

**REPÚBLICA DEL ECUADOR (REPUBLIC OF ECUADOR)  
CONSEJO DE LA JUDICATURA (JUDICATURE COUNCIL)  
DIRECCIÓN PROVINCIAL DE EL ORO  
(PROVINCE BUREAU IN AND FOR EL ORO)  
JUZGADO TERCERO DE LO CIVIL DE EL ORO  
(THIRD CIVIL COURT IN AND FOR EL ORO)**

Machala, Monday, October 17, 2011; 2:20 p.m.

Having revised the court records kept on pages 17 and 18, WILMER ENCALADA LUDEÑA, Eng., in his capacity as General Manager and legal representative of the Port Authority of Puerto Bolívar, states the following:

1. The findings of fact and conclusions of law are the following: This is to inform you, your Honor, that by means of Supreme Executive Order No. 2082, published in Official Register No. 591 dated September 22, 1965, which Regulates the Operation of the "11 de Julio" Dock at Puerto Bolívar, which establishes in Section 2, the jurisdiction and the area belonging to the Puerto Bolívar Port Authority, which was notarized by the First Notary of the Machala canton, Milton Serrano Aguijar, Esq., on December 28, 2010, it was certified that the entity I represent holds the material, peaceful, good faith and uninterrupted possession, since the issuance of the aforementioned Order, of a 57.5 hectare plot of land which boundaries are demarcated as follows: To the NORTH, bordering with State-owned lands in a length of 150 meters between the coast line and Bolivar Madero Vargas Avenue; to the SOUTH, with unnamed Avenue, in a length of 400 meters, of the same coast line; to the WEST, from the Dock Axis towards the North and following the coast line in a length of 868 meters and towards the South of the same axis in a length of 132 meters; and, to the EAST, taking as starting point the axis of the main access avenue of the dock to the North and following the Puerto Bolivar-Machala road, in a length of 860 meters and towards the South of the same axis and also following the aforementioned road, 140 meters. Currently, the Puerto Bolivar Port Authority has an area of 75.51 hectares which boundaries are demarcated as follows: to the NORTH, bordering with the premises of Liceo Naval Jambeli with a length of 897 meters comprised from the coast line to Bolivar Madero Vargas Avenue and with a coastal edge of 278.50 meters; to the SOUTH, with Tercera Norte Avenue, in a length of 355.40 meters, from the coastal edge to Bolívar Madero Vargas Avenue; to the WEST, following the coastal edge and the existing and projected maritime infrastructure (Jetty, Secondary Dock 3 and 4, Dock 5 and 6) that borders with the Santa Rosa Estuary, with a length of 1653 meters comprised from Tercera Norte Avenue to the coastal edge; and, to the EAST, from Tercera Norte Avenue to the former Port Training Center towards the North along the Bolívar Madero Vargas Avenue in a length of 516.40 meters, from this point to the North but oriented to the West in a length of 51.50 meters, where this last length concludes, resuming the North orientation, parallel to Bolívar Madero Vargas Avenue with a length of 59 meters towards the West with a length of 47.50 meters towards the North parallel to Bolivar Madero Vargas Avenue having as boundary the CAE and the Amazonas Neighborhood with a length of 435.40 meters, with East orientation entering again to Bolivar Madero Vargas Avenue with a length of 108.75 meters and with North orientation along Bolivar Madero Vargas Avenue with a length of 40.70 meters. Finally, it is reported that since 1965, port improvement works have been carried out in the facilities of the Puerto Bolivar Port Authority, such as the construction of Berths 1, 2, 3 and 4, being the award of the latter under Tender process for the construction of Berth 5.

