

**Merza Hasan**

Dean, Board of Executive Directors  
 The World Bank Group  
 1818 H Street, N.W.  
 Washington, DC 20433

Dear Executive Director Hasan,

It has been more than a year since the World Bank Board of Directors approved financing for the Oyu Tolgoi (OT) copper and gold mine in Khanbogd *soum*, Omnogobi *aimag*, Mongolia from the International Finance Corporation (IFC) and a risk guarantee from the Multilateral Investment Guarantee Agency (MIGA). However, the funds have not yet been disbursed due to the drawn-out and tense negotiations between the Government of Mongolia and Rio Tinto LLC, the joint owners of the mine. In anticipation of the 31 March 2014 loan negotiation deadline, we are writing to express our ongoing concerns about the serious social and environmental impacts of, and lack of transparency surrounding, the project. We have previously shared many of these concerns with the Board of Directors, IFC management, and OT LLC (the mine operator), but they have as yet gone unaddressed.<sup>1</sup>

When the Board of Directors approved the Oyu Tolgoi project in February 2013, it was with the understanding that in spite of the missing Operational Management Plans (OMPs) in the original Environmental and Social Impact Assessment (ESIA), the company could be brought into compliance with the IFC's Performance Standards. OT LLC committed itself to meeting these standards, which are intended to avoid, minimize, or at the very least compensate for the significant environmental and social risks posed by the project. In reality, however, the local herding community is now worse off, in many ways as a direct result of the company's actions and its failure to comply with the IFC's Performance Standards.

These violations, which have resulted in serious air pollution, pasture loss and loss of access to clean water, are forcing herders to abandon their traditional livelihoods, leaving behind a culture that has been practiced for many generations. Today, the herding community around the mine is no longer able to prepare for calving season in their traditional spring pastures as most of the land was taken away by OT LLC and what little pasture is available to them now has no water or grass. These families have been forced to move their animals long distances in an attempt to find adequate pastures, including into neighboring Dornogobi *aimag*, where in many cases they must "beg and steal" water and pasture from other herders just to ensure that their animals survive. In addition, both herder pastureland and wildlife habitat has been fractured by road, pipeline and electrical transmission line construction and other project activities with poor or non-existent wildlife management components, despite OT LLC's commitments to the contrary.

The findings of the October 2013 Audit conducted by D'Appolonia<sup>2</sup> support the local community's claims that this situation is, at least in part, caused by the fact that the shallow and surface water resources traditionally used by herders, livestock and wildlife in the Undai River watershed and the Gunii Hooloi groundwater extraction area have been damaged significantly by the OT project. In particular, the audit found that the Undai River diversion system has failed to meet requirements for preventing the loss of groundwater to evaporation and adequately replacing the Bor Ovoo spring.<sup>3</sup> It also found that water has been drained from the shallow aquifers used by herders in the Gunii Hooloi groundwater extraction zone due to at least six erroneously constructed exploration wells and unassessed impacts of about 300 other exploration boreholes.<sup>4</sup> Moreover, OT LLC has failed to either collect data and/or disclose reports regarding water usage, including but not limited to: verifiable and accurate water balance data; the company's evaluation of its water usage plans compared to other "peer" mines; its updated hydrological monitoring reports of the groundwater resources at Gunii Hooloi and the open pit mine; and its reports justifying the use of wet versus dry tailings storage.<sup>5</sup>

This situation is compounded by the fact that both the company and the auditor consistently fail to address the concerns of the local community. D'Appolonia, for instance, failed to meet with or interview any independent local stakeholders during its site visit, which would have contributed significantly to the audit's identification and evaluation of social impacts. Moreover, the

<sup>1</sup> See, for instance, our letter to President Kim dated 11 February 2013 (available at: <http://www.bicusa.org/wp-content/uploads/2013/03/CSO-letter-to-Dr-Kim-on-Oyu-Tolgoi.pdf>).

<sup>2</sup> D'Appolonia 2014 – D'Appolonia, "Report of Independent Environmental and Social Consultant Site Visit October 2013" released February 10, 2014 (available at: [http://ot.mn/en/about-us/environmental-social-impact-assessment/esia\\_under\\_Audit\\_Report\\_tab](http://ot.mn/en/about-us/environmental-social-impact-assessment/esia_under_Audit_Report_tab)).

<sup>3</sup> D'Appolonia, October 2013 Audit, pp. 22, 40.

<sup>4</sup> Ibid, pp. 24, 44.

