

Report No. 65017-IN

**The Inspection Panel** 

**Report and Recommendation**

**India -Madhya Pradesh Water  
Sector Restructuring Project  
(IBRD Loan No. 4750-IN)**

October 25, 2011

**The Inspection Panel**  
**Report and Recommendation**  
**On**  
**Request for Inspection**

**INDIA - Madhya Pradesh Water Sector Restructuring Project**  
**(IBRD Loan No. 4750-IN)**

**A. BACKGROUND TO THE REQUEST**

1. On August 31, 2010 the Inspection Panel (hereinafter, the “Panel”) received a Request for Inspection (hereinafter, the “First Request”) related to the India - Madhya Pradesh Water Sector Restructuring Project (the “Project” or “MPWSRP”). The Requesters stated that they were concerned about health and sanitation issues related to the “Water Quality Enhancement Project of Swarn Rekha River”, which is a sub-component of the Project (hereinafter, the “sub-project”). The Panel informed the Requesters about the need to bring their concerns to Management’s attention as per Panel procedures.
2. On May 17, 2011, the Panel issued a Memorandum to the Board of Executive Directors<sup>1</sup> informing them of the receipt of this First Request and explaining the reasons why it had not been registered. In this Memorandum, the Panel noted that Management had been proactive in its consultation efforts with the Requesters and that the Panel would await further developments aimed at reaching a satisfactory resolution of the problems raised in the First Request.<sup>2</sup>
3. On July 16, 2011, the Panel received a second Request for Inspection dated July 6, 2011 (hereinafter, “the Request”) related to the Project. The Request was filed by the same Requesters, Messrs. Ram Sharan Gupta and Dinesh Kumar Singhal, who are both residents of Gwalior Town. The Requesters stated that despite receiving a number of assurances from the Bank that their concerns related to health and sanitation issues would be resolved, they remained unaddressed for almost a year. They claimed that Bank Management had not complied with its policies and procedures with respect to this sub-project, which, in their view, had caused harm to people in the vicinity of the Swarn Rekha River. The Panel registered the Request on August 22, 2011 and Management submitted its Response on September 21, 2011.<sup>3</sup>

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<sup>1</sup> The Inspection Panel Memorandum to Executive Directors of International Bank for Reconstruction and Development, dated May 17, 2011.

<sup>2</sup> The Requests, Management Response, and all related documents, are available at <http://web.worldbank.org/WBSITE/EXTERNAL/EXTINSPECTIONPANEL/0,,contentMDK:22919704~menuPK:64129250~pagePK:64129751~piPK:64128378~theSitePK:380794~isCURL:Y,00.html>

<sup>3</sup> Management Response to Request for Inspection Panel Review of the India-Madhya Pradesh Water Sector Restructuring Project (IBRD Loan No. 4750-IN), September 21, 2011 (hereinafter “Management Response”).

4. As provided in paragraph 19 of the 1993 Resolution establishing the Inspection Panel (the “1993 Resolution”),<sup>4</sup> the purpose of this report is to determine the eligibility of the Request and make a recommendation to the Executive Directors as to whether the matters alleged in the Request should be investigated.

## **B. THE PROJECT**

5. The development objective of the Project is to improve productivity of water for sustainable growth and poverty reduction in selected river basins (Chambal, Sindh, Betwa, Ken, and Tons) of Madhya Pradesh.<sup>5</sup> The Project aims to rehabilitate and modernize about 500 irrigation systems, build capacity of Water Users Associations (WUA), introduce improved agricultural, horticultural, and fisheries practices in the project schemes, and reform the Water Resource Department (WRD).
6. The Project has the following four components:
  - *Component A: Water Resources Management – Institutions and Instruments*, which aims at supporting the establishment and operationalization of the proposed planning, allocation and regulatory institutions and instrument at the State and basin-levels;
  - *Component B: Service Delivery – Irrigation and Drainage Institutions*, which aims at supporting measures related to delivering reliable irrigation services;
  - *Component C: Improving productivity of selected existing irrigation and drainage assets in five basins*, which aims at providing the necessary investments in the Chambal, Sindh, Betwa, Ken, and Tons basins;
  - *Component D: Project Management Support*, which aims at supporting the Project Implementation Coordination Unit (PICU).
7. The Project includes, under its Component C, the “Water Quality Enhancement Project of Swarn Rekha River,”<sup>6</sup> which is the subject of the Requesters’ concern. This Bank-financed sub-project aims to line approximately 12 kilometers of the Swarn Rekha River, which runs through the city of Gwalior, so as to improve its water quality and drainage capacity for purposes of transferring water to an irrigation scheme near Gwalior to eventually irrigate 2,500 ha and benefit 3,000 households.<sup>7</sup>
8. The agreed scope of the sub-project includes silt clearance and earth works, concrete lining of the approximately 12 km river cross-section, construction of a new parapet wall and repair of existing parapet walls, renovation of sections of four *nallas* (drainage channels),<sup>8</sup>

