

Inspection Panel

INDIA

Rural Water Supply and Sanitation Project for Low Income States (P132173)

Investigation Plan (April 18, 2019)

I. Introduction

On September 21, 2018, the Inspection Panel (“the Panel”) received a Request for Inspection (“the first Request”) of the Rural Water Supply and Sanitation Project for Low Income States (“the Project” or “RWSSP”). The first Request was submitted by 104 Santhal tribal community members from a village in the state of Jharkhand (“the first Requesters”). The first Requesters asked for confidentiality. On October 9, 2018, they sent the Panel a supplement to the first Request, explaining the alleged harm in further detail. The first Requesters are concerned about the construction of a water treatment plant (WTP)¹ in their village as part of the Bagbera multi-village scheme financed under the RWSSP. They question the location of the WTP and allege the plant is constructed on their community land, which has historical and cultural significance to them. They claim a loss of access to community resources and economic impact, including charges for drinking water. The first Requesters also allege a lack of analysis of alternatives, as well as inadequate environmental and social assessment, consultation and information disclosure. They additionally raise concerns about retaliation.

On December 12, 2018, the Panel received a second Request for Inspection relating to the same Project (“the second Request”) (hereinafter “the Requests” refer to both first and second Requests). The second Request was submitted by 130 Santhal and Ho tribal community members from another village in the state of Jharkhand (“the second Requesters”) (hereinafter “the Requesters” refer to both the first and second Requesters), who asked for confidentiality. They are concerned about the construction of an elevated storage reservoir (ESR) as part of the Chhotagovindpur multi-village scheme financed under the RWSSP. They contend that the ESR is being built on community land and is adversely affecting their historical and physical cultural resources. They also claim they will be impoverished by having to pay for water that is currently free of charge. They raise concerns about environmental impact, as well as lack of consultation and disclosure of information. The second Requesters also express fear of retaliation.

The Panel registered the first Request on November 5, 2018 and received the Management Response to this Request on December 11, 2018. On December 18, 2018, the Panel registered the second Request and received the Management Response to this Request on January 28, 2019. Since both Requests raise similar issues relating to the same Project, for efficiency purposes the Panel decided to process them jointly. On February 12, 2018 the Panel recommended that an investigation be carried out into the alleged issues of harm and related non-compliance. The Board approved the Panel’s recommendation on March 1, 2019.

¹ The first Request refers to the WTP even though technically the site in question includes two distinct structures, the WTP and an adjacent elevated water storage reservoir (ESR).

II. The Panel's Recommendation

The Panel noted in its Report and Recommendation that the Requesters and the Request meet the technical eligibility criteria set forth in the Resolution establishing the Inspection Panel and the 1999 Clarification. The Panel considers the alleged harms reflected in the Requests to be linked to the Project, and that the Requests raise important issues of harm and policy non-compliance. In its Responses, Management has acknowledged several shortcomings in Bank policy application.

This document presents an outline of the investigation plan as required by the Panel's Operating Procedures. It includes a summary of the key questions and issues to be addressed during the investigation, and a brief description of the investigation methodology. This outline is being made publicly available through the Inspection Panel website. This investigation plan is a living document and will be adjusted as needed.

III. Scope of the Investigation: Issues of Harm and Compliance

As explained above, the Requesters allege harms from the Bagbera and Chhotagovindpur multi-village schemes as a result of the Bank's non-compliance with its Operational Policies and Procedures. During its eligibility visit, the Panel observed many of the harms raised by the Requesters. The Panel will investigate these harms and the alleged non-compliance by the Bank with its Operational Policies and Procedures.

The Panel's investigation will include an analysis of the following:

A. Environmental Assessment

- a. How were the EMF, EAs and EMPs for the Bagbera and Chhotagovindpur schemes developed?
- b. What risks and impact were identified? Were adequate mitigation measures proposed? This includes:
 - i. What kind of water quality assessments were undertaken?
 - ii. What kind of hydrology studies were undertaken?
 - iii. Were sludge assessment and management studies undertaken?
- c. How were the sites for the schemes selected?
- d. How was the affordability and sustainability analysis undertaken for each of the schemes? If so, how were the results incorporated into the Project design?

B. Impact on Cultural and Community Resources

- a. Were social assessments prepared for the Chhotagovindpur and Bagbera multi-village water schemes? If so, what was the impact identified and what were the proposed measures to mitigate it? How did these social assessments feed into the design of the two multi-village water schemes?
- b. How did the Project apply OP/BP 4.10 on Indigenous People and specifically to the Santhal and Ho tribal communities living in the areas surrounding the two schemes? Did it consider:
 - i. Historical significance of the areas to the Santhal and Ho tribes?
 - ii. Cultural and religious significance of the lands and natural environment/resources?
 - iii. Consideration of religious practices in the development of the schemes?
 - iv. Consideration of cultural elements of water use?

- c. How was the determination on the application of OP/BP 4.11 on Physical Cultural Resources made? What was the process to screen for and identify potential physical cultural resources and impact on these resources? If impact was identified, which measures were incorporated to mitigate it?

C. Consultation, Participation and Disclosure of Information

- a. Did required consultations and disclosure take place during the development of the EMF, EAs and EMPs for the Chhotagovindpur and Bagbera schemes (timing, language and access)?
- b. Were free, prior and informed consultations carried out on the site selection and implementation of the two multi-village schemes?
- c. What kind of grievance redress was available to the communities?

D. Intimidation and Retaliation

- a. Were there instances of intimidation and retaliation against Project-affected people? If so, which kind?
- b. When did the Bank learn about any concerns regarding intimidation and retaliation? What measures were taken to address allegations of intimidation and retaliation?

F. Bank Supervision

- a. Was the Project supervised by the Bank in an adequate and timely fashion?
- b. Did the Bank put in place remedial measures to respond to the problems encountered during the supervision missions in a timely and adequate manner?

IV. Methodology of Fact Finding

For the purposes of this investigation, the Panel will enlist the assistance of expert consultants, including with specific expertise on Environmental Assessment and Management, and tribal and indigenous peoples in India.

The investigation will be conducted in three phases: (i) investigation preparation and identification of expert consultants; (ii) review of documentation, staff interviews and field visit; and (iii) report drafting and finalization. The investigation will include interactions with the Requesters, other community members, Bank staff, implementing entities, development partners and other relevant stakeholders. The Panel will make every effort to conclude the investigation within six months.

The Panel's Investigation Report and Management Response will be made publicly available after the Board of Executive Directors meets to consider the Panel's findings and to discuss and approve the Management Response and Action Plan.