINCE, INDIGENOUS COMARCA
AND DISTRICT: YEAR 2016**

Province, Indigenous Comarca, and District	Province capital and District	Year of establishment (1)	Province, Indigenous Comarca, and District	Number of municipalities (2)	Number of populated places	Estimated population as of 1/7/2016	Inhabitants per km ² Year 2016
 Veraguas: (Continuación)							
Río de Jesús	Río de Jesús	1855	5	62	5,424	302.3	18.0
San Francisco	San Francisco	1855	8	179	10,406	436.5	24.0
Santa Fe	Santa Fe	1855	8	355	17,188	1,520.1	9.0
Santiago	Santiago	1824	12	242	98,431	970.9	101.4
Soná	Soná	1855	11	463	29,586	1,519.1	19.5
Manatí	Manatí o Llanos de Caimán	2001	5	164	5,543	1,381.4	4.0
 Comarca Kuna Yala	 El Porvenir	 1938	 4	 117	 43,274	 2,358.2	 18.4
 Comarca Emberá	 Unión Chocó	 1983	 5	 82	 12,841	 4,393.9	 2.7
Ceneca	Unión Chocó	1983	3	49	9,228	3,097.8	3.0
Sambú	Puerto Indio	1983	2	33	2,813	1,296.4	2.2
 Comarca Ngäbe Buglé	 Llano Tugrí	 1997	 70	 1,874	 203,185	 6,814.2	 29.8
Besiko	Soley	1957	8	262	31,286	752.2	41.6
Morano	Hato Pilón	1957	8	133	20,036	343.1	58.4
Muna	Chetico	1957	16	380	42,725	796.4	53.6
Nale Duma	Cerro Iglesias	1957	5	93	18,337	185.1	99.1
Narón	Buenos Aires o Mile	1957	11	26	18,963	574.7	29.5
Kankarú	Besio	1957	7	181	23,227	1,043.2	22.3
Kusapin	Kusapin	1957	5	464	20,444	811.6	25.2
Jorinda	Samboca	2012	5	178	22,781	1,379	16.5
Santa Catalina o Caneblanca (Sierrita)	Santa Catalina o Caneblanca (Sierrita)	2012	8	137	7,384	829	7.9

Table 2.

Source: National Statistics and Census Institute. Characteristics of the Political-Administrative Division of the Republic of Panama, by Province, Indigenous Territory and District: year 2016.



sea level. The most important geographical features in this category are the Barú Volcano in the Province of Chiriquí, with an altitude of 3,475 meters above sea level. It is located in the districts of Tierras Altas, Boquerón, and Boquete. Cerro Fábrega, located in the province of Bocas del Toro ranks second, with an altitude of 3,335 meters above sea level. It is located in the District of Changuinola. Cerro Itamut follows in third place. It is located in the same province and district, and its altitude is 3,279 meters above sea level.

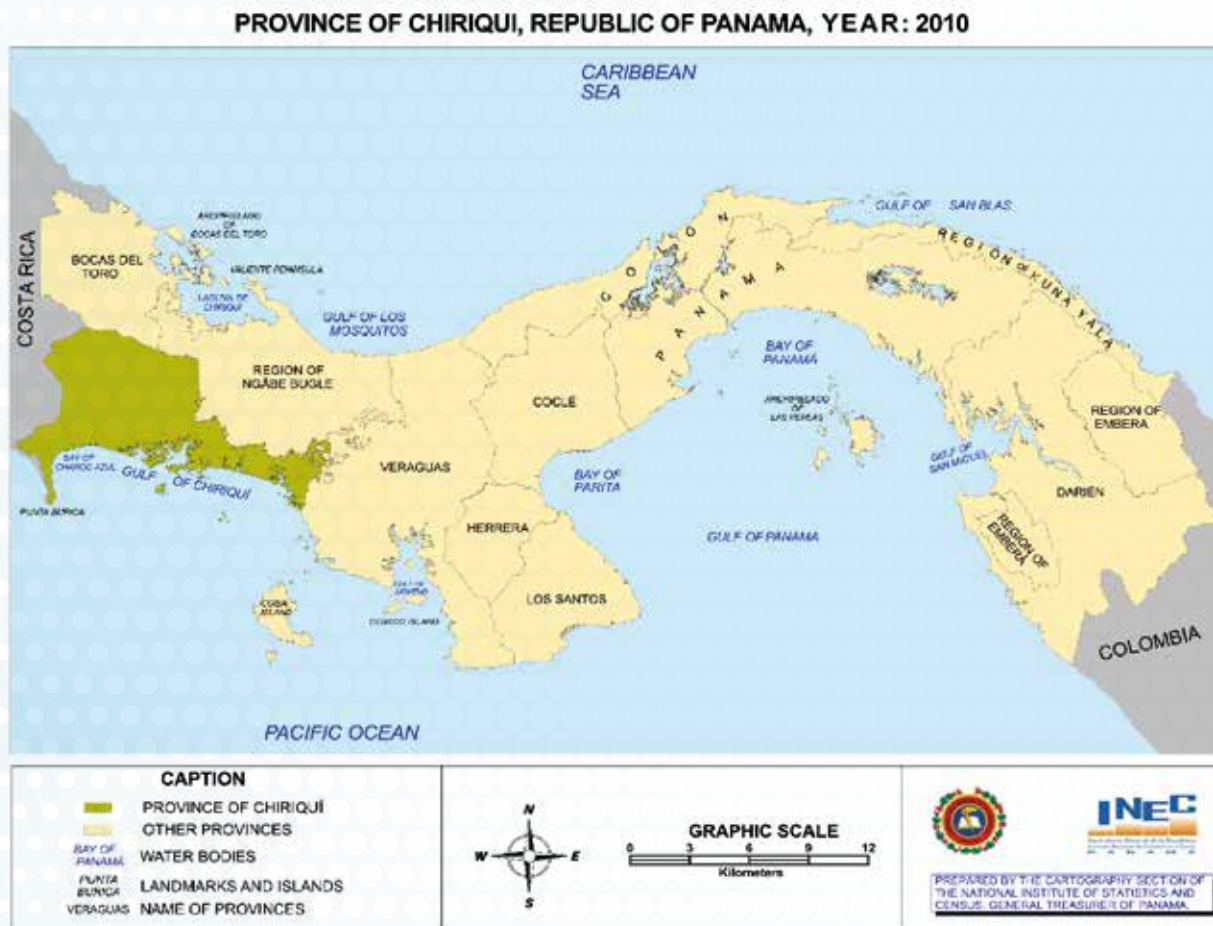
Given the narrowness of the country, its climate is highly influenced by the oceanic masses, which provide the greatest humidity to the atmosphere and determine the properties of heat and humidity. These two characteristics, together with the confluence of the trade winds in the Intertropical Convergence Zone (ITCZ), determine the climate. The pronounced dry and rainy seasons in Panama are determined precisely by the north-south exchange, and vice versa, of the ITCZ. Due to these factors, Panama has a tropical climate, hot and humid, with high temperatures throughout the whole year that reach an average of 27 degrees Celsius. There are 7 types of tropical climates in

Central Europeans; Indians among other groups arrived in Panama due to the construction and operation of the Canal. In the second case indigenous groups represent approximately 12.3 percent of the total Panamanian population. According to the data compiled by the 2010 population census there are nine groups: the Gunas; the Emberá; the Wounaan; the Ngäbe; the Buglé; the Bokota; the Naso/Teribe; and the Bri Bri.¹⁴

b) General information about the Province of Chiriquí

The geographic area in which the events stated in Submission No. SALA-CA-PMA/001/2021, Barú Volcano National Park, are unfolding are the provinces of Chiriquí and Bocas del Toro where the Barú Volcano National Park and La Amistad International Park are located. The events stated by the persons filing the submission focus more on the province of Chiriquí, where there is more interaction and a larger population concentrated around and within these national parks.

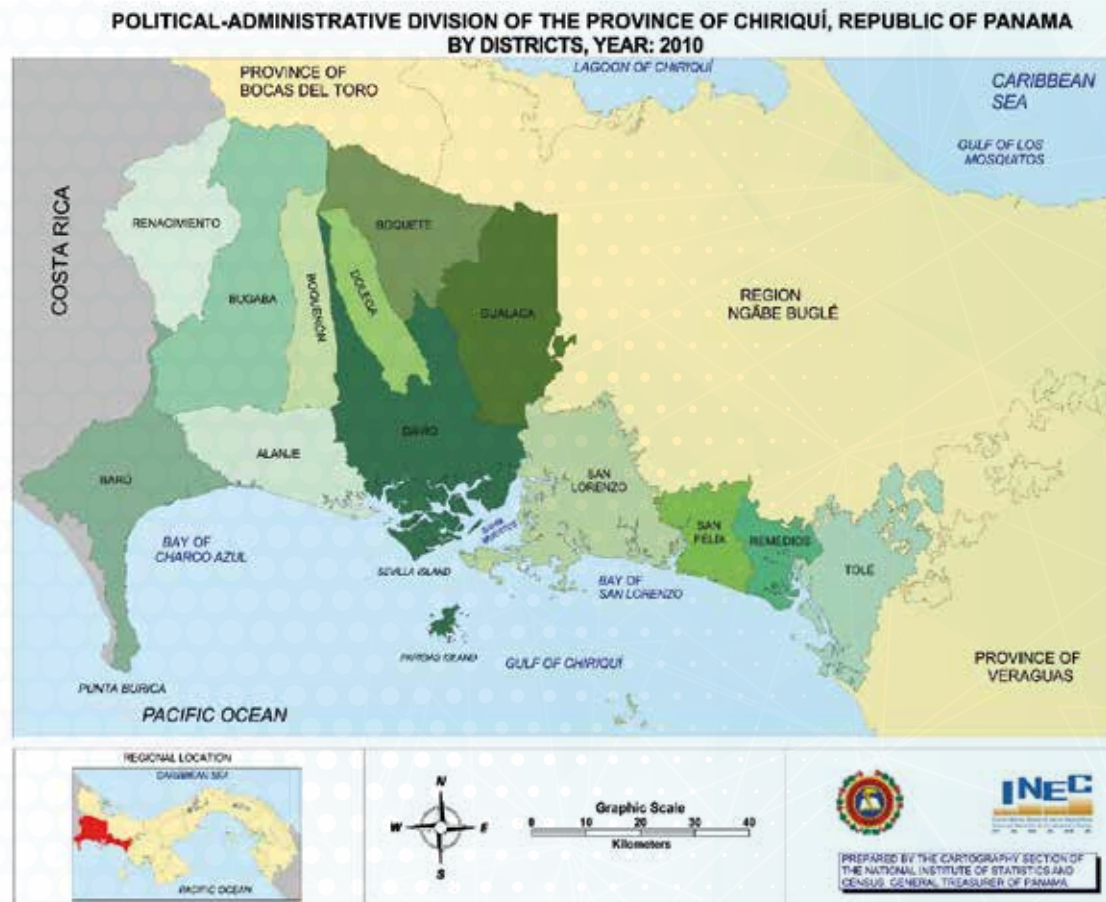
¹⁴ <https://www.inec.gob.pa/archivos/P8551DatosGenerales2.pdf>, pages 1-4.



Map 2. Republic of Panama, Province of Chiriquí. Source: National Statistics and Census Institute.

The province of Chiriquí is located in the western section of the Republic of Panama. It borders the province of Bocas del Toro and the Ngäbe-Buglé Indigenous Territory on the North; the Pacific Ocean on the South; to the East, the province of Veraguas; and the Republic of Costa Rica to the West. Its total population in 2016 was 454,083. It comprises 14 districts: Alanje; Barú; Boquerón; Boquete; Bugaba; Dolega; Gualaca; Remedios; Renacimiento; San Félix; San Lorenzo; Tierras Altas; Tolé; and David. The latter is the capital of the province.

The province has a surface area of 6547.7 km² and is located in the Western Pacific hydrological region, which has a minimum rainfall of 2,200 liters per square meter per year (l/m²/year) and a maximum of 3,800, with an average of 3,100 l/m²/year¹⁵. As described in the 2019 diagnosis of forest and other wooded land coverage, it possesses a wooded area of 2500.23 km² and 3942.36 km² of other land.¹⁶ Its geographic distribution contains three of the seven climate types identified in Panama: low mountain oceanic climate; low mountain tropical climate; and low and medium mountain tropical climate.¹⁷



Map 3. Political-Administrative Division of the Province of Chiriquí by district, year 2010. Source: National Statistics and Census Institute.

¹⁵ National Hydric Security Plan 2015-2050: Water for All Panama, 2016. Page 22.

¹⁶ <https://www.siniagobpa/index.php/cobertura-boscosa/ano-2019/por-provincia>. The full document on the Diagnosis of Forest and Other Wooded Land Coverage in Panama, 2019, is available in the appendix of technical documents available to the public.

¹⁷ Environmental Atlas of Panama Op.cit. Page 26.

Infographic 10. Climatic Regions of Panama
Period 1981 - 2014. May 2000 & CATHAC 2016.



Image 1. Source: National Hydric Security Plan 2015-2050: Water for All. Panama, 2016. Climate/Hydric Regions in Panama. Page 22.

The administrative headquarters of the Barú Volcano National Park and La Amistad International Park Pacific region are located in the Province of Chiriquí, in the districts of Boquete and Tierras Altas respectively. Since most of the developments described in the Submission by the persons filing the submission are taking place in these areas, we are providing some general information about these districts.

The District of Boquete has a surface area of 488.5 square kilometers, and a total population of 21,370 residents according to the 2010 census. It is located in the western section of the country between 300 and more than 3,000 meters above sea level, approximately. It borders the districts of Changuinola and Chiriquí Grande to the north, both in the province of Bocas del Toro; on the south by the districts of Dolega and David; to the east, with the district of Gualaca; and to the west, with the districts of Boquerón and Dolega.

It is formed by the following six corregimientos: Bajo Boquete (Seat); Alto Boquete; Jaramillo; Los Naranjos; Caldera; and Palmira,¹⁸ which are

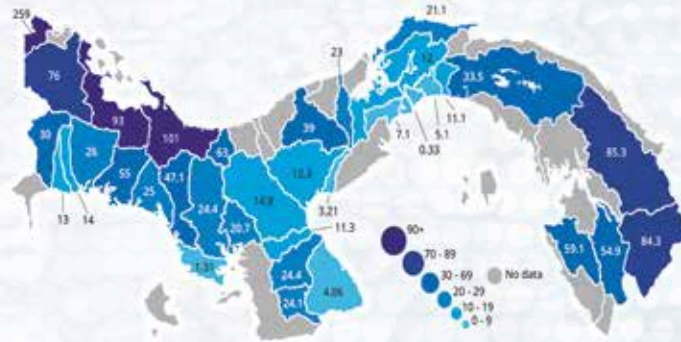
¹⁸ District Strategic Plan: Municipality of Boquete, page 19.

2.2. Water in Panama

Panama has abundant water resources in which precipitation plays an important role. The country's total precipitation volume is estimated at 233.8 billion m³/year, with a national annual average of 2,924 l/m², with a minimum of 1,000 l/m² and a maximum of 7,000 l/m², the highest value recorded for Central America (BIM, 2015). Most of the precipitation* is captured by the extensive water network consisting of 52 water basins and 500 rivers, most of which originate on the continental divide

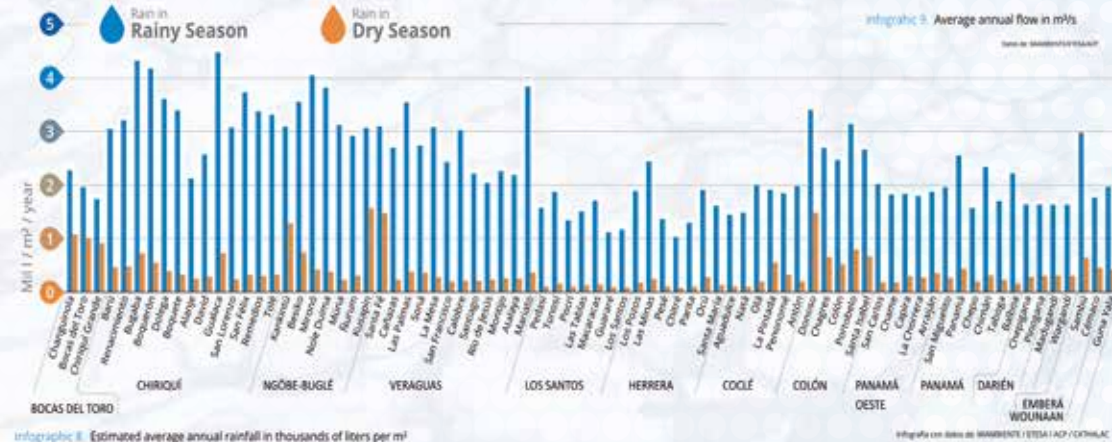
and flow towards the coasts. The Atlantic slope, which occupies about 30% of the national territory, is home to 18 water basins with 250 rivers characterised by their short length and steep slope, some of them with large flows such as the Changuinola, Sixaola and Chagres; the other 34 water basins and 350 rivers are located on the Pacific slope; the latter with an average length of 106 km and a mean slope of 2.27%.

*The country's hydrographic cycle balance, once the processes of precipitation, infiltration, runoff and evaporation have been completed, is positive, water availability is estimated at 119.3 billion m³.



Infographic 3: Average annual flow in m³/s

datos de MARN/INTEC



Infographic 8: Estimated average annual rainfall in thousands of liters per m²

Infografía con datos de MARN/INTEC / CATHALAC

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distributed among the slopes and depressions of the Barú Volcano, the highest point in the district and country, 3,475 meters above sea level.¹⁹

The district of Tierras Altas was created by Law 55 of 13 September 2013.²⁰ It was carved from the district of Bugaba. It borders the districts of Boquete, Boquerón, Bugaba, Renacimiento, and Changuinola, Province of Bocas del Toro. It is formed by five corregimientos: Cuesta de Piedra, Paso Ancho, Nueva California, Cerro Punta, and Volcán, which is the seat of the district.

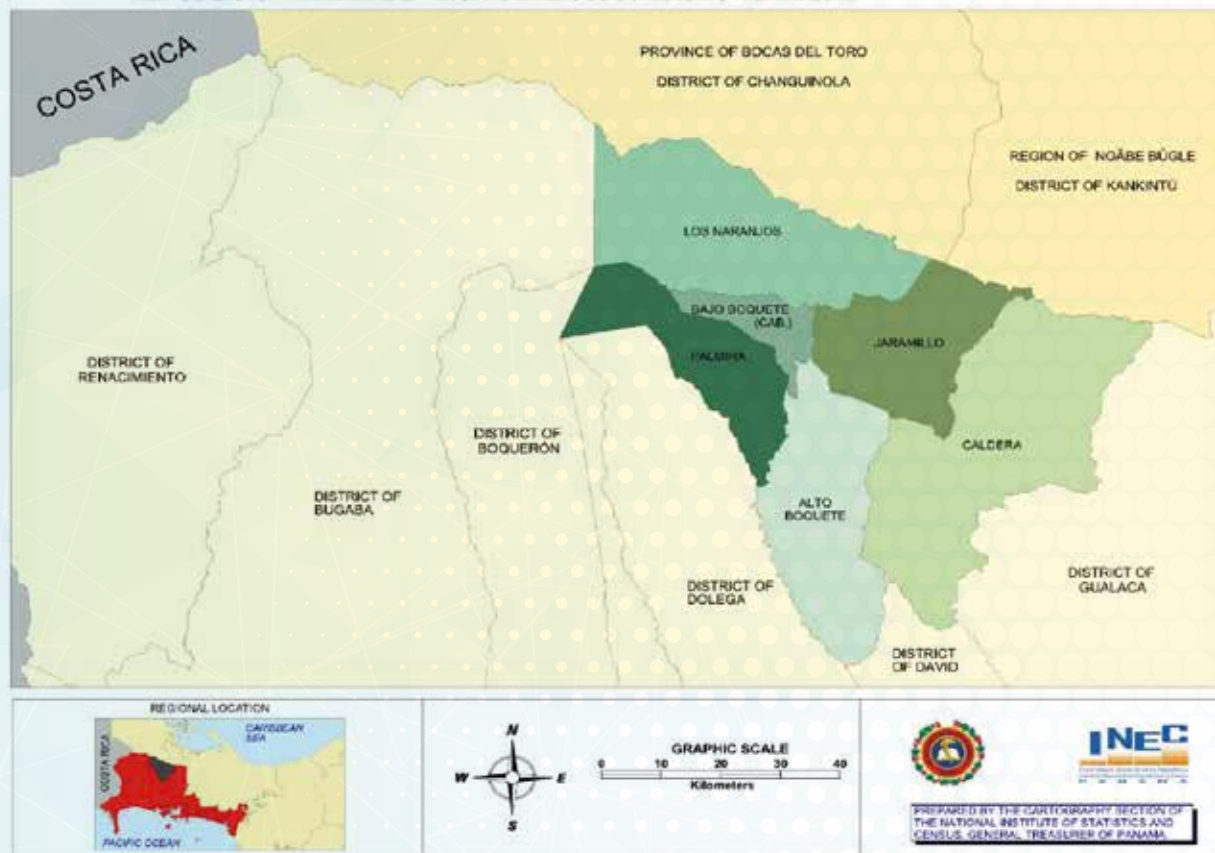
The district of Tierras Altas had not been created at the time of the last population census in 2010. In the data for Panama, according to the figures reported by the Statistics and Census Institute in 2016, this district continued to be included in the data for the district of Bugaba since its administrative operation was slated to begin in 2019, after the election of its local authorities. In this regard, there is still no specific data on its

Image 2. National Hydric Security Plan 2015-2050: Water for All. Panama. Estimated annual rainfall in thousands of liters per square meter, and average annual flow in m³/s. Panama, 2016. Page 21.

¹⁹ District Strategic Plan Municipality of Boquete, page 21.

²⁰ Official Gazette No. 27374 of 16 September 2013.

POLITICAL-ADMINISTRATIVE DIVISION OF BOQUETE DISTRICT, PROVINCE OF CHIRIQUI, REPUBLIC OF PANAMA. BY MUNICIPAL SUBDIVISIONS YEAR: 2010



Map 4. Political Administrative Division of the Republic of Panama, Province of Chiriqui, District of Boquete, Corregimientos, year 2010. Source: NSCI.



Image 3. John Kent. History of Tierras Altas.

characteristics as a district. However, it is relevant to mention it in this compilation of information, since the Barú Volcano and PILA National Parks are located within this district. Technical documents such as the Management Plan, for example, will not mention the district of Tierras Altas, since it did not exist at the time that these management documents were prepared.

According to data collected by Diagnóstico Visión 2050 of the Competitiveness Center for the Western Region of Panama (Spanish acronym CECOMRO), the territory of the province of Chiriquí, is characterized by the predominance of grazing areas (41%) and forest areas (40%). There is also an ample mangrove area which may cover approximately 20%.

“More than 1/3 of the surface dedicated to agriculture in Panama is found in Chiriquí, which concentrates a significant portion of the national surface dedicated to crops such as coffee (70.3%); citrus fruits (62%); or mixed horticulture and palm trees for the production of oil...”²¹

c) General information about the province of Bocas del Toro and the Naso Tjër Di Indigenous Reservation

Since most of the surface that makes up the La Amistad International Park (PILA) is located within these territorial areas of the country, we

are including general information about them. It is worth mentioning that because the Naso Tjër Di Indigenous Reservation was recently created, its specific information regarding population and activities is still included in the data for the province of Bocas del Toro. This information was last updated in 2016.

The Province of Bocas del Toro has a total surface area of 4,657.2 km² and through 2016 an estimated population of 160,994 residents. It is formed by four districts: Almirante, Bocas del Toro, Chiriquí Grande, and Changuinola which is its seat. These four districts are subdivided into 30 corregimientos.

It is located in the Western Caribbean hydrologic region, which registers a minimum precipitation of 3,100 l/m²/year, with a maximum of 4,530, and an average of 3,900.²² Its geographic extension places the province in the Oceanic tropical climate and low Mountain Oceanic climate type.²³ It has a forest and other wooded land coverage of 3889.89 km² and 682.89 km² of other land.²⁴

The Naso Tjër Di Indigenous Reservation was created in 2020. It was carved from the district of Changuinola, province of Bocas del Toro. It has a total area of 160,616 hectares, of which 125,141 hectares belong to La Amistad International Park; and 21,722 hectares belong to the Palo Seco Protector Forest.²⁵ The special Naso Tjër Di was created within this Indigenous Territory, with four corregimientos: Teribe, San San Drui,

²¹ Visión 2050, Diagnóstico Chiriquí CECOMRO- SENACYT- CLAVE Asistencias Técnicas June 2018, page 83

²² National Hydrologic Security Plan- Op cit- page 21.

²³ Environmental Atlas of Panama- Op cit- page 26.

²⁴ <https://www.siniagob.pa/index.php/cobertura-boscosa/ano-2019/por-provincia>

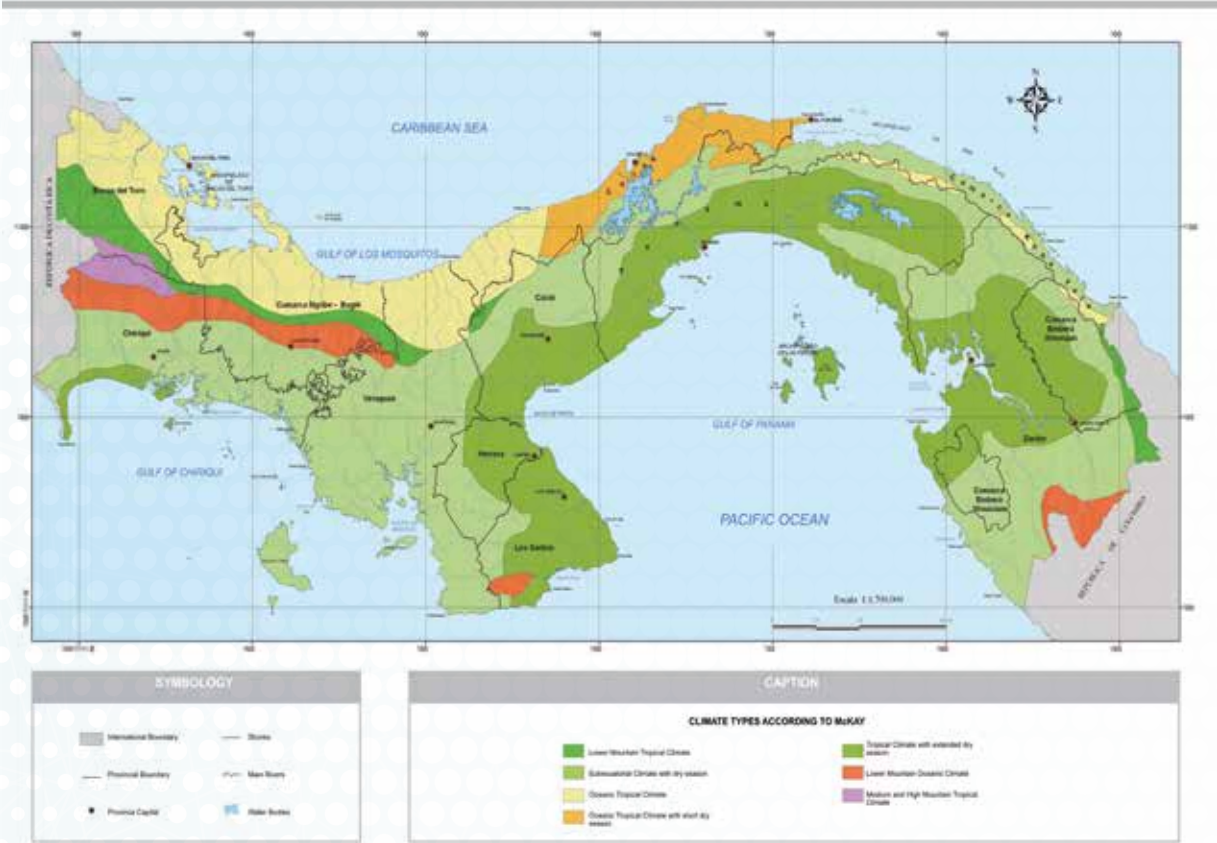
Bonyik and Dos Concejales. The community of Sieyic on the shores of the Teribe River will be the seat of this Indigenous Territory.

