

In this issue:

- **Climate Change** - auction / Carbon Index
- **Environmental licensing** - waterway transportation / Tietê River region in São Paulo
- **Indigenous People-** territorial and environmental management
- **Specially Protected Areas** - consent of the managing entity in São Paulo / creation of conservation areas in Minas Gerais and São Paulo / Private Reserves in Bahia
- **Water Resources** - groundwater in São Paulo
- **Sustainable Bidding** - forestry products in Porto Alegre
- **Forestry Resources** - forestry concession
- **Agribusiness** - sustainability in cotton production
- **Solid Waste** - construction waste in Porto Alegre
- **Hazardous Substances** - ExCOPs in Bali
- **Environmental Control** - IBAMA's annual report
- **Biodiversity** - access and benefit sharing
- **Environmental Governance** - Sustainability Commission of the France-Brazil/Social and Environmental Statement in Amazonas
- **Global Links** - Peru

Climate Change

Auction. The Brazilian Securities, Commodities and Futures Exchange (BM&FBOVESPA S.A. – *Bolsa de Valores, Mercadorias e Futuros*) intends to promote on April 8, 2010, in the city of São Paulo, the **1st auction of carbon credits destined to the voluntary market** (a similar initiative was scheduled in December/2009, but has been cancelled due to the lack of qualified potential buyers). The units of verified emission reductions were obtained through projects that reduce emissions of greenhouse gases (GHG) through the switching of fossil fuel to renewable biomass (such as sugar cane bagasse and rice husk). This initiative adopted by BM&FBOVESPA aims to enhance the trading of carbon


credits originated from projects in Brazil. ■

Decarbonization. Until March 31, 2010 the methodology for calculating BMF&BOVESPA's **Efficient Carbon Index** (in Portuguese, "ICO2") will be available for public consultation. As reported by this Bulletin in January, the purpose of the ICO2 is to stimulate the development of products and services with low GHG emissions and the measuring of such emissions by publicly held companies. The methodology is accessible through the following address in the Internet: <http://www.bmfbovespa.com.br/pt-br/noticias/2010/download/metodologia-indice-carbono.pdf> ■

Environmental Licensing

The Brazilian Senate is analyzing the Bill of Legislative Decree No. 232/2004, which authorizes the use of water resources for waterway transportation in parts of the rivers Mortes, Araguaia and Tocantins that are located inside or along indigenous reserves. The text has already been approved by the Commission of Agriculture and Agrarian Reform with the inclusion of four amendments, two of which contemplate an **automatic approval of the**

installation of the undertaking if the Brazilian indigenous people agency (the *Fundação Nacional do Índio*, or "FUNAI") or the competent environmental agency do not reach a final decision (either approving or disapproving the project) within 90 days. The Bill is under review by the Commission of Constitution, Justice and Citizenship.

The provision that establishes the automatic approval of the 

Indigenous People

The proposal for the **National Policy of Territorial and Environmental Management of Indigenous Lands** (in Portuguese, “PNGATI”) is under public consultation. Such proposal has been conceived by an Interministerial Working Group that is comprised by representatives from the Ministries of Justice and Environment (Interministerial Rule No. 434 of December 9, 2009). The next meetings for public consultation will take place in Manaus/AM, Imperatriz/MA and Cuiabá/MT, in April and May. ■

➔ installation of the undertaking due to the lapse of a specified term is similar to a provision established pursuant to an amendment to the Provisional Measure No. 452/2008, which authorized the start of paving works, improvements and expansion of federal highways if the competent environmental agency did not reach a final decision on the issuance of an installation license and other several permits within 60 days. The Measure in question, though, has lost its effectiveness because it was not converted into law. ■

State of São Paulo. Resolution No. 13 of the State Secretariat of the Environment (the *Secretaria de Estado do Meio Ambiente*, or “SMA”), dated February 24, 2010 addresses the **environmental licensing procedure of undertakings located in the area of influence of the Tietê River** and revokes SMA Resolution No. 01/2010 (the latter has already been reported in our Bulletin of January 11, 2010). As far as content is concerned, the only difference between both Resolutions is that the new one has delimited the area of influence of the Tietê River more precisely. ■

Specially Protected Areas

State of São Paulo – conservation areas. On February 12, 2010, the State Official Gazette has published Resolution No. 11 of the State Secretariat of the Environment, which established the procedures and undertakings that are subject to the **prior consent of the managing entity of a conservation area for environmental licensing procedures involving undertakings that may affect such conservation area or its buffering zone.**

Pursuant to the Resolution, the environmental licensing procedure of the following activities is subject to the prior consent of the managing board of the relevant conservation area: oil refineries, steel, pulp and cement in-

dustries, sugar cane and ethanol mills, industrial incinerators etc. Such requirement is also applicable to any activities that result in the suppression of native vegetation in an exceeding area of 5 hectares, or 1 hectare in a location that is contiguous to the relevant conservation area, or activities that may cause impacts to the quality or quantity of water in the drainage basin upstream of the area. When the relevant activity is not expressly listed in the Resolution, and based on a grounded justification, the licensing agency may request the consent of the managing entity, as well as the managing entity itself may request its prior hearing in the licensing procedure. ■

