

Gobi Soil NGO [letterhead]

February 3, 2013

13/02

Khanbogd soum

To: Mrs Megan Taylor
Compliance Advisor/Ombudsman
International Finance Corporation
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Complaint

Dear Mrs Taylor,

We herders of Khanbogd unified under Gobi Soil NGO lodge this complaint CAO (IFC) concerning Oyu Tolgoi copper-gold mining project implemented by Oyu Tolgoi LLC, which is jointly owned by Rio Tinto, Ivanhoe Mines and Erdenes MGL and located within territories of Javkhlant and Gaviluud baghs of Khanbogd Soum, Southgobi province of Mongolia. Oyu Tolgoi project, jointly owned by Rio Tinto and Erdenes MGL, is actively considering to borrow 1 billion USD and risk guarantee from IFC and MIGA.

We identify ourselves as indigenous to the area and practice traditional pastoral nomadism in Javkhlant bagh of Khanbogd soum, Southgobi province. We lodge this complaint that we face high threats of losing livelihoods from negative impacts to be caused by Undai River diversion work of Oyu Tolgoi project.

As we herders live in a very remote area with underdeveloped telecommunications systems and cannot directly communicate in English, we lodge this complaint jointly with Ulaanbaatar-based Oyu Tolgoi Watch NGO which will also act as the focal point to communicate with your organization.

We can be contacted through the following address, telephone number and e-mail:

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Herders' lifestyle and livelihoods are heavily dependent on pastureland size and quality and water access. It is already clear that Undai River diversion will obviously cause various negative impacts, including declining surface and soil water supply, replenishing Bor Ovoo's pond, springs and rivers, deterioration of pastureland vegetations and other.

While the previous Complaint filed on October 12, 2012 to CAO has not been solved, we face threats of another major negative impact in this regard.

Description of expected negative impacts from Undai River diversion:

Diversion of Undai River will cause the following water systems to be dried out: Bumbat, Khukh Khad, Burkhan, Khuurkhun Ovoo, Sunduuli and Bural ponds, Budaa river, Khad Khad river, Dugat river, Ulaan Tolgoi river and streams, Dugant pond, Naiman pond, Deed khukh khad pond, Bor ovoo pond and springs. River waters and soil water supply play important roles to pastureland of livestock. Water decline will reduce pastureland yields, eliminating arboreous plants, such as Khargana, Khotir, Tsagduul, Buils, Zasgal, Ders and Tsakhildag which collects water and humidity to feed other valuable pastureland herbs, including Bagluur, Budargana, Shar mod and Teseg among others.

Diversion of Undai River will deteriorate pastureland yields of places along the river, including Khanr tolgoi, Ergen shand, Zamyn khuuvur, Tal kharmagtai, Gurvan modon khaliv, Dugat, Builsan khuuvur, Khanan davaa, Khar khad, Durvulj, Ulaan tolgoi, Khukh khad, Bor khoshuu, Bumbatyn ulaan, Tavan tolgoi, Salaagiin tal, Baishint, Burkhan, Tavan ovoo, Naimaa us, Khulsan, Burgasan, Puntset, Zurkhaich, Saglar and Shine Us. Consequently, many herders' families – namely Dolgorsuren, namsrai, Munkhbayar, Battogtokh, Binderya, Battsengel, Shinebayar, Surenkhorol, Iderborgil, Enkhchuluun, Tsogt, Tsend-Ayush, Gombosuren, Shirnen, Nadmid, Odgarig, Sodnomdorj, Tuvsanaa, Altangerel, Dolgorsuren, Adiya and Badamzav who live and pasture their livestock in those places – may lose their livelihoods.

Undai River is the only river with surface flows in the region, starts at the territory of Gaviluud bagh of Khanbogd soum (Southgobi province) and flows to the south-east about 200 km supporting life in the region. This river provides an important water supply supporting aspen and saxaul forests of Galbyn Gobi – one of treasured natural beauties of Mongolia which inhabits diversity of various flora and fauna species.

