

COMPLAINT PRESENTED TO THE PROJECT COMPLAINT MECHANISM (PCM)

Re: European Bank for Reconstruction and Development Project No. 39581 (debt financing to Altain Khuder) and Project No. 43804 (equity financing to Altain Khuder) regarding the Tayan Nuur mining project in Tseel soum, Mongolia.

Presented by:

7 individuals affected by the Tayan Nuur iron ore mining project in Tseel soum, Mongolia.

Requesting:

- Problem Solving Initiative. Complainants: 7 individuals affected by the project
- Compliance Review. Complainants: 7 individuals affected by the project, OT Watch and CEE Bankwatch Network

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TAYAN NUUR MINING PROJECT COMPLAINT

Complaint

ЕСБХБ-НЫ ТӨСЛИЙН ГОМДЛЫН ГАЗАРТ ГОМДОЛ ГАРГАХ НЬ

2014.11.10

ХЭСЭГ I ГОМДОЛ

Гомдол гаргагчдын бичих хэсэг

- Төслийн сөрөг нөлөөллийн талаарх асуудлууд ба гомдлын нэхэмжлэл
 1. Зам хэрэглээ замбараагүй –
 2. Тоос – баяжуулах болон зам тээврийн – хар тоосны бохирдол –
 3. Хар зам дагуу малын, ачаа хөсгийн гарц шаардлагатай газар байхгүй –
 4. Биологийн төрөл зүйлийн нүүдэллэх зам, нутаглах газарт ойрхон зам тавьсан –
- Өвөлжөө, хаваржаа ба бэлчээр – нийгмийн нөлөө
 1. Нүүлгэлтэд хамрагдсан 22 малчин өрх зөвшөөрөлтэй, гэрчилгээтэй өвөлжөөтэй болж чадаагүй, бэлчээргүй амьдарч хохирч байна.
 2. Уурхайн бусад ойр орших малчин өрхүүд нөлөөллийн бүсээс нүүлгэлт, нөхөн олговорын хөтөлбөрт хамрагдалгүй шахагдаж хөөгдөж байна.
 3. Хүн амын өвчлөл нэмэглэж, өсөлтөд сөрөг нөлөөлж байна .
 4. Байгалийн нөөцийн уламжлалт хэрэглээ устаж байна: хүнс,рашаан ус, ургамал, ан гөрөө дайжих, устаж байна.
 5. Архидалт, хулгай, өвчин, нийгмийн харилцаанд сөрөг нөлөө их байна.
- Ус: 150 м хүртэлх гүнд байх малчдын худгууд ширгэж байна- Бууртын амны худгуудын ус шавхагдсан, усаар хангагдах эрх зөрчигдөж байна.
 - Сухантын голын булаг шанд ширгэсэн
 - Товгорын худаг усгүй хэвээр байгаа
 - Хөх эрэгний худаг – моторыг нь завч өгнө гээд хүчин чадал хүрэхгүй мотор өгсөнБэлчээрийн чанар доройтсон:
 - уурхайн болон замын тоосонд дарагдах, усны тэжээл багассанаас бэлчээрийн ургамал, бохирдож ургахаа больсон
 - хадлангийн талбайд хадлан гарахгүй болсон
 - тэмээ, адууны бэлчээр гарахгүй болсон
- Соёлын өв:
 1. Нүүдэлч малчид хойч үедээ өвлүүлэх удмын хөрөнгөгүй, өвөлжөөгүй, малгүй болж байна.
 2. Морь уралдах зам, хурдны морьны сунгааны талбайг хар замын трассаар тасалсан
 3. Уламжлалт хүнс хоолноос хасагдсан – таван цулаас уушиг, элэг хасагдсан

4. Мал маллагаагаар амьдрах бэлчээргүй болж байна
5. Оршуулгын газрыг уурхай ухаж үгүй болсон
6. Оюут дахь 3 хэрэгсүүр дээр отвал хаясан

Биологийн төрөл зүйл: ургахаа больсон уламжлалт эмийн болон хүнсний хэрэглээний ургамал: -гоёо, -чихэр өвс, -хармаг, -хулангийн ундаа, -зээрийн ундаа, -заг, сухай ховордож байна.

САНАЛ БОЛГОХ ШИЙДЛҮҮД:

Замын нөлөөллийг бууруулах:

1. Замын нөлөөллийн бүсэд буй айлуудын хохирлын үнэлгээ хийлгэж хохирлыг барагдуулах.
А\ бэлчээр тасалж, гарам гарцгүй,
2. Нэг замаар явах, олон зам гаргахыг хориглох
3. Нойтон технологи ашиглах, замын нөхөн сэргээлт, зам арчилгаа, хог цэвэрлэгээ
4. Нутгийн иргэдтэй зөвлөлдөөгүй- хэрэгтэй газар гарц гаргаагүй – зөвлөлдөж гарц гарам гаргаж өгөх
5. Сухантын голын баянбүрдийн ан амьтны усны замын гарц гаргаагүй шийдэх

Уурхайн нөлөөллийг бууруулах:

1. Уурхайн нөлөөллийн бүсэд байгаа айлуудын асуудлыг шийдэх – хохирлын үнэлгээ хийлгэх
 2. Нүүлгэн шилжүүлсэн өрхүүдэд олгосон нөхөн олговорт аудит хийж хохирлыг барагдуулах
 3. Мал маллагаагаар амьдрах боломжгүй болсон өрхүүдийн асуудлыг шийдвэрлэхэд шаардагддаг судалгаа хийх
 4. Нөлөөллийн бүсэд амьдарч буй хүн амын эрүүл мэндийн нөлөөллийн үнэлгээ хийлгэх
 5. Нийгмийн нөлөөллийн үнэлгээ хийлгэх
 6. Ниймийн хариуцлагын, орон нутгийн хөгжлийн хөтөлбөрийг ил тод, нутгийн иргэдтэй хэлэлцэж
 7. Нүүдэлч ахуй соёл устах аюулаас хамгаалах хөтөлбөр боловсруулж хэрэгжүүлэх
- БОНХЯ-ны албан даалгаварыг биелүүлэх шаардлага тавих

- Гомдол гаргагчид: холбоо барих хаяг г.м. мэдээлэл

ГОВЬ-АЛТАЙ АЙМГИЙН ЦЭЭЛ СУМЫН ХАР БУУДАЛ, УЛААН ЧУЛУУ, ШИВЭЭ 1-15, ЗАЛААГИЙН АМ, ХАРЫН ЗАВСАР, БЯЦХАН УС, ХАР ЦАГААНЫ ЗААГ ДАХЬ БУУДАЛД АМЬДАРДАГ НҮҮДЭЛЧИН МАЛЧИН ИРГЭД: Д. БАЯРТУНГАЛАГ, Ц. АМЬБӨХ, М. БАТТОГТОХ, М. ХҮРЭЛБАЯР, Г.ЭНХМӨНХ, Б. ДАМДИНДОРЖ, Ч. ЯНЖИНЛХАМ

- Нууцлал

ЦЭВЭГЖАВЫН АМЬБӨХ, ДАВААДОРЖИЙН БАЯРТУНГАЛАГ НАРААС БУСАД ГОМДОЛ ГАРГАГЧДЫН НЭРСИЙГ НУУЦЛАХ ХҮСЭЛТЭЙ. УЧИР НЬ 2013 ОНООС ЭХЛЭН АЛТАЙН ХҮДЭР КОМПАНИ СӨРӨГ НӨЛӨӨЛЛИЙГ ШҮҮМЖИЛСЭН МАЛЧИД ИРГЭДИЙГ ШҮҮХЭД ТАТАЖ ЧИРЭГДҮҮЛЖ ИРСЭН.

- Гомдлын төрөл:

- МШС: Гомдол гаргаж буй малчдын нэрсийн жагсаалт. Төлөөллөөр дамжуулах тохиолдолд, төлөөлөгчийн тухай мэдээлэл, итгэмжлэлийн нөхцөл тохирсоо баримт бичиг

г.м. Энэ гомдолд зөвлөх талууд: Оюу Толгойн Хяналт ТББ, Bankwatch, SOMO нарыг бүх албан захидал бичгүүдэд оруулсан байх шаардлагатай.

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ЕСБХБ-ны ГОМДЛЫН МЕХАНИЗМЫГ
ХЭРЭГЛЭХ НЬ

2014.11.10

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9	Монхтүвшин Хүрэлбэйр	Баянгол сум	МЭЛЧНН.	91486815	Т. Төр
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(Б. Лхаримаа)

Б. Лхаримаа

TAYAN NUUR MINING PROJECT COMPLAINT

Annex 1: Analysis of Policies and Procedures¹

23 December 2014

This Annex provides the factual background of the project, the social and environmental impacts of the Tayan Nuur mining project, the applicable policies that the EBRD has breached through its financing of the Tayan Nuur mining project, and arguments to show that this complaint meets the admissibility criteria set out in EBRD's Rules of Procedures for the Project Complaint Mechanism (PCM).

1. FACTUAL BACKGROUND OF THE PROJECT

1.1 Project description

The Project: Tayan Nuur iron ore mine

In January 2012, the EBRD approved a debt financing of up to USD \$30 million and equity financing of up to USD \$25 million to Mongolian private mining company Altain Khuder LLC for the development of its Tayan Nuur iron ore mine. The Tayan Nuur mine is located in the Tseel soum area of the Gobi Altai aimag in Mongolia.² Altain Khuder holds a license for 162 hectares of land and exports the iron ore from the mine in Tseel soum to China via the Burgastai border post, a distance of approximately 168 kilometers. The mine has a lifespan of approximately 12 years.³ The Tayan Nuur project was labelled "Category B" under the assumption that environmental and social risks could be mitigated through appropriate commitment to good environmental and social practices. The project was justified on the grounds that it is part of a broader approach to support sustainable development of the Mongolian mining sector and would contribute to 'key transition impacts' such as corporate and industry standard setting, including transparency and disclosure as well as corporate, environmental and social management practices.⁴

The Client: Altain Khuder

Altain Khuder LLC was established in November 2006 with the primary objective to survey, explore, develop and mine iron ore at the Tayan Nuur mine and to sell, store, transport and export iron ore

¹ This Annex was prepared by Anne Schuit at the Centre for Research on Multinational Corporations (a.schuit@somo.nl), with support of Sukhgerel Dugersuren at OT Watch (otwatch@gmail.com), Fidanka Bacheva-McGrath at CEE Bankwatch Network (fidankab@bankwatchc.org), and Kris Genovese at the Centre for Research on Multinational Corporations (k.genovese@somo.nl).