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<sup>4</sup> International Development Association, Resolution No. IDA 93-6, dated September 22, 1993 (the “1993 Resolution”).

<sup>5</sup> Project Appraisal Document (hereinafter, “PAD”), Report No: 28560-IN, dated August 9, 2004, p.3.

<sup>6</sup> Environmental Management Plan, Water Quality Enhancement Project of Swarn Rekha River, Yamuna Basin Sindh Sub Basin Under Madhya Pradesh Water Sector Restructuring Project, 2007.

<sup>7</sup> Management Report of February 18, 2011, Visit to Gwalior.

<sup>8</sup> The Management Response states that “‘Nallas’ are drainage channels which in Gwalior Town not only drain flood waters but also sewage. The nallas feed into the sewer trunk line.”

minor renovation of tanks, construction of five new bridges and repair of 13 existing bridges.<sup>9</sup>

### C. FINANCING

9. The Project is partially financed by an IBRD Loan in an amount of US\$ 396 million,<sup>10</sup> which was approved by the Board of Executive Directors on September 7, 2004. The Project is currently proposed for restructuring and the original loan closing date of March 31, 2011 has been extended until December 31, 2011 to allow “*sufficient time for the Government of India and GoMP to work towards a clear demonstration of significantly improved project implementation in the coming months.*”<sup>11</sup> The Borrower is the Government of India and the implementing agency is the Water Resources Department, Government of Madhya Pradesh.

10. The estimated cost of the sub-project is about US \$7.5 million.<sup>12</sup>

### D. THE REQUEST FOR INSPECTION

11. The Request (see Annex I) raises issues related to health, pollution, poverty reduction, project design, and supervision by Bank staff. Its main focus is on the health hazard posed to the residents of the city of Gwalior by raw sewage allegedly flowing in the Swarn Rekha River. The Requesters allege that an existing sewage trunk line, which is located under the river bed (and at times besides it), and thus under the concrete lining being constructed under the sub-project, was damaged by “*construction work*” connected to the sub-project.

12. **Health, Pollution and Poverty:** The Requesters state that the sub-project is creating slum-like conditions because the main sewage trunk line has been crushed, and is now “*choked*”, due to “*construction work and poor supervision.*” They also state that the sub-project “*creates mud and water slumps*” which is causing illnesses like malaria and dengue. They write that the river has “*small ponds of dirty sewage water*”, and that the main trunk line is still choked in the 2.5km-5km section and raw sewage is floating in the river. The Requesters also allege that “*one lakh people*” [100,000 persons] are affected by the unsanitary conditions and poverty has increased as these people are “*wasting their money*” on medical treatment.

13. **Quality of Work and Sub-project Design:** The Requesters state that the quality of work is poor as it has not been carried out in accordance with the “*design and specification*” of the sub-project. They also state that “*drainage and seepage lines in the lining are not given*”, and that this stopped the “*free flow of sewage in the center of river*”.

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<sup>9</sup> Management Response, p. 12, para 14.

<sup>10</sup> PAD, p. iv.

<sup>11</sup> Restructuring paper on a proposed project restructuring of Madhya Pradesh Water Sector Restructuring Project (Loan No 4750-IN), September 7, 2004, to the Republic of India, March 30, 2011.

<sup>12</sup> Management Response, p. 11, para 14.

