

An Irreparable and Ongoing Damage: The Norperuvian Pipeline Case

Report



Authors: Wendy Ancieta and Vera Morveli
Collaboration: Liliam Timaná
Editing: Peruvian Society for Environmental Law (SPDA)
Layout Design: Belen Sampietro
Cover Photo: Audrey Córdova
English translation: Melina Lozano

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Peruvian Society for Environmental Law (SPDA)
Av. Prolongación Arenales 437, San Isidro, Lima, Perú
Phone: (+51) 612-4700
www.spda.org.pe
President: Jorge Caillaux
Executive Director: Isabel Calle
Director of Environmental Policy and Governance: Carol Mora

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The Peruvian Society for Environmental Law (SPDA) is a non-profit civil association that—since its founding in 1986—has worked continuously to promote environmental policies and legislation, as well as to design and implement tools that support sustainable development based on principles of governance, equity, and justice.

SPDA's Environmental Policy and Governance Program promotes and seeks to influence the development of public policies and legal tools that strengthen environmental institutions and management in Peru, with the aim of raising public awareness about the defense of environmental human rights and their importance to the country's sustainable economic development.

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General Information

Location	Loreto, Amazonas, Cajamarca, Lambayeque and Piura
Activity	Hydrocarbon Transportation
Production Unit	Norperuvian Pipeline
Owner	Petróleos del Perú - Petroperú S.A.
Current status	In operation
Sector	Hydrocarbon



1. Brief Description of the Norperuvian Pipeline (ONP)

The exploitation of hydrocarbons in the Amazon reached its peak in the 1970s. In this context, in 1972, through Decree Law 19435, the construction of a trans-Andean pipeline to transport oil from the Peruvian jungle fields was declared a matter of public necessity and the highest national priority.

The Norperuvian Pipeline (ONP) is operated by Petróleos del Perú – Petroperú. The main pipeline was completed in 1976, and the northern branch in 1978, crossing the regions of Loreto, Amazonas, Cajamarca, Lambayeque, and Piura. The pipeline stretches 856 kilometers between its endpoints, with a total length of 1,108 kilometers including its three components. It has a pumping capacity of 200,000 barrels per day, which could be increased to 500,000 barrels per day with additional facilities. The terminal is designed to receive vessels of up to 250,000 tons, with a maximum loading rate of 100,000 barrels per hour¹.

The ONP is made up of two branches:

- The main pipeline is 856 km long and is made up of two sections.

Section I: It begins at Station 1, in San José de Saramuro (Loreto), on the banks of the Marañón River, about 200 km southeast of Iquitos. From there, it runs westward through the jungle along the Marañón River until it reaches Station 5. Approximately 85% of the 306 km of 24-inch pipeline in Section I is laid at the bottom of a flotation trench (also known as a containment channel), while the remaining length is buried underground.

Section II: From Station 5, which is the junction point with the Northern Branch Pipeline, the ONP continues southwest to Station 6 in Kuzu Grande, Manseriche district, Alto Amazonas province. It then runs parallel to the road connecting Mesones Muro to Bagua in the Amazonas region, where Station 7 is located. Continuing southwest, it reaches Station 8 near the town of Playa Azul, Pucará district, Jaén province, Cajamarca region. At this point, the ONP changes direction to northwest, reaching Station 9, the last pumping station. From there,

¹ Information obtained from the document presented by Petroperú to the Ministry of Energy and Mines entitled “Work Plan for the Update of the Environmental Adaptation and Management Program of the Norperuvian Pipeline – Petroperú,” prepared by Viceversa Consulting in 2024.

it begins its ascent toward the Andes mountain range, crossing it at the Paso de Porculla at an altitude of 2,390 meters above sea level. From this location, the pipeline descends toward the Bayóvar Terminal, crossing the Sechura Desert in the Piura region.

- The Northern Branch Pipeline (ORN), 252 km long, is located on the terrain surface. It starts at Andoas Station (Loreto) and runs southwest, crossing the Pastaza, Huazaga, and Huituyacu rivers until it reaches the Morona River crossing. It ends at Station 5 (Loreto), where it connects with the main pipeline.

