



November 25, 2015

***Via Electronic Mail***

Mr. Gabriel Negatu  
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**Re: Concerns Regarding the Amu Power Coal Power Generation Plant in Lamu  
County, Kenya [Your ref: AfDB/EARC/LTR/2015/11/001]**

Dear Mr Negatu:

Thank you for your letter dated 1 November 2015 in response to our concerns about the proposed Coal Power Generation Plant in Lamu County (“the Project”).

We appreciate your reassurance that the African Development Bank (“AfDB”) will conduct thorough due diligence of the environmental and social impacts and benefits of this Project, and of any proposed mitigation measures, prior to project approval. In this regard, you note that the Environmental and Social Impact Assessment (“ESIA”) and Environmental and Social Management Plan (“ESMP”) will be reviewed and approved by the AfDB Environmental and Social Safeguards team, to ensure that all environmental and social impacts have been identified and adequately mitigated. However we remain concerned that actions are already being taken to the detriment of local communities and in contravention of the AfDB Operational Safeguards.

For example, we recently became aware that Kenyan National Land Commission (“NLC”) imminently intends to allocate title of public land at Kwasasi to Amu Power Company for the Project. It allowed only 15 days for public comment, with that period expiring this week. The intended transfer of title fails to recognize Kwasasi farmers and their families, who have farmed the land for generations, as legitimate occupiers of the land with traditional land tenure. If it proceeds, the transfer will result in their displacement without adequate consultation or compensation and prior to the release of a comprehensive Resettlement Action Plan (“RAP”) as required by AfDB Operational Safeguards. The intended transfer also fails to recognize the ecological sensitivity of the land, which includes and is near valuable mangroves and other critical habitats, and which should prevent transfer under Kenyan law.<sup>1</sup> We are therefore concerned that if the transfer proceeds as intended, prior to the preparation and finalization of comprehensive

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<sup>1</sup> We note that Operational Safeguard 3 states that the AfDB will not finance projects developed in critical habitats degazetted or downgraded to allow the project to proceed. *AfDB Group’s Integrated Safeguards System Policy Statement and Operational Safeguards* (Vol 1, Issue 1, Dec. 2013), pp. 40, 42.

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**Save Lamu**

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ESIA, ESMP and RAP addressing the impacts of the Project on the environment and on local communities, it will do so in breach of AfDB Operational Safeguards.

In addition, as you are likely to be aware, an Environmental Project Report (“EPR”), a document that precedes an ESIA under Kenyan law, was recently released for comment. We provided comprehensive feedback on the EPR, identifying a number of aspects in which it failed to adequately assess project impacts and/or failed to propose adequate mitigation measures. The EPR does not constitute an ESIA, under Kenyan law or under AfDB Operational Safeguards, and therefore our comments reiterate the ongoing need for a comprehensive ESIA. By way of summary, our key concerns are that:

- The EPR improperly excludes from further consideration project alternatives based on renewable energy (e.g. wind, solar and natural gas). There is a growing body of evidence that renewable sources can cost-effectively meet baseload energy requirements. It has since come to our attention that Lamu and its environs have been assessed as favorable locations for both wind and solar energy projects.<sup>2</sup> Further assessment of renewable energy systems is therefore necessary.
- Critical aspects of the plant design are uncertain. Without such information, environmental and social impacts and mitigation measures cannot be duly addressed.
- The EPR states, inadequately and unjustifiably, that the plant will utilize less efficient, higher polluting, coal technology than is currently available. This is unacceptable. More efficient technology requires further investigation as part of an ESIA.
- The EPR fails to provide necessary details or timeframes for a number of critical engineering, geotechnical, and environmental and social baseline studies that are yet to be completed. Their absence reinforces the need for a comprehensive ESIA. The Terms of Reference (“TOR”) for that ESIA will also need to incorporate adequate time to undertake these investigations. For example, the EPR itself concedes that it has insufficient baseline data to conduct a responsible assessment of the predicted impact of the project on coastal and marine resources. A robust ecological baseline study requires a significant amount of time, usually at least one year, to implement because of the inherent difficulty of ascertaining the abundance and distribution of coastal and marine species, which can vary from season to season. The potential severity of the project’s impacts on the marine environment requires a robust baseline study as part of a comprehensive ESIA. The TOR for the ESIA must allow adequate time for this study.
- The EPR fails to properly assess, or propose mitigation measures for, a number of potentially significant environmental impacts. For example, the EPR does not adequately address the impacts of drawing massive quantities of seawater from the ocean or of discharging desalinated wastewater back into the ocean. The EPR also identifies potential chemical pollution of land, sea and groundwater by wastewater, but does not propose any detailed mitigation measures. The EPR itself acknowledges that an ESIA is required to assess and propose mitigation measures for these impacts.

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<sup>2</sup> See Kenya County Report: Solar and Wind Energy Resource Assessment (Nairobi, 23 May 2008), figures 7 and 17 available at <http://kerea.org/wp-content/uploads/2012/12/Kenya-Solar-Wind-Energy-Resource%20Assessment.pdf>.

- The EPR fails to identify and assess the full range of social impacts of the project, including impacts on livelihoods, resettlement, vulnerable communities, health, safety, and cultural property. The coal plant is likely to have significant impacts on the livelihoods of local fishermen, farmers and their families; community health impacts from air and land pollution; and cultural impacts through damage to culturally important sites and damage to intangible cultural heritage. A RAP is yet to be finalized and communities currently have minimal information about its likely content. These impacts require comprehensive assessment and mitigation measures.
- Finally, the ESIA and RAP can only be finalized after informed community consultation. To date, community consultation has been inadequate. Based on sessions that we attended, information sessions were not preceded by important project information. Project representatives were not able to answer questions about project design or potential impacts. Where they did answer these concerns, they shallowly and lightly addressed grave concerns on the potentially negative impacts the project is likely to have.

We have **attached** a copy of our detailed comments, so that our comments can be considered by the project and environmental and social safeguards teams as part of the due diligence process. We look forward to further engagement with these teams while the project is appraised and while the ESIA, ESMP and RAP are reviewed and approved.

Finally, we also appreciate your acknowledgement of the importance of “free, prior and informed” community consultation and participation. We are grateful that you communicated our concerns to the Government of Kenya and Amu Power Limited.

Please do not hesitate to contact us if you require more information.

Sincerely,



Abubakar Mohamed Ali  
Chairman  
Save Lamu

Enclosure

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