

Resettlement Plan

Land Acquisition and Resettlement Plan
Draft Final
Project Number: 45389
May 2014

AZE: Multitranche Financing Facility for the
Second Road Network Development Program, Tranche 2

Prepared by the AzerRoadService Open Joint-Stock Company, Ministry of Transport, Azerbaijan
Republic for the Asian Development Bank.

REPUBLIC OF AZERBAIJAN



**Land Acquisition and
Resettlement Plan for Alat–Masalli Section
Project 2 (Km 80.6–Km 110.7)**

under the

**Multitranche Financing Facility (MFF):
Second Road Network Development Program**

May 2014

CURRENCY EQUIVALENTS

(as of 21 May 2014)

Currency Unit	–	Azerbaijan Manat (AZN)
AZN1.00	=	\$1.275
\$1.00	=	AZN0.784

ABBREVIATIONS

ADB	-	Asian Development Bank
ARS	-	AzerRoadService Open Joint-Stock Company
AZN	-	Azeri Manat
BPL	-	below poverty line
DMS	-	detailed measurement survey
DP	-	displaced person
EA	-	executing agency
GoA	-	Government of Azerbaijan
GRC	-	Grievance Redress Commission
IFI	-	international financing institutions
IPSA	-	initial poverty and social assessment
IR	-	involuntary resettlement
LAD	-	Land Acquisition Department
LAR	-	land acquisition and resettlement
LARF	-	land acquisition and resettlement framework
LARP	-	land acquisition and resettlement plan
MFF	-	multi-tranche financing facility
MoF	-	Ministry of Finance
NGO	-	non-government organization
PFR	-	periodic financing request
PMC	-	Program Management Consultant
PIU	-	project implementation unit
PPTA	-	Project Preparation Technical Assistance
RAP	-	Resettlement Action Plan
RC	-	Resettlement Commission
RLARC	-	Rayon Land Acquisition and Resettlement Commission
ROW	-	Road Right of Way
RPF	-	Resettlement Policy Framework
SC	-	Supervision Consultant
SCPI	-	State Committee on Property Issues
SPS	-	Safeguard Policy Statement
SLCC	-	State Land and Cartography Committee
VC	-	Valuation Commission

NOTES

- (i) The fiscal year (FY) of the Government and its agencies ends on 31 December.
- (ii) In this report, "\$" refers to US dollars.

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Appendix 1: AZE: Second Road Network Development Program

DEFINITION OF TERMS

Compensation	Money or payment-in-kind to which the displaced persons are entitled in order to replace the lost assets, resource or income.
Displaced person	Any person affected by project-related changes in use of land, water, natural resources or income losses. A displaced household includes all persons residing under one roof and operating as a single economic unit.
Eminent domain	Regulatory measure by the Government to obtain land.
Entitlement	Range of measures comprising compensation, income restoration, transfer assistance, income substitution, and relocation which are due to displaced persons, depending on the nature of their losses, to restore their economic and social base.
Expropriation	Government's action in taking or modifying property rights in the exercise of sovereignty.
Host population	Community residing in or near the area to which displaced persons (DPs) are to be relocated.
Income restoration	Re-establishing income sources and livelihoods of DPs
Involuntary resettlement	Development project results in unavoidable resettlement losses that displaced persons have no option but to rebuild their lives, incomes and asset bases elsewhere.
Land acquisition and resettlement plan	A time-bound action plan with budget setting out resettlement strategy, objectives, entitlement, actions, responsibilities, monitoring and evaluation.
Relocation	Rebuilding housing, assets, including productive land, and public infrastructure in another location.
Rehabilitation	Re-establishing incomes, livelihoods, living, and social systems.
Replacement cost	Cost of replacing lost assets and incomes, including cost of transactions. Its calculation is based on (i) fair market value, (ii) transaction costs, (iii) interest accrued, (iv) transitional and restoration costs, and (v) other applicable payments, if any.
Resettlement effect	Loss of physical and nonphysical assets, including homes, communities, productive land, income-earning assets and sources, subsistence, resources, cultural sites, social structures, networks and ties, cultural identity, and mutual help mechanisms.
Social preparation	Process of consultation with affected people undertaken before key resettlement decisions are made, to build their capacity to deal with resettlement.
Vulnerable households	Households that might suffer disproportionately from resettlement effects. For the MFF, households with income below the poverty line are considered vulnerable.

Executive Summary

1. This Land Acquisition and Resettlement Plan (LARP) is prepared for the construction of a new 30-km four-lane highway section of the Alat-Masalli road between Shorsulu to Jalilabad (referred to as Project 2) following the Land Acquisition and Resettlement Framework (LARF) agreed between the Government of Azerbaijan and the Asian Development Bank for the implementation of the ADB-financed Road Network Investment Program. Project 2 involves significant land acquisition and resettlement (LAR) impacts. This LARP is prepared based on detailed design taking into account the agreed provisions in the RAP and RPF of the World Bank financed-Second Highway Project while incorporating findings from the due diligence assessment and ensuring compliance with ADB SPS (2009) and relevant laws and regulations in Azerbaijan.

2. Project 2 starts at km 80.6 of the proposed highway near Shorsulu village. It comes after the planned overpass to the existing road (M3) to Bilasuvar and crosses the Mahmudchala Wetlands for a total approximate length of 30 km. It ends at the proposed overpass at Uzuntapa, Jalilabad at Km110.7. The construction of Project 2 will require the acquisition of approximately 172.5 ha in 3 villages within the districts of Neftchala, Bilasuvar and Jalilabad - including 55.22 ha of private land, 21.99 ha of municipality-owned land and 95.29 ha of State reserve land. There are not any impact to structures and trees. In total 86 households will be affected. Out of them 71 in Neftchala and 15 in Jalilabad. There are only state lands affected in Bilasuvar. All of APs lose a portion of their privately-owned agricultural land.

3. Land acquisition preparation started in 2008 under the World Bank financed Second Highway Project. However, due to fund short-fall the civil works for this road section was dropped from the Project. Compensation for losses and rehabilitation assistance was based on the entitlement matrix as shown in Table 1 below.

Table 1: Entitlement Matrix

	Type of Loss	Application	Entitled Person	Compensation Measures	Policy Basis	Responsible Agency
1	Permanent loss of private land	Agricultural, residential and commercial land	Land owner	Cash compensation based on market value free of transaction cost plus 20% additional compensation according to Presidential Decree dated 26, 12, 2007. If preferred, land plots of the same size and quality. Transaction cost related to land swap will be covered by ARS or waived by the government.	Azerbaijan Constitution, Land Acquisition Law (2010), Land Code, Cabinet of Ministers Decision No. 110	ARS-LAD, SLCC, SCPI
	Permanent loss of public land	Municipal land	Municipality and rayon	Cash compensation based on the normative price plus 20% additional compensation for agricultural and prospective housing areas of municipal land. Leaseholders will not be reimbursed by the municipality for the period of lease not utilized on the portion retaken as the lease has set limitation in case of recall by the government of the said land for public use. However, leaseholders who intend to lease a new plot will be assisted in obtaining a new lease.	Land Acquisition Law (2010), Cabinet of Ministers Decision No. 158 and, Land Code	ARS-LAD, SLCC, SCPI and the executive powers of respective areas
2	Loss of trees, crops	Standing crops and trees	Owners/ cultivators, tenants, lease holders	60 days advance notice to harvest standing seasonal crops. If crops cannot be harvested within 60 days, cash compensation for crops (or share of crops) equivalent to prevailing market price. Cash compensation for perennial crops and fruit bearing trees based on replacement principle. Cash compensation equivalent to prevailing market	Land Code of Azerbaijan	ARS-LAD and the civil works contractor

	Type of Loss	Application	Entitled Person	Compensation Measures	Policy Basis	Responsible Agency
				price of timber for non-fruit bearing trees. Lumber from these trees may be kept by the owner. No compensation will be provided for crops already harvested.		
3	Severe impact/vulnerable house holds	Severely affected people (10% or more land take) as well as households headed by an elderly or woman	Severely affected people (10% or more land take), house holds headed by an elderly or woman	Priority to be given to able household members in employment opportunities under the civil works contracts and jobs created in service/rest areas that will be established once the highway becomes operational.	Civil works contract	ARS-PIU, contractor and executive powers
4	Temporary impacts	Various types: temporary impacts concerning traffic diversion and temporary loss of access	General public, owners of roadside structures	The contract will require the civil works contractor to be responsible for the temporary acquisition and reinstatement of all land required outside the road reserve for construction camps, offices, borrow pits, materials storage sites, materials for processing sites and haul roads. The contract will select the land parcels they require and they will be responsible for negotiating agreements with land owners to occupy the land. In the event that a contractor fails to obtain agreement with any landowner, he will be required to select an alternative site and negotiate a new agreement. No involuntary occupation of land for temporary construction purposes will be allowed.	Civil works contract	PIU-ARS, contractor and executive powers

4. Consultations for the project started since 2005 as part of the environmental and social impact assessment for the project. A series of land acquisition-related consultations were done between 2007 to 2010 as part of the preparation and finalization of the resettlement action plan. An information campaign and public disclosure program was conducted between 2007 to 2013 to inform displaced persons and other key stakeholders on the entitlements of DPs for various impacts, the grievance redress mechanism and obtain inputs for various options to reduce impacts. Informal consultations continued throughout the implementation of the RAP.