2. Petition: With the only desire to authenticate the ownership rights regarding the current land area consisting of 73.51 hectares, described in detail above and based on the material, peaceful, good faith and uninterrupted possession for a period of 46 years, that the entity I represent hold, you are hereby requested in your capacity as Civil Judge, under the provisions set forth in Section 64-A of the State Modernization Act, to issue the respective ruling in order to obtain the ownership title of the described property, and the corresponding transfer of ownership to be registered in the Real Estate Registry. The referred ruling shall be recorded with the Real Estate Registry in and for the Machala Canton, which will serve as a fair ownership title. The petitioner, by means of the writ kept on page 21, states the following: I supplement the petition for the transfer of ownership regarding the current land surface that the Puerto Bolívar Port Authority has, which consists of 75.51 hectares, in material, peaceful, good faith and uninterrupted possession for a period of 46 years, which I have filed under the provisions of Section 64-A of the State Modernization Act for the respective ruling to be issued and the corresponding transfer of ownership to be executed in favor of the entity I represent, being the Real Estate Registrar of the Machala Canton requested to record such transfer which will serve as fair title for the entity I represent, with the current surface the Puerto Bolívar Port Authority has. Attached is a certified copy of Certification No. 18634-2010 dated December 15, 2010, issued by the Real Estate Registrar of the Machala Canton. The procedure to be followed is special and due to its nature the amount is undetermined. In addition, I request your Honor, that an excerpt of this petition and the qualification order be published once in one of the newspapers with the largest circulation in the city, so that any person who believes he/she has been harmed may assert his/her rights. Admitted the petition to the special procedure established in Section 64-A of the State Modernization Act, and prior to the issuance of the corresponding ruling declaring the transfer of ownership that is being sought, it is ordered that an extract of the petition and of the qualification order issued thereon be published three times in one of the newspapers with the largest circulation in this city, so that any person or institution that believes to be injured may assert their rights within a term of fifteen days. The ordered publications have been made in the *Opinión* newspaper published in this city, which are kept on pages 25, 26 and 27, and no person or institution that believes to be injured has filed any opposition in this proceeding regarding the claims of the Puerto Bolívar Port Authority within the term granted for such purpose or up to the present date, for which reason, by order kept page 35, the records were requested to issue the pertinent ruling. Based on the foregoing, and whereas:

ONE: The legal formalities inherent to this type of special matters have been observed, and therefore, the validity of all proceedings is declared.

TWO: Section 64-A of the State Modernization Act states: "The real property that is in the material, peaceful, good faith and uninterrupted possession of the State Institutions for more than five years, and that lacks ownership titles legally registered in the name of said institutions shall become, by mandate of this Law, the property of the possessors. The property registrars of the cantons in which said properties are located shall record the transfers of ownership, prior order that, to that effect, shall be issued by the competent judges, at the request of the party concerned.

THREE: On page 20 of the court records, there is a certification issued by the Real Estate Registry of Machala, dated December 15, 2010, which states the following: "According to the authentication of the copy of the Supreme Executive Order, issued by the Government Military Meeting, according to Order No. 2082 dated June 21, 1973, notarized before the First Notary of the Machala Canton, Milton Serrano Agilitar, Esq., on June 21, 1973, recorded in the Real Estate Registry No. 289 on May 31, 1974, the Port Area corresponding to the "11 de Junio" Dock at Puerto Bolívar, covers a land area of 57.5 hectares, demarcated as follows: To the North: bordering with State-owned lands with a length of 750 m, between

the coast line and the Puerto Bolivar-Machala road; to the South: with unnamed avenue, in a length of 400 m, from the same coast line; to the East: Taking as starting point the axis of the main access avenue to the dock towards the North and following the Puerto Bolívar-Machala road in a length of 860 m and towards the south of the same axis also following the referred road with 140 m and; to the West from the dock axis towards the North and following the coast line in a length of 868 m towards the South of the same axis in a length of 132 m. According to the public deed of exchange, executed before the First Notary of the Machala Canton, Milton Serrano Aguilar, Esq., on July 27, 1976, recorded in the Real Estate Registry under No. 592, on September 17 of the same year, there appeared the Municipality of Machala and the Puerto Bolivar Port Authority, who freely and voluntarily agree to transfer and exchange the ownership of the plots of land so that the Municipality of Machala becomes the owner of 12.582 m<sup>2</sup>, occupied as per the residential lease agreements, within the following boundaries: Side 1: the Machala-Puerto Bolivar road; Side 2: reserve zone of the Port Authority that this institution acquires; Side 3: Customs Police barracks; Side 4: more land owned by the Puerto Bolívar Port Authority. The Puerto Bolivar Port Authority owns as reserve zone for future Puerto Bolivar constructions an area of 70.678 m<sup>2</sup> within the following boundaries: Side 1: Machala-Puerto Bolivar road; Side 2: area assigned to the National Army; Side 3: land owned by the Port Authority, and, Side 4: Territorial sea". Therefrom, it is inferred that there is a surplus area that is not registered in the Real Estate Registry of Machala, since it is the wish of the Puerto Bolivar Port Authority to authenticate the ownership rights regarding the current land surface of 75.51 hectares.

