

IPN REQUEST RQ 10/03

April 7, 2010

NOTICE OF REGISTRATION

Re: Request for Inspection

Republic of South Africa: Proposed Eskom Investment Support Project

On April 6, 2010, the Inspection Panel (the “Panel”) received a Request for Inspection (the “Request”) related to the proposed Republic of South Africa: Eskom Investment Support Project (the “Project”). The Request was submitted by groundWork and Earthlife Africa, two NGOs from South Africa, on behalf of representatives of community members in the Project area (the “Requesters”). The Requesters state that they are likely to suffer direct impacts from the Project and its associated facilities. The Requesters have asked that their identities be kept confidential and that groundWork and Earthlife Africa act as their designated representatives.

The Project

According to the Project Appraisal Document (PAD), the proposed Project Development Objective is “*to enable Eskom South Africa to enhance its power supply and energy security in an efficient and sustainable manner so as to support both economic growth objectives and South Africa’s long term carbon mitigation strategy.*”¹

In this regard, the proposed Project has three components², namely: *Component A*, which includes the construction of the power plant and associated transmission lines of the 4,800 megawatt (MW) Medupi coal-fired power plant which is based on supercritical (superior) technology; *Component B*, which includes investments in the 100 MW Sere Wind Power Project and 100 MW Upington Concentrating Solar Power Project; *Component C*, which includes sector investments and technical assistance to support lowering Eskom’s carbon intensity through energy efficiency and development of renewable energy, the Majuba Rail Project (railway for coal transportation) and technical assistance for assessing the opportunities for coal-fired power plant efficiency improvements and for the development and implementation of domestic and cross border renewable energy projects.

¹ Project Appraisal Document (PAD) in the Amount of US\$3,750 million to Eskom Holdings Limited Guaranteed by Republic of South Africa for an Eskom Investment Support Project, Dated March 19, 2010, p.28.

² PAD, p. 29.

According to the PAD³, the proposed Project triggers the Environmental Assessment (OP 4.01), Natural Habitats (OP 4.04), Physical Cultural Resources (OP 4.11), Involuntary Resettlement (OP 4.12) and Projects on International Waterways (OP 7.50) policies. Except for the policy on Projects on International Waterways, the remaining policies are being addressed through OP/BP 4.00, Piloting the Use of Borrower Systems, for which a Safeguards Diagnostic Review (SDR) has been prepared.

The proposed Project is to be financed by an IBRD Loan of \$3,750 million to Eskom Holdings Limited, a parastatal utility, which is guaranteed by the Government of South Africa, a Clean Technology Fund (CTF) loan for Component B in the amount of US\$350 million, multilateral financing (African Development Bank and European Investment Bank) in the amount of US\$2663.80, and bilateral and commercial lenders (European Export Credit Agencies Coface and Hermes and Japan International Cooperation Agency) in the amount of US\$2361.25.⁴

The proposed Project is scheduled to be presented to the IBRD Board of Directors on April 8, 2010 for approval. The proposed Project closing date is October 31, 2015.⁵

The Request

The Request has been submitted by groundWork and Earthlife Africa on behalf of representatives of community members located near Lephalale in Limpopo Province who wish to keep their identities confidential. The Request states that these communities have concerns about the direct impacts of the Medupi coal-fired power plant, which according to them has been under construction since 2007, and its associated facilities as well as “*broader societal concerns*”.

The following concerns and likely harm are raised in the Request:

Health Impacts. The Request states that communities are seriously concerned about the potential health impacts from the expected “*significant*” emissions from the Medupi plant. They are particularly concerned about communities that live in the vicinity of the coal-fired plant who will be exposed to “*increased levels of particulates and sulphur dioxide, which already exceed local and international air quality limits*”.

Impact on Water. The Requesters fear that the power plant and its water-intensive “*sulphur scrubbers*” will put additional strain on existing water sources in an area already suffering from water scarcity.

Cultural Impacts. The Request states that cultural practices in the area could be negatively impacted by the “*destruction*” of grave sites and sources of traditional medicines.

Livelihood Impacts. The Requesters believe the Medupi coal-fired power plant will have “*detrimental*” impacts on the livelihood of people living in and around Lephalale as the

³ PAD, p. ii.