5. Several community consultations were done by an independent specialist and it was agreed that ARS and its consultants and contractors will provide timely information on construction schedule to citizens before the start of civil works and grievance focal points for the project will be designated.

6. ARS is responsible for all land acquisition costs associated with Project 2, including LAR administration and monitoring. Cost of compensating is placed at AZN 147,295.

7. The due diligence assessment conducted by the PPTA consultant in June 2013 confirmed that compensation payments and consultation processes followed the provisions indicated in the approved Highway 2 Project RAP. Compensation payments were made as per the provisions in the RAP and no deductions/charges were made for depreciation, transaction and registration expenses. These expenses were all shouldered by ARS. It was confirmed that there are not any pending compensation issues. However, the assessment also identified the following LAR-related activities that still need to be completed, monitored and reported.

- (i) Additional rehabilitation assistance for severely affected and vulnerable households in terms of prioritization of able household members in job opportunities in civil works from the Project

- (ii) Identification of temporary land acquisition requirements during construction, finalization of agreements with affected landowners and provision of compensation/rental payments by the contractor prior to start of civil works
- (iii) Establishment, designation of grievance focal points and dissemination of information on the grievance mechanism for the Project.

8. These activities, which are still to be completed are reflected in this LARP and will need to be monitored for the entire implementation of the project, particularly those concerning the additional rehabilitation assistance in the form of employment of members of severely affected and vulnerable households in project-related jobs.

9. To ensure that LAR-related activities for the project are implemented in compliance with the provisions of the LARF, internal monitoring will be carried out during implementation of construction works to confirm implementation of remaining resettlement activities to support vulnerable households and identify temporary land acquisition requirements and payments. Internal monitoring will be conducted by the Project Management Consultant.

I. INTRODUCTION

A. Project Description

1. The Resettlement Action Plan (RAP) for the 63 km Alat–Masalli section of the Alat–Astara–Iranian border highway (M3) was prepared in 2010 based on the detailed engineering design and following the resettlement policy framework (RPF) agreed between the Government of Azerbaijan (GoA) and the World Bank for the implementation of the Second Highway Project.¹ Due to financing shortfall, the upgrading of this road section was dropped from the Highway 2 Project. Related to this, the Government of Azerbaijan has requested ADB to provide financing under a new multitranche financing facility (MFF) in the amount of up to \$500 million.

2. Land acquisition for this road section has been substantially completed. Related to this, a due diligence assessment was conducted as part of the Project Preparation Technical Assistance (PPTA) for the investment program to (a) determine compliance with the Resettlement Action Plan (RAP) and Resettlement Policy Framework (RPF) agreed between the Government and the World Bank; (b) identify any outstanding issues; and (c) assess compliance with ADB Safeguard Policy Statement (2009).

3. The Investment Program is proposed to be divided into two tranches (projects). The first tranche (Project 1) will involve the construction of the 33-km four-lane highway of the Alat–Masalli road between Jalilabad to Masalli connecting to section A: Masalli to Girdani of the Masalli–Astara Motorway being financed under Project 1 of the ADB-financed Road Network Investment Program. Tranche 2 (Project 2) will cover another 30-km of the same road section connecting to Section 2 of the World Bank financed Second Highway Project. This Land Acquisition and Resettlement Plan (LARP) is prepared for Project 2.

4. Project 2 alignment will run parallel with the railway track from Shorsulu until the proposed Uzuntapa interchange where the Project 1 starts. The road will have bridges over the existing highway and rivers, underpasses and a railway crossing. Installation of rest areas, road furniture, signs and markings for traffic safety and control devices and others as well as drainage culverts and canals will also be undertaken. Road furniture (e.g., crash barriers, reflective road markers, traffic signs, fencing, lighting and markings) will be according to the national standards for a Category I road.

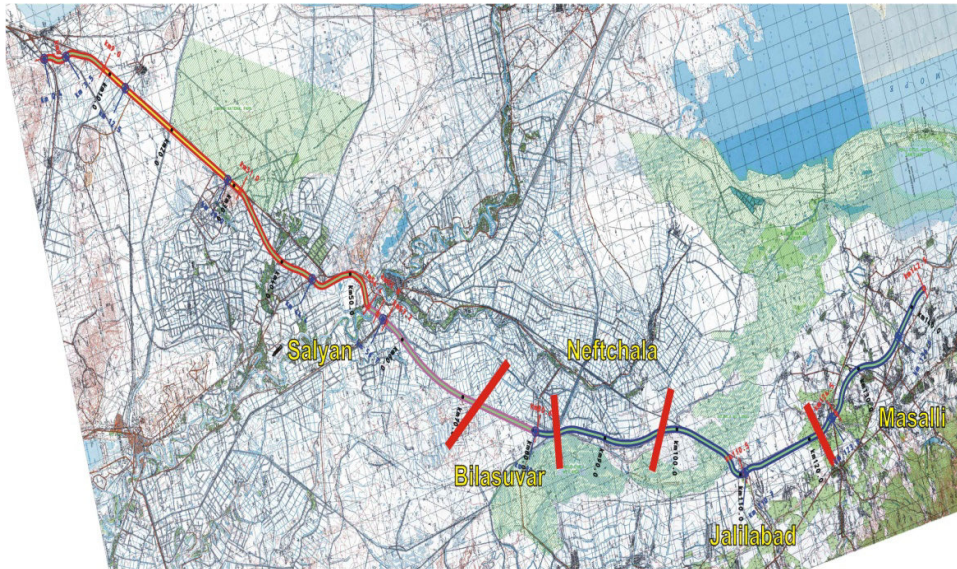
5. The design characteristics of the cross section are as follows:

- Sub-grade width: 27.5 m
- Number of lanes: 4
- Lane width: 3.75 m
- Carriageway width: 15 m (2 x 2 x 3.75 m)
- Width of shoulder: 3.75m (2x3.75m); of which 2.5m (2x2.50 m) will be paved
- Median strip width: 5.0 m (of which 2x1 m will be paved);
- Carriageway gradient: 2% (where there is no super-elevation)
- Shoulder inclination: 4% (where there is no super-elevation)
- Fencing along the itinerary:
- New Jersey type crash barriers at the edges of the paved part of the median
- Embankment slope ratio (v & h):

¹ In 2006, the World Bank agreed to finance the upgrading of 143.6 km of the M3 highway between Alat and Masalli under the Second Highway Project (Loan No. 7356 AZ). The works were divided into three sections. Section 1 covers 32.4 km from the Alat settlement to Kursangi–Salyan. Section 2 covers 26.2 km between Salyan and Shorsulu, while section 3 covers 63 km between Shorsulu and South of Masalli. Section 3 adjoins Section A of the ongoing Road Network Development Program funded by the Asian Development Bank (ADB).

- 1:3 up to 2.5m height of embankment slope;
- 1:2 > 2.5m to 4.0m height of embankment slope;
- 1;1.5 > 4.0 m height of embankment.

Figure 1: Location Map



6. Project 2 does not involve² significant land acquisition and resettlement (LAR) impacts.³ Project 2 was classified as category 'B' by ADB with regard to involuntary resettlement. This LARP is prepared based on detailed design taking into account the agreed provisions in the RAP and RPF of the World Bank financed-Second Highway Project while incorporating findings from the due diligence assessment and ensuring compliance with ADB SPS (2009) and relevant laws and regulations in Azerbaijan. It was prepared by the AzerRoadService (ARS) to detail mechanisms, procedures and compensation entitlements for planning/implementing LAR tasks for relevant projects under the MFF, including provisions for temporary impacts and emerging LAR issues during project implementation.

B. Conditionality

7. Based on ADB policy and practice, the approval of civil works contract awards is conditional to the preparation of a LARP consistent with the Land Acquisition and Resettlement Framework (LARF), reflecting final design and impacts, which is acceptable to ADB. Provision of notice to proceed to contractors is conditional on full implementation of the LARP and satisfactory review of completion and internal monitoring reports. Such a condition will be included in the civil works contracts. Livelihood restoration measures, temporary land take, and other LAR-issues emerging during construction will be monitored and reported regularly to ensure compliance to the LARF provisions.

² All land areas required for the construction of the Highway were acquired and the LARP prepared within the World Bank Project was completely implemented in 2012, except employment provision for the 6 severely APs. Therefore this LARP considers provision of relevant jobs for those APs, as well as mitigation measures for possible temporary impacts.

³ Involuntary resettlement impacts are considered significant if 200 or more people will experience major impacts, which is defined as: (i) being physically displaced from housing, or (ii) losing 10% of more of their productive assets (income generating). ADB OM/FI (March 2010).