² Mongolia is divided in 21 aimags (provinces). Aimags are divided in soums (districts) which consist of Baghs (smallest administrative units).

³ ERM (2013), Environmental and Social Review & Action Plan, p. 2.

⁴ EBRD website, Project Summary Documents, Altain Khuder, no date, <http://www.ebrd.com/pages/project/psd/2011/43804.shtml> (2-11-2014)

products to steel mills in China.⁵ According to a company presentation, the Tayan Nuur project has an annual production capacity of 2.3 million tons, a six fold increase during the course of five years, and total reserves of 91.7 million tons with a content of 38% iron ore.⁶ Its iron ore exports account for 33% of the total iron ore exports of Mongolia.

The Location: Mongolia

Mongolia is a country of approximately 2.6 million people, of which 43% of the population is rural and two-thirds is engaged in livestock herding. The country has a total land area of 156 million hectares, of which most is pastureland (126 hectares), making Mongolia's pastures the world's largest contiguous area of common grazing land. Over 21% of Mongolia's GDP is produced by herders.⁷

Traditionally, Mongolian society consisted primarily of nomadic herders herding horses, camels, cattle, sheep and goats, while land use was governed by customary law among herders. During Communist times land was state owned and pastures allocated by collectives. With the end of the Soviet rule in the 1990s, Mongolian transitioned towards a market economy which led to privatization of land, but private ownership was only realized fully in 2003.⁸ According to 2008 estimations, 7% of Mongolia's population held privatized land in that year, with only 1% of total land in rural areas privately owned.⁹

Mongolia's Land Law recognizes three categories of land tenure: ownership, possession and use. Land ownership rights include the right to manage and sell land. Land possession rights are in the form of licenses for possession of land for periods of 15-60 years, which can be extended as well as transferred by inheritance. The right cannot be sold. Land use rights give a right to use land, for terms of five years which can be extended. For land use rights, Soum and Bagh administrations have the authority to regulate pasture-use and allocate property. The process to allocate winter and spring camps varies per soum.¹⁰ While land tenure systems have developed towards individual land tenure, in many places in Mongolia pastureland continue to be held and managed as common property.¹¹ For Mongolian herders,

5 Altain Khuder website, About Us, "Altain Khuder LLC", no date, <http://www.altainkhuder.mn/content/24.html> (02-11-2014).

6 MRC Mongolian Resources Corporation, Powerpoint Presentation presented at Mines and Money Hong Kong 2014, 25-27 March 2014, <http://www.minesandmoney.com/hongkong/wp>

7 USAID Country Profile Mongolia. Property Rights and Resource Governance, p. 2. Available at: http://usaidlandtenure.net/sites/default/files/country-profiles/full-reports/USAID_Land_Tenure_Mongolia_Profile.pdf

8 USAID Country Profile Mongolia. Property Rights and Resource Governance, p. 5. Available at: http://usaidlandtenure.net/sites/default/files/country-profiles/full-reports/USAID_Land_Tenure_Mongolia_Profile.pdf

9 "Some commentators speculate that either rural residents have not considered land privatization to be valuable, or that information about land titling was not widely disseminated in rural areas". USAID Country Profile Mongolia. Property Rights and Resource Governance, p. 6. Available at: http://usaidlandtenure.net/sites/default/files/country-profiles/full-reports/USAID_Land_Tenure_Mongolia_Profile.pdf

10 USAID Country Profile Mongolia. Property Rights and Resource Governance, p. 8. Available at: http://usaidlandtenure.net/sites/default/files/country-profiles/full-reports/USAID_Land_Tenure_Mongolia_Profile.pdf

11 Fernandez-Gimenez, M. (2006). Land use and land tenure in Mongolia: a brief history and current issues. USDA

mobile and flexible grazing arrangements and strategies are exactly fitted to cope with the harsh conditions in the areas they live in, and therefore are key to their survival.¹² According to the National Human Rights Institute of Mongolia, herders who practice a nomadic lifestyle ‘are [...] bearers of Mongolia’s traditional culture heritage’.¹³



Tseel soum, where the Tayan Nuur mine is located, is in the southwest of Mongolia, approximately 1,300 kilometers from Ulaanbaatar, Mongolia’s capital. Tseel soum has a population of around 2100 people, consisting predominantly of nomadic herders. The communities closest to the mine and its associated facilities (including roads) are Derstei and Bayangol Baghs. Derstei Bagh consist of approximately 139.000 hectares of land and has a population of about 539 people, while Bayangol Bagh consists of approximately 108.000 hectares and has a population of about 501 people. Apart from Tseel soum, the mining project effects three other soums. In Bugat soum the Burgastai border post with China is located, as well a part of the project road. Also Tugrug soum hosts part of the project road that leads to the Burgastai border post. In Altai soum a short section of the project road is located, as well as a water well that is used to supply the border post with drinking water.¹⁴ The project area is characterised by mountains, outcrops and flat valleys, with sparse and fragile vegetation.¹⁵

1.2 Social and Environmental Impacts

This section describes the social and environmental impacts of Altain Khuder’s Tayan Nuur mining project on herders in Tseel soum.

Forest Service, p. 1. Available at: http://www.fs.fed.us/rm/pubs/rmrs_p039/rmrs_p039_030_036.pdf

12 Idem.

13 National Human Rights Commission of Mongolia (2013). 12th Report on Human Rights and Freedoms in Mongolia, p. 18

14 ERM (2013), Environmental and Social Review & Action Plan, p. 2.

15 Idem

1.2.1 Involuntary resettlement at the mine's impact area

As described in part 1.1, land ownership in Mongolia is largely based on customary arrangements that are well attuned to the nomadic lifestyle and land based livelihoods of herders. In many places pastureland is common property, and only a small percentage of the herders have formal legal ownership over land. Some have licenses for land possessions or land use, which gives them the right to use but not sell the land for a certain period of time. Soum and Bagh administrations play an important role in allocating and regulating land and pasture, and the exact processes for this vary across administrations.

Although Mongolian herders live a nomadic life and migrate with their livestock and ger (traditional tent), they usually have a fixed winter location to which they return in the winter in order to survive the harsh weather conditions. This winter camp is where herders build permanent structures to protect their animals from the cold, and is key for their survival. Most land or user rights are therefore for the winter camp location, which contains 0.7 hectares where herders set up their ger and build structures. The land right does not include the pasture that corresponds to the camp. The size of a pasture needed to herd livestock varies from 5 to 30 kilometres, depending on the type of animal and the weather conditions.

During the first phases of Altain Khuder's activities between 2007 and 2011, a number of herder families who had some form of land rights to their winter camps at the site of the proposed mine were resettled by the company. According to Altain Khuder, a total of 22 families were resettled and received compensation for the loss of their winter camp. An unknown number of herders who once had grazing lands in the area where the mine is now located are also displaced. Some herders said that resettlement continues to this day to make way for the mine's expansion.

Inadequate compensation

Altain Khuder's resettlement programme includes cash compensation but not allocation of new land. Despite the highly complex, customary and collective land system, negotiations took place on an individual basis without involvement of the soum or aimag, while compensation was paid directly to individual herders. Altain Khuder asserts that the relocation program included stakeholder engagement, but herders and Bagh governors contest this. As for the Tseel soum authorities, the governor explained that the soum administration was unsure of its role, as they had never faced issues of resettlement before.

Without the involvement of local governments and with bilateral negotiations, herders were unable to negotiate in an informed and equal manner as the individual character of how this process was designed was not suited to the customary nature of their decision making processes and collectively managed land system. One resettled herder indicated that she was not fully aware of her property rights and the value of her land when the company started the negotiation. She thought she had no other option but to hand over her property rights and was unaware of the exact implications. The herder was asked by the company to bring her permit and she would receive a cash payment in exchange.

Cash instead of land based compensation

Regardless of whether the compensation amounts reflected the true value of the herders' camps, a different issue is that cash payments are not effective means of compensating and resettling herders in the first place. As described above, land tenure in Mongolia is highly complex and land is often managed under customary arrangements, often collectively. Soum and Bagh administrations play an important role in land and pasture allocation and management, the procedures of which vary per administration. In Tseel soum, available land is democratically appointed at quarterly Bagh meetings and cannot be purchased. This means that resettled herders cannot use the compensation to purchase new land to construct alternative winter camps. Cash compensation thus does not enable resettled herders to find new land. One interviewed herder said that her applications for new land were rejected by the other herders at Bagh meetings, as they consider all land to be communally-owned and thus allocated by Bagh decision. Accepting cash compensation for lands is therefore seen as wrongfully selling communally-owned land to the company.

The Tseel soum government does not consider itself responsible for providing alternative land to the resettled herders. The soum has a general procedure for issuing new land permits every year, and the soum government stated that there is enough land available to relocate the herders. However, the herder communities disagree, explaining that land with sufficient pasture to sustain their animals is already occupied. Vacant land often remains unused because it is not suitable for grazing. This leaves resettled herders in a position where they cannot use the cash compensation to buy new land for winter camps, while remaining unable to obtain new land as other herders refuse to grant them access. As neither the soum government nor the company has undertaken any action to relocate these herders and provide new land for them, they have nowhere to go.

1.2.2 Impacts of the road: dust pollution and animal and human health impacts

Altain Khuder exports iron ore from its mine in Tseel soum to China via the Burgastai border post, a distance of approximately 168km. The roads that are used for the transportation of the ore are dust and gravel roads, which create dust pollution as a result of the heavy trucks transporting ore. Dust pollution as a result of the transportation of ore pollutes grass and water resources used by the herders and their livestock (goats, sheep, cattle, camels, yaks and horses), and allegedly causes illnesses to both livestock and herders.