14. **Supervision:** The Requesters state that they have “*complained*” to Bank Management on several occasions about their concerns and that Management has attempted but “*failed to solve the problems*”. They allege that their concerns have not been addressed despite several World Bank teams visiting the sub-project site, and that a 2.5 km long section of the main sewage trunk line that runs under the sub-project remains blocked. The Requesters have also informed the Panel that despite receiving assurances that this trunk line section would be unblocked by mid-June 2011, no progress has been made and raw sewage is still flowing in the Swarn Rekha River. Moreover, they add that work on the sub-project “*is stopped from last 03 months*”. Consequently, they were not satisfied with Management’s efforts, which they considered to be inadequate in addressing their concerns.
15. The Requesters further allege that the harms they have suffered are linked to the Bank not properly following several of its operational policies and procedures and asked the Panel to recommend to the Board of Executive Directors that an investigation into the matters alleged in the Request be conducted.
16. The above claims may constitute, *inter alia*, non-compliance by the Bank with various provisions of the following Operational Policies and Procedures:

OP/BP 1.00	Poverty Reduction
OP/BP 4.01	Environmental Assessment
OP/BP 13.05	Project Supervision
OMS 2.20	Project Appraisal

## **E. THE MANAGEMENT RESPONSE**

17. As stated earlier in this Report, Management submitted its Response on September 21, 2011 (see Annex II). Management states that it considers the Request as “*...deficient and ineligible*” and that in its view, “*the Requesters cannot demonstrate that their rights or interests have been or are likely to be directly affected*” by the sub-project.<sup>13</sup>
18. According to Management “*...it is necessary for both the Panel and the Board to deem that the assertion laid out in the Request complies with the eligibility requirement of the [Inspection Panel] Resolution and the Clarifications.*”<sup>14</sup> The Management Response further adds that “[w]ithout this determination, the Request should not be admissible”<sup>15</sup> and that “*there is no basis to support a recommendation to investigate*” as the Request fails to meet “*fundamental jurisdictional considerations required under [the Panel’s] Resolution.*”<sup>16</sup> According to Management, the “*Requesters have no rights or interests affected*” because there is no “*causal link between the sewage problem and any acts or omissions by the Bank.*”<sup>17</sup>

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<sup>13</sup> Management Response, p. vi.

<sup>14</sup> Management Response, p. 13, para 17.

<sup>15</sup> Management Response, p. 13, para 17.

<sup>16</sup> Management Response, p. 13, para 18.

<sup>17</sup> Management Response, p. 13, para 20.

19. **Choking of Sewage Line and Pollution.** As mentioned above, the Management Response asserts that there is no causal link between the “*river pollution and the lining works supported under the Sub-project.*”<sup>18</sup> In Management’s view, the present situation was caused by a series of events which led to an “*unanticipated surge of sewage in the river in 2010.*”<sup>19</sup> Management asserts that a labor dispute of the workers of the Public Health Engineering Department between April-August 2010 led to a “*reduction*” in the regular cleaning of the sewage system and caused an “*accumulation of debris and silt*” in the *nallas* and river bed. This accumulation of debris (mainly plastic bottles and bags) caused the *nallas* to clog up and led to a back-up of sewage in them. In an attempt to rectify this situation, residents resorted to breaking manholes and removing trash racks, installed to prevent solid waste from entering the trunk line, so as to allow the backed up *nallas* to empty into the Swarn Rekha River. Management further states that sewage was also unable to freely flow in the Swarn Rekha River due to various obstacles such as sedimentation and piles of debris which were in the River due to lack of regular cleaning or, to a lesser extent, due to construction work related to the sub-project.
20. According to the Management Response, the obstructions in the Swarn Rekha River that occurred as a result of the labor dispute were cleared in April 2011 with support from the sub-project. Management believes that currently “*there is very little sewage in the river*” due to these cleaning activities and the removal of obstructions.<sup>20</sup> Moreover, Management states that the pumping station at the end of the sewer line is operating and discharging sewage, thereby indicating there is no blockage in the main sewage line.<sup>21</sup>
21. Management also states, with reference to the sewer trunk line under the river bed, that “*[w]hile most sections have been cleaned and waste-water can be discharged through the pipe again, the aforementioned section [i.e. the 2.5km to 5km section] could not be fully cleaned as it has a built up hardened layer of silt and debris that reduced the pipe’s diameter and makes it prone to choking. An attempt to clean the pipe with conventional methods was unsuccessful and more specialized equipment may be needed to remove the hardened layer. As the capacity of this section has in any case to be increased due to increased population, the Government is considering laying an additional pipe to double the discharge capacity.*”<sup>22</sup>
22. The Management Response further states that there is no evidence that the construction work undertaken by the sub-project caused any “*lasting damage*” to the sewer line. Management states that during sub-project construction, some sewer line joints had minor damages and that they were immediately repaired causing no impact on the sewer’s functionality.<sup>23</sup>

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<sup>18</sup> Management Response, p. 15, para 28.