C. Measures to Reduce Acquisition and Resettlement for the Project

8. Several approaches were employed to reduce the impacts. These included (i) undertaking a study to examine various alignment options and selecting the one with the least impact; (ii) developing a road cross section design with features to mitigate and enhance access to agricultural lands; (iii) proposing the construction of underpasses to ensure the connectivity of communities both sides of the road; (iv) selecting an interchange design with minimum ROW requirements and ensuring connectivity to existing local roads; (v) fine-tuning final designs to minimize impact; (vi) using the cadastral maps and overlaying the alignment to determine minimum impacts on structures and properties in congested areas, and (vii) proposing the construction of bypasses to avoid impacts on congested areas.

9. The unavoidable impacts include the acquisition of parcels of land within the required road reserve of 60m wide and the additional ROW requirement for junctions and interchanges to ensure the technical integrity of the design in terms of standard width of pavement and shoulders and heights of embankments as well as the minimum acceptable radius for certain road curvatures and the like. In the course of such acquisition public infrastructures like local roads and irrigation ditches will be affected. Acquisition of small portion of grazing areas will be also required. The public lands which can be used for grazing purposes are abundant in these places and comprise vast areas. In addition, municipal grazing lands are open areas available for herders' free use. All acquired private lands are either agricultural or homestead areas; none of them is used for grazing purposes.

10. The grazing area to be affected is a narrow strip of land at the edge of a big grazing area. In spite of this, relevant mitigation measures, such as construction of underpasses for cattle at km 82+760, km 83+612, km 92+820, km 95+312, km 106+683 and km 108+340 were included in the Project design. Thus, acquisition of a narrow strip of the grazing area, combined with the installment of underpasses will not have significant negative impact on animal husbandry and the livelihood of local people.

11. Moreover, concerns for safety and other social-environmental impacts as well as the temporary impacts brought about by the civil work activities during construction periods may be unavoidable and measures will be instituted to mitigate them as part of the LARP.

II. SOCIOECONOMIC BACKGROUND OF THE PROJECT AREA

A. Project Area

12. The Project area lies within two distinct geographic and topographic zones. The 30 km new road will pass through the districts of Bilasuvar, Neftchala, and Jalilabad, which belong to the economic region of Aran and Lenkaran. South to Jalilabad the land is generally greener and cultivated with grains, root crops, vegetables as well as fruit trees, compared to the Bilasuvar and Neftchala districts which have a generally hot semi-desert and sub-tropical climate.

13. The three districts where Project 2 is located have a total area of 4,289 km². Jalilabad has an area of 1,441 km², while Bilasuvar has 1,397 km² and Neftchala has 1,451 km². These districts have a total of 190 villages with a population of 379,200. However, only 3 villages are traversed by the road section. These include 2 villages in Neftchala, and 1 village in Jalilabad. As of January 2013, the villages where the road will pass through have a combined population of 10,932. See **Table 1**.

Table 1: Districts, Area, and Number of Settlements along the 30 km Road covered under Project 2

District/Economic Region	Total Land Area (km ²)	Total Number of Villages	Total Population (2011)	No. of Villages Traversed
Aran Economic Region				
Bilasuvar	1,397	25	94,000	State land
Neftchala	1,451	48	83,200	2
Lenkaran Economic Region				
Jalilabad District	1,441	117	202,000	1
Total	4,289	190	379,200	3

Source: Socioeconomic assessment, preliminary design phase, RRI GmbH, February 2008, State Statistical Committee, 2013.

14. In terms of ethnicity, the population is not characterized by ethnic diversity. It is composed mainly by ethnic Azerbaijanis. No groups in the project area can be considered as indigenous people based on ADB SPS (2009) definition.

15. Of the total 4,289 km² land area in the three districts, approximately 2,873 km² or 67% are classified as agricultural lands. However, only half (approx. 59%) are actually cultivated. The rest are either fallow or used as pasture lands. See **Table 2**.

Table 2: Land Classification and Use in the Project 2 Districts

District	Total Land Area (km ²)	Agricultural (km ²)	Fallow (km ²)	Pasture (km ²)	Cultivated (km ²)	Orchard (km ²)	Saline Lands (km ²)
Bilasuvar	1,397	1,129.3	202.5	562.1	425.3	12	26.1
Neftchala	1,451	825.3	390.3	355.4	469.9	4.5	13
Jalilabad	1,441	919.4	8.2	276.0	749.4	1.8	0
Total	2,873	2874.0	601.0	1193.5	1644.6	18.3	39.1

Source: Socioeconomic assessment, preliminary design phase, RRI GmbH, February 2008.

16. Since independence, little has been done to maintain the infrastructure that was put in during the soviet period. Less than 60 percent (59.8% in Aran and 48.2% in Lankaran) have access to piped water while 39% in Aran and 24.3% in Lankaran have access to gas.

Lesser percentages of households in both regions have access to heating system. Electricity is generally available but availability of such utility at the household level is constrained by the current high cost.

17. There are 3.4 persons over 15 years old in an average household. Typically, household members over 15 spend 48% of time working in their own farm, 29% of time is dedicated to household (home) activities, 2% - to non-agricultural family business, 4% of time as employee in others' farms, 8% -employed in non-agricultural field, 6% are dedicated to education and 3% to leisure.

18. Income from self-employment and employment substantially contributes to the total income per capita per month in the two economic regions (mainly AZN18.4 and AZN15.6 in Aran, and AZN18.8 and AZN18.8 in Lankaran, respectively). Furthermore, the contribution from agriculture was comparatively high in those regions (AZN17.2 in Aran, which is approximately 24.6% of total, and AZN17.4 or 24.3 of total average in Lankaran).

B. Socioeconomic Profile of the Displaced Persons

19. Information on the socioeconomic characteristics of the affected population was gathered through a socioeconomic assessment conducted in February–March 2008 during the preliminary design phase. A total of 86(71 in Neftchala, 15 in Jalilabad) displaced households (HH) were covered by the assessment within the 30-km section under Project 2.

1. Household Membership, Gender, and Location

20. The displaced households have a membership of 487 persons, of which 241 are males and 246 are females. Around 4% of the households are headed by a woman. The average size of these households is 5.16 persons. 100% are of Azerbaijani ethnic origin. Most (97%) of the displaced households are located in Neftchala. Table 3 below shows the distribution of the households in terms of specific indicators.

Table 3: Project 2: Selected Demographic Data on Displaced Persons

Indicator	Bilasuvar		Neftchala		Jalilabad		Total	
	No.	%	No.	%	No.	%	No.	%
No. of displaced HH	0	0	71	100	15	100.0	86	
Total members			410		77		487	
Male	0	0	203	49.5	38	49.4	241	49.5
Female	0	0	207	50.5	39	50.6	246	50.5
Women headed HH			16	22.5	2	2.6	18	3.7
Ethnicity								
Azerbaijani			410	100	77	100.0	487	100.0
Ave. HH size	-	-	5.77		5.2		5.16	

Source: Census result – RRI/SLCC: March 2008.

2. House/Plot/Asset Ownership and Access to Utilities/Community Facilities

21. All the displaced households own the house and the plot that they occupy. Houses are generally built of mud-filled wood frame with cement finish and with tile slates as roof. Many own livestock. Around 65 % of households own big horned animals, 41% own small-horned animals and 56% own poultry. All households have access to electricity. In terms of access to utilities, only 16% has gas supply, while 86% has access to centralized potable water supply. Around 35% reported owning car. In case of medical need, households often avail of the services of the district hospital. Some households go to a private doctor or private hospital from time to time. Children of these households generally go to nearby schools for their elementary education. Very few respondents could name an

active non-governmental organization or cooperative society in the affected communities. See Table 4 for details.

Table 4: Project 2: Displaced Households Asset Ownership and Access to Basic Services

Indicator	Neftchala		Jalilabad		Total	
	No.	%	No.	%	No.	%
Animal ownership						
Big horned	45	62	11	73	56	65
Small horned	30	42	5	33	35	41
Poultry	36	49	12	80	48	56
Has access to:						
Electricity	71	100	15	100	86	100
Gas	0	0	14	93	14	16
Water	62	85	12	80	74	60
Car ownership	27	36	3	20	30	35

Source: Census result – RRI/SLCC: March 2008.

3. Main Source of Income

22. Around two-thirds of the displaced households identified agriculture as their main source of income. Another 10.5% rely on salaries/wages while 7% live on pension (see Table 5). Almost all interviewed DPs refused to provide information on their household income. Thus, it is difficult to say whether the potential land take will have a significant impact on the quality of life of the DPs. Almost all of the lands which will be affected are agriculture lands cultivated mainly to grains and potato.

Table 5: Project 2: Displaced Households' Primary Income Source

Income Source	Neftchala		Jalilabad		Total	
	No.	%	No.	%	No.	%
Total HHs	71	100	15	100.0	86	100.0
Salaries/wages	5	6.8	4	26.6	9	10.5
State pension	4	5.5	2	13.3	6	7.0
Agriculture	60	82.2	8	53.3	68	79.0
Aid from relatives	0	0	1	6.8	1	1.1
Others	2	2.8	0	0	2	2.4

Source: Census result – RRI/SLCC: March 2008.