Animal and human health impacts

Herders whose camps are near the transportation route or in the mine impact area have been suffering increases in livestock illnesses since the Tayan Nuur mine started its operations, and lost up to several dozen animals, mainly goats and camels, allegedly due to dust-related illnesses.¹⁶ Animals suffer from mucus and diarrhea, slaughtered animals have had dark spots on their lungs, and the number of birth defects and congenital disorders has reportedly increased. Herders observe that their animals return from grazing with black mouths from the dust that sticks to vegetation.

16 FFM March Report, FFM August Report

In response to complaints from herders about the health impacts of ore transportation on their animals, a series of veterinary and laboratory tests have been administered to the animals, with mixed outcomes. Several herders from Derstei Bagh reported that their animals were tested on multiple occasions, once on the initiative of the Council of Natives¹⁷ and at least twice on the initiative of Altain Khuder. According to the herders, the company agreed to compensate herders for animal losses if it was proven that this was caused by the company's actions. The results from the first test were published in various newspapers, confirming that lung diseases were caused by the dust pollution.¹⁸ Altain Khuder seems to have challenged this test and requested a review of the legitimacy of the assessment process. Tests initiated by Altain Khuder itself on sheep and goat in Bayanghol Bagh in 2013 indicate that no fatal disease or illness originated from the dust. According to the company, the results of this test have been submitted to local authorities while they haven't received any requests for the report from local herders.¹⁹ Herders contest this however, stating that the company has not publicly disclosed the test results and that they have not been informed about the findings despite their requests.²⁰ One herder reported that a lab officer informally confirmed during a telephone call that dust pollution was the reason for his animals' sickness.

Herders report that they and their families have experienced skin rashes, chronic sneezing and sinus infections. The high cost of seeking medical assistance prevents them from consulting a doctor, meaning that these reports of illness cannot be confirmed by medical records.

Despite the risks to human and animal health, the affected herders continue to use the contaminated pastures. Pastures that are sufficiently fertile to sustain a herder's livestock are scarce in desert areas like the Gobi Altai region,²¹ and therefore herders cannot easily migrate to other locations. Finding alternative pastures is difficult; there are no vacant fertile pastures with adequate water resources and migrating to occupied pastures has implications for the herders and their livestock already inhabiting the area. Land areas not in use are of inferior grazing quality, and migrating to those areas would result in loss of herds and reduced quality of animal products which are at the basis of the herders' livelihoods. In addition, herders are attached to their seasonal camps and corresponding pastures because of their strategic location and favorable climate conditions, and because of the fact that they have used these camps for generations. As noted in the 2013 report by the National Human Rights Commission of Mongolia, "herder view their winter, spring, and autumn camps as their property inherited from the

¹⁷ The Council of Natives is a representative body for Tseel soum inhabitants and is located in Ulaanbatar.

¹⁸ Unuudur, Undesnii shuudan, and Niigmiin toil newspapers published articles about this, with the titles (translated from Mongolian) "Are Tayannuur's Interests more Important than those of 2800 Residents?", "Promises not Kept", "It Would Have been Great if Altain Khuder Apologized".

¹⁹ Report of the Fact Finding Mission in August 2014, available at: <http://bankwatch.org/publications/when-dust-settles-impacts-tayan-nuur-iron-ore-mine-nomadic-herders-lives-mongolia>

²⁰ Idem

²¹ The National Human Rights Commission of Mongolia also takes note of the water scarcity in the Gobi region. "Surface-water is scarce in the Gobi region due to the unequal distribution of water resources. Despite this, the mining industry, which is considered key pillar of the country's development, is concentrated in the Gobi region where there is a serious lack of surface-water", See National Human Rights Commission of Mongolia (2013). 12th Report on Human Rights and Freedoms in Mongolia, p. 12

ancestors”.²²

Impacts of the construction of a paved road

Altain Khuder is currently constructing a paved road, which will allow it to export iron ore to China faster and at a lower cost. A paved road is also expected to reduce the dust pollution and noise. The governor of Tseel soum confirmed that 30 km of the black top road has been constructed and 59 km of it is expected to pass through the soum. While the new road might reduce dust pollution once completed, it remains unclear whether it will be used for two way traffic. If the road is only used to transport the ore to the border, the returning trucks might continue to use the existing road, with associated dust and noise pollution.

Although a paved road may under the right conditions be a positive step forward, its construction has also resulted in additional problems. The construction has been implemented without consulting the herders and their needs have not been taken into account, despite the fact that the road cuts through their pastures. The main problem herders face is a lack of passageways. The new road is slightly elevated, and without accessible and safe passageways, the animals are obstructed from grazing as they normally would. In addition, herders have difficulties crossing roads as they migrate to their seasonal camps with their animals. They are forced to make detours of several miles in order to bypass the road, which costs additional fuel and time and creates stress for the animals. This is especially difficult during the harsh winter months. According to Altain Khuder the construction of the road includes four passages, and soum authorities and herders have been consulted about this. Herders contest this. The company is constructing several slopes for animals, but these are too steep for safe passage.

Another issue is the that the construction of the road requires significant amounts of gravel. The raw materials for the gravel are retrieved from a number of stone, gravel and sand quarries alongside the road. The company has also created a gravel production site. These quarries not only create a lot of dust, but are also located at what used to be fertile grazing land. The size and quantity of these quarries has impacted the amount of grazing land available, affecting animal health and the quality of their products.

1.2.3 Water depletion and contamination

The company's water use negatively affects the herders' access to water. In the initial phase of its activities, Altain Khuder used the soum's public water sources as per its agreement with the Tseel soum government. With the completion of its own well, the company now uses its own water sources for the mine operations, which according to Altain Khuder is only for domestic consumption and not for industrial purposes. The 2011 Environmental and Social Review & Action Plan states that comprehensive hydrogeological information on the aquifers from which water is abstracted (such as total capacity and connectivity between aquifers) is not available and considered it unlikely that robust assessment of the potential impacts of the mine's water use on water resources, water users and the environment had

22 National Human Rights Commission of Mongolia (2013). 12th Report on Human Rights and Freedoms in Mongolia, p. 18

been conducted. As part of the Action Plan, Altain Khuder committed to installing water meters at each extraction point and disclose information to the community on water use, including the volume of extracted water and measures to minimise water use. According to the company, water consumption is monitored and consumption data shared with local governors and disclosed to the public via the information board at the Tseel soum governor office. Herders are unaware of such measures.

In addition to water depletion, herders reported contaminated water in the pit lakes that are not fenced off. These pits are ponds where wastewater collected during the road construction and is causing animals to get sick.

1.2.4 Inadequate stakeholder engagement

Although the company asserts that engagement with the community in Tseel soum was initiated from the early stages of the project, the Tayan Nuur mining projects is characterized by a serious lack of transparency, engagement and consultation. Herders and local authorities lack information about Altain Khuder and the Tayan Nuur mining project and its impacts. They have not been consulted prior to the start of the mining project, and are unaware of any action on behalf of the company or the EBRD to assess or survey the impact of the mine on their livelihoods. Information about dust pollution and water use is not disclosed. Herders are also unaware about the involvement of the EBRD in financing the mining project, and are unaware of the responsibilities that arise from the EBRD's investment.

Among the people in Tseel soum, Altain Khuder has become notorious for intimidating those criticizing its activities. The company has filed up to seven lawsuits against people who openly criticized the company or expressed their grievances, and charged them with '*organized crimes of defamation*'.²³ This is a serious crime in Mongolia which can result in up to 22 years of imprisonment. Bagh governors, healthcare workers and citizens' representatives were sued and had to appear in front of the Gobi Altai court. When the charges were dropped on the grounds of lack of substance, the company continued to pursue the case at higher instance courts in Ulaanbaatar, leading to high travel expenses and reputational damage for the people involved. In May 2014 the final stage court acquitted the case. The seven defendants are currently preparing to file a counterclaim for cost incurred and reputational damages.

Herders are intimidated and harassed by the mine's security personnel when trying to approach the mining site to talk to representatives about their grievances. The Council of Natives reported similar treatment by the company, including one experience where their camera equipment and mobile phones were seized and never returned.

23 Report of the Fact Finding Mission in March 2014.

2. PCM ADMISSIBILITY CRITERIA

The complainant meets all of the admissibility criteria for both a Problem-solving Initiative (PSI) and Compliance Review (CR) of the Project Complaint Mechanism Rules of Procedures, as approved by the Board of Directors at its meeting on 7 May 2014 and which entered into force in November 2014.

Affected parties

Problem-solving Initiative: According to para. 1 of the Rules of Procedures individuals located in an impacted area, or who have an economic interest, including social and cultural interests, in an impacted area may submit a complaint seeking PSI. The complainants all live in Tseel soum and are directly impacted by the Tayan Nuur project, either by the mine itself or by its associated facilities such as the road transporting the iron ore from the mine to the Chinese border. The complainants are supported by OT Watch, SOMO and CEE Bankwatch Network.

Compliance Review: According to para. 2, individuals and organizations may submit a complaint seeking CR. In this case, the CR is requested by the complainants who also request the PSI as well as by OT Watch and CEE Bankwatch Network. The complainants are supported by SOMO.

EBRD's financial relationship

Problem-solving Initiative: Para. 12, sub b, determines that when PSI is requested, the complaint must relate to a project where the EBRD maintains a financial interest in the project. As long as the Bank has equity funding such a financial interest exists. In January 2012 the EBRD approved a debt financing of up to \$30 million (project number 39581) and equity financing of up to USD\$25 million (project number 43804) for Altain Khuder. According to our information the last disbursement of the USD\$30 million loan was transferred in 2012. The EBRD has not sold or exited from its equity investment, and thus continues to have a financial interest in the Tayan Nuur project.

Compliance Review: Para. 13 determines that for CR, the complaint must relate to a project that has been approved for financing by the EBRD's Board or by a body which has been delegated authority to give approval to the financing of the project. Based on the project information on the EBRD's website, it can be assumed that the financing of Altain Khuder for its Tayan Nuur mining project was approved by the EBRD's Board.²⁴

Issues covered by EBRD policy

Problem-solving Initiative: Para. 24, sub a, requires that the complaint must be filed by individuals located in the impact area or who have an interest in the impacted area, and raise issues covered by a relevant EBRD policy. As indicated above the complainants are living in Tseel soum and are directly impacted by the Tayan Nuur project. Furthermore, the issues in the complaint are the direct result of the Tayan Nuur project which the EBRD is financing, and are covered by the EBRD 2008 Environmental and Social Policy, as is explained in Part 3.