State of Minas Gerais. The **proposal for the creation of the Mosaic of the Northern Vector Conservation Areas** will be available for public consultation until March 28, 2010. Such Mosaic will be comprised by State Natural Monuments, Wildlife Refuges and a State Park, covering the municipalities of Lagoa Santa, Matozinhos, Pedro Leopoldo, Santa Luzia and São José da Lapa. The proposal is accessible through the following address in the Internet: <http://www.ief.mg.gov.br/noticias/1/1053-consulta-publica-mosaico-vetor-norte>. ■

State of São Paulo. On March 11, 12, 15 and 16, the State Secretariat of the Environment promotes public hearings for the creation of two State Parks and two State Forests. The **new conservation areas** will cover part of the municipalities of Atibaia, Bom Jesus dos Perdões, Mairiporã, Nazaré Paulista, Arujá, Guarulhos and Santa Izabel. The proposal for the creation of such conservation areas is accessible

through the following address in the Internet: <http://www.fflorestal.sp.gov.br/cantareiraApresentacao.php>. ■

State of Bahia. On March 6, 2010, the State Official Gazette has published Normative Instruction No. 2 of the State Secretariat of the Environment (the *Secretaria de Estado do Meio Ambiente*), which established the procedures for the recognition of Natural Heritage Private Re-

serves (in Portuguese, “RPPN”) in the state sphere (including documents to be delivered, term for analysis, environmental characterization of the proposed area etc.). The RPPN is a category of conservation areas that are established in properties of private domain pursuant to the voluntary initiative of the landowner, in which only scientific research and touristic and educational visiting are allowed. ■

Water Resources

State of São Paulo – water resources. Specific environmental licensing requirements have been established for **undertakings located in areas potentially critical to the use of groundwater**, pursuant to Resolution No. 14 of the State Secretariat of the Environment, which was published in the State Official Gazette of March 6, 2010. Such potentially critical areas were identified pursuant to the map attached to the Resolution as its Annex I. Pursuant the Resolution, the environmental licensing of new undertakings and expansions, as well as the renewal of the operating license of activities having potential impacts to the quality and quantity of groundwater in these areas, will depend on the presentation,

among others, of a feasibility study assessing the local hydrogeology and vulnerability of aquifers, as well as protective measures to be adopted.

The Resolution defines the potentially impacting undertakings as those that capture groundwater flows in excess of 50 m³/h or that dispose liquid effluents, waste and substances in the soil. In addition, in vulnerable areas, **the installation of petro-, coal- and chlorochemical industrial facilities is forbidden.** ■

Sustainable Bidding

Municipality of Porto Alegre, State of Rio Grande do Sul. The Municipality of Porto Alegre is the latest to adopt measures to protect the Amazon Forest. The effort is part of its commitment to **Greenpeace Brasil’s** initiative “Amazon Friendly City”, which aims to encourage the creation of local regulations that seek the elimination of illegal wood from public purchases. According to Municipal Law No. 10,842, of March 5, 2010, the Municipality is obliged to adopt **environmental criteria in specifications of products and services to be acquired/retained**, establishing rules for public biddings and contracts to ensure social and environmental sustainability. In order to guarantee the compliance with the Law, the Municipality must require evidences of the legality of the ownership chain of the relevant timber products from the companies that participate in bidding procedures. ■

Forestry Resources

Rule No. 56 of the National Institute of Metrology, Standardization and Industrial Quality (in Portuguese, "INMETRO"), of February 25, 2010 approved the requirements for **Conformity Assessment to Public Forests Concession**, to be performed by an independent audit. The obligation to submit the forest concession to an audit has been stipulated pursuant to Federal Law No. 11,284/2006. The audit seeks to certify the conformity of forestry activities and economic, social and environmental obligations established under the Sustainable Forestry Management Plan and undertaken pursuant to the forest concession agreement. ■

Resíduos Sólidos

Porto Alegre, State of Rio Grande do Sul. On March 10, 2010, the Official Gazette of the Municipality of Porto Alegre has published Municipal Law No. 10,847, which established the **Integrated Plan of Construction Waste Management**. The Law separates into different classes the waste from constructions, renovations and demolitions - such as resins, glues, paints, soil, metals, wiring, asphalt pavement, glass, pipes etc. (commonly called *junk*) and provides a specific destination for each class.

