

PUBLIC

EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

**PROJECT COMPLAINT MECHANISM
ELIGIBILITY ASSESSMENT REPORT
FOR COMPLIANCE REVIEW**

**COMPLAINT: SOUTH-WEST CORRIDOR ROAD PROJECT
REQUEST NUMBER: 2014/04**

SEPTEMBER 2015

PUBLIC

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EXECUTIVE SUMMARY

The Project Complaint Mechanism (PCM) has received a Complaint in relation to the EBRD's financing of the South-West Corridor Road Project in Kazakhstan, seeking a Problem-solving Initiative and Compliance Review, regarding allegations of non-compliance with a Relevant EBRD Policy.

The Eligibility Assessors have determined that the Complaint is eligible for a Compliance Review under the PCM's 2014 Rules of Procedure (PCM RPs) 24-29. The Complaint:

- (i) has been filed within prescribed timeframes;
- (ii) describes the PCM functions requested;
- (iii) describes the outcomes sought;
- (iv) provides adequate information relating to communications with the Bank and Client;
- (v) raises issues that fall within the scope of the responsibility of the Bank;
- (vi) raises issues that are more than a technical violation of a Relevant EBRD Policy, namely the **2003 Environmental Policy** and the **2011 Public Information Policy**;
- (vii) raises the Bank's role in monitoring client commitments under the Policy;
- (viii) is not disqualified under any criteria set forth in PCM RP 28.

The PCM Eligibility Assessors find that the Complaint satisfies the PCM criteria for a Compliance Review.

The Eligibility Assessment for a Problem-solving Initiative is set forth in a separate Report.

I. BACKGROUND

1. On 20 October 2014, the Project Complaint Mechanism (PCM) received a Complaint from Mr. Yuri Pavlovich Krivodanov,¹ Head of the national non-governmental organisation (NGO) “Blago”, raising concerns in respect of South-West Corridor Road Project (Kazakhstan), which purportedly resulted in significant harm to the residents of six villages along the road corridor. The Complaint asserts the need for a Compliance Review and Problem-solving Initiative regarding the Project.
2. On 24 November 2014 the Complaint was registered by the PCM Officer in accordance with the 2014 Rules of Procedure (PCM RPs) of the PCM. Notification of registration was sent to the Complainant and the Relevant Parties pursuant to PCM RPs 10 and 18, and the Complaint was noted on the PCM Register² and posted on the PCM website in accordance with PCM RP 20. PCM Expert Susan Wildau was appointed as an Eligibility Assessor to conduct an Eligibility Assessment jointly with the PCM Officer, in accordance with PCM RP 22.
3. The South-West Corridor Road Project consists of the rehabilitation and upgrading of the 102 km road section between the Russian border and the city of Aktobe, which is the most northerly link of the Western Europe–Western China Transit Corridor.³ The Project was structured to meet the requirements for Category B/1 projects under EBRD’s 2003 Environmental Policy.⁴ The Project was approved by the Board of Directors of EBRD on 11 November 2008 and provides financing of US\$ 180 million, out of an estimated total project cost of US\$ 207 million. The Project is part of the Government of Kazakhstan’s effort to upgrade the Western-Europe–Western China international transport corridor. Other road sections of the corridor are being rehabilitated with financing from the World Bank, the Asian Development Bank, Islamic Development Bank and the Republic of Kazakhstan. The objective of the reconstruction of the corridor is to facilitate the transit of goods and passengers between Kazakhstan, China, Russia and Western Europe and develop regional trade; improve the conditions for road transport for the population and local businesses; and support the Government of Kazakhstan’s efforts to widen private sector involvement in the road sector. Construction started in April 2011 and was completed in September 2013.

¹ Complaint (Annex I of this Report).

² PCM Register: www.ebrd.com/work-with-us/project-finance/project-complaint-mechanism/pcm-register.html

³ Project Summary Document (PSD): www.ebrd.com/work-with-us/projects/psd/southwest-corridor-road-project.html.

⁴ “The 2003 Environmental Policy was an environmental policy and detailed social requirements were not incorporated into the policy until 2008. The term, environmental, however, was understood broadly to include certain community impacts.” Bank Management response to PCM Officer and EBRD Environmental Policy, July 2003, paragraph 3 at 3: www.ebrd.com/downloads/about/policies/environmental_policy/2003-07-01_Environmental_Policy-English_publication.pdf.

II. STEPS TAKEN IN ELIGIBILITY ASSESSMENT

4. The Eligibility Assessors have examined the Complaint to determine whether it satisfies the applicable eligibility criteria of the PCM RPs. They have also taken account of the responses to the Complaints received from Bank Management⁵ and from the Project Client⁶ as well as various Project documents, materials and correspondence provided by the Relevant Parties. In addition, on 16 April 2015, the Eligibility Assessors held in-person meetings with EBRD's Environment and Sustainability Department (ESD), and meetings with the Complainant via video conference.
5. Further, the PCM Expert undertook a site visit to Kazakhstan from 8–12 June 2015 where she held separate, in-person meetings with the Complainant, the project-affected communities referenced in the Complaint, the Client and members of the Project Team. In addition, she met with the Bank's monitoring consultant.

III. PERSPECTIVES OF THE RELEVANT PARTIES

6. The discussion below will focus primarily on Parties' views relevant to a Compliance Review. Those details relevant to a Problem-solving Initiative are explored in a separate Eligibility Assessment Report pertaining to eligibility of the Complaint for a Problem-solving Initiative.

Complainant

7. The Complaint alleges shortcomings in Project design and implementation, which have purportedly resulted in significant harm to the residents of six villages along the road corridor. The Complaint summarises the issues raised by the Project-affected villages.⁷
8. In addition, in subsequent meetings with the PCM Expert, the Complainant has asserted that the Bank failed to properly carry out its monitoring and supervision responsibilities according to its policies. As grounds for this claim, the Complainant points to the many alleged corrective actions that were identified by the public monitoring programme carried out by "Association Azamattyk Kuryltay – Civil Assembly"⁸, to which NGO "Blago" is an active member. The Association surveyed residents located along the South-West Transport Corridor, including the section financed by EBRD, and recorded residents' most pressing

⁵ EBRD Management response to PCM Officer, dated 19 January 2015 (Annex II of this Report).

⁶ As Client's response, the PCM received in November 2014, "Extracts from minutes of the meetings held by residents of villages adjoining the Western Europe – Western China Transit Corridor located in parts of Aktyubinsk Province (Martuk Region)" from Committee of Roads, Ministry of Transport, Kazakhstan, (Annex III of this Report).

⁷ Complaint at 1-3.

⁸ "Association Azamattyk Kuryltay – Civil Assembly" is a multilateral group of civil society organisations, government agencies, project management and supervision consultants, and contractors involved in the Western Europe–Western China Transit Corridor project.

problems and measures proposed by community residents to address these. The Complainant maintains that an effective monitoring programme by the Bank should have detected and addressed these issues earlier.

9. Further, the Complainant maintains that aspects of the alleged non-conformances at the village level may be linked to non-compliance with national regulations. In this regard, the Complainant queries whether EBRD has a responsibility to assure compliance with national requirements according to its policies.
10. In addition, the Complainant, in discussions with the PCM Expert, has asserted shortcomings in the public consultation and information disclosure programme, including whether it was adequately designed and implemented according to the requirements of the Bank's policies, and further, whether the Bank appropriately monitored consultation and disclosure activities. According to the public monitoring programme undertaken by "Azamattyk Kuryltay – Civil Assembly", insufficient information was made available to villagers about how to be involved in the decision-making process during each stage of the Project, nor was there clarity provided about how community residents could raise a complaint.⁹
11. The Complaint also asserts that the Bank failed to respond to the Complainant's communications on issues of concern raised, engage in a cooperative relationship with civil society organisations to address problems together, seriously consider the suggestions of civil society organisations related to the Project, or in any way work to raise the role and significance of civil society groups interested in improving the effectiveness of this infrastructure project, in violation of EBRD requirements that set out how the Bank engages with its stakeholders.
12. As a result of the above, the Complainant claims not only harm to village residents but to the establishment of the network of Expert Councils on Transparency and Sustainable Development (ECTSD)¹⁰, including damage to the reputation of the non-governmental

⁹ Information provided by Complainant in interview with PCM Expert on 9-6-2015 and by villagers in interviews with PCM Expert on 10, 11 and 12-6-2015.

¹⁰ The ECTSD was founded under the Memorandum of Understanding and Cooperation (MoUC) concluded on 14 June 2012 between the Committee of Roads of the Ministry of Transport and Communications of the Republic of Kazakhstan, project management consultants and consultants for construction supervision, and non-government organisations of Kazakhstan, which belongs to "Azamattyk Kuryltay - Civil Assembly" (the Association). The MoU established this multi-stakeholder body as a system of accountability and public monitoring to identify and address impacts from the reconstruction of the transport corridor project on the quality of life of people affected by the Project. All parties to the agreement participated on an equal basis in a partnership founded on the principle of multilateral cooperation. The participatory monitoring programme focused on the concerns of workers and local citizens about economic, ecological, social, transparency and sustainable development issues arising in the course of the construction works undertaken by contracted private companies. The councils aimed to ensure transparency, accountability and public participation in decision-making processes, taking into account the needs and proposals of the people living along the road construction routes. *Consolidated National Report of Transparency and Sustainable Development*, 2012-2013 at 188.

organisations engaged in monitoring the progress of the South-West Corridor Road Project. This is particularly troubling to the Complainant, since in his view, a very positive and constructive relationship had existed between civil society groups and the Committee of Roads of the Ministry of Transport and Communications (the Client) at the national and oblast levels. Indeed, the Complainant expressed a great deal of appreciation for the Committee of Roads and the significant cooperation and support it had extended to civil society groups involved in the public monitoring programme.

13. Finally, the Complainant raises broader questions of structure, root causes and systemic problems linked to infrastructure project challenges in Kazakhstan, including those confronting the South-West Corridor Road Project, such as the absence of adequate national norms regulating public engagement and consultation.

Bank Management

14. In its response to the PCM dated 19 January 2015, Bank Management asserts that the environmental and social due diligence that was carried out by an independent consultant established detailed baseline environmental and social conditions of the Project site, assessed the potential environmental and social impacts of the Project, and provided for an Environmental and Social Management Plan (ESMP) comprising mitigation and monitoring measures for impacts common to most roadway projects and for the EBRD-financed Project. The ESMP comprised the Environmental and Social Action Plan (ESAP) for the Project, which was developed and agreed to by the Client. The ESAP comprised “mitigation and monitoring measures for each identified environmental and social impact issue at design, construction and operation stages of the Project, environmental and social enhancement measures, road safety improvements as well as a public disclosure and stakeholder engagement programme.”¹¹
15. Management also notes that a highly qualified international construction supervision consultant was retained to monitor the technical aspects of the Project, while an internationally renowned Project Management Consultant (PMC) was selected to assist the Client in managing the Project. Among other tasks, the PMC served as an independent supervisor to ensure the implementation of the ESAP.
16. Taking into account the low-risk nature of the Project, and the significant expertise of the consultants deployed to monitor the Project and support the implementation of the ESAP, Management states that it elected to undertake a “passive monitoring approach”¹² through the review of annual environmental and social reports.

¹¹ Bank Management response at 6.

¹² *Ibid* at 2.

17. Management reports that it engaged an independent monitoring consultant to review the status of the ESAP and issues raised in the Complaint as soon as it became aware of the concerns raised connected with the present Complaint. The consultant carried out a monitoring visit to the site in December 2014.¹³ Management's response includes a more detailed reply to each of the thematic concerns raised in the Complaint, based upon the findings from the consultant's assessment.
18. Finally, Bank Management acknowledges that "i) this is a Bank financed project, ii) the villages in question are along the section of the Road financed by the Bank and were identified during due diligence, and iii) many of the issues in the Complaint of noise, dust, snow drift, and the ability of farmers to move agricultural equipment and livestock across the roads are issues that would be covered in the Bank's assessment of the Project under the 2003 Environmental Policy, and indeed were identified by the Bank during due diligence. Other issues, such as the provision of toilets by bus stops, would not be covered under the Policy, but are more suggestions made for design."¹⁴

Client

19. In its written response to the Complaint, received by the PCM in November 2014 (annexed to this report), the Committee of Roads provides a more detailed reply to each of the specific issues raised in the Complaint. Further, in conversations held with the PCM Expert, the Committee of Roads has pointed out that the South-West Corridor Road Project was designed and implemented according to the international standards set out in the social and environmental policies of the International Financial Institutions (IFIs) as well as the relevant national standards of Kazakhstan (e.g., Republic of Kazakhstan (RK) Building Code 3.03-09-2006, RK Government Decree No. 1650 of 25.11.1997 approving the Traffic Code, RK Standard PR No. 218-09-03, Highways and Motorways Repair and Maintenance Regulations, RK Government Decree No. 1809 of 05.12.2000 approving the rules governing the classification of Kazakhstan's highways and motorways). Further, the Client notes that the Republic of Kazakhstan's national laws, rules and regulations governing road construction are consistent and harmonised with IFI policies, thereby ensuring there is no underlying contradiction between the two sets of standards.
20. In addition, the Client reports that its approach to projects is to develop them in a way that is consistent with the principle of "do no harm", and where impacts are unavoidable, to mitigate the harm.
21. Finally, consistent with Project requirements and national practice, the Client highlights that it routinely engages with civil society groups who have an interest in infrastructure projects.