<sup>19</sup> Management Response, p. 15, para 28.

<sup>20</sup> Management Response, p. 16, para 29.

<sup>21</sup> Management Response, p. 22, §3.

<sup>22</sup> Management Response, p. 16, Footnote, 11.

<sup>23</sup> Management Response, p. 16, para 30.

23. Further, the Management Response states that “[a]lthough the Bank-financed activity is not aimed at improving the sewage and solid waste collection in Gwalior,” the measures undertaken by Management provided assistance to the responsible agencies to reduce sewage inflow in the river. Management also believes “any alleged rights or interests of the Requesters related to the river have been considerably addressed and indeed improved as a result of the Bank’s actions” and that without these actions, “it is likely the situation would be substantially worse.”<sup>24</sup>
24. **Health Hazard and Poverty.** With regard to Requesters’ claims related to health hazards caused by sewage discharge into the river, Management believes the sewage problem “is a pre-existing condition that was and is unrelated to any purported failure by the Bank to follow its operational policies and procedures”.<sup>25</sup> The Management Response states that based on information received from local health authorities, there is no indication of a significant increase in malaria and dengue in Gwalior in the past three years. In fact, Management states that there has been a steady decline in confirmed malaria cases in the past three years. Moreover, Management states there have not been any confirmed malarial cases recorded this year around the sub-project site by the Civil Dispensary that serves that area. Management believes this is primarily because malaria and dengue fever are spread by mosquitoes that breed in standing freshwater as opposed to polluted wastewater.
25. Moreover, Management states that it was “unable to identify any relation between the pollution of the river and the suggested increased incidence of water-borne diseases or rise in poverty.”<sup>26</sup> It states that it is therefore difficult to comment on the impoverishing effect of health care costs in Gwalior Town. Furthermore, Management notes that establishing a correlation between poverty and incidences of diseases is a complicated issue as it involves analysis of disease epidemiology, medical costs, health seeking behavior, and income levels of households around the river.<sup>27</sup>
26. **Sub-project Design and Quality.** Management acknowledges that there have been delays in the sub-project construction work due to the need to replace the contractor but does not believe this has impacted the Requesters. Management states that 80 per cent of the lining work is complete and a new tender has been floated for completion of the remaining lining work. According to Management, the new contract will be for seven months “with completion expected around the end of April 2012” and that “[t]he Government will finance any remaining Sub-project works from January 2012 onwards”.<sup>28</sup> Management states that the new tender for the contract is “ongoing” and “is confident that this issue is being handled in line with Bank policy.”<sup>29</sup>
27. Management states that the sub-project is an irrigation support project and was not designed nor expected to address or resolve specific issues related to sewage intrusion raised in the

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<sup>24</sup> Management Response, p. 14, para 21.

<sup>25</sup> Management Response, p. 13, para 20.

<sup>26</sup> Management Response, p. 17, para 33.

<sup>27</sup> Management Response, p. 24, §6.

<sup>28</sup> Management Response, p. 18, para 37.

<sup>29</sup> Management Response, p. 17, para 34.

Request. Management also believes that *“the pollution of the river with sewage and the choking of sewer lines have been caused by the design and poor maintenance of the city’s sewage system”* and urban population growth which has effectively overloaded the system at certain sections. In Management’s view there is no indication or evidence that the sub-project’s construction works have caused the pre-existing pollution, or led to increased pollution, or caused any damage to the sewer line.<sup>30</sup>

