

FINDINGS OF THE CORPORATE SAFEGUARDS AUDIT: ENVIRONMENTAL AND SOCIAL MANAGEMENT SYSTEM ARRANGEMENTS

A. Introduction

1. In compliance with the ADB Safeguard Policy Statement (SPS), the project is classified as category B for impacts on the environment, and category C for impacts on involuntary resettlement, and indigenous peoples. The proposed \$2.5 million financing from ADB will support the construction of new and refurbishing of existing retail fuel stations (RFS) and associated petroleum handling and storage facilities and for provision of working capital.

2. A corporate audit of the company's current environmental and social policies and procedures, and an assessment of the company's past and current performance against the objectives, principles, and requirements of ADB's Safeguard Policy Statement (2009), was conducted by a qualified and experienced external expert. Sughdneft currently operates a fuel storage facility and six refueling stations (RFS). Existing subprojects included in the assessment are three operational RFS, one under construction refueling station, and the petroleum storage facility. The findings and recommendations of the audit are summarized below. The corrective actions will be included in the development of the environmental and social management system (ESMS) by Sughdneft. An ESMS satisfactory to ADB's SPS will be adopted by the Company prior to ADB's first disbursement.

B. Summary of Corporate Audit Findings

1. Policy Coverage

3. Sughdneft currently does not have corporate environmental and social codes, policies, or procedures on environmental and social activities. However, the company has unwritten procedures which follows the requirements of local legislation and ensures that all relevant environmental and social related documents are developed and permits and agreements are in place. Tajikistan regulations include environmental protection, rights on access to information, labor codes, land laws and state property law but has no regulation related to indigenous peoples or ethnic minorities. The regulations are only partially aligned with ADB SPS requirements, hence, company will be required to adopt a more robust policy encompassing ADB SPS and other social requirements. Sughdneft has no previous experience in developing environmental and social documents following international financial institutions, including ADB.

2. Screening, Categorization, Planning, and Review Procedures

4. Sughdneft business development team is responsible for site selection for a subproject, and considers population, traffic volume and accessibility (e.g. along the highway) as the main criteria in selecting location for the refueling stations. The company prepares permit requirements¹ after site selection and engages a design consultancy firm to prepare technical drawings, following regulatory standards, which are submitted to the Ministries of Environmental, Occupational and Fire Safety, and Labour Inspection, to obtain respective ministry permits. Proof of Public Consultation is required for submission to the ministry prior to issuance of environmental

¹ The petroleum depot and RFS are not required by law to prepare an Environmental Impact Assessment and are only required to submit technical drawings; no baseline sampling is required prior to construction.

permit. Permits issued have a validity of 3 years and comes with technical instruction on post-approval requirements, including submission of annual environmental monitoring report.²

5. The land under current facilities and infrastructure is either allocated to Sughdneft from the state/community lands for indefinite term use with the purpose to construct and operate the existing fuel storage facility and RFS. In some other cases the land use rights and/or structures on the land plots were purchased from the previous users and no land plots were leased. No informal settlers or formers lessees were displaced for Sughdneft's facilities operations. The Audit confirmed that there are no pending issues, court cases, complaints pertaining to land allocation, acquisition, or compensation.

6. The Sughd region comprised mostly of Tajiks (84%), followed by Uzbeks (15%), Kyrgyz (0.6%), Russians (0.4%), Tatars (0.1%), Turkmen (0.01%), and others (0.14%). These ethnic groups, other than the Tajiks, settled in the region many years ago and are fully integrated into region's way of life. They have the same access to land, resources, and services as the Tajiks. No indigenous peoples were in affected by the Sughdneft operations.