¹³ *Ibid.*

¹⁴ *Ibid.*

IV. DETERMINATION OF ELIGIBILITY FOR A COMPLIANCE REVIEW

22. The Eligibility Assessors have examined the Complaint to determine whether the relevant eligibility criteria are met under the PCM RPs 24, 25, 27 and 28, and considered the responses of the Management and the Client in accordance with PCM RP 29. As noted above, this Report focuses on eligibility for a Compliance Review. A separate Eligibility Assessment Report has been prepared on eligibility of the Complaint for a Problem-solving Initiative.
23. In accordance with PCM RP 24, the Assessors do not judge the merits of the allegations in the Complaint and do not make a judgement regarding the truthfulness or correctness of the Complaint in making their determination on eligibility.

Agreed criteria for eligibility determination

24. In accordance with PCM RP 24, which stipulates that the Bank may decide to agree that certain criteria are satisfied in order to expedite the determination of eligibility, the Eligibility Assessors take note of the information provided in the Management response to the PCM, discussed in paragraphs 14-18 above. Indeed, the Eligibility Assessors consider that PCM RP 24(b) is satisfied in light of the acknowledgement that the Bank continues to participate in the Project and that a Relevant EBRD Policy applies, that is, the 2003 Environmental Policy.

Further considerations regarding applicable Relevant EBRD Policies

25. The Eligibility Assessors note that the Complaint also asserts that the Bank failed to comply with certain provisions of the Public Information Policy (PIP) and the European Principles for the Environment (EPE). This assertion requires the Eligibility Assessors to determine whether the relevant provisions of these documents fall within the remit of PCM by meeting the definition of “Relevant EBRD Policies” in the PCM RPs.

The PIP

26. The Complaint asserts that civil society (i.e. the Complainant) made attempts to contact the Bank on multiple occasions regarding concerns with the Project, specifically the defects in the implementation of the Project which have “resulted in significant harm to residents of population centres adjoining the South-West corridor.”¹⁵ The Complainant’s communications to the Bank dated 31 May 2013 and 23 January 2014 highlight the results of the public monitoring programme for the Project, and further point out that “127 inhabitants of six settlements in Aktyubinsk Province...quoted 67 instances of [project-related] shortcomings.”¹⁶ He asserts that both communications have remained unanswered, and that the results of the public project monitoring programme have not been taken into account by

¹⁵ Complaint, at 1.

¹⁶ Complaint at 6-7.

the Bank. According to the Complaint, the Bank has therefore failed to comply with a basic principle underpinning the PIP: “Willing to listen and receptive to comment. Through its commitment to open communication, the Bank demonstrates its willingness to listen to third parties so as to benefit from their contributions to its work in fulfilling its mandate.”¹⁷

27. In considering whether Complainant’s assertions fall under any of the provisions of the PIP, the Eligibility Assessors take note that in none of his communications with the Bank is the Complainant seeking disclosure of specific documents or information (save one instance of seeking the name and contact information of a member of EBRD staff). This having been said, the argument could be made that by attempting to raise concerns relating to the Project the Complainant was, in essence, seeking a response from the Bank regarding how the Project was being monitored, and how any Bank monitoring programme was addressing deficiencies being pointed out by the Complainant, thereby triggering responsibilities under the PIP. Under this interpretation of the PIP, the Complainant’s assertion that he did not receive replies to his communications would also trigger the Bank’s obligations to acknowledge and follow up on correspondence.¹⁸
28. In the Complaint the Complainant appears to be primarily disputing the adequacy and quality of consultation and meaningful stakeholder engagement (rather than information disclosure), considerations that fall to be assessed under the 2003 Environmental Policy. However, in the view of the Eligibility Assessors, the 2011 PIP would cover the communications of the Complainant in so far as they sought to prompt a response from the Bank regarding Project monitoring.
29. A second consideration is, do the PIP provisions found to be triggered in the above analysis fall within the scope for review of the PCM? The “Definitions and abbreviations” section of the PCM RPs states that a Relevant EBRD Policy includes “...project-specific provisions of the 2014 Public Information Policy and previous Public Information Policies....” The Eligibility Assessors take note that section D.3 entitled “Project-related information” of the 2011 PIP is clearly applicable under the PCM RPs definition, as it addresses disclosure of project-related information. Given that the information sought pertains to social and environmental information under section D3.4 of the PIP, and it relates to a specific Project, the Eligibility Assessors hold that the definition of Relevant EBRD Policy is met.

The EPE

30. Based on discussions with the PCM Expert, it is understood that the Complainant considers many issues to be considered within the scope of the EPE, including the overall approach of

¹⁷ PIP, Section C3. According to the dates of the correspondence, these two communications fall under the 2011 PIP, which was in effect as of 1 November 2011.

¹⁸ PIP 2011, Annex, paragraph 2(iv) at 16.

the Bank to the Project which, the Complainant asserts, has led to serious environmental impacts. He also raises the issue of a lack of adequate consultation and information disclosure.

31. The EPE is a non-binding declaration endorsed by the EBRD and other European multilateral financial institutions, which underscores, *inter alia*, a shared responsibility towards protecting and improving the environment in the interest of sustainable development. The EPE sets forth a commitment to a series of guiding environmental principles, such as the precautionary principle, and seeks to align project financing to projects that comply with the guiding principles as well as relevant secondary EU legislation (for non-EU, EEA, EU Acceding, candidate and potential Candidate countries). For other countries, projects financed by the adherents “are expected to comply with the appropriate EU environmental principles, practices and standards.”¹⁹
32. The EPE is not listed as a Relevant EBRD Policy in the PCM RPs definitions, as is the 2003 Environmental Policy. However, paragraph 8 of that Policy states that “the EBRD will actively seek, through Bank financed projects, to contribute to the implementation of relevant principles and rules of international and environmental law. These principles and rules are set forth in instruments such as treaties, conventions and multilateral, regional or bilateral agreements, as well as in relevant non-binding instruments.” Would the EPE be incorporated by reference into the 2003 Environmental Policy? At the time the 2003 Environmental Policy came into effect the EPE would not have been contemplated – the EBRD became an adherent in 30 May 2006. Yet, the EPE was endorsed by the Bank prior to the Project commencement date.
33. The Eligibility Assessors consider that the issues raised by the Complainant regarding environmental impacts as well as consultation and information disclosure do not require an analysis of the application of the EPE as a standalone policy in the context of this Complaint, as these issues are sufficiently contemplated by the 2003 Environmental Policy and the PIP. (The Eligibility Assessors also recognise that the language of the EPE for countries like Kazakhstan is non-specific and somewhat vague, limiting the ability to assess EPE compliance based on the issues raised in the Complaint.) Accordingly, the EPE as a standalone policy will be excluded from the scope of the Eligibility Assessment and review for this Complaint.

PCM function requested

¹⁹ Declaration on the European Principles for the Environment (EPE):
www.eib.org/attachments/strategies/european_principles_for_the_environment_en.pdf

34. Pursuant to PCM RP 25(a) the Eligibility Assessors take into account the PCM function requested by the Complainant. As discussed above, the PCM functions sought are a Problem-solving Initiative and a Compliance Review.

Outcome sought

35. Under PCM RP 25(b), for the purposes of eligibility, a Complaint “should also include, if possible...an indication of the outcome(s) sought as a result of use of the PCM process.” In the present case, the Complaint lists five outcomes expected from a Compliance Review: (i) remedies to issues raised by villagers wherever feasible; (ii) an opportunity to identify and address structural and systemic issues related to the South-West Corridor Road Project with involved partners, to achieve environmentally and socially sound and sustainable development; (iii) increased engagement and cooperation between civil society groups and the Bank around this Project in line with the Bank’s commitment to enabling dialogue with its stakeholders, listening and being receptive to stakeholder comments, including those from civil society, as set forth in paragraphs 11 and 43 of the 2003 Environmental Policy; (iv) proper and full implementation by the Bank of its policy provisions, including greater attention to and oversight of project implementation; (v) lessons from this Project for all stakeholders, including civil society, aimed at improved performance that adheres more closely to the ESAP (e.g., mitigation measures across project phases; enhancement and offset recommendations; monitoring measures for each issue, impact or opportunity).

Copies of correspondence

36. PCM RP 25(c) further provides that an eligible Complaint should, if possible, include “copies of all correspondence, notes, or other materials related to communications with the Bank or other Relevant Parties.” The Complaint provides adequate details of such communications.²⁰

Details of Relevant EBRD Policy

37. In accordance with PCM RP 25(d), as articulated above, the Complaint raises several specific issues falling under the remit of a Relevant EBRD Policy, including the 2003 Environmental Policy and the 2011 PIP.

Bank responsibility

38. PCM RP 27(a) requires the Eligibility Assessors to consider whether the Complaint relates to “actions or inactions that are the responsibility of the Bank.” The Management response acknowledges that the Complaint raises issues that are the responsibility of the Bank.

²⁰ Complaint at 5-7.

39. First, the Complaint provides a comprehensive list of deficiencies related to the design and implementation of the Project and asserts that the Bank failed to ensure that proper prevention, mitigation and monitoring measures were applied to remedy these alleged shortcomings according to the 2003 Environmental Policy, including proper monitoring of the implementation of national requirements and the provisions contained within the ESAP.
40. Indeed, the 2003 Environmental Policy clearly articulates a central role for the Bank to play regarding assurance that effective prevention and mitigation measures are put in place. paragraph 4 notes that EBRD “will pay particular attention to requiring appropriate and efficient mitigation measures and management of environmental issues, which may have legal, financial and reputational implications, as well as environmental implications.”²¹ Paragraph 16 states that “Category B projects require an Environmental Analysis to...recommend any measures needed to prevent, minimise and mitigate adverse impacts....”²² The Eligibility Assessors conclude that assurance of adequate prevention and mitigation measures is a Bank responsibility.
41. Similarly, with regard to monitoring, the 2003 Environmental Policy notes the following: “Environmental monitoring is an important aspect of the Bank’s project implementation process....Operations are monitored on an ongoing basis by the operation team and the Environmental Department throughout the Bank’s relationship with the project.”²³ The Policy further states that “...projects supported by the Bank must always meet the requirements under the applicable national legislation,”²⁴ establishing the Bank’s responsibility to review compliance with national requirements. With regard to monitoring environmental action plans, paragraph 28 provides: “In order to verify proper and timely implementation of EAPs and adherence to agreed environmental covenants, the EBRD requires that project sponsors submit periodic reports on the implementation of EAPs and any other environmental requirements. As a rule, annual reports will be expected. Environmental monitoring missions may be undertaken to conduct a detailed review of the environmental aspects of projects in order to ensure that the project sponsor is implementing the EAP and fulfilling the environmental covenants. During implementation, results of reports, audits, or monitoring trips may indicate that changes are necessary to the EAP. In this case, EAPs may be updated or revised, to the satisfaction of the Bank....”²⁵ Monitoring is a clear responsibility of the Bank under the Policy.
42. The Complainant also holds that consultation and information disclosure processes between project-affected communities and the Client were inadequate. The 2003 Environmental

²¹ Environmental Policy paragraph 4 at 3.

²² Environmental Policy paragraph 16 at 6.

²³ Environmental Policy paragraph 27 at 10.

²⁴ Environmental Policy paragraph 16 at 5.

²⁵ Environmental Policy paragraph 28 at 10-11.

Policy states: “The EBRD believes that meaningful public consultation is a way of improving the quality of projects” and that “[a]t a minimum, sponsors must ensure that national requirements for public consultation are met. In addition, sponsors will have to follow the EBRD’s own public consultation requirements.”²⁶ The relevant Annex to the 2003 Environmental Policy holds “[p]ublic consultation and disclosure is the responsibility of the project sponsor, and will be reviewed by the Bank, in line with its policy commitments.”²⁷ Accordingly, the Bank has a clear responsibility under the Policy to monitor Client activities relating to consultation and information disclosure.

43. Second, the Complainant asserts that the Bank is not doing enough, according to its policies, to promote effective structures and systems at the national level in order to prevent and more quickly mitigate problems at the local level.²⁸ According to the 2003 Environmental Policy, the Bank “believes that to achieve environmentally sound and sustainable development, structural change needs to be implemented by individual countries” and “believes that progress towards sustainable development can best be achieved by working within a sound regulatory and policy framework that uses market mechanisms to promote environmental protection and provides suitable safety nets for vulnerable members of the community.” Further, the Policy holds that the Bank “encourages and supports governments to provide the right signals to individuals and businesses, particularly through Bank financed projects...”²⁹
44. The Eligibility Assessors take note that the language of the Policy is of an aspirational nature, and would not appear to create a direct obligation on the Bank to take action for advancing structural changes in countries where projects are situated. Nevertheless, the PSD for the Project provides an indication that national-level approaches are to be contemplated in the course of the Project, and specifies the objective to contribute to the development of regional integration.³⁰ There is therefore a link that can be drawn between the higher-order, aspirational objectives stated in the Policy, and concrete transition-impact objectives the Bank has included as part of the Project. The Eligibility Assessors therefore consider that the Complainant’s claim relates to actions or inactions that are the responsibility of the Bank.

²⁶ Environmental Policy paragraph. 26 at 10.

²⁷ Environmental Policy, Annex 2, paragraph I at 18.

