

THE INSPECTION PANEL

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IPN REQUEST RQ 12/03

July 27, 2012

NOTICE OF REGISTRATION

Request for Inspection
India: Improving Rural Livelihoods through Carbon Sequestration

The Inspection Panel (the “Panel”) received a Request for Inspection (the “Request”) related to the India: Improving Rural Livelihoods through Carbon Sequestration Project (the “Project”). The Request was submitted by farmers who are “*inhabitants of the backwards districts of Orissa and Andhra Pradesh,*” India, most of whom “*belong to weaker sections including Scheduled Tribes and Scheduled Castes.*” The Request is composed of two letters: the first letter was sent to the Panel on behalf of the farmers by Mr. Sriharsha Masabathula, President of VEDA Climate Change Solutions Limited (VCCSL) (hereinafter “VEDA”) on April 23, 2012; the second letter (both in English and Telugu) was written and signed by the farmers and forwarded by VEDA to the Panel on May 21, 2012. In their letter, the farmers authorize VEDA to act as their representative and to take up the issues they are concerned about with appropriate authorities, including the World Bank.

VEDA is the representative of the Requesters but is also one of two Project entities charged with implementation of the Project as described below.

The Project

The Project is the first Bio Carbon Fund (BioCF)-supported investment in India. BioCF is a public/private trust fund administered by the World Bank for carbon sequestration projects in forest and agro-ecosystems. The World Bank oversees the Fund’s management and appoints a Fund Manager and a Fund Management Unit, which is part of the World Bank’s Carbon Finance Unit. The Fund aims at delivering emissions reductions, while promoting poverty alleviation and biodiversity conservation. The Fund considers purchasing carbon from a variety of land use and forestry projects, including afforestation and reforestation.

The Project aims to mobilize poor farmers to raise tree plantations on degraded farmlands or lands used for rain-fed subsistence agriculture, and as a result contribute to carbon sequestration as a means to address climate change. This Project is officially registered under the United Nations Framework Convention on Climate Change (UNFCCC) Clean Development Mechanism (CDM, Registration No.4531).

Specifically, according to the Project Design Document (PDD)¹ the objectives of the Project are:

- *“To pilot reforestation activities for generating high-quality greenhouse gas removals by sinks² that can be measured, monitored and verified;*
- *To develop plantation and agro forestry models, which can provide multiple benefits to farmers in terms of timber, firewood and non-wood forest products;*
- *To provide additional income and to promote livelihoods of resource poor farmers through carbon revenues;*
- *To reforest degraded lands to control soil and water erosion and reclaim lands;*
- *To reduce the dependence of industry on natural forests thereby conserving biodiversity; and*
- *To build capacity of various stakeholders to benefit from global mechanisms.”*

The project area includes six districts in the two states of Orissa and Andhra Pradesh: Rayagada, Koraput and Kalahandi districts in Orissa and the districts of Visakhapatnam, Srikakulam, and Vizianagaram in Andhra Pradesh. In Andhra Pradesh, the project area covers 33 indigenous communities or tribes in the three districts of Srikakulam, Visakhapatnam and Vizianagaram.

The primary entities and stakeholders involved in the Project are: VEDA, J .K. Paper Limited (JKPL), farmers interested in developing agro-forestry and BioCF. The farmers who expressed an interest in participating in the Project agreed to raise plantations of specific species of trees with high rates of carbon sequestration (mainly Eucalyptus and Casuarina species) on land of their property. In addition, under the Project, once trees are harvested – normally five years from planting and before seven years have passed – the farmers sell the timber to JPKL at market rate. Farmers are responsible to set up the plantations. JPKL, however, provides technical guidance and assistance for planting and harvesting and support to raise funds to start the plantations. The Project implements reforestation activities on 1608ha of land that belong to 1590 farmers and is expected to deliver around 182000 emission reductions (ERs³) by 2017.

¹ Project Design Document Form for Afforestation and Reforestation Project Activities (CDM-AR-PDD). Version 04. CEM - Executive Board. UNFCCC/CCNUCC.

²In this context, it refers to the removal of greenhouse gases (GHG) from the atmosphere attributable to afforestation or reforestation projects.