The creation of this area establishes a new land ownership system, since the lands in this area are collectively owned by the Naso Tjër Di people. They shall manage, exploit, and own its rights in perpetuity. They shall also establish the ways in which said use, exploitation, ownership, holding, and distribution of the lands shall be carried out among the members of their people, according to their customs, as well as the means for the transfer of preexisting property deeds and ownership rights.²⁵

Specific provisions are also established for the protection, management, administration, use, and exploitation of natural resources within the area. To this end, it is stipulated that the exploitation of these resources “shall not be carried out if the culture, biodiversity, survival, and social peace of the naso people are endangered, which shall be coordinated with the Ministry of the Environment for the protection and conservation of the environment.”

²⁵ Article 1 of Law 188 of 2020. The full document is available in the legal regulations appendix
²⁶ Chapter II of Law 188 of 2020.

Types of Climates, according to A. McKay: year 2000



Map 5. Source: Environmental Atlas of Panama 2010. Page 27.

With respect to the protected areas which are part of this indigenous territory--PILA and BPPS—the law stipulates that they “shall be protected and conserved through a co-management system and the environmental laws in force.” It is also established that exploration, exploitation, and bio prospecting projects involving natural resources shall be authorized by the Ministry of Environment. These projects require prior consultation, and Naso authorities must grant their consent, freely and in advance.²⁷

2. Regarding the National Protected Areas System (SINAP) and the Barú Volcano National Park and La Amistad International Park.

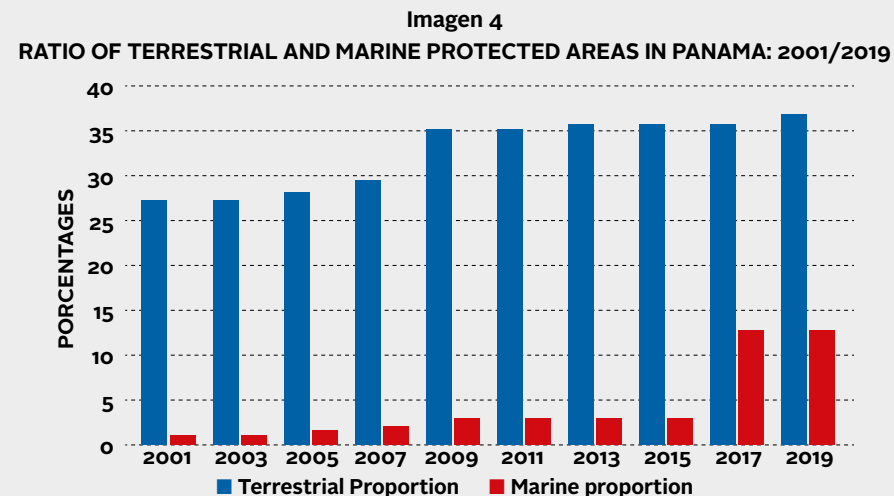
The National Protected Areas System, SINAP, consists of all legally established protected areas, or those which are established through laws, decrees, resolutions, municipal agreements, or international conventions ratified by the Republic of Panama. Protected areas are the public property of the State and shall be regulated by the Ministry of Environment, in recognition of the international commitments entered into by the country, which are related to the handling, use, and management of the same.²⁸

For legal purposes, a Protected Area shall be understood to be a: “Land, coastal, marine, or lake geographic area, which has been legally

established to satisfy objectives of conservation, recreation, education, or the investigation of natural or cultural resources.”²⁹

As described in the National Biodiversity Action Plan through 2018, the SINAP consists of 120 protected areas and 12 life zones with a variety of ecosystems.

According to data provided by the Ministry of Environment, through 2019 the SINAP is integrated by a share of 36.78% of the national territory, as pertains to protected land areas, and 12.77% as pertains to protected marine areas.

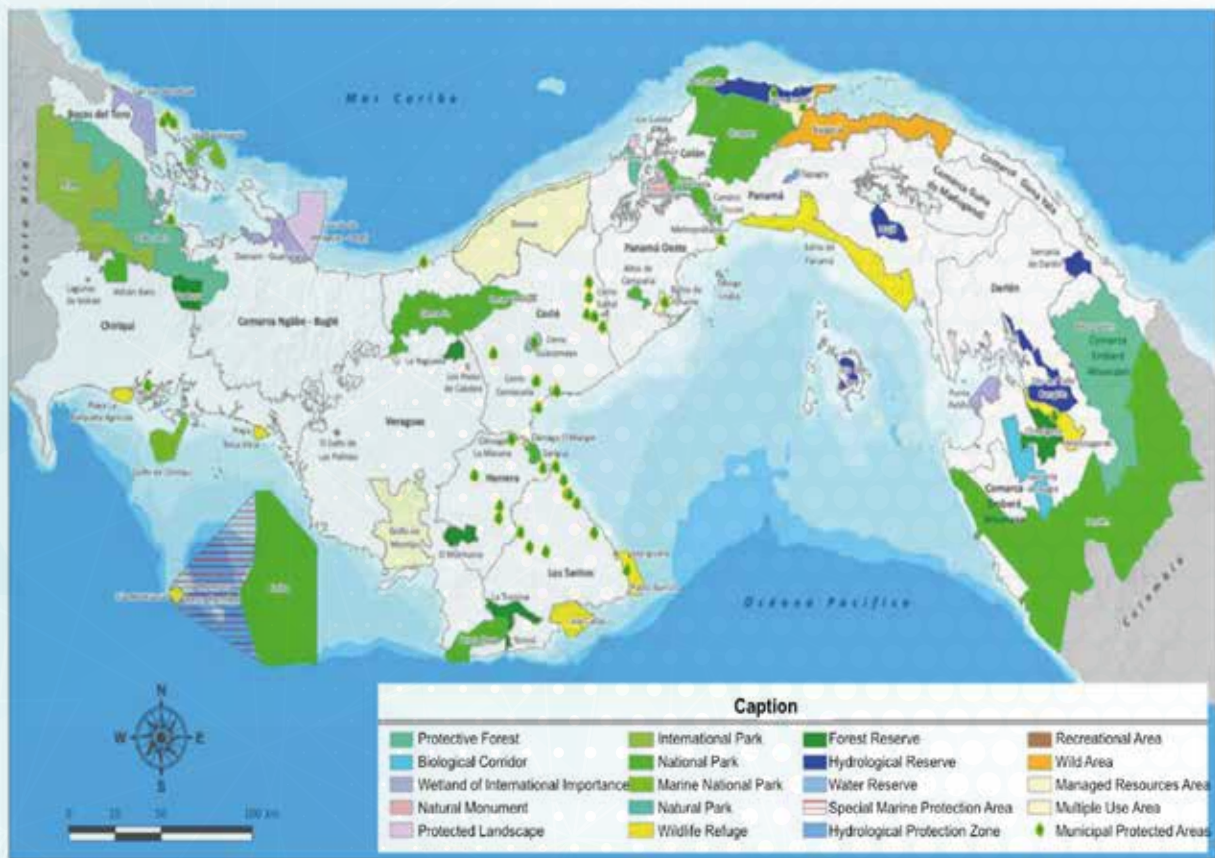


Source: <https://www.siniagob.pa/index.php/area-protegidas/proporcion-de-areas-protegidas-terrestres-y-marinas-en-panama-ano-2001-2019>

²⁷ Chapter VI of Law 188 of 2020.

²⁸ Article 51, Chapter II, Protected Areas and Biological Diversity, Title IV Natural Resources, of the Single Text of Law 41 of 1998, General of the Environment of the Republic of Panama.

²⁹ Article 2.5, Preliminary Title, General Dispositions of the Single Text of Law 41 of 1998, General of the Environment of the Republic of Panama.



Map 6. National Protected Areas System of the Republic of Panama (SINAP) through 2017.

Source: Biodiversity Strategy and National Plan of Action (EPANB) 2018-2030.

Page 25. Executive Decree No. 128 of 18 December 2018.

Among the benefits that the SINAP brings to the country is the protection of watershed forests for the production of water for different activities. They are the means for the protection and act as reservoirs for species; they contribute to climate regulation; to the production and fertility of the soil, as well as to the storage, recycling, and absorption of nutrients. The system also safeguards areas which offer potential for nature tourism or for research, among other important services.³⁰

In accordance with the dispositions of Resolution AG-0704-2012 of 11 December 2012,³¹ the SINAP has 9 management categories: a Scientific Reserve; National Park; Natural Monument; Wildlife Refuge; Hydrologic Reserve; Protected Landscape; Recreational Natural Area; Forest Preserve; and as a Managed Resources Area. It is also understood pursuant to this standard that a management category is the “technical classification assigned to a protected area, based on its creation and management objectives, in consideration of biodiversity, the social and

³⁰ Strategy and National Action Plan for Biodiversity (EPANB) 2018-2030. Page 24.

³¹ Official Gazette No. 27197-B of 04 January 2013. Full document available in the legal regulations appendix.

cultural environment, in such a way as to conduct an orderly management of its resources.”

The facts and requests for information described by the persons filing Submission No. SALA-CA-PMA/001/2021 involve two national parks, primarily Barú Volcano National Park, but also La Amistad International Park. Per Panamanian regulations, a National Park is:

“A land and/or aquatic area with a relatively large surface, in a natural or semi- natural state, able to maintain important ecological processes. It allows to sustain the integrity of ecosystems, populations of species, representative and outstanding habitats, on a national, regional and/or global scale. It may contain landscapes, historic or cultural features of scientific, educational, spiritual or recreational interest.”³²

The creation or designation of a National Park seeks objectives such as the conservation of priority and outstanding ecosystems and habitats on a scale that ranges from the local to the global. It also seeks to maintain viable and ecologically functional populations in sufficient densities to allow to preserve the integrity of the ecosystem and its resilience in the long term. It also pursues the protection and maintenance of ecosystemic assets and services; as well as to maintain natural zones,

landscapes, and sites of historical or cultural value, for the development of scientific, educational, spiritual, recreational or tourist activities. It also seeks to offer opportunities for the promotion of research, education, interpretation, and public use, pursuant to the established conservation and zoning objectives.³³

a) Barú Volcano National Park (PNVB).

PNVB was created by Decree No. 40 of 24 June 1976, pursuant to considerations for the conservation and management of the natural scenic, biological, and geological characteristics unique to the Barú Volcano area, to serve as a center for recreation, scientific education, and as part of the development of tourism. In order to regulate the exercise of rights over forests and forest lands under public and private ownership,³⁴ necessary restrictions for their use were established, given the effects on the lands of the Barú Volcano as a result of the exploitation of the natural resources in the area.

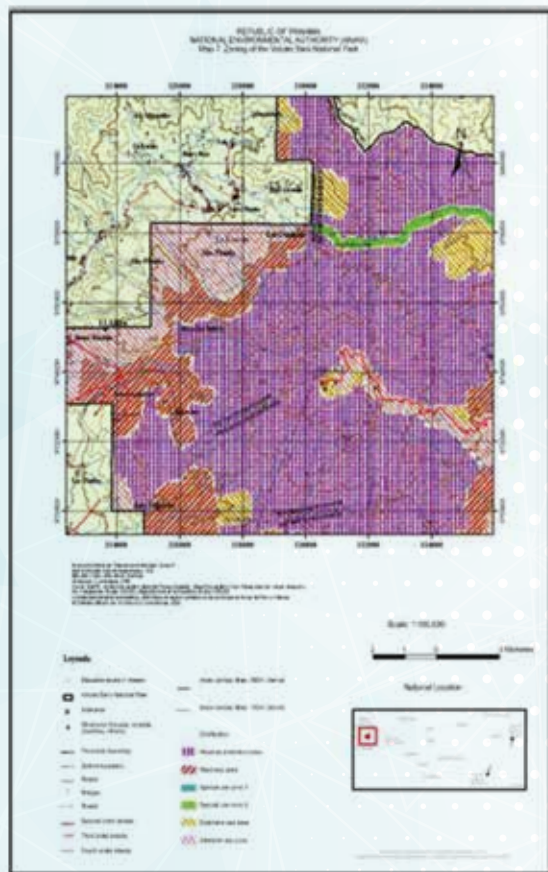
Per the information included in the Management Plan for PNVB, its surface consists of 13,927 hectares with a terrain that features medium and high mountains; the summits of high-altitude peaks; as well as intermountain valleys. The soil is thin in the mountains and peaks, with low agricultural capacity, and internal drainage ranging from good to excessive.³⁵

³² Article 3. Resolution AG-0704-2012.

³³ Article 4. Ibid.

³⁴ At the time of the creation of the PNVB, the governmental authority to regulate the issue was determined by Decree Law 39 of 29 September 1966, which was subsequently revoked and replaced in its functions by Law 1 of 3 February 1994, which establishes the Forestry Legislation in Panama.

³⁵ Management Plan Barú Volcano National Park: June 2004. Page 22.



Map 7. Zoning for Baru Volcano National Park.
Source: PNVB Management Plan

The Management Plan for PNVB describes specific aspects of the characteristics of the site. The following are among the most relevant: types of soil in the area; the hydrographic framework, which highlights Barú Volcano as the distribution center for the four main watersheds in the area (watersheds 102 Chiriquí Viejo River; 104 Escarrea River; 106 Chico River; and 108 Caldera, David and Cochea Rivers). Other relevant features distinguish the two types of climates (tropical mountain and medium and high tropical mountain) as well as biological characteristics which include the types of vegetation, flora, fauna, endemic characteristics, and species of restricted distribution. Another characteristic is the use and activities that are carried out in the area. Among the most relevant aspects of the PNVB Management Plan are the identification of critical areas³⁶ and the establishment of zoning for the use of the site, which, in accordance with the parameters of the Biosphere Reserve, defines core zones, controlled use zones, and neighboring or buffer zones.³⁷ The core zone considers management subzones of varying intensities according to their characteristics: an absolute protection subzone; a recovery subzone; an extensive use subzone; an intensive use subzone; and a neighboring subzone or buffer subzone.³⁸

Since the Management Plan dates from 2004, data such as those related to the population and its characteristics do not coincide with the current situation. It is important, however, to mention that at the time of the preparation of this technical document, a total of 31 communities had been identified within the PNVB. As for the neighboring zone, at that time 907 residents were located within the limits of the protected area, out of a total population of 18,548 inhabitants tallied in the X Population Census in the year 2000.³⁹

b) La Amistad International Park (PILA).

PILA was created by Resolution JD 021-88 of 2 September 1988, which establishes the La Amistad

³⁶ PNVB Management Plan: June 2004. Pages 57, 58 and 59.

³⁷ Ibid. Pages 74 to 82.

³⁸ Ibid.

³⁹ Ibid Page 30.

International Park in the Provinces of Bocas del Toro and Chiriquí.⁴⁰ This protected area was established based on the international commitment entered with Costa Rica for the creation of a Binational Park, a declaration ratified in Panama in 1982. This initiative pursued the protection of forests located on the hydrological watersheds of the Teribe and Changuinola rivers due to their hydroelectric potential, and the sources of the Caldera, Colorado, and Candela rivers due to their importance as water reservoirs for production. In addition, there was a need to protect the extraordinary ecological and biological diversity of the area for the benefit of Panamanians.⁴¹

Within the regulatory provisions of its creation, several prohibitions are established, such as the awarding of land by the State, including the granting of possessory rights by the Agrarian Reform. Other prohibited activities are squatting; timber logging; felling; grazing; burning; slashing; trapping; the collection and hunting of wild plants and animals in any form; and any other activity that results in the destruction of existing renewable natural resources within Park limits. The provisions also stipulate that privately-owned land within the limits of PILA, used for agricultural purposes at the time of the creation of the Park, must conform to the land use regime established by the competent institution.⁴²

The PILA has a surface area of 207,000 hectares, which makes it one of the most representative protected areas in the country, due to its vast coverage. Its surface is distributed between the provinces of Bocas del Toro, with 98% of the area and Chiriquí, with 2% of the area. The Panamanian section of the PILA was registered in the World Heritage List on 12 December 1990. This granted the PILA the nature of a transborder natural asset, and the adoption of the name Talamanca Mountain Range Reserves – La Amistad/La Amistad National Park. In 2000, UNESCO formally recognized the Panamanian sector of the PILA as La Amistad Biosphere Reserve (Spanish acronym RBA).⁴³ It is part of the MesoAmerican Biological Corridor.

Among its characteristics, the PILA has highland forests and moorlands, preserving the largest area of high-altitude life zones in the country. Scientific research is conducted within its boundaries, and it possesses sites of special interest to tourists.⁴⁴

As is the case with the PNVB, there is a Management Plan for the PILA that was approved by Resolution No. AG-0304-2004 of 2 August 2004.⁴⁵ This plan was in force for five years, and its duration was extended by Resolution No. AG-1102-1009 of 14 December 2009,⁴⁶ which established that it would continue to be in force until a new Management Plan is adopted for said area. In addition to the Management Plan, there is a Strategic Environmental Assessment

⁴⁰ Official Gazette No. 21129 of 6 September 1988. Full document available in the legal regulations appendix.

⁴¹ Resolution JD-021-1988. Considerations.

⁴² References from articles four and six of Resolution JD-021-1988.

⁴³ Strategic Environmental Assessment Scope Report (EAE)- "The case of the World Heritage Site of the Talamanca Mountain Range Reserves – La Amistad / La Amistad International Park." (Costa Rica- Panama), 2015. Page 4. The complete document can be found in the appendix of technical documents available to the public.

⁴⁴ Ibid Page 7.

⁴⁵ Official Gazette No. 25,116 of 16 August 2004. The complete document can be found in the legal regulations appendix.

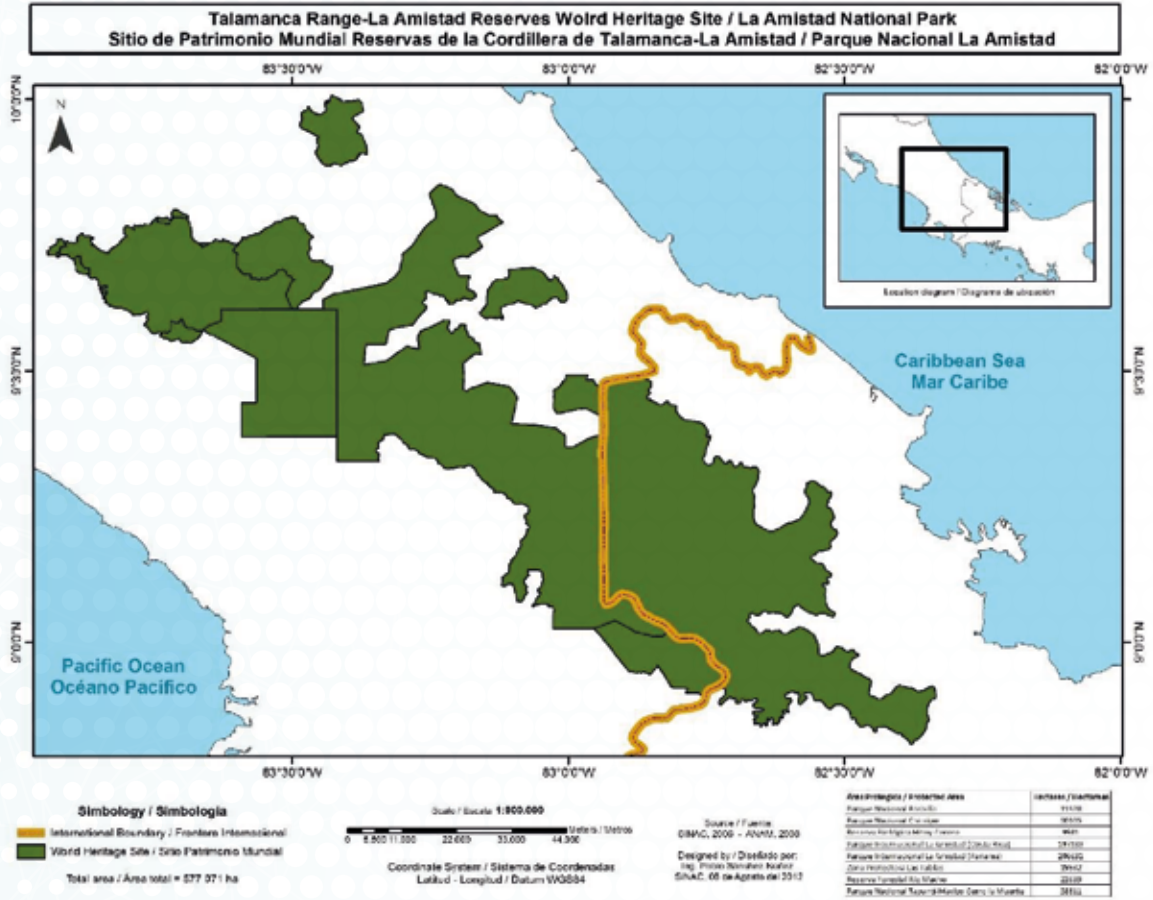
⁴⁶ Official Gazette No. 26448 of 15 January 2010. The complete document can be found in the legal regulations appendix.

document for the PILA, approved by Resolution No. DM-0318 of 3 July 2017.⁴⁷

As described in the executive summary of the Strategic Environmental Assessment of the PILA, it is one of the most valuable protected areas for Panama. However, the adverse effects of the threats to which it is exposed, such as the advance of the agricultural and livestock frontier; the establishment of human settlements; the development of hydroelectric projects along its buffer zone; the increase in access roads; as well as illegal logging and hunting, endanger the integrity of the ecosystems and key species of the site. These threats have been identified in a reiterated manner by the World Heritage Committee /UICN/ UNESCO, which have issued recommendations based on these findings for several years. Nevertheless, the implemented measures are still regarded as deficient. The Strategic Environmental Assessment was prepared in order to generate a long term strategy through this management tool, to avoid the possible inclusion of the PILA on the list of World Heritage in Danger.⁴⁸

Both National Parks are on the list of key biodiversity areas or KBAs. As described in the Biodiversity National

⁴⁷ The complete document can be found in the legal regulations appendix.
⁴⁸ Strategic Environmental Assessment, La Amistad International Park, April of technical documents available to the public.



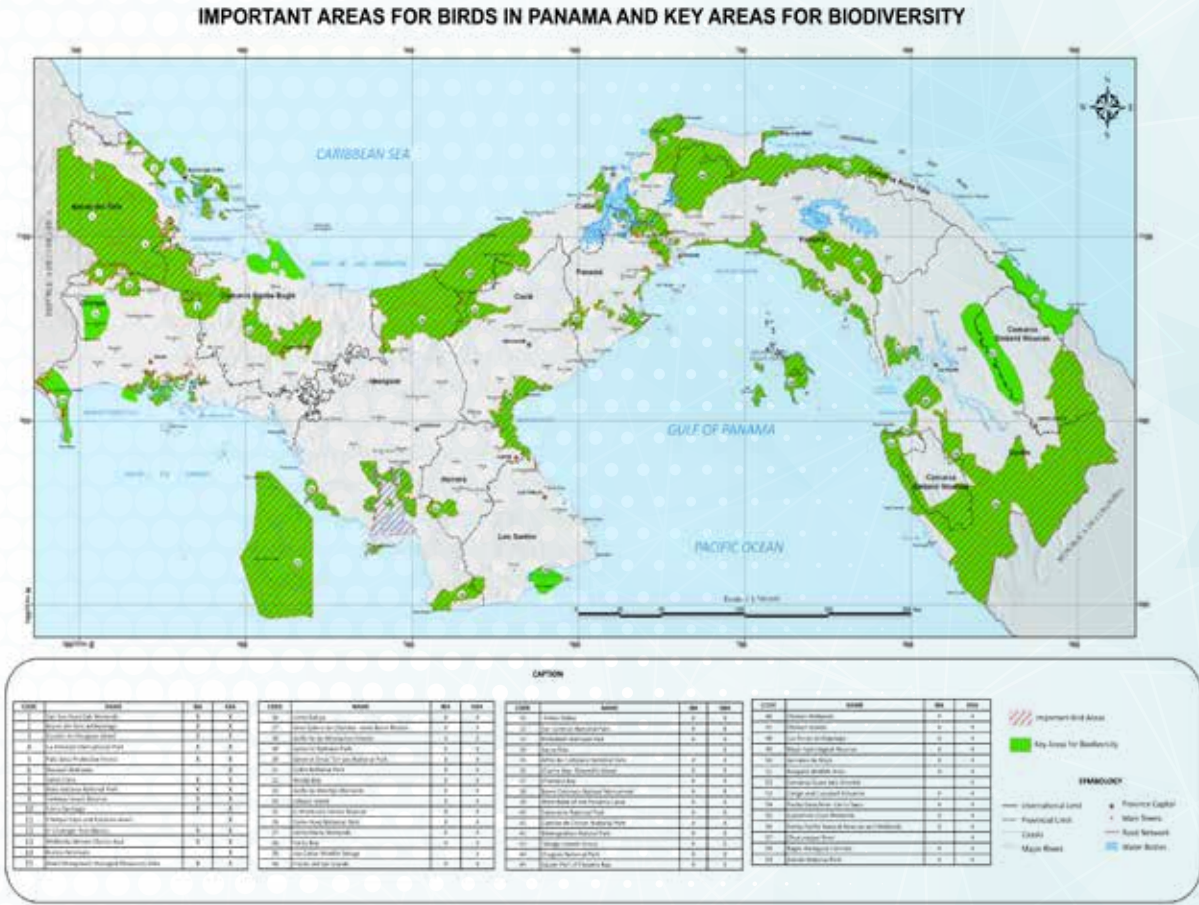
Map 8. Location of La Amistad International Park (PILA).
Source: http://whc.unesco.org/en/list/205/multiple=1&unique_number=226

Strategy and Action Plan, these are sites of global importance for the conservation of biodiversity. They are identified according to criteria of vulnerability and irreplaceableness. In the first case, there is the presence of threatened species at the site; in the second case, it is the global importance that a site can hold to achieve the conservation of species which are individually threatened. Based on these criteria, Important Bird Areas and Alliance for Zero Extinction sites have been identified.⁴⁹

3. General Information on Panama's Environmental Legal Framework

A brief overview of the legislative framework for environmental matters in Panama is presented to provide context, so it can be used as reference for the analysis of the judicial regulations compiled in this document. This context can also assist in showing the relation between the legal provisions and the facts stated for each topic, as well as its applicability. This overview does not seek to provide a thorough analysis; it is just a general description.