²⁸ In discussions with the PCM Expert the Complainant explained that, based upon the results of the public monitoring program, there are a number of areas where structural change initiatives at the national level could make a significant difference in addressing problems at the local level. These include an updated national law or requirement governing how the government engages and consults stakeholders and provides project information to affected communities; a specific system, practice or procedure that further strengthens accountability of construction firms and other companies engaged in infrastructure project, incorporating principles of sustainable development; a compensation framework at the national level for damages related to requisition of land, demolition of structures, or loss of business as a result of project activities; a requirement for a participatory monitoring system; a requirement for a project-level grievance mechanisms.

²⁹ Environmental Policy paragraph 10 at 4.

³⁰ PSD: www.ebrd.com/work-with-us/projects/psd/southwest-corridor-road-project.html.

45. Third, the Complaint maintains that repeated communications from the Complainant concerning “the defects of implementation of the reconstruction project” were repeatedly ignored by the Bank; that no opportunity for meaningful engagement with the Complainant was provided to address project shortcomings identified through a public monitoring programme; that the Bank lacked the intention to partner with civil society organisations; and that the Bank refused to listen or consider their suggestions, engage in a relationship of cooperation, or recognise their role and significance in any way.³¹ The Eligibility Assessors have determined that the Complaint raises issues under both the 2003 Environmental Policy and the 2011 PIP:

- a. The 2003 Environmental Policy states that the Bank is committed to engaging in dialogue and consultation with civil society organisations in a way that demonstrates a willingness to listen and receptivity to stakeholder comments and ideas, in line with its Public Information Policy.³² In addition, under the section entitled “Building partnerships to address regional and global environmental issues”, the Policy states that the Bank “will expand and further strengthen its cooperation and partnership with bilateral and multi-lateral organisations such as...local communities and NGOs”³³ to address economic and environmental and sustainability challenges in its region. Although these obligations may not constitute commitments of the Bank that are specific to this Project, the Eligibility Assessors consider that such general commitments remain a Bank responsibility in accordance with the PCM RPs.
- b. With respect to the PIP, the Bank has taken on certain obligations regarding information disclosure and consultation. To be clear, Section B of the PIP “sets out how the EBRD discloses information and consults with its stakeholders.” Accordingly, information disclosure and engagement with stakeholders constitutes a Bank responsibility.

46. For the above-stated reasons, the Eligibility Assessors conclude that the Complaint satisfies PCM RP 27(a).

Minor technical violation

47. Pursuant to PCM RP 27(b), the Eligibility Assessors have concluded the alleged violations of the 2003 Environmental Policy as set out in the Complaint, in raising explicit concerns about community well-being, constitute more than minor technical violations.

Failure of the Bank to monitor Client commitments

³¹ Complaint at 1 and 5-7.

³² Environmental Policy paragraph 11 at 4.

³³ Environmental Policy paragraph 43 at 14.

48. The Eligibility Assessors have further considered PCM RP 27(c), whether the Complaint relates to a failure of the Bank to monitor Client commitments pursuant to relevant EBRD Policy, as claimed by the Complainant. As discussed above, according to the 2003 Environmental Policy the Bank has a role to play in monitoring the Client's activities relating to the Project, both in terms of implementation with the ESAP and regarding consultation and disclosure.³⁴ This PCM RP is therefore satisfied.

Other factors excluding eligibility

49. PCM RP 28 sets out a list of factors, any of which if found to apply would render a Complaint ineligible. In the view of the Eligibility Assessors the Complaint does not raise any issues that would render the Complaint ineligible under this PCM RP, nor are any asserted by Management or the Client in their responses to the PCM.

V. CONCLUSION

50. On the basis of the conclusions set out above the Complaint satisfies the eligibility criteria set forth in RPs 24, 25, 27, 28 and 29. Accordingly, the Complaint is found **eligible for a Compliance Review**.

³⁴ Environmental Policy paragraphs 4 at 3; 16 at 6; 17 at 6-7; 26 at 10; 27 at 10; 28 at 11; 45 at 14; Annex 2.1 at 18.

COMPLAINT: SOUTH-WEST CORRIDOR ROAD PROJECT

REQUEST NUMBER: 2014/04

Terms of Reference for the Compliance Review

Application

1. These Terms of Reference apply to any inquiry, action or review process undertaken as part of the Compliance Review, with a view to determining, as per PCM RP 41 if (and if so, how and why) any EBRD action, or failure to act, in respect of the Project has resulted in non-compliance with a Relevant EBRD Policy and, if in the affirmative, to recommend remedial changes in accordance with PCM RP 44.
2. Activities carried out as part of the Compliance Review and subject to these Terms of Reference are subject to modifications which the Compliance Review Expert and the PCM Officer may, at any time, expressly agree upon, except modification that may prejudice the interests of any Relevant Party or is inconsistent with accepted review practice.

Compliance Review Expert

3. In accordance with PCM RP 40 the PCM Officer appoints PCM Expert Andrea Saldarriaga as the Compliance Review Expert for this Compliance Review.
4. The Compliance Review Expert shall conduct the Compliance Review in a neutral, independent and impartial manner and will be guided by principles of objectivity and fairness giving consideration to, *inter alia*, the rights and obligations of the Relevant Parties, the general circumstances surrounding the Complaint and due respect for EBRD staff.

Time Frame

5. The Compliance Review will commence as soon as possible following the posting of the Eligibility Assessment Report containing these Terms of Reference in the PCM Register on the EBRD website.
6. Every effort shall be made to ensure that the Compliance Review is conducted as expeditiously as circumstances permit, and it is intended that the Compliance Review shall be concluded within 60 Business Days of its commencement. On request of the Compliance Review Expert, the PCM Officer may extend this time period for as long as necessary to ensure full and proper conduct of the Compliance Review. Any such extension shall be promptly notified to all Relevant Parties.

Scope of Compliance Review

7. The Compliance Review process will examine the core compliance issues, in the context of the 2003 Environmental Policy and/or the 2011 Public Information Policy (PIP), and in all cases limited to matters raised in the Complaint, in particular:
 - a. Whether the Bank failed to adequately assess the Project's environmental and social impacts, and to agree to adequate prevention and mitigation measures, and/or failed to monitor the implementation of the Project according to the requirements of the 2003 Environmental Policy, including monitoring the provisions contained within the ESAP; more specifically:
 - i. Did EBRD fail to monitor the environmental and social performance of the Project, including the proper and timely implementation of the ESAP by the Client and the Client's adherence to agreed social and environmental covenants;
 - ii. Did EBRD fail to establish an adequate monitoring programme in accordance with paragraphs 27 and 28 of the 2003 Environmental Policy, to ensure risks and impacts were appropriately identified, communicated and addressed; and
 - iii. Whether EBRD failed to assess and monitor adequate public information and consultation by the Client, as appropriate for the specific Project in accordance with the 2003 Environmental Policy and the ESAP.
 - b. Whether EBRD sufficiently met any obligations it may have to promote structural change in accordance with paragraph 10 of the 2003 Environmental Policy.
 - c. Whether the Bank adequately fulfilled its commitment of enabling dialogue and engaged with the Complainant in accordance with paragraphs 11 and 43 of the 2003 Environmental Policy, and whether the Bank satisfied its obligations under Section D3.4 and the Annex to 2011 PIP.
8. Although the Compliance Review Expert regains the final authority to frame, add to and/or consolidate the core Compliance Review questions as she deems appropriate, she should give due consideration to those as set forth by the Eligibility Assessors in these Terms of Reference.

Procedure: Conduct of the Review

9. The Compliance Review Expert may conduct the Compliance Review process in such a manner as she considers appropriate, taking into account the Rules of Procedure of the PCM, the concerns expressed by the Complainant as set out in the Complaint, and the general circumstances of the Complaint. Specifically, the Compliance Review Expert may:
- a. Review the Complaint to frame the compliance issues to be included in the Compliance Review, specifically whether EBRD complied with the elements of the 2003 Environmental Policy in respect of which the Complaint alleges non-compliance;
 - b. Review all documentation relevant to the Complaint;
 - c. Consult extensively with EBRD staff involved in the Project including personnel from the Bank's Environment and Sustainability Department, the Project Team Group, and the relevant EBRD Resident Office;
 - d. Solicit additional oral or written information from, or hold meetings with, the Complainant, any other Relevant Party and, further, any interested person or party as may be appropriate for the conduct of the Compliance Review;
 - e. If necessary to ascertain relevant facts, conduct a visit to the Project site accompanied by such officials of the Bank, the Complainant, the Client or other persons, as she may consider necessary and appropriate;
 - f. Request the PCM Officer to retain additional expertise if needed;
 - g. Identify any appropriate remedial changes in accordance with PCM RP 41, subject to consideration of any restrictions or arrangements already committed to by the Bank or any other Relevant Party in existing Project-related agreements; and
 - h. Take any other action as may be required to complete the Compliance Review within the required timeframe, and in consultation with the PCM Officer as appropriate.

Procedure: General

10. The Compliance Review Expert shall enjoy, subject to the provision of reasonable notice, full and unrestricted access to relevant Bank staff and files, and Bank staff shall be required

to cooperate fully with the Compliance Review Expert in carrying out the Compliance Review.

11. The Compliance Review Expert shall take care to minimise the disruption to the daily operations of all parties involved in the Compliance Review process, including relevant Bank staff.
12. Generally, all Relevant Parties shall cooperate in good faith with the Compliance Review Expert to advance the Compliance Review as expeditiously as possible and, in particular, shall endeavor to comply with requests from the Compliance Review Expert obtaining access to sites, submissions of written materials, provision of information and attendance at meetings. The Compliance Review Expert will advise the PCM Officer of situations where the actions or lack of action by any Relevant Party hinders or delays the conduct of the Compliance Review.
13. Access to, and use and disclosure of, any information gathered by the Compliance Review Expert during the Compliance Review process shall be subject to the Bank's Public Information Policy and any other applicable requirements to maintain sensitive commercial and/or other information confidential. The Compliance Review Expert may not release a document, or information based thereon, which has been provided on a confidential basis without the express written consent of the party who owns such document.

Compliance Review Report

14. In accordance with PCM RP 42, the Compliance Review Expert shall prepare a Report. The Report may include a summary of the facts and of the allegations in the Complaint, and the steps taken to conduct the Compliance Review. The Relevant Parties shall be provided an opportunity to comment on the draft Report, and the Compliance Review Expert shall consider the comments of the Relevant Parties when finalizing the Report. In addition, in cases of non-compliance, the Report shall include recommendations according to PCM RP 44.
15. The recommendations and findings of the Compliance Review Report shall be based only on the circumstances relevant to the present Complaint and shall be strictly impartial.
16. Prior to submitting the Compliance Review Report to the Relevant Parties and to the Board in accordance with PCM RP 43, or sending the draft Compliance Review Report to the Bank's Management and the Complainant in accordance with PCM RP 45, the PCM Officer will verify that there are no restrictions on the disclosure of information contained within the

Report, and will consult with the Relevant Parties regarding the accuracy of the factual information contained therein.

Exclusion of Liability

17. Without prejudice to the privileges and immunities enjoyed by PCM Experts, the Compliance Review Expert shall not be liable to any party for any act or omission in connection with any Compliance Review activities undertaken pursuant to these Terms of Reference.

Annexes

Annex I – Complaint

Annex II – Bank’s Response

Annex III – Client’s Response

Annex I – Complaint

Translated from Russian

<p>1. Name of the Person(s) or Organisation(s) filing the Complaint (“the Complainant”).</p> <p>Yuri Pavlovich Krivodanov, Head of Administrative Office, National Expert Council on Transparency and Sustainable Development, Director, NGO Blago, Chairman, Kazakhstan Aarhus Committee Not-for-Profit Organisation</p>
<p>2. Contact information of the Complainant (please include email address and phone number if possible).</p> <p>Tel. +7 7212 42-06-87, mobile +7 705 334 48 54, e-mail varpet54@mail.ru</p>
<p>3. Is there a representative making this Complaint on behalf of the Complainant?</p> <p>No (if yes, please provide the Name and Contact information of the Representative):</p> <p><i>Please attach proof that the Representative has been authorised by the Complainant to file the Complaint. For example, this can be in the form of a letter signed by the Complainant giving permission to the Representative to make the Complaint on his behalf.</i></p> <p>No</p>
<p>Is proof of authorisation included with the Complaint?</p> <p>No</p>
<p>4. Are you requesting that this Complaint be kept confidential?</p> <p>No (if yes, please explain why you are requesting confidentiality)</p>
<p>5. Please provide the name or a description of the EBRD Project at issue.</p> <p>South-West Transit Corridor Reconstruction Project (“the South-West Roads Project”), whose route passes through Aktyubinsk Province</p>
<p>6. Please describe the harm that has been caused or might be caused by the Project <i>(please continue on a separate sheet if needed)</i>:</p> <p>The fact that the Bank’s specialists [REDACTED] have ignored our communications concerning the defects of implementation of the reconstruction project has resulted in significant harm to:</p> <ul style="list-style-type: none"> A) Residents of the population centres adjoining the South-West Transit Corridor; B) The establishment of a Network of Expert Councils on Transparency and Sustainable Development, a project being implemented under the terms of the Memorandum of Understanding and Cooperation signed on 14 June 2012 between the RK Ministry of Transport and Communications Highways Committee, companies participating in the implementation of the

South-West Transit Corridor Reconstruction Project and the Association of NGOs represented by NGO Blago.

