

THE INSPECTION PANEL

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Chairperson

IPN REQUEST RQ 13/01

January 4, 2013

NOTICE OF REGISTRATION

Request for Inspection

AFGHANISTAN: Sustainable Development of Natural Resources Project Additional Financing (P116651), and Sustainable Development of Natural Resources Project II (P118925)

Receipt of Request

On December 3, 2012 and December 6, 2012, respectively, the Inspection Panel received two requests for inspection related to the Afghanistan: Sustainable Development of Natural Resources projects (SDNRP, SDNRP Additional Financing, and SDNRP II).

The Requesters

The first request was sent in Pashto by an affected person and resident of Mes Aynak area of Logar Province. He states that he is *"concerned about a project which is funded by World Bank in Mes Aynak area of Logar, Afghanistan. The said project may not only cause much damage to me but to all the residents of the area who could be affected. I wish the World Bank's inspection panel would reassess the project from the very beginning."* In addition, he states that *"it is almost impossible for us to obtain basic and important information regarding the implementation of this project"*. The requester asks for his identity to be kept confidential. He concludes by referring to *"the documented report of ARCH International"* and states that it *"completely reflects my views"*.

The second request was sent by the Kabul office of the Alliance for the Restoration of Cultural Heritage (ARCH) with a cover page in Dari. The request is supported by Afghans residing both in and outside Afghanistan who have asked to be represented by ARCH. This request also includes two online petitions launched by expatriate Afghans

which, by the time the request was sent, had gathered over 60,000 and 50,000 signatures.¹ It also refers to a campaign with similar goals launched by two Thai organizations. ARCH states that it is acting on behalf of “dozens of members of the local affected population, which, being fearful of repercussions,” have requested it to submit the request on their behalf. The request asks “not to disclose the identity of any residents of Afghanistan, for the sake of their personal safety.”

Both requests are jointly referred to as “the Request” in this Notice, unless otherwise specified.

The Project

The Request raises concerns regarding three related World Bank-financed projects namely; Afghanistan – Sustainable Development of Natural Resources Project (SDNRP), SDNRP Additional Financing, and SDNRP II.

The SDNRP and the subsequent Additional Financing are IDA Grants approved by the World Bank Board of Executive Directors on June 20, 2006 and June 11, 2009 respectively. The SDNRP II is an Emergency Recovery Grant approved by the Board on May 31, 2011. While the SDNRP is closed, SDNRP Additional Financing is open and, at the time of the receipt of the Request (December 6, 2012), was 49.10% disbursed. SDNRP II is also open and, at the time of receipt of the Request, was 6.14% disbursed.

The Project Paper for SDNRP II states that the development objective is “to assist the Ministry of Mines (MoM) and the National Environmental Protection Agency (NEPA) in further improving their capacities to effectively regulate Afghanistan’s mineral resource development in a transparent and efficient manner, and to foster private sector development”. As part of SDNRP and SDNRP Additional Financing the Bank supported the completion of the Aynak copper deposit transaction. SDNRP II includes support for monitoring of the Aynak mining development and preparing environmental and social regulatory frameworks. It also includes provisions relating to the preservation of Aynak antiquities. The proposed Aynak copper mine is the subject of the Request.²

SDNRP Additional Financing and SDNRP II are environmentally categorized as “B”. SDNRP II triggered the Environmental Assessment Policy (OP/BP 4.01), the Physical Cultural Resources Policy (OP/BP 4.11), and the Involuntary Resettlement Policy (OP/BP 4.12).

¹ The petition are respectively entitled (and available at): “President Hamid Karzai: Prevent Destruction of Ancient Site of Mes Aynak & the Environmental Damage” (<http://www.change.org/petitions/president-hamid-karzai-prevent-destruction-of-ancient-site-of-mes-aynak-the-environmental-damage-3>) and “Save our Past – Ask UNESCO to Include Mes Aynak on the List of Endangered Sites” (<http://www.change.org/petitions/save-our-past-ask-unesco-to-include-mess-aynak-on-the-list-of-endangered-sites>).