Below is the location of the ONP and its two branches:



It is important to note that the ONP has a “Reserve Zone,” which consists of a strip 75 meters wide on each side of the pipeline axis. This zone was established to ensure the safety and integrity of the infrastructure, forming a total width of 150 meters along its route through the departments of Loreto, Amazonas, Cajamarca, Lambayeque, and Piura².

Additionally, the ONP crosses 88 bodies of water (including rivers and streams), of which 11 are main rivers. Regarding protected natural areas, the pipeline passes through the Buffer Zone of the Pucacuro National Reserve and of the Pacaya Samiria National Reserve, as well as the Santiago Comaina Reserved Zone and the Illescas Reserved Zone (now a National Reserve)³.

2. The “Reserve Zone” was established through Legislative Decree 22180.

3. Information obtained from the document submitted by Petroperú to the Ministry of Energy and Mines titled “Work Plan for the Update of the Adaptation and Environmental Management Program of the Norperuvian Pipeline – Petroperú,” prepared by Viceversa Consulting in 2024.

2. The ONP Operates with an Outdated Environmental Management Instrument

One problem with this infrastructure is that it operates under an outdated environmental management instrument, which is insufficient to evaluate the current environmental impacts and management measures based on the new standards established by the sector itself.

The current environmental management instrument for the ONP was approved in 1995. Since this infrastructure existed prior to the first sectoral environmental regulation in 1993, it was required to obtain an adaptation instrument (which is approved for existing infrastructures), known as the Environmental Adaptation and Management Program (PAMA).

Following the hydrocarbon spills in 2016 and considering that the PAMA does not identify the impacts and environmental management measures necessary for proper environmental management, the Environmental Evaluation and Enforcement Agency (OEFA) ordered Petroperú to update its PAMA as a corrective measure. The update was required to include a comprehensive assessment of the environmental impacts caused by the activity, as well as the applicable environmental commitments to ensure the proper management and mitigation of those impacts.

However, as of May 2024, the PAMA update has not been completed. Therefore, **there is no environmental management instrument in place that adequately regulates the potential impacts the ONP may have** on its natural and social environment, in accordance with the currently applicable technical and legal standards and corresponding environmental management measures.

Since 2019, there have been a series of communications between Petroperú, the Ministry of Energy and Mines (Minem), and OEFA; however, to date, there is no defined roadmap for the approval of the PAMA update. Notwithstanding the above, at SPDA we consider it highly questionable, at the sector level, that a project of this nature continues to operate under an adaptation instrument that was supposed to have a specific implementation deadline and should now be required to have a preventive instrument, especially to address emerging impacts during operations.

3. Environmental Issues

a) Repeated Hydrocarbon Spills

Based on information recorded by OEFA, from when this agency assumed environmental oversight functions for the hydrocarbons sector (in March 2011) until May 2024, there have been 100 spills. Of these, 61% were caused by cuts, and 39% originated from other causes (corrosion, lack of maintenance, operational failures, landslides, earthquakes)⁴.

In this regard, OEFA has initiated 52 proceedings against Petroperú related to the ONP, with a total amount of 28,437.5810 UIT (Tax Reference Units). Between 2013 and 2023, through coercive enforcement, OEFA has collected fines amounting to 26,225.2540 UIT. On the other hand, Petroperú has legally challenged the administrative resolutions imposing fines related to the ONP. To date, there are 14 judicial cases, of which 7 have been resolved with the claims dismissed, and 7 cases are still pending⁵.

In more detail, Petroperú failed to comply with a series of obligations that led to administrative sanctioning procedures before OEFA. The typical violations committed are as follows:

- 1) Petroperú failed to adopt preventive measures against environmental impacts, causing potential harm to flora and fauna, specifically regarding the following preventive actions: (i) Online inspection using intelligent pipeline inspection gauges (smart pigs) to detect corrosion; and (ii) coatings with anti-corrosive protection compatible with cathodic protection systems to prevent pipeline corrosion.
- 2) It failed to carry out the decontamination of the area affected by the crude oil spill.
- 3) It failed to submit, within the legal deadline, the Environmental Emergency Reports related to the crude oil spill.
- 4) It failed to submit the requested information regarding:
 - The management of waste generated in response to the emergency.
 - The Preventive Maintenance Program carried out on the pipeline where the leak occurred.