28. Moreover, Management states that tests by WRD to determine the quality of concrete used in the lining works revealed that *“the quality was above the required technical specifications”* and that a *“very small number of samples had a strength that was just below the specifications.”*<sup>31</sup>
29. **Supervision.** Management believes that the Bank has made proactive efforts to engage with the Project implementing agency to address the Requesters’ concerns over a 12-month period.<sup>32</sup> According to Management, the Bank has engaged with the Government since October 2010 to address the concerns raised, and that such engagement resulted in *“short-term measures, such as cleaning the existing sewer lines and the river bed to the extent possible and long-term measures, such as increasing the capacity of a section of the sewer trunk line.”*<sup>33</sup>
30. Management also points out that the Bank task team has been actively engaged in supervising the sub-project, as well as in providing technical assistance and support to WRD during the past year.<sup>34</sup> According to Management, it has also engaged in *“extensive exchanges”* with one of the Requesters on the issues raised by them.<sup>35</sup>
31. Finally, Management believes that the Bank has undertaken *“diligent efforts to apply its policies and procedures in the context of the preparation of this Sub-project.”*<sup>36</sup>

## **F. PANEL’S COMMENTS ON MANAGEMENT OBSERVATIONS ABOUT THE REGISTRATION OF THE REQUEST**

32. The Management Response notes that the Request for Inspection is almost identical to the First Request and argues that the Panel had to *“hold off registration”* of the Request because the *“Bank was already in the process of reviewing the Requesters’ concerns”* and that Management *“has kept the Panel informed of progress made in that regard”*. It further adds that the registration of the request indicated the Panel’s perception *“that Management was no longer actively trying to respond to the alleged violations and concerns. Management*

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<sup>30</sup> Management Response, p. vi.

<sup>31</sup> Management Response, p. 23, §4.

<sup>32</sup> Management Response, p. 14, para 23.

<sup>33</sup> Management Response, p. 16, para 31.

<sup>34</sup> Management Response, p. 18, para 38.

<sup>35</sup> Management Response, p. 19, para 41.

<sup>36</sup> Management Response, p. 19, para 43.

*fails to understand how this relates to the eligibility requirements set forth in paragraph 13 of the Resolution.*”<sup>37</sup>

33. The Panel would like to state for the record that Management is incorrect in stating that the Panel did not register the First Request as the “*Bank was already in the process of reviewing the Requesters’ concerns.*” As mentioned in the Panel’s Memorandum to the Board related to the First Request, the Requesters **had not** discussed their concerns with Management prior to submitting their First Request. Consequently, the Panel informed them of the need to make prior contact with Management.<sup>38</sup> Management did make proactive efforts to address the Requesters’ grievances after the Requesters made contact with them, and this was one reason why the Panel decided not to register the First Request and instead informed the Board of the receipt of the First Request via a Memorandum. The Panel registered the present Request as the Requesters submitted a new Request for Inspection alleging they were not satisfied with Management’s response to address their concerns after having been in dialogue with Management for almost one year.
34. The Panel would also like to make the following comments with regard to Management’s observations regarding the registration of the Request.
35. As previously stated in Panel reports,<sup>39</sup> there is no reference to registration of Requests in the Resolution that established the Inspection Panel. Registration is purely an administrative step introduced by the Panel in its Operating Procedures<sup>40</sup> as a means of informing the Board, Management, the Requesters and the public, in a concise manner, about the existence of a Request for Inspection and its main content.<sup>41</sup> As explicitly stated in each Notice of Registration, registration does not imply any judgment on the merits of the Request.<sup>42</sup> The Panel regards Management’s questioning of the Panel’s use of its internal Operating Procedures as an attempt to undermine the Panel’s independence and effectiveness.
36. As provided by paragraph 19 of the Resolution, the Panel deals with the eligibility of the Request *after* receiving the Response of Management. The Panel indeed “*held off*” on the registration of the First Request for Inspection in view of the need for the Requesters to

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<sup>37</sup> Management Response, p. 14, para 24.

<sup>38</sup> The Panel states in Memorandum to the Board dated May 17, 2011 that “[o]n August 31, 2010, the Panel received a Request for Inspection from Requesters representing a number of residents of Gwalior city. In accordance with its Operating Procedures, the Panel sought additional information from the Requesters **and informed the Requesters once again of the need to make prior contact with Bank Management according to Panel procedures [emphasis added].** The Requesters have since confirmed to the Panel that they have been in communication with Bank Management regarding the problems they are facing.”

<sup>39</sup> See for example Panel report on the 1<sup>st</sup> Request for Inspection – BRAZIL: Land Reform and Poverty Alleviation Pilot Project (Loan No. 4147BR) at

<http://siteresources.worldbank.org/EXTINSPECTIONPANEL/Resources/reportandrecommendation.pdf> .