Pursuant the Law, the undertakings that are not characterized as small generators or that are sub-

Agribusiness



In the beginning of march/2010, the Brazilian Association of Cotton Producers (in Portuguese, "ABRAPA") launched its **Socio-environmental Program of Cotton Production** (in Portuguese, "PSOAL"), which will include several actions to encourage the enforcement of environmental and labor law by Brazilian cotton producers. Some of the actions include the evaluation of the conformity with legislation, the implementation of improvement plans and monitoring of actions. Initially, the Program will guide producers

through brochures covering key issues for the sector, such as handling and storage of pesticides and disposal of its packaging, selective collection of wastes originated from the production management and eradication of slave labor. ■

Hazardous Substances

From 22 to 24 February 2010, simultaneous Extraordinary Meetings of the Conferences of the Parties (ExCOPs) to the Basel (**hazardous wastes**), Rotterdam (**hazardous chemicals**) and Stockholm (**persistent organic pollutants**) Conventions were held in Bali, Indonesia. The main purpose of the event was to identify and strengthen synergies among these three multilateral treaties (Brazil is a party to all of them) in the management of hazardous chemicals and wastes, in order to provide its **implementation with more effectiveness at regional and national levels**. ■



Environmental Control

Individuals and companies that exploit natural resources or perform potentially polluting activities must forward to the **Brazilian Institute for the Environment and Renewable Natural Resources** (the *Instituto Brasileiro do Meio Ambiente e dos Recursos Naturais Renováveis*, or "IBAMA"), until March 31, 2010 their Annual Report of Activities (based on year 2009), informing, for example, the environmental permits obtained, the raw material used in the production and its origin, the gaseous emissions etc. The obligation is established in Federal Law No. 10,615, of December 27, 2000 and the matter has been recently regulated by a new IBAMA Normative Instruction (NI No. 31 of December 4, 2009). ■

Biodiversity

From March 9 to 12, 2010, in Brasília, the third meeting of the Group of Megadiverse Countries is taking place. The Group is comprised by Bolivia, Brazil, China, Colombia, Congo, Costa Rica, Ecuador, India, Indonesia, Kenya, Madagascar, Malaysia, Mexico, Peru, Philippines, South Africa and Venezuela.

The main issue to be discussed concerns the implementation of an international regime on **access and benefit sharing in connection with the exploitation of biological diversity** - known as ABS (Access and Benefit Sharing) regime - in order to fairly and equitably dis-

tribute the profits from the exploitation of biodiversity and associated traditional knowledge. The issue will be the subject to deliberation in the next Conference of Parties to the Convention on Biological Diversity (COP10) to be held in October/2010, in Nagoya, Japan. ■


Environmental Governance

Corporate sustainability. The Sustainability Commission of the France-Brazil Chamber of Commerce in São Paulo, under the coordination of Fernando Tabet (Tabet Advogados), will promote monthly meetings for the discussion of the concept of sustainability based on **sector case studies**. On its first meeting of the year – in the morning of March 24, 2010) - the Environmental Sustainability Executive Officer of AES Brasil, Mr. Demóstenes Barbosa da Silva, will present the experiences of the company from the perspective of the energy sector. ■

State of Amazonas - Social and Environmental Statement. A public hearing will be held on March 15, 2010, at 1:00 pm at the Legislative Assembly of the State of Amazonas to discuss the Bill on the Annual Social and Environmental Statement presented by Deputy Therezinha Ruiz. Pursuant to the Bill, enterprises established in the State of Amazonas must disclose in the Statement, among others: their gross turn-over, payroll, number of employees (by age, gender, race, educational qualification etc.); amounts spent on professional training, investments in

the community (culture, sports etc.); investments in the environment (reforestation, remediation etc.). The Bill also establishes that companies or institutions that enter into agreements with the State Executive Branch (by public bid, covenant, cooperation etc.) must present the Statement, whereas the **non-compliance with the requirements established for the Statement will constitute a motive to challenge the relevant agreement.** ■

Global Links

 **Peru.** The enactment of the National System for Environmental Impact Assessment Regulation (the *Sistema Nacional de Evaluación de Impacto Ambiental*, or “SEIA”), of September 25, 2009 (Supreme Decree No. 019) is one of the most important environmental legal developments occurred recently in Peru. Such Regulation had been largely expected, since the promulgation of Law No. 27446, of April 20, 2001.

Before the approval of the Regulation, some projects were not subject to the **mandatory presentation of an Environmental Impact Assessment**, since there was no legal requirement to do so. It was also not

clear what authority/department would be responsible for the approval of such Assessments when applicable. Therefore, several projects were developed without the previous analysis of its respective environmental impacts, potential damages or possible mitigation and remediation actions to be taken.

Under the Regulation, the local and regional governments have also been given the authority to approve the environmental management instruments regarding those projects that impact their respective territories. This has been established in accordance with the administrative decentralization process that is being currently implemented in Peru.

The Regulation certainly expresses a meaningful evolution of both Peruvian environmental legislation and policies. Basically, it establishes the criteria under which public authorities assess environmental impacts of investment projects in the context of the applicable environmental management instruments. Such instruments themselves mean an important effort adopted by the Peruvian government to seek the protection and valuing of the natural heritage and a sustainable development in the country. ■

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