C) The image of the NGOs monitoring the progress of the South-West Roads Project.

The harm caused to the residents of the population centres listed below, adjoining the South-West Transit Corridor, consists in the following:

1. The village of Zhaisan

- 1.1 There is no off ramp at the 96th km of the route, which would have been convenient for the residents, and would not have been snowed-under in the winter, because there is a free space on the site and the railway branch line protects it from snow drifts.
- 1.2 There is no off ramp to the college grounds or to the village of Voznesenovka, and cars have to travel straight on across the fields.
- 1.3 There is no crossing for cattle (150 head) or sheep and goats (600 head) opposite the cemetery (at the 97th km of the route) or on the east of the village. This harms the interests of over 400 households.
- 1.4 There are no toilet facilities at the bus stops.
- 1.5 The 86th – 88th km part of the route suffers from constant large snow drifts due to the road dividers and the lack of snow barriers.
- 1.6 The quality of the road is poor: there are transverse cracks everywhere due to the failure to restore the top soil or carry out soil reclamation. As a result, the rains have been eroding the embankment and the shoulders have subsided.
- 1.7 The failure to restore the top soil or carry out soil reclamation has also resulted in the shoulders becoming overgrown with toxic grass which causes allergy, while the dust from the road is blown into the village and the market gardens.

2. The village of Kensakhara

- 2.1 There is no lighting along the Kensakhara section of the road.
- 2.2 There is no crossing for agricultural machinery (12 vehicles) by the Kensakhara on ramp.
- 2.3 The old road to Martuk is damaged.
- 2.4 There are no pedestrian crossings, bus stops or toilet facilities at the bus stops.

3. The village of Sarzhansai

- 3.1 There is no 500 m long sound barrier along ul. Aktyubinskaya.

4. The village of Martuk

- 4.1 The road becomes snowed-under due to the design of the road dividers and no road clearing takes place.
- 4.2 The shoulders are crumbling and subsiding.
- 4.3 The cattle crossing by the new bridge on the Elek is very narrow and the cattle won't cross it, it needs to be widened (300 head of cattle and 50 head of sheep and goats).

- 4.4 There is no crossing for agricultural machinery by the junction leading to the new road.
- 4.5 None of the woodland belts along the route have been restored.
- 4.6 The sites of two open-cast mines (behind the Kazmunaigaz filling station and by the Elek bridge) have not been recultivated.

5. The village of Khlebodarovka

- 5.1 The off ramps on the south and north sides of the village were damaged during construction and have not been repaired.
- 5.2 Trucks have damaged the sports ground as well Aitike bi, Zhenis, Aibergenova and Trenina streets.
- 5.3 There is no bus stop by the exit to Martuk.
- 5.4 There are no toilet facilities at the bus stops.
- 5.5 The shoulders have not been recultivated.

6. The village of Kuraily

- 6.1 The turning space at the exit from the village should be closer to the village, near the camp site.
- 6.2 The design of the road dividers produces constant snow drifts.
- 6.3 There is no lighting along the road.
- 6.4 Internal roads have been left in a dreadful condition.
- 6.5 Rain water erodes the off ramp to Rossovkhoz. The ramp itself is very steep. It should be moved to a more suitable location.
- 6.6 Junction 39 should have a bus stop and a pedestrian crossing.
- 6.7 Under the interchange on the approach to Aktobe the road narrows suddenly and dangerously and this causes accidents, including fatal ones. The road must be widened as a matter of urgency.

7. If you are requesting the PCM's help through a **Problem-solving Initiative**, you must have made a genuine effort to contact the EBRD or Project Sponsor regarding the issues in this complaint.

Have you **contacted the EBRD and /or the Project Sponsor** to try to resolve the harm caused or expected to be caused by the Project?

Yes

(Mr. Krivodanov's reply appears in a separate file)

9. If you believe the EBRD may have failed to comply with its own policies, please describe which EBRD policies.

A) Public Information Policy, Paragraph 3 (Through its commitment to open communication, the Bank demonstrates its willingness to listen to third parties so as to benefit from their contributions to its work in

fulfilling its mandate).

B) Environmental and Social Policy, Point 15. The EBRD is strongly committed to the principles of transparency, accountability and stakeholder engagement. This means the obligationto participate in meaningful dialogue with the Bank's stakeholders in accordance with the Public Information Policy).

C) European Principles for the Environment (EPE) adopted by the EBRD.

10. Please describe any other complaints you may have made to try to address the issue(s) at question (for example, court cases or complaints to other bodies).

Letters on the defects identified by the monitoring process were sent to the following entities:

A) SNC-Lavalin, the Transit Corridor management company [REDACTED]
[REDACTED]

B) Egis International/KDP construction monitoring company [REDACTED]
[REDACTED]

C) Main Contractor Cengiz Insayi Sanayi VE Ticaret A.S. [REDACTED]
[REDACTED]

D) RK Ministry of Transport and Communications Highways Committee [REDACTED]
[REDACTED]

11. Are you seeking a Compliance Review where the PCM would determine whether the EBRD has failed to comply with its Relevant Policies?

Yes

12. Are you seeking a Problem-solving Initiative where the PCM would help you to resolve a dispute or problem with the Project?"

Yes

13. What results do you hope to achieve by submitting this Complaint to the PCM?

Proper and full implementation by the Bank of the provisions of its own policies.

Date:

20 October 2014

Complainant's signature

.....

Mr. Krivodanov's reply to Question 7

Translated from Russian

We raised the issue of the violations of the EBRD's Public Information Policy and of the rights of local residents, identified by the monitoring process undertaken in April 2013, in letters addressed to the following:

1. Note on the absence of a real intention to work with civil society organisations and a proposal to change this practice

From: Yu. Krivodanov

Sent: Monday, October 22, 2012 3:09 PM

To: [REDACTED] EBRD

Cc: [REDACTED]

Enclosed please find our report on monitoring the progress of the Western Europe-Western China International Transit Corridor Reconstruction Project covering three provinces, which the World Bank have kindly translated into English for us. This will enable your specialists on the one hand to assess our approach to organising public monitoring, and on the other to recognise the need to support such organisation.

In this context, may I point out that the progress of reconstruction of the section of the transit corridor passing through Aktyubinsk province, financed by the EBRD, was not monitored. One of the main reasons for this was the lack of any real intention on the part of the Bank to work with civil society.

Even after I had spoken at the Bank's Annual Meeting in London, nothing changed, and there has still been no response to my suggestions from the Bank's representatives.

There is no doubt that this section of the transit corridor also contains many defects requiring public monitoring. However, everything points to the Bank not being interested in raising the role and significance of civil society in Kazakhstan.

Moreover, a similar attitude to NGOs on the part the Bank's specialists can also be observed in connection with the "colonialist" policy pursued by AccelorMitalTemirtau JSC.

I urge you to use your best efforts to ensure that the relevant departments of the Bank honour the Bank's commitments to cooperate with NGOs, not just in word but in deed.

In particular, I would be grateful if you could help to arrange a meeting between me and the management of the EBRD's Kazakhstan office at which I could present our project and put forward our cooperation proposals.

Yours sincerely,
Yu. Krivodanov

This note received a positive response, and in November 2012 I met with the EBRD [staff] [REDACTED]. However, in spite of her assurances, we were still not able subsequently to establish cooperation with the Bank.

2. Information on results of monitoring progress with the reconstruction of the Aktyubinsk Province section of the Western Europe – Western China International Transit Corridor

From: Yu. Krivodanov

Sent: Friday, May 31, 2013, 4:11 PM

To: [REDACTED]

Subject: Report on Aktyubinsk Province monitoring results

Good morning all,

This is to let you know that we have now published a report on the results of monitoring the progress of reconstruction of the Aktyubinsk Province section of the Western Europe – Western China International Transit Corridor on the Association's site, <http://open-society-kz.org/deyatelnost-po-sozdaniyu-espur-v-oblastyach-rk/o-sozdanii-espur-aktyubinskoy-oblasti>

Yours sincerely,
Yu. Krivodanov

We received no response to this note

3. Telephoned message from the RK Ministry of Transport and Communications Highways Committee

(The text of the message is in English)

We received no response to this invitation.

4. Note on the failure to acknowledge our letters and a further proposal to engage in cooperation

From: Yu. Krivodanov

Sent: Thursday, January 23, 2014, 6:45 PM

To: [REDACTED]

Subject: Report on Aktyubinsk Province monitoring results

Dear colleagues,

It is with great disappointment that I review the results of our most recent attempt to establish constructive cooperation with the EBRD. The numerous shortcomings identified by the process of monitoring the Western Europe – Western China International Transit Corridor (the 127 inhabitants of six settlements in Aktyubinsk Province questioned by us quoted 67 instances of such shortcomings) continue to be ignored by the Bank's specialists (the unanswered Note on monitoring results of 31.05.13, see below).

The Bank has also ignored the invitation to the Round Table at which the results were discussed, which was held on 13 November 2013 at the Ministry of Transport and Communications.

I would like to stress that the event was conducted not by NGOs but by the Ministry itself, and the EBRD was the only one of the invitees which failed to attend (I sent you the Ministry's invitation on 08.11.13).

In spite of this, we intend to continue our attempts to establish cooperation with the Bank.

In particular, we suggest that the parameters of this cooperation should be agreed as soon as possible in view of the Bank's intention to participate in financing the Great Almaty Ring Road (BKAD).

It is important that we do this now, at the earliest possible stage, since our experience shows that including the public in the monitoring process at a later stage is less effective and is associated with a large number of adverse effects.

Moreover, if we agree the parameters of our cooperation in the coming months, then at the next Annual Meeting of EBRD Governors in Warsaw we will not be compelled to complain to the Bank's management

– on the contrary, we will be able to present to all participants an example of constructive relationship-building.

In this context, I would be grateful if you could let me know the contact particulars of the Bank employee with whom we could put such an agreement into practice.

All the best,

Yu. Krivodanov

This letter also remained unanswered

Overall, the above examples of inaction on the part of the Bank's officers have caused the harm referred to above to the proposed establishment of a Network of Expert Councils on Transparency and Sustainable Development and to the image of the NGOs that carry out the monitoring.

Annex II – Bank’s Response

Project	39258 Kazakhstan: South-West Corridor Project
Project Team	Operation Leader: [REDACTED] Office of General Counsel (Banking): [REDACTED] Environment and Sustainability: [REDACTED]
To: PCM Officer	[REDACTED]
Via: VP Risk	[REDACTED]
From: Managing Director, Environment and Sustainability Director, Infrastructure, Russia & CA	[REDACTED] [REDACTED]
Date of issue to PCM Officer	19 January 2015

1. INTRODUCTION

A complaint (2014/04) was registered with the Project Complaint Mechanism (PCM) on 24 November 2014 regarding the South-West Corridor Road project (DTM 39258) in Kazakhstan. This document is the “Bank Management Response” to the Complaint as foreseen in PCM: Rules of Procedures (Clause 19).

The project was approved by the EBRD Board of Directors on 11 November 2008 and is subject to the 2003 Environmental Policy (i.e., the project passed Concept Review on 9 May 2008 prior to the date when the 2008 Environmental and Social Policy entered into force - 29 October 2008). Section 1 of this “Bank Management Response” describes the project setting and its related components, and the subsequent sections respond to the particular points made in the Complaint.

The Complaint raises concerns alleging defects in project implementation which it states has resulted in significant harm to the residents along the road corridor, and it provides a list of measures that the Complainant thinks should have been included in the project. It also raises concerns about the Bank’s response to its communication on these issues. It requests a Compliance Review to determine if the Bank’s relevant Environmental Policy requirements are met. It also seeks a Problem Solving Initiative to resolve any identified problems.

2. SUMMARY OF MANAGEMENT RESPONSE

The project was structured to comply with the requirements of the 2003 Environmental Policy that are applicable to a category B/1 project (i.e., a project requiring an environmental analysis or the future project and an audit of the existing assets). It should be noted that the 2003 Environmental Policy was an

environmental policy, and that detailed social requirements were not incorporated into the policy until 2008. The term, environmental, however, was understood broadly to include certain community impacts.

The project involves mainly refurbishment of existing roads with some short re-alignments to improve the road's safety and it was categorised as B/1, requiring an environmental analysis and audit. The Environmental and Social due diligence carried out by independent consultants established detailed baseline environmental and social conditions of the project site, assessed the potential environmental and social impacts of the project and drafted an Environmental and Social Management Plan (ESMP) comprising mitigation and monitoring measures for both types of impacts that are common to most roadway projects, such as land use change, noise, atmospheric and water pollution, as well as those that were specific to the EBRD-financed projects. Alternatives were considered focusing mainly on the location, design and construction of curve straightenings and grade levellings, bypasses and flyovers, bridges and viaducts, interchanges and local access roads, and were managed under the technical due diligence.

The ESMP comprised the Environmental and Social Action Plan (ESAP) for the project and the project became effective on 29 September 2009 only after Client confirmation of their approval of the ESAP (i.e., approval of the plan was a condition of loan effectiveness). Construction started in April 2011. For the monitoring of the project, an internationally renowned construction supervision consultant was assigned. Another internationally renowned Project Management Consultant (PMC) was also assigned to assist the Client in managing the WB and EBRD financed sections of roads, including on environmental and social matters, and served as an independent supervisor to ensure the implementation of Environmental Management and Social Management plan.

