

12 October 2012

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Dear Ms. Taylor,

We, the undersigned residents of Javhlant and Gavliut baghs¹ of Khanbogd soum², South Gobi aimag³ of Mongolia, organized into the Gobi Soil NGO, hereby submit this complaint to the Compliance Advisor/Ombudsman (“CAO”) concerning the Oyu Tolgoi copper-gold-silver mining project (“Oyu Tolgoi Project” or the “Project”), owned by the Rio Tinto, Ivanhoe Mines and Erdenes MGL (the “Company”).

This project is currently being considered for financing by the International Financial Corporation (“IFC”) and the Multilateral Investment Guarantee Insurance (“MIGA”), who together will provide a loan package with a total of \$1 billion political risk guarantee funding.

We, the undersigned South Gobi residents, reside in the areas of Javhlant and Gavliut baghs of Khanbogd soum known as: [REDACTED for security purposes]. We have already been negatively impacted by the Oyu Tolgoi Project and will likely be subject to further harm as the Project goes forward.

Nomadic households live one by one in remote areas. Fearing pressure by the company and the local government officials, we do not wish our identity to be disclosed for security reasons and request confidentiality. Due to long distances, sporadic communications and language barriers, this complaint is being lodged in collaboration with the NGO OT Watch, which is authorized to be the first line of contact for this complaint process.

We can be contacted through our local organization:

L. Battengel, Chair
Gobi Soil NGO
Khanbogd soum, South Gobi aimag
Mongolia
Mobile: [REDACTED]
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Or through our representative:

¹ Smallest administrative territorial division comprising a population of approximately 500 people. Please note that OT Watch is adding footnotes in the English version of the complaint to help explain words and context that may not be familiar to an audience outside Mongolia.

² Administrative/territorial division of about 3,000 on average. Large mining soums comprise 15,000 people.

³ One of Mongolia’s 22 provinces.

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The Project is completing its construction phase in the South Gobi Desert without proven water resources available for its operations. It is enjoying greater rights than we have over our water and pasture resources causing significant damage to our livelihoods. The intensive exploration phase, which began in 2002, and construction, which started thereafter, were carried out without evaluation and information of possible negative impacts on local community's livelihoods. Since the first negative impacts affecting our lives began, we have approached all relevant parties, none of whom expressed interest or political will to protect our rights.

We have been and are likely to be affected by the social and environmental impacts of the project in the many ways, as described below.

1. 2004 Relocation Program

In 2004, after completing mineral exploration work on our territory, the Oyu Tolgoi Project started fencing off licensed land for mine construction. During this process, a total of eleven herding households from the Javhlant and Gavliut baghs were relocated because their winter camps⁴ were within the licensed land or located in close proximity to the Project. All households were made to select a spot for construction of their new winter camp,⁵ after which the Company provided transportation and relocated the herder households. Many households resisted relocation, but gave in when the local government threatened forced eviction.

Because the selection of the new location was done at short notice, many herders failed to select the best spots for protection from wind and cold.⁶ In addition, the possibility of land freezing under the thin layer of animal droppings in the animal shelters was not taken into account, which led to big losses of livestock in the 2004 zud⁷ for all resettled households, resulting in a drop in living conditions. The ground under animal droppings in our winter camps, which were used for generations by herder households, does not freeze, keeping animals warm during the winter. In addition, the diminished quantity and quality of pasture caused losses in livestock that winter. Most of our pasture was taken away or negatively affected by the Project. The quality of vegetation on the remaining pasture is poor due to dust and dryness near the Project site. Due to a lack of plentiful, high quality pasture, the animals did not gain enough weight during the summer to last through the long and cold winter. Water is another important factor for the animals to gain weight,⁸ but most of the wells and electric pumps provided by the Company stopped working and failed to deliver water within a couple of months after the relocation.

⁴ Herders' winter camps are considered their central place. Winter is at least six months long in Mongolia, sometimes longer.

⁵ At the time of relocation, the herders were told they had to select new winter camp sites that were outside a 10 kilometer radius around the Project site, but not far from their remaining pastures.

⁶ It should additionally be noted that the truly best spots for protection from wind and cold were those spots in which the herders had traditionally made their winter camps, so any alternative site was inherently inferior.