³ According to the General Conditions Applicable to Verified Emission Reductions Purchase Agreement, Dated February 1, 2006, (General Conditions) Emission Reductions (ERs) means all existing and future legal and beneficial rights arising from one GHG Reduction, including the right to any CERs arising from that GHG Reduction. Certified ERs (CERs) means a unit issued by the Executive Board on the basis of Verification with respect to a CDM project activity in accordance with the International Rules.

VEDA, a company established specifically to deal with issues related to carbon revenue, facilitates the flow of carbon revenue to the participating farmers in coordination with JKPL, farmers, and other stakeholders. JKPL also keeps records of information required to quantify the emissions reductions, as per the agreed monitoring plan, and report through VEDA periodically.

Farmers wishing to participate in the Project sign an agreement with VEDA and JKPL authorizing the two companies to carry out all activities relating to the carbon transaction. The farmers carry out tree planting in accordance with the established environmental management framework in order to claim the benefits of emissions reductions. On behalf of the farmers, VEDA and JKPL signed the emission reduction purchase agreement (ERPA) with BioCF. BioCF organizes the verification through any of the accredited agencies (DOE – Designated Operational Entity), and their verification report forms the basis of payment to VEDA and JKPL. VEDA is responsible for managing the account and making payments to individual farmers based on their entitlements. According to the PDD, a Monitoring Committee with representatives of VEDA and JKPL is to be established to ensure the benefits from the sale of carbon credits are properly distributed.

The Project is financed by BioCF's USD 1,117,800 approved on May 8, 2007 and it is expected to close on December 31, 2018. When the Request for Inspection was submitted, about 43% had been disbursed.

The Request

The following summary of the Request relates to both the letters described in the opening paragraph.

According to the Request, delays in Project execution by the Bank have caused harm to farmers participating in the Project. The Request states that farmers actively participated in the Project since its beginning by raising plantations on their degraded lands and, in doing so, they hoped that the Project and the revenue generated by sequestering carbon would allow them to improve their livelihoods. They maintain that they waited eight years for "*the project to materialize*" and to receive their share of carbon revenue. The Requesters argue that, although they learned that the carbon revenue has been released by BioCF, this revenue would only be given to the farmers whose plantations are still standing, while those who had to harvest and sell their trees – the Requesters among them – will not be receiving their share. According to the Request, this group of farmers participating in the Project is being deprived of their revenue because of delays in Project execution for which the farmers are not responsible.

The Requesters state that they have managed their plantations according to the agreed silvicultural practices, and have harvested the trees based on a rotation schedule that is practice for the species that were planted and outlined in the management system prescribed in the Project Design Document. They state that, while they were able to leave

the trees standing until the visit of the DoE for the validation procedure⁴, they had to harvest before the verification⁵ occurred. Missing the verification meant that their ERs could not be transformed into Certified Emission Reductions (CERs), and thus the farmers could not receive their share of the carbon revenue. The Request claims that the responsibility of the delay rests on the World Bank, by failing to respect the Project timeframes for the validation and verification of the emission reductions, which generate the carbon revenue.

VEDA, the representative of the Requesters and a Project Entity, maintains that the World Bank “*is not willing to pay*” the farmers who have harvested their trees although “*reasonable efforts*” were made by VEDA to transform the ERs into CERs. VEDA maintains that the provisions of the ERPA “*have not been followed in letter and spirit*” thus causing a severe loss to some of the participating farmers.

VEDA states that it brought the described shortcomings to the attention of the Bank and the BioCF staff in several instances by emails and in meetings. The Requesters however did not consider the Bank’s response adequate to resolve the issues raised and requested the Panel to carry out an investigation.

Events following the submission of the Request for Inspection

Soon after the submission of the Request for Inspection, Bank Management requested a meeting with the Panel to discuss the issues raised in the Request for Inspection. Bank staff also indicated that a supervision mission to India and to some of the Project areas was imminent and that the mission team intended to meet with VEDA representatives and with the farmers who raised concerns to discuss and try to address these issues.