No concerns were raised about the project by any stakeholders after EBRD successfully addressed some initial concerns raised by a Kazakh CSO regarding resettlement and public consultation in 2009 and 2010. Considering the nature of the project (refurbishment of roads with minor realignments) and the expertise of consultants engaged to monitor the project and assisting the client with the implementation of the ESAP, the project was deemed as a low-risk and accordingly, passive monitoring of the project through review of annual environmental and social reports was deemed as adequate.

When the Bank became aware of the concerns raised in late 2014, the Bank appointed an independent monitoring consultant to review the status of the ESAP and the issues raised, and a monitoring trip was scheduled in December 2014.

In accordance with the provision in Article 24 of the RPs, the Bank may decide to agree that certain criteria are satisfied in order to expedite the determination of eligibility, Bank Management acknowledge that this i) is a Bank financed project, ii) the villages in question are along the section of the Road financed by the Bank and were identified during due diligence, and iii) many of the issues in the complaint of noise, dust, snow drift, and the ability of farmers to move agricultural equipment and livestock across the roads are issues that would be covered in the Bank's assessment of the project under the 2003 Environmental Policy, and indeed were identified by the Bank during due diligence. Other issues, such as the provision of toilets by bus stops, would not be covered under the Policy, but are more suggestions made for design.

3. THE PROJECT

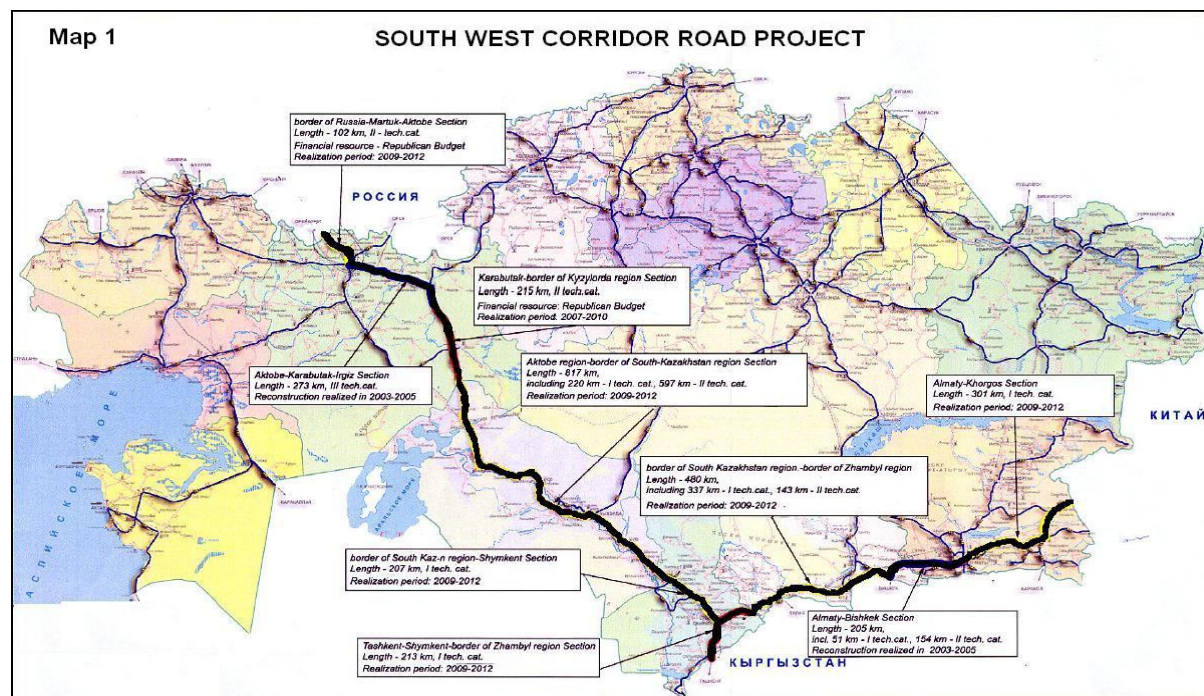
The project is the most northerly link in Kazakhstan of the South West Transport Corridor, also called the Western China - Western Europe Transit Corridor. The length of the corridor in Kazakhstan is 2,787 km, which connects to the highway networks in China, Uzbekistan and Russia (Map1). The sections of the road corridor are as follows:

- (i) Russian Federation– Martuk – Aktobe (102 km);
- (ii) Aktobe – Shymkent (1,024 km);

- (iii) Shymkent – Kordai (617 km);
- (iv) Kordai – Zhambul – Almaty (480 km); and
- (v) Almaty – Horgos (351 km).

The Government asked the EBRD to assist with financing the reconstruction of the first of these sections, namely a 102 km Russian Federation – Aktope road section.

The project was to rehabilitate and upgrade the 102 km long road section from Aktope to the border of the Russian Federation, remaining a two lane road within present alignment but with a slightly increased cross-section, minor horizontal alignments to improve safety and improved shoulders. Approximately 9.5 km of the existing road adjacent to Aktope was widened from two lanes to four lanes.



The project was approved by the EBRD Board of Directors on 11 November 2008 and is subject to the 2003 Environmental Policy.

The Contract for the South West Roads Project Management was signed on 8 December 2009 between the Committee for Roads of the Ministry of Transport and Communication of the Republic of Kazakhstan and the PMC. PMC team established their office in February 2011 in Astana and since then it is fully functional. The basic function of PMC team is to work with the Client for implementation of the project. The PMC team is acting as an Independent supervisor to ensure the implementation of ESAP.

The main contract for construction works was awarded on 12 July 2010 following the Bank's PP&R. A contract for construction supervision services was awarded to an internationally renowned consultant following the Bank's PP&R.

Construction started in April 2011 and was completed in September 2013.

Further technical details about the project are provided in the sections below:

3.1 Existing road before the project

General

The existing two lane single carriageway road started in the northern urban fringe of Aktobe city, just after a large steel and chromium smelter plant at a point demarcated by a “Km 0” marker post. Prior to this, the existing road was also a single two lane carriageway and it ran in a narrow 20 m to 30 m wide clear corridor, through the area of a smelter plant.

After Km 0, the road then ran in a north-westerly direction up the Russian border at Km 102, mostly through flat or gently rolling open steppe grassland, which was generally unutilized.

The road was located in a 130 m right-of-way (“ROW”) where no development or agriculture was permitted. This ROW was grassed and it also contained shallow open ditches, some 10 m wide on both sides of the road, over the majority of the road length. These ditches had been formed when fill material for the construction of the road embankment was excavated from both sides of the road, and they were not intended to have any particular drainage function. The protected road ROW had been respected over almost the entire length of road and areas of agriculture or residential settlements did not generally infringe on the protected ROW.

Villages and Settlements

There are six villages adjacent to the road, but the houses are generally set back between 50 to more than 100 m from the road. The road also passed an Airforce training camp (at km 29), but again this camp was located around 150 m back from the road. The road ran on a bypass around the larger town (Martuk) located around km 65 to the east of the road, avoiding the residential areas of the town. These six villages are identified in the Complaint.

Road Category

Before the project, the full length of the road was classified as a Category III road, under the Kazak highway design standards. This category is normally allocated to a single carriageway road with daily traffic of between 1,000 and 3,000 vehicles per day and it requires a pavement width of 7 m and shoulder width, each side, of 2.5 m. The existing pavement and shoulder widths generally conformed to the Category III requirements.

Road Condition

In general, the condition of the road was considered to be fair, taking account of its age, and the riding quality of the pavement is reasonable. Routine maintenance, consisting of pot hole filling, as well as the application of short lengths of bituminous seal coat and thin asphalt overlays had been carried out, probably on an annual ‘as needed’ basis. There was however extensive structural and thermal cracking in the asphalt surface over the full length of the road and the road pavement was at the end of its normal working life. Reconstruction of the asphalt road pavement was required over the full length of the road.

Bridges

There were a total of 13 bridges on the road, which had been constructed between 25 and 45 years ago. These bridges ranged from short single span bridges less than 10 m long, to a 14 span bridge with a length of 337 m, as detailed below:

Single span bridges with length less than 10 m: 3

Single span bridges with length between 10 and 20 m: 5

Multi-span bridges with total length between 40 and 70 m: 4

Multi-span bridges with total length more than 300 m: 1

The condition of these bridges was assessed as fair and it was expected that they would require relatively minor rehabilitation works which might consist of replacement of expansion joints, replacement of sections of cantilevered sidewalk as well as replacement of guardrails and hand rails.

Road Alignment Conditions

Although much of the road alignment was relatively straight, there were six sections where there were sharp horizontal curves with sub-standard radii. There were also three other sections where the road ran through gently rolling terrain which contain relatively sharp vertical crest curves where there was sub-standard forward sight distance for safe overtaking and stopping.

Railway Crossings

A railway line ran roughly parallel to the road and it crossed the road at two locations (km 24 and km 74.5). These two crossings were 'at-grade' and traffic flow was controlled by barriers when trains were running. The road alignment had sharp, sub-standard horizontal curves on both sides of the two railway crossings, which had probably been introduced deliberately to reduce vehicle speeds on the approach to the 'at-grade' railway crossings.

3.2 Technical Scope of the EBRD Project

The investment project comprised the following:

- (i) an initial section of dual two lane carriageway running out of Aktobe city, from km 0. This dual carriageway is provided to the Kazak Category I-b standard, which requires two 7.5 m wide carriageways with shoulders having a total cross-section width of 27.5 m. The dual carriageway section terminated at km 8.9, which is just before the heavily used 'informal' junction at km 9.1. Widening of the existing road to form the dual carriageway could be accommodated within the existing road ROW;
- (ii) the remainder of the road, running up to the Russian border at km 102 was upgraded from the existing Category III standard to Category II standard. This upgrading involved relatively minor widening of cross-section width from the existing 12.0 m cross-section width to give a new cross-section width of 15.0 m. The existing embankment was therefore needed to be widened by only 3 m to achieve the Category II standard and this could be achieved within the existing ROW;
- (iii) local realignments of the road were proposed at the six sections where there was sub-standard horizontal curvature. These realignments provided the minimum horizontal radius of 800 m which is required by the Kazak highway design standards. These realignments were required on safety grounds, and they involved land acquisition outside the dedicated road ROW, which was carried out in accordance with the Resettlement Action Plan (RAP) which was approved by the EBRD;
- (iv) realignments of the road were proposed at the two railway crossings at km 24 and km 74.5 to provide grade separated crossings and remove the sub-standard horizontal curvature. Each of these realignments were up to 8 km in length and involved acquisition of open steppe land outside the road reserve, which again was carried out in accordance with the RAP;
- (v) the existing road pavement was reconstructed over the full length of the road to provide a pavement design life of 20 years.

It was also necessary for vertical re-alignments to be introduced at all locations where there were sub-standard, sharp, vertical crest curves. These vertical realignments could be constructed within the existing road ROW and they were designed to provide the full stopping sight distance and overtaking sight distance a design speed of 120 km/hour. This design speed is required in the Kazak design standards for a Category II road.

3.3 EBRD Environmental and social due diligence

The project was categorised B/1 under the EBRD 2003 Environmental Policy, requiring an environmental analysis of the proposed project, including resettlement impacts, and an environmental audit of the existing road.

The project is part of the upgrading of the international transport corridor linking Western Europe to Western China. Following an agreement between the IFIs, an Environmental Assessment Review Framework (EARF) was developed by the ADB to provide a framework for and guidance to the methodology, content and format of the environmental and social assessments ensuring consistent approach to all segments of the proposed Corridor regardless of the source of financing.

The Bank contracted an external road sector expert to undertake a preliminary technical, environmental and social review of the project so as to identify potential environmental and social issues and the likely extent of future impacts. The review showed that more than 90 per cent of the project comprised the reconstruction of an existing roadway within the right-of-way. Most of the road was to remain as a two lane road, with its cross-section width increased by 2.5 metres. A 9.5 kilometre section of the road at the Aktobe end was to be upgraded to four lanes. This would involve widening the existing road cross-section by 15 metres. At seven locations horizontal realignments were proposed to improve safety conditions. At five of these locations, minor horizontal realignments, generally taking out sharp, substandard curves would comprise less than 1 km in length each. Two other realignments totalling around 16 km in length were proposed to provide grade separated railway crossings. The preliminary review concluded that any potential adverse future environmental and social impacts were site-specific, limited in number, and could readily be identified, assessed and mitigated. For the above reasons, the project was required to undergo an Environmental and Social Analysis (ESA), including an environmental and social baseline review.

The ESA established detailed baseline environmental and social conditions of the project site, assessed the potential environmental and social impacts of the project and proposed an Environmental and Social Action Plan (ESAP) comprising mitigation and monitoring measures. Alternatives were considered focusing mainly on the location, design and construction of curve straightenings and grade levellings, bypasses and flyovers, bridges and viaducts, interchanges and local access roads. The ESA identified environmental and social impacts and provided mitigation measures for both impacts which were common to most roadway projects, such as land use change, noise, atmospheric and water pollution, as well as those that were specific to the EBRD-financed project.

An ESAP was developed and agreed with the Client comprising mitigation and monitoring measures for each identified environmental and social impact issue at design, construction and operation stages of the project, environmental and social enhancement measures, road safety improvements as well as a public disclosure and stakeholder engagement programme.