3. Organization Structure, Staffing and Training

7. Sughdneft has a Safety Engineer, under the Technical Department, responsible for environmental, land use and health and safety issues of Sughdneft operations, covering follow up with development of respective documents, obtaining of approvals (as necessary) and update and monitoring activities. Social issues, related to staff and labor relations, are covered by Human Resources Specialist under the Department on Development. Both the Technical Department and Department on Development are subordinated to Sughdneft's Director. In addition, the Safety Engineer is supported by the Heads of Gas Stations, who are responsible for on-site documents maintenance, ensuring compliance with health and safety requirements on site, provision on instructions and training to RFS personnel. Activities related to the personnel, including provision of training, personal protective equipment, collaboration with Labor Union are also supported by Human Resources Specialist.

8. Annual training program is developed for the staff of Sughdneft to ensure awareness of staff and proper implementation of environmental and social duties. Training activities envisaged for Sughdneft employees include topics related to safety which are delivered both by professionals from State Technical Inspectorate and specialized trainers from Sughdneft, who were trained and certified by State Technical Inspectorate.

4. Monitoring and Reporting

9. The Company submits annual monitoring report to the Ministry of Environmental, covering volume of groundwater or water supply used, hazardous waste generated and atmospheric emissions, and compared with threshold levels. A ministry representative is sent on-site to conduct ambient air and wastewater testing and assess project conditions and compliance with the technical instructions. Penalties are imposed for non-compliances recorded by the Ministry.

10. Safety Engineer is responsible for management and monitoring of health and safety issues, including activities related to provision of safety training to various groups of Sughdneft's personnel, ensuring fire and accident safety, emergency management, collaboration with relevant

² The Environmental Bureau requires the company to estimate its atmospheric emissions based on formulas provided by the Bureau and this is verified from actual testing by the bureau representative.

authorities (such as Fire Service, Sanitary-Epidemiologic Service, Police, etc.). The Ministry of Occupational Safety also undertakes regular site inspections to assess condition of firefighting equipment, site leakages, and accident/ incident recording. Both Human Resources Specialist and Safety Engineer closely collaborate with Labor Union to ensure worker's satisfaction with working condition and follow up with necessary improvements are needed. Sughdneft also monitors compliance of its employees with labor standards accepted in Tajikistan. Contractors and renters of facilities at RFS are carrying out their own monitoring to ensure compliance with Tajikistan legislation; Sughdneft does not provide monitoring oversight on the activities. No due diligence is done for land procurement and resettlement impacts as well as impacts on ethnic groups.

C. Recommendations

11. The audit recommendations have been summarized in a Corrective Action Plan (CAP) agreed with the company and summarized below. Sughdneft will develop and implement a corporate ESMS that ties E&S Safeguard's policies and procedures at the corporate level with those at facility site level. The Company commits to adopt an ESMS satisfactory to ADB SPS and other social requirements before ADB's first disbursement.

- a. Prepare an environmental policy and procedures in accordance with ADB's Safeguards Policy Statement on environmental safeguards, including, preparation of engineering design in accordance with international best practices, preparation of environmental assessment report (e.g. initial environmental examination), implementation of environmental management plan, and monitoring of compliance;
- b. Include ADB's Prohibited Investment Activities Investment List to screen company activities that will not qualify for ADB financing;
- c. Include requirement to screen and categorize proposed subprojects to define their category for environment, involuntary resettlement, and indigenous peoples and the required environmental and social analysis and safeguards requirements;
- d. Prepare social policy and procedures to provide overall guidance on requirements and approaches on land procurement, and involuntary resettlement, impacts on Indigenous Peoples, social protection, gender dimensions, meaningful consultation and information disclosure, grievance redress, aligned with national laws, ADB SPS, and other ADB policies;
- e. Prepare a stakeholders engagement procedure to ensure that meaningful consultations are undertaken for both internal and external stakeholders, including employees, affected people and communities, consumers, corporate partners, investors, state bodies, civil society organizations and mass-media;
- f. Provide common grievance redress mechanism to allow employees, project affected people, stakeholders, and general public to raise concerns and issues, appeal any disagreeable decision, practice or activity arising from environmental and social (including land use) impacts of the project; and
- g. Designate qualified environmental and social staff and train staff on the ESMS to enhance its implementation;
- h. Provide budget and resources for the implementation of the ESMS.