Undai River has historical and cultural values that we local herders worship, love and protect the river as sacred because the river saved lives of Chingis Khaan's soldiers with its water.

Diversion of Undai River violates our human rights guaranteed by Mongolian and international legislations, specifically:

Water rights
Pasture rights

Livelihood rights
Environmental protection rights
Historical and cultural heritage protection rights

As replenishing water causes dire threats to our life, we local herders request to review violations of above-mentioned rights and stop ongoing diversion activities which are conducted without our consent.

We are already impacted by the project in the following ways and more impacts are threatening us further.

Description of the Project:

Oyu Tolgoi (OT) is the world's third largest gold and copper mine located in Khanbogd soum, Southgobi province and promises to play an important role to socio-economic development of Mongolia through increasing its GDP by 30%.

This project site is located at 100 km from the border and plans to export all excavated minerals to China to process the gold there too. It promises to create a large number of job places, improve livelihoods and contribute prosperity of Mongolia. However, in reality important prerequisites of political, economic, environmental and human resource conditions are not ensured/provided sufficiently, and thus scholars' suggestions assuming herders' access to project benefits would be further minimal, become more evident already.

The project is undergoing its construction phase in the Gobi region with scarce water supply and thus overpowering and domineering to use our water supply and pastureland which cause enormous problems to us herders. When exploration activities of the Project intensified from 2002 and its construction phase started in 2006, local herders had not been properly informed and consented about their activities and potential negative impacts (still now we are denied the right to free, prior and informed consent regarding any Project activities). As soon as negative impacts are observed and started to affect our life, we approached all possible authorities, including the project, no place has stood out to help us and protect our interests and rights.

We Complainants face threats of lack of drinking water, no pastureland to practice traditional nomadic lifestyle and livelihoods and no opportunities to transmit our traditional cultural properties/elements to our children which are all due to real impacts of the Project.

Losing livelihood sources irreversibly: No strategies to provide new livelihood sources to herder families who cannot maintain livelihoods from herding any more, and to help them develop skills to sustain their livelihoods independently.

Monitoring living standards: No established methods to measure, monitor and protect living standards of local people, no mechanisms to provide compensations based on measurement results and/or schedules;

Health protection: Previously herders suggested measures to mitigate negative health impacts to be included in the Compensation Agreement, yet it did not work. Herders' health is deteriorating due to dust, noise and low quality animal-based food products such as meat and dairies (from sick animals also affected by project impacts). There is no information or program [from the Project] which provides health care supports and/or preventative measures against mine pollution and disturbance.

Mongolian traditional pastoral nomadism: We are indigenous people who practice nomadic lifestyle and culture, and make livings from herding livestock that are heavily reliant on pastureland yields and capacity. We are legitimate owners of the pastureland with historical rights supported by traditional customs. However, the company does not accept it, yet it provided no justification to further their position. The company thinks we are not ethnic minorities so that we have no right to claim land access. Pasture rights are essential to support nomadic lifestyle and livelihoods infrastructure, but violations of pasture rights protection lead to collapse of traditional lifestyle based on pastoral nomadism. However, no compensation is provided in such regards.

We would like to see this complaint resolved in the following way:

1. Stop Undai River diversion work;
2. Calculate environmental damages incurred from the river diversion works conducted without free and prior consent of local people, and provide due compensations;
3. Determine the declined amounts of water supply for local people and provide due compensations;
4. Provide compensations for psychological damage suffering from 2009 in relation with Gunii Khooloi and Undai River diversion.

Members of Undai River protection working group:

B. Erdenebayar, member of Soum Citizens' Representatives' Khural
B. Shinebayar, Javkhlant Bagh General Meeting Chairman
L. Battengel, Leader/CEO of Gobi Soil NGO
U. Battogtokh, herder
Nadmid, herder
U. Ser-Od, herder
Namsrai, herder