Environmental matters in Panama are regulated from a constitutional standpoint. Chapter 7 in Title



Map 9. Key Biodiversity Areas identified in Panama. Source: BirdLife International.

⁴⁹ National Biodiversity Strategy and Action Plan (EPANB) 2018-2030. Page 24.

III on Individual and Social Rights and Duties establishes the Ecological Regime, which in its article 118 stipulates that “It is a fundamental duty of the State to guarantee that the population lives in a healthy and pollution-free environment, where air, water and food satisfy the requirements for the adequate development of human life.”

Topics such as the duty of the State and all inhabitants to foster social and economic development that prevents the pollution of the environment, maintaining balance, and avoiding the destruction of ecosystems, as well as the regulation and supervision to guarantee the use and rational exploitation of fauna, forests, land, and water, to prevent its depredation and ensuring its preservation, renovation, and permanence, are enshrined in the Political Constitution. The legal duty to regulate the exploitation of non-renewable natural resources, to avoid potential social, economic, and environmental damages, is also established in it.⁵⁰

As a complement to the provisions of the Ecological Regime, article 4 of the Political Constitution stipulates that “The Republic of Panama abides by the norms of international law.” This article makes it possible for the agreements, conventions, treaties, and other norms of International Law to be adopted and integrated into the local regulations. Given the broad international basis of Environmental Law, this constitutional provision takes on particular relevance, because it has allowed international conventions such as the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES); the Convention on Biological Diversity; the Convention on Wetlands of International Importance; the

United Nations Framework Convention on Climate Change, among many others, to be adopted by Panamanian legislation, and incorporated into the development of public policies on environmental matters.

In the development of constitutional provisions, general framework regulations are subsequently drawn up, as in the case of the General Environmental Law, Law 41 of 1998. As its name suggests, it establishes the general framework for the environmental legislation of the country. There are also complementary laws such as Decree-Law 35 of 1966 which regulates the use of bodies of water; Law 1 of 1994 which establishes forestry legislation; and Law 24 of 1995, which establishes legislation pertaining to wildlife, to mention the most relevant ones. Very specific issues are also regulated by laws, such as declaring a protected area; the creation of incentives for reforestation; or the creation of institutions, as is the case of Law 8 of 2015, which established the Ministry of the Environment.

Regulations emerge from Executive Decrees, which originate from the development of the mandates of these legal provisions. Most of them establish the procedures that make compliance with the law possible. Not all laws need to be regulated, since they themselves issue orders for the State and its citizens on what to do or not to do. However, it is common in environmental matters for topics involving technical procedures to be developed through regulations issued as Executive Decrees or Administrative Resolutions. These tend to regulate more specific topics, usually involving permits; general processes; or even decision-making for administration procedures for research.

⁵⁰ Ecological Regime of the Political Constitution of Panama. Articles 119 to 121.

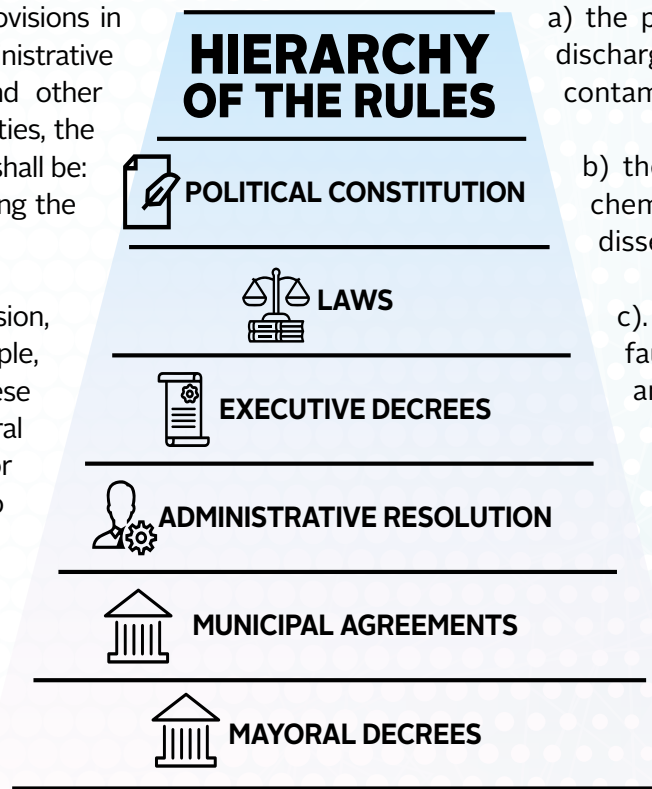
As for the material enforcement of regulatory provisions in general, article 35 of Law 38 of 2000 on General Administrative Procedures stipulates that: “In the decisions and other acts issued, entered into or adopted by public entities, the hierarchical order of the provisions to be enforced shall be: the Political Constitution, the laws or decrees having the force of law and the regulations...”

Other interpretation rules are added to this provision, pertaining to the enforcement of the law. For example, when special matters must be handled, these regulations shall be preferred over those of a general nature; the technical vocabulary of any scientific or artistic discipline shall have the meaning given to them by those who practice said science or art; even if they may also have a legal meaning; if they have been expressly defined to handle certain matters.⁵¹

For the purposes of the Environment Chapter of the TPA, environmental legislation means:

“environmental law means any statute or regulation of a Party, or provision thereof, the primary purpose of which is the protection of the environment, or the prevention of a danger to human, animal, or plant life or health, through:

⁵¹ Chapter III of the Civil Code of Panama: articles 10, 11 and 14.1.



a) the prevention, abatement, or control of the release, discharge, or emission of pollutants or environmental contaminants;

b) the control of environmentally hazardous or toxic chemicals, substances, materials, and wastes, and the dissemination of information related thereto; or

c). the protection or conservation of wild flora and fauna, including endangered species, their habitat, and specially protected natural areas,

in areas with respect to which a Party exercises sovereignty, sovereign rights, or jurisdiction, but does not include any statute or regulation, or provision thereof, directly related to worker safety or health.”

This is the context followed to compile the regulations included in this document, with the understanding that regulations at the constitutional level, passing through the legal and executive levels are related, and their

effective enforcement depends on the integration of several elements, and at times of various regulations simultaneously.

IV

REGARDING THE PROCEDURE FOR SUBMISSION NO. SALA-CA- PMA/001/2021, BARÚ VOLCANO NATIONAL PARK.

This section deals briefly with the steps followed by the Barú Volcano National Park Submission up to the completion of the Factual Record, pursuant to the provisions set forth in articles 17.8 and 17.9 of the TPA and the Working Procedures that define the scope of this process.

On March 12, 2021, Ezequiel Miranda, Ángel Aguirre Sánchez, and Ariel Rodríguez Vargas, all of them Panamanian citizens, filed a submission with the SEEM, in accordance with the provisions of Article 17.8 of the TPA.⁵² The document was acknowledged as received, and the corresponding public notice about its presentation was issued. The procedure was logged as Submission No. SALA-CA-PMA/001/2021, Barú Volcano National Park.

After verifying compliance with the formal requirements set forth in the TPA, the Secretariat issued Determination No. 001/2021 on April 12, 2021,⁵³ which established the admissibility of the document, since it fulfilled the criteria established by paragraph 2 of Article 17.8 of the TPA. Upon verification of the substantive requirements pursuant to paragraph 4 of Article 17.8, the request for a response from the Party was found to be merited. This is specified in Determination No. 002/2021 of May 14, 2021,⁵⁴ and the Party was notified of this development.

Since the response from the Party was not received within the period stipulated in the provision, Determination No. 003/2021 of July 15,

⁵² This document can be found in the attached digital Record.

⁵³ This document can be found in the attached digital Record

⁵⁴ Ibid.

2021⁵⁵ was issued. This document informed the Environmental Affairs Council that the Submission warranted developing a factual record. Upon the vote cast by the representatives of the United States to the Council, on September 10, 2021, an instruction was received to proceed. This instruction marked the start of the period for the preparation of the preliminary Factual Record for the Submission.

On December 3, 2020, note No. SALA-07-2021 was sent to the Environmental Affairs Council, a formal request for an extension for the Secretariat to submit the preliminary Factual Record. According to the procedure for handling communications, the 120-calendar day deadline for the compilation of information and preparation of the draft expired on January 8, 2022. This request received a favorable answer from the Council on December 16, 2021 (representatives of the United States), and on December 20, 2021 (representatives of Panama). An additional 45 days were granted to present the document, extending the deadline to February 22, 2022.⁵⁶

Pursuant to the provisions set forth in the Working Procedures, on February 22, 2022, the Secretariat sent the preliminary Factual Record pertaining to Submission No. SALA-CA-PMA/001/2021, Barú Volcano National Park, to the Council. As stipulated

⁵⁵ Ibid.

⁵⁶ Article 17.6 Environmental Affairs Council #6. "All decisions of the Council shall be taken by mutual agreement, except as provided in Article 17.9..."

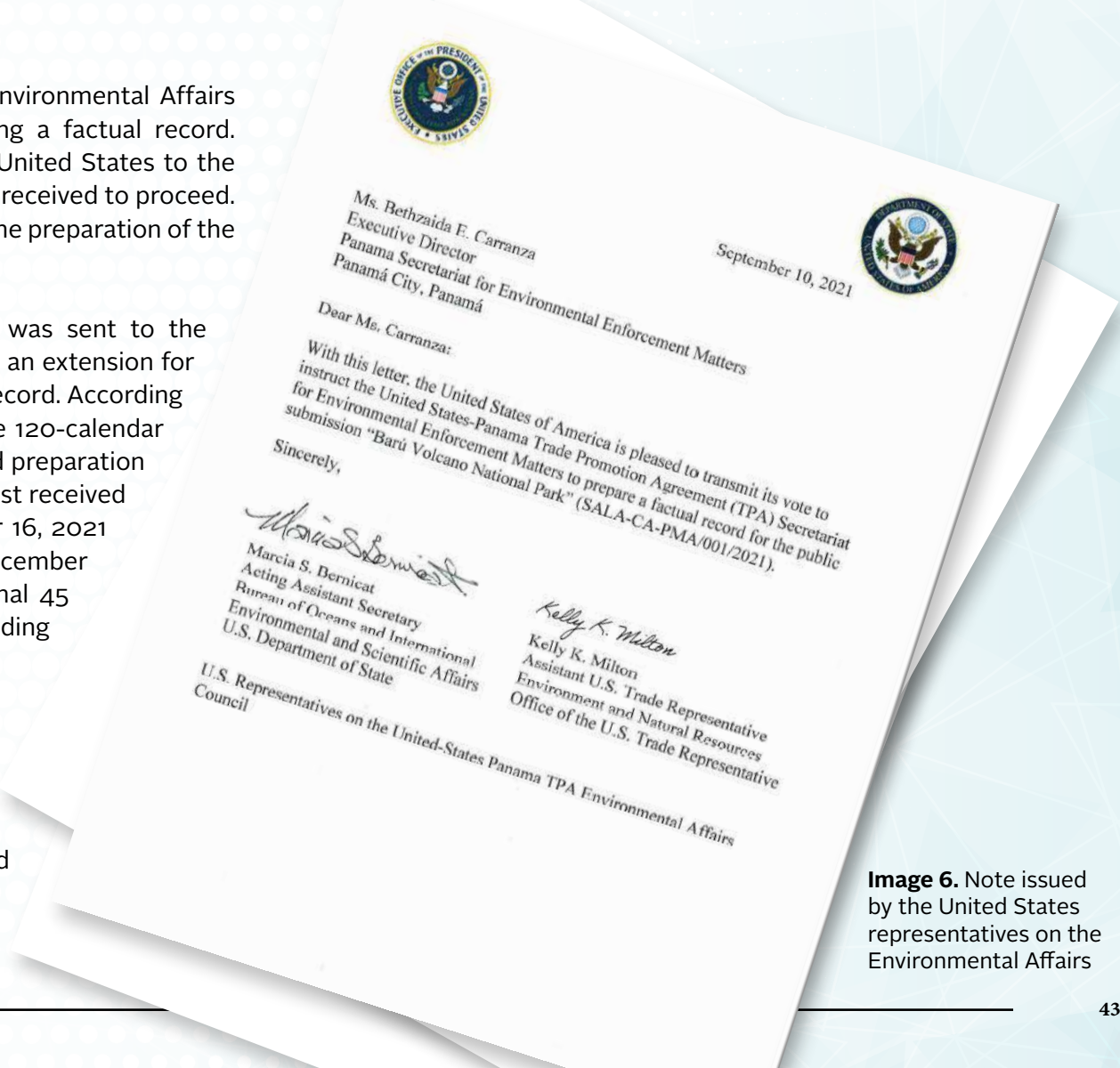


Image 6. Note issued by the United States representatives on the Environmental Affairs

in paragraph 5 of Article 17.9 of the TPA, “Each Party may provide comments on the accuracy of the draft within 45 days thereafter.”

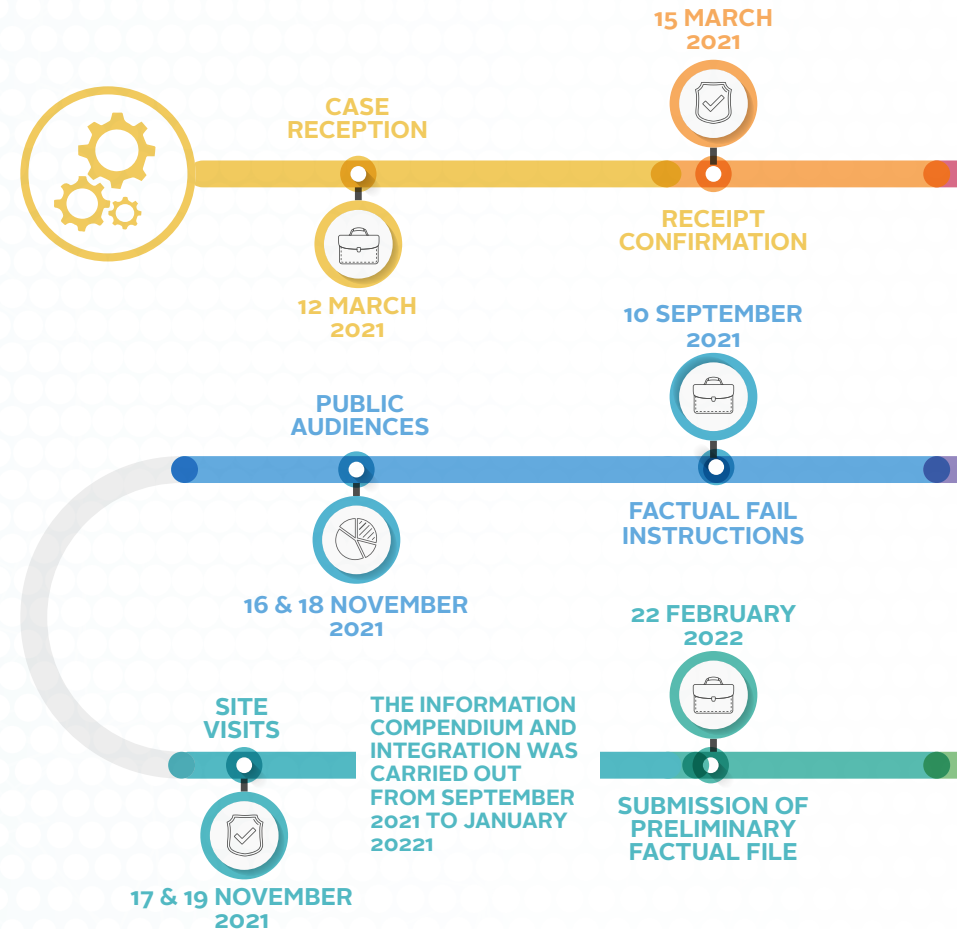
The Secretariat proceeded to incorporate the comments and contributions provided by the Council that it deemed pertinent,⁵⁷ and compiled the final Factual Record, which was submitted to the Council on June 27, 2022, after the expiration of the 30 calendar days for the inclusion of the comments. Upon receipt of the final Factual Record, “The Council may, by a vote of either Party, make the final factual record publicly available, normally within 60 days following its submission.”⁵⁸ Once this instruction is received, the Secretariat shall make the factual record available to the public, by publishing it within a period of 30 calendar days after receiving this instruction.

1. Environmental legislation that is allegedly not being effectively enforced

This section addresses the details and references of the Panamanian legislation which, according to the Submission, was not effectively enforced by the Government of the Republic of Panama, in accordance with the provisions of Article 17.8 of the TPA, which reads as follows: “Any person of a Party may file a submission asserting that a Party is failing to effectively enforce its environmental laws.”

⁵⁷ Paragraph 6 of Article 17.9 of the TPA and section 8 of the Procedure for Submissions.

⁵⁸ Paragraph 7 of Article 17.9 of the TPA and section 10 of the Procedure for Submissions.



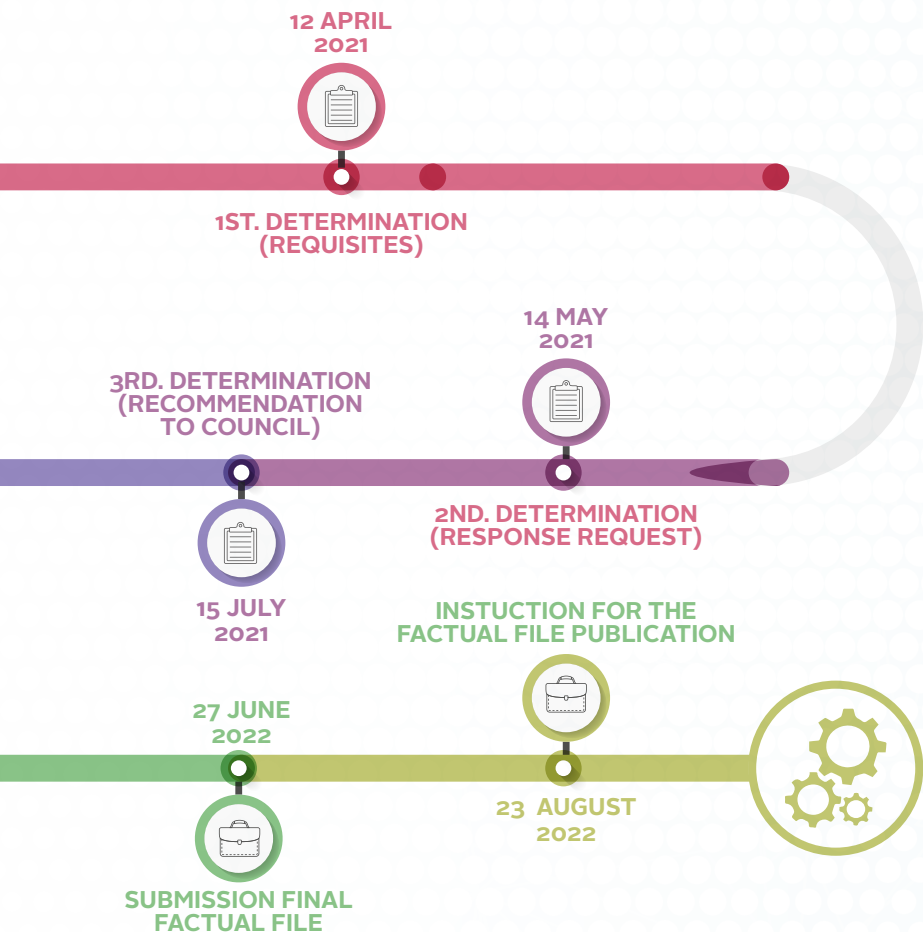


Image 7. Timeline for submission No. SALA-CA-PMA/001/2021 Barú Volcano National Park

In Submission No. SALA-CA-PMA/001/2021, Barú Volcano National Park, the persons filing the submission assert that Panama is overall not enforcing its environmental legislation within the area of this National Park, because there are “logging activities, the encroachment of the agricultural frontier, improper disposal of solid waste, intensive farming practices that place the environmental values of the protected area at risk, the practice of uncontrolled tourism activities or mass-promoted ones, without considering the capacity of the site to support them,”⁵⁹ among other situations. The persons filing the submission mention breaches of a series of integral and complementary regulations of Panamanian environmental legislation, which are detailed as follows:

a) Executive Decree No. 40 of 24 June 1976, “Whereby Barú Volcano National Park in the Province of Chiriquí is established.”⁶⁰

This Executive Decree, which was issued at the time by the Ministry of Agricultural Development, has 12 articles which regulate general aspects pertaining to the creation and applicable principles for this National Park. These regulations address the description of its boundaries; provisions for the use of its soil; the declaration of the park as Forest Heritage of the State and its inalienable nature; prohibited activities and the potential sanctions for breaching these; as well as the authorities responsible for its zoning, management, and development, among others.

⁵⁹ The original Submission text can be found in the attached digital Record.

⁶⁰ Official Gazette No. 18,619 of 13 July 1978. The document can be found in the legal regulations annex.

The following are mentioned among the considerations set forth in the Executive Decree for the creation of the Park “Barú Volcano, due to its natural and unique scenic, biological, and geological characteristics in the country, must serve as a center for recreation, scientific research and education at a national and international level, and as part of the development of tourism in the country.” There is also a consideration that “the State is obliged to adopt the measures necessary to achieve protection for those areas which, due to their ecologic, edaphic, and topographic conditions, have a direct influence on the hydrologic system and conservation and defense of soil, wildlife, flora, human life, and on the works erected by man.”

With regard to the statement of breaches reported by the persons filing the Submission, Article 5 of the regulations stipulates that:

“The occupation of; exploitation; grazing; as well as felling and burning in the area designated for Barú Volcano National Park is strictly prohibited.”

In addition to the above, Article 6 of the same regulation establishes penalties for the acquisition of timber, any other forest product or wildlife specimens. Additionally, Article 7 stipulates that privately-owned lands within the area of the Park must follow the regime for the use of soil established at the time by the National Directorate of Renewable

Natural Resources of the Ministry of Agriculture. This Directorate is now the Ministry of the Environment.

b) Resolution No. AG-0295-2004 of 30 July 2004, “Which approves the Management Plan for Barú Volcano National Park.”⁶¹

This Resolution issued by the National Authority of the Environment--now the Ministry of Environment--approves all sections of the “Management Plan for the Barú Volcano National Park,” which was prepared in March 2004 and was granted a validity period of five years. It also establishes a Committee tasked with the annual monitoring of the execution of the Plan, and with issuing recommendations for its update. It also sets forth the responsibility of the institution for managing financial resources, at the local and international level, for the execution of the Plan, jointly with collaborating institutions.

“The Management Plan is a tool to support the management of a protected area, which establishes policies, objectives, standards, guidelines, possible uses, actions and strategies to be followed. It is defined on the basis of a technical-political analysis of the resources, management category, potential and problems, with the participation of the various stakeholders involved, and in which conservation and development are reconciled, according to the capacity of the resources.”⁶²

⁶¹ Official Gazette No. 25,116 of 16 August 2004, page 38. The document can be found in the legal resolutions annex.

⁶² Article 2, subparagraph e) of Resolution No. AG-0170-2006 of 31 March 2006. Official Gazette No. 25,531 of 25 April 2006. The document can be found in the legal resolutions annex.

The Management Plan for Barú Volcano⁶³, integral part of Resolution No. AG-0295-2004, was prepared by Consorcio Asociación Nacional para la Conservación de la Naturaleza (ANCON) and Consultores Ecológicos Panameños S.A. This document is currently in force.

The content of the Management Plan compiles the diagnosis of this protected area according to its regional, physical, sociocultural, and biological characteristics, as well as to the quality of its scenery and tourism load capacity, among other aspects. It also sets forth guidance pertaining to its management through the establishment of categories and zoning. The latter is a major tool for the organization of a protected area, since it includes the standards for use stipulated for the area, according to the surface of a specific territory with homogeneous characteristics.

Barú Volcano National Park is part of the Panamanian protected areas which comprise the La Amistad Biosphere Reserve⁶⁴, declared by UNESCO in 1982 in Costa Rica, and in 2000 in Panama. In this regard, its zoning corresponds to the three major management zones established by this international agreement: the Core Zone⁶⁵, the Controlled Use Zone, and the Neighboring or Buffer zone. The Management Plan

defined six use subzones within the Core Zone, specifically for PNVB: the absolute protection subzone; recovery subzone; special use subzone one; special use subzone two; extensive use subzone; and the intensive use subzone. Each one of these subzones is defined in the Management Plan. This definition includes its purpose, description, and the standards for its use in relation to the management of resources; the possibility or not for their public use; and the possibility or not for the establishment of infrastructure.⁶⁶ Likewise, the Management Plan equally considers the Programs, Sub Programs, and Activities that were agreed upon at the time for the fulfillment of its objectives.⁶⁷

The claim of non-compliance submitted by the persons filing the Submission states that “... throughout the 46 years after being declared a National Park, this protected area has suffered a great impact, product of human intervention with invasive activities, which has progressively generated a great deterioration of the environmental values of the park. The zoning established in the management plan for the protected area has not been respected. Certain activities have not been minimized and others have not been regulated. Improvements in management processes have not been achieved; on the contrary, the environmental conditions of the park have deteriorated.”⁶⁸

⁶³ The Barú Volcano National Park Management Plan document can be found in the appendix of technical documents available to the public.

⁶⁴ As defined by the United Nations Educational, Scientific and Cultural Organization, UNESCO, the Biosphere Reserves are places in which interdisciplinary approaches can be carried out, to understand and manage changes and interactions between social and ecological systems, including the prevention of conflicts and the management of biodiversity. The La Amistad Biosphere Reserve is located in the Talamanca Mountain Range, and its borders are shared by the Republic of Costa Rica and the Republic of Panama. In Panama, the protected areas found within this Biosphere Reserve are La Amistad International Park; Barú Volcano National Park; Isla Bastimentos Marine Park; Palo Seco Protector Forest; La Fortuna Forest Reserve; Lagunas de Volcán Wetlands; and the San San Pond Sak Wetlands of International Importance.

⁶⁵ Core Zone: Includes a strictly protected area that contributes to the conservation of landscapes' ecosystems' species' and genetic variation' Management Zones for Biosphere Reserves' www.unesco.org/

⁶⁶ PNVB Management Plan, pages 73 to 82.