⁴. Information updated as of May 2024 and provided by specialists from the Supervision Directorate following an interview conducted for this study.

⁵. Information updated as of May 2024 and provided in response to a public information access request.

- The detailed report on the cause of the emergency.
- The report on the actions to be implemented by Petroperú to prevent recurrence of the event.

Likewise, the OEFA may order, in addition to the sanction, administrative measures aimed at preventing imminent danger or high risk of serious harm to the environment, natural resources, and human health. These measures may also seek to mitigate the causes of environmental degradation or damage; ensure the effectiveness of the final resolution; and prevent irreparable harm or reverse, correct, or minimize, as much as possible, the harmful effects that may have been caused to the environment, natural resources, and human health.

In that sense, the corrective measure corresponds to each identified infraction and establishes a specific obligation with a set deadline, also indicating how compliance with the measure should be demonstrated.

In the case of the ONP (North Peruvian Pipeline), the OEFA has issued corrective measures in relation to the infraction of failing to adopt preventive actions against the generation of environmental impacts. These measures include the following actions:

- i) Carry out the characterization of the area affected by the crude oil spill in order to identify the zones where it is necessary to decontaminate water and soil, and clean up sediment. Deadline: 90 days.
- ii) Carry out the decontamination of water and soil, and the cleanup of the impacted sediments in the area affected by the crude oil spill. Deadline: 30 days.
- iii) Properly dispose of the solid waste generated as a result of the decontamination activities.

It is worth highlighting that, on February 19, 2020, OEFA imposed a specific mandate on Petroperú regarding the submission of a Rehabilitation Plan for the Flotation Canal of Section I of the ONP. This plan, once approved by the Ministry of Energy and Mines (Minem), must be implemented immediately. However, as of May 2024, the company had reportedly not complied with the submission of the Rehabilitation Plan⁶.

b) A Landmark Case: Cuninico and the Lack of Environmental Remediation

The Cuninico case is an example of how, to this day, the remediation of the area

⁶. According to information provided by staff from the General Directorate of Environmental Affairs of Hydrocarbons during an interview conducted for this investigation.

affected by one of the largest spills in the Peruvian Amazon has not been completed.

On June 30, 2014, an incident occurred at km 41+833 of Section I of the ONP, in the Native Community of Cuninico, where 2,358 barrels of oil were spilled. As a result, the Cuninico stream was contaminated, primarily affecting the Native Community of Cuninico as well as the Native Communities of San Francisco, Nueva Esperanza, and Nueva Santa Rosa, located near the stream. The affected populations belong to the Kukama people, who, due to their ancestral culture, have a deep connection to water.

Following the event, and given its magnitude, OEFA conducted six special inspections in the area between July and November 2014. In the administrative sanctioning procedure initiated against Petroperú, the sanctioned violation referred to the non-compliance with the PAMA **for failing to carry out maintenance actions** at km 41+833 of the Norperuvian Pipeline, causing actual damage to flora and fauna, and potential harm to human life or health. Additionally, Petroperú **was sanctioned for non-compliance with the Contingency Plan**, as it failed to detect and control the spill in a timely manner, causing actual damage to flora and fauna and potential harm to human life or health. Petroperú was also sanctioned for spilling oil into the environment, generating real damage to flora and fauna and potential risk to human life or health.

Additionally, compliance with corrective measures was ordered to restore the impacted area to its natural condition, as well as to establish communication channels with the native communities within the area of direct and indirect influence. In 2016, Petroperú was declared non-compliant with the ordered corrective measures and was fined 2,578.30 UIT.

It is important to note that in January 2015, the Apus (leaders) of the Native Communities of Cuninico, Nueva Esperanza, Nueva Santa Rosa, and San Francisco filed a constitutional compliance lawsuit against various state entities for failing to comply with several health regulations, according to the plaintiffs' claims in their petition.