FOUR: The petitioner, the Puerto Bolivar Port Authority, as a State Institution, based on the provisions of Section 64-A of the State Modernization Act, requests the issuance of the respective ruling with the purpose of obtaining the ownership title described above, which has been in its material, good faith and uninterrupted possession for a period of time of more than 46 years, and that the corresponding transfer of ownership be registered in the corresponding Real Estate Registry.

FIVE: Three publications have been made in the *Opinión* newspaper published in this city, which have been included in court records, so that any person or institution that believes to be injured may assert their rights within a term of 15 days, without any person or institution having filed in this special proceeding any opposition to the claims of the Puerto Bolivar Port Authority within the term granted for such purpose or up to the present date.

Therefore, the undersigned Third Judge with Jurisdiction in Civil and Commercial Matters in and for El Oro, under provisions of Section 64-A of the State Modernization Act, hereby RESOLVES, that the current land surface of 75.51 hectares, whose boundaries are demarcated as follows: To the NORTH, bordering with the premises of Liceo Naval Jambeli with a length of 897 meters from the coast line to Bolivar Madera Vargas Avenue and with a coastal border of 278.50 meters; to the SOUTH, with Tercera Norte Avenue, in a length of 355.40 meters, from the coastal edge to Bolivar Madero Vargas Avenue; to the WEST, following the coastal edge and the existing and projected maritime infrastructure (Jetty, Secondary Dock 3 and 4, Dock 5 and 6) that borders with the Santa Rosa Estuary, for a length of 1653 meters comprised from Tercera Norte Avenue to the coastal edge; and, to the EAST, from Tercera Norte Avenue to the former Port Training Center, towards the north along Bolívar Madero Vargas Avenue with a length of 516.40 meters, from this point towards the same North direction but oriented towards the West in a length of 51.50 meters, where this last length concludes, resuming the North orientation, parallel to Bolivar Madero Vargas Avenue with a length of 59 meters, with orientation to the West in a length of 47.50 meters, towards the North, parallel to Bolivar Madero Vargas Avenue having as boundary the CAE and the Amazonas Neighborhood with a length of 435.40 meters, with orientation East entering again to Bolivar Madero Vargas Avenue with a length of 108.75 meters and with orientation North by Bolivar Madero Vargas Avenue with a length of 40.70 meters, shall

become property of the PUERTO BOLIVAR PORT AUTHORITY, where since 1965, it has been carrying out port improvement works; therefore, this ruling is issued and the transfer of ownership of the land area described above in favor of said State Institution is hereby authorized, being the Real Estate Registrar of the Machala Canton, upon execution hereof, requested to record such transfer which shall serve as fair title for the Puerto Bolivar Port Authority, with the current area of 75.51 hectares it has. Let this instrument be notified.

(signed)        ANGEL RODRIGUEZ FAJARDO, ESQ.  
                      JUDGE

I certify.

(signed)        Franco Arévalo Valarezo  
                      Court Clerk

In Machala, on Monday, October 17, 2011, at 02:35 p.m., a notice was served on this JUDICIAL RULING to: WILMER ENCALADA LUDEÑA, ENG., GENERAL MANAGER OF THE PUERTO BOLIVAR PORT AUTHORITY in box No. 80 and e-mail joridico@appb.gob.ec of VICENTE GUZMAN BARBOTÓ, ESQ.