<sup>40</sup> Operating Procedures as Adopted by the Panel on August 19, 1994, paragraphs 16-22.

<sup>41</sup> Paragraph 17 of the Inspection Panel Resolution states “*The Chairperson of the Panel shall inform the Executive Directors and the President of the Bank promptly upon receiving a request for inspection.*”

<sup>42</sup> Paragraph 16 of the Panel’s Operating Procedures provides that the “*Chairperson, on the basis of the information contained in the Request, shall either promptly register the Request, or ask for additional information, or find the Request outside the Panel’s mandate.*”

make prior contact with Management and subsequently in light of Management's proactive approach in addressing the concerns of the Requesters. The Panel reported this fact to the Board of Executive Directors on May 17, 2011<sup>43</sup> and referred clearly to this fact in the Notice of Registration.<sup>44</sup>

37. The receipt of a new Request for Inspection after a year of contacts between the Requesters and Management clearly indicated that the subject matter of the Request had not only been brought to Management's attention but also that, in the Requesters' view, Management had "failed to respond adequately"<sup>45</sup> to their concerns. In view of the fact that the Requesters asserted that they were not satisfied by Management's actions, the Panel proceeded to register the new Request in accordance with Panel procedures while making clear that this implied no judgment on the merits of the Request.
38. As required by the Resolution that established the Panel and subsequent Clarifications, what follows is the Panel's analysis of the eligibility of the Request and the Panel's recommendation to the Board of Executive Directors on whether an investigation of the matters alleged in the Request is warranted.

## **G. ELIGIBILITY**

39. The Panel must determine whether the Request satisfies the eligibility criteria set forth in the 1993 Resolution establishing the Panel and the 1999 Clarification,<sup>46</sup> and recommend whether the matters alleged in the Request should be investigated.
40. As part of this process, the Panel has carefully reviewed the Request for Inspection and the Management Response. The Panel Chairperson Roberto Lenton and Operations Officer Mishka Zaman visited India from October 12, 2011 through October 14, 2011. The Panel team visited New Delhi to meet with senior officials from the Ministry of Finance and the World Bank Country Office team responsible for the Project, including the Task Team Leader (via video conference). The Panel team then visited Bhopal, the capital of Madhya Pradesh, to meet with relevant officials of the Water Resources Department (WRD) and the Project Implementation Coordination Unit (PICU). The team traveled onwards to Gwalior where it met with the Requesters and visited several sections of the approximately 12 km sub-project site. The Panel team also interacted with many residents who live alongside the sub-project. The Panel team concluded its visit with a meeting with senior officials from the Municipal Corporation Gwalior (MCG), Water Resources Department, and Public Health Engineering Department (PHED). The Panel would like to thank all the individuals it met

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<sup>43</sup> The Inspection Panel Memorandum to Executive Directors of International Bank for Reconstruction and Development, dated May 17, 2011 states "*The Panel notes that the Regional Vice President and her team have been proactive in trying to resolve the problems since the matter was brought to their attention by the Requesters and by the Inspection Panel.*"

<sup>44</sup> Notice of Registration, India: Madhya Pradesh Water Sector Restructuring Project, August 22, 2011.

<sup>45</sup> Paragraph 9(c) of the 1999 Clarification of the Board's Second Review of the Inspection Panel (hereinafter, the "1999 Clarification") states "*The request does assert that its subject matter has been brought to Management's attention and that, in the requester's view, Management has failed to respond adequately demonstrating that it has followed or is taking steps to follow the Bank's policies and procedures (Resolution para. 13).*"

<sup>46</sup> Conclusions of the Board's Second Review of the Inspection Panel, April 1999 ("the 1999 Clarification").

during its visit, and also the Bank India Country Office team for assisting with the logistics of its visit.

