

THE INSPECTION PANEL

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT 1818 H Street, N.W. Telephone: (202) 458-5200
INTERNATIONAL DEVELOPMENT ASSOCIATION Washington, D.C. 20433, USA Fax : (202) 522-0916

IPN REQUEST RQ99/2

May 14, 1999

NOTICE OF REGISTRATION

Dear Sir:

Re: Request for Inspection – Lesotho/South Africa: Lesotho Highlands Water Project

On April 26 1999, the Inspection Panel (the "Panel") received a second Request for Inspection (the "Request") dated April 14, 1999 related to the above mentioned project that involves the building of dams in Lesotho for the supply of water to the Guateng province in South Africa. The Request is submitted by companies registered in the Kingdom of Lesotho and some South African nationals who are shareholders in the Lesotho companies. The companies, led by Swissbourn Diamond Mines (Pty) Ltd., claim to have had mining rights in an area of the Malibamats'o River valley. All rights to mining activity in the project area have been revoked in order to implement the project.

The Requesters claim that "they have suffered harm – and continue to suffer harm - as a result of failures or omissions in the appraisal, monitoring and implementation by the Bank of Phase 1A and 1B of the Project." Specifically, they maintain that the "Requesters have been deprived of their property rights and their entitlement to prompt, effective and adequate compensation. That deprivation would not have occurred if the Bank had complied with its Policies and Procedures." They further allege that the Bank proceeded with financing the project even though it had full knowledge of the expropriation and disputes between the Requesters and the Government of Lesotho (GOL), Republic of South Africa (RSA) and Lesotho Highlands Development Authority (LHDA). They claim that the failure of the Bank to take steps to ensure that the Requesters' rights were duly respected before proceeding to the appraisal and financing of Phase 1A and 1B "constitutes complicity in the acts of expropriation and in the disputes, and violates its operational policies and procedures...." The Requesters claim they have been harmed as a result of Bank failure to observe:

Operational Policy ("OP") 7.40 on Disputes over...Expropriation.

Bank Procedure ("BP") 7.40 on Disputes over...Expropriation.

BP 17.50 on Disclosure of Operational Information

I am notifying you that I have on May 14, 1999, which is also the date of the dispatch of this notice, registered this Request in the Inspection Panel Register. Because the Panel's "registration" process has often been misunderstood, I would like to emphasize that "registration" is

an administrative procedure established by the Panel and that it implies no judgment whatsoever concerning the eligibility of the request.

In accordance with paragraph 18 of IBRD Resolution No. 93-10 and paragraphs 2 and 8 of the "*Conclusions of the Board's Second Review of the Inspection Panel.*", Bank Management is hereby notified that it must provide the Panel no later than June 15, 1999 with written evidence that it has complied, or intends to comply with the relevant policies and procedures in the design and implementation of the above-referenced project. The subject matter the Management must deal with in a response to the Request is set out in paragraph 3 and 4 of the "*Conclusions of the Board's Second Review of the Inspection Panel.*"

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

The Request has been assigned IPN Request Number RQ99/2.

Sincerely,

Jim MacNeill
Chairman

TO: Dr. Dawie Botha
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Mr. James D. Wolfensohn
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[by hand against confirmation]

cc: The Executive Directors and Alternates
IBRD