The General Jurisdiction Court of Loreto – Nauta, by judgment dated September 13, 2017, partially upheld the claim and ordered the Ministry of Health and the General Directorate of Epidemiology to design and implement an emergency Public Health Strategy. This strategy should establish a medical care program as well as environmental and sanitary epidemiological surveillance, including continuous monitoring of water quality standards. Furthermore, it ordered the execution of a health assistance and care program for the population, especially children, pregnant women, and the elderly, to identify individuals who may have been affected by the consequences of the oil spill and provide them with appropriate medical care.

This case has also been brought before international justice. **The Cuninico case reached the Inter-American Commission on Human Rights (IACHR)**, which granted precautionary measures requesting the State of Peru, among other actions, to take the necessary steps to preserve the life and personal integrity of the inhabitants of the Cuninico and San Pedro communities.

Recently, in another judicial process in March 2024, the General Jurisdiction Court of Nauta-1 ruled in favor of the claim filed by members of the Kukama indigenous people from the Native Community of Shapajilla. Consequently, it declared the Marañón River as a rights-holder, recognizing that it has the right to flow to ensure a healthy ecosystem; the right to provide a healthy ecosystem; the right to flow free from all contamination; the right to nourish and be nourished by its tributaries; the right to biodiversity; the right to restoration; the right to the regeneration of its natural cycles; and that the State must legally protect it. This judicial decision is currently under appeal in the second instance.



Photo: Petroperu

4. Recommendations

- **It is necessary for the Ministry of Energy and Mines (Minem) to establish regulatory procedures for updating environmental management instruments in the hydrocarbons sector**, which include approving the corresponding terms of reference, as well as the rules and conditions under which the updates apply.
- Another necessary point is that the ONP's PAMA be updated as soon as possible. It is essential, for the continued operation of the ONP, that the PAMA analyzes environmental impacts and establishes appropriate environmental management measures aligned with the current operations of the ONP and the changes in the baseline conditions, taking into account the existing spill cases. To this end, it is crucial that **OEFA once again requires Petroperú to update the PAMA through the corresponding administrative measure, and that Minem already has the appropriate regulatory instrument in place to guide the submission and evaluation of the PAMA update.**
- Likewise, it is essential **that the Ministry of the Environment (Minam) reflect on whether there is a need for an environmental management instrument to replace the PAMAs—not** merely as an adaptation, but as a means to ensure the continuity of operations under environmental standards that align with current operations. This instrument should consider the development of operations up to the present and include appropriate measures for complex, long-term activities, ultimately enabling better management of environmental impacts.
- Additionally, **Petroperú must comply with the OEFA** mandate requiring the submission of the Rehabilitation Plan for the Flotation Canal of Section I of the ONP. In this case, the mandate clearly states that the plan must not only be submitted but also approved, and once approved, its immediate execution must proceed. For this reason, it is important that OEFA carries out proper supervision and enforcement of the mandated order.
- On the other hand, **Petroperú must comply with submitting characterization studies and remediation plans** for contaminated sites located along the ONP. The identification of contaminated sites has already been completed; however, as of May 2024, the submission of 15 plans (including the respective

characterization studies) for 15 contaminated sites within the ONP's scope remains pending. These submissions should have been made between 2019 and 2020. Therefore, it is essential that Minem, through the General Directorate of Environmental Affairs of Hydrocarbons, carries out the corresponding follow-up actions and approves the remediation plans within the deadlines established by the regulations.

- **It is important to strengthen institutional coordination at all levels of the State** to ensure the remediation of areas impacted by oil spills affecting local populations, as in the case of Cuninico. The statement from the IACHR should promote effective actions aimed at protecting fundamental human rights, such as the right to a healthy environment, health, life, and personal integrity.
- Likewise, there is a need for a solid environmental regulatory framework that provides legal certainty for both regulatory entities and those being regulated. Therefore, it is necessary for **the Ministry of Environment (Minam), the Ministry of Energy and Mines (Minem), and OEFA to evaluate the current framework and analyze possible overlaps and contradictions in environmental regulations**, in order to strengthen environmental oversight and evaluation activities.

From the SPDA, we call on all State entities involved—particularly the Ministry of Environment (Minam), the Ministry of Energy and Mines (Minem), and OEFA—to take action in preventing environmental disasters, ensuring the effective remediation of areas affected by oil spills from the ONP, and protecting the human rights of citizens who have yet to receive a response to their claims.