4. Attitude Toward the Project and Expectations

23. At the time of the survey in 2008, all the interviewed DPs were informed about planned construction of the Alat-Masalli Highway through the officials of the Executive Power and the local land offices. DPs were asked about their willingness to give up their land for the Project. All the interviewed DPs consider the project beneficial and they indicated their willingness to give up the land they occupy or cultivate if needed for the purpose of road construction. Monetary compensation is the preferred option of all interviewed DPs to compensate for loss of land. Monetary compensation is also the preferred option for damages to privately owned buildings, trees, perennials and harvest and suspension of commercial activity.

III. SCOPE OF LAND ACQUISITION AND RESETTLEMENT

24. Detailed design for the construction of the 30 km section to be covered under Project 2 was completed in 2010. Initial impact assessment was done during the preliminary design phase in 2008. This was updated in 2010 based on the detailed design. The assessment took note of the impacts of the civil works on land, structures, businesses, crops and trees

and other assets. This section presents these impacts.

A. Impact on Land

25. Project 2 will require the acquisition of approximately 172.5 ha in 3 villages within the districts of Bilasuvar, Neftchala and Jalilabad. These include 55.22 ha of private land, 21.99 ha of municipality-owned land and 95.29 ha of State reserve land. Most of the private lands affected are agricultural lands generally used to cultivate grains and animal feeds or as open grazeland for livestock. See Table 6 below for the summary of affected lands of various categories.

Table 6: Project 2: Impact on Land by District and Village

District	Village No.	Village Name	Private Land		Municipal Land (ha)	State Land (ha)	Total (ha)
			No. of Plots	Size (ha)			
Bilasuvar	0	-				23.0569	
Neftchala	1	Gachagkend	49	29.0216	9.35	13.28	51.6516
	2	Girmizikend	28	21.0722	12.6439	4.9189	38.635
Jalilabad	3	Uzuntapa	15	5.126	0	1.18	6.306
	-	State Land Fund	-	-	-	52.85	52.85
Total:	3		92	55.22	21.99	95.29	172.5

1. Private Land

26. The affected private land used to be part of the communal plots used to cultivate various crops and grazing crops during the soviet times which have been parcelled and transferred to individual households as a result of the privatization process during the late 1990's. Currently, the plots are mostly cultivated for grains and livestock feeds or potatoes. Some are merely left fallow to be used as grazing area. Toward the Jalilabad area, these plots are generally used to cultivate root crops, wheat, barley and some patches of vegetables during spring and early summer season but left mostly fallow during the height of summer and autumn due to insufficient irrigation.

27. The road alignment is designed so it will traverse these plots in such a way as it will affect small portion of their area. But because of the configuration of land parcels against the proposed road alignment (diagonal rather than parallel), a substantial number (92 plots owned by 86 households) is affected. Table 7 below provides the summary of private land take in Project 2.

Table 7: Project 2: Summary of Private Land Take per District

Affected Private Land	Bilasuvar	Neftchala	Jalilabad	Total
Size (in ha)	0	50.0938	5.126	55.22
Number of Plots	0	77	15	92
Number of Households	0	71	15	86

Source: Census result – RRI/SLCC: March 2008

28. Some land plots are inevitably divided into two pieces by the project road. If the remaining part(s) of the divided land plot is less than or equal to 0.04 ha, the part were also acquired and duly compensated to the owner based on the same market price as the acquired portion. Underpasses or overpasses are deliberately designed, in consultation with local population, to minimize disruption in mobility between both sides of the road.

2. Municipal Land

29. Affected municipal lands are situated only in Neftchala. Acquisition of grazing areas as ROW will not result in income loss to the shepherds who occasionally use these parcels as grazing area for their animals. The total area used for occasional grazing which will be acquired as ROW is so insignificant in size compared to thousands of hectares available for open grazing around the community. Although some municipal lands in official land cadastral documents are classified as agricultural, it was established during the inventory that these lands are not cultivated for agricultural purposes and in fact maintained as municipal reserve lands. Municipalities are entitled to cash compensation for these lands based on the normative price. See Table 8.

Table 8: Project 2: Summary of Affected Municipal Land per District

Land Classification of Affected Municipal Land	Bilasuvar	Neftchala (ha)	Jalilabad (ha)	Total(ha)
Local road	-	0.95	-	0.95
Unusable	-	2.3832	-	2.3832
Irrigation ditch	-	-	-	-
Pasture	-	0.3896	-	0.3896
Agricultural	-	5.488	-	5.488
Municipal reserve	-	12.7831	-	12.7831
Prospective expansion area	-	-	-	-
Total	-	21.9939	-	21.9939

Source: Census result – RRI/SLCC: March 2008.

3. State Land Reserve

30. A total of 95.29 ha (23.0569 in Bilasuvar, 18.1989 in Neftchala, and 54.03 ha in Jalilabad) of state land will be needed for Project 2. These lands consist of wide open spaces of grass- and marshland belonging to the state which serve as occasional grazing area for livestock of communities nearby. Their acquisition is not expected to result in any income loss on the occasional users of these lands.

B. Impact on Buildings and Structures

31. The Project 2 alignment will not affect any structure.

C. Impact on Crops and Trees

34. The road alignment will not affect any trees and perennials. No crops like grains, cereals or vegetables will be affected in the ROW area as its harvest will be allowed and ensured before construction.

D. Impact on Businesses

35. The Project 2 alignment will not affect any businesses.

E. Other Impacts

36. Other impacts include direct or indirect effects of the proposed construction on utilities, and common/public properties. A detailed inventory of these affected utilities and other public infrastructure was undertaken. The mitigating measures for these impacts will be addressed by the civil work contractor and will be incorporated in the terms of reference for the civil work contract.

F. Impact Assessment: Approach and Methods

37. Following approaches and methods were utilized to identify the project affected persons and assess and determine the scope of impacts of the Project on them:

1. Cadastral Mapping

38. The plans and coordinates of the final alignment were overlaid over the land cadastre data for the areas in the records of the State Land and Cartography Committee (SLCC). From this cadastral data, the information on all publicly and privately owned land parcels within 30 m width zone from both sides of the centerline was extracted and mapped. Accordingly, an integrated database was developed where the information on specific location, ownership, land category, land-use profile, and potential land take for ROW is indicated for each land parcel.

39. The mapping for each affected parcel was done and printed on a scale of 1:2000. SLCC asked all concerned and relevant local officials (Executive Power and Local Land Offices) to certify the updated cadastral maps reflecting the size of the parcel required for the ROW of the Project and update ownership status.

2. Census

40. A census was conducted for all households affected by the land take using the detailed cadastral maps printed on a scale of 1:2000 as reference. With the cadastral map as basis, staking of the centerline and delineation of the 60 m ROW requirement was undertaken in the field. The staked out centerline and delineated ROW boundaries were the basis for the subsequent field investigations:

- All property ownerships were identified/rechecked through the conduct of “on-site” census in cooperation with the local administration and community key informants;
- The boundaries of the affected parcels were delineated and measured;
- The profiles for all land parcels were prepared, revised/updated;
- The condition of all agricultural lands (irrigated and non-irrigated, arable and non-arable, perennial, etc.) was recorded;
- All non-agricultural properties and facilities were identified and recorded: public properties including schools, commercials including shops and petrol stations, etc;
- All houses/buildings were identified and recorded (number of floors, profile, condition permanent/temporary, etc); and,
- Analysis of the non-agricultural property was conducted.

41. All affected land owners have proper registration to stand as legal land owners, except for three for whom registration process is under way by the time of the survey. Registration process for these three land owners was completed with the assistance of the Project Consultant in 2009.

3. Asset Inventory/Detailed Measurement Survey and Socioeconomic Survey

42. The list of land owners within the ROW requirement of the final road alignment was obtained from the SLCC. After the determination and identification of the affected parcels, the Team undertook an inventory and detailed measurement of assets (i.e., structures, trees, crops, utilities, communal resources, etc.,) within each affected parcels as well conducted a socioeconomic survey of sample of affected households to come up with a profile and determine the impact of the land take and displacement on their standard of living.

43. The information contained in the profile per parcel included the category of affected land and updated ownership, size of land that is affected, size of the parcel to be acquired for ROW, the structures to be damaged within the affected parcel, standing crops and trees within the said parcel that will be cut down, income to be lost and access to be lost.

G. Compensation Methodology

44. Based on the cadastre map and census data, an inventory of project impacts was developed. The inventory summed up the overall effect and impacts of permanent and temporary loss of land, structures, crops and trees, business and other social, environmental and cultural benefits on the income and quality of life of the persons or households affected by the proposed road construction.

1. Compensation for Land

45. DPs were offered a choice between cash compensation and provision of alternative land plot of the same size and quality. Based on discussions during public consultations, most DPs preferred cash compensation, especially when the size of land to be acquired is minor. However, the land swap option was preferred by some DPs, especially those who will lose significant part of their farm land. The methodologies for cash compensation and land swap are described below.

a. Cash Compensation

46. The unit compensation values for private and public lands are determined based on the following approaches:

- (i) Assessment of the value of private land is based on current market price (Assessment was made by the District Valuation Commission in assistance with Ministry of Finance. Specialists of the Ministry of Finance partially applied the Cabinet of Ministers Resolution No 54 in the assessment process. The criteria for determining current market prices specified in the Resolution No. 54 were used, but the assessment was not conducted by an independent appraiser;
- (ii) Value of municipal land was assessed based on the normative price established for each district by the Cabinet of Ministers.
- (iii) A 20% additional compensation is added to the calculated market price of the acquired land (based on the Decree of the President dated 26 December 2007 on ensuring the execution of the law No. 506-3 QD dated 7 December 2007 about "Amendments and Additions to the Civil Code of Azerbaijan Republic.