Compliance Review: Para. 24, sub b, requires that requests for CR must be filed within 24 months after

24 The Project Summary Document states that the 'target Board date' for signing the debt and equity financing was on 31 January 2012. See: <http://www.ebrd.com/pages/project/psd/2011/43804.shtml>.

the date on which the EBRD ceased to participate in the project and that the complaint must related to a relevant EBRD policy. Since the EBRD continues to have a USD\$25 million equity investment in the Tayan Nuur mine and has not withdrawn since this investment in 2012, the Bank is still participating in the project. Furthermore, the issues in the complaint are the direct result of the Tayan Nuur project which the EBRD is financing, and are covered by the EBRD 2008 Environmental and Social Policy, as is clear from Part 3.

Good faith efforts

Problem-solving Initiative: Para. 12, sub c, requires that complaints requesting PSI should describe the good faith efforts of the complainants to address the issues in the complaint with the EBRD and/or its client, in this case Altain Khuder. The complainants as well as the organizations advising them in this complaint have undertaken the following efforts to inform the EBRD and Altain Khuder about the issues and address them in a constructive way:

Issues raised with the EBRD

- Tuesday 23 September 2014: draft report of the Fact Finding Mission by SOMO, Bankwatch and OT Watch in August 2014 sent to the EBRD Mongolia office, EBRD Environmental and Sustainability Department, and the EBRD CSO department (see Annex 2, nr. 1).
- Wednesday 3 September 2014: report of the Fact Finding Mission by OT Watch in March 2014 sent to the EBRD Mongolia office (see Annex 2, nr. 3)
- Friday 22 August 2014: OT Watch and SOMO (Sukhgerel Dugersuren and Anne Schuit) met with the EBRD Mongolia office [REDACTED]
- Friday 21 March 2014: e-mail from CEE Bankwatch to EBRD Environmental Sustainability Department forwarding the 14 March letter and requesting a meeting (see Annex 2, nr. 6).
- Friday 14 March 2014: letter handed over by OT Watch to the EBRD Office in Ulaanbataar about access to water, as well as a petition by local herders requesting that Altain Khuder should fix a broken well and photos from the field (in person, but see Annex 2, nr. 5 and nr. 7).

Issued raised with Altain Khuder:

- Tuesday 23 September 2014: draft report of the Fact Finding Mission by SOMO, Bankwatch and OT Watch in August 2014 sent to Altain Khuder. The company acknowledged the receipt of the report on Monday 6 October 2014, and provided written comments on Tuesday 21 October 2014 (see Annex 2, nr. 8 for email chain).
- Tuesday 19 August: email from SOMO to Altain Khuder requesting additional information for the report of the Fact Finding Mission in August 2014 (see Annex 2, nr. 9).
- Friday 8 August: email from SOMO to Altain Khuder requesting a meeting for the Fact Finding Mission in August 2014 (see Annex 2, nr. 10).
- As documented in the 2011 Environment and Social Action Plan & Review commissioned by Altain Khuder and conducted by consultancy firm ERM, residents of Tseel soum have raised concerns to Altain Khuder about the following issues: volume of water being abstracted from the two wells in the soum centre, dust and its effect on human health, possible soil contamination from the mine

(see Annex 2, nr. 11).

- As documented in the report of the Fact Finding Mission by OT Watch in March 2014, herders on several occasion approached the developers of the Tayan Nuur mine to address their grievances. In all cases, the developers were unresponsive (see Annex 2, nr. 12).

Parallel proceedings

Problem-solving Initiative: According to para. 26, upon deciding on eligibility of a complaint requesting PSI, the PCM also takes into consideration whether the complainants have raised the issues in the complaint with the company's dispute resolution or grievance mechanism, or before a court or other dispute resolution mechanism, and, if so, whether PSI may duplicate, interfere or be impeded by any other process brought by the same complainants. Complainants have in the past tried to raise their concerns with Altain Khuder (see above), but this have proven to be unsuccessful and for some even resulted in legal cases against them filed by the company (see Part 3). In response to these legal cases, which Altain Khuder lost, several of the complainants have taken the company to court to demand compensation for cost they incurred as a result of the lawsuit. These judicial processes do not address the impacts of the Tayan Nuur mine on the complainants, nor do they address the violations of the EBRD's policies, and should thus not be considered as parallel proceedings. A contrary finding by the PCM would frustrate the purpose of the mechanism to hold the EBRD accountable to its own policies.

Compliance Review: Para. 27 states that in determining the eligibility for CR, the PCM also considers whether the complaint relates to actions or inactions that are the responsibility of the EBRD, more than a minor technical violation of a relevant EBRD policy, and a failure of the EBRD to monitor the commitments of the client pursuant to a relevant EBRD policy. As is clear from Part 3, the environmental and social impacts of the Tayan Nuur project on the complainants relate to a failure of the EBRD to provide guidance to its client, to ensure that its client will design effective mitigation measures and, finally, to adequately monitor the implementation of Altain Khuder's commitments arising from the Performance Requirements of the 2008 Environmental and Social Policy.

3. VIOLATIONS OF EBRD POLICIES

This section assesses the violation of the EBRD's 2008 Environmental and Social Policy, which is the Policy that applies to Altain Khuder.²⁵ PRs stipulate the respective roles and responsibilities of the EBRD's client in ensuring environmental and social sustainability of projects financed by the Bank. PRs outline standards that Altain Khuder is expected to meet and the EBRD should provide guidance on in order to ensure adequate implementation of mitigation measures in relation to, amongst others, environmental and social management, labour conditions, pollution prevention and abatement, community health and safety, resettlement and displacement, information disclosure and stakeholder engagement.

²⁵ The 2008 Environmental and Social Policy applies to projects initiated after 12 November 2008. The 2014 Environmental and Social Policy which entered into force on 7 November 2014 applies to projects initiated after this date.

3.1 Inadequate Resettlement and Displacement (PR 5)

PR 5 aims to mitigate the impacts of involuntary resettlement as a result of land acquisition and restrictions on use of and access to land. This includes demonstrated decreases in livestock resulting from project-related disturbance or pollution. Involuntary resettlement is defined as both: 1) physical displacement related to relocation or loss of shelter, and 2) economic displacement related to loss of assets resulting in loss of income sources or livelihoods. 'Displacement' applies both to those who have legally recognizable rights or claims to land, as well as those with customary claims to land, users of land with no title or claim, and seasonal resource users such as herders. The EBRD did not ensure that its client Altain Khuder complied with the provisions of PR 5, as described below.

Resettlement and the Rights of Indigenous Peoples

PR 5, in combination with PR 7, provides special protection to project-affected persons who belong to Indigenous Peoples, which is the case for the herders, as will be established in part 3.2. Most significantly, as an Indigenous Peoples, herders have a right to free, prior and informed consent (FPIC), which is also enshrined in the UN Declaration on the Rights of Indigenous Peoples. Consequently, Altain Khuder is obliged to obtain herders' FPIC before undertaking any resettlement activities, by entering into culturally appropriate good faith negotiations with herders and allowing sufficient time for collective decision-making processes.²⁶ As described in part 1.2.1 and 1.2.4, herders have not been adequately informed nor consulted about resettlement, let alone has their right to FPIC been respected. Negotiations on compensation have not been conducted in a manner that respects herders' culture and decision making processes, leaving them without appropriate compensation that would allow them to sustain their livelihoods in a new location.

Resettlement and compensation

Even if the herders are not considered as Indigenous Peoples, their rights as project affected people have not been respected as Altain Khuder has failed to comply with the requirements of PR 5. In order to meet these requirements, Altain Khuder should amongst other things consult with affected persons and facilitate informed participation in decision making regarding displacement and resettlement. Given the complex land arrangements and customary nature of land use in Mongolia, consultation and engagement are especially important, as there is no other way for Altain Khuder to be informed about suitable and appropriate resettlement and compensation processes. In line with PR 5, affected people should have the opportunity to participate in negotiation of compensation packages, resettlement assistance and suitability of the proposed resettlement sites. For those herders without title to land, Altain Khuder should have offered a suitable alternative site with security of tenure. In relation to affected people belonging to vulnerable groups, Altain Khuder should have paid particular attention to ensure their meaningful participation in resettlement planning as well as assist them to full understand their options for resettlement and compensation. Vulnerable groups are groups of people who for example by virtue of their economic disadvantage may be more adversely affected by displacement than

²⁶ PR 7.4, 7.24 and 7.35

others, such as 'natural resource dependent communities'.²⁷ Given the land based livelihoods of the herders and their dependence on natural resources such as vegetation to sustain their herds and with that their livelihoods, herders are especially at risk for the adverse impacts of the mine and should therefore be considered a vulnerable group. Altain Khuder should also develop a Resettlement Action Plan to mitigate, monitor and evaluate impacts of resettlement on both resettled herders and on communities at the site where herders are resettled to, as well as a Livelihoods Restoration Framework for economically displaced herders.

As documented in the Part 1, Altain Khuder has not provided the herders with options for a suitable resettlement site, nor have the herders been adequately informed and consulted about the process.²⁸ Regarding the type of compensation, PR 5 specifically states that monetary compensation is only appropriate in contexts where livelihoods are not land-based, or when the land taken for the project is a small fraction of their land and the residual land is economically viable.²⁹ Where livelihoods are land-based, compensation should also be land-based.³⁰ In violation of this requirement, Altain Khuder only offered cash compensation. For herders, whose livelihoods are entirely land based, cash compensation is not an appropriate means of compensation, all the more so because of the customary land arrangements which does not allow land to be purchased. Cash compensation thus does not enable resettled herders to find new land, and since Altain Khuder also failed to provide this the resettled herders currently have no land rights. While herders still have their gers and are therefore not considered homeless by the company, without adequate land and pasture this is precisely what they are.