4. SPECIFIC CONCERNS AND BANK MANAGEMENT RESPONSE

Below section, groups each concern raised in the Complaint under the relevant subject matter and provides the Management Response for each subject matter. The concerns in the Complaint are grouped as follows:

1. Off ramps for convenient access (Comments 1.1 and 1.2)
2. Snow cover, snow drift (Comments 1.1; 1.5; 4.1; and 6.2)
3. Road quality, damaged road (Comments 1.6; 2.3; 4.2; 5.1; and 6.5)
4. Quality of reinstatement (Comments 1.7; 5.5; and 6.4)
5. Lighting along road section (Comments 2.1; 6.3)
6. Crossings for pedestrians, cattle, and agricultural machinery (Comments 1.3; 2.2; 2.4; 4.3; and 4.4)

7. Noise (Comment 3.1)
8. Woodland restoration (Comment 4.5)
9. Rehabilitation of quarries (Comment 1.5)
10. Damaged public property (Comment 5.2)
11. Comments on design (Comments 5.3; 6.1; 6.5; 6.6; and 6.7)
12. Toilet facilities (Comments 1.4; 2.4; and 5.4)

1. Complaint Concern: Off ramps for convenient access

Zhaisan

- 1.1. There is no off ramp at the 96th km of the route, which would have been convenient for the residents, and would not have been snowed-under in the winter, because there is a free space on the site and the railway branch line protects it from snow drifts.*
- 1.2 There is no off ramp to the college grounds or to the village of Voznesenovka, and cars have to travel straight on across the fields.*

Management Response: Off ramps for convenient access

The need to incorporate community needs, as well as envisaged regional development and investment plans into the road detail design (i.e. access roads, detour roads, traffic intensity, etc.) was identified as an issue during the ESA and included in the ESAP. It was recommended that the Final design team should participate in public hearings at predesign stage in order to ensure all social concerns were addressed. Provision of access to the service roads was proposed as a mitigation measure. The ESAP also required the design team to consult with the Ministry of Nature Protection and Water Resources (MOEP) team and develop best practice means for the management of resident and livestock crossing of the road and provision of access to agricultural land. It also required interviews and meetings as envisaged by the public consultation program with local residents, farmers and hunters (and Oblast Fishing and Hunting Committee).

A monitoring trip was carried out in December 2014 by EcoSocio Analysts LLC consultants (further referred to as Consultant) assigned by the Bank to assess the status of the commitments in the ESAP.

The Consultant confirmed that during the planning and construction period, the issues raised including those by the Network of Expert Councils in Transparency and Sustainable Development (ESPUR)³⁵ were addressed by the design team in a timely manner. When there were issues which could not be addressed, the reasons were explained to the relevant communities. According to the Consultants, this was reflected in:

- Public Notices in Russian and Kazakh languages in the newspapers Aktjubinskiy Vestnik, Aktobe and Martuk Tanysy;
- Public meetings minutes of 17.05.2010 (Aktobe) and 21.05.2010 (Martuk);
- Census results, seminars (2) and consultations with public that was affected by the road;
- Responses to the NGO “Blago” concerns by the ecologist employed by construction contractor;
- The project monitoring report prepared by the association Azamatyk Kuryltay in 2013; and
- NGO Blago monitoring report from 26/09/2014, which showed that the complaints for the given villages were addressed and some of them (not included in this complaint) were satisfied.

The results were placed on the web-site www.europe-china.kz/fininst. The site also contains the initial EIA, ESAP, project implementation schedule, the grievance handling mechanism and the project

³⁵ ESPUR is implemented in the Memorandum of understanding and cooperation network, signed on the 14th of June 2012 between the RoK Committee for Roads Ministry of Transport and Communications, the companies, which take part in the PRTK realization and the NGO organizations represented by NGO “Blago”

discussion forum where the site administrator gives timely responses. This is good practice, but we note is enhanced measure from that was required of Category B projects under the 2003 Environmental Policy.

However, the Bank's Consultant has identified some issues with respect to the stakeholder engagement activities including lack of minutes of meetings and the non-systematic approach of the construction contractor with respect to stakeholder engagement and not relating it to the ESAP requirements. The Client accepted suggestions/recommendations requested by the public which resulted in additional implementation measures including:

1. Pedestrian crossings near the Kurayly;
2. Off-ramps to Zhanatan and Zhaysan villages (near the cemetery) and to the Zam-Zam spring with the spring rehabilitation;
3. Kurayly cattle underpass widening for the agricultural machinery;
4. Length increase of two railway overpasses (Khlebodarovka and Martuk) for agricultural machinery and local transport needs.

Based on the Consultant's findings, the following comments can be made with regard to the specific concerns, 1.1 and 1.2 raised in the Complaint:

- 1.1 There is a detour from the old road at km.92³⁶ which was not altered and is actively used by the village population. There are also two more engineered off-ramps from the new road in the direction of Zhaysan village from the North.
- 1.2 Construction of an additional off-ramp to the village at the concerned location is limited by safety considerations: according to the RoK Construction Standards and Regulations (SNiP) RoK 3.03-09-2006 par. 6.1.2, the arrangement of off-ramps is not allowed at a distance less than 150m from a bridge and on the inner side of a turn. The agricultural machinery can access the fields where these roads lead to via a reservoir dam using the off-ramp at km.96,773. The distance to the fields, in this instance, increases from 1.5km to the 5-6km, which is considered acceptable for agricultural works. The off-ramp cannot be reconstructed at the same location, which is less than 150m minimum allowed distance from the bridge for an off ramp or moved further away due to road safety standards. Agricultural machinery can cross the road under the bridge except the high water time.

2. Complaint Concern: Snow cover, snow drift

Zhaisan

1.1 There is no off ramp at the 96th km of the route, which would have been convenient for the residents, and would not have been snowed-under in the winter, because there is a free space on the site and the railway branch line protects it from snow drifts.

1.5 The 86th – 88th km part of the route suffers from constant large snow drifts due to the road dividers and the lack of snow barriers.

Martuk

4.1 The road becomes snowed-under due to the design of the road dividers and no road clearing takes place.

Kuraily

6.2 The design of the road dividers produces constant snow drifts.

Management Response: Snow cover, snow drift

³⁶ According to the new road layout. The difference in kilometers could have appeared because the final length of the road is 1.124 km shorter than in the planned layout.

The need to incorporate snow retention and measures protecting road from snowdrifts was identified as a potential impact in the ESA and included as a requirement in the ESAP. The ESAP required the detailed design team to consult with the MOE team and develop best practice means for provision of snowdrift prevention measures along the existing road.

The road design standards require installation of the road barriers on embankments higher than 3m and steeper than 1:3 in order to prevent vehicles overturn. Where there are barriers on both sides of the road and a tree line is missing, snow accumulates on the road albeit not to the extent that the traffic ceases completely. To resolve this issue, a drifts survey was conducted by the road services in the winter of 2013-2014 and this study identified the locations which required the installation of additional snow breaks. The breaks started to be constructed from available wood. As the official road category has now increased, it will be provided with a larger number of snow removing machinery. The procurement of the machinery is underway. It is the responsibility of the road operator to procure, provide and properly maintain the required machinery. The machinery capacity is designed to be sufficient to clean the road within 6 hours after snowfall stops³⁷.

3. Complaint Concern: Road quality, damaged road

Zhaisan

1.6 The quality of the road is poor: there are transverse cracks everywhere due to the failure to restore the top soil or carry out soil reclamation. As a result, the rains have been eroding the embankment and the shoulders have subsided.

Kensakhara

2.3 The old road to Martuk is damaged.

Martuk

4.2 The shoulders are crumbling and subsiding.

Khlebodarovka

5.1 The off ramps on the south and north sides of the village were damaged during construction and have not been repaired.

Kuraily

6.5 Rain water erodes the off ramp to Rossovkhoz. The ramp itself is very steep. It should be moved to a more suitable location.

Management Response: Road quality, damaged road

The ESA requires control of road quality through regular visual inspections, analysis of road accidents reports and collection of drivers' complaints (Section 2, 3.6). Accordingly, road examinations and repairs are to be carried out in the spring and in autumn following completion of the construction. The Project Completion Report prepared in 2013 states that the quality of the works were acceptable with no failures observed. The road was examined in spring 2014 and the problems indicated by the Complainant were eliminated. Examinations will be repeated in spring and autumn 2015 before the guaranty period is over.

³⁷ P.5.1.5 of the "Road repair and maintenance technical rules" PR RoK 218-09-03 defines the timeframe from events' (e.g. snowfall, snowstorm, blizzard or the ice deposit occurrence) termination until the traffic and safety compliance obstacles elimination: 2 hours limit for the cities', airports' and permanent resorts' access lanes, tourist routs, roads that provide the food supply shipment, as well as the public transport roads, which are used by people to get to their jobs from home and vice versa. 6 hours limit for the III technical category intercity and national road sections with regular public transport traffic. The rest of the road sections refer to 12 or longer timeframe limits.

The 2014 monitoring consultants reported that at **Zhaysan** and **Martuk** the shoulders have been strengthened according to the construction standards³⁸. The temperature cracks on the asphalt and concrete covering are allowed by PR RoK 218-29-03 "the highways repair and maintenance standards" (table B.2). Taking into account the existing intensity of the traffic, the road PR RoK category allows the 20m total cracks length for 1000m² of the covering (about 20 cross cracks for 1 km of the road). The actual number and length of the cracks on the road are several times lower than the acceptable values.

It was reported by the monitoring consultants that for **Kensakhara**, maintenance of the old road is not necessary because the new road replaces the old road in full. The old road is under the Martuk District's responsibility and therefore is not part of the project³⁹. Complaints about the old road should be brought to the Martuk District's attention.

For **Khlebodarovka** the detours to the old road were checked by the monitoring consultant on 22.12.2014. They are reported to be at the same level as the new road, in good condition and are used by the villagers. A village council specialist reported to the monitoring consultant that the old road condition has not deteriorated much, but its poor condition became more apparent now, when drivers coming from the new road onto the old road access to the village have to reduce their speed from 100km/h to 50km/h. Previously the average speed was not much higher than 50km/h throughout the entire Aktobe-Mortuk road.

Kuraily: This is the off-ramp from the Northern Bypass of Aktobe (Severnnyy obhod), which is not part of this project.

4. Complaint Concern: Quality of reinstatement

Zhaisan

1.7 The failure to restore the top soil or carry out soil reclamation has also resulted in the shoulders becoming overgrown with toxic grass which causes allergy, while the dust from the road is blown into the village and the market gardens.

Khlebodarovka

5.5 The shoulders have not been recultivated.

Kuraily

6.4 Internal roads have been left in a dreadful condition.

Management Response: Quality of reinstatement

The Completion Report for the project indicates that all new and reshaped slopes have been covered with GEORID cells filled with top soil. The Report also states the reinstatement of diversion roads were completed in 2013 with the surface of the diversions and their surroundings levelled and topsoil spread all along.

The monitoring consultant who visited the project in December 2014 confirmed that in **Zhaysan** and **Khlebodarovka**, the top soil layer, removed before the construction, was returned to the embankment after the reconstruction finished. The new embankments were laid with geo-mesh, 20cm of top soil and

³⁸ Sp. 8.3.8 p. 8 RoK Construction Standards and Regulations 3.03.-09-2006 «Highways»: Road pavement of the same structure as on the main lanes should be provided on the road shoulders' edge strips and on the parking lanes. The rest of the shoulders surface should be strengthened according to the traffic intensity and nature, ground types, climate features with the grass seeding, crushed stone, gravel and slag pouring or other cheap local coarse-grained materials.

³⁹ The resolution of the government of RK from 05.12.2000 № 1809 "On the establishing the rules and conditions of highways classification and the list of public highways of republican value of the Republic of Kazakhstan" has defined the list of highways of the international and republican value, where the parts of the roads in the form of entrances to the village of Martuk are not mentioned and thus are not in the competence of the National operator on the management of highways.

seeding with the native grass was conducted. Some dust emanates from the embankments due to the time needed for grass to establish. Washouts are registered and reinstated by the contractor within the warrant maintenance of the road.

The monitoring consultant reported that there was no soil layer on the shoulders, and it has not been restored because there should not be any vegetation on them. The grass is regularly mowed clean. The embankments are naturally fixed by the local pioneer plants which subsequently give the way to a more complex community of perennial and annual plants. The dust rising from the embankments will stop with their overgrowing. At locations where the natural overgrowing does not happen, local perennial herbs and cereals will be transplanted. The toxins in some vegetation (not grass), is intended to discourage insects from eating the foliage. No non-native plant species were introduced and any pollen from the plants is normal in this area. As required under the ESAP, throughout the construction period regular soil analysis was carried out which indicated that there were no exceedances of the national norms.

The issues raised for **Kuraily** should be addressed by the district council as internal roads are not part of this project.

5. Complaint Concern: Lighting along road section

Kensakhara

2.1 There is no lighting along the Kensakhara section of the road.

Kuraily

6.3 There is no lighting along the road.

Management Response: Lighting along road section

The Consultant who visited the project in December 2014 confirmed that the road design standards and the ESA requirements are satisfied by the project.

For **Kensakhara**, the Construction Standards ⁴⁰ oblige installation of lighting where the road passes within the village boundary. The road is at 180-320m distance from the village, and therefore, the road lightning is not provided, however, there is a bus stop along the road and pedestrians will need to cross the road. The Bank will further consult with the Client in 2015 on the feasibility of improvements in pedestrian crossing safety and lighting near to the bus stop area.