² In 2007, a 30-year lease was granted to a company for mining of the Aynak copper deposits. The company has established a camp at the site but mining operations are yet to commence.

SDNRP II includes implementation support to assist the Government in complying with fiduciary and safeguards requirements, public information disclosure and regulated public consultation processes. SDNRP II also includes a commitment from the Government of Afghanistan to prepare, disclose and ensure that the Project is carried out in accordance with an Environmental and Social Management Framework (ESMF), including any Resettlement Policy Framework, acceptable to the Bank, and ensure that all activities in the mining sector are monitored and regulated in accordance with the ESMF.

Concerns Raised in the Request

The Request raises social, environmental and cultural concerns with respect to the planned copper mining project at Aynak/Mes Aynak in Logar Province (hereinafter “the mining project”). The Request draws attention to several areas “*reflecting potential harm to the population of Logar province, and showing neglect on the part of the World Bank*”.

Water depletion, pollution, and impacts on agriculture. The Request expresses a fear that explosives and poisonous chemicals may be used during mining activities impacting underground water bodies and water quality. Requesters fear that the mining activities would require a great amount of water and that the mining project will draw down the underground water resources, and streams and wells may dry out. They state that Logar Province is an important agricultural area, including the Mohammad Agha area where the Mes Aynak site is located, whose population consists largely of farmers who grow wheat and vegetables and maintain fruit orchards. They add that “*agriculture relies on an extensive, traditional irrigation system (karez)*”. The local population may become unable to find drinking water or to provide for their livestock and agricultural needs. The Request also raises concerns about the management of waste deposits and related problems of pollution from toxic materials and changes of the landscape.

Resettlement. According to the Request, some land has already been expropriated by Government for the mining project. The Request claims that people who have been ousted were told to build homes at their own expense and that many are still homeless. Furthermore, the host area is claimed by the Stanakzai tribe which warned the residents of Aynak area not to enter their land or else they will face consequences. The Request states that no viable alternatives were provided. As regards future expropriation, there is not a list of villages that will be affected and no clear indication of the numbers of people to be resettled.

Vulnerable indigenous minority (the Kuchis). The Request states that among the affected people are Kuchis, traditionally nomadic pastoralists, who have been designated as a vulnerable population by the United Nations Assistance Mission in Afghanistan (UNAMA).

Preservation of the Mes Aynak cultural heritage site. The Request states that the ruins of the historic city of Mes Aynak, which they claim “*is a find comparable to Pompeii*”, still exist under the ground in the area planned for mining. It adds that Mes Aynak is very important from an archeological standpoint as it can give deep insight about

thousands of years of Afghan history.³ The Request states that “*the Bank has continued to support hasty salvage archaeology*”, which is typically employed as a “*last resort*”. This, according to the Requesters, “*consists of hurriedly removing anything that is portable and can be relocated to a museum or storage facility*”, which “*assumes that there is no alternative to the destruction of the site itself*”. It states that “*options and alternatives were never explored*”, and that the archeological survey conducted under the auspices of the Bank, is not “*comprehensive*.” The Request states that the survey did not use state of the art data collection techniques. It adds that if the current plan goes forward, the lower strata will never be excavated and all the information contained therein will be lost forever affecting all Afghans and arguably the history of science. The Request mentions that this heritage site could attract tourists and contribute to Afghanistan’s revenue.

Disclosure of information. The Request states that “*relevant and necessary information has never been shared with us. We have been trying our best to get whatever information we can about the project for a long time, but in vain.*” This pertains to a number of questions that are troubling the people residing in the area of the mining project: How will minerals be extracted? Would explosives be used? Would poisonous chemicals be used? Is it possible that these (poisonous) chemicals would get mixed with the underground water channels and springs? The Requesters argue that to date, no Environmental Assessment has been made public, and that to their knowledge no feasibility studies have been conducted by the Government of Afghanistan, the World Bank or other stakeholder “*despite the fact that active mining is supposed to commence in 2013*”.