47. By the time of the LAR planning the laws required that the price be mutually agreed by both sides (buyer and seller). In 2007, the Executive Powers of Jalilabad and Neftchala districts formed the District Commission composed of various members of the Executive Power and individuals with expertise in land, agriculture and construction determined the current market prices of the affected lands. The District Commissions determined the price of both agricultural and non-agricultural land as the following: Neftchala - 10,000 AZN/ha, Jalilabad -25,000 AZN/ha and informed the local population about the determined land prices at the public consultation meetings.

48. However, a review by the Ministry of Finance revealed that such prices do not reflect the true market value of land in the project area and inquired from the State Real Estate

Registration Agency (SRERA) for data on recent land sales transactions. In addition, specialists of the Ministry of Finance conducted anonymous informal survey in the project area. Based on the collected information the Ministry of Finance established new land prices in collaboration with the District Commissions (Table 9).

Table 9: Project 2: Revised Unit Prices of Land in the Project Area

Location	Residential Land			Agricultural Land		
	Unit Price of Residential Land (AZN/ha)	20% Additional Compensation Bonus (AZN/ha)	Total Unit Price of Residential Land (AZN/ha)	Unit Price of Agricultural Land (AZN/ha)	20% Additional Compensation Bonus (AZN/ha)	Total Unit Price of Agricultural Land (AZN/ha)
Neftchala	5,000	1,000	6,000	1,800	360	2,160
Jalilabad	5,000	1,000	6,000	1,800	360	2,160

49. In 2009, ARS conducted public consultation meetings in Neftchala and Jalilabad districts to explain the above changes in land prices. The participants of the meetings were representatives of displaced people and communities, local executive authorities, local NGOs and businesses. Brochures on land acquisition procedures and information on revised compensation rates were distributed among meeting participants.

50. ARS attempted to conduct a survey in order to corroborate the prices thus determined by the Ministry of Finance. However, local population who were informed about the revised prices at the public consultation meetings complained to a local NGO for the significantly reduced prices. As a result, any attempt to collect data on land prices in project areas became extremely sensitive.

51. It was decided to use existing secondary data on market prices of comparable land would to verify whether the land prices established by the Ministry of Finance and District Commissions reflect the true market values of land in the project area. The consultant analyzed two surveys on land prices that were carried out recently in areas comparable to the project areas. Summary of these surveys is discussed below.

52. **Survey 1:** The survey was conducted in the framework of the World Bank financed Azerbaijan Rural Investment Project to assess the value land in Salyan–Mugan area (Aran Economic Region) in February 2010. Local residents in seven districts of Aran economic region were asked about their knowledge of prices land in their area. The survey shows that prices of agricultural land in the open market at the Aran economic region range from 320 to 800 AZN/ha. Table 10 summarizes results of the survey.

Table 10: Survey 1: Average Market Prices of Agricultural Land in Mugan–Salyan, February 2010

District	Salyan	Neftchala	Jalilabad	Saatly	Sabirabad	Imishli	Bilasuvar
Price of agricultural land (AZN/ha)	400–800	320–720	480–800	320–720	480–800	400–800	320–720

53. The price of agricultural land across districts varies between 320–1,600 AZN/ha depending on the distance from relevant district centers and main roads and availability of irrigation. Most agricultural land in the region is below 800 AZN per ha. Only 10% of the surveyed agricultural land is above 1,600 AZN. Agricultural lands between 800 and 1,600 AZN account for less than 10% of the surveyed land. The remaining 80% of agricultural land is less than 800 AZN.

54. The survey results also revealed that about 60% of the farmlands in the region are irrigated and have good irrigation system. The prices for these lands range from 640–1,600

AZN/ha. 40% of the farmlands are not or poorly irrigated with land prices ranging from 320–640 AZN/ha.

55. The survey found that prices of residential land vary across districts between 4,000–8,000 AZN/ha. The price of residential land is significantly correlated to the distance from respective district centers

56. **Survey 2:** Another survey was conducted by a consultant hired by the ARS for the estimation of land acquisition cost under the World Bank financed Highway III Project. The consultant surveyed current market prices of agricultural and non-agricultural land in areas affected by the Project. It covered lands in the districts of Gobustan and Shamakhi that are adjacent to the Baku–Shamakhi road. The survey interviewed individuals who intended to sell or buy land.

57. Gobustan district is comparable to Jalilabad given the similarities in climate and land quality (although Gobustan is significantly closer to Baku). The survey found that the average prices of agricultural and residential lands adjacent to M4 Baku–Shamakhi Highway in Gobustan area are 1,823 AZN and 12,000 AZN, respectively. Shamakhi is a popular tourist attraction within a short driving distance from Baku with more fertile land and scenic landscape. The fertility of land and prevailing landscape of Masalli makes its land prices more comparable with ones in Shamakhi. The survey also revealed that land prices, both agricultural and residential differ among municipalities and the difference is more substantial in Shamakhi. The price difference is a function of the degree of economic development and potential and prices are strongly correlated with the distance to the main roads. Apparently, those areas with significant tourism attractions have higher land values than those that do not have particular non-agricultural businesses. For example, the prices of agricultural land are 5,000 AZN/ha in Muganli, 2,900 AZN/ha in Shahriyar, 5,150 AZN/ha in Sabir and 6,850 AZN/ha in Marzandiya. Prices of land are higher in Sabir, Muganli and Marzandiya villages of Shamaki, because these villages are tourism/recreation areas and/or located close to the main road.

58. The revised unit prices of lands in the project area determined by the Ministry of Finance and approved by the District Commission are significantly higher than the prices resulted from Survey 1. Survey 1 indicates that only 10% of surveyed agricultural lands have a value above 1,600 AZN/ha. The revised land prices in Jalilabad for agricultural land are also consistent with prices for comparable lands in Gobustan area determined under the Survey 2 (average price of 1,823 AZN/ha). Result of the survey is summarized in **Tables 11-12s**.

Table 11: Survey 2: Average Market Price of Agricultural and Residential Land in Gobustan, 2010

No.	Village	Category of Land	Distance from the Main Road	Unit Price (AZN/ 1 ha)
1	Gobustan town	3	500 m	2,400
2	Gobustan town	3	800 m	1,900
3	Gobustan town	3	400 m	2,600
4	Gobustan town	3	100 m	2,700
	Average for Gobustan town			2,400
5	Shikhzarli	3	300 m	1,200
6	Shikhzarli	3	100 m	1,700
7	Shikhzarli	3	400 m	1,400
8	Shikhzarli	3	100 m	1,600
	Average for Shikhzarli			1,475
9	Badalli	3	200 m	1,300
10	Badalli	3	100 m	1,500
	Average for Badalli			1,400
11	Takla	3	200 m	1,700

No.	Village	Category of Land	Distance from the Main Road	Unit Price (AZN/ 1 ha)
12	Takla	3	100 m	1,800
13	Takla	3	50 m	1,900
	Average for Takla			1,800
	Average for agriculture land			1,800
Residential land				
1	Gobustan	1	700 m	8,000
2	Gobustan	1	500 m	11,000
3	Gobustan	1	500 m	13,000
4	Gobustan	1	100 m	16,000
	Average for residential land			12,000

Table 12: Survey 2: Average Market Price of Agricultural Land in Shamakhy, 2010

No.	Village	Category of Land	Distance from the Main Road	Unit Price (AZN/ 1 ha)
1	Muganli	1	400 m	5,000
	Average for Muganli			5,000
2	Shahriyar	2	1.7 km	2,500
3	Shahriyar	2	1.6 km	2,600
4	Shahriyar	2	1.8 km	3,000
5	Shahriyar	2	1.6 km	3,500
	Average for Shahriyar			2,900
6	Sabir	3	150 m	5,000
7	Sabir	3	100 m	6,000
8	Sabir	3	50 m	6,500
9	Sabir	3	300 m	4,500
10	Sabir	3	400 m	4,900
11	Sabir	3	500 m	4,000
	Average for Sabir			5,150
12	Marzandiya	3	50 m	7,000
13	Marzandiya	3	100 m	6,700
	Average for Marzandiya			6,850
	Average for agricultural land			4,708

59. Price of agricultural lands are same in Neftchala and Jalilabad. It is because land productivity and climate are approximately same for these districts.

60. As for the residential lands, the area affected by the Project (which builds a new highway on greenfields) is distant from the existing main highway; and therefore, the price determined is consistent with the Survey 1 findings.