For **Kuraily**, it was found that there had been no lighting due to two broken transformers. These transformers were repaired, and the lighting was restored.

6. Complaint Concern: Crossings for pedestrians, cattle, and agricultural machinery

Zhaisan

1.3 There is no crossing for cattle (150 head) or sheep and goats (600 head) opposite the cemetery (at the 97th km of the route) or on the east of the village. This harms the interests of over 400 households.

Kensakhara

2.2 There is no crossing for agricultural machinery (12 vehicles) by the Kensakhara on ramp.

2.4 There are no pedestrian crossings, bus stops or toilet facilities at the bus stops.

⁴⁰ Sp. 10.2 p. 10 RoK Construction Standards and Regulations 3.03.-09-2006 «Highways» stationary electrical lightning on the highways should be arranged on the sections within the settlement boundaries.

Martuk

4.3 *The cattle crossing by the new bridge on the Elek is very narrow and the cattle won't cross it, it needs to be widened (300 head of cattle and 50 head of sheep and goats).*

4.4 *There is no crossing for agricultural machinery by the junction leading to the new road.*

Management Response: Crossings for pedestrians, cattle, and agricultural machinery

Loss of access to communal pastures and agricultural land and increased risks of accidents during herding the cattle across the highway were identified as potential issues during the ESA. The social analysis showed that all villages situated along the project road have communal pastures on the opposite side of the road. At least twice a day, cattle and other livestock cross the existing road, thus disrupting the traffic and jeopardising the safety of travellers, herders and the animals. The reconstructed highway encourages higher travelling speeds, thereby increasing the number of unsafe situations.

The ESA required the final design to include the results of a detailed assessment of the site and the consultation with residents about the location of underpasses in areas where grazing patterns pose the highest risk to drivers and local residents as well as identification of possibilities to minimise the losses of agricultural land. The ESA recommended village meetings to be organised in each village located along the project road. In addition to the village meetings, it was also recommended that the local residents be given an opportunity to submit their recommendations and suggestions in written form within a certain period following the village meeting. These recommendations and suggestions were to be registered by the local akimats and sent to the project and final design teams.

The ESAP requires the design team to consult with MOEP team and develop best practice means for management of resident and livestock crossing the road and provision of access to agricultural land.

After their site visit, the monitoring consultant provided the comments below about the issues raised:

Zhaysan. The village has two crossings for cattle: one is a standard size⁴¹ crossing of 4m width x 2.5m height at km.98.248, the second crossing is the bridge at km.95.439. The first crossing is 0.9 and 1.3km west of two historic crossings over the road. The crossing inspection by the Consultant on 23.12.2014 indicated that the crossing is used by the cattle. Placing a two-side off ramp at the place of the cattle crossing was considered to be a priority by the district council and other local stakeholders when discussing the road design. The construction of a cattle crossing at this place would require a 3.7m embankment and resurfacing along 3.2km of the road to fit in the required vertical curves restrictions. Considering that at least some cattle started to use the existing crossing and that the cattle traveling distance increased by 0.1-1km, undertaking construction at such scale seems unreasonable. The frequency of the given crossings corresponds to the RoK Construction Standards.

Kensakhara

2.2 The Consultant found that neither the village residents nor the council requested the ramp during the consultations because it was used by only a few pieces of machinery to access the village dairy farm. The village council introduced this request after the completion of the road to further develop the road related services next to the farm. The village area council reported that they were negotiating with a private investor to develop the farm area. Part of the condition to develop the area would be the construction of

⁴¹ Sp. 6.1.6 p.6 RoK Construction Standards and Regulations 3.03.-09-2006 «Highways»: the I-III category road and the field road crossings and the cattle crossings can be combined with the closest artificial structures with the appropriate arrangement, and in case of their absence on the road sections longer than 2km their arrangement should be provided in case of necessity. The artificial structures dimensions for the filed roads and cattle crossings are represented in Table 1.6.6 and should be 4m width and 2.5m high.

this ramp. For two caterpillar tractors that require grade level crossing few times a year, a passage is arranged under the bridge 870m from the village off ramp entry. The tractors do not drive back to the village daily.

2.4 There are pedestrian crossings at the km55.4 and km55.8 bus-stops near the village entrance.

Martuk

4.3 The standard size cattle crossing of 4x2.5m is constructed according to the RoK Construction Standards and Regulations № 3.03.-09-2006 "Highways" to provide cattle crossing to their drinking place. The crossing inspection by the Consultant on 23.12.2014 showed that it is used by cattle. The Client's practice shows that some time is required for cattle to become used to a crossing. During this time temporary concentration barriers can be erected at both entries. Presence of a steep embankment and the road barriers remove the risk of the cattle being pushed on the road. The cattle can also pass under the new Elek River bridge.

4.4 Following the local residents' request, the two-side off-ramp was provided for agricultural machinery at km.64.265³⁶. The caterpillar tractors can pass through the cattle crossing and under the bridge and use the old Elek River bridge to cross the river. Again, the village area council stated that these tractors cross the road rarely as they do not drive home daily.

7. Complaint Concern: Noise

Sarzhansay

3.1 *There is no 500 m long sound barrier along ul. Aktyubinskaya.*

Management Response: Noise

Noise was identified as an existing problem in roadside communities during due diligence, particularly during the peak traffic season, from about April through October. In particular, noise impacts for 10 houses close to the roadway in Sarzhansay village were reviewed during due diligence.

Although measures such as noise barriers were recommended in the ESA for some noise-sensitive locations such as hospitals and schools, the assessment did not consider them to be necessary for the 10 houses in Sarzhansay village.

The ESA concluded that the improvements would marginally affect noise levels and in some cases reduce noise through the use of bypasses and enforcement of speed limits for trucks and buses. A smoother road would also reduce noise. As a control measure, ESA required noise to be monitored at sensitive sites. Monitoring was required to take place once a year during peak traffic periods over two 24-hour continuous monitoring periods.

As recommended in the ESA, the day- and night-time noise level at these houses' facades will be measured again in 2015.

8. Complaint Concern: Woodland restoration

Martuk

4.5 *None of the woodland belts along the route have been restored.*

Management Response: Woodland restoration

The ESA identified excessive and uncontrolled loss of roadside tree plantations during construction as a potential issue and recommended saving trees by expanding the road on one side in uninhabited stretches and symmetrical in constricted places and removal of trees with prior approval of Forestry and Hunting Committee (FHC) and compensatory forestation as per FHC instructions.

Under the ESAP, the Contractor was required to develop a sketch map of the location, number and species of trees along the roadway alignment that are located within the area likely to be cleared. Any tree removed was required to be replaced by replanting several (>2) young trees of the same species. The Monitoring Plan also addressed tree cutting by requiring the PMC Monitor in co-operation with the State Forest Owner of the plantations to inspect the cutting plan and review and record replanting and vegetation efforts.

Before the construction started, all 12 tree lines with a total area of 34 hectares were transferred to the regional council authority. The construction contractor paid to the regional council the required financial compensation for 269 cut trees according to their value.

Where the new road followed the old road alignment, trees were not cut. Some branches were damaged when a dozer formed top soil raw along the first line of trees.

9. Complaint Concern: Rehabilitation of quarries

Martuk

1.5 The sites of two open-cast mines (behind the Kazmunaigaz filling station and by the Elek Bridge) have not been recultivated.

Management Response: Rehabilitation of quarries

The ESAP includes a number of requirements with respect to the opening, operation and closure of quarries and borrow sites. Among these requirements, full rehabilitation and stabilisation of the site as part of decommissioning is also included.

The Completion Report states that 14 borrow pits were used during the construction activities and for all borrow pits, the reinstatement has been completed. The monitoring consultant confirmed the closure and reinstatement of the borrow pits by the village area council, and the re-cultivation acceptance acts have been signed by the commission from the regional inspectors of the land relations committee, the regional departments of the environmental and sanitary protection and other stakeholders

10. Complaint Concern: Damaged public property

Khlebodarovka

5.2 Trucks have damaged the sports ground as well Aitike bi, Zhenis, Aibergenova and Trenina streets.

Management Response: Damaged public property

Reinstatement of all construction sites is required after the construction ends.

According to the monitoring consultant's observations, the stadium was reinstated when the road construction material pads were re-cultivated following completion of the road. The Consultant inspected Zhenis and Aytike bi streets on 22.12.2014. No serious damage related to heavy vehicles was observed. The village council told to the monitoring consultant that the Project vehicles that drove along these streets were empty. The loaded traffic was between the quarry located at the other side of the new road and the road itself and that the vehicles did not use the other mentioned streets.

The Consultant is scheduled to revisit this site in spring 2015 to see the full condition of the road without any snow cover.

11. Complaint Concern: Comments on design

Khlebodarovka

5.3 There is no bus stop by the exit to Martuk.

Kuraily

6.1 *The turning space at the exit from the village should be closer to the village, near the camp site.*

6.5 *Rain water erodes the off ramp to Rossovkhoz. The ramp itself is very steep. It should be moved to a more suitable location.*

6.6 *Junction 39 should have a bus stop and a pedestrian crossing.*

6.7 *Under the interchange on the approach to Aktobe the road narrows suddenly and dangerously and this causes accidents, including fatal ones. The road must be widened as a matter of urgency.*

Management Response: Comments on design

Design issues are not part of the 2003 Environmental Policy [and were not a project requirement]. However, the monitoring consultants were asked to comment on these points about technical design and issues raised as below:

Khlebodarovka. The bus-stop is located in the village. According to the residents who were questioned, it is a convenient arrangement. A bus-stop at the south off-ramp from the old road 1.6km away from the village centre is used by the new housing estate at the southeast part of the village. A bus-stop installation at a viaduct over the railroad does not make sense since the residents will not be able to go up to it by a 12m high embankment. Although a bus stop towards Martuk is available between the old railway crossing and the stadium, the busses do not operate this route because of low passenger flow.

Kensakhara. The back and forth bus-stops with the crosswalks are installed at km 55+400 and km 55+800. They are located 220 meters away from the village entrance according to RoK Construction Standards and Regulations №3.03-09-2006 for safety reasons.

Kuraily

6.1 The U-turn construction near the camping area is impossible because of the straightened conditions and for safety reasons. According to the pt.6.1.4 of the Construction Standards and Regulations №3.03.-09-2006 "Highways", the crossings and adjunctions on I-B Road - categories outside the settlements should be provided no more than every 5 km. For the U-turn position definition, the part of the 9.5km road in this category was divided into two rather equal parts – 4.4 and 5.1km. Herewith, the terrain conditions were taken into account for a U-turn location, as for its construction a smooth area in the longitudinal and cross plan was required.

6.5 This off-ramp to "Rossovkhoz" is from the Aktobe bypass which is not part of the project.

6.6 The railway Junction 39 settlement is inhabited by 218 people. It stretches for 1.4km along the road. Practice in Kazakhstan showed that if people can catch a bus immediately opposite their houses, they will not make their way to a bus stop. This is the practice along the 750m span of the road at the Junction 39 (from the end of the road barrier 300m south of the requested bus stop to the next overpass towards Aktobe). Thus, a bus stop that requires 300m long slipway and readjustment of the barriers and light posts, would only serve a small number of the Junction population that lives opposite the requested bus stop position. Currently busses pick up the passengers from the road curb along the Junction by driving off the road after the road barrier ends which is an adequate safe practice. It also should be noted that this part of the road (km0-km7.3) is now part of Aktobe and is under the authority of the City Council.

6.7 The road narrowing from two to one lanes is caused by the fact that half of the traffic is diverted to the Aktobe bypass. The narrowing gradient was made according to Construction Standards and does not bring concerns with traffic police. There are four consecutive road narrowing signs that warn about the road narrowing from the left and then from the right.

The mentioned road accidents at the interchange have been in the direction opposite to the direction given in the complaint and are not related to road narrowing but different design issues of the junction. The changes have been made and are proposed to be made to make the passage under the bridge towards Russia safer. These changes primarily concern shortening the road barriers at the right side and in the middle. For the direction towards Aktobe mentioned in the Complaint, the proposed change of the central barrier will make the narrowing in question less sudden, which should help to address the concern.

12. Complaint Concern: Toilet facilities

Zhaisan

1.4 There are no toilet facilities at the bus stops.

Kensakhara

2.4 There are no pedestrian crossings, bus stops or toilet facilities at the bus stops.

Khlebodarovka

5.4 There are no toilet facilities at the bus stops.

Management Response: Toilet facilities

It is not standard practise to have toilets at bus stops, particularly on the side of roads as passengers are not expected to spend long periods of time at bus-stops. Therefore, the pt.11.8 of the Construction Standards and Regulations RoK №3.03.-09-2006 "Highways" does not stipulate the necessity of the toilets installation at public transport stops.