⁶⁷ PNVB Management Plan, pages 92 to 126.

⁶⁸ Second fact of the original Submission that was filed. The document can be found in the attached digital file.

c) Resolution No. AG-0904-2009 of 28 October 2009, “Whereby the validity of the Management Plan for Barú Volcano National Park is reestablished, and other dispositions are issued.”⁶⁹

In this resolution, the National Authority of the Environment—now the Ministry of Environment—reestablishes and extends the validity of the Management Plan for Barú Volcano National Park, until the Resolution for the adoption of a Management Plan is issued. This regulation modifies the validity period of 5 years established in Article 2 of Resolution AG-0295-2004, which stipulates that “The Management Plan for Barú Volcano National Park shall remain in force until the adoption of the new Management Plan to guide the administration of this Protected Area.”⁷⁰ This regulation also stipulates the order to prioritize the financing sources needed to update said Plan in the year 2010.

The claim of non-compliance with this regulation, which the persons filing the Submission described in the third fact of the Submission, states that “The Ministry of the Environment... has not executed the necessary actions to update the management plan for Barú Volcano National Park, which dates from the year 2004, and was declared valid by a resolution issued in 2009. During the period from 2012 to 2014, civil society organizations in Chiriquí

and academic sectors conducted efforts to update said plan. However, this effort was not followed up on, as per the verbal agreements among the Universidad Autónoma de Chiriquí, Environmental organizations, and the Ministry of the Environment, for it to materialize.”⁷¹

d) Law No. 1 of 3 February 1994, “Whereby the Forestry Legislation of the Republic of Panama is established, and which dictates other dispositions.”⁷²

This law, as set forth in its Article 1, is aimed at “the protection, conservation, improvement, enhancement, education, research, management, and rational exploitation of the forestry resources of the Republic.” Said law is regulated by the Resolution of the Board of Director 05-98 of 6 March 1998 and consists of general regulatory provisions for the Forestry Heritage of the State; Forest Protection; the Exploitation Regime for this resource according to their classifications. It also deals with other topics, such as the promotion of the management of forests; education and training on renewable natural resources; financing; and the violations, penalties, and corresponding procedures.

The filed Submission claims direct non-compliance with Articles 6 and 7 of the before mentioned law, which read as follows:

⁶⁹ Official Gazette No. 26,402-A of 6 November 2009. The document can be found in the legal resolutions appendix.

⁷⁰ The enforcement of this regulation is complemented by Resolutions No. AG-0170-2006, No. AG 0617-2011 and No. AG 0007-2011, which refer to the procedure for validating the term of Management Plans. All of them have been included in the legal resolutions appendix.

⁷¹ The document containing the proposed update of the 2012-2014 PNVB Management Plan can be found in the appendix of technical documents available to the public.

⁷² Official Gazette No. 22,470 of 7 February 1994. The resolution guiding the regulations can be found in Official Gazette No. 23,495 of 6 March 1998. The document can be found in the legal resolutions appendix.

“Article 6: When a forest or forest land, which belongs to the State Forest Heritage, due to its qualified ecological, environmental, scientific, educational, historical, touristic or recreational values, is declared suitable to be included in the National Parks System and other Protected Wildlife Areas, it shall be regulated by the respective legal instrument.”

“Article 7: All works projects or human activities, totally or partially financed with public, private or mixed funds; or those that must be authorized by public institutions, must have an environmental impact study, when such works or activities affect or may deteriorate the environment and the natural environment. Said document shall be reviewed and approved by the Ministry of the Environment, as long as within it, measures and previsions have been adopted to avoid, eliminate or reduce deterioration to the environment.

Failure to comply with the stipulations of the study will entitle the Ministry of the Environment to suspend such works or activities, without prejudice to the application of the corresponding penalties.”

The persons filing the Submission point as grounds for this potential non-compliance the frequent reports they filed due to the felling of trees;

the advance of the agricultural, livestock and coffee frontier; the growth of garbage landfills; and fires in the protected area, among other things. This information, in addition to the complaints filed, was reported to the Ministry of Environment during a meeting held in October 2019. A letter was also tendered, which described several environmental problems in the protected areas located in the western region of Panama. As of the date on which the Submission was filed—March 2021—the persons filing the Submission had not received a reply, which motivated the use of this mechanism.

e) Law 41 of July 1, 1998, General Law on Environment of the Republic of Panama (Single Text)⁷³, modified by Law 8 of 25 March 2015, “Which creates the Ministry of the Environment, modifies provisions of the Aquatic Resources Authority of Panama and dictates other dispositions.”⁷⁴

The General Law on Environment is the framework legislation for environmental matters in the country. It consists of the 70-plus general provisions, which regulate strategies, principles, and guidelines of the National Environmental Policy; the instruments for Environmental Management; Environmental Health and the Handling of Hazardous Risks; as well as Natural Resources in general; Climate Change; and Environmental Responsibility, derived from possible breaches to environmental norms, among other substantive issues. The competences

⁷³ Official Gazette No. 28131-A of 4 October 2016 and Official Gazette No. 23578 of 03 July 1998. The document can be found in the legal resolutions appendix.

⁷⁴ Official Gazette No. 27749 of 27 March 2015. The document can be found in the legal resolutions appendix.

regarding the enforcement of this regulation are found in Law 8 of 2015. This law created the Ministry of Environment and established its attributions and organization as “the governing entity of the State in matters of protection, conservation, preservation, and restoration of the environment, and the sustainable use of natural resources to ensure compliance and enforcement with the laws, regulations, and National Environment Policy. The governing laws in matters of natural resources such as forest resources, wildlife, water, incentives for reforestation, hydrographic watersheds, are complementary to this law, as well as their related regulations.”⁷⁵

f) Executive Decree No. 57 of 16 March 2000, “Which regulates the composition and operation of the Environmental Consultative Commissions.”⁷⁶

This regulation, in addition to stipulating the composition and operation of the Environmental Consultative Commissions, sets forth the provisions which guide the mechanisms for public consultation, and the procedure for the presentation of environmental complaints.

Regarding this specific procedure, Articles 51 and 52 of the regulation in question stipulate the following:

“Article 51: Any person, be it individually or legally associated, may report environmental breaches to Law No. 41 of 1998,

General Law on Environment, pursuant to the stipulations of these regulations.

Article 52: All complaints shall be filed before the office of the Ministry of the Environment which is geographically closest to the place of residence of the complainant, or which holds regional authority over the fact in the complaint.”

The assertions of the persons filing the submission, which are related to this regulation, are that they have filed complaints based on several reasons (tree felling; encroachment of the agricultural, livestock, and coffee cultivation frontiers; etc.), and they have not received concrete answers to said complaints.

g) Law 38 of 31 July 2000, “Which approves the Organic Bylaws of the Office of the Inspector General of the Administration, Regulates the General Administrative Procedure, and Dictates Special Provisions.”⁷⁷

Law 38 of 2000 establishes the General Administrative Procedure, which stipulates that “the administrative actions of all public entities shall be performed according to standards of informality, impartiality, uniformity, economy, celerity and efficacy, guaranteeing the timely performance of the administrative function, without prejudice to due legal process, with

⁷⁵ Article 74 of Law No. 8 of 25 March 2015. Which creates the Ministry of the Environment, modifies dispositions for the Aquatic resources Authority of Panama, and dictates other provisions.

⁷⁶ Official Gazette No. 24014 of 21 March 2000. The document can be found in the legal resolutions appendix.

objectivity and adherence to the principle of strict legality...”⁷⁸ As set forth in its Article 37, this Law applies to all administrative procedures handled by any state agency, except when a special standard or law exists to regulate a procedure for specific cases or issues. In cases where specific regulations exist, if such special laws have gaps in relation to basic aspects or important processes, such gaps must be filled by applying the provisions in this General Procedures Law.

The persons filing the submission mention the possible breach of Law 38 of 2000, referring to its provision that the State is obliged to reply to requests from the public within 30 calendar days, and 15 days in the case of an extension. In this regard, the Law stipulates the following:

“Article 40: If the petition is formulated based on the constitutional right to petition, the following rules shall be followed:

1. The authority to whom the petition is addressed shall issue the corresponding resolution, within the thirty days following its submittal, save for the exceptional circumstances established in the law...”

“Article 44: Any person who has filed a petition, inquiry or complaint has the right to know the status of its processing, and the corresponding public entity is obliged to inform him/her on this matter within five days from the date of filing. If the entity

is unable to resolve the petition, inquiry or complaint within the period of time specified by the law, the competent authority shall inform the interested party as to the status of its processing, which shall include an explanation to the interested party justifying the reasons for the delay.”

“Article 82: All consultations brought before the competent authority, which meet the requirements established in this Law, shall be resolved by the pertinent authority, within thirty business days after its filing, by means of a note, formal notification or resolution, which shall detail the grounds for the respective decision or opinion.

The authority shall inform the requestor of the action whereby the consultation is resolved, either by personal delivery of the relevant document, or by sending it by mail, fax, telegram or other suitable means for this purpose.”

h) Law 6 of 22 January 2002,⁷⁹ “Which dictates norms for transparency in public administration, establishes the Habeas Data action, and dictates other provisions.”

This regulation, as its name indicates, establishes the dispositions that guarantee transparency in public administration in general. Its

⁷⁷ Official Gazette No. 24,109 of 1 August 2000. The document can be found in the legal resolutions appendix.

⁷⁸ Article 34. Law 38 of 31 July 2000.

⁷⁹ Official Gazette No. 24,476 of 23 January 2002. The complete document can be found in the legal resolutions appendix.

articles address regulations on freedom and access to information; the obligation of the State to inform; which documents should be considered confidential and of restricted access; participation by citizens in administrative decisions and their modalities; the Habeas Data Action as a means to guarantee access to information, as well as the sanctions to and responsibilities of public officials with respect to compliance with this law.

As in the case with the before mentioned law 38 of 2000, this is a general law that applies to all State institutions in the area of its competence, which is transparency and access to information. The persons filing the Submission allude to it, by pointing out that this regulation sets forth the obligation of the State to reply to inquiries made by the public within 30 calendar days and 15 additional days with an extension. The law states the following in this regard:

“Article 2: Any person has the right to request, without the need to provide any justification or reason, information of public access in the possession of or known by the institutions stipulated in this Law...”

“Article 7: The receiving public official shall have thirty calendar days from the date of submission of the request to answer it in writing and, if the request does not contain the requested documents or records, shall so inform... In the case of a complex or

lengthy request, the public official shall so inform in writing, within the mentioned thirty days of the need to extend the term for the compilation of the requested information. In no case shall such term exceed thirty additional calendar days. ...”.

2. Regarding the Submitters' Assertions

The Submission filed before the Secretariat contains seven facts which in turn refer to the OPEN LETTER PROTECTED AREAS OF WESTERN PANAMA, addressed on 22 October 2020 by the persons filing the Submission to the Ministry of Environment. The lack of a response to this letter, among other allegations of non-compliance with environmental legislation, led to the start of this proceeding before the SEEM.

The persons filing the Submission stated in the introduction to the narrative of the facts, that Barú Volcano National Park has been exposed to various threats with one of the most notable being the project known as the “Ecological Road.”⁸⁰ The persons filing the Submission assert that this is one of the most symbolic protected areas at the national level. The “Ecological Road” holds seven life zones; is an area of great ecosystem value; supplies water; provides opportunities for recreation and tourism; mitigates extreme natural events (such as floods); and prevents and regulates the impacts of climate change.

⁸⁰ The submitters cited an extract from a Ruling issued by the Supreme Court of Justice on 9 February 2006, which among other things stipulated that “...the construction of said ecological road is incompatible due to the activities that are forbidden from being carried out within Barú Volcano National Park: since they require not only the felling of trees to build said road but also excavations and the construction of buildings which due to lacking harmony with nature without a doubt cause a negative impact...”

The submission also mentions that in 1983 UNESCO designated the La Amistad Biosphere Reserve with an area of 612,570 hectares. This reserve was established in Panama in 2000. It comprises the protected areas and surrounding areas, such as La Amistad National Park; Barú Volcano National Park; Isla Bastimentos Marine Park; Fortuna Forest Reserve; San San Pond Sak Wetlands of International Importance; Lagunas de Volcán Wetlands; and the Palo Seco Protector Forest. The persons filing the Submission describe the area through its natural characteristics: it is covered by tropical rain and cloud forests; rocky peaks; mountain masses; moors; bogs, and they mention that it is inhabited by four different indigenous tribes.

The persons filing the Submission assert that, despite its importance, this protected area has experienced serious impacts as a product of human intervention, whose activities have deteriorated the environmental values of the park. The Submission asserts that the zoning restrictions established in the Management Plan⁸¹ have not been observed; extractive activities have not been minimized; and the necessary elements to update said Management Plan, issued in 2004, have not materialized, despite joint efforts made from 2012 to 2014 by the civil society of Chiriquí and academic sectors to bring it up to date. The institution has advanced other instruments such as the Public Use Plan⁸² to promote tourist activities due to their financial benefits, but not the Management Plan.

The latter is the instrument that will guide the programs related to the protection and conservation of the protected area⁸³, and it will allow to address tourism activities to be addressed separately.

The Submission proceeds to describe the concern of environmental civil society organizations in the Province of Chiriquí and in the country. In 2019, a meeting with the Minister of Environment was requested, which was held in October of that year. The concerns with regard to the condition and management of the protected area were voiced during said meeting, but the problems that were discussed were not followed up on. The submitters state that a letter detailing the various environmental problems in the protected areas in western Panama was submitted on October 22, 2020⁸⁴. This letter was generated by a lack of concrete answers; the constant complaints arising from logging activities; the encroachment of agricultural, livestock, and coffee farming activities; and the growth of waste disposal sites.

The note that the submitters mention, called “OPEN LETTER PROTECTED AREAS OF WESTERN PANAMA ...” was attached as part of the Submission filed with the Secretariat.⁸⁵ This letter was signed by the submitters and included, as a show of support, a list of 32 Panamanian organizations. This letter was submitted pursuant to Principle 10 of

⁸¹ It must be mentioned here that since the establishment of Barú National Volcano Park: article 7 of Executive Decree No. 40 of 1976 stipulates the following: Article 7: Privately owned lands within the Barú Volcano National Park area shall be subject to the land use regime established by the Ministry of the Environment, formerly the National Directorate of Renewable Natural Resources of the Ministry of Agricultural Development.

⁸² Resolution No. DAPVS-0006-2016 of 6 July 2016, which approves the Public Use Plan for Barú Volcano National Park. Official Gazette No. 28075-A.

⁸³ Account of the SECOND to FOURTH assertions of Submission No.: SALA-CA-PMA/001/2021 Barú Volcano National Park.

⁸⁴ Account of the FIFTH and SIXTH assertions of Submission No.: SALA-CA-PMA/001/2021 Barú Volcano National Park.

⁸⁵ The full note: Open Letter Protected Areas Western Panama” can be found in the attached digital file.

the 1992 Rio Declaration on Environment and Development⁸⁶ and the Political Constitution of the Republic of Panama. It voices its concerns over a series of situations that have been taking place at Barú Volcano National Park (PNVB) and La Amistad International Park (PILA), with the purpose of obtaining information and also spurring actions which would allow their participation, as society, to reach a solution to said problems.

The letter lists a series of fifteen (15) points, in which they request information about several topics related to PNVB and PILA. We have summarized these 15 points into two broad topics, due to the relation between them:

- **Requests related to governance and institutional operations processes.** This topic contains the requests submitted for: a road map for the administration of protected areas in the western region (point 1); centralized management of the protected areas (point 9); education and training of the staff linked to the protected areas (point 10); creation of the Superior Environmental Prosecutor's Office (point 11); update to the Management Plans for the PILA and PNVB (point 13); the installation of server for public access to environmental information for the last 20 years (point 14); a call to all Panamanians, organizations, and public officials to achieve compliance with the environmental legal framework (point 15).

- **Requests pertaining to administrative processes arising from breaches to the regulations.** This topic contains the requests submitted for: complaint due to the construction and operation of tourism infrastructure and road repairs/construction without an Environmental Impact Assessment (EIA) within PNVB (point 2); complaints stemming from several sectors from the PNVB, the application of minimal penalties, a lack of investigation into coffee cultivation, the encroachment of traditional agricultural farms (point 3); lack of controls and investigation into the felling of forests and removal of secondary vegetation for livestock-raising purposes at the PILA (point 4); progress on the administrative and criminal proceedings related to the above events (point 5); the EIS and Strategic Environmental Assessment (SEA) as decision-making tools, a request for an audit of the current status of the area where the Chan 75 dam is located (point 6); information disseminated to the public on the progress of civil and criminal proceedings, on formal reports and complaints filed with the Ministry of Environment or Public Prosecutor's Office (point 7); lack of awareness of the management plans in force, and little control over activities, which generate negative impacts; compliance with the regulations that create the protected areas, their management plans, and the Biological Diversity, Forestry Law, Water Laws regulations, among others (point 8); the

⁸⁶ Principle 10 of the 1992 Rio Declaration on Environment and Development: "Environmental issues are best handled with participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided." This principle is reaffirmed by the ratification of the Regional Agreement on Access to Information, Public Participation and Access to Justice in Environmental Issues in Latin America and the Caribbean, which was approved by Panama through Law No. 125 of 4 February 2020, Official Gazette No. 28956-A of 6 February 2020.

suspension of illegal projects or those with questionable legal documents (point 12).

The seventh fact of the Submission reiterates “the request for concrete answers to the concerns raised in the letter sent to the Ministry of the Environment.” It emphasizes nine aspects related mainly to the PNVB: the formulation of EIAs or other standards for the opening of new roads, particularly the one leading to the path to the summit. A report has also been filed with the Prosecutor’s Office regarding this road. Other aspects in the letter are tourism infrastructure and coffee cultivation within the Park; results of the complaints filed in tree felling cases which took place in several sectors, including in Alto Pineda, Bajo Grande, Las Cumbres, and Cordillera, among others. Other aspects in the letter pertain to a response to the proposal to establish a trust for the administration of the protected area, and thus achieve a mechanism for governance; and a response regarding the process for the update of the Management Plan, based on current diagnoses which strengthen conservation and do not favor setbacks in the management and protection of the PNVB.⁸⁷

The Submission closes by referring to the situation that unfolded in November 2020 after the events caused by the Eta and Iota hurricanes. A proposal was made at the beginning of this year to relocate the families affected by these events to sites located within the protected area, PNVB. This situation led to a local and national debate, and to threats to area environmental advocates who had voiced their concerns over compliance

with environmental regulations. The description notes that although the situation was resolved with a proposal for relocation outside the Park, “the situation evidenced once again that the non-inclusion of citizens’ participation in the analysis, and search for solutions, may generate unnecessary conflicts...”

3. Response of the Party

Once the formal and substantive requirements for the admissibility of the Submission were met and its content analyzed, the Secretariat determined that there was merit to request a response from the Party. This was done through an unnumbered note dated May 12, 2021, which was formally tendered on May 14, 2021. The entire file for Submission No. SALA-CA-PMA/001/2021, Barú Volcano National Park was also delivered to the Ministry of Environment, as representative for the Party.

No response had been received from the Party by June 30, 2021, upon the expiration of the deadline of 45 calendar days to deliver an answer or to submit a justification for an extension. Therefore, on July 15, 2021, Determination No.003/2021 was issued, which informed the Environmental Affairs Council that Submission No. SALA-CA-PMA/001/2021, Barú Volcano National Park warranted the development of a Factual Record.

A response note from the Party was untimely received on July 21, 2021. Since the procedure does not contemplate how to handle documentation

⁸⁷ Reference summarized in the SEVENTH assertions of Submission No.: SALA-CA-PMA/001/2021 Barú Volcano National Park, which alludes to the 22 October 2020 note tendered to the Ministry of the Environment.

received after the deadline, the Environmental Affairs Council was consulted as to whether this information should be included in the Submission file, to be used in the event that the preparation of a Factual Record was instructed. An affirmative answer was received from the representatives of Panama to the Council, but no comment was received from the United States.

Pursuant to this, the note received was not analyzed as a response from the Party per se. However, once instructions were received for the preparation of the factual record, and considering that “all the information provided by the Party” can be used for such purposes, the Secretariat used note DM-1327-2021, received on July 21 2021, as a reference to obtain information, in which the Party sent to the Secretariat note DM-1247-2021 of June 29, 2021, which was sent to the submitters. This note provides answers to the fifteen points of the “Open Letter Protected Areas of Western Panama,” which had been tendered to the Ministry of Environment on October 22, 2020. Based on this input, additional information was requested from the Party in note No. SALA 06-2022, which was delivered on October 25, 2021, in order to have more information on the handling of the points raised by the submitters.

Partial responses were received for this request for information in notes SG-003-2022 of January 7, 2022 and note DM-0162-2022 of February 4, 2022, which provided information on the loss of forest coverage. Information was also included on the administrative processes currently

underway. This information was included in the section on the information that is available to the public in this document. Additional extensions for the response were requested in both cases, but the submissions procedure does not provide for the prolongation of additional extensions.⁸⁸

⁸⁸ The content of the notes can be found in the attached digital file.

V

INFORMATION COMPILED FOR THE PREPARATION OF THE FACTUAL RECORD

The compilation of information to be included in the preliminary factual record must comply with the procedure set forth in paragraph 4 of Article 17.9 on Factual Records and Related Cooperation of the TPA, which establishes the following:

“...4. In preparing a factual record, the secretariat shall consider any information furnished by a Party and may consider any relevant technical, scientific, or other information:

- a. that is publicly available;
- b. submitted by interested persons;
- c. submitted by national advisory or consultative committees;
- d. developed by independent experts; or
- e. developed under the ECA”

As was done in the previous section, based on the analysis of the assertions made by the submitters in the Communication and in the Open Letter, the Secretariat grouped the statements into two main topics: requests related to governance and institutional operations processes, and requests pertaining to administrative processes arising from breaches to the regulations. This was done to facilitate the investigation and compilation of the related legislation and the more relevant documents for each topic. The information collected is attached, pursuant to the stipulations of Article 17.9.4 of the TPA.

1. Information available to the public

In this section, the Secretariat compiled the information that it was able to research throughout the preparation preliminary factual record, and

which it deemed relevant to the assertions stated in the Submission. This compilation was made by gathering the information according to the topics into which the Secretariat grouped the assertions raised by the submitters: governance and institutional operations, and proceedings for non-compliance with the regulations.

To obtain this information, open databases on the Internet; private libraries; documentation centers at public institutions; documentation centers of international environmental conventions; documentation centers of non-governmental environmental organizations; and interviews with civil servants and other environmental professionals in Panama, among others, were consulted.

A) Public access information related to the facts involving governance and institutional operations.

2. The submitters made requests that referred to various aspects. With the purpose of contributing information pertaining to the topics raised, the Secretariat was able to gather several public policy and legal regulations documents, as well as technical information, as follows:

a) Management Plan for Barú Volcano National Park

As mentioned in previous sections, the Management Plan for PNVB⁸⁹ was approved and is in force since 2004. As a support tool for the

⁸⁹ The full document can be found in the technical documents appendix which is available to the public

Table 4.15 PNVB Critical Areas

Threat Type	Critical Situation	Affected Areas
Human settlements	Location of communities and houses on individual farms before and after the creation of the management plan.	Mainly in the community of Nuevo Bambito with an estimated 400 housing plots. This notification predates the creation of the PNVB and the area of Alto Pineda, which is quite densely populated.
Land tenure	Property titles, possessory rights and precarious occupation are available.	Land tenure exists in various forms along the eastern, western and southern boundaries. Approximately 500 - 700 parcels or farms exist within the PNVB.
Agricultural and livestock activities	Due to the fertile soils, agricultural activity has spread at the expense of the PNVB; in addition to the loss of forest cover, it has increased a problem of contamination by agrochemicals. Livestock farming is present for both beef and dairy cattle.	Several agricultural and livestock activities are practised in the area, ranging from high altitude vegetable and fruit crops to livestock farming. Each year, as a way of exerting pressure, heavy fires are set to destroy the forest and justify the appropriation of the land. Mostly, this happens near the community of Volcán. One of the tools used to eliminate the forest cover is the use of fire. Fires are considered the main environmental problem of the PNVB, not only because of the ecological damage, but also because of the costs incurred in controlling them and the few results in finding the culprits of such activities. Based on the studies performed, it has been estimated that 3,400 ha have been affected, representing 23% of the total area in the management unit.
Resources Extraction	Mainly hunting and extraction of orchids and timber.	These activities occur along the boundaries, with the most affected areas to the east and west of the management unit.
Tourism and ecotourism development	Visits to the volcano with no guides and other small projects to visit the volcano with guides, but not regulated.	Several tourism and ecotourism activities are conducted in a disorderly manner, including visits to the summit of the Barú volcano, particular activities to the south of the PNVB. The summit of the volcano is one of the most affected by the visitation.
Aquaculture	Pond farming project.	Fish (trout) farming to the east of the PNVB, using the waters of the Caldera river.
Mining	Sporadic extraction of volcanic rock slabs.	Sporadic extraction of slabs for ornamental walls in houses. This is illegal and is practised in the Boquete region.
Road projects	Construction of a road to interconnect the communities of Cerro Punta and Boquete.	The construction of a "Tourist and Ecological Road" has been recently proposed in the Respingo area, to connect the communities of Boquete with Cerro Punta (Cabinet Resolution 123 of December 4, 2002). In addition, there are other access roads to the volcano's summit, from the community of El Salto and another to a site known as Aguacate. These projects have potential financial, ecological and economic impacts.
Hydroelectric and other alternative sources		No such projects were identified.
Pollution in general	Contamination by agrochemicals and solid waste (rubbish).	Significant sources of contamination such as the waste dump in the community of Volcán adjacent to the management unit; waste dumps from the telecommunications facilities at the summit of Volcán, contamination by pesticides on crops within the PNVB.
Concessions	Antenna concessions and water use.	A number of concessions for the installation of telecommunication towers on the summit of the volcano were granted, but they do not pay directly to the management unit, mainly due to the type of concessions generated. On the other hand, there are about 60 water intakes for agricultural use and for human consumption, but no concessions have been granted for their use.
Agreements	No agreements that deliberately affect the management unit are recognised.	No affected areas identified.

Source: ANCON - CEPISA Consortium, 2003. PM of PNVB.

Table 3. Management Plan for PNVB, June 2004. Pages 58 and 59.

Table 4. Proposal for the update of the PNVB Management Plan Period 2013-2022. ANAM, MesoAmerican Biological Corridor Project for the Panamanian Atlantic, 2012. Pages 52 and 53.