No Resettlement Action Plan and Livelihood Restoration Framework

No information is available on the existence of a Resettlement Action Plan and The Livelihoods Restoration Framework. As per the Environmental and Social Review & Action Plan, Altain Khuder agreed to a number of actions related to resettlement: 1) identify the number of displaced household at each project site (mine, camp, road, etc), 2) undertake a survey of the resettled herder to demonstrate that sufficient compensation was paid for loss of assets, 3) undertake a post-resettlement survey to evaluate whether resettled herders had equal or higher livelihood standards than before resettlement. Altain Khuder asserts that in 2011 a company specialized on post-resettlement surveys assessed the livelihoods of the resettled households before and after resettlement, which did not reveal loss of assets. Herders are not aware of this survey. Additionally, they report that since the start of the mining project their lives have changed for the worse.³¹ One resettled herder indicated that her herd is now half the size as before resettlement, and that she is now dependent on relatives, sharing their land so her herd can graze in their pasture.

Impact of mining on access to land and pasture in Mongolia was also noted by the UN Working Group on

²⁷ PR 5.12

²⁸ See also the survey taken by OT Watch from 45 respondents in the mine impact area in Tseel soum during a fact-finding mission in March 2014. See Annex 3.

²⁹ PR 5.30 and 5.35

³⁰ PR 5.30

³¹ See also the survey in Annex 3.

Business and Human rights, which in October 2012 conducted a country visit to Mongolia.³² In its report, the Working Group notes that ‘... mineral, exploration and extraction has resulted in herders losing access to their traditional herding lands, and that pastureland and surface water resources have been destroyed. As a result, the herders enjoyment of the rights to an adequate standard of living and to take part in cultural life through farming and animal husbandry has been impacted. [...] Finally, the expert was informed that mineral exploration has required herders to move their herds to more remote regions, for longer periods of time, limiting their access to education, health care and social welfare services’.³³

As is clear from the above, the EBRD failed to ensure that the requirements of PR 5 are complied with. The fact that herders have not been adequately resettled nor compensated, and are experiencing the negative consequences of displacement to this date, in and by itself means that the EBRD has not lived up to its obligations to ensure that its client is acting in compliance with the Environmental and Social Policy.

3.2 Failure to Recognize as Indigenous Peoples (PR 7)³⁴

PR 7 has the objective to ensure the rights of indigenous peoples, who have the right to free, prior and informed consent. According to PR 7.10, the term ‘Indigenous Peoples’ is used in a technical sense to refer to a social and cultural minority group who are distinct from dominant groups within national societies and posse the following characteristics in varying degrees: “1) self-identification as members of a distinct indigenous ethnic or cultural group and recognition of this identity by others; 2) collective attachment to geographically distinct habitats, traditional lands or ancestral territories in the project area and to the natural resources in these habitats and territories; 3) descent from populations who have traditionally pursued non-wage (and often nomadic/transhumant) subsistence strategies and whose status was regulated by their own customs or traditions or by special laws or regulations; 4) customary cultural, economic, social, or political institutions that are separate from those of the dominant society or culture; 5) a distinct language or dialect, often different from the official language or dialect of the country or region”.

Mongolia’s nomadic herders are indigenous peoples under this definition. The herders identify themselves as traditional, nomadic pastoralists with an ancient culture,³⁵ which fits within the EBRD’s description of indigenous peoples.³⁶ They are also recognized as indigenous by others.³⁷ Additionally,

³² Report of the UN Working Group on Business and Human Rights visit to Mongolia. A/HRC/23/32/Add.1, p. 15

³³ Report of the UN Working Group on Business and Human Rights visit to Mongolia. A/HRC/23/32/Add.1, p. 15

³⁴ The argumentation in this part is based on the PCM complaint against Oyu Tolgoi, which deals with issues of nomadic herders in Mongolia also. See:

http://www.ebrd.com/downloads/integrity/OT_addition_to_the_complaint_4.2014.pdf

³⁵ See also the survey in Annex 3, which shows that 91.11% of the respondents identify themselves as being part of an indigenous community.

³⁶ See PR 7.9, which recognizes that ‘Indigenous Peoples’ may be referred to in different countries by different terms.

³⁷ See for example Minority Rights Group International, *State of the World’s Minorities and Indigenous Peoples 2011 Mongolia*, 2011. This report states that ‘Mongolian herders, mostly minorities and indigenous peoples, were

they maintain an intimate attachment to distinct ancestral territories in and surrounding the mining area. This centuries-old collective attachment is displayed in a seasonal and cyclical migration from one traditional location to the next. Also, the herders descend from, and are themselves, nomadic pastoralists who have pursued traditional, non-wage subsistence strategies for centuries. Furthermore, herders are separated from mainstream culture by distinct cultural and economic customs, namely a nomadic lifestyle rooted in a natural-resource based livelihood that is tied to the geographic area they inhabit. Finally, the herders' use of words and phrases not heard in the mainstream Mongolian language distinguishes them from the rest of the country. This particularized dialect plays a significant role in the nomadic pastoralist identity. Moreover, the nomadic herders demonstrate precisely the type of identity PR 7 intends to protect. They will suffer unique impacts because of their ties to the land,³⁸ and must be regarded as more than simply 'vulnerable' affected communities. Yet, despite the herders' distinct nomadic pastoralist identity, neither Altain Khuder nor the EBRD undertook any analysis to determine whether the nomadic herders should be recognized as indigenous peoples under PR 7.³⁹

As a result of this failure, Altain Khuder has failed to afford the herders the protections provided for by PR 7. For example, where a project is proposed to be located on indigenous peoples' customary land, PRs 7.31 and 7.33 require that free, prior and informed consent is obtained, that the indigenous peoples are given an opportunity for informed participation, that efforts are made to avoid or at least minimize the size of indigenous land to be used and that indigenous peoples are provided with compensation, whether in cash, land or in kind, as well as culturally appropriate development opportunities.⁴⁰ In this case, as a result of Altain Khuder's and the EBRD's failure to identify the nomadic herders as indigenous peoples, they failed to fulfill these requirements in relation to the project.

confronted with severe drought and a harsh winter, forcing thousands of them to abandon their nomadic life'.

Available at: <http://222.unhcr.org/refworld/docid/4e16d36711.html>.

38 See PR 7.32, which recognizes that 'Indigenous Peoples' are often closely tied to their customary lands and its forests, water, wildlife, and other natural resources, and therefore special considerations apply if the project affects such ties.

39 PR 7.11 specifically provides that the EBRD may seek expert advice in ascertaining whether a particular group is considered as indigenous peoples for the purpose of PR 7.

40 See PR 7.31, which states that: 'As Indigenous Peoples may be particularly vulnerable in the project circumstances described below, the following special requirements will also apply, in addition to the General Requirements above. Common to these requirements is the need for the client to: enter into good faith negotiation with Indigenous Peoples, ensure the Indigenous Peoples' informed participation, obtain the free, prior and informed consent⁷ of Indigenous Peoples before starting with an activity described in paragraphs 32–37. See also PR 7.33, which states that: 'If the client proposes to locate the project on, or commercially develop natural resources located within, customary lands under use, and adverse impacts can be expected on the livelihoods, or cultural, ceremonial, or spiritual uses that define the identity and community of the Indigenous Peoples, the client will respect their use as follows: 1) The client will enter into good faith negotiation with the affected communities of Indigenous Peoples, and document their informed participation and consent as a result of the negotiation; 2) The client will document its efforts to avoid or at least minimize the size of land used, occupied and/or owned by Indigenous Peoples which is proposed for the project; [...] The affected communities of Indigenous People will be informed of their rights with respect to these lands under national laws, including any national law recognizing customary rights or use; The client will offer affected communities of Indigenous Peoples at the minimum compensation and due process available to those with full legal title to land in the case of commercial development of their land under national laws, together with culturally appropriate development opportunities; land-based compensation or compensation- in-kind will be offered in lieu of cash compensation, where feasible.'

The EBRD thus failed to ensure that the requirements of PR 7 are complied with. The fact that herders have not been recognized as indigenous peoples and the negative consequences hereof, in and by itself means that the EBRD has not lived up to its obligations to ensure that its client is acting in compliance with the Environmental and Social Policy.

3.3 Inadequate Pollution Prevention and Abatement (PR 3)

PR 3 has the objective to avoid or minimize adverse impacts on human health and the environment, by avoiding or minimizing pollution arising from the project.⁴¹ According to the EBRD, *'pollution prevention and abatement are key ingredients of a sustainable development agenda and EBRD-financed projects must meet good international practice in this regard'*.⁴² In this PR, the EBRD commits itself to requiring compliance with relevant EU environmental standards.⁴³ To meet the requirements of this PR, adverse impacts on the environment should be addressed by avoiding or, when this is not feasible, minimizing or reducing the release of pollutants, including addressing impacts of the mining project on the surrounding environment and taking into account cumulative impacts with uncertain consequences.⁴⁴ The EBRD did not ensure that its client Altain Khuder complied with the provisions of PR 3, as described below.

Dust pollution and the environment

The Tayan Nuur mining project causes significant dust pollution as a result of processing and transportation including on the project's ambient environment. Considering the fact that this is a semi-desert area, dust pollution of this environment and its vegetation can have severe consequences, including desertification.⁴⁵ Additionally, the dust pollution has a detrimental effect on human and animal health. It is unclear if the EBRD has assessed compliance of the Tayan Nuur mining project with EU environmental standards. No evidence hereof is available, despite the fact that the Bank in PR 3 states that it is committed to compliance with EU environmental standards in particular those related to air and soil pollution, and the protection of nature, where these standards can be applied at the project level, and otherwise good international practice apply such as the World Bank Group Environmental Health and Safety Guidelines.⁴⁶

Dust pollution affecting animals and herders' livelihoods

As noted in Part 1, herders have noted that the transportation of iron ore causes dust pollution that affects soil and water resources and causes illnesses to animals and the herders.⁴⁷ Already in 2011, the Environmental and Social Review & Action Plan commissioned by Altain Khuder identified ore stockpiles,

41 PR 3.3

42 PR 3.1

43 PR 3.2, 3.7

44 PR 3.11, 3.16

45 Change in vegetation composition is one cause for desertification. See for example: Millennium Ecosystem Assessment (2005). Ecosystems and Human Well-Being, p. 4. Available at: <http://www.unep.org/maweb/documents/document.355.aspx.pdf>

46 PR 3.2, 3.7

⁴⁷ See also the survey in Annex 3

the mine pit, processing and the road between the mine and the Chinese border as significant sources of 'fugitive dust', while noting that existing controls include speed limits (20 km/h) for trucks travelling to the border.⁴⁸ These speed limits are however not adhered to.⁴⁹

The negative impacts of the transportation of ore are also documented by the National Human Rights Commission of Mongolia. In its 2013 report the Commission notes that as a result of transportation associated with mining, human and animals are finding it increasingly hard to live in mining areas, as the transportation causes soil and pasture deterioration and dusts in the air. It specifically notes that soil and air pollution is also a problem at the Tayan Nuur mining project.⁵⁰ The report also highlights the potential detrimental effects to human health, stating that in several mining areas chest infections have grown rapidly among citizens due to the dust and other pollutants resulting from mining activities.⁵¹ According to the report: "Particle emitted from these sources tend to cause respiratory diseases and can damage internal organs which ultimately can lead to cancer".⁵²

As stated in Part 1, Altain Khuders administered several tests to measure the level of dust pollution and its impact on the herders' livestock, but the results of these inspections have not been disclosed to the herders despite their various attempts to obtain this information. The test by the Council of Natives as well as the informal phone call by the lab officer however confirmed that the dust negatively impacts the animals.