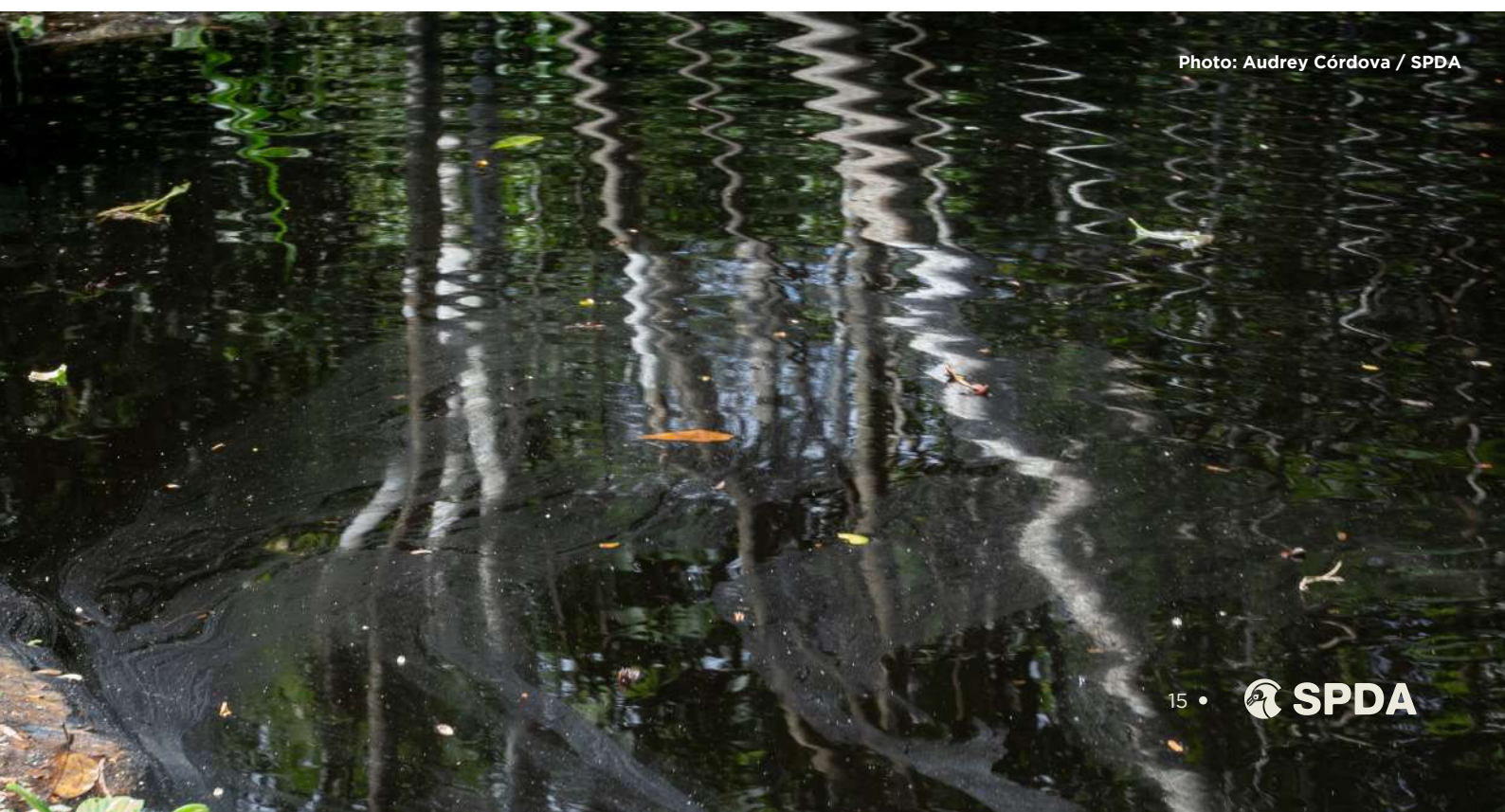


Photo: Audrey Córdova / SPDA