Table 4.16 PNVB Critical Areas

Threat Type	Critical Situation	Affected Areas
Human settlements	Location of communities and houses on individual farms before and after the creation of the management unit.	Mainly to the community of Nuevo Barrios and Alto Pivida area.
Land tenure	Land with title deeds, possessory rights and usufruct occupations.	Land tenure exists in various forms along the eastern, western and southern boundaries within the PNVB.
Agricultural and livestock activities	Due to the fertile soils, agricultural activity has expanded into the PNVB, in addition to the loss of forest cover, it has led to an erosion process and increased contamination by agrochemicals. Livestock farming is mainly for meat production.	Several agricultural and livestock activities are practiced in the area, ranging from high altitude vegetable and fruit crops to livestock farming. Each year, as a way of exerting pressure, heavy fires are set to destroy the forest and justify the appropriation of the land. Mostly, this happens near the community of Volcan.
Resources extraction	Mainly poaching and extraction of orchids and timber.	Such activities occur along the boundaries, with the most affected areas being to the east and west of the management unit, reaching as far as the mountain range in the case of hunting.
Tourism and recreation development	Visits to the Volcano with the guides, and other small groups to visit with guides, which are not in compliance with the established regulations.	Several tourism and recreation activities are conducted in a disorderly manner. Visiting the summit of the Barro volcano generates waste, and tensions due to the loss of forests, graffiti on infrastructure, rocks and trees, and other activities typical to the south of the PNVB.
Aquaculture	Fish culture project.	Fish (trout) farming to the east of the PNVB, using the waters of the Gatuna river.
Mining	Extraction of volcanic rock slabs and stone material for the construction and repair of roads.	Illegal, sporadic and local extraction in the Boquete and Volcan region.
Pollution in general	Contamination by agrochemicals and solid waste (rubbish).	Significant sources of contamination such as the waste dump in the community of Volcan adjacent to the management unit, waste dumps from the telecommunications facilities at the summit of Volcan, contamination by pesticides on crops.
Contraband and Emissions	Antenna space waves, water use and service connections.	Installation of telecommunication towers on the summit of the volcano. On the other hand, there are about 50 water intakes for agricultural use and human consumption within the entire protected area, but most of them have no water connections. Service connections are being processed in the Boquete area.

Source: ANCON - CEPISA Consortium, 2003. PM of PNVB, modified by ANAM - CBMAP II, 2012.

management of the area, it establishes the guidelines, possible uses, and other aspects to be followed, pursuant to the National Park category. Its validity is renewed every five years as per the legal dispositions, but its substantive content has remained the same. Therefore, some of its aspects may be obsolete per the current context, but since the critical situations are the same, the programs and actions designed to handle them continue to be valid not only legally, but also in the material sense.

In the year 2012, the former National Authority of the Environment (ANAM), through the MesoAmerican Biological Corridor Project for the Panamanian Atlantic, prepared a proposal for the modification of the Management Plan for PNVB for the period from 2013 to 2022⁹⁰. Although this document was not legally approved, public consultations were held for its preparation. The results obtained pertaining to the Critical Areas of the PNVB, except for a few modifications, are similar to those obtained in 2004, which were shown in the previous table.

The programs, subprograms, and activities established in the PNVB Management Plan remain in effect and include the Administrative Management Program; the Sustainable Community Development Program; the Research and Monitoring Program; the Environmental Communication, Education, and Interpretation Program; and the Management Plan Follow-up and Monitoring Program. Additionally, the PNVB Management Plan includes subprograms and activities.⁹¹

⁹⁰ The full document can be found in the appendix of Documents provided by interested parties.

⁹¹ PNVB Management Plan, June 2004. Pages 92 to 125.

**b) National Strategic Plan with a State Vision, Panama 2030.
Alignment of national development with the Sustainable
Development Goals.⁹²**

The national government adopted the National Strategic Plan with a State Visions, Panama 2030 public policy plan for implementation and it is currently in force. The Environmental Sustainability Axis, which is divided into seven main topics, is included within the public policy's strategic axes. The Biodiversity and Ecosystems topic is highlighted for the purposes of this compilation.

The Environmental Sustainability Axis describes the variety of the natural resources of the territory, and how environmental actions have been aimed at guaranteeing the rights of citizens, through the development of environmental policies. These policies have been organized in the form of strategies, plans, and policies.

The section on the Biodiversity and Ecosystems axis specifically refers to Protected Areas. It highlights, among other aspects, that: "Among the substantive actions which must be undertaken in the short term, in protection matters, are the promotion of the implementation of the shared management of protected areas with organized community groups; the preparation of plan for the concession of services and the administration of protected areas, which is contemplated in the General Law on Environment; the strengthening of management and the active conservation of the

protected areas through environmental education; environmental investment programs; environmental community businesses; low-impact ecotourism; volunteer work; and other activities. Also, to institutionalize the concept and management of biological corridors within the Ministry of the Environment; to undertake an analysis of the financial needs of the National System of Protected Areas (SINAP)."⁹³

STRATEGY: Terrestrial ecosystems and biodiversity. Given the importance in ecological and biodiversity issues, the protection of ecosystems and their biodiversity needs to be extended in the short term to prevent their degradation and loss. Environmental culture should be fostered at the national level within protected areas and promote the sustainable use of existing resources. Institutions should coordinate, avoiding duplication of functions in the application of policies, guaranteeing compliance with international environmental conventions and agreements, as well as environmental, biodiversity and climate change policies, among others, framed in the plans and programmes developed at the country level and with financing mechanisms providing the necessary resources for their conservation and management.

Effect: Panama advances in the implementation of protocols and strategies for the integral and sustainable conservation of biodiversity.

Objective: Develop actions for the integrated management of watersheds and the conservation of ecosystems and their biodiversity, with citizens participation in areas and regions of the country where there are protected areas and/or critical, vulnerable, under-represented or priority ecosystems.

Relevant actions

Emphasis: Increase protected areas with high terrestrial, aquatic and marine biodiversity.

Assumption: Development of programmes to protect freshwater and marine ecosystems and species.

Risk: Climatic and anthropogenic phenomena that decrease the flow of freshwater sources, affecting terrestrial, aquatic and marine ecosystems.

Emphasis: Increase the number of reforested and restored areas according to basins and ecosystems.

Assumption: Programmes and campaigns to ensure the conservation of protected areas and the sustainable use of watersheds and ecosystems.

Risk: Indiscriminate deforestation, loss of biodiversity and ecological character of ecosystems.

Emphasis: Increase official assistance for public spending on the conservation and sustainable use of biodiversity and ecosystems.

Assumption: Develop assistance programmes for biodiversity conservation and sustainable use of ecosystem goods and services.

Risk: Lack of transparency and anthropogenic pressures on ecosystems.

⁹² National Council for Domestic Consensus on Development 2017. With support from the United Nations Development Programme (UNDP). The full document can be found in the appendix of technical documents which is available to the public.

⁹³ Ibid. Pages 59 and 60.

The strategy proposed in relation to this topic is summed up in the document as follows:

This is a declaratory policy document; however, it also refers to the implementation of strategies and plans that have been formally approved through legal norms. This makes compliance with them binding. Also, an

 1	CONSERVATION AND RESTORATION	<ul style="list-style-type: none">• In situ conservation of representative ecosystems• Development and strengthening of ex situ conservation• Restoration of degraded ecosystems
 2	BIOIVERSITY STRESS REDUCTION	<ul style="list-style-type: none">• Prevention, control, monitoring and management of invasive exotic species• Strengthen regulation and control of illegal trade in endangered species• Reduce other natural and anthropogenic factors that increase the vulnerability of biodiversity
 3	ENVIRONMENTAL KNOWLEDGE, AWARENESS AND EDUCATION	<ul style="list-style-type: none">• Systematisation, dissemination and access to biodiversity information• Formal and non-formal environmental education• Promotion of biodiversity research• Preservation of traditional and local knowledge
 4	SUSTAINABLE USE AND MANAGEMENT	<ul style="list-style-type: none">• Strengthen tools that promote the sustainable use and fair and equitable benefit-sharing• Sustainable use
 5	INTEGRATION AND GOVERNANCE	<ul style="list-style-type: none">• Capacity building for NBSAP implementation• Spatial planning• Economic valuation and financial management• Social participation for biodiversity governance

NBSAP STRATEGIC PILLARS AND ACTION LINES
Source: Participatory consultation process outcome for the NBSAP

Image 9.
Source: National Biodiversity Strategy and Action Plan (EPANB) 2018-2050. Page 68.

announcement was made last year about the start of the collaborative work for the next Environmental National Strategy of Panama (Spanish acronym ENA)⁹⁴, which will offer room for public participation.

c) Biodiversity Strategy and National Action Plan (EPANB) 2018-2050



Image 10.
Source: National Biodiversity Strategy and Action Plan (EPANB) 2018-2050. Page 70.

This public policy normative instrument, which was approved by Executive Decree No. 128 of December 18, 2018, brings together relevant technical information and concrete actions for the fulfillment of the objectives of five strategic axes in biodiversity matters:

⁹⁴ <https://www.miambiente.gob.pa/miambiente-inicia-planificacion-de-gestion-con-la-estrategia-nacional-ambiental/>

As described by the EPANB, one of the most important roles of protected areas is control of the processes that generate a loss of biodiversity. This is carried out through three main objectives: “Representativeness, a long-term objective which refers to the representation of biodiversity at its various levels or organization; the second one, persistence, that is, for the protected area to be in a capacity to promote the long-term survival of the biodiversity that it contains; the third, connectivity or the capacity to communicate different protected areas by means of biological corridors, guaranteed their permanence (Margules & Pressey, 2000).”⁹⁵

The document continues to state that a change in soil use is one of the greatest threats to biodiversity, since it implies a loss of vegetation coverage and the fragmentation of ecosystems. This generates discontinuity and isolation in biodiversity. The effects of pollution in the cases of Barú Volcano National Park and La Amistad International Park are cited as an example: “In the zones adjacent to the protected areas, the contamination of the soil and waters happens as a result of the use of agrochemical products, discharge of wastewater from domestic, industrial and commercial sources...”⁹⁶

d) Strategic Plan for the National Protected Areas System of Panama, February, 2017-2025.

The Strategic Plan of SINAP for 2017-2025⁹⁷ is described as an instrument which articulates, in an integral manner, the strategies necessary to ensure

the efficient administration of the network of protected areas, “through the development of objectives, programs, and actions linked to strategies and guiding instruments on a national level, in environmental matters.” The purpose is to achieve the coordination of activities and the implementation of the Environmental Policy.⁹⁸

This plan lists the key biodiversity areas (KBAs) in the country and includes the PILA and PNVB. It details that the PNVB was ranked in the average category according to the results of the evaluation of its management⁹⁹ in 2014. Pursuant to the Resolution which creates the Protected Areas Management Effectiveness Monitoring Program, it must have a database with two components: 1. complementary data for the Protected Areas, whose information is compiled by the heads of the protected areas, along with their personnel and that of the headquarters of the Regional Directorates; and 2. the Protected Areas Monitoring sessions, which are the annual meetings held by the Permanent Monitoring team. This team consists of the area heads, officials with the headquarters of the Regional Directorate, and civil society interest groups that provide support in managing protected areas.

The participative consultations and workshops held to prepare this Plan in 2017 identified a series of weaknesses of SINAP. These were listed for each one of the Strategic Plan programs.

⁹⁵ EPANB. Op. Cit. and Species. Page 23

⁹⁶ Ibid. Contamination. Page 31.

⁹⁷ The full document can be found in the appendix of technical documents which are available to the public.

⁹⁸ SINAP Strategic Plan, 2017-2025, Page 12.

⁹⁹ The SINAP Protected Areas Management Effectiveness Monitoring Program was approved by Resolution No AG-007-2004 of 9 January 2004. This document is an instrument that consists of three manuals. It is used to monitor and evaluate the management plans for protected areas for the improvement of the decision-making process in environmental administration. The full document can be found in the legal resolutions appendix.

SINAP PROBLEMS	
Programme: Natural and cultural resource management	
1	Protected Areas with no management plans
2	Lack of updated information on SINAP historical and cultural sites.
3	Absence of an updated inventory of invasive species in SINAP.
Programme: Integrated Landscape Management	
4	Need to restore intervened landscapes
5	Biological Corridors Department with no staff
6	Absence of technical survey justifying SINAP's connectivity
Programme: Control, Surveillance and Security	
7	There is no baseline or knowledge of SINAP's conservation status
8	Lack of suitable personnel and equipment
9	Lack of planning in surveillance control
10	Lack of use of technologies
Programme: Comprehensive institutional and legal strengthening	
11	Legal officers are not qualified in environmental matters, lacking knowledge of environmental norms and with no commitment (reflected in judicial defaults).
12	Inconsistent and outdated norms
13	Weak inter-institutional coordination
14	Lack of legal advisory staff in SINAP
Programme: Risk management and climate change	
15	There is no specific coordination to address the issue at the local level, i.e. in AP.
16	Lack of attention to degraded areas due to logging and burning
17	Lack of security and monitoring equipment for personnel
18	Improve coordination and communication with the National and Ecological Police.
Programme: Research and Monitoring	
19	Lack of trained human resources to contribute to and implement the research and monitoring programme.

SINAP PROBLEMS	
Programme: Communication, education and environmental culture	
20	Lack of equipment (repeaters, portable radio, base station radio)
21	Lack of staff
22	Lack of outreach material
23	In MiAmbiente's social networks, priority is given to non-SINAP information.
Programme: Public Use	
24	Lack of Public Use Plans
25	Lack of signage
26	Lack of staff to implement public use plans
27	Improving collection mechanisms
28	Lack of and poor facilities
Programme: SINAP Administration	
29	The new administrative and procedural requirements for MiAmbiente, far from improving, were worsened by the change.
30	Deficient structure of the SINAP Administrative Unit in DAPVS and Regional Directorates.
31	Demotivation of SAPVS, SINAP and AP staff due to overloaded assignments, delayed decision-making and processes.
32	POA are not met and activities are not implemented within the planned timeframe (repeated rescheduling).
33	Lack of sufficient and motivated qualified staff linked to SINAP, DAPVS and AP.
34	Lack of Resources (equipment and infrastructure) allocated to protected areas.
35	There are no methodological instruments for the design, proposal and implementation of the protected areas system, the elaboration, approval, monitoring, execution and evaluation of management and operational plans are not up to date.
36	Poor planning processes
37	There are no technical specifications and/or terms of reference previously elaborated to summon suppliers, consultants and/or contractors for the planned activities, or the case that these TORs or specifications contain faults or inconsistencies that cause the nullity of a process.
38	Lack of staff training on planning.
39	The investment projects supporting SINAP protected areas are not included in the structure and organisational chart of the DAPVS. Most of the projects are managed as islands.
40	Existing management plans are deficient in quality, with a few exceptions.
41	Not known or compliant as set out in National and International Strategies and other environmental regulations.
Programme: Financial Sustainability	
42	Deficient budget allocation for DAPVS and SINAP
43	Current administrative procedures in DAF are slow, bureaucratic.
44	No follow-up to procedures, nor is the unit and/or person responsible for the delay identified, limited knowledge of SINAP, DAPVS and the guidelines governing the MiAmbiente by the staff.

SINAP PROBLEMS	
45	AP are not self-sustainable, revenues do not flow back to AP in the same proportion as they are generated.
46	Under-execution of allocated funds. Avoid project fairs.
47	There is no budget for the implementation of the SINAP Strategic Plan, management plans and other AP management plans.
48	Poor revenue collection management.

Table 5. Source: Strategic Plan of the National Protected Areas System of Panama 2017-2025. Pag. 32-34

The SINAP Strategic Plan was structured along six strategic lines and ten programs. The planning tables for the execution of the ten programs that seek to fulfill the strategic objectives of SINAP can be found in pages 52 to 86 of the document. They contain descriptions, for each program, of the goals, lines of action, markers, responsible parties, partners, terms for their implementation, and estimated costs.

e) District Water Security Plan for Tierras Altas, Province of Chiriquí, 2019.

As described in its introduction, the Water Security Plan for the district of Tierras Altas¹⁰⁰ seeks to contribute to water governance

at the district level. It stems from an initiative by the Ministry of Environment, through the Climate Change Adaptation Program and Fundación Natura. This document incorporates the goals of the National Water Security Plan at the district level.

Although this document does not focus on specific issues pertaining to any of the protected areas mentioned in the Submission, it provides updated technical information on the Tierras Altas district. Several kilometers of both the PNVB and PILA are located within this district, and this information may be of interest in relation to the activities underway in the district, which may require the use of water.

These aspects are mentioned as relevant because the Submission asserts that “The Panamanian State is not enforcing the environmental legislation properly, because logging activities, encroachment of the agricultural frontier, improper disposal of solid waste, intensive farming practices that place the environmental values of the protected area at risk, the practice of uncontrolled tourism activities or mass-promoted ones, without consideration for the capacity of the site to support” are taking place. The submitters likewise provide information on the management of the protected areas, the distribution of their personnel, and the norms that regulate the update process for the Management Plans.

¹⁰⁰ The full document can be found in the appendix of technical documents available to the public.

The regulatory considerations and provisions set forth in these documents are important for the request made by the submitters regarding the topics of governance and institutional operations processes, as well as their request to learn which is the road map to be followed for the protected areas. These strategies, plans, and lines of action are applicable to the entire SINAP, including the protected areas in the west, the PNVB and PILA, and are a part of compliance with the environmental legislation of the country.

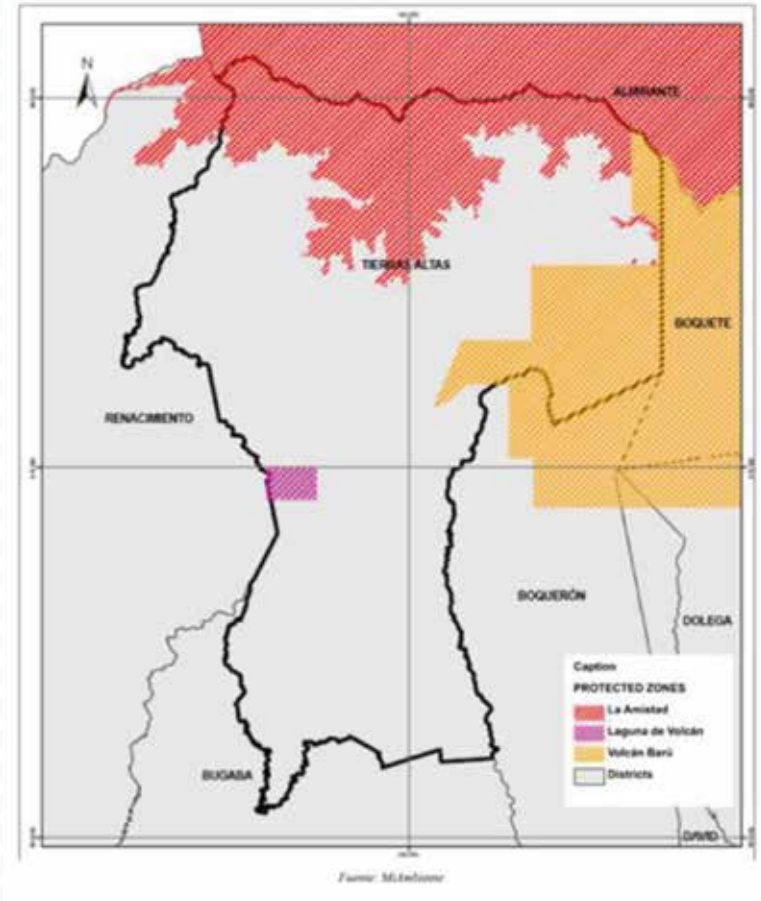
Plans such as the 2017 Strategic Plan for SINAP; the 2016-2026 Action Plan for the Development of Green Tourism in Protected Areas;¹⁰¹ the PNVB Management Plan; and the Plan for Public Use of the PNVB¹⁰² set forth specific strategies, objectives, programs, and lines of action for the management of these protected areas. They state the parties responsible; the required budget; the timelines needed for their implementation, among other aspects which must be carried out to meet the legal dispositions and objectives behind their creation.

Among the other requests made by the submitters in terms of governance and institutional operations, they mentioned the creation of the Environmental Prosecutor's Office. To this end, Resolution No. 34 of 7 December¹⁰³ formally creates the Superior Environmental

¹⁰¹ Developed pursuant to Executive Decree No. 1 of 22 April 2015, Which establishes the initiative for the Development of Ecotourism in Protected Areas of Panama. The full document can be found in the appendix of technical documents available to the public, and the executive decree in the legal resolutions appendix.

¹⁰² Resolution No. DAPVS-006-2016 of 06 July 2016, Whereby the Plan for the Public Use of Barú Volcano National Park is approved. The full document can be found in the legal resolutions appendix.

¹⁰³ Official Gazette No. 29193-B of 08 January 2021. The full document can be found in the legal resolutions appendix.



Map 10. Protected Areas within the district of Tierras Altas.

Source: Water Security Plan of the district of Tierras Altas 2019, Page. 38

Prosecutor's Office, pursuant to the General Law on Environment. This law stipulates that the Public Prosecutor's Office is in charge of initiating, investigating, and collecting the evidence that will allow to identify the individual or parties guilty of environmental crimes. This Prosecutor's Office is headquartered in the Province of Panama but has competencies throughout the Republic.

This information was gathered digitally through research carried out in open databases and it is included as part of this compilation. This information provides useful technical, administrative, and legal data about the various issues stated in the assertions of the Submission. They were also included because they are official documents that corroborate, in a general way, the weaknesses and problems found in the protected areas which are specifically mentioned by the submitters: for the PNVB and PILA. The SINIA keeps information on a variety of aspects, but no specific data on these protected areas or other technical documents related to them were noted.

B. Public access information related to administrative processes for breaches to the regulations.

The submitters made assertions related to a range of logging incidents and the encroachment of the agricultural frontier, among others, for which complaints had been filed with the administrative authorities and the Public Prosecutor's Office. Considering that environmental administrative processes, both complaints as well as formal proceedings, are available for access by the public, the Secretariat coordinated a meeting with the Regional Director of the Ministry of Environment in the Province of Chiriquí, headquarters of PNVB and PILA, in the Pacific area. The purpose of the meeting was to review the files for the administrative processes within said national parks that are currently underway. This verification was made on the dates 9, 11 and 15 November 2021. As a result of this action, 33 case files were read and the following data were collected:

I. ADMINISTRATIVE CASE FILES IN FORMAL PROCEEDINGS, INITIATED FOR POTENTIAL ENVIRONMENTAL BREACHES WITHIN BARÚ VOLCANO NATIONAL PARK.

DATE	CASE FILE NO.	LOCATION	TYPE OF BREACH	CURRENT STATUS
12/06/ 2019	File. 061-2019 Technical Report No.22-2019 of 12/06/2019	Finca Lérida, Boquete Coordinates: Polygon 1 with 3.92 hectares (ha)	Logging and undergrowth for coffee cultivation	Pending notification, start of investigation, evidence, and hearing of arguments.

DATE	CASE FILE NO.	LOCATION	TYPE OF BREACH	CURRENT STATUS
		336245N 975137E 1947 MASL 336227N 975065E 1956 MASL 336154N 974890E 1959 MASL Polygon 2 with 2.70 ha 336205N 974917E 1954 MASL		
20/10/2019	057-2019 Technical Report No. 021-2019 of 20/10/2019,	Paso Ancho, Tierras Altas	Road clearance without an environmental management instrument.	The investigation began on 21/10/2019. An order to present evidence, arguments was issued. The suspension of activities was ordered on 29/10/2019. Pending resolution.

DATE	CASE FILE NO.	LOCATION	TYPE OF BREACH	CURRENT STATUS
20/10/2015	111-2015	Nuevo Bambito, Volcán	Crop sowing within a protected area	The investigation began in November 2016 and the period to present the evidence, in July 2018. Pending resolution.
07/06/2019	File 031-19 echnical Report No. PNVB-021-19 of 07/04/2019	Alto Chiquero, Los Naranjos, Boquete. Coordinates UTM: North 0977881 East 0335485 1972 MASL	Undergrowth and logging	Pending the opening of an investigation.
06/03/2019	File 009-2019 Technical Report No. PNVB-039-18	Quebrada la Bruja, Cerro Punta, Tierras Altas. Coordinates UTM: North: 0974484 East: 0324131 1842 MASL	Burning carried out with chemicals	Pending the opening of an investigation.
19/10/2018	File 080-18	Bajo Grande, Volcán, Tierras Altas. Coordinates: North: 0978682	Tree felling and banding	The investigation was opened and the period for presenting evidence began on 24/11/2020. Pending

DATE	CASE FILE NO.	LOCATION	TYPE OF BREACH	CURRENT STATUS
		East: 0330802 2260 MASL		resolution.
14/09/2020	File 060-2020	<p>Las Cumbres, Cerro Punta, Tierras Altas</p> <p>Coordinates: North:977219 East:329309 2536 MASL</p> <p>North:977241 East:329332 2513 MASL</p> <p>North:977241 East:329332 2193 MASL</p> <p>North:977203 East:329342 2538 MASL</p> <p>North:977150 East:329314 2560 MASL</p>	Tree felling	The investigation was opened on 30/11/2020 and the period for presenting evidence began on 4/10/2021. Pending resolution.

DATE	CASE FILE NO.	LOCATION	TYPE OF BREACH	CURRENT STATUS
2019	File 004-2020 Technical Report No. 059-PNVB-2019	Nuevo Bambito, Paso Ancho, Tierras Altas. Coordinates: 0322844 mE 0975217 mN 1675 msnm	Undergrowth	The investigation was opened on 26/10/2020 and the period for presenting evidence began on 08/07/2021. Pending resolution.
26/11/2018	File 086-18 Technical Report No. PNVB-035-18	Alto Respingo, Cerro Punta, Tierras Altas. Coordinates: 03368533mE 0978161mN 2337 MASL	Construction of a home	The investigation was opened on 29/11/2018. Pending notification, opening of the period to present evidence and resolution.
06/09/2019	File 001-2020 Technical Report No. 058-PNVB-2019	Nuevo Bambito, Paso Ancho, Tierras Altas. Coordinates: 0322751mE 0975268mN 1668 MASL	Logging	The investigation was opened on 29/10/2020 and the period to present evidence, on 13/09/2021. Pending resolution.

DATE	CASE FILE NO.	LOCATION	TYPE OF BREACH	CURRENT STATUS
14/03/2018	<p>File 008-18</p> <p>Technical Report No. 014-03.2018</p> <p>Contract No. 58-2017 of 02/06/2017 of the Presidency Ministry. Order to proceed issued by the Presidency Ministry on 22/08/2017.</p>	Los Fogones, Boquete.	Land leveling, clearing, and earth-movements without having an instrument for environmental management. Area consists of 500m2.	<p>The investigation began on 15/03/2018. The suspension was ordered on 14/03/2018, and the period to present evidence began on 21/03/2018.</p> <p>Penalties Resolution DRCH-No. 146-2018 was issued on 9/11/2018, for a fine of \$500.00. Pending notification.</p>
21/03/2019	<p>File 013-19</p> <p>Technical Report No. PNVB-012-19 of 20/02/2019</p>	<p>Los Llanos de Volcán</p> <p>Coordinates: 0320904E 0972298N 1497 MASL</p>	Opening of street and layout for the placement of containers.	The investigation began on 24/11/2020. Pending notification and the opening of the period to present evidence.
20/10/2015	<p>File 111-15</p> <p>Inspection Report No. PNVB-019-15</p> <p>SINAPROC report dated 28/03/2016 identifies the area as prone to landslides</p>	<p>Nuevo Bambito, Volcán, Tierras Altas.</p> <p>Coordinates: 0323071mN 0974792mE 1700 MASL</p>	Agricultural crops planted in areas with irregular slopes within the protected area.	The investigation began on 11/04/2016 and the period for presenting evidence, on 23/07/2018. Pending resolution.