Annex III – Client's Response

Translated from Russian

Extracts from minutes of the meetings held by residents of villages adjoining the Western Europe – Western China Transit Corridor located in parts of Aktyubinsk Province (Martuk Region)

Question	Answer
1. The village of Zhaisan	
1.1 There is no off ramp at the 96 th km of the route, which would have been convenient for the residents, and would not have been snowed-under in the winter, because there is a free space on the site and the railway branch line protects it from snow drifts.	The national motorway has there official off ramps for Zhaisan, at the 91th km (+950 m), the 95th km (+600 m) and 96th km (+130 m). The off ramp referred to in the minutes is located on the 94th kilometre, and replaces the old road. Where the old road adjoins the new road the new road has a bend with the inside curve facing the old road (the old junction). Paragraph 6.1.2 of Kazakhstan Building Code 3.03-09-2006, «Highways and Motorways» states that highway and motorway intersections and junctions must be located on unoccupied sites and on straight (in plan view) sections of the intersecting or adjoining roads, ensuring visibility. As a rule, intersections and junctions may not be located at points where the road gradient changes. Exceptionally, intersections may be placed on superelevated road curves, provided that the gradient of the approach of the secondary road to the intersection has the same inclination and faces in the same direction as the gradient of the curve of the main road. Where possible, road junctions should not be located on the superelevated curves of the main road, and in particular not on the inside of the curve. It follows therefore that the old junction was not included in the project since its location was prohibited by the Building Code.
1.2 There is no off ramp to the college grounds to the village of Voznesenovka, and cars have to travel straight on across the fields	Provision has been made for off ramps leading towards the fields in the Zhaisan area at the 95th and 96th km, and towards Voznesenovka at the 88th km.
1.3 There is no crossing for cattle (150 head) or sheep and goats (600 head) opposite the cemetery (at the 97 th km of the route) or on the east of the village. This harms the interests of	The location and number of cattle crossings were agreed with the rural districts adjoining the road at the design stage. There is a cattle crossing at the 97th km, but it is being ignored

over 400 households.	by the cattle herders, which is a violation of Paragraph 24.8 of RK Government Decree No. 1650 of 25.11.1997 approving the Traffic Code, which states that cattle herders must not allow cattle to cross roads in other than designated places, at night or when visibility is poor (except for split-level cattle crossings). This concern has already been raised with the Akim of Martuk Region and with the Head of the Martuk Regional Department of Internal Affairs (<i>Letters No. 22-04/331 of 24.04.2014 and No. 22-04/490 of 24.06.2014 respectively</i>), and also with the regional branch of the Nur Otan Party (<i>Letter No. 16-02-06/628 of 12.08.2014</i>). The reply received by the Martuk regional branch of the Nur Otan Party (Letter No. SHK 4-8-4-8/111 of 10.09.2014) states that a public meeting was held and efforts were made to clarify the issue.
1.4 There are no toilet facilities at the bus stops.	The project did not envisage providing toilets at the bus stop. There are toilet facilities at four rest stops.
1.5 The 86th – 88th km section of the route suffers from constant large snow drifts due to the road dividers and the lack of snow barriers.	<p>Road dividers have been located in strict accordance with the requirements of Paragraph 10 of RK Building Code 3.03-09-2006, Highways and Motorways. The roadway and shoulders are regularly cleared of snow by the maintenance organisation within the scheduled times. For instance, Paragraph 5.1.5 of RK Standard PR No. 218-09-03, Highways and Motorways Repair and Maintenance Regulations specifies three scheduled times, 2, 6 and 12 or more hours after the termination of the event (snowfall, snowstorm, ice storm, blizzard or ice formation), within which the affected road sections should be cleared of all obstacles, rendering them passable and safe for traffic.</p> <p>Sections with a scheduled clearance time of 2 hours include approach roads to towns, airports, railway stations, year-round resorts, tourist routes and roads used by food supply vehicles and commuter buses.</p> <p>Sections with a scheduled clearance time of 6 hours include sections of regional and national roads classified as at least Category III,</p>

	<p>carrying regular bus traffic. The remaining sections of these roads have 12 hour or more scheduled clearance times.</p> <p>In addition, observations made during the winters of 2013 and 2014 by road maintenance services identified snowdrift-prone areas where portable snow barriers will be installed in the winter.</p>
1.6 The quality of the road is poor: there are transverse cracks everywhere due to the failure to restore the top soil or carry out soil reclamation. As a result, rains have been eroding the embankment and the shoulders have subsided.	<p>Comprehensive work to restore the topsoil and recultivate the land has been carried out. RK Standard PR No. 218-09-03, Highways and Motorways Repair and Maintenance Regulations, allows asphalt concrete road surfacing to contain heat cracks (Table B.2). Making due allowance for existing traffic intensity and the category of the road, the standard allows 20 m/1000 m², i.e. 2.2 cracks per 111,1 m length of the road (approximately 19.8 cracks per km). The road in question actually contains several times fewer cracks than the maximum allowable. It follows therefore that the existing heat cracks in the asphalt concrete road surface do not indicate poor quality of the road, as they are within the permissible range.</p>
1.7 The failure to restore the top soil or carry out soil reclamation has also resulted in the shoulders becoming overgrown with toxic grass which causes allergy, while the dust from the road is blown into the village and the market gardens.	<p>Comprehensive work to recultivate the shoulders has been carried out by contractors.</p>
1.8	
2 The village of Kensakhara	
2.1 There is no lighting along the Kensakhara section of the road.	<p>Paragraph 10.2 of RK Building Code 3.03-09-2006, Highways and Motorways, requires fixed electric lighting to be provided on road sections within population centres. Since Kensakhara is located 500 m away from the road, the project did not call for the provision of lighting in this section.</p>
2.2 There is no crossing for agricultural machinery (12 vehicles) by the Kensakhara on ramp.	<p>The project did not envisage providing crossings for agricultural machinery.</p>
2.3 The old road to Martuk is damaged.	<p>RK Government Decree No. 1809 of 05.12.2000 approving the rules governing the classification of Kazakhstan's highways and</p>

	motorways and the schedule of national public access highways, lists highways of international and national importance, and does not include sections like the approach road to Martuk, which therefore falls outside the remit of the National Highway Management Agency.
2.4 There are no pedestrian crossings, bus stops or toilet facilities at the bus stops.	There are two bus shelters in the vicinity of Kensakhara. They are located near the off ramp from the highway into Kensakhara. There is also a pedestrian crossing with road signs and markings. The project did not envisage providing toilet facilities at bus stops. There are toilets at four rest stops.
3 The village of Sarzhansai	
3.1 There is no 500 m long sound barrier along ul. Aktyubinskaya.	The project did not envisage providing sound barriers.
4 The village of Martuk	
4.1 The road becomes snowed-under due to the design of the road dividers and no road clearing takes place.	<p>Road dividers have been located in strict accordance with the requirements of Paragraph 10 of RK Building Code 3.03-09-2006, Highways and Motorways. The roadway and shoulders are regularly cleared of snow by the maintenance organisation within the scheduled times. For instance, Paragraph 5.1.5 of RK Standard PR No. 218-09-03, Highways and Motorways Repair and Maintenance Regulations, specifies three scheduled times, 2, 6 and 12 or more hours after the termination of the event (snowfall, snowstorm, ice storm, blizzard or ice formation), within which the affected road sections should be cleared of all obstacles, rendering them passable and safe for the traffic.</p> <p>Sections with a scheduled clearance time of 2 hours include approach roads to towns, airports, railway stations, year-round resorts, tourist routes and roads used by food supply vehicles and commuter buses.</p> <p>Sections with a scheduled clearance time of 6 hours include parts of regional and national roads classified as at least Category III, carrying regular bus traffic. All other roads have 12 hour or more scheduled clearance times.</p>
4.2 Road shoulders are crumbling and subsiding.	The roads are currently in the warranty maintenance period, with the building

	contractor responsible for the quality of the workmanship. As part of warranty maintenance, in the spring and autumn during the warranty period roads are inspected jointly by representatives of the client, engineering services and the contractor. Concerns about subsidence were identified and noted on 11.05.2014 and referred to the contractor for remedial action. As of the reporting period, the remedial action had been taken.
4.3 The cattle crossing by the new bridge on the Elek is very narrow and the cattle won't cross it, it needs to be widened (300 head of cattle and 50 head of sheep and goats).	The new road has 9 cattle crossings which are 4 m wide and 2.5 m high, and therefore fully compliant with the requirements of Paragraph 6.1.6 of RK Building Code 3.03-09-2006, Highways and Motorways.
4.4 There is no crossing for agricultural machinery by the junction leading to the new road.	The project did not envisage providing crossings for agricultural machinery.
4.5 None of the woodland belts along the route have been restored.	Before reconstruction took place, the highways authority had on its books 12 woodland belts with a total area of 34 ha, as specified in Martuk Region Akimate Resolution No. 211 of 15.04.2005. However, Resolution No. 279 of 22.07.2010 revoked the 2005 document and all woodland belts were transferred to the regional akimate. As a result, the restoration of woodland belts is no longer the responsibility of the National Agency.
4.6 The sites of two open-cast mines (behind the Kazmunaigaz filling station and by the Elek bridge) have not been reclaimed.	The contractor has carried out comprehensive reclamation of the open-cast mines, as confirmed by the relevant certificate dated November 2013 and signed by a committee consisting of representatives of the Provincial Land Relations Inspectorate, the Regional Land Relations Department, the akims of the rural districts and other stakeholders.
5 The village of Khlebodarovka	
5.1 The off ramps on the south and north sides of the village were damaged during construction and have not been repaired.	RK Government Decree No. 1809 of 05.12.2000, approving the rules governing the classification of Kazakhstan's highways and motorways and the schedule of national public access highways, lists highways of international and national importance, and does not include sections like the approach road to Khlebodarovka, which therefore falls outside the remit of the National Highways

	Management Agency.
5.2 Trucks have damaged the sports ground as well Aitike bi, Zhenis, Aibergenova and Trenina streets.	The maintenance and repair of local roads is outside the remit of the National Highways Management Agency.
5.3 There is no bus stop by the exit to Martuk.	Martuk is a village of regional importance, with its own bus terminal. The Express terminal (Tel. 55-02-26, 54-54-76) bus route includes the Martuk bus station. In addition, Martuk has a taxi service (provided by three companies), providing a door to door service to the town centre. For this reason, the project did not envisage providing a bus shelter near Martuk, since there was no urgent need for it.
5.4 There are no toilet facilities at the bus stops.	The project did not envisage providing toilets at the bus stop. There are toilet facilities at four rest stops.
5.5 Road shoulders have not been recultivated.	Comprehensive work to recultivate the shoulders has been carried out by contractors.
6 The village of Kuraily	
6.1 The turning space at the exit from the village should be closer to the village, near the camp site.	The situation with the absence of a turnaround towards Aktobe at the exit from Nizhni Kuraily near the camping site on the highway linking Aktobe with Martuk and with the border of the Russian Federation (the Orenburg road) is as follows. This section of the highway is classified as Category I-b. Paragraph 6.1.4 of Kazakhstan Building Code 3.03-09-2006, Highways and Motorways, states that highway and motorway intersections and junctions on Category I-b roads outside population centres should be placed at least every 5 km. The road reconstruction project designates the section between 7+300 – 16+800 km, with a total length of 9.5 km as a Category I-b road. Guided by the requirements of the Building Code, the designers proposed to build a turnaround in the 11+700 km section, thus dividing the 9.5 section into two reasonably equal parts – 4400 m and 5100 m. In addition, the relief of the site was taken into account in the selection of its location, as it needed to be flat both lengthwise and across.
6.2 The design of the road dividers produces constant snow drifts.	Road dividers have been located in strict accordance with the requirements of Paragraph 10 of RK Building Code 3.03-09-2006, Highways and Motorways. The roadway and

	<p>shoulders are regularly cleared of snow by the maintenance organisation within the scheduled times. For instance, Paragraph 5.1.5 of RK Standard PR No. 218-09-03 Highways and Motorways Repair and Maintenance Regulations specifies three scheduled times, 2, 6 and 12 or more hours after the termination of the event (snowfall, snowstorm, ice storm, blizzard or ice formation), within which the affected road sections should be cleared of all obstacles, rendering them passable and safe for traffic.</p> <p>Sections with a scheduled clearance time of 2 hours include approach roads to towns, airports, railway stations, year-round resorts, tourist routes and roads used by food supply vehicles and commuter buses.</p> <p>Sections with a scheduled clearance time of 6 hours include parts of at least Category III regional and national roads carrying regular bus traffic. All other roads have 12 hour or more scheduled clearance times.</p>
6.3 There is no lighting along the road.	Paragraph 10.2 of RK Building Code 3.03-09-2006, Highways and Motorways, requires fixed electric lighting to be provided on road sections within population centres. For this reason, the provision of lighting was envisaged only for large bridges, in Sarzhasai and at the approaches to the provincial centre.
6.4 Internal roads have been left in a dreadful condition.	Maintenance of internal roads is outside the remit of the National Highways Agency.
6.5 Rain water erodes the off ramp to Rossovkhoz. The ramp itself is very steep. It should be moved to a more suitable location.	The off ramp to Rossovkhoz is not on the Martuk road, but on the northern Aktobe bypass. An autumn inspection carried out by a committee did not identify any defects in the monitored area. The location of the off ramp complies with the requirements of the relevant national standards, as confirmed by the approval of the project by the Government Expert Review and by the Road Police Committee.
6.6	
6.7 Junction 39 should have a bus stop and a pedestrian crossing.	The project does not envisage the provision of a bus shelter at Junction 39.

6.8 Under the interchange on the approach to Aktobe the road narrows suddenly and dangerously and this causes accidents, including fatal ones. The road must be widened as a matter of urgency.	There have been accidents in the interchange area, but none have been fatal. To prevent recurrence, a commission consisting of representatives of the client and the road police visited the site 06.12.2013, preparing an inspection report and recommendations on accident prevention. In response, the technical council meeting held on 09.12.2013 introduced changes into the project, enabling the road to be widened.
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Acting Director

Executive support: 