Based on the above, it is clear that the EBRD failed to ensure that the requirements of PR 3 are complied with. The fact that herders are impacted by pollution of soil and water resources indicates that the EBRD has not lived up to its obligations to ensure that its client is acting in compliance with the Environmental and Social Policy.

3.4 Inadequate Mitigation of Impacts on Community Health, Safety and Security (PR 4)

PR 4 has the objective to avoid or minimize a project's risk and impact on the health, safety and security of local communities. To meet this PR, risks and impacts to health and safety of affected communities should be identified and evaluated, and information disclosed in order to enable the affected communities to understand the risk.⁵³ Affected communities should be consulted and engaged with in order to mitigate the risks. PR 4 also recognizes that '*communities may also be affected by impacts on their natural resources, exposure to diseases, and the use of security personnel*'.⁵⁴ Adverse impacts due to project activities on air, soil, water, vegetation and fauna in use by the affected communities should be

48 ERM (2013), Environmental and Social Review & Action Plan, p. 16

49 Report of the Fact Finding Mission in August 2014, available at: <http://bankwatch.org/publications/when-dust-settles-impacts-tayan-nuur-iron-ore-mine-nomadic-herders-lives-mongolia>

50 National Human Rights Commission of Mongolia (2013). 12th Report on Human Rights and Freedoms in Mongolia, p. 11

51 Idem

52 Idem, p. 16

53 PR 4.8

54 PR 4.2

avoided or minimized.⁵⁵ Community exposure to hazardous materials released by the project must be prevented or minimized.⁵⁶

Human and animals health problems

Herders report several negative impacts of the mine and the associated road on air, soil, water and vegetation, including access to water animal and human health problems as a result of the dust pollution.⁵⁷ As described in Part 1, herders report that their pasture soil is contaminated by the dust resulting from iron ore transportation, which causes health problems both for their livestock and themselves. That mining in Mongolia has a detrimental impact on the right to a healthy and safe environment was also noted by the UN Working Group on Business and Human rights. In its report, the Working Group notes that ‘... informed of serious impacts on the right to a healthy and safe environment, as provided for in the Mongolian Constitution, linked to the contamination of soil and water, destruction of land and depletion of ground and surface waters’.⁵⁸

Water depletion

Herders also report water depletion and contamination. Scarcity of water is a well-known issue in Mongolia, and also the National Human Rights Commission of Mongolia reports that surface-water is scarce in the Gobi region.⁵⁹ On 30 September 2013 the State Environmental Inspection carried out water quality tests in four Tseel soum community wells. In well nr. 1 the level of magnesium was higher than permitted by water quality standards and therefore found not compliant with Mongolian National Standard, while wells nr. 2 and 4 were found not compliant with this standard due to higher levels of magnesium and iron ion in the water. Additionally, herders reported contaminated water in the pit lakes which are not fenced-off. These ponds with wastewater have been created as a result of the road construction. As they are not fenced-off animals drink the water and get sick.

Security personnel: intimidation and harassment

Other violations of PR 4 relate to the company’s security personnel, which should behave in an appropriate way towards local communities while they in fact behave in an intimidating manner towards those herders and their representatives that approach the mining site, as described in Part 1.2.4.

As is clear from the above, the EBRD failed to ensure that the requirements of PR 4 are complied with. The fact that herders face negative health impacts for themselves and their animals shows that the EBRD has not lived up to its obligations to ensure that its client is acting in compliance with the Environmental and Social Policy.

55 PR 4.16

56 PR 4.12

⁵⁷ See also the survey in Annex 3

⁵⁸ Report of the UN Working Group on Business and Human Rights visit to Mongolia. A/HRC/23/32/Add.1, p. 15

⁵⁹ National Human Rights Commission of Mongolia (2013). 12th Report on Human Rights and Freedoms in Mongolia, p. 12

3.5 Failure to Disclose Information and Engage with Stakeholders (PR 10)

PR 10 emphasizes the importance of information disclosure and stakeholder engagement in order to successfully manage environmental and social impacts on communities. Stakeholder engagement is regarded as an ongoing process of information disclosure, consultation with affected parties and the establishment of a grievance mechanism. In order to meet this PR, Altain Khuder should, amongst other things, provide information about the project and the implementation of the Environmental and Social Action Plan, and receive feedback on how it is implementing this.

As is also evident from the previous parts, and the above assessment of the other PRs, the company is breaching this PR in several ways. Herders that were interviewed during two separate fact finding missions stressed the complete lack of information about the company, its financiers and the mining project, which was also confirmed by a survey.⁶⁰ The possible and actual environmental and social impacts of the mine and its associated facilities are unclear to the impacted people. Herders have not been engaged in identifying impacts or consulted in how manage them in order to find an acceptable way for all parties involved to reconcile various interests.

In fact, at least seven people who complained about the mining project were confronted with criminal cases against them. An effective grievance mechanism has not been established, violating the requirement that the company should establish a grievance mechanism process to receive and facilitate resolution of concerns and grievance which the mechanism should address promptly and without retribution. Based on the EBRD guidance on implementing the PRs, an independent and objective appeal mechanism should also have been established. The company placed a suggestion box at the Tseel soum center, but only one of the interviewed knew about this, and his complaint was never followed up by the company.

As is clear from the above, the EBRD failed to ensure that the requirements of PR 10 are complied with. The fact that Altain Khuder has not adequately consulted and engaged with stakeholders shows that the EBRD has not lived up to its obligations to ensure that its client is acting in compliance with the Environmental and Social Policy.

3.6 Inadequate Environmental and Social Appraisal and Management (PR 1)

PR 1 has the objective to ensure a systematic approach to managing environmental and social impacts and monitoring hereof on an ongoing basis, and emphasizes the importance of engaging with stakeholders. In order to comply with this standard, Altain Khuder should conduct appraisal activities such as an environmental and social impact assessment, in consultation with relevant stakeholders.⁶¹ This includes a due diligence process whereby Altain Khuder should *'identify and assess any potential future impacts associated with the proposed project, identify potential improvement opportunities, and*

⁶⁰ See annex 3

⁶¹ PR 1.13

*recommend any measures needed to avoid, or where avoidance is not possible, minimize, and mitigate adverse impacts’.*⁶² Based on the environmental and social appraisal an Environmental and Social Action Plan (ESAP) should be developed and implemented, which should outline differentiated measures for stakeholder groups identified as disadvantaged or vulnerable.⁶³ On organizational level, sufficient organizational capacity and commitment to achieve effective social and environmental performance should be ensured.⁶⁴

Appraisal and Management of Impacts

EBRD failed to ensure that Altain Khuder fully assessed, disclosed and managed the adverse impacts. Although Altain Khuder allegedly conducted various Environmental Impact Assessments (EIAs),⁶⁵ these EIAs were found to be inadequate by external consultant ERM which was commissioned by Altain Khuder to conduct an environmental and social review and delivered its report in December 2011. According to the consultant, the EIAs did not meet the PRs with respect to ecological impact assessment, disclosure of project information and consultation, impacts of project’s water use and measures to minimize water use, and social impacts.⁶⁶ As the EIAs do not assess social impacts, which is not required by Mongolian law, it remains unclear if social impacts have been assessed at all. Furthermore, the Environmental and Social Action Plan (ESAP) does not contain differentiated measures for vulnerable stakeholder groups, thereby essentially disregarding the herders in Tseel soum. While herders are highly resilient people who are able to survive in harsh conditions, their land-based livelihoods and customary and flexible land arrangements so crucial to their survival also makes them particularly vulnerable to large scale industrial activities.

This means that the EBRD finances a company whose due diligence assessment was found inadequate with respect to several key issues, and possibly lacks a social impact assessment, and whose ESAP ignores a large stakeholder group especially at risk to negative impacts of the project. Facts on the ground confirm that the absence of adequate appraisal and measures to mitigate impacts have resulted into a project that causes serious impacts on the quality of air, soil/vegetation and water and with that the livelihoods of the herders living in Tseel soum, as is clear from Part 1.

Additionally, herders impacted by the mine as well as local authorities report a lack of consultation and stakeholder engagement by Altain Khuder regarding the impacts of the mining project on their lives, both prior to the start of the project as well as during its operations. No engagement with the herders has been undertaken by Altain Khuder to collect information about these impacts, let alone to act on the feedback of stakeholders and improve its performance. Instead, herders have been confronted with intimidation and harassment when they voice their concerns or try to have the company address their grievances, and critics have been confronted with legal action by the company against them (see below).