DATE	CASE FILE NO.	LOCATION	TYPE OF BREACH	CURRENT STATUS
12/06/2019	File 032-2019 Technical Report No. PNVB-040-18 of 08/11/2018	Los Llanos de Volcán, Volcán, Tierras Altas, close to Quebrada Bruja. Coordinates: 0323975E 0974552N 1731 MASL	Clearing of vegetation for construction. Plots of land acquired without complying with the procedure.	Pending the start of the investigation and other stages of the process.
30/04/2020	File 032-2020 Technical Report No. 005-PILA-2020 of 08/04/2020	Paso Ancho, Tierras Altas. Coordinates: 0323180mE 0974513mN 1679 MASL	Construction within the PNVB	Pending the start of the investigation and other stages of the process.
17/05/2018	File 034-2018 Technical Report No. PNVB 010-18 of 06/02/2018 Technical Report No. PNVB-016-18 of 15/05/2018	Alto Pineda, Cerro Punta, Tierras Altas Coordinates: 0326893mE 0978013mN 2035 MASL Coordinates:	Clearing and expansion of the drainage system. Opening of a water storage tank for agricultural use, land removal and leveling, tree felling.	The investigation began on 05/06/2018. Pending notification and the other stages of the process.

DATE	CASE FILE NO.	LOCATION	TYPE OF BREACH	CURRENT STATUS
		0326861mE 0977925mN 2040 MASL		
08/10/2018	File 075-2018 Technical Report No. PNVB-025-2018 of 13/08/2018	Callejón Seco, Los Naranjos, Boquete. Coordinates: 0335876mE 0973698mN 1798 MASL 0335779mE 0973717mN 1822 MASL	Undergrowth and logging to prepare a plot of land for coffee cultivation.	The investigation began on 03/12/2018. Penalties Resolution DRCH No.021-2020 is issued on 30/07/2020 for \$1,120.00. Pending notification.
17/05/2018	File 032-2018 Technical Report No. PNVB 001-18 of 03/01/2018	Los Llanos de Volcán, Volcán, Tierras Altas. Coordinates: 0324167mE 0974268mN 1780 MASL	Opening of a water storage tank within PNVB, Recovery Zone. Sale of a plot of land without complying with the First Purchase Option procedure.	The investigation began on 07/06/2018 and the period to present evidence, on 24/01/2019. Pending resolution.

Table 6. Administrative Case Files in FORMAL PROCEEDINGS, initiated for potential environmental breaches within Barú Volcano National Park.

II. ADMINISTRATIVE CASE FILES DUE TO COMPLAINTS, INITIATED FOR POTENTIAL ENVIRONMENTAL BREACHES WITHIN BARÚ VOLCANO NATIONAL PARK.

DATE	CASE FILE NO.	LOCATION	TYPE OF BREACH	CURRENT STATUS
30/01/2020	AL-012-2020 Patrol Report 07/03/2020	Cañas Verdes, Boquete	Tree felling for coffee cultivation and grazing land	Pending the formal start, notification, evidence, and arguments.
04/09/2017	File CAC-018-2017 Technical Report No.23- PNVB of 23/08/2017	Cerro Punta Alto Felipino Coordinates: 0327811 mE and 0976611 mN 2225 MASL	Tree felling	The complaint was accepted on 12/10/2017, pending notification, evidence, and arguments.
03/01/2020	File AL-001-2020 Inspection Report 084-12- 2019 of 23/12/2019 It was accumulated with File AL-010-2020 of 30/01/2020 Technical Report No. 003- PILA-2020 of 11/03/2020 (re-inspection)	Horqueta, Los Naranjos, Boquete Coordinates: 322450mE 983424mN 1907 MASL	Undergrowth and tree felling, clearing a path, installation of a fence and the removal of underbrush.	The investigation began on 06/02/2020. The period for presenting evidence began on 16/10/2020. Pending notification and resolution.

DATE	CASE FILE NO.	LOCATION	TYPE OF BREACH	CURRENT STATUS
02/09/2019	File AL-094-19 Technical Report No. 075-PNVB-19 of 05/12/2019	Bella Vista, Volcán, Tierras Altas. Coordinates: 0321818mE 0974102mN 1593 MASL	Erosion and water blockages.	The complaint is accepted on 22/06/2020
15/5/2017	File AL-054-2017 Technical Report No. 021- 2017 of 12/04/2017	Brazo de Gariché, Volcán, Tierras Altas. Coordinates: 0317353E 0966905N, P 4m 1313 MASL	Tree felling	The complaint is accepted on 06/02/2018. Pending evidence, arguments, and resolution.
24/07/2017	File AL 077-2017 Technical Report No. 005-PNVB of 07/02/2017	Las Filipinas, Cerro Punta, Tierras Altas.	Tree felling (Mamecillo species)	The investigation starts on 15/02/2018. Pending the start of the period for the presentation of evidence, arguments, and resolution.
18/08/2020	File AL-078-2020 Technical Report No. 004-2020-PNVB	Los Llanos de Volcán, Paso Ancho, Tierras Altas. Coordinates:	Disruption in the water supply	Pending the start of the investigation and other stages of the process.

DATE	CASE FILE NO.	LOCATION	TYPE OF BREACH	CURRENT STATUS
	of 21/05/2020	324775mE 974464mN		
		324776mE 974463mN		

Table 7. Administrative Case Files due to COMPLAINTS, initiated for potential environmental breaches within Barú Volcano National Park.

III. ADMINISTRATIVE CASE FILES IN FORMAL PROCEEDINGS, INITIATED FOR POTENTIAL ENVIRONMENTAL BREACHES WITHIN LA AMISTAD INTERNATIONAL PARK (PILA).

DATE	CASE FILE NO.	LOCATION	TYPE OF BREACH	CURRENT STATUS
09/04/2019	039-2019 Technical report of 09/04/2019	Horqueta, Los Naranjos.	Tree felling and undergrowth	Pending the start of the investigation.
10/10/2016	File 109-16 Technical Report No. 046-16 of 22/09/2016	Las Nubes, Cerro Punta, Tierras Altas. Coordinates UTM: 0324032E 0983255N 2140 MASL 0323983E 0983400N 2186 MASL 0324258E 0983431N 2190 MASL 0324034E 0983579N 2220 MASL	Slash and burn	Sent for investigation on 10/10/2016. The period to present evidence began on 24/11/2020. Pending resolution.

DATE	CASE FILE NO.	LOCATION	TYPE OF BREACH	CURRENT STATUS
23/10/2020	File 078-2020 Technical Report No. 034-2020	Guadalupe, Cerro Punta, Tierras Altas. Coordinates: 980923.21N 327634.06E 1930 MASL 980928.20N 327663.62E 1955 MASL 980890.67N 327698.45E 1913 MASL 980955.22N 327688.49E 1940 MASL	Slash and burn Tree felling and clearing for agricultural activities (crops).	The investigation began on 27/10/2021. Pending the start of the period to present evidence and resolution.
16/07/2019	File 039-19 Technical Report SAPB-009-2019	Horqueta, Los Naranjos, Tierras Altas. Within the absolute protection zone of PILA	Tree felling	Pending the start of the investigation and the other stages of the process.

DATE	CASE FILE NO.	LOCATION	TYPE OF BREACH	CURRENT STATUS
01/08/2016	File 087-2016	Las Nubes, Cerro Punta, Tierras Altas.	Tree felling	Penalties Resolution DRCH No.073-2016 was issued for a fine of \$ 200.00. The timber was seized and confiscated. Pending notification.

Table 8. Administrative Case Files in FORMAL PROCEEDINGS, initiated for potential environmental breaches within La Amistad International Park (PILA).

IV. ADMINISTRATIVE CASE FILES DUE TO COMPLAINTS, INITIATED FOR POTENTIAL ENVIRONMENTAL BREACHES WITHIN LA AMISTAD INTERNATIONAL PARK (PILA).

DATE	CASE FILE NO.	LOCATION	TYPE OF BREACH	CURRENT STATUS
07/10/2016, 20/07/2020 and 20/05/2020.	AL-080-2016 which accumulates with 058-2020 and AL- 068-2020. Technical Report of 11/08/2020	Los Pozos, Tierras Altas	Tree felling and construction. The violator was caught in the act.	The presentation of evidence and arguments in the first case began in 2017. Two (2) other complaints were accumulated in 2020. Currently waiting for the reopening of the period for the presentation of evidence.
15/07/2019	File AL-078-19 Technical Report No. 13-2020 of 19/05/2020	Copal, Río Sereno, Renacimiento	Tree felling	The complaint was accepted on 15/07/2020. Pending notifications, presentation of evidence, and arguments.
28/03/2016	File AL-055-2016 Technical Report No. 23- 2016 of 7/04/2016	Las Nubes, Cerro Punta, Tierras Altas Coordinates: 032227E 0982492N P:5m	Tree felling	The investigation began on 13/07/2016 and the period for the presentation of evidence, on 6/03/2018. Pending resolution.

DATE	CASE FILE NO.	LOCATION	TYPE OF BREACH	CURRENT STATUS
		2225 MASL 0322277E 0982471N P:6m 2230 MASL		

Table 9. Administrative Case Files due to COMPLAINTS, initiated for potential environmental breaches within La Amistad International Park (PILA).

As can be seen, the information in the files that were reviewed was divided into four sections: the formal proceedings and complaint files pertaining to PNVB, and the formal proceedings and complaint files corresponding to PILA. The information compiled is of a general nature for the files. The specific information about the alleged violators and complainants was not included, since it was deemed irrelevant for this procedure.

The purpose of reviewing and reading the files was to compare the processes carried out by the institution with the assertions in the Submission. Also, to link the information with the enforcement of

environmental legislation, in terms of administrative investigation processes and if possible, to locate these sites on maps showing the affected zones within the protected areas.

In note DM-0162-2022 of February 4, 2022, the Ministry of Environment tendered to the Secretariat information related to the administrative case files currently in process for the PNVB and PILA protected areas. The Ministry of the Environment reports that a total of 42 case files are under investigation. Since the Secretariat was only able to verify 33 files in the report prepared in November, the complete table below is included to show all the data:

MINISTRY OF THE ENVIRONMENT
REGIONAL DIRECTORATE OF CHIRIQUI
LEGAL COUNSELING

ANNEX 1

N°.	PROTECTED AREA	LOCATION	DATE	OFFICIAL INVESTIGATION	VIOLATION	INVESTIGATED	PROCESS STATUS
01	PNVB	CAMISETA, BOQUETA	23/03/2015	OFFICIAL NOTE 23-15	LOGGING	STEVEN KACZOR	TO BE NOTIFIED FINE RESOLUTION DRCH 22-20
02	PNVB	NUEVO BAMBITO, VOLCÁN TIERRAS ALTAS	20/10/2015	OFFICIAL NOTE 111-15	CLEARING & STUBBING	ESTEBAN PIMENTEL	TO BE ISSUED FINAL RESOLUTION
03	PILA	LAS NUBES, CERRO PUNTA, TIERRAS ALTAS	01/08/2016	OFFICIAL NOTE 087-16	LOGGING & TRANSPORT OF THE FOREST PRODUCT	BENEDICTA CEDEÑO	TO BE ISSUED RECONSIDERATION RESOLUTION
04	PILA	LAS NUBES, CERRO PUNTA, TIERRAS ALTAS	10/10/2016	OFFICIAL NOTE 109-16	LOGGING AND STUBBING	MARTIN ESPINOZA	TO BE ISSUED FINAL RESOLUTION
05	PILA	LAS NUBES, CERRO PUNTA, TIERRAS ALTAS	28/06/2017	OFFICIAL NOTE 71-17	SLASHING & CLEARING	MOISES HARARI SASSON	TO BE NOTIFIED FINE RESOLUTION DRCH 040-2020
06	PNVB	LOS FOGONES, BOQUETE	14/03/2018	OFFICIAL NOTE 008-18	EARTHWORK AND VEGETATION REMOVAL	MAXIMO MENENDEZ	TO BE NOTIFIED FINE RESOLUTION No. 146-218
07	PNVB	LOS LLANOS, VOLCÁN TIERRAS ALTAS	17/05/2018	OFFICIAL NOTE 032-18	OPENING OF WATERING HOLES	EUCARIO LOPERA	TO BE ISSUED FINAL RESOLUTION

Nº.	PROTECTED AREA	LOCATION	DATE	OFFICIAL INVESTIGATION	VIOLATION	INVESTIGATED	PROCESS STATUS
08	PNVB	ALTO PINEDA, CERRO PUNTA TIERRAS ALTAS	17/05/2018	OFFICIAL NOTE 034-18	LAND LEVELING / CONSTRUCTION	CERRO PUNTA, S.A.	TO BE NOTIFIED ADMISSION DECISION
09	PNVB	CALLEJON SECO, LOS NARANJOS, BOQUETE	08/10/2018	OFFICIAL NOTE 075-18	STUBBING & LOGGING	JUAN CASTILLO	FINE RESOLUTION DRCH-021-2020
10	PNVB	BAJO GRANDE, VOLCAN TIERRAS ALTAS	19/10/2018	OFFICIAL NOTE 080-2018	TREE RINGING & LOGGING	ARCADIO QUINTERO	TO BE ISSUED FINAL RESOLUTION
11	PNVB	ALTO RESPINGO, CERRO PUNTA, TIERRAS ALTAS	26/11/2018	OFFICIAL NOTE 086-18	HOUSING CONSTRUCTION	EDDY ROY CAIÑA/ FREDY CAMARENA	TO BE NOTIFIED ADMISSION DECISION
12	PNVB	LOS LLANOS, CERRO PUNTA TIERRAS ALTAS	06/03/2019	OFFICIAL NOTE 009-19	VEGETATION CLEARING	WALDEMAR SERRANO	TO BE ISSUED ADMISSION DECISION
13	PNVB	LOS LLANOS, VOLCAN, TIERRAS ALTAS	21/03/2019	OFFICIAL NOTE 13-19	STREET OPENING	EDDY ROY CAIÑA	TO BE NOTIFIED ADMISSION DECISION AL 125-2020
14	PNVB	ALTO CHIQUETO, LOS NARANJOS, BOQUETE	07/06/2019	OFFICIAL NOTE 031-19	STUBBING & BURNING	CARLOS SABIN	TO BE ISSUED ADMISSION DECISION
15	PNVB	LOS LLANOS, VOLCAN, TIERRAS ALTAS	12/06/2019	OFFICIAL NOTE 032-19	VEGETATION CLEARING	OMAR ORTEGA	TO BE ISSUED ADMISSION DECISION
16	PILA	HORQUETA, LOS NARANJOS, BOQUETE	16/07/2019	OFFICIAL NOTE 039-19	STUBBING & LOGGING	HARRY PEREZ	TO BE ISSUED ADMISSION DECISION
17	PNVB	PASO ANCHO, TIERRAS ALTAS	21/10/2019	OFFICIAL NOTE 057-19	ROAD OPENING	VENANCIO PINZON / FELIX SERRANO	PENDING RESOLUTION OF ADMISSION OF EVIDENCE

N°.	PROTECTED AREA	LOCATION	DATE	OFFICIAL INVESTIGATION	VIOLATION	INVESTIGATED	PROCESS STATUS
18	PNVB	FINCA LERIDA, LOS NARANJOS, BOQUETE	08/11/2019	OFFICIAL NOTE 061-19	LOGGING & STUBBING	FINCA LERIDA	TO BE NOTIFIED ADMISSION DECISION AL-060-2020
19	PNVB	NUEVO BAMBITO, PASO ANCHO, TIERRAS ALTAS	03/01/2020	OFFICIAL NOTE 005-20	STUBBING	ISRAEL DE LEON	TO BE NOTIFIED RESOLUTION OF EVIDENCE 074-2021
20	PNVB	NUEVO BAMBITO, PASO ANCHO, TIERRAS ALTAS	03/01/2020	OFFICIAL NOTE 004-20	STUBBING	ENRIQUE QUINTERO	TO BE ISSUED FINAL RESOLUTION
21	PNVB	NUEVO BAMBITO, PASO ANCHO, TIERRAS ALTAS	03/01/2020	OFFICIAL NOTE 01-20	STUBBING	EUCARIO LOPERA	TO BE ISSUED FINAL RESOLUTION
22	PNVB	PASO ANCHO, TIERRAS ALTAS	30/04/2020	OFFICIAL NOTE 032-20	INFRASTRUCTURE CONSTRUCTION	ATILANO ARAUZ	TO BE ISSUED ADMISSION RESOLUTION
23	PNVB	LAS CUMBRES, CERRO PUNTA, TIERRAS ALTAS	14/09/2020	OFFICIAL NOTE 60-20	LOGGING, TRAIL CUTTING, WASTE ACCUMULATION	ILIANO SAMUDIO PITTI	SENT TO THE PROSECUTOR'S OFFICE – TO BE ISSUED FINAL RESOLUTION
24	PILA	LOS POZOS, VOLCAN, TIERRAS ALTAS WITHIN ABSOLUTE SUB-ZONE	11/08/2020	OFFICIAL NOTE 058-20	LOGGING AND HOUSING CONSTRUCTION WITHIN ABSOLUTE PROTECTION	MANUEL VASQUEZ GUERRA, MANUEL VASQUEZ MORALES, VICTOR VASQUEZ AND FIDENCIO CHAVEZ/ FILE IN THE PROSECUTOR'S OFFICE	TO BE ISSUED ADMISSION DECISION / BEING PROCESSED AT THE BUGABA PROSECUTOR'S OFFICE/ ADDED TO FILE AL-068-20 , - PUBLIC INSPECTION, 24 NOVEMBER, 2021 , AT THE REQUEST OF MINISTRY OF ENVIRONMENT

N°.	PROTECTED AREA	LOCATION	DATE	OFFICIAL INVESTIGATION	VIOLATION	INVESTIGATED	PROCESS STATUS
01	PILA	LAS NUBES, CERRO PUNTA, TIERRAS ALTAS	23/03/2016	COMPLAINT 055-16	LOGGING	CENTRAL DE COMERCIO Y SERVICIOS S.A. VS ARCEÑO DEL CID MIRANDA	TO BE ISSUED FINAL RESOLUTION
02	PILA	LOS POZOS, VOLCAN, TIERRAS ALTAS	03/05/2016	COMPLAINT 080-16	LOGGING, HOUSE CONSTRUCTION AND STUBBING	ANEL PONTE VS ENOC PONTE	TO BE ISSUED FINAL RESOLUTION
03	PNVB	SILLA PANDO, POZOS TERMALES, VOLCAN, TIERRAS ALTAS	15/05/2017	COMPLAINT 054-17	LOGGING	TERESA DEL CARMEN GUARDIA VS EMPRESA CONELSA S.A.	THROUGH NOTIFICATION OF ADMISSION DECISION
04	PNVB	FILIPINAS, CERRO PUNTA, TIERRAS ALTAS	24/07/2017	COMPLAINT 077-17	LOGGING	CRISTEL CABALLERO VS LUIS CABALLERO	TO BE ISSUED RESOLUTION OF EVIDENCE AND ALLEGATIONS
05	PNVB	ALTO FILIPINA, CERRO PUNTA, TIERRAS ALTAS	04/09/2017	CAC-018-17	LOGGING	RAYMUNDO PITTI VS JUAN DIEGO SANTAMARIA	TO BE NOTIFIED ADMISSION DECISION MAINTAINS TWO NOTIFICATION PROCEEDINGS
06	PNVB	BELLA VISTA, PASO ANCHO, TIERRAS ALTAS	2/09/2019	COMPLAINT 094-19	EROSION AND WATER BLOCKING	TANIA CABALLERO VS JAIME RUIZ FUENTES	NOTIFICATION OF ADMISSION DECISION

Nº.	PROTECTED AREA	LOCATION	DATE	OFFICIAL INVESTIGATION	VIOLATION	INVESTIGATED	PROCESS STATUS
07	PILA	COPAL, RIO SERENO, RENACIMIENTO	15/07/2019	COMPLAINT 078-19	LOGGING & STUBBING	DIEGO CASTILLO VS ARGENIO DEL CID MIRANDA (PROSECUTOR'S OFFICE)	NOTIFICATION OF ADMISSION DECISION
08	PILA	HORQUETA, LOS NARANJOS, BOQUETE	03/01/2020	COMPLAINT 001-20	STUBBING & LOGGING	JOSE DARIO MIRANDA VS SANTOS ARAUZ	THROUGH RESOLUTION OF EVIDENCE AND ALLEGATIONS
09	PNVB	PALMIRA, SECTOR CAÑAS VERDES, BOQUETE	30/01/2020	COMPLAINT 012-20	COFFEE PLANTING	ANTONIO MIRANDA VS UNKNOWN	TO BE ISSUED ADMISSION DECISION
10	PNVB	FINCA OASIS, CAMISETA, BOQUETE	30/01/2020	COMPLAINT 011-20	HOTEL CONSTRUCTION	ANTONIO EZEQUIEL MIRANDA VS FINCA OASIS/ PROMOTER MAXIMO MENENDEZ. SERVICE CONCESSION BREDO ALEXIS MENENDEZ GRANTED 2012/ 7 NOV. 2013	TO BE ISSUED CLOSURE ADMISSION DECISION
11	PNVB	ALTO DE LOS RUBIOS, ALTO BAMBITO, CERRO PUNTA, TIERRAS ALTAS	12/05/2020	COMPLAINT 032-20	LOGGING, PRUNING AND RINGING OF TREES	JHON RAYMOND WORTHINGTON VS CARLOS ALEXIS ARAUZ	TO BE ISSUED RESOLUTION OF ADMISSION OF EVIDENCE
12	PILA	HORQUETA, LOS NARANJOS, BOQUETE	15/05/2020	COMPLAINT 035-20	USE OF WATER WITHOUT WATER CONC. PERMIT	JONATHAN CALDWELL VS JOSE DARIO MIRANDA	TO BE NOTIFIED ADMISSION DECISION
13	PILA	LOS POZOS, VOLCAN, TIERRAS ALTAS	20/05/2020	COMPLAINT 038-20	LOGGING	ANEL PONTE VS ENOC PONTE MORENO	TO BE ISSUED ADMISSION DECISION
14	PILA	LAS NUBES, CERRO PUNTA	31/07/2020	COMPLAINT 068-20	LOGGING	ANEL PONTE VS SR. MORRIS	TO BE ISSUED ADMISSION DECISION
15	PNVB	LOS LLANOS, PASO ANCHO, TIERRAS ALTAS	18/08/2020	COMPLAINT 078-20	AFFECTATION TO WATER INTAKE, WITHOUT CONCESSION	GENEROSO CORDOBA VS ALEXIS PITTI	TO BE ISSUED ADMISSION DECISION

Nº.	PROTECTED AREA	LOCATION	DATE	OFFICIAL INVESTIGATION	VIOLATION	INVESTIGATED	PROCESS STATUS
01	PNVB	LOS LLANOS, PASO ANCHO, TIERRAS ALTAS	18/05/2020	COMPLAINT 036-20	USE OF WATER WITHOUT WATER CONCESSION	UNKNOWN	TO BE ISSUED CLOSURE ADMISSION DECISION
02	PNVB	PNVB, BUFFER ZONE	17/08/2020	COMPLAINT ON SOCIAL MEDIA	NO EVIDENCE OF ILLEGAL ACTION	SOCIAL MEDIA VS UNKNOWN	SENT TO PANAMA
03	PILA PACIFIC (CHIRIQUI) AND PILA CARIBBEAN (BOCAS DEL TORO)	PILA-CARIBBEAN (PROVINCE OF BOCAS DEL TORO)	18/09/2020	COMPLAINT ON SOCIAL MEDIA	LOGGING & OCCUPATION	SOCIAL MEDIA VS UNKNOWN	PROCEDURE UNDER THE JURISDICTION OF THE REGIONAL DIRECTORATE OF BOCAS DEL TORO

Table 10. List of the Administrative case file that are being processed for the PNVB and Pila protected areas. **Source:** Appendix Note DM-0162-2022 of 4 february 2022.

The Ministry of Environment states in its note that “among the forty-two (42) administrative case files, two of them received orders to suspend activities. These pertain to Formal Proceedings Case File 008-18, for earth-moving activities; for leveling the vegetation layer inside Barú Volcano National Park; and Formal Proceedings Case File-057-19 for clearing a road in Barú Volcano National Park.”

The note describes that no record of an Environmental Impact Study was found for Sociedad Materiales y Suministros Menéndez S.A. (Finca Oasis), but that this company is currently in the process of working on the Mandatory Environmental Audit.

The note ends by pointing out that an administrative procedure has been opened since June 4, 2021 in relation to the “Construction and Operation of the Hydroelectrical Station Chan 75,” for non-compliance with respect to its commitment to have an approved and modified environmental impact study.

The Ministry of Environment also submitted a map showing the loss of forest cover in the PNVB and PILA areas:

The following related legal references are provided, pursuant to the information compiled about the administrative processes stemming from possible non-compliance with environmental legislation:

- Law 38 of 2000 contemplates the guiding provisions with respect to the stages of the process in terms of its beginning (Title IV); administrative action (Title V); filing of petitions, consultations, complaints and claims (Title VI); notifications (Title VII); evidence (Title IX); conclusion of the process (Title X); among other procedural aspects.
- Regarding the term for the execution of administrative proceedings, whether formal proceedings or based on a complaint, Article 88 of Law 38 of 2000, stipulates that: “Any investigation based on a complaint or report must be completed within a term of no more than two months, counted from the date of its filing. The resolution which decides the merit of a complaint shall be issued within thirty days following the date on which the respective investigation was completed.”
- The date of filing is understood to be “that on which the writ is received by the secretariat of the corresponding office,” Article 79, Law 38 of 2000.
- For the purposes of the penalties applicable in administrative processes for environmental violations, Law 41 of 1998 (single text), General Law on the Environment of the Republic of Panama, establishes in its Article 107 that: “Non-compliance with the standards of environmental quality, of the environmental impact

study, of the Environmental Management Plan or the resolution for its approval, of this Law, the regulations and other complementary norms shall constitute an administrative violation. Said violation shall be penalized by the Minister of the Environment through a written reprimand and/or temporary or definitive suspension of the activities of the company and/or a fine, according to the case and seriousness of the violation, without prejudice to the main and ancillary sanctions stipulated in the existing complementary regulations.”