⁷ A winter disaster that kills many animals.

⁸ The animals need a certain amount of water at certain times between grazing in order to properly digest their food.

Since the 2004 relocation, one household has lost all of its animals, on which it depended for its livelihood, and the remaining households have not experienced the average rate of herd growth.⁹ Eight of these households had to purchase more livestock in order to keep their normal income. However, conditions for breeding livestock are worsening: the water level in the wells is falling every year with a trend to go further down and dry up. Pasture covered by dust is causing black lungs and other health problems related to the animals' digestive systems, which consequently leads to the loss of market competitiveness of the animal products.¹⁰ All of this has resulted in a decrease in our livelihood earnings and quality of life.

Seven out of eleven households resettled in 2004 are subjected to further negative impact by the Project infrastructure construction and are eligible for the "compensation without relocation" program of Oyu Tolgoi Project. Their winter, spring and summer camps and pastures are surrounded by the Project facilities, making it impossible to carry on with their nomadic livestock breeding lifestyle in the future.

2. Compensation without Relocation

Throughout the 250 km² Project area, there are 89 herder households, whose livestock breeding infrastructure, including a) winter and summer camps, b) pasture and reserve pastures and c) water wells, are affected by the Project's infrastructure corridor.

The compensation without relocation program, which is meant to compensate the herder households for economic displacement caused by the Project, began in early 2011. To date, however, it is not clear what methodology is being used to determine the type and level of negative impact on herder households. Eligibility is being determined based on the proximity of a herder household's winter camp to the physical source of the negative impacts, when it should be determined based on the *actual* impact to each herder household's livelihood.

Moreover, a herder household is being treated as a family being negatively impacted by the Project, rather than a small herding business and a livestock production unit of Khanbogd soum. Yet, the primary impacts to the herder households are impacts to their animals, which are their primary source of income. Pasture, wells and reserve pasture are the essential production infrastructure, and the quality, quantity, and safe and undisturbed access to pastures and wells are therefore essential to our livelihoods. Yet, no evaluation of the impact of the Project on the herding business was carried out. In other words, there has been no quantification of the negative impacts the degradation of our pasture and water has on the quality of our livestock and the animal products we produce and sell. Nor has the resulting loss of marketability of those products, which reduces our ability to earn income from our herding business, been taken into account. The Company refuses to hear these concerns expressed by herders in the process of discussion of the compensation package.

In the past several months, the Company stepped up the pressure on households using all forms of persuasion to make herders sign the contract. The most popular are scaring herders by saying "you are the only one left and if you do not sign now we will just drop you and move on"; or by promising to consider inclusion of a disability benefit in the package; or by just making older herders sign without giving them the opportunity to read and understand the contract.

⁹ Herders strive to grow the herd by at least doubling the number of female reproductive age animals each year.

¹⁰ For example, dust gets into the internal organs of the animals, making them no longer suitable for sale for human consumption. Additionally, the sick animals do not produce good quality meat, milk or wool/cashmere.

The compensation benefits offered under this package, which does not take into account the above-mentioned essential impacts to our herding businesses, fail to ensure measures to protect and grow our living standards:

1. *Employment or workplace support:* The employment support essentially boils down to temporary jobs as road cleaners, watchmen or members of cleaning crews, with nothing offered in terms of professional or technical skills training. There is no support that would enable members of affected herder households to work towards future sustainable employment.
2. *Scholarships:* The scholarships being offered will cover only the tuition of current students, without support for living expenses. Scholarships are not being offered to members of negatively affected herder households who are not currently in school. Previous experience of such scholarships evidences that these flat rate allowances fail to keep up with price increases and increased cost of living.
3. *School supplies support:* Similarly to the school supplies support offered under the 2004 relocation contract, the support currently being offered does not take into account the change in the number of children needing this support, nor does it consider inflation and price increases.
4. *Monetary compensation:* It is not clear what the monetary compensation being offered is meant to compensate for, nor is it clear what methodology was used in calculating the amount of compensation, or how many times and during what period the compensation will be available. Moreover, even if the monetary compensation offered is enough to set up a micro business, the lack of knowledge and skills training regarding how to set up and run a new business will likely make us dependent on this kind of handout for the rest of our lives. It is also not clear how this monetary offer relates to the business loans available to affected households.