61. The survey findings indicate that unit prices of lands determined by the Ministry of Finance and approved by the District Commission are broadly consistent with the market value of lands in the project area. DPs will be also offered a choice between land swap - provision of land plots of the same size and quality from the state or municipal land reserve near the current farmland -and the cash compensation based on the unit price used under the RAP. If the former option is chosen, the cost of preparing land or other costs associated with starting the use of alternative land plots would be covered by the ARS.

b. Land Swap

62. The land swap option will be provided to the displaced households if they prefer getting land plots of the same size and quality to cash compensation. As already mentioned, land swap is commonly practised in acquisition of land, property and other assets for public needs in Azerbaijan. Public land is available for swap in most affected areas, and local government and municipal officials confirmed during the public consultation meetings and inquiries from ARS that alternative land plots of the same size and quality can be provided,

where available, to those who prefer. The transaction cost and other start up costs of using new land plots would be compensated by the ARS through contingency budget.

63. The land swap process will be implemented as specified below:

- (i) Individual DPs will be informed of the cash and land swap option for compensation. If they prefer land swap, then land owners will be assisted in filing for a land swap application with the ARS-LAD.
- (ii) LAD/ARS will file the request to the rayon executive powers and local municipalities with a request to allocate appropriate land plots. Rayon executive powers and local municipalities will propose alternative land plots for consideration of the land owners. More than one land plot will be offered to land owners. After considering all available options, the DP has the right to drop their preference to land swap and select cash compensation.
- (iii) Once the land plot for swap is agreed between the land owner and local authorities, transaction is registered in the records of Local Land Office/SLCC and State Real Estate Registration Service. Related registration and transaction costs are covered by ARS. Throughout the process the monitoring consultant will be accessible to PAP and provide necessary assistance in addressing any grievances.

64. All land swaps will be completed prior to initiation of civil works. The internal monitoring consultant will work closely with ARS to ensure that the land swaps are processed appropriately and timely and all related transaction costs are covered by ARS.

2. Additional Assistance for Severely Affected and Vulnerable Households

65. Severely affected households are defined as households that will lose over 10% of their productive land, while vulnerable households are defined as households with income below the poverty line people. An updated assessment conducted in May 2012 as part of the due diligence activities revealed a total of 6 HHs⁴ registered as severely affected or vulnerable households. See Table 13.

Table 13: Project 2: Data on Severely Affected and Vulnerable Households

Project 2 Districts	Number of Displaced HH	Number of Severely Affected and Vulnerable HH
Neftchala	71	6
Jalilabad	15	0
Total	86	6

Source: DMS and Expert Opinions, RRI International and SLCC, MOF, 2008. Updated in May 2012.

66. Similar to other DPs, severely affected households will be offered an alternative land plot or cash compensation. In case of preference for alternative land plot, applications from severely affected households will be processed on a priority basis. The PMC and CSC Resettlement Specialists will work closely with ARS to ensure that the land swaps are processed appropriately and timely and all related transaction costs are covered by ARS.

67. As an additional rehabilitation measure, able members of severely affected households will be the priority group for job opportunities in civil works during the road

⁴ All of them are subject to >10% land take.

construction. It is estimated that about half of the local labor requirements for civil works can be provided for people living in villages along the road. The civil work contracts in Azerbaijan are based on standard FIDIC contract provisions with a clause encouraging engagement of local labour force, especially women and unskilled labour. The language in the civil work contracts will be modified to ensure that able members of severely affected and vulnerable households will be given priority in benefiting from job opportunities created by the project. The clause on the “Engagement of Staff and Labour” will use the following language: “The Contractor is encouraged to employ women. Subject to availability of suitable candidates, the Contractor shall engage unskilled labour from Azerbaijan. In all instances of engaging labour, the Contractor is encouraged to give priority to able members of severely affected and/or vulnerable households as determined in the Land Acquisition and Resettlement Plan for Project 2 agreed between GoA and ADB.

68. In addition, severely affected and vulnerable households will be given priority in job opportunities in service/rest areas to be created once the road becomes operational. This is an economic activity to be generated in the mid-term with employment opportunities for local people. One of the major criteria for selection of the location of service areas is the proximity to villages so employees of the service areas can commute easily. The Ministry of Transport /ARS, as the operator of service areas, will attach the list of the severely affected households and vulnerable households in the concession or lease contracts and encourage businesses in the service areas to hire these prioritized households.

IV. OBJECTIVES, POLICY FRAMEWORK, AND ENTITLEMENTS

A. Azerbaijan Laws and Regulations on Land Acquisition and Resettlement

69. The **Constitution of Azerbaijan (1995)** recognizes the citizens' right to own, use and dispose property. It guarantees that no one will be dispossessed of their property without their consent or decision by the court of law and that alienation of private property for state needs will be allowed only after payment of fair compensation to the owner (Article 29).

70. In April 2010, the Government approved the **Land Acquisition Act** which provides a comprehensive guide on land acquisition for state needs. However, the law exempts projects which have already commenced proceedings or actions prior to the effectiveness of the act (Article 83). Since actions related to land acquisition for the 63 km Alat–Masalli road section have started as early as 2008, LAR activities continued to be done in accordance with the laws under which they were commenced.

71. Prior to the enactment of the Land Acquisition Act, there are no laws or legislation in Azerbaijan that specifically consider matters of involuntary resettlement. However, a few regulatory instruments exist in the country that provide the basis for regulating and managing the acquisition of land, properties and productive assets and for compensation for the loss of these assets.

72. These instruments include (i) Land Code (25 June 1999), (ii) Civil Code (1 December 1998), (iii) Resolution of the Cabinet of Ministers No. 42 (15 March 2000), (iv) Resolution of the Cabinet of Ministers No. 110 (June 1999), (v) Decree on Application of the Road Law (2000), and (vi) Decree on Additional Activities for Regulating the Use of Road Reserves (2004), and Resolution of the Cabinet of Ministers No. 54⁵ (4 April 2009). Collectively, these regulations provide options for land acquisition from legal landowners: (i) land-for-land and, (ii) compensation based on market prices. Dispute over compensation is subject to resolution in the courts.

73. The **Land Code (1999)** is one of the critical legislation related to land acquisition as it (a) provides for compensation principles for the loss of land, established on the basis of the Resolution of the Cabinet of Ministers No. 54 and Standard Code of Azerbaijan No. 158, 1998; (b) allows recourse through courts; and (c) provides the basis for a land-for-land compensation option. When land is required for projects of national interest, compensation is initially offered on the basis of valuations made in accordance with a standard code (no. 158 dated 1998). If landowners are unhappy with this valuation, the market price will be used as a basis for valuation. In the event that such agreement cannot be reached, the acquiring authority can process its application for acquisition through the courts. The Land Code also allows provision of alternative lands equivalent in value to the land being acquired. It does not allow acquiring agencies to physically and legally acquire land unless every household member of the affected households have signed the legal document certifying the transfer of land to the acquiring agencies.

74. The Land Code also requires the acquiring agency to submit the signed agreements with all land owners in order for the budget of land acquisition to be released. Where a relevant local executive authority decides a land case, the decision shall come into force immediately and this decision will not be terminated by the lodgement of a complaint with the relevant court. Articles 110 and 111 describe willful occupation of land plots, implementation of illegal construction on land plots as violations of the land legislation, and state that these

⁵The decree was abolished after the approval of the Land Acquisition Law (23 August 2010)

are prohibited acts. Such land plots will be returned to the relevant authorities without reimbursement of the expenses incurred during the illegal utilization. Rehabilitation of the lands should also be carried out by the illegal occupants, at their own expense.

75. The **Civil Code (1998)** states that any right to immovable properties must be registered with the State, and that land may be recalled from owners for state or municipal needs as approved by the relevant courts. The legality of ownership is established through the registration certificate issued by the Real Estate Land Registry Service based on the cadastral information (survey numbers) obtained from the State Land and Cartography Committee (SLCC) where the land is located. Provisional ownership certificates may be also issued by the district/municipal authorities.

76. **Resolution of the Cabinet of Ministers No. 42** - On Some Normative and Legal Acts Relating to the Land Code of the Azerbaijan Republic dated 15 March 2000 outlines procedures for the compulsory acquisition of land for state or municipal needs.

77. **Resolution of the Cabinet of Ministers No. 110** – On Approval of Regulations for an Inventory Cost estimation of Buildings Owned by Natural Persons dated June 1999 outlines procedures for acquisition and compensation valuation for affected buildings and immovable properties. It refers to the standard code No. 58 for making valuations of land and property to be acquired. These valuations are made on the basis of standard unit rates for different types of construction in different regions of Azerbaijan.

78. **Decree of the President dated 26 December 2007** on ensuring the execution of the law No.506-3 QD dated 7 December 2007 on “Amendments and Additions to the Civil Code of the Azerbaijan Republic” requires the provision of 20% additional compensation to the calculated market price of the acquired property to compensate for the damages resulting from the purchase of property, including lost income and loss connected with the pre-termination of commitments against third parties.

79. After the resolution is passed a written notification should be sent to property owners by the Executive Agency within 3 calendar days. The executing agency should involve an independent appraiser in order to value affected assets. The appraiser should meet the minimum qualification requirements set by the State Property Committee with agreement of the Ministry of Finance and Ministry of Economic Development.