- Similarly, Article 111 of the before-mentioned law establishes that: “The sanctions imposed by the Ministry of the Environment shall correspond to the seriousness of the risk and/or environmental damage generated by the violation, the recidivism of the violator, his/her actions after the fact, the degree of investment and his/her financial situation. The violator shall also have the obligation to carry out or assume the cleaning, restoration, mitigation and/or compensation for the environmental damage caused, at his/her expense, according to a financial appraisal and technical basis, without prejudice to the corresponding civil or criminal liabilities.”
- As stipulated in Article 7 of the General Law on the Environment, public or private activities, works or projects which due to their nature, characteristics, effects, location or resources may generate environmental risk, shall require an environmental impact study prior to the start of their execution.¹⁰⁴

¹⁰⁴ Environmental Impact Studies are regulated by Executive Decree No. 123 of 14 August 2009 and its amendments. Article 16 of this regulation establishes the full list of projects, works or activities which must enter the Environmental Impact Assessment process. They include the agricultural sector; livestock raising; hunting and forestry; the construction industry; roadway construction; construction and repair of rural roads; earth-movement or leveling activities; among others. The full document can be found in the legal regulations appendix.

- In the case of environmental impact studies of projects to be developed in protected areas, it shall be necessary to request the approval of the Directorate of Protected Areas¹⁰⁵ and Biodiversity concerning the viability of the project, based on the legal instrument that creates it and the Management Plan for the Protected Area. In this situation, the procedure for requesting the viability, which is regulated by Resolution No. DM-0233-2019 of June 27, 2019 must be complied with. This resolution guides the approval and stipulates the procedure for processing viability requests for projects, works or other activities to be executed within the National Protected Areas System which require environmental impact studies.¹⁰⁶
- In some cases, depending on the type of activity to be conducted within a protected area, a concession application must be filed for the administration of the area to be developed.¹⁰⁷
- Environmental Audits are regulated by executive Decree No. 57 of August 10, 2004.¹⁰⁸ In the case of Mandatory Environmental Audits, these may be requested by the Ministry of Environment at any time due to an accident, incident, environmental risk inherent in the activity, or due to the need to clean up, reclaim or refurbish a site, due to the shutdown of operations or to other causes (Article 17).

- Pursuant to the stipulations of Article 418 of Title XII concerning Crimes Against the Environment and Territorial Organization of the Criminal Code of the Republic of Panama, “The developer or licensee who begins the execution of a work or activities which are subject to prior approval of the environmental impact study, forest management plan or other similar documents that, according to the law, are prerequisites or conditions to begin the work or activity, without having obtained the approval of the relevant competent authority, shall be punished with imprisonment for a term of two to five years.”

2. Information submitted by interested parties

During the period for the compilation of the information to prepare the factual record, several interested individuals, members of supporting organizations that signed the submitters’ letter requesting information, as well as residents primarily from the Volcán area, sent general information about Barú Volcano National Park and La Amistad International Park via email to the Secretariat. These documents include scientific articles for reference purposes; research work; technical documents prepared by non-governmental organizations; photographs; and copies of complaints filed with the administrative and judicial authorities, among others. The information provided has been compiled in the Appendix of Documents contributed by interested parties, for its review and as reference.

¹⁰⁵ Article 26 of Executive Decree No. 123 of 2009.

¹⁰⁶ Official Gazette No. 28806-A of 28 June 2019. The full document can be found in the legal resolutions appendix.

¹⁰⁷ Executive Decree No. 33 of 28 March 2017, regulates article 51 of the Single Text of Law 41 of 1998, General of the Environment, correlated to the procedure from granting administrative concession licenses in protected areas and which dictates other provisions. Official Gazette 28248 of 30 March 2017. The full document can be found in the legal resolutions appendix.

¹⁰⁸ Official Gazette No. 25,115 of 13 August 2004. The full document can be found in the legal resolutions appendix.

a). Public Hearings

In order to collect documents and statements from interested individuals, the Secretariat issued a call via newspapers, other media, and social networks for participation in two public hearings. At these events, interested parties were asked to contribute information related to possible violations of environmental legislation in the areas of Barú Volcano National Park and La Amistad International Park. They were asked to come forward and share the relevant documents or concerns within the framework of Submission No. SALA-CA-PMA/001/2021, Barú Volcano National Park.



Image 11. Notice of public hearing disseminated on social media.



Image 12. Notice of public hearing published in newspaper.

Once the hearings began, the Secretariat gave a short presentation to explain the process for environmental submissions; what the process consists of; and the reason for working on a factual record. The Secretariat spoke about the Barú Volcano National Park Submission and the reason behind the collection of information for the factual record. Examples of Factual Records prepared by other Secretariats were also shared briefly. The purpose of this approach was to provide context to the hearing and to the way it would be conducted.

At the end of the presentation, an opportunity to speak was offered to anyone interested in doing so, with a prior announcement that the activity was being taped for the record; for subsequent data collection purposes, and to be published for future reference.

In the hearing conducted in the area of Volcán on Tuesday, 16 November, 23 people participated onsite; in the one held in the Boquete area on Thursday, 18 November, 16 people were present. This number included two members of the Secretariat, who belong to the communications/media team (Rogelio Alvarado and Vielka Cadiz), as well as the expert hired to compile the site information (Dr. Iuri Herzfeld).

As for the virtual aspect, the broadcast of the public hearing conducted in Volcán logged 131 views at <https://www.youtube.com/watch?v=JXS3DilITGo>. The one conducted in Boquete logged 43 views at <https://www.youtube.com/watch?v=UINg8ToJee4>. These links provide access to these hearings on the YouTube channel of the Secretariat.

The participants generally addressed issues related to the activities that take place within both protected areas, Barú Volcano National Park and La Amistad International Park. The activities they described range from the use of agrochemicals in agricultural activities, to trespassing inside the area of the parks to build houses, clear the way for roads, or to carry out agricultural activities. Mention was made of the risks posed by these activities, particularly in the Tierras Altas area, in the face of the situations experienced with hurricanes Eta and Iota the previous year, and on the effect of deforestation, as it increases the vulnerability to natural disasters.

Maps and photographs¹⁰⁹ were provided, which seek to show the areas being used to move cattle within La Amistad International Park. This activity is said to be taking over several hectares within this park. This type of activity is hard to monitor, due to the distance among the checkpoints manned by the institution, or the remoteness of the sites.

Activities that were not raised in the submission were mentioned, such as the possibility of granting concessions for mining exploration/exploitation within protected areas and the encroachment of private property within the area of La Amistad International Park. Faced with this, it was explained to the participants that since these issues were not mentioned in the submission, the regular procedures of filing a complaint and requesting information from the corresponding institutions had to be followed, but that these issues could be the subject of an additional submission, if the topic was not addressed or there were violations to the environmental legislation.

Among the documents provided by the participants, the submitters loaned us copies of the Barú Volcano National Park Management Plan, particularly the Socio-Tenancy Survey carried out in 2004 when the Park's Management Plan was prepared. The purpose of this information is to show how many people were occupying land at that time, and how the number of people and hectares occupied has increased.

Copies of complaints filed not only with the Ministry of the Environment, but also with the Public Prosecutor's Office (Ezequiel Miranda, Carlos Alfaro Hart, Jason Vallejos cases) were also provided, to prove that these situations of non-compliance have been brought to the attention of the competent authorities for several years, but have not been stopped.¹¹⁰

PHOTOGRAPHIC RECORDS:



¹⁰⁹ These contributions can be found in the appendix of Documents provided by interested parties.

¹¹⁰ The contributions can be found in the appendix of Documents provided by interested parties.



b). Site visits

Two site visits were conducted to collect information on coordinates and to take photographs to attest to the assertions made in the submission, which were corroborated by the attendees at the public hearings. The visit was also conducted to give the hired expert the opportunity to collect data for the preparation of the report that would serve as input for the Factual Record.

The first visit took place on Wednesday, ¹⁷ November, ²⁰²¹, in the district of Tierras Altas, Province of Chiriquí, mainly in areas within and near the limits of Barú Volcano National Park. The areas of Nuevo Bambito, Paso Ancho, Alto Pineda, and Las Filipinas were visited. It also included the areas of La Amenaza and Guadalupe in Cerro Punta, as well as Las Nubes, at the entry to the headquarters of La Amistad International Park (PILA). During the visit, the presence of agricultural activities, poor disposal

of solid waste, construction, lack of adequate sign markings, etc., were observed.

The second visit was conducted on Friday, ¹⁹ November, ²⁰²¹, to the district of Boquete, Province of Chiriquí, mainly to Barú Volcano National Park, to the entry checkpoint and several kilometers toward the road to the summit of the volcano. The areas of Cañas Verdes and La India, which had been mentioned both in the submission and during the public hearing, were too distant to be included in this one-day visit. Agricultural activity within the park was also observed in this zone, as well as areas affected by rains and landslides.

The submitters; representatives of environmental organizations that work in the area of Barú Volcano National Park and La Amistad Park; and stakeholders residing in the area of Guadalupe in Cerro Punta participated in the visits, in addition to the Secretariat's team.

PHOTOGRAPHIC RECORDS:



3. Information provided by the National Consultative Committees or advisors

Pursuant to the current legal provisions, the consultative or advisory committees that are regulated include the Consultative Commissions, in this specific case the District Consultative Commissions, according to Article 39 of Executive Decree No. 57 of 2000.¹¹¹ The Watershed Committees are also regulated in accordance with Article 8 of Law 44 of 2002.¹¹²

During the period for the gathering of information, the Secretariat considered issuing formal notes to these committees. However, in following the procedures established for the meetings of these committees, and also due to time constraints, the idea of issuing these requests was discarded. Therefore, no information provided by the National Consultative Committees or advisors was obtained.

In spite of the foregoing, the data of the Watershed Committees that were established and are found within the areas mentioned in the Submission were located.¹¹³ No updated information was found for the Consultative Committees in the districts of Tierras Altas and Boquete.

4. Prepared by independent experts

As mentioned in the Work Plan, two meetings were held with Ciencia en Panamá. This is an organization of professionals in the natural and social sciences sites in the country. The meetings were conducted to identify, in the databases of the group, a professional who could offer services for the collection of geospatial data. The purpose of this data is to provide a site view of the assertions made in the submission, in those cases where access to this information is available.

Dr. Iuri Herzfeld¹¹⁴ was hired to collect this data at Barú Volcano National Park, and to participate in the public hearings and site visits. The full report can be found in the appendix containing the documents prepared by independent experts.

Dr. Herzfeld was given all the information compiled in the submission file. He was able to familiarize himself with the submitters' assertions in the submission, as well as with the other pertinent information about the Secretariat, factual record, and its objective. He also participated in the scheduled public hearings and listened to the participants. With this material as reference, he participated in the visual site inspection visits, for the purpose of collecting geo-referenced data for several of

¹¹¹ Executive Decree No. 57 of 2000. Article 39: "The function of the District Consultative Commissions shall be to analyze environmental issues affecting the relevant district and to make observations, recommendations and proposals to the Regional Director of the Ministry of the Environment." The full document can be found in the legal resolutions appendix.

¹¹² Law 44 of 2002. Article 8: "The Ministry of the Environment shall be responsible for organizing each one of the Watershed Committees, with the objective of decentralizing the responsibilities of environmental management and the sustainable management of the watershed resources of the country..." The full document can be found in the legal resolutions appendix.

¹¹³ Resolution No. DM-0029-2016, Watershed Committee of the Chiriquí Viejo River (102), which is in operational; Resolution No. DM-0141-2016, Watershed Committee of the Río Chico River (106), which is operational; Resolution No. DM-0333-2016, Watershed Committee of the Río Chiriquí River (108) which is operational; Resolution No. DM-0217-2019, Watershed Committee of the Escarrea River (104), which has been sworn in. The full documents can be found in the legal regulations appendix.

¹¹⁴ The curriculum vitae of Dr. Herzfeld can be found in the appendix of Documents prepared by Independent Experts.

the locations where there is non-compliance with the enforcement of the PNVB regulations, as stated by the submitters. Following are some of the textual observations made by Dr. Herzfeld in his report:

“The site observations and photographic evidence collected for all the surveyed sites is shown in Annex 1. A total of 23 sites were visited. The data was collected at most of the sites, save for those in which GPS coverage was unavailable due to topographic conditions (valleys) and dense cloud coverage. Figure 1 shows that most (47.83%) of the uses given to the land/impacts on the sites visited are due to agriculture, followed by the livestock industry (21.74%). Figure 2 details the geographic location of the sites visited during the site visits.”¹¹⁵

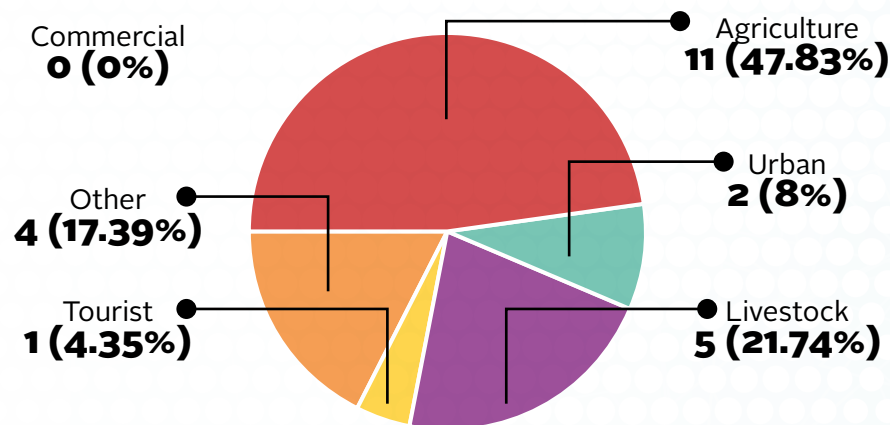


Image 22. Type of land use/impact observed in the areas surveyed

“BOUNDARY DEMARCATION PROBLEMS IN THE PNVB. The community leaders who served as guides during the site visits stated that there are serious demarcation problems within the PNVB, which have resulted in negative impacts on the protected areas. Due to these concerns, we proceeded to conduct a review of all the literature that is relevant to the origins of these demarcations; of decrees and other sources of information which may justify this confusion.

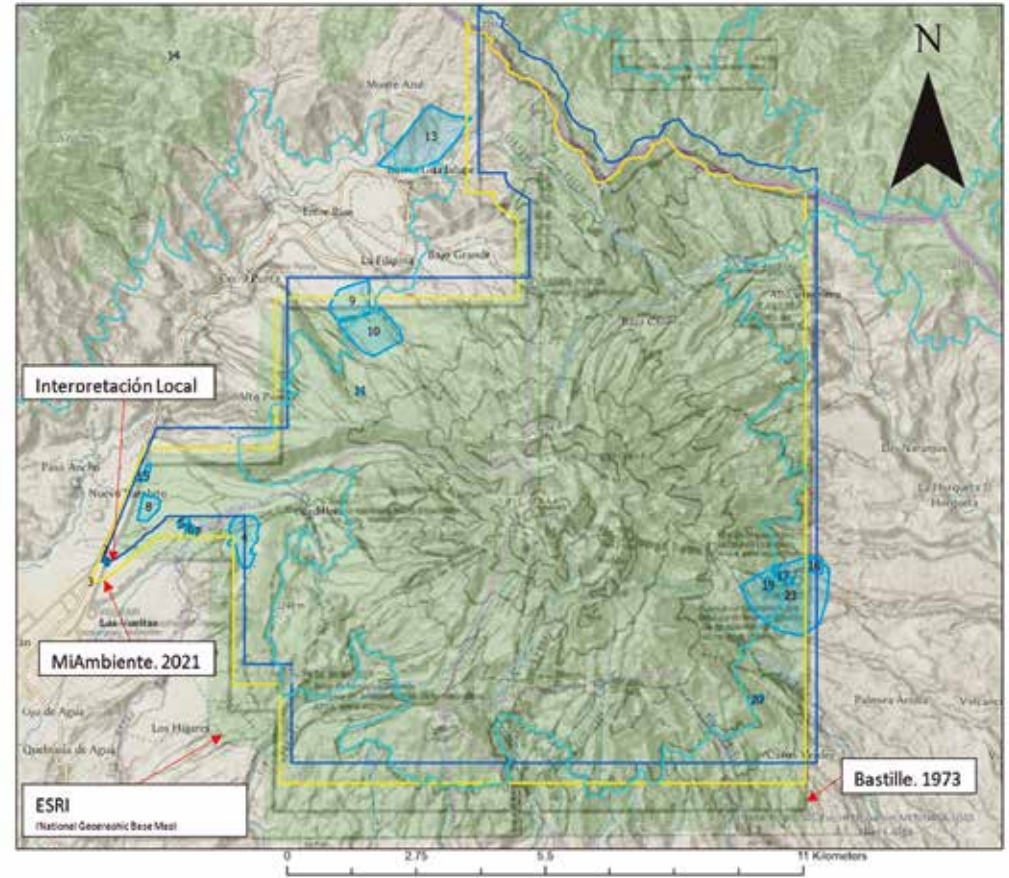
In its beginnings, the PNVB (before being proclaimed by decree as a National Park/Protected Area) was visited by Anne LaBastille Ph.D. in 1972, who had been commissioned to carry out the ecological survey of the area. In her report, LaBastille (1973) documents the different ecological zones. She corroborated the observations of Holdridge and Budowsky (1956), and reported that the conservation of Quetzals (*Pharomacrus mocinno costaricensis*) is especially important in this area. This species is observed in the range of 1700-2360 m of altitude, and correspond to the low mountain rainforest (cloud forest). Based on her observations, LaBastille proposed boundaries for the PNVB that incorporate altitudes equal to or higher than 2000m of altitude (Figure 4), with their respective buffer zones.

A comparison of the boundaries proposed by LaBastille (1973) and the PNVB public access polygon found in the National System of

¹¹⁵ Herzfeld, Iuri, Technical considerations with respect to the Factual Record for Submission SALA-CA-PMA/001/2021, Barú Volcano National Park. Page 11.

Environmental Information (SINIA, MiAmbiente 2021) was performed, using the 2000m level curve as reference (Figure 5). Although the alignment of this published material is an estimate, there are several noteworthy observations. First, LaBastille proposed a boundary on the south section, which included the 2000m elevation and a buffer area, which were not included in the limits decreed (Official Gazette, DECREE No. 40, 1976-0624) by the Republic of Panama.

It is also important to acknowledge the different “interpretations” that exist about the initial point for the limits decreed; the limits which are officially published by SINIA; the limits that the local community interprets based on the decree; and the limits published by organizations such as ESRI on its geographical information platform, among others. Figure 2 shows four (4) different versions of the boundaries of the PNVB. It is imperative to verify these different versions of the boundaries, be it through a revision of the decree conducted via a citizens’ consultation along with experts, using the best topographical database for the site (for example, remote sensor technology such as LIDAR [Light Detection and Ranging]); recent information about the biodiversity of the site; recent hydrogeological studies; and participation from representatives of the agricultural, tourism and energy sectors, among others.”¹¹⁶



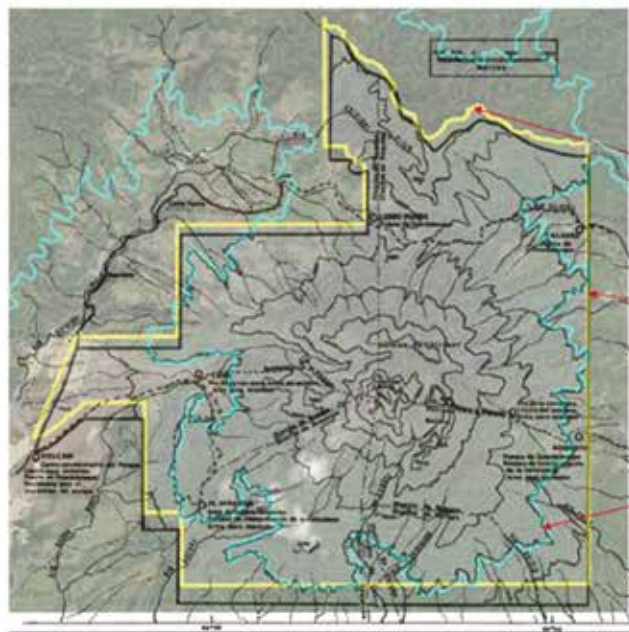
Map 12. Map which delimits the various polygons that define the PNVB. The numbered polygons highlighted in light blue mark the polygons surveyed during the site visits. The 2000m level curve is highlighted in sky blue, according to published topographical data.

¹¹⁶ Herzfeld, Iuri, Technical considerations with respect to the Factual Record for Submission SALA-CA-PMA/001/2021, Barú Volcano National Park. Pages 15 and 16.

POLYGON CONTRAST

Bastille 1973 vs. MiAmbiente 2021

(Aproximation performed by a match at a 2000m level curve)



Polygon MiAmbiente 2021
(Yellow)

Polygon Bastille 1972
(Black)

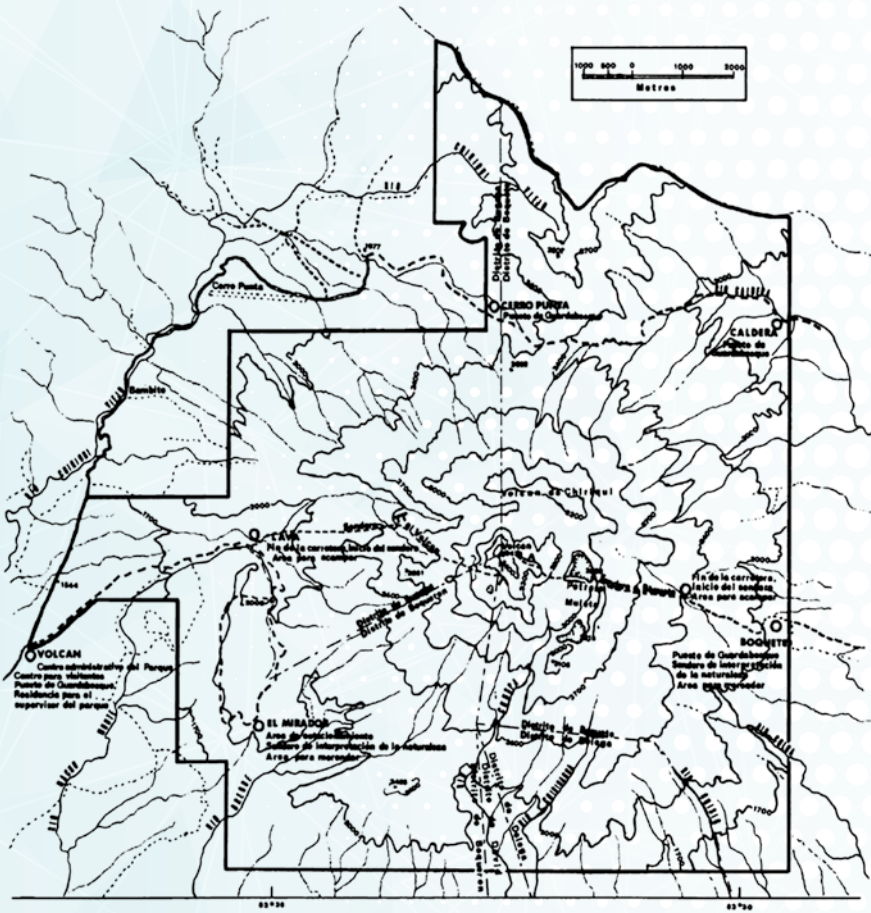
2000m Level Curve
(Tommy Guardia)

Map 13. Contrast between the boundaries (proposed) by Bastille (1973) and those (decreed by) MiAmbiente (2021). The comparison is made using the 2000m curve as reference for the alignment of the limits. Although the alignment of the curves is not perfect, one can observe that the boundary proposed by Bastille is significantly greater toward the south, and incorporates elevations below 2000m.

“MANAGEMENT PLAN AND PREVENTION OF IMPACTS TO THE PNVB.

The Management Plan for the PNVB (Official Gazette No. 25,116, 2004), in its Figure 7, decrees the types of soil use that are allowed within the area (Figure 10). Although the vast majority of the areas toured during the site visits that were conducted prior to the preparation of this report are located within areas classified

as Recovery Zones (observations 4, 5, 6, 7, 17, 19, 23) and Intensive Use Zones (observations 8, 9, and 10), it is evident that there are impacts within the Absolute Protection Zones (observations 20 and 23), and the buffer areas (non-existent) located immediately next to the limits of the park (observations 1, 2, 3, 8, 15, 13, 16, and 23). It is clear that the site visits only lasted two (2) days and that the area involved is large. Therefore, we estimate that the impacts



Map 14. Proposal for the boundaries and development plan for the PNVB (according to LaBastille, 1973)

are of much greater scope. High-precision geospatial survey data would be useful to determine more accurately the locations and extent of impacts (for example, a Lidar topographic survey with photogrammetry). The limited capacity of the supervisory authorities to safeguard the boundaries of the PNVB and the activities allowed within is a challenge to the conservation of the environmental, social, and economic services that the park provides to area residents and the nation. It is imperative to review these boundaries and uses with the use of the latest technology available, to achieve the sustainable development of the region and guarantee a future filled with peace and well-being for everyone in the Republic of Panama.”¹¹⁷

It is important to mention here that the areas referenced in light blue were the sites viewed during the visual site inspection visit, and whose full site-by-site details can be found in the report prepared by the expert.

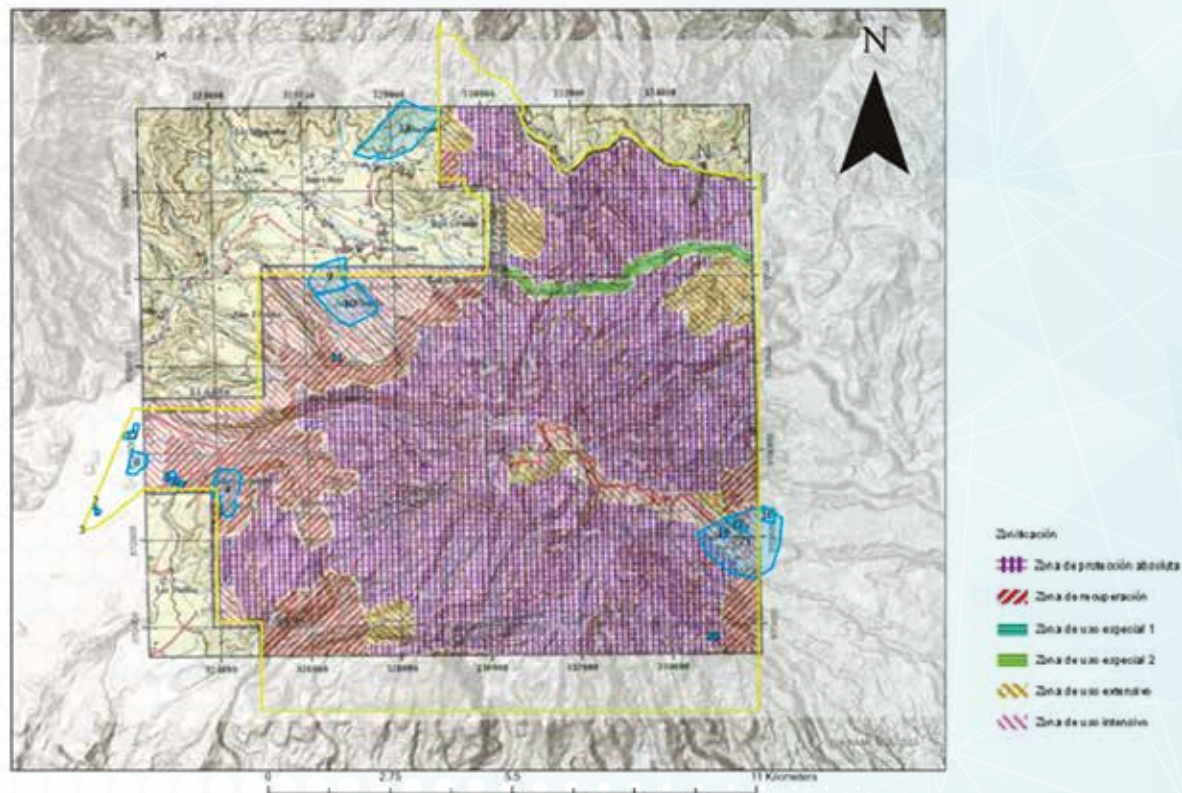
It is also important to mention that the expert also received the coordinates obtained during the review of the administrative case files, for both complaints and formal proceedings, pertaining to the PNVB and PILA. This was done so they could be used as reference in one of the maps, to thus observe the areas in which the potential violations are taking place. The following is the result of this exercise:

¹¹⁷ Ibid. Page 27.