Finally, the above compensation package does not take into account the severity of negative impacts on those households that will no longer be able to continue their traditional nomadic herding, and therefore it is clear that, as was the case with the 2004 relocation contract, the current compensation package will not be able to mitigate and protect us from a loss of livelihood and subsequent fall in living standards. The following essential factors and impacts are not included in the compensation contract:

Loss of livelihood – There are several households that may lose all opportunity to continue their nomadic herding lifestyle at their current location. We believe it is necessary to distinguish the households that will lose all opportunity to continue nomadic herding and develop ways of providing new and sustainable income generation sources for them.

Protecting living standards – There are no provisions for measuring, protecting and monitoring living standards. It is not clear when, how and how often compensation will be granted.

Health impacts and protection - We have raised the health impacts issue with the Company, which needs to include mitigation measures in this contract. Dust, noise and the diminishing quality of the animal products we consume are having a negative impact on our health. There is no information on health impacts or related mitigation measures in this contract.

The traditional lifestyle of Mongolian nomads – We consider ourselves as indigenous to this area, as well as carriers of the ancient tradition of nomadic herding. We are mobile pastoralists dependent on pasture for our livelihoods. These pastures are ours as recognized under the customary law. The Company, however, does not recognize our rights, justifying their decision only by the fact that we are not an ethnic minority. The compensation does not include mitigation or remedy for the loss of opportunity to carry on with our traditional nomadic herding lifestyle and the related loss of property and cultural heritage to be passed on to our descendants.

3. Compensation Contract Provisions

We have made numerous attempts to change specific provisions of the compensation contract, but the Company refers us to the Working Group, in which we herders were underrepresented and therefore had no meaningful participation. We believe that the following changes and/or additions to provisions of the compensation contract are necessary:

Provision 1.2: Add “degradation” to the section on “reduced size of pasture”.

Provision 1.5: Add “month”, “year” or “one-time” to the definition of compensation to be offered during the validity period of this contract.

Provision 1.6: Add “the Company shall take measures to relocate households where health and safety concerns make current household locations unsuitable for continued habitation.

Provision 1.7: Add “shall be agreed based on participation and consultation with herders”.

Provision 2.1.3: A herder family is not just a family but a livestock breeding unit therefore water wells and pasture are essential for determining level of impact.

Provision 2.1.5: Add “sites used for project construction and future maintenance”.

Provision 2.1.7: Add “impact on human health and livestock health”.

Provision 4.1.2: Add to school supply compensation amount “based on current year prices”.

Provision 4.2: It is not clear what method was used to calculate the compensation required and the cost of establishing a new business, as discussed in this provision.

Provision 9.1: Delete. The Company should not seek to be relieved of any responsibility related to the implementation of the compensation contract or deprive herders of the right to seek compensation for damages.

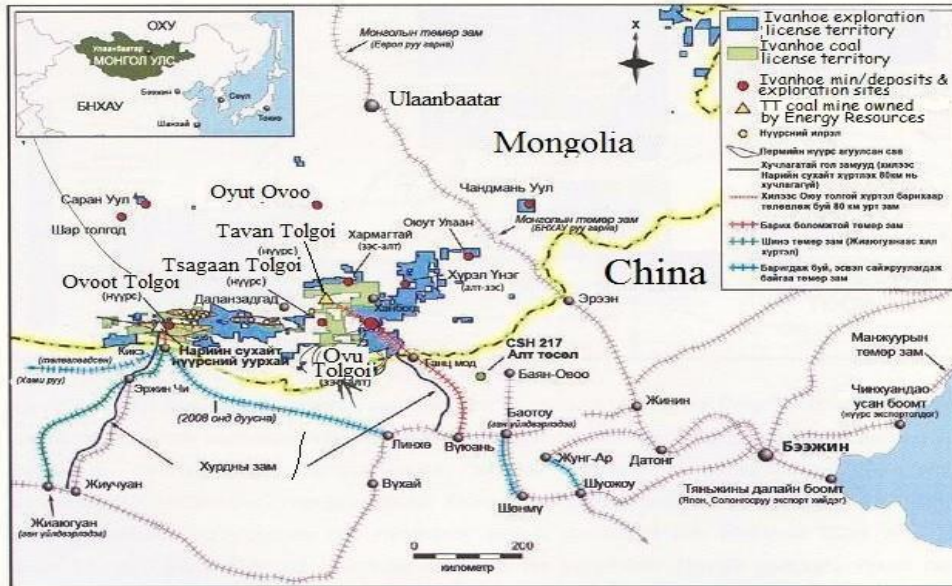
Provision 10: Add “Develop monitoring methodology with the participation of herders.”