41. The Panel has determined the eligibility of the Request in light of the six technical eligibility criteria set forth in Paragraph 9 of the 1999 Clarification. With regard to criterion 9(a) in the 1999 Clarification, which states that “[t]he affected party consists of any two or more persons with common interests or concerns and who are in the borrower’s territory,” the Panel confirms that the Requesters are legitimate parties under the Resolution to submit a Request for Inspection to the Inspection Panel.
42. Criterion 9(b) requires that “[t]he request does assert in substance that a serious violation by the Bank of its operational policies and procedures has or is likely to have a material adverse effect on the requester.” The Panel confirms that the Request asserts a serious violation by the Bank of its policies and procedures, which the Requesters believe has resulted in harm to them, and that it alleges that flaws in the design and supervision of the sub-project have contributed to a situation where there is raw sewage in the river.
43. Criterion 9(c) states that “[t]he request does assert that its subject matter has been brought to Management’s attention and that, in the requester’s view, Management has failed to respond adequately demonstrating that it has followed or is taking steps to follow the Bank’s policies and procedures.” As stated earlier, the Panel informed the Requesters when they submitted their First Request of the need to make prior contact with Management about their concerns, according to Panel procedures. The Panel suggested this as Management was not informed of the Requesters’ concerns at that time, and thus had not been provided with an opportunity to respond to the Requesters’ grievances. The Panel notes that there has been substantial interaction and dialogue between the Requesters and Management since the time Requesters made contact with Management in September 2010, and the submission of the second Request, and regards this requirement as being fully met. Also, as noted previously, Management undertook several actions to address the Requesters’ concerns during a one year period.
44. Criterion 9(d) requires that “[t]he matter is not related to procurement.” The Panel notes that the subject matter of the Request is not related to procurement.
45. Criterion 9(e) requires that “[t]he related loan has not been closed or substantially disbursed.” As stated above, the closing date for the Project is December 31, 2011. As of the date the Request was filed about 54 percent of the total amount was undisbursed. The Request therefore satisfies the requirement in Paragraph 9(e).
46. Criterion 9(f) requires that “[t]he Panel has not previously made a recommendation on the subject matter or, if it has, that the request does assert that there is new evidence or circumstances not known at the time of the prior request.” The Panel confirms that it has not previously made a recommendation on the subject matter of the Request, and therefore, the Request satisfies Paragraph 9(f).

47. The Panel is satisfied that the Request meets the technical eligibility criteria set forth in Paragraph 9 of the 1999 Clarification. However, the Panel notes that there does not seem to be a credible causal link between the Bank-financed sub-project related to the lining of the Swarn Rekha River and the harms alleged by the Requesters. This is elaborated in Section H below.

## **H. OBSERVATIONS**

48. The Panel notes that the sub-project is inherently different from the other sub-projects financed under the Project, in that it focuses not on irrigation and drainage infrastructure as such but rather on lining a river in an urban setting. The Panel also notes, as per information gathered during its eligibility visit, that the sub-project was not identified as one of 300 odd sub-projects at the time of Project approval, but rather was added approximately one year later. The Panel was informed that at the time of agreeing to the sub-project, Management had reached an understanding with the GoMP that the latter would increase its efforts to reduce sewage water inflow into the river and that the sewage system would be upgraded and improved in parallel as sub-project implementation progressed. As a result, the GoMP provided funds to join the *nallas* with the main sewage trunk line under the river bed, construct a pumping station at the end of the trunk line and construct a sewage treatment plant. Some of these works are completed, while others are in progress or under tender. The Panel was informed, however, that these were verbal rather than written understandings.

49. **Alleged Harms.** The Panel notes that the heart of the Requesters' concern relates to an alleged serious problem of sewage along the Swarn Rekha River. In its visit to Gwalior, the Panel team observed numerous places where raw sewage lay visibly in the river, both in the sections that have already been lined under the sub-project and those that have not yet been lined, and can confirm that there is indeed clearly a problem of sewage in segments of the river. All parties, including not only the Requesters and other affected people, but also local governmental authorities and the World Bank, agree that this sewage problem is serious and needs to be addressed.

50. The Panel notes that the Requesters allege that the serious sewage problem described above has led to broader problems of health and poverty in the area, particularly malaria and dengue. During its field visit, the Panel team observed that significant numbers of people live along the river, and are clearly affected by the unsanitary conditions related to the serious raw sewage situation in segments of the river. The Panel obtained information from a local health official that he had not observed any increase in the prevalence of malaria or dengue infections in recent years. One likely reason is that, as also noted in the Management Response, the mosquitoes that transmit malaria and dengue are generally not found to breed in heavily polluted water.