“VIEWPOINTS ON THE IMPORTANCE OF THE PNVB – NATIONAL SECURITY HYDRIC FOOTPRINT OF THE PNVB

Barú Volcano is the highest point in the Republic of Panama; it harbors multiple ecological regions (Holdridge and Bodowski, 1956; LaBastille, 1973; LaBastille, 1974). Due to its physical prominence on the landscape, from a simplistic perspective, the Barú Volcano serves as a water collector. The water collected by the Barú Volcano is generated by direct precipitation (rainfall), as well as by the fog from ascending slopes, where warm and humid air meets the surface of the forest. It cools down adiabatically and finds its saturation point, resulting in water precipitation. The interaction among vegetation, geology, and climatology at Barú Volcano results in the intensified extraction of water from the atmosphere. Cloud forests are of the greatest importance (mentioned by LaBastille, 1973). They serve as benchmarks for intensified hydric processes and have a unique presence for the region at Barú Volcano.

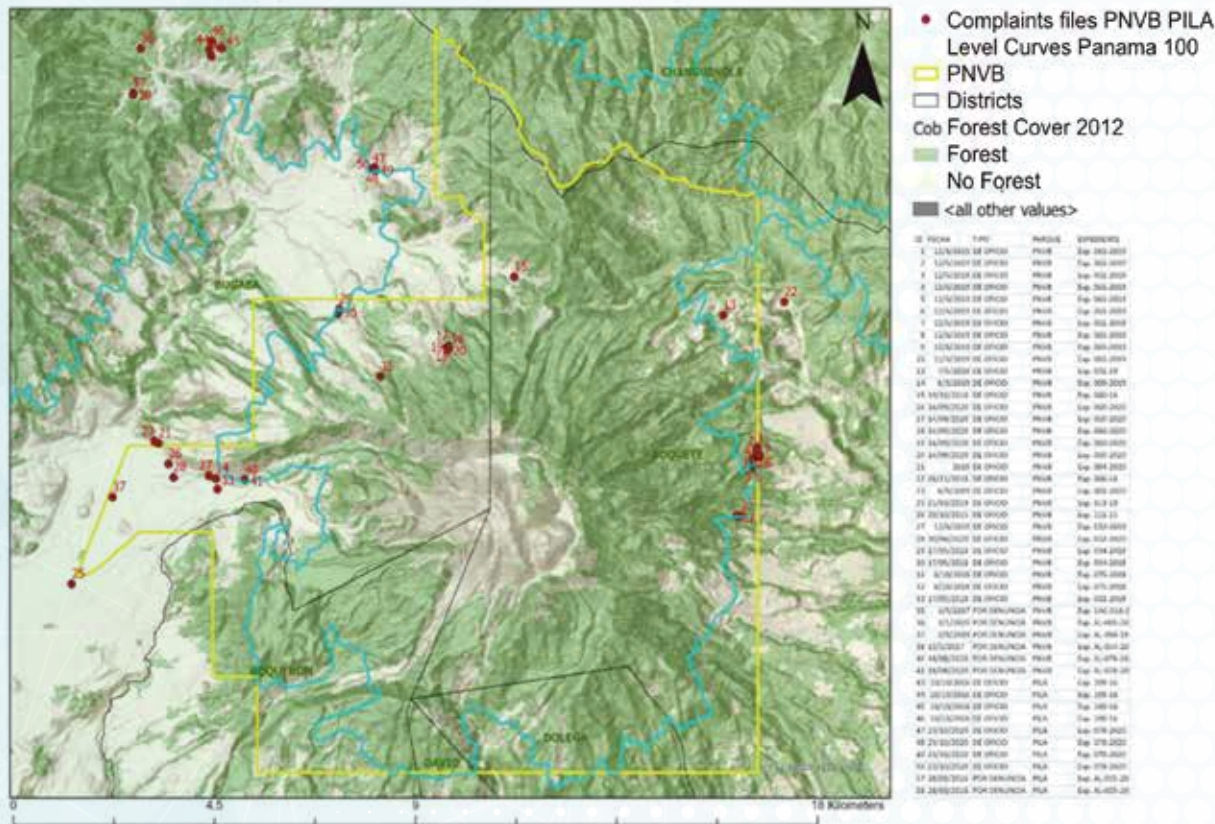
In order to try to understand the hydric footprint of Barú Volcano, we traced boundaries using a geographic information system



Map 15. Visited areas in relation to the zoning according to the PNVB Management Plan (2004). The management plan (PM) Reference was digitalized from the document and displays the best adjustment level possible. It is noteworthy that the area which delimits the PNVB, as reported in the PM, is significantly smaller than the area of the polygon delimited by MiAmbiente.

LOCATION OF COMPLAINTS WITHIN THE PNVB AND PILA

(Map shows a 2000m level curve in cyan)



Map 16. Complaints filed in recent years for activities within the PNVB and PILA

(ESRI ARCGIS) and the national hydrology cover published in SINIA. The water influence boundary was digitalized following all the major rivers that emanate their waters from the limits of the PNVB. The hydric influence polygon, which is the result of the intensified bio geo hydric processes at Barú Volcano, is extraordinary (Figure 6). The towns and productive activities within the hydric influence polygon shown in Figure 6 depend, in one way or another, on the collection of water by the Volcano (surface and underground water). The hydric influence area represents approximately 43% of the total area of the Province of Chiriquí, and has an impact on seven (7) different districts in the region. It is important to mention that the hydric footprint area is a multi-use area of HIGH importance for the various productive sectors of the nation.”¹¹⁸

In his report, the expert provides more details about his findings and observations pertaining to what he saw during the site inspections, and the link among this material and the characteristics of

¹¹⁸ Ibid. Page 19.



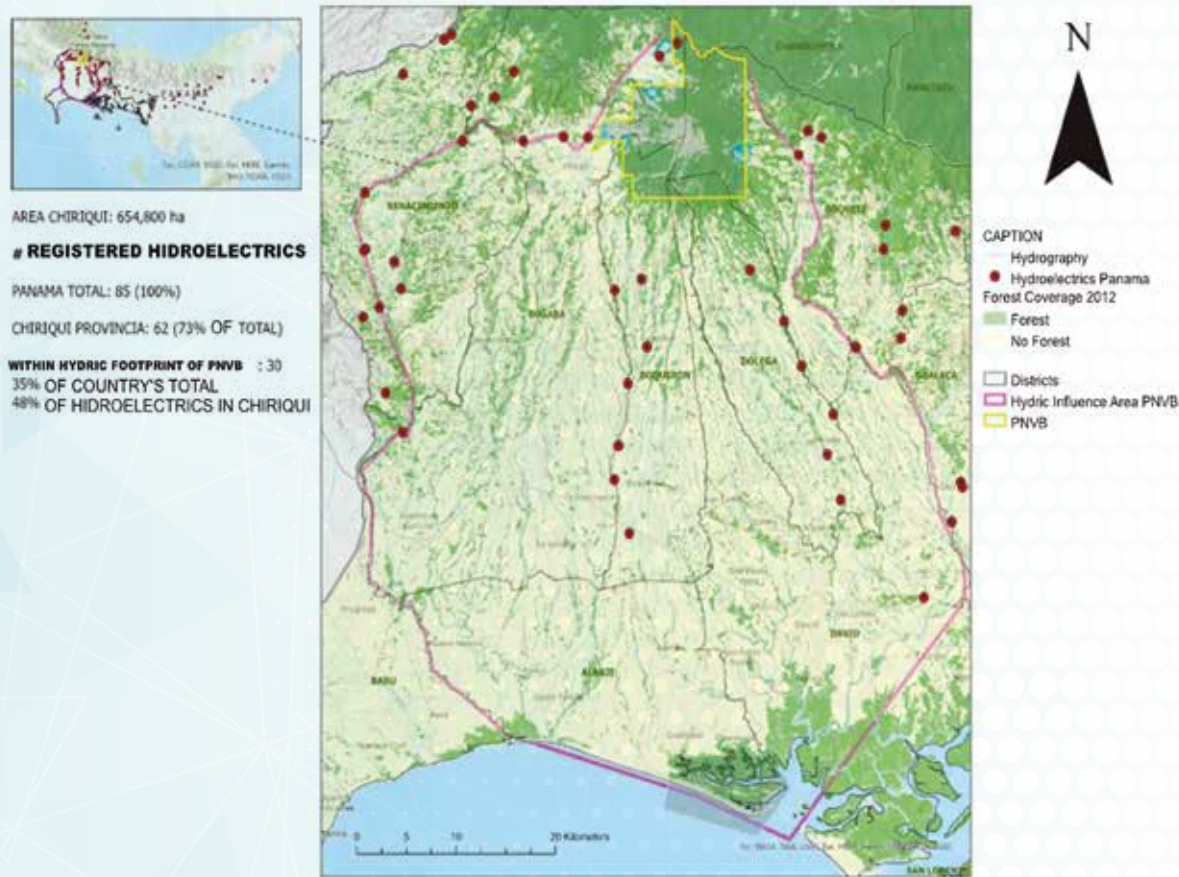
Map 17. Map which shows the hydric footprint of the PNVB. The hydric influence polygon delineates the area of the territory in which some proportion of the water that flow through its rivers originate in the humid/rainforests within the PNVB.

the protected area under study, as well as the various activities that are carried out within and around it.

This information is included with the aim of providing material elements to compare the statements in the submission, with the provisions of the legal regulations, technical documents, and the opinion of an independent third party.

In addition to the hiring of the expert, a meeting was held with professionals who at various times in the last 15 years served as National Directors or Department Heads of the National Directorate of Protected Areas and Biodiversity of the Ministry of the Environment (formerly the National Directorate of Protected Areas and Wildlife of ANAM). This meeting was held during the period allotted for gathering information to prepare the factual record. The aim of the meeting was to learn their opinions regarding the statements made by the submitters.

Days before the meeting was held, the guests were sent a link to the website of the Secretariat with information related to Submission No. SALA-CA-PMA/001/2021 Barú Volcano National



Map 18. Map of hydroelectric facilities located within the hydric footprint area of the PNVB. Source: OBPA, accessed in 2022

Park, and about Chapter 17 of the TPA. This link was provided so the guests could learn about the functions of the Secretariat, what a factual record consists of, and its objective.

During the meeting and after a discussion among the participants which lasted approximately one hour, several topics were raised that were common to the experiences of each one of them. They agreed that the assertions stated by the submitters happen frequently and without interruption not only at the PNVB and PILA, but in protected areas in general. They stated that the means to handle and resolve these issues are either limited or poorly structured.

Mention was made of situations of institutional weakness, given that the administration of one third of the country by a single Directorate is very extensive. The Directorate also has to handle wildlife issues, and the teams of the Heads of the Parks, Park Rangers, and also resources are limited.

As for management tools such as Management Plans; Annual Operational Plans; Public Use Plans; Strategic Environmental Assessments; National Strategies, among others, the former officials stated that these are drawn up. However, their execution is null or very

limited, because they are not followed up on. These documents end up as mere words written on a page or become obsolete before their implementation.

The participants stated that actions such as clearly defining the boundaries; a cadastral census of the people living within these areas and their use of the land; following up and giving maintenance to infrastructure investments; promoting greater engagement by Community-based organizations and students; expanding the co-management and concessions program to achieve participation by a higher number of actors, are all pending tasks needed to strengthen the structure of SINAP and meet its objectives.

The following professionals personally attended the meeting: Ing. Zuleika Pinzón; Licda. Yesenia González (Expertise in Marine Biology, Biodiversity Conservation and Genetic Resources); and Licdo. Edgar Araúz (Expertise in Conservation Biology and Management and Conservation of Wildlife). The following participated via Zoom: Licdo. Adrián Benedetti (Socio-scientific expert in Management and Public Use of Protected Areas) and Licdo. Samuel Valdés (Expertise in Research and Conservation of Biodiversity Elements).

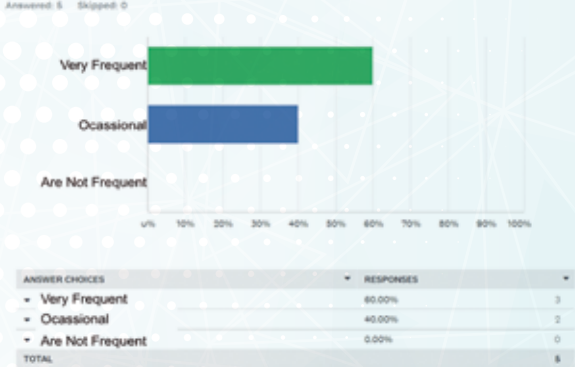
The following were also invited to the meeting, but were unable to participate for various reasons: Ing. Dimas Árcia, Licda. Antonella Finniss and Licda. Ibelíce Añino.

PHOTOGRAPHIC RECORDS:

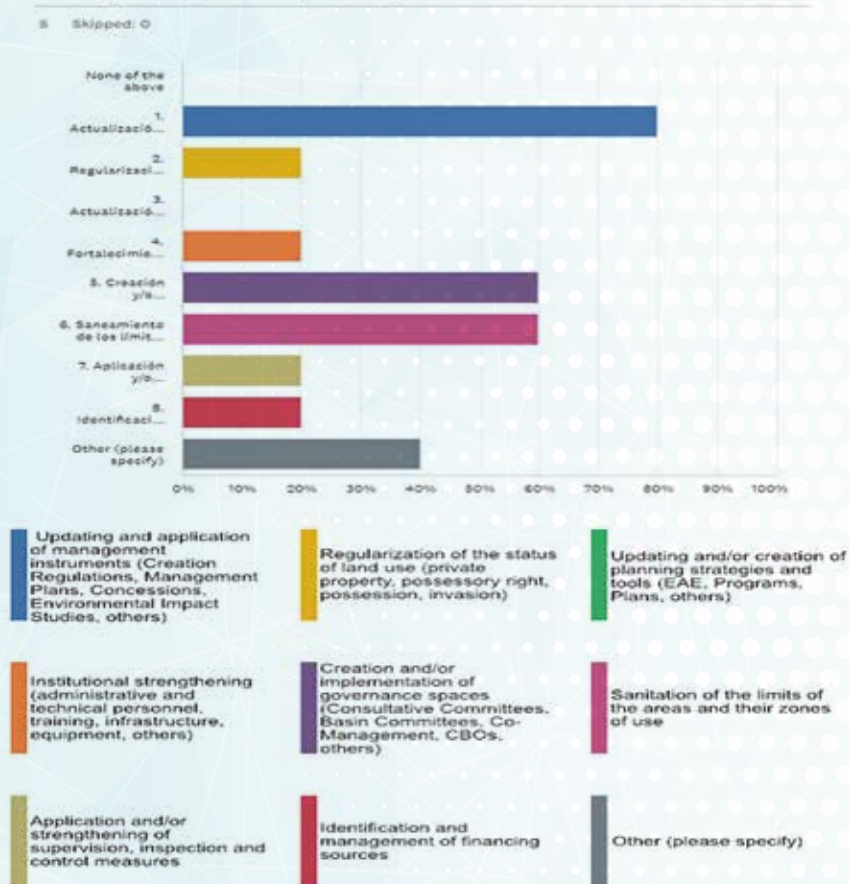


A simple survey was conducted with the meeting participants, and the results are as follows:

Having verified the documentation presented by the senders of the Parque Nacional Volcán Barú Communication, do you consider in your experience that these assertions are:



Having verified the documentation presented by the senders of the PNVB Communication and what was raised in the public hearings, in your experience, identify among the following 3 issues of priority attention



ANSWER CHOICES		RESPONSES	
None of the above		0.00%	0
1.	Update and apply of management tools (Creation Norms, Management Plans, Concessions, Environmental Impact Studies, others).	80.00%	4
2.	Regularisation of land use status (private property, possession rights, tenure, encroachment)	20.00%	1
3.	Update and/or create strategies and planning tools (SEA, Programmes, Plans, other)	0.00%	0
4.	Institutional strengthening (administrative and technical staff, training, infrastructure, equipment, others).	20.00%	1
5.	Creation and/or implementation of governance spaces (Consultative Committees, Basin Committees, CO-Manejos, OBC's, others).	60.00%	3
6.	Sanitation of the areas boundaries and their areas of use.	60.00%	3
7.	Implementation and/or strengthening of supervision, control and oversight measure.	20.00%	1
8.	Identification and management of funding sources	20.00%	1
Other (please specify) Responses		40.00%	2
Total Respondents: 5			

VI

FINAL OBSERVATIONS

- The Factual Record has been prepared in an attempt to objectively and impartially compile the factual information most relevant to the assertions made by the submitters. Its aim is to provide compiled information that is beneficial and valuable for the Environmental Affairs Council, the Parties, the submitters, and the public at large.
- This document was prepared based on the submission filed by Messrs. Ezequiel Miranda, Ángel Aguirre Sánchez, and Ariel Rodríguez Vargas; on the determinations prepared by the Secretariat; and, considering the lack of a timely response by the Party, on the information available for compilation. This action was taken pursuant to paragraph 4 of Article 17.9 of the TPA, regarding Factual Records and Related Cooperation: "...the secretariat shall consider any information furnished by a Party and may consider any relevant technical, scientific, or other information: a. that is publicly available; b. submitted by interested persons; c. submitted by national advisory or consultative committees; d. developed by independent experts; or e. developed under the ECA."
- The Record was prepared in reference to the facts which may affect the PNVB and PILA protected areas, which were stated by the submitters in their submission, to find out whether these facts fall within the purview of Panamanian environmental law, particularly the regulations described as breached.
- According to the laws in force that were researched, access to information is a regulated right that establishes specific terms

for compliance. These terms must be observed by the competent public entities, pursuant to the principles of informality, impartiality, uniformity, economy, celerity, and efficacy.

- According to the laws in force that were researched, administrative procedures, both due to formal proceedings or complaints, have terms for compliance and execution which must be observed by public entities, without detriment to due legal process, with objectivity, and in adherence to the principle of strict legality.
- According to the laws in force that were researched, the PNVB and PILA protected areas possess approved guiding norms and management instruments that describe the general characteristics of these sites, the programs, and lines of action to address their problems. These instruments in turn are complemented by environmental public policy mechanisms at the national level. However, pursuant to the statements made by the submitters and the observations made during site visits to determine the incidence of said statements, there is no evidence to indicate that the Panamanian State is using these management tools.
- According to the laws in force that were researched, activities carried out within protected areas in general, and in the PNVB and PILA in this particular case, must comply with the provisions of the instruments that created each protected area and their management plans; the Forestry Law; the Wildlife Law; and the

General Law on the Environment and its regulations. It is the duty of the Panamanian government to ensure compliance.

- According to the laws in force that were researched, the infringements perpetrated against the environment entail administrative sanctions of reprimand, temporary or definitive suspension of activities, fines, as well as the obligation to carry out or assume the cleanup, restoration, mitigation and/or compensation of the environmental damage, as required. This is separate from criminal sanctions, which include prison sentences, and it is the duty of the Panamanian State to ensure compliance.
- Pursuant to paragraph 3 of article 17.9 of the TPA on Factual Records and Related Cooperation, “the preparation of a factual record by the secretariat, pursuant to this Article, shall be made without prejudice to any further steps that may be taken with respect to any submission.”
- As stipulated in paragraph 8 of article 17.9 of the TPA on Factual Records and Related Cooperation, “The Council shall consider the final factual record in light of the objectives of this Chapter and the ECA. The Council shall, as appropriate, provide recommendations to the Environmental Cooperation Commission related to matters addressed in the factual record, including recommendations related to the further development of the Party’s mechanisms for monitoring the enforcement of environmental legislation.”

VII

DOCUMENTS CONSULTED

1. Political Constitution of the Republic of Panama
2. Civil Code of the Republic of Panama
3. Criminal Code of the Republic of Panama
4. 1992 Rio de Janeiro Declaration on Environment and Development
5. Trade Promotion Agreement (TPA) between Panama and the United States of America, Explanatory Document. Ministry of Commerce and Industries, Office of International Trade Negotiations, General Directorate for the Administration of International Trade Agreements. Panama, 2012.
6. Working Procedure for Submissions Pertaining to the Environmental Legislation Enforcement.
7. Single Text of Law 41 of 1998, General of the Environment of the Republic of Panama.
8. Law No. 1 of 3 February 1994, "Whereby the Forestry Legislation of the Republic of Panama is established, and which dictates other provision"
9. Law 38 of 31 July 2000 "Which approves the Organic Bylaws of the Office of the Inspector General of the Administration, Regulates the General Administrative Procedure, and Dictates Special Provisions."
10. Law 6 of 22 January 2002 "Which dictates the norms for transparency in public administration, establishes the Habeas Data action, and dictates other provisions."
11. Law 44 of 8 August 2002. Special Administrative Regime for the Handling, Protection, and Conservation of Watersheds.
12. Law 8 of 25 March 2015, "Which creates the Ministry of the Environment, modifies dispositions of the Aquatic Resources

- Authority of Panama, and dictates other provisions.”
13. Law 188 of 4 December 2020. Which creates the Naso Tjër Dhi Indigenous Territory.
 14. Law 55 of 13 September 2013. Which creates the District of Tierras Altas.
 15. Resolution JD-021-1988. Which creates the La Amistad International Park.
 16. Executive Decree No. 40 of 24 June 1976. “Which establishes Barú Volcano National Park in the Province of Chiriquí.
 17. Executive Decree No. 57 of 16 March 2000 “Which regulates the composition and operation of Environmental Consultative Commissions.”
 18. Executive Decree No. 57 of 10 August 2004. Regulates the Procedure for Environmental Audits.
 19. Executive Decree No. 123 of 14 August 2009. Regulates the Procedure for the Environmental Impact Assessment.
 20. Executive Decree No. 33 of 28 March 2017, regulates article 51 of the Single Text of Law 41 of 1998, General of the Environment, correlated to the procedure for granting administrative concessions in protected areas and which dictates other provisions.
 21. Resolution No. AG-007-2004 of 9 January 2004 “Which approves the Program for Monitoring the Effectiveness in the Management of Protected Areas by SINAP”
 22. Resolution No. AG-0295-2004 of 30 July 2004 “Which approves the Management Plan for Barú Volcano National Park.”
 23. Resolution No. AG-0304-2004 of 2 August 2004. Approves the Management Plan for La Amistad International Park.

24. Resolution No. AG-0904-2009 of 28 October 2009, “Which reestablishes the validity of the Management Plan for Barú Volcano Management Plan and dictates other provisions”
25. Resolution No. AG-1102-1009 of 14 December 2009. Renews the validity of the Management Plan for La Amistad International Park.
26. Resolution AG-0704-2012 of 11 December 2012 Resolution AG-0704-2012 of 11 December 2012.
27. Resolution No. DAPVS-0006-2016 of 6 July 2016, which approves the Public Use Plan for Barú Volcano National Park.
28. Resolution No. DM-0029-2016, Chiriquí Viejo River Watershed Committee (102).
29. Resolution No. DM-0141-2016, Río Chico Watershed Committee (106).
30. Resolution No. DM-0333-2016, Chiriquí River Watershed Committee (108).
31. Resolution No. DM-0217-2019, Escarrea River Watershed Committee (104).
32. Resolution No. DM-0318 of 3 July 2017. Approves the Strategic Environmental Assessment of La Amistad International Park.
33. Resolution No. DM-0233-2019 of 27 June 2019, which approves and adopts the procedure for processing viability applications for projects, works or activities to be carried out within the National Protected Areas System, which require an environmental study.
34. Resolution No. 34 of 7 December 2020. Creates the Superior Environmental Prosecutor’s Office.
35. National Statistics and Census Institute, Panamá en Cifras report, years 2012-2016.

36. Environmental Atlas of the Republic of Panama (First Version), 2010.
37. 2015-2050 National Hydric Security: Water for All. Panama, 2016.
38. District Strategic Plan, Boquete Municipality
39. Management Plan for Barú Volcano National Park, June 2004. Consortium CEPISA-ANCON
40. Proposal for amendments to the Management Plan for Barú Volcano National Park for the period 2013-2022. National Authority of the Environment, MesoAmerican Biological Corridor Project for the Panamanian Caribbean.
41. Visión 2050, Diagnóstico Chiriquí, CECOMRO, SENACYT, CLAVE Technical Assistance. June, 2018.
42. Biodiversity Strategy and National Action Plan (EPANB) 2018-2030
43. Strategic Environmental Assessment Scope Report (EAE)- “The case of the World Heritage site at the Talamanca Mountain Range Reserves – La Amistad/La Amistad International Park.” (Costa Rica- Panama), 2015.
44. Strategic Environmental Assessment, La Amistad International Park, Abril 2016.
45. National Strategic Plan with a State Vision, Panama 2030. Aligning national development with the Sustainable Development Goals. 2017 National Council for Consensus on Development. With support from the United Nations Development Programme (UNDP).
46. Strategic Plan for the National Protected Areas System, February, 2017-2025. Ministry of the Environment.
47. Hydric Security Plan for the district of Tierras Altas, 2019. Ministry of the Environment and Fundación Natura through the 6
48. Program for Adaptation to Climate Change.
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50. Public Use Plan for Barú Volcano National Park.
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52. <https://www.inec.gob.pa/archivos/P8551DatosGenerales2.pdf>,
53. <https://www.hidromet.com.pa/es/cuencas-hidrograficaspanama>
54. <https://www.sinia.gob.pa/index.php/cobertura-boscosa/ano-2019/por-provincia>.
55. www.en.unesco.org/
56. <https://www.miambiente.gob.pa/miambiente-inicia-planificacion-de-gestion-con-la-estrategia-nacional-ambiental/>

CREDITS

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