The Bank mission took place on June 16-20, 2012. The Panel was informed that the team met with VEDA representatives, with JPKL, and with farmers participating in the Project, including some of the Requesters, and that proposals to address issues raised in the Request were discussed with the Requesters.⁶

Following the Bank mission, the Panel discussed with the Requesters about their understanding of the outcome of the visit and their views on the proposals outlined during such visit to address the issues raised. In a communication to the Panel following the Bank’s June 2012 visit, the Requesters indicated that they do not believe that their issues will be fully and properly addressed by the proposals formulated during the Bank mission and expressed concerns about the terms of these proposals, in particular that they will not be receiving the full carbon revenue they expected under the Project.

⁴ The General Conditions define “Validation” as the process of independent evaluation of the Project Activity by a Validator in accordance with the International Rules on the basis of, *inter alia*, the Project Design Document and the CDM Operations Plan, General Conditions, Article II.

⁵ The General Conditions define “Verification” as the periodic assessment by a Verifier of the amount of GHG Reductions generated by the Project, General Condition, Article II.

⁶ The Bank team prepared a report about the mission but at this time the report remains a confidential document.

In the same communication, the Requesters argued that the farmers who participated in the Project have the right to receive the carbon revenue generated by their plantations. They reiterated that they followed all the procedures mandated by the Project to plant and harvest the trees, and were harmed by delays in Project execution attributable to the Bank and not the farmers themselves. According to the Requesters, the income they expected from the carbon sequestration, though a small percentage compared to income they received from the sale of timber, is essential to their livelihoods. Both income sources, from emission reductions and timber sales, were an incentive for the Requesters to participate in the Project. The loss of the income from emission reductions represents for the Requesters a serious harm that they believe was caused by omissions of the Bank in executing the Project.

In a subsequent note to the Panel, the Requesters expressed further disappointment that the Bank's mission did not address their issues and urged the Panel to visit the Project area to discuss with the farmers directly and to continue its process.

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 Request was submitted by at least two people, in relation to a project supported by the World Bank, financing for which has not yet reached 95% disbursements; the Requesters assert that they live in the Project area and are affected by Project activities; the Request raises issues of harm which may plausibly have resulted from activities under the Project and from alleged actions/omissions of the Bank; the Request is not related to procurement issues and deals with a subject matter on which the Panel has not made a previous recommendation.

Furthermore, the Panel has verified that the Requesters state that they have brought these concerns to the World Bank's and Bio Carbon Fund staff's attention on several occasions. To this end, the Request attaches a number of email exchanges and other correspondence with the Bank team. The Requesters note that they "*have not received any response to [their] requests and when received the responses were neither satisfactory nor adequate.*" The Requesters submit that in some cases, the responses from the Bank were "*in no way connected to the points highlighted circumventing the issue at stake.*"

After meeting with Management in early June 2012, in light of the scheduled Bank mission to look into possible ways of addressing the issues raised in the Request, the Panel decided to await the developments of the mission and to hear the Requesters' views on such developments before making a final decision on registration. The Requesters have communicated to the Panel their dissatisfaction with the outcomes of the Bank mission and reiterated their request for a Panel investigation.

The Panel notes that the above claims may constitute, *inter alia*, non-compliance by the Bank with provisions of the following operational Policies and Procedures:

OP/BP 4.01 Environmental Assessment

OP/BP 4.10 Indigenous Peoples
OP/BP 13.05 Project Supervision
OP/BP 14.40 Trust Funds

With this notice, I am notifying you that I have, on July 27, 2012, which is also the date of this notice, registered this Request in the Inspection Panel Log.

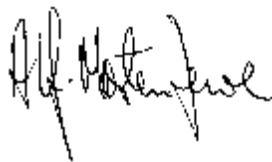
As provided in paragraph 18 of the IBRD Resolution that established the Panel, paragraphs 2 and 8 of the “*Conclusions of the Board’s Second Review of the Inspection Panel*” (the “1999 Clarification”), Bank Management must provide the Panel, by August 27, 2012, a Response to the issues raised in the 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.*”

All communications with the Requesters in connection to this Request will be sent to Mr. Sriharsha Masabathula.

The Request has been assigned IPN Request Number RQ 12/03.

Yours sincerely,



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Mr. Jim Yong Kim President
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The Executive Directors and Alternates
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