⁴ PAD, p. i and p. 191.

⁵ PAD, p. ii.

industrial activity and pollution will negatively affect agriculture, livestock rearing, and eco-tourism.

Impacts on Economy. The Request states that South Africa “*regularly experiences currency crashes*” leading to a devaluation of the currency, and that repaying the loan will “*require more exports and higher tariffs*” to allow the economy to endure any future currency devaluation.

Upstream Impacts. The Requesters say they are concerned about environmental issues, and in particular acid mine drainage, around the mines from which Medupi will receive its coal, as they claim the World Bank has not extended the Project’s scope to these existing coal mines.

Moreover, they state that a significant expansion in mining in the area will likely lead to an influx of laborers which could result in environmental and social impacts, and that since mine workers traditionally receive low wages while working under difficult conditions, this could lead to many of them suffering from health problems.

Climate Change. The Requesters believe that the proposed Project will “*compromise the World Bank’s commitments on climate change*” and make it more difficult for South Africa to reduce its greenhouse gas emissions and meet its obligations. Moreover, they allege there is no certainty to the claims made by the World Bank that the use of cleaner coal technology or carbon capture and storage will sufficiently control the “*enormous amounts of pollutants*” produced by the proposed Project. Finally, they state that the Bank’s support for the proposed Project contradicts the report of the external Expert Panel, appointed in October 2009, which “*raises doubts about the World Bank supporting Medupi without adequately complementing it with renewable energy development*”.

Involuntary Resettlement. The Request states that the proposed Project could cause involuntary resettlement due to transmission lines associated with the Medupi coal-fired power plant, and the construction of the proposed wind, solar, and rail projects which are also part of the proposed Project. Moreover, they believe the World Bank has remained “*ambiguous*” about whether South Africa’s national legislation on resettlement is equivalent to World Bank policy, and since the World Bank is applying the country systems approach to the proposed Project, they feel this issue of equivalency should be examined in the interest of the potentially displaced persons.

Human Rights. The Requesters believe that South Africa’s actions related to the proposed Project “*violates the human rights of the communities, and are inconsistent with the South African Constitution and the African Charter on Human and Peoples’ Rights*”. They state that Article 24 of the South African Constitution recognizes that “*Everyone has the right to an environment that is not harmful to their health or well-being*” and allows for the protection of the environment for the benefit of present and future generations. The Requesters states that actions by South Africa and Eskom are “*harmful to the environment and health and well-being of local communities*” and that these impacts “*outweigh the actual economic and social development impacts of the project*”.

Cumulative Impacts. The Requesters believe their concerns are “*compounded by the potential cumulative impacts of the planned and existing generation facilities*” which include Matimba⁶,

⁶ According to the PAD (p. 33), Matimba is a coal-fired power plant currently operated by Eskom

the proposed Mmamabula power plant across the border in Botswana, a planned Sasol coal-to-liquid fuels plant, and other planned coal mines and plants. These facilities, according to the Request, will be connected by a transmission line to be built by Eskom and have been designated by the World Bank as “*associated facilities*” which have to comply with Bank policies.

Project Alternatives. The Request states that the World Bank did not “*adequately consider alternatives to coal*”, including a Demand Side Management alternative and particularly the ending of Eskom’s Special Pricing Agreements. They allege that “*without considering renegotiating the contract with the largest industries that receive a significant share of South Africa’s industry at extremely low rates, the Bank did not properly exhaust non-coal options for addressing South Africa’s electricity crisis*”.

Country Systems. The Requesters are concerned that the proposed Project’s reliance on South African laws, policies, and institutions to implement and monitor the proposed Project will be “*inadequate*” in protecting peoples’ health and well-being. They state that South Africa “*has a problematic track record of actually abiding by and implementing its environmental and social obligations*”.

Moreover, the Requesters state that the Bank has made an incorrect determination that South African standards related to pollution prevention and abatement are equivalent to the World Bank’s Pollution Prevention and Abatement Handbook. They also feel that the gap-filling proposal by the Bank “*do not include changes to South African laws and regulations – these proposals reflect only changes that should be made at Eskom with this specific project, and do not appear to be mandatory, long-term improvements to Eskom’s ‘system’*”.