Consultations. The Request claims that “*no attempt has been made by the World Bank to properly inform [people of Logar province] of the plans, how these affect them, or the risks.*” The Request adds that residents’ land was expropriated by government decree without prior consultation.

Process of environmental and social assessment. The Request states that the World Bank financing was initially categorized as “C” and later upgraded to Category “B”, and argues that the lower categorization during the early phases affected decisions and plans at a critical juncture. This may explain why siting alternatives, including options and alternatives for mining methods, seem not to have been adequately explored.

The Request reiterates the importance of “*an environmental impact assessment and a plan for mitigating the environmental risks ... made public for review by independent experts*”, and for “*feasibility studies for the mining and for its reconciliation with the goal of preserving at least the most important portions of the heritage site*”.

³ The Request gives the following description of Mes Aynak: “*Aynak was on the Silk Road. As far back as 5000 years ago, this mineral rich area was already the locale for the mining, smelting and production of metals. Eventually, a wealthy and sprawling Buddhist city grew in Mes Aynak, guarded by a mountain-top fortress and walls, holding several religious complexes and multiple stupas, and containing commercial and residential districts. This remains today, buried beneath the ground; it is a find comparable to Pompeii. Its scientific value is obvious, as it holds unique information about early metal production and trade. The art works and artifacts including gold jewelry that have thus far been unearthed are of high artistic quality, indicating that the lower strata - where looters did not yet have access – likely hold much more.*”

Registration of the Request

The Panel notes that it verified, at the time the Request was submitted, that the Request met the basic requirements for registration. The Panel met with representatives of the Alliance for the Restoration of Cultural Heritage and several times with the World Bank Management to be briefed on the background of the Request and the context of the Bank's engagement in the mining sector of Afghanistan.

The Panel confirms that the Request was submitted by at least two people, in relation to a project supported by the World Bank. The Bank's financing for the project has not yet reached 95% disbursement. The Requesters assert that they are affected by activities supported by the Bank, and the Request raises issues of harm which may plausibly result from Bank supported activities and from alleged actions or omissions of the Bank. The Request is not related to procurement issues, and it deals with a subject matter on which the Panel has not made a previous recommendation.

Furthermore, the Request states that concerns raised in the Request have been brought to the World Bank's attention on several occasions prior to submission of the Request. The Panel notes that the Request refers to a number of Bank Policies and Procedures in the context of the above concerns.

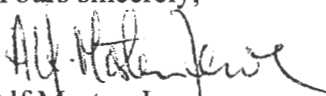
As provided in paragraph 17 of the IDA Resolution that established the Panel, the Chairperson of the Panel "*shall inform the Executive Directors and the President of the Bank promptly upon receiving a request for inspection*". With this notice, I am notifying you that I have, on January 4, 2013 which is also the date of this notice, registered this Request in the Inspection Panel Register.

As provided in paragraph 18 of the IDA Resolution, and paragraphs 2 and 8 of the "*Conclusions of the Board's Second Review of the Inspection Panel*" (the "1999 Clarification"), Bank Management must provide the Panel, by February 5, 2013, a Response to the issues raised in the Request for Inspection. The subject matter that Management must deal with in the response to the Request is set out in paragraphs 3 and 4 of the 1999 Clarification.

After receiving the Management response, the Panel will, as outlined in the 1999 Clarification and as provided by paragraph 19 of the Resolution, "*determine whether the Request meets the eligibility criteria set out in paragraphs 12 to 14 [of the Resolution] and shall make a recommendation to the Executive Directors as to whether the matter should be investigated.*"

The Request has been assigned IPN Request Number RQ 13/01.

Yours sincerely,


Alf Morten Jerve
Chairperson

The Alliance for the Restoration of Cultural Heritage

Mr. Jim Yong Kim, President
International Development Association

The Executive Directors and Alternates
International Development Association