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October 25, 2006

**BY EMAIL, FAX & MAIL**

Santiago A. Canton  
Executive Secretary  
Inter-American Commission on Human Rights  
Washington, D.C. 20006

**Ref: The Border Action Network, in relation to Victims of Anti-Immigrant  
Activities and Vigilante Violence in Southern Arizona, Petition No. P-478-05**

Dear Mr. Canton:

I am writing in response to your letter of September 25, 2006 requesting observations on the United States' most recent communication relating to the petition submitted by the Border Action Network ("Border Action" or the "Petitioner"). The petition alleges violations of human rights for which the United States is responsible because of its failure to prevent or provide redress for violent and intimidating vigilante activity along the Arizona-Mexico border.

The United States (sometimes hereinafter the "U.S." or the "State") provided the Commission with its initial response to the petition on April 26, 2006, arguing that the petition is inadmissible due to failure to exhaust domestic remedies and, alternatively, because no facts alleged tend to establish violations of the American Declaration of the Rights and Duties of Man. As requested by the Commission, the Petitioner submitted observations to the State's response in a communication dated June 16, 2006. The Petitioner refuted the State's contentions with a further exposition of documented facts and relevant jurisprudence, establishing that indeed violations of the American Declaration have occurred and that no effective and available domestic remedies for those violations have been shown to exist.

In its most recent communication dated September 18, 2006, the State provides no rejoinder; it does no more than summarily refer the Commission back to its communication of April 26, 2006 and state that it has nothing more to add.

Having now given its last word matter, at least in regard to admissibility of the petition, the United States has not placed into dispute the essential facts alleged and documented by the Petitioner. Given these undisputed facts, the petition is admissible and establishes violations of human rights, in accordance with the legal criteria set forth and analyzed in the Petitioner's previous submissions.

**I. THE PETITIONER HAS ALLEGED AND DOCUMENTED FACTS THAT HAVE NOT BEEN DISPUTED BY THE UNITED STATES**

Among the facts that the United States has not disputed are the following:

**Vigilante activity has occurred as alleged by the Petitioner**

Immigrants and U.S. citizens of Mexican descent have been the victims of violence and intimidation at the hands of vigilante groups near the U.S.-Mexico border, as detailed and documented by the Petitioner in its previous submissions.<sup>1</sup> The immigrant victims, principally from Mexico, have suffered specific physical and psychological abuses at the hands of vigilantes in southern Arizona.<sup>2</sup> The victims also include other immigrants who are likely to suffer similar harm in the future and Mexican Americans who live in an environment of fear and insecurity due to the recent surge of anti-immigrant attitudes and behavior in southern Arizona.<sup>3</sup>

The Minuteman Project and the larger movement of anti-immigrant vigilantism in southern Arizona threaten to [XXX – harm?] immigrants crossing the U.S.-Mexico border.<sup>4</sup> Repeated incidents of intimidation and violence against immigrants crossing the Arizona desert have resulted in grievous harms to hundreds – perhaps thousands – of immigrants, including degrading verbal insults, threats, robbery, false imprisonment, physical assault, battery, and serious wounds from firearms.<sup>5</sup>

**The vigilantism has a xenophobic character and is part of an anti-immigrant movement that affects not just immigrants but also Mexican-American U.S. citizens**

The traditional justification for these acts when undertaken by local ranchers has been the “protection of their land” from immigrants, yet more disturbing tones of racism have always accompanied their actions.<sup>6</sup> Anti-immigrant activity is often motivated by racism,

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<sup>1</sup> See Petition to the Inter-American Commission, Submitted by the Border Action Network in Relation to Victims of Anti-Immigrant Activities and Vigilante Violence in Southern Arizona, against the United States of America (April 28, 2005), paras. 28-39, and appendices [hereinafter “Petition”]; Response to the Request of the Inter-American Commission on Human Rights for Supplemental Information on the Petition by Border Action Network in Relation to Victims of Anti-Immigrant Activity and Vigilante Violence in Southern Arizona, Petition No. P-478-06 (Aug. 19, 2005).

<sup>2</sup> Petition, *supra* note 1, para. 6.

<sup>3</sup> *Id.* paras. 6-7.

<sup>4</sup> *Id.* paras. 11, 28-39.

<sup>5</sup> *Id.* paras. 2, 28-39.