62 PR 1.10

63 PR. 1.14

64 PR 1.17

⁶⁵ ERM (2013), Environmental and Social Review & Action Plan, p. 4

66 Idem

Organizational capacity and commitment

As is documented in a case study on Altain Khuder and the impacts of iron ore, the suitability of Altain Khuder as a recipient of EBRD financing is questionable. Given the high debts of the company, the short lifespan of the mine, and the price volatility in the iron ore sector, the company's capacity and commitment to operate in accordance with the Environmental and Social Performance Requirements was far from certain.⁶⁷

As is clear from the above, the EBRD failed to ensure that the requirements of PR 1 are complied with. The fact that Altain Khuder has not fully assessed, disclosed and managed the negative impacts of the mine on herders, shows that the EBRD has not lived up to its obligations to ensure that its client is acting in compliance with the Environmental and Social Policy

4. DEMANDS

Recommendations for Altain Khuder:

- Assess the impacts of the mine and its associated facilities on the herder communities, and address their concerns and demand.
- Prepare and implement an Environmental and Social Review & Action Plan that is compliant with EBRD standards.
- Complete the black top road, and ensure that company trucks only use this road, and that the road is accessible and available for use by the herders without paying tax. Also construct sufficient passageways, in consultation with the herder communities. Cease all transportation of or until such a road that meets relevant standards is completed.
- Ensure resettled herders are properly compensated for loss of their camps and structures, and relocated to new land in accordance with their wishes and demands.
- Implement a comprehensive livelihood restoration program in consultation with all stakeholders involved.
- Restore all land altered, degraded and polluted by the mine and its associated facilities. Fence off all contaminated water sources and gravel pits.
- Make publicly available all animal testing, ensure independent animal testing, and compensate for the loss of animals and medical expenses as a result of dust pollution and water contamination.
- Ensure independent water use monitoring and disclose the results, restore lost wells and other water access points no longer available or sufficient to sustain the herders and their livestock.
- Abstain from all forms of harassment and intimidation of affected people and their representatives, and stop all forms of judicial actions against them. Ensure an effective form of stakeholder engagement and act upon complaints and grievances by communities.

67 SOMO (2014), Impacts of the global iron ore sector. Case study: Altain Khuder in Mongolia, p. 30, 31.

- Use Best Available Technology to reduce dust pollution from dry processing of ore.
- Develop in consultation with local communities a mine exit-plan which includes reclamation plans and clean-up, and is in compliance with EBRD standards.

Recommendations for the EBRD:

- Monitor and assess the implementation of the above recommendations by Altain Khuder. Assist Altain Khuder with conforming to the Performance Requirements. Monitor and ensure the company's compliance with the requirements.
- Ensure all stakeholders, including herders and local authorities, are aware about the EBRD Performance Requirements.

5. CONCLUSIONS

For the preceding reasons, the complainants expect that the PCM by facilitating a problem-solving initiative will ensure the rights of the complainants are respected and their demands addressed. The complainants also expect that the a compliance review will show that the project is not in compliance with the Bank's policies, will outline steps to bring the project into compliance with the EBRD's policies, as well as provide recommendations to prevent non-compliance in the future.

ANNEX 2 GOOD FAITH EFFORTS – Covers previous communication with EBRD and the Client (not disclosed).

ANNEX 3 SURVEY OF TSEEL SOUM HERDERS

Survey taken by OT Watch from 45 respondents in the mine impact area in Tseel soum.

GAT Community Survey Final - English

Q1 What country do you live in?		
Answered: 45 Skipped: 0		
Answer Choices		Responses
Mongolia		100.00% 45
Total		45
#	Other (please specify)	Date
	There are no responses.	

GAT Community Survey Final - English

Q2 What development project are you affected by?		
Answered: 45 Skipped: 0		
Answer Choices		Responses
5. Mongolia: Altain Khuder LLC's Gold Mine (Tseel Sum, Govi Altai Aimag)		100.00% 45
Total Respondents: 45		

GAT Community Survey Final - English

Q6 How would you describe yourself? Please check all that apply about you.

Answered: 45 Skipped: 0

Answer Choices		Responses
I belong to an indigenous community		91.11% 41
Registered resident		17.78% 8
I am a citizen of the country where I live		6.67% 3
I am a member of a religious or ethnic minority		2.22% 1
I am a refugee		2.22% 1
I am a temporary migrant from another province, state or city		0.00% 0
I am a temporary migrant from another country		0.00% 0
I am a permanent immigrant from another country		0.00% 0
None of these apply		0.00% 0
Total Respondents: 45		
#	What is the name of your indigenous, ethnic or religious minority group?	Date
1	khalkh	4/10/2014 7:19 AM
2	native of this town	4/9/2014 4:16 AM
3	native	4/9/2014 4:07 AM
4	Khalkha	4/6/2014 3:27 AM
5	I was born here and live here ever since	4/6/2014 2:54 AM
6	We are natives of Tseel and Tugurg soums	4/6/2014 1:49 AM
7	buddizm	4/5/2014 3:37 AM
8	buddhism	4/4/2014 6:03 AM
9	hative of tugrug sum and deel sum	4/4/2014 3:41 AM

GAT Community Survey Final - English

Q8 Have you been displaced or resettled by this project?

Answered: 45 Skipped: 0

Answer Choices		Responses
Yes		26.67% 12
Not yet, but we will have to move soon		51.11% 23
No, I am not affected by displacement or resettlement from this project		22.22% 10
Other		0.00% 0
Total		45
#	Other (please specify)	Date
1	not yet movet but if the dust and noise continnes it will be diffucult to stay here	4/9/2014 4:16 AM
2	we leave our motherland	4/9/2014 4:07 AM
3	If this operation and its dust continues then it will not be possible to live here any longer	4/6/2014 2:54 AM

Q9 If you have been displaced or are threatened with displacement from this project, how would you describe this move?

Answered: 44 Skipped: 1

Answer Choices	Responses
We are being moved as part of a resettlement program, with some form of compensation and/or other assistance.	9.09% 4
The project is making it impossible for us to stay in our current home, so we have to move, but we are not part of any resettlement program and we are not receiving any official assistance.	54.55% 24
Not applicable. I haven't been displaced yet.	36.36% 16
Other	0.00% 0
Total	44

#	Other (please specify)	Date
1	Lost pasture and herd	4/10/2014 7:07 AM
2	When the mine carry out explosion it frightens an adds to stress	4/9/2014 6:33 AM
3	it is impossible to live at the winter camp	4/9/2014 4:28 AM
4	received and spend a certain amount of money at the time now no job, no animals	4/9/2014 4:19 AM
5	exposion cause turbulence influence and cleser to soum there is possibility they cause home breakage	4/9/2014 4:12 AM
6	they must give legel compensation gor us we faced so dangerous situations	4/9/2014 4:07 AM
7	Mine dust and other negative impact may force to relocate.	4/6/2014 3:39 AM
8	When they blast land closer to the soum these explosions cause serious turbulence which could cause destruction to housing.	4/6/2014 3:25 AM
9	Received some cash which was expended at the time. No have no job, no animals.	4/6/2014 2:30 AM
10	We have not been relocated but will be in poor condition because of dust contamination	4/6/2014 1:49 AM
11	No compensation granted!	4/6/2014 1:31 AM
12	Used to live 4.7 km from Altain Khuder but had to relocate because of noise, dust and transportation that destroyed the pasture vegetation.	4/5/2014 11:06 PM
13	A situation will arise for soum public offices to have to relocate from the mining impact	4/5/2014 10:26 PM
14	Cannot live in the winter camp now	4/5/2014 10:21 PM
15	we may more due to dust	4/4/2014 6:40 AM

16	when explosion there is a lot of noise its so hard	4/4/2014 4:54 AM
17	we have not been relocateo but the dust in pastares will make live aifficult here	4/4/2014 3:41 AM

GAT Community Survey Final - English

Q17 If you were displaced, or are facing displacement, what was/is forcing you to move? (Choose all that apply)

Answered: 45 Skipped: 0

Answer Choices		Responses
Our living situation became very unhealthy due to project impacts, and we had to move.		31.11% 14
Not applicable/ I have not been threatened with displacement.		31.11% 14
My source of livelihood was destroyed, and we had to move because we had no other option.		26.67% 12
They used bulldozers, intentional flooding or explosions, or other means to scare us into moving.		8.89% 4
They used coercion and intimidation, such as saying we would not get compensation, would lose our job or experience another such consequence.		8.89% 4
We lost access to services like water and electricity, and we had to move because there was no other option.		8.89% 4
They used physical violence to injure me or other people in my community, to force us to move.		6.67% 3
There was no physical force or violence or threat of either. We willingly accepted the compensation and resettlement options because they looked much better than our current status.		6.67% 3
They threatened us with force and violence to scare us to move.		4.44% 2
Total Respondents: 45		
#	Please describe your experiences. It is very important that we collect strong quotes and examples on this topic, so please take time to write about your experience of displacement.	Date
1	was relocated because there is no water	4/10/2014 7:11 AM
2	In the future there may be threat to move	4/9/2014 4:25 AM
3	herder camps near the mine sites were cheated for small money and bulldozed. there are no pastures around the mine, if people and animals come near, they are chased to leave. when they employ local people they don't provide housing and don't offer rides back home	4/9/2014 4:21 AM
4	while not relocated now it is becoming difficult to live here	4/9/2014 4:17 AM
5	we can't say anything because they said they will put in jail	4/9/2014 4:09 AM
6	soum relocation air pollution noisiness	4/9/2014 3:55 AM
7	we have to move from place covered with dust	4/9/2014 3:39 AM

8	we moved after 4-5 goats died of suffocating from swallowing dust from quarries	4/9/2014 3:02 AM
9	A large number of herder camps were cheated from them for small amounts of cash and bulldozed. They chase us away and threaten if herders are found near the mine because of lack of pasture. Locals employed by the mine are not provided living quarters at the mine site but transported back home, which is very often not available. Poor working conditions.	4/6/2014 2:38 AM
10	Not yet but high probability of facing a need to relocate in future.	4/6/2014 2:17 AM
11	Because of dust we are losing our pastures. Time is coming when people and animals will have sick organs because of it.	4/6/2014 1:55 AM
12	We have not been relocated but had to move because of dust with no compensation offered. We have a claim of damages	4/6/2014 1:39 AM

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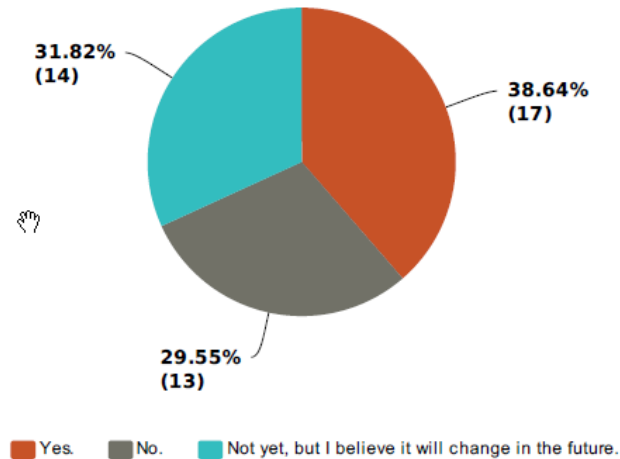
GAT Community Survey Final - English

	have a claim of damages	
13	And due to dust contamination	4/6/2014 1:23 AM
14	We lived in the mine impact zone asking for compensation for 4 years. They will not let us in when we come with petitions for assistance. The Community relations person Undrakh claimed that a private company is not responsible for a relocation program.	4/5/2014 11:35 PM
15	Winter camps were cheated out for small amounts of money. Have not provided any means for future livelihood; Some winter and springs camps were not issued land certificates. Without a certificate they do not compensate.	4/5/2014 10:43 PM
16	road dust in contaminating pasture leading to damage to the health of animals and people	4/4/2014 4:01 AM

GAT Community Survey Final - English

Q21 Has your source of livelihood changed due to the project?