I certify.

(signed) Franco Arévalo Valarezo  
Court Clerk

**TO THIRD JUDGE OF THE CIVIL COURT IN AND FOR EL ORO:**

I, Wilmer Encalada Ludeña, Eng., in my capacity as General Manager and legal representative of the Puerto Bolívar Port Authority, I respectfully appear and state:

Within the Special Judicial Procedure No.-0268-2011, I respectfully request you, since the term established by Law has elapsed, to execute the favorable judgement issued on Monday, October 17, 2011, serving notice thereof to the Real Estate Registrar of the Machala Canton so as to record the transfer of ownership that will serve as fair title for the Puerto Bolivar Port Authority, with the current surface area of 75.51 hectares.

Sincerely yours,

(signed)        Vicente Guzmán Barbotó, Esq.  
Register No.- 07-2006-31 C.N.J

No. 07303-2011-0268

Filed in Machala on Tuesday, October 25, 2011 at 04:20 p.m. with 2 copies of the original documents, without annexes. I certify.

(signed) Franco Arévalo Valarezo, Esq.  
Court Clerk

**REPÚBLICA DEL ECUADOR (REPUBLIC OF ECUADOR)  
CONSEJO DE LA JUDICATURA (JUDICATURE COUNCIL)  
DIRECCIÓN PROVINCIAL DE EL ORO  
(PROVINCE BUREAU IN AND FOR EL ORO)  
JUZGADO TERCERO DE LO CIVIL DE EL ORO  
(THIRD CIVIL COURT IN AND FOR EL ORO)**

Machala, Thursday, October 27, 2011, 03:09 p.m.

The writ filed by the petitioner shall be incorporated to the procedure and, prior to issue a decision on the main claim, it is ordered that the Court Clerk, states the reason in the court records indicating that the judicial ruling issued and kept on pages 36 and 37, is executed by operation of law. Then, return the whereas clauses so as to order what is legally appropriate – LET THIS DOCUMENT BE NOTIFIED AND COMPLIED WITH.

(signed) Angel Rodríguez Fajardo  
Judge

I certify

(signed) Franco Arévalo Valarezo  
Court Clerk

In Machala, on Monday, October 27, 2011, at 03:24 p.m., a notice was served on this JUDICIAL RULING to: WILMER ENCALADA LUDEÑA, ENG., GENERAL MANAGER OF THE PUERTO BOLIVAR PORT AUTHORITY in box No. 80 and e-mail joridico@appb.gob.ec of VICENTE GUZMAN BARBOTÓ, ESQ.

I certify.

(signed) Franco Arévalo Valarezo  
Court Clerk



REASON: - I hereby inform you, your Honor, that the present judicial ruling issued on October 17, 2011, at 2:20 p.m., is duly executed by operation of law.

Machala, November 10, 2011.

(signed) Franco Arévalo Valarezo  
Court Clerk of the Third Civil Court in and for El Oro

**MUNICIPAL REAL ESTATE REGISTRY IN AND FOR MACHALA**  
**Arizaga between Guayas and Ayacucho**

The MUNICIPAL REAL ESTATE REGISTRY IN AND FOR MACHALA certifies that on this date the following act(s) were registered:

1. On September 6, 2012, the act or contract OWNERSHIP TRANSFER JUDGEMENT recorded in the Real Estate Registry in volume 11 of pages 132206 to 132213 with registration number 3630 executed by the THIRD CIVIL COURT IN AND FOR EL ORO as COMPETENT AUTHORITY, PUERTO BOLIVAR PORT AUTHORITY as BENEFICIARY-OWNER.

(signed) Jorge Baquerizo Gonsález  
Real Estate Registrar

SIRE Security: (barcode)

-----

Seal: THIRD CIVIL COURT IN AND FOR MACHALA

I DO HEREBY CERTIFY THAT this is a true and exact copy of the original.

Machala, August 30, 2012.

(signed) Franco Arévalo Valarezo  
Court Clerk of the Third Civil Court in and for El Oro / Seal