<sup>6</sup> Petition, *supra* note 1, para. 18.

conspiracy theories of Mexican “invasion” and neo-Nazism.<sup>7</sup> Many of these groups possess strong ties to and receive funding from overtly racist, white supremacist and neo-Nazi groups.<sup>8</sup> Vigilante groups have formed a network of solidarity and cooperation, and have fostered an environment of hatred and animosity toward immigrants and Mexican-American U.S. citizens that has pervaded and disturbed the peace of the border communities of southeast Arizona.<sup>9</sup>

### **Government agents have exhibited hostile attitudes towards undocumented immigrants and encouraged vigilantism**

Hostile attitudes towards the victims are manifested by the comments of law enforcement officials and the creation of sheriffs’ “posses.”<sup>10</sup> Government officials, including even members of Congress, have shown support for vigilante groups such as the Minutemen.<sup>11</sup>

### **The United States has failed to Prevent, Prosecute, Condemn or even Discourage Anti-Immigrant Violence and Crimes**

The U.S. Border Patrol, County law enforcement officers, and the Mexican Consulate in Douglas Arizona have documented numerous incidents of vigilante violence involving hundreds of victims in southern Arizona.<sup>12</sup> The documented facts and law enforcement reports indicate that most of these incidents involve violations of state or federal criminal law.<sup>13</sup> Yet very few of the perpetrators of these criminal acts have been prosecuted.<sup>14</sup> The United States identifies but one instance in which perpetrators of vigilante violence in Southern Arizona have been prosecuted and convicted in recent years.<sup>15</sup>

Furthermore, concerned citizens, individual victims of anti-immigrant vigilantism, and non-governmental organizations have sought a response or condemnation from the government concerning vigilante violence.<sup>16</sup> Widespread campaigns have been organized to contact government officials and demand that they take action to prevent anti-immigrant human rights abuses.<sup>17</sup> Despite repeated written requests to the U.S. Attorney, the Cochise County Attorney, the Arizona Attorney General and other public officials to address vigilante activity, no specific response has been forthcoming, as those requests have largely been ignored.<sup>18</sup>

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<sup>7</sup> *Id.* para. 18.

<sup>8</sup> *Id.* para. 22.

<sup>9</sup> *Id.* para. 17-27.

<sup>10</sup> Observations of The Border Action Network on the Response of the Government of The United States of America to The Petition Regarding Victims of Anti-Immigrant Activities and Vigilante Violence in Southern Arizona (June 16, 2006) at 2 and appendix [hereinafter Petitioner’s Observations].

<sup>11</sup> *Id.* at 8.

<sup>12</sup> *Id.* paras. 53-61.

<sup>13</sup> Petitioner’s Observations, *supra* note 10, at 7.

<sup>14</sup> Petition, *supra* note 1, 53-61.

<sup>15</sup> See U.S. Response (Apr. 26, 2006) at 6-7, 2003 incident in Yuma County.

<sup>16</sup> Petition, *supra* note 1, paras. 40-45.

<sup>17</sup> *Id.* paras. 41-44.

<sup>18</sup> *Id.* paras. 40-45.

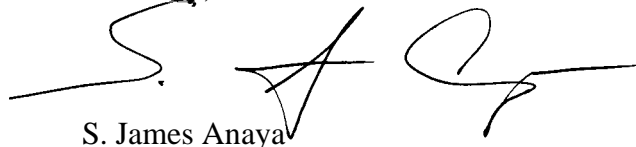
**II. THE PETITION IS ADMISSIBLE AND, ALONG WITH SUBSEQUENT SUBMISSIONS BY  
BORDER ACTION, ESTABLISHES FACTS THAT CONSTITUTE VIOLATIONS OF THE  
AMERICAN DECLARATION OF THE RIGHTS AND DUTIES OF MAN**

The above and related facts have not been disputed by the United States, despite its efforts to have the Border Action petition declared inadmissible. As set forth in the petition and subsequent submissions, these facts show that the United States has avoided its responsibility to ensure the protection of individual human rights, leaving human rights violators with impunity and making it possible for them to commit further violations. More specifically, the United States is internationally responsible for failing to protect immigrants' and Mexican-American U.S. citizens' rights of physical integrity and security of the person, judicial protection, and equal protection under the law, all rights affirmed by the American Declaration of the Rights and Duties of Man.<sup>19</sup>

As previously detailed by the Petitioner, the United States has failed at all levels to respond to and provide redress for the violations of human rights resulting from the vigilante activity. This failure manifests itself in several ways, including the ineffectiveness of the State's justice system. Possible civil remedies are inadequate to redress the criminal vigilante activity as matter of law, and in fact, the criminal justice system has proved itself inadequate and ineffective by the failure of federal and state authorities to prosecute the crimes. The failure of the State's justice system constitutes in itself a violation of the guarantees of judicial protection enshrined in the American Declaration of the Rights and Duties of Man, as well as an exception to the requirement that domestic remedies be exhausted.<sup>20</sup>

In sum, the petition is admissible because: (1) the undisputed facts constitute violations of the American Declaration, and (2) the undisputed facts show that domestic judicial remedies are inadequate and ineffective to redress these violations.

Sincerely,

A handwritten signature in black ink, appearing to read 'S. James Anaya', with a long horizontal flourish extending to the right.

S. James Anaya  
*Legal Representative of the  
Petitioner Border Action Network*

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<sup>19</sup> *Id.* paras. 72-94; Petitioner's Observations, *supra* note 10, at 16-18.

<sup>20</sup> *Id.* at 2-16; Petition, *supra* note 1, paras. 62-68.