Answered: 44 Skipped: 1



#	Please describe what your livelihood was before the project, and what it is now:	Date
1	altain huder company didn't keep their promises	4/10/2014 7:20 AM
2	before we have got pastures pleasant and no noise. but now has completely changed	4/9/2014 4:25 AM
3	there is no benefit for us, citizens and development of soum a few people working there to improve their life	4/9/2014 4:14 AM
4	it is difficult to continue livestock breeding	4/9/2014 3:51 AM
5	we had a herd of some 700 elite bread sheep and goats. we bought a car and life was good now i work for altain khuder work from sun to dark. when inspection comes we are ordered to go in pairs slow and far from one another if we don't then they rednee salary	4/9/2014 3:02 AM
6	Life improved	4/6/2014 3:57 AM
7	Altain Khuder's promises are not being implemented in reality.	4/6/2014 3:32 AM
8	For a soum that has a developed mine there has been not a bit of light for the people, for soum development. We are just losing our wealth. Only a few people are employed at the mine and live on salaries.	4/6/2014 3:25 AM
9	Before this project we lived in a clean environment with fresh air, good grass in the pastures, quiet tranquil life without dust and noise. Now we have no grass in pastures, live under dust and noise	4/6/2014 2:17 AM
10	Because of dust the pastures have degraded leading to lower livelihood income.	4/6/2014 1:55 AM
11	We used to live with our children herding animals and benefitting from sales of wool cashmere, milk and dairies. But now we are too old and forced by life to operate a small shop to survive. We had 600-700 animals and spun off our children to a successful life with livestock but a company with empty promises came to dig our land to damages that cause big emotional stress on us.	4/5/2014 11:35 PM
12	Nothing changed	4/5/2014 10:43 PM
13	our quality of life improved a little	4/4/2014 6:25 AM
14	air pollution causes degraobtion of pasture leading to cower living standard	4/4/2014 4:01 AM

GAT Community Survey Final - English

Q22 Has your quality of life changed as a result of displacement from your home, land, or source of livelihood, or a threat of future displacement?

Answered: 45 Skipped: 0

Answer Choices	Responses
My quality of life was made worse.	24.44% 11
My quality of life has remained the same.	20.00% 9
I haven't been displaced yet, but I believe my quality of life will become worse.	20.00% 9
I haven't been displaced yet, but I believe my quality of life will improve.	17.78% 8
My quality of life was made much worse.	6.67% 3
I haven't been displaced yet, but I believe there will be no change to my quality of life.	6.67% 3
My quality of life was greatly improved.	2.22% 1
My quality of life improved.	2.22% 1
Total	45

#	Please describe.	Date
1	they don't rehabilitate land	4/9/2014 4:25 AM
2	when i was herding i had plentiful life now working for other lost independence with no support, not even gloves or toilet paper	4/9/2014 3:02 AM
3	Pasture has decreased because of lack of reclamation due to which even relatives started fighting over pasture	4/6/2014 2:17 AM
4	My life will never improve now!!!	4/6/2014 1:39 AM
5	Altain Khuder, at its first meeting promised to build a railroad, 10.000 Kw power station. Planes will land here, you will fly or travel with no cost. They took our trust with these false promises.	4/5/2014 11:35 PM

GAT Community Survey Final - English

Q23 Have you been negatively affected by this project in other ways? (Choose all that apply)

Answered: 45 Skipped: 0

Answer Choices	Responses
Members of my family or I have become ill, or have worse health.	31.11% 14
My environment has been destroyed.	26.67% 12
I have to travel farther now to reach my work place.I commute longer hours.	22.22% 10
I lost access to forest, grazing lands, river or other common areas that I used for my livelihood.	20.00% 9
I have noticed increased traffic accidents.	20.00% 9
I have not been affected negatively.	20.00% 9
I lost my animals, livestock or fish.	17.78% 8
I lost my land that I owned.	15.56% 7
My sacred territory was ruined.	15.56% 7
My family members or I are now in debt.	13.33% 6
My family members or I experience more stress or worry than before or are suffering worse mental health.	13.33% 6
I have noticed increased alcoholism and substance abuse.	13.33% 6
I have noticed increased domestic violence.	11.11% 5
I lost my job.	8.89% 4
I pay more for transportation.	8.89% 4
My family was separated.	6.67% 3
My children had to drop out of school.	6.67% 3
I have a new house that is designed in a way that does not fit our traditions or culture.	6.67% 3
I have to pay too much for housing in a new location.	6.67% 3
My family members or I have lost access to safe drinking water and/or sanitation.	4.44% 2
I have noticed more stress and conflict in family relationships.	4.44% 2
The location of my new house is unsuitable.	4.44% 2

I have noticed increased corruption.	4.44%	2
I lost my house.	2.22%	1
My family members or I have lost access to electricity.	2.22%	1
I have a new house that does not provide enough space or privacy for my family.	2.22%	1
I lost access to land that I farmed, but that I did not own.	0.00%	0
Other	0.00%	0
Total Respondents: 45		

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#	Other (please specify)	Date
1	we can't move our camp cause there is no way	4/9/2014 3:39 AM
2	there is a lot of human rights violation. drivers have known to get stuck on the road with broken vehicle, they do no send rescue upon our call for help. they were stuck for 4-5 days without food	4/9/2014 3:02 AM
3	There is too much dust because of not constructing a road The concentrator technology should switch to wet processing	4/6/2014 3:57 AM
4	When Natives' Council members came, they were not allowed in. Their phones and cameras were robbed off. To date there has been no report of animal lung testing. They violate human rights but pay people to say good things about them on TV.	4/5/2014 11:35 PM
5	Lost access to pasture. Had to move from winter camp	4/5/2014 10:21 PM
6	pastures beyond useable, winter camp site relocacet	4/4/2014 4:02 AM

GAT Community Survey Final - English

Q26 Did you or your family receive money or other compensation for your home, land or other resources? (Check all that apply.)

Answered: 43 Skipped: 2

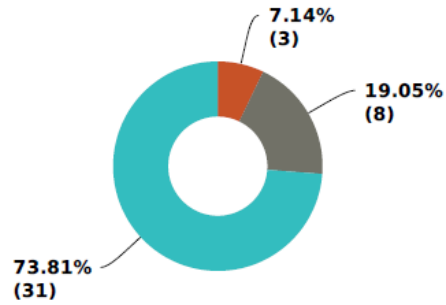
Answer Choices		Responses
We did not receive any compensation, nor did our community.		76.74% 33
We received cash compensation.		13.95% 6
We received a new home.		2.33% 1
We received land for a house-plot.		2.33% 1
We received access to resources in a new location.		2.33% 1
We did not receive compensation directly, but our community as a whole received compensation.		2.33% 1
We received land for farming.		0.00% 0
Total Respondents: 43		
#	Comment: If you received land, please describe whether it is better, worse or equivalent to the land you had before.	Date
1	Not relevant	4/10/2014 7:21 AM
2	About Ninety family were affected	4/10/2014 7:11 AM
3	not displeced	4/9/2014 3:28 AM
4	What was provided was not enough for anything.	4/6/2014 3:44 AM
5	We are in worse position now!	4/6/2014 1:40 AM
6	People receive scholarship support, we have not been able to access this compensation.	4/5/2014 10:47 PM
7	they gave low compensation	4/4/2014 6:48 AM
8	few cash were given, no other activity implemented, we realized too late that we have been fooled	4/4/2014 6:10 AM

GAT Community Survey Final - English



Q27 If you received compensation, was it adequate for your needs?

Answered: 42 Skipped: 3



- Yes. Our needs were fully met by the compensation.
- Somewhat. Our basic needs were met, but our quality of life was made worse.
- No. Our needs remained unmet after receiving compensation.

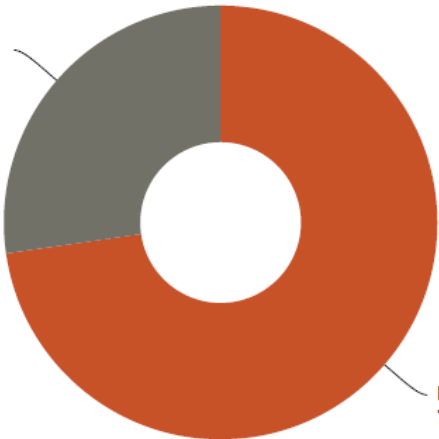
#	Please explain.	Date
1	we didn't receive compensation	4/9/2014 3:55 AM
2	not received compensation	4/9/2014 3:28 AM
3	Interested in getting a job rather than a compensation	4/6/2014 2:18 AM
4	Our camp was valuated at 15-20 million MNT but Undrakh changed that to almost nothing. People like her should be held accountable and fired from this job.	4/5/2014 11:40 PM
5	Compensation should not be taken.	4/5/2014 10:47 PM

Q34 Did you have the information you needed to be able to provide informed opinions and ideas about the project plans?

Answered: 44 Skipped: 1



I don't know.
27.27% (12)



No
72.73% (32)