Legacy of World Bank Involvement. The Requesters state that World Bank financed coal-fired power plants during apartheid provided electricity to large industry and white South Africans while all citizens had to repay the loans. They further state that the Bank’s legacy in South Africa’s energy sector, including the issue of reparations, should be examined as part of the proposed Project.

Energy Access for the Poor. The Requesters believe that the proposed Project will not provide electricity to poor South Africans, as stated by the Bank, but will mainly benefit large industries. They write that the poor suffer from power supply disruptions while consuming less but paying more for electricity than export-oriented industries. Moreover, they believe the World Bank provides no evidence for its claim that the proposed Project will provide electricity to the 20% of South African population that presently does not have access to electricity.

They also state that a recently approved 25% annual tariff increase for 3-years is unaffordable for most South Africans who may face disconnection due to non-payment, while large industries are “*exempt*” from bearing the costs of the proposed Project due to the “*still-secret Special Pricing Agreements concluded in a non-transparent manner during the last days of apartheid*”.

Raising concerns with the World Bank. The Request states that concerns about the proposed Project were communicated to World Bank Management through a letter dated March 11, 2010 and a video conference which took place on March 18, 2010. A letter was received from Management on March 24, 2010 but the Requesters believe it did not “*adequately address*” their

concerns which is why they are not satisfied with Management's response to their concerns about impacts on communities, the environment, and the South African public in general.

The Requesters ask the Inspection Panel to recommend to the Board of Executive Directors that an investigation into the matters described in the Request for Inspection be carried out.

The above claims may constitute, *inter alia*, non-compliance by the Bank in relation to the following Operational Policies and Procedures, taking into account that, according to the PAD, some of these policies are being addressed under the use of country systems⁷:

OP 1.00	Poverty Reduction
OP/BP 4.00	Piloting the Use of Borrower Systems to Address Environmental and Social Safeguard Issues in Bank Supported Projects
OP/BP 4.01	Environmental Assessment
OP/BP 4.04	Natural Habitats
OP/BP 4.11	Physical Cultural Resources
OP/BP 4.12	Involuntary Resettlement
OP/BP 7.50	Projects on International Waterways
OP/BP 10.04	Economic Evaluation of Investment Operations

In accordance with paragraph 17 of the Panel's Operating Procedures (the "Operating Procedures"), I am notifying you that I have, on April 7, 2010, which is also the date of the dispatch of this notice, registered this Request in the Inspection Panel Register. Please note that the Panel's registration is an administrative procedure and it implies no judgment whatsoever concerning the merits of the Request for Inspection.

Until further notice, all communications with the Requesters in connection with the Request will be sent to Mr. S. Peek on behalf of groundWork and Earthlife Africa as the representative of the Requesters.

As provided in paragraph 18 of the IDA Resolution that established the Panel ('Resolution'), paragraphs 2 and 8 of the "*Conclusions of the Board's Second Review of the Inspection Panel*" (the "1999 Clarifications"), and paragraph 18(d) of the Operating Procedures, Bank Management must provide the Panel, no later than May 6, 2010 with written evidence that it has complied, or intends to comply, with the Bank's relevant policies and procedures in relation to the above-referenced Project. The subject matter that Management must deal with in a response to the Request is set out in paragraphs 3 and 4 of the 1999 Clarifications.

After receiving the Management response, the Panel will, as outlined in the 1999 Clarifications and as provided by paragraph 19 of the Resolution, "*determine whether the Request meets the eligibility criteria set out in paragraphs 12 to 14 [of the Resolution] and shall make a recommendation to the Executive Directors as to whether the matter should be investigated.*"

⁷ PAD, p. 40.

The Request has been assigned IPN Request Number RQ 10/03.

Yours sincerely,

A handwritten signature in black ink that reads "Roberto Lenton". The signature is written in a cursive style with a large initial 'R'.

Roberto Lenton
Chairperson

S. Peek
Director
groundwork
P.O. Box 2375
Pietermaritzburg, 3200
South Africa

Earthlife Africa
P.O. Box 321131
Braamfontein, 2107
South Africa

Mr. Robert B. Zoellick
President
International Bank for Reconstruction and Development

The Executive Directors and Alternates
International Bank for Reconstruction and Development