Provision 10.7: Delete - Disclosure. Herders should not be made to report to the Company about attempts by organizations and individuals to know the contract content.

The Oyu Tolgoi Project:

The official information about the Project is located at www.ot.mn, website of Oyu Tolgoi LLC.

According to information provided to us, the Project promises to become the 3rd largest copper mine in the world and to grow Mongolia’s GDP by 30%, bringing it to the ranks of middle income countries. It also promises jobs and employment opportunity to all Mongolians. Due to its proximity to China’s border, all minerals will be exported and gold will be processed in China, with no harmful impact on our land. Scholars and experts, however, warn that so far, political and economic pre-conditions have not been created for these promises to become reality. We, the complainants, are losing access to water and land that is essential for us to carry on with our traditional lifestyle, which is the real impact of this Project on our lives.



We are also concerned with the fact that: Oyu Tolgoi mineral deposit resources have not been agreed upon and registered; that the technical feasibility and implementation plan, and lack of demonstrated availability of water resources needed for life of Project have been included in the investment agreement (IA) as conditionalities to be met at a later stage; and as we know now, the amount of investment itself was not determined with a sufficient degree of accuracy. The map created by the Company shows all the mines and licensed land in possession of Rio Tinto/Ivanhoe Mines or their subsidiaries. This concentration of mining projects in our region is also a big concern because of scarce water resources and damage to soil on such vast territory.

We have protested and are still against the use of the Gunii Hooloi and Galbyn Gobi aquifers, the diversion of the Undai River for the purpose of working the open pit mine and the construction of an international airport. We will continue resistance to this huge Project, which is being implemented regardless of the fact that there are no water resources available in the Gobi sufficient to carry out this Project, and if need be, we may be requesting a Compliance Review. In order to achieve this, we first need to protect our livelihood resources.

We propose the following solutions for this complaint:

4. Proposed Solutions

1. Find long term solutions for herding households who have lost their livelihood, are losing it now and those who will lose it as the mine goes into production and further reduces access to adequate pasture and water wells. There are at least 7 herding households that are surrounded by the Oyu Tolgoi mine and its infrastructure and see no future for their nomadic herding lifestyle, considering the already reduced pasture size and quality, and the poor access to already drying wells.
2. The Livelihood Support Program should develop a comprehensive training program that will address the herders' need to develop business skills in a new sector, including skills related to handling business loans, and will help address the pressures of a forced change of lifestyle.
3. Revise the compensation contract to include the recommendations of the evaluation of the 2004 Relocation Contract and Compensation Contract. In doing so, take into consideration recommendations of the review carried out by OT Watch and Steppes without Borders.

We the undersigned complainants:

[REDACTED]

Annex 1
Relocation contract

Annex 2
Compensation Contract

Annex 3

The establishment the Gobi Soil NGO is in itself an outcome or impact of the project and its relocation program. The herders relocated in 2004 have for many years protested against unfair treatment and petitioned to improve their situation without success. Then came the Oyu Tolgoi infrastructure corridor construction work adding more negative impact. Then in 2010 Company decided to provide compensation without relocating us. From the time of the discussion of the first draft of this compensation agreement we expressed our opinion, concerns and protested against problematic provisions but no one listened to us acting separately. This is the reason that pushed us to organize ourselves into an NGO to join force and act together. We are providing a list of letters and petitions sent by Gobi Soil on the issues of concern to relevant authorities.

The list includes letters and petitions related to the 2004 Relocation Contract, 2011 Compensation Contract, Gunii Hooloi water use and pipeline construction; diversion of Undai River; construction of roads and transportation activities causing negative impact, attempting to address these with the listed officials.

We also provide video clips of our public awareness activities broadcast on local and national TV.