<sup>5</sup> Ibid, pp. 9, 23, 43. The reports in question include "Benchmarking Water Efficiency at Oyu Tolgoi against Comparable Mining Projects Worldwide" referenced in both the April 2013 and October 2013 audits; the Aquaterra Groundwater Monitoring report; and the Golder Report on "Review of Feasibility Design, Tailing Storage Facility, Oyu Tolgoi Project Mongolia," all three of which we have requested multiple times but have not yet received.

failure to make the audit report available in the Mongolian language prevents the local community from effectively reviewing and commenting on it.<sup>6</sup> OT LLC says that it is committed to stakeholder engagement, but it consistently makes changes to the mine development plan without prior informed community support. A past example that resulted in a significant loss of important pasture for the local herders was when the company expanded the mine license area and constructed the international airport outside the fenced area. Despite complaints about this lack of consultation, OT LLC continues to operate in this manner. For example, the company recently requested an additional 12 hectares of land outside the mine license area to relocate Shaft #4 (previously located within the mine license area) for the underground part of the mine, claiming that it was not required to carry out additional environmental and social impact assessments or consultations, despite the fact that a number of herder families are likely to be physically or economically displaced, in some cases for the second or third time, by this new component of the project.

Time and again, OT LLC has failed to live up to its obligations under the Performance Standards. It is therefore incumbent upon the World Bank Board of Directors to ensure that the IFC management exercises its due diligence in reviewing OT LLC's environmental and social (E&S) assessments and to ensure that it is sufficiently proactive in engaging with the client to remedy E&S issues that have been identified during project supervision.<sup>7</sup> As such, we urge the World Bank Board of Directors to delay the disbursement of the loan until the following conditions are met:

1. **The Executive Directors review critical upcoming reports**, including
  - a. Environmental Law Alliance Worldwide's review of Oyu Tolgoi's Operational Management Plans. The report is expected to be released in early April.
  - b. The Independent Expert Panel (IEP) report on Assessing the Impact of the Undai River Diversion produced as a result of the Compliance Advisor Ombudsman (CAO) process. The report was due in early March, but is now delayed until late April. The disclosure of this report is key to the outcome of the complaints process, and we believe it will also shed light on various compliance problems associated with the Undai River Diversion identified in the D'Appolonia Audit Report.
  - c. The European Bank for Reconstruction and Development's (EBRD) Project Complaint Mechanism (PCM) eligibility assessment on the complaint regarding roads built by Oyu Tolgoi and Tavan Tolgoi. This report has also been delayed until April and will determine whether the PCM will investigate compliance issues associated with these project-related roads.
2. **OT LLC or D'Appolonia translates the October 2013 audit into Mongolian and provides an opportunity for the local community to comment.** At the very least, the Social Impacts section and the summary of the October 2013 report should be translated as soon as possible. Moving forward, it should become standard practice to translate all audit reports into Mongolian to give the local community the opportunity to review and comment on these documents.
3. **The Executive Directors ask IFC management to hold a technical briefing on the Project prior to signing the loan agreement.** This technical briefing should cover the 2013 audit reports, a review of the complete set of OT Project Operational Management Plans, and the reports mentioned in Point 1 above.

Thank you for your attention to the serious concerns raised in this letter. We request that if you cannot commit to any of the above recommendations, please send us a written response justifying the decision. Please feel free to contact us if you would like to discuss these matters in further detail.

Sincerely,

**Sukhgerel Dugersuren**, Executive Director, OT Watch, [otwatch@gmail.com](mailto:otwatch@gmail.com)

**Urantsooj Gombosuren**, Chair, Centre for Human Rights & Development, [gurantsooj@rocketmail.com](mailto:gurantsooj@rocketmail.com)

**Sarah Singh**, Accountability Counsel, [sarah@accountabilitycounsel.org](mailto:sarah@accountabilitycounsel.org)

**Jelson Garcia and Sarah McNeal**, Bank Information Center, [jgarcia@bicusa.org](mailto:jgarcia@bicusa.org); [smcneal@bicusa.org](mailto:smcneal@bicusa.org)

**Fidanka Bacheva-McGrath**, CEE Bankwatch Network, [fidankab@bankwatch.org](mailto:fidankab@bankwatch.org)

**Richard Harkinson**, London Mining Network, [research@londonminingnetwork.org](mailto:research@londonminingnetwork.org)

**Paul Robinson**, Southwest Research and Information Center, [sricpaul@earthlink.net](mailto:sricpaul@earthlink.net)

**Regine Richter**, Urgewald, [regine@urgewald.de](mailto:regine@urgewald.de)

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<sup>6</sup> The April 2013 audit conducted by Environmental Resource Management (ERM) was translated into Mongolian and made available on the Oyu Tolgoi website on the same day as the English version, which makes the decision not to translate the October 2013 audit all the more disconcerting.

<sup>7</sup> While the complaints submitted by the local community to the CAO and the EBRD's Project Complaint Mechanism have been moving forward positively, these processes are insufficient to address the gap between OT LLC's commitments and its actions.