51. **The Causal Link Between the Bank-financed Sub-project and the Alleged Harms.** The Panel notes that to understand the linkages between the alleged harms and the Bank-financed sub-project, it is important to distinguish clearly between (i) the Bank-financed sub-project, which as described earlier, focuses principally on lining an approximately 12-kilometer section of the Swarn Rekha River running through the city of Gwalior, and (ii) the

existing sewer trunk line that runs under the Swarn Rekha river-bed (and thus under the river-lining financed by the sub-project) and which, in turn, receives sewage and wastewaters from drainage channels (*nallas*) that feed into it. The Panel further notes that the sewage system works described under (ii) above are the responsibility of government departments such as PHED, WRD and the MCG, and are not part of the sub-project financed by the Bank.

52. The Panel notes the Requesters' assertion that the sewage trunk line that runs under (and at times besides) the bed of the Swarn Rekha River is not functioning as intended because it is "*crushed and choked by the contractor*" of the Bank-financed lining project. Management states that "*there is no indication or evidence that the Sub-project's construction works have caused ... any damage to the sewer line.*"<sup>47</sup> The Panel team further notes that it did not hear from area residents during its visit that the contractor for the Bank-financed lining works had caused damage to the trunk line.
53. The Panel notes that prior to the Bank-financed lining work the 88 *nallas* discharged sewage and drainage water directly into the Swarn Rekha River. The connection of the *nallas* to the trunk line under a separate activity was intended to stop sewage from being discharged into the river, as noted earlier, but the under-capacity of the trunk line caused sewage to leak into the main river.
54. The Panel observes that the existence of raw sewage in the river signals that the existing sewage system infrastructure, including the sewer trunk line that runs under the Swarn Rekha river-bed and the *nallas* that feed into it, is not functioning properly. Regardless of the reasons for this, it follows that there is a causal link between the existing sewage system and the problem of raw sewage in the river.
55. While there is a clear causal link between the existing sewage system and the problem of sewage in the river and related harms, the Panel is of the opinion that the Bank-financed sub-project cannot be said to have caused the problem of raw sewage in the river as alleged in the Request. To the contrary, the connection of the *nallas* to the existing sewer trunk has likely diminished to a certain extent the presence of raw sewage in the river and therefore cannot be regarded as the source of any alleged increased related harms. In the Panel's view, therefore, there does not appear to be a credible causal link between the Bank-financed lining of the Swarn Rekha River and the alleged harm.
56. **Management Supervision and Recent Actions.** The Panel also notes that the sewage problem appears not to have been identified by the Bank until the complaint was received by the Inspection Panel. Subsequently, however, supervision has been robust.
57. The Panel notes that Bank Management, while not acknowledging responsibility for causing the sewage problem in the river, has been proactive in trying to help resolve the problem since the matter was brought to its attention by the Requesters and by the Inspection Panel in late 2010. Management has interacted intensively with the main Requester and with other

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<sup>47</sup> Management Response, p. vi.

state and municipal agencies in an attempt to resolve the problem, and has informed the Panel that the Request helped spotlight the problem and prioritized its resolution.

58. The Panel notes that several steps are currently being taken by Government agencies to address the problem of sewage intrusion into the river, including both short-term measures such as the cleaning works underway to remove sewage from the river (which the Panel team observed during its visit) as well as long-term measures to increase sewage discharge capacity through the construction of a proposed additional sewage line. In addition, a tender for the remaining works under the Bank-financed sub-project to complete the lining of the Swarn Rekha river, which is currently on hold due to the discontinuation of the contract with the previous contractor, has been issued.
59. Finally, the Panel notes that the lead Requester supports the above actions, including in particular the ongoing construction works under the Bank-financed sub-project to complete the lining of the Swarn Rekha River, as well as the construction of an additional sewage line under the Swarn Rekha river-bed to increase sewage discharge capacity, which is not part of the Bank-financed sub-project.<sup>48</sup>

## **I. CONCLUSION**

60. In light of the foregoing, the Panel does not recommend an investigation of the issues raised in the Request for Inspection with regard to the sub-project financed by the Bank. If the Board of Executive Directors concurs with this recommendation, the Panel will advise the Requesters and Management accordingly.

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<sup>48</sup> In a communication sent to the Panel after the Panel team's visit, and in a subsequent elaboration, the lead Requester indicated that the Requesters would even consider withdrawing the Request for Inspection if the additional sewer trunk line was installed and if the remainder of the lining work was completed (in a timely fashion).