80. Calculation of the market price of the acquired property is based on the following:

- market value of the real property in the respective administrative area; or
- replacement value of the property and land, if there has not been any real property transaction in that area to formulate a fair price of land or if the land is to be replaced with another parcel of land; or
- in case it is impractical to use market or replacement value to formulate a fair and real price of land, any price which is no less than normative price of land;
- if more than one method of valuing the land can be used, then the method that formulated the highest price shall be applied.
- in case the acquired land is swapped with another parcel of land with the agreement of the land owner, the following will also be provided in order to recover the livelihood of land owners after resettlement:
 - compensation for agricultural land will include costs of preparing the land for planting, as well as expected costs of fees and taxes related to transfer of land title;
 - in residential areas (towns, suburban, and rural), compensation will include infrastructure of the same or improved quality, fees and taxes for obtaining and registering property titles.
- costs incurred to reinstate land, if not undertaken;

- moving and transportation costs;
- salvage materials will be returned to owners with his/her agreement.

81. Upon the receipt of the appraisal report, the Executive Agency shall send a notice to the owner within one day and with all supporting documents attached. Compensation shall be transferred to the bank accounts of physical and legal entities not later than 120 days of submission of the first notice sent to the owner of the property.

B. Compensation Valuation Methods in Azerbaijan

82. Procedures for valuation for compensation and other purposes are laid down in the Land Law, the Land Code, as well as the following legal instruments:

- Resolution No. 42 on Some Normative and Legal Acts relating to the Land Code;
- Cabinet of Ministers Resolution No. 110—On Approval of Regulations for an Inventory Cost estimation of Buildings.

83. For agricultural land, base land values are established using the Former Soviet Union (FSU) based cadastre system which values land based on land attributes (productivity of soils and regional agricultural characteristics), input costs and typical revenues achieved in each district. Cadastre based values are then reviewed in each district by a Valuation Commission and adjusted upwards where necessary to reflect changes in crop types and production levels. Market prices for valuing crop production are determined based on local market prices.

1. Annual Crops

84. Compensation payable for loss of annual crops is determined by the Valuation Commission for each district that uses certified data on the productivity of crops and average price of produce as issued by the district Department of Statistics. The formula used for calculating compensation for annual crops is as follows:

$$CrC = ((RP \times Yd) - CC) \times A \times T$$

Where:

CrC is the compensation for loss of income from annual crops

RP is the retail price of the produce (Azeri Manat / 100 kg)

Yd is the yield (100 kg / hectare)

CC is the growing costs including material inputs, agro-technical activities, transportation,

taxes and duties (Azeri Manat / hectare)

A is the area cleared by the project (hectares)

T is the number of lost growing seasons

2. Perennial Crops (Trees, Shrubs and Vines)

85. Perennial crops such as fruit trees, grape vines, and currant bushes are valued on a per tree or per shrub basis by applying a standard formula similar to that outlined above.

3. Land

86. The land compensation price must be based on the market price, provided that such price is not less than the cadastral or normative price for the subject land (*Land Code*, article 96.5). Normative or cadastral rates for lands in each district are established by *Cabinet of Ministers Resolution No. 158 On Establishment of New Normative Prices for Land in the Azerbaijan Republic (23 July, 1998)*. The Project will pay compensation for permanent acquisition of land based on negotiated rates. The government normative or cadastral rates

will be the minimum. During land privatization, land titles allocated to families had all members of the family as of 1996 listed on the land parcel ownership certificate. In these cases, the household head is responsible for signing project documentation relating to leases or assignment of rights. The household head must, however, obtain the written consent of all other people listed on the ownership documents.

4. Immovable Assets and Land Attachments

87. This covers a range of items such as fences, walls, animal enclosures, small irrigation channels, drains, wells, hand pumps, artesian bores, water pumps, hay sheds, animal shelters and roads. These items will be valued on the basis of full replacement cost.

5. Temporary Impacts

88. Compensation for temporary impacts during construction will cover the following components:

- Loss of annual crop production
- Potential crop yield reduction for three years
- Loss of any trees or perennial crops
- Loss of use of grazing land
- Loss of immovable assets and land attachments.

89. Upon construction of completion, the land used for temporary access roads will be reinstated to its pre-project condition and returned to the owner or user.

C. The ADB Safeguard Policy Statement (SPS), 2009

90. The ADB Safeguard Policy Statement, 2009, applies to losses due both to physical and economic displacement caused by involuntary acquisition of land and is based on the following basic principles:

1. Compensation, Assistance and Benefits for Displaced Persons (DPs)

- Compensate/assist those with formal legal rights to the land lost and those who have claims to lands that are recognized or recognizable under national laws. Compensate DPs who have neither formal legal rights nor recognized or recognizable claims to land for non-land assets.
- Compensate for affected lands, structures and other assets and put in place a comprehensive income and livelihood rehabilitation program prior to displacement.
- Give preference to land-based resettlement strategies for displaced persons whose livelihoods are land-based. Provide physically displaced persons with relocation assistance, secured tenure to relocation land, better housing at resettlement sites with comparable access to employment and production opportunities, and civic infrastructure and community services.
- Promptly compensate economically displaced persons for the loss of income or livelihood sources at full replacement cost, and provide other assistance (i.e., access to credit, training, and employment opportunities) to help them improve, or at least restore, their income-earning capacity, production levels, and standards of living to pre-displacement levels.
- Provide DPs with opportunities to share project benefits in addition to compensation and resettlement assistance.

2. Social Impact Assessment

- Conduct socioeconomic survey(s) and a census, with appropriate socioeconomic baseline data to identify all persons who will be displaced by the project and to assess the project's socioeconomic impacts on them.
- Identify individuals and groups who may be differentially or disproportionately affected by the project because of their disadvantaged or vulnerable status as part of the social impact assessment.

3. Resettlement Planning

- Prepare a resettlement plan based on the social impact assessment and through meaningful consultation with DPs.
- Ensure that DPs are (i) informed about their options and entitlements pertaining to compensation, relocation, and rehabilitation; (ii) consulted on resettlement options and choices; and (iii) provided with resettlement alternatives.
- Ensure that both men and women receive adequate and appropriate compensation for their lost property and resettlement assistance, if required, as well as assistance to restore and improve their incomes and living standards.
- Analyze and summarize national laws and regulations pertaining to land acquisition, compensation payment, and relocation of DPs; and compare with ADB SPS (2009) principles and requirements. In case of gap, propose a suitable gap-filling strategy in the resettlement plan in consultation with ADB.
- Consider all costs of compensation, relocation, and livelihood rehabilitation as project costs.
- Include detailed measures for income restoration and livelihood improvement of DPs. For vulnerable persons and households, provide extra assistance so that they can improve their incomes in comparison with pre-project levels.
- Finalize the resettlement plan soon after the completion of engineering design. Ensure that the final resettlement plan (i) adequately addresses all involuntary resettlement issues pertaining to the project, (ii) describes specific mitigation measures that will be taken to address the issues, and (iii) ensures the availability of sufficient resources to address the issues satisfactorily.
- Consult DPs identified after the formulation of the final resettlement plan and inform them of their entitlements and relocation options. A supplementary resettlement plan or a revised resettlement plan should be submitted to ADB for review before any contract is awarded.
- Use qualified and experienced experts to prepare the social impact assessment and the resettlement plan.

4. Information Disclosure

- Submit to ADB for disclosure on ADB's website: (i) the draft resettlement plan and/or resettlement framework endorsed by the borrower/client before project appraisal; (ii) the final resettlement plan endorsed by the borrower/client; (iii) the new resettlement plan or an updated resettlement plan, and a corrective action plan prepared during project implementation, if any; and (iv) resettlement monitoring reports.
- Provide relevant resettlement information in a timely manner, in an accessible place and in a form and language(s) understandable to affected persons and other stakeholders. For illiterate people, use other suitable communication methods.

5. Consultation and Participation

- Consult meaningfully DPs, their host communities, and civil society for every project and subproject with involuntary resettlement impacts.
- Pay particular attention to the need of disadvantaged or vulnerable groups, especially those below the poverty line, the landless, the elderly, female-headed households, women and children, indigenous peoples, and those without legal rights to land.

6. Grievance Redress Mechanism

- Establish a responsive, readily accessible and culturally appropriate mechanism to receive and facilitate the resolution of DPs' concerns and grievances, paying particular attention to the impacts on vulnerable groups.

7. Monitoring and Reporting

- Monitor and measure the progress of implementation of the resettlement plan. For projects/subprojects with significant LAR impacts, retain qualified and experienced external experts to verify internal resettlement monitoring information. If any significant involuntary resettlement issues are identified, prepare a corrective action plan to address such issues. Do not proceed with implementing the project until such planning documents are formulated, disclosed and approved.

8. Unanticipated Impacts

- Conduct a social impact assessment, update the resettlement plan or formulate a new resettlement plan if unanticipated involuntary resettlement impacts are found during project implementation.

9. Special Considerations for Indigenous Peoples

- Avoid physical relocation of indigenous peoples that will result in adverse impacts on their identity, culture, and customary livelihoods. If adverse impacts cannot be avoided, formulate a combined indigenous peoples plan and resettlement to meet all relevant requirements specified under ADB Safeguard Requirements 3: Indigenous People.

10. Negotiated Settlement

- Encourage acquisition of land and other assets through a negotiated settlement whenever possible.
- Subject to third-party validation negotiated settlements that would result in expropriation to ensure that the compensation is based on fair price (replacement cost) of land and/or other assets, and is based on meaningful consultation with DPs.

D. Comparison of Azeri Laws and Regulations and ADB's Safeguard Policy Statement (2009)

91. Prior to 2010, national legislation only considers provision of compensation to people with registered rights to the affected assets. There is also no attention provided to livelihood restoration. Requirement for consultations is also limited. The Land Acquisition Act of 2010 introduced improvements to address these gaps such as (a) payment of compensation to

non-titled persons for their non-land assets (except structures) and provision of rehabilitation, (b) provision of transition assistance, (c) not deducting depreciation in the compensation of structures, (d) covering all transaction costs in compensation payments, (e) conducting land valuation at replacement cost, (f) mandating the expropriating agency to assist DPs in their relocation and in restoring their livelihood. However, since land acquisition for the Alat–Masalli road upgrading was planned prior to the effectiveness of the Land Acquisition Act, the project had to work on these previous gaps between national legislation and IFI’s policy on involuntary resettlement. Differences between Azeri law and regulations prior to the enactment of the Land Acquisition Act and ADB’s policy are outlined in Table 14.

Table 14: Comparison of Azeri Laws and Regulations on LAR (Prior to Land Acquisition Act) and ADB’s Safeguard Policy Statement (2009)

Azeri Land Laws and Regulations	ADB’s SPS
Compensation only to titled/registered DPs in case of affected structure	Compensation for non-titled DPs for their non-land assets
No specific requirement for targeted measures to assist vulnerable groups, but allows for additional provisions for fairness of paid compensation.	Requires the identification and provision of targeted measures to assist vulnerable groups.
No specific requirement for third-party validation for negotiated settlement and external monitoring for projects with significant LAR	Requires third-party validation of negotiated settlement and external resettlement monitoring for projects with significant LAR

E. Remedial Measures to Bridge the Gap

92. The differences between Azeri Laws and ADB policy are addressed in the Land Acquisition and Resettlement Framework (LARF) agreed between the Government of Azerbaijan and ADB from which this LARP is based. The LARP ensures compensation for non-titled persons for their non-land assets, non-deduction of depreciation in the compensation for structures, conduct of consultation and establishment of adequate grievance redress mechanism, attention to vulnerable households, and conduct of resettlement monitoring.

F. Compensation Eligibility and Entitlements

93. The land acquisition and resettlement tasks under the program will be carried out according to the compensation eligibility and entitlement provisions developed in line with the Azeri laws and the ADB SPS (2009) as detailed in the next chapter.

94. Under the Program LARF the following categories of DPs will be entitled to compensation and/or rehabilitation benefits:

- (i) DPs losing land irrespective of whether land is held under valid legal rights or customary rights with or without legal status;
- (ii) Tenants and sharecroppers whether registered or not;
- (iii) Owners of buildings, crops, trees or other objects attached to the land; and
- (iv) DPs losing business or income/employment opportunities.

95. March 2008, which is the date of the census and detailed measurement survey conducted is considered as the cut-off date for compensation eligibility. DPs settling in affected areas after this date will not be eligible for compensation. They, however, will be given sufficient advance notice to vacate and dismantle the affected land/structures. Their dismantled structures will not be confiscated nor will they be fined or sanctioned.

96. Since land acquisition has been substantially completed following the entitlements and livelihoods restoration approach in the resettlement action plan agreed between the Government of Azerbaijan and the World Bank in 2006, the same entitlements and livelihood restoration approach is adopted for this MFF to cover the remaining LAR activities for this road section.

97. Compensation entitlement includes provisions for permanent land losses, house and building losses, crops and tree losses. These entitlements are as follows:

- *Private Land Impact.* DPs regardless of legal title will be compensated in cash at the current market rates. Eventual transaction taxes/fees will be paid by the Executing Agency (ARS) or waived by the government. Additional compensation will also be made for the remaining land which is no longer viable to continue current use. A 20% premium will be added to the compensation as per President Decree (26.12.2007) to cover extra costs.
- *Public Land Impact.* Municipal owners will be compensated based on the nominal value in the form of cash at normative price as indicated in the Cabinet of Ministers Resolution providing nominal prices for land of various categories in the different districts of the country. Private individuals leasing public land will not be compensated as it is stipulated in the lease contract that such lease will be cancelled in case the government needs the said land for public use.
- *Trees and standing crops.* The construction schedule is adjusted so farmers will be able to harvest the annual crops. In the event that the schedule cannot be adjusted and some loss of crops becomes inevitable, compensation based on the replacement value will be provided. Annual crops will be valued at full market rate at farm gate prices. Cash compensation for affected trees will be based on the price index provided by the Ministry of Agriculture for replacement cost of trees.
- *Severely affected and Vulnerable Households impact.* Severely affected households (over 10% land take), and households below the official poverty line will be given priority in benefiting from additional rehabilitation measures such as employment opportunities under the civil works activities which will be stipulated in the civil works' contract, and jobs created in service/ rest areas that will be established once the highway becomes operational.
- *Community Structures and Public Utilities.* If damages are unavoidable, these will be fully replaced or restored to meet their pre-project functions. This will be part of the civil works contract.
- *Temporary impact during construction.* Temporary impacts during construction is a major consideration. Mitigating measures for these temporary impacts will be instituted. The civil works contract will require the contractor to be responsible for the temporary acquisition and reinstatement of all land required outside the road reserve for construction camps, offices, borrow pits, materials storage sites, materials processing sites and haul roads.

The contractor will select the land parcels they require and they will be responsible for negotiating agreements with land owners to occupy the land. In the event that a contractor fails to obtain the agreement of any landowner, he would be required to select an alternative site and negotiate a new agreement. No involuntary occupation of land for temporary construction purposes would occur. Before the release of their final payment, contractors will be required to submit proof that all temporarily used lands have been fully restored to their pre-project conditions and that there are no

pending compensation issues related to the temporary use of land. To be coordinated by the PIU and monitored by the CSC.

Agreements for temporary use of land will be based on the following principles:

- Rent agreed between contractor and the land owner based on the loss of revenue by the land owner/land user during the period of its use by the contractor
- Permanent damages to improvements/structures, if any, will be compensated in cash following the provisions in the entitlements matrix, with valuations done by the district Valuation Commission.
- Upon the completion of works, the land that was temporarily used must be restored to its pre-project condition and returned to the owner/user

Provision will be made in the civil works contract for the contractor to be responsible for providing adequate measures to cater for existing traffic while the road/bridge rehabilitation/construction works are in progress. The contractors shall be required to obtain the approval of ARS for all proposals for traffic management during the construction of the civil works contracts and they shall also be required to maintain all temporary diversion roads and existing roads used to carry diverted traffic from the main road.

98. The compensation and rehabilitation entitlements for each affected item established for the Program is detailed in the entitlement matrix⁶ below.

Table 15: Entitlement Matrix

	Type of Loss	Application	Entitled Person	Compensation Measures	Policy Basis	Responsible Agency
1	Permanent loss of private land	Agricultural, residential and commercial land	Land owner	Cash compensation based on market value free of transaction cost plus 20% additional compensation according to Presidential Decree dated 26, 12, 2007. If preferred, land plots of the same size and quality. Transaction cost related to land swap will be covered by ARS or waived by the government.	Azerbaijan Constitution, Land Code, Cabinet of Ministers Decision No. 110 and No. 54.	ARS-LAD, SLCC, SCPI
	Permanent loss of public land	Municipal land	Municipality and rayon	Cash compensation based on the normative price plus 20% additional compensation for agricultural and prospective housing areas of municipal land. Leaseholders will not be reimbursed by the municipality for the period of lease not utilized on the portion retaken as the lease has set limitation in case of recall by the government of the said land for public use. However, leaseholders who intend to lease a new plot will be assisted in obtaining a new lease.	Cabinet of Ministers Decision No. 158 and No. 54, Land Code	ARS-LAD, SLCC, SCPI and the executive powers of respective areas
2	Loss of trees, crops	Standing crops and trees	Owners/ cultivators, tenants, lease holders	60 days advance notice to harvest standing seasonal crops. If crops cannot be harvested within 60 days, cash compensation for crops (or share of crops) equivalent to prevailing market price. Cash compensation for perennial crops and fruit bearing trees based on replacement principle. Cash compensation equivalent to prevailing	Land Code of Azerbaijan	ARS-LAD and the civil works contractor

⁶ This matrix is patterned from the entitlement matrix agreed between the GoA and the World Bank for the implementation of the Resettlement Action Plan for Section 3 of the Second Highway Project (Loan No. 7356, January 2006).

	Type of Loss	Application	Entitled Person	Compensation Measures	Policy Basis	Responsible Agency
				market price of timber for non-fruit bearing trees. Lumber from these trees may be kept by the owner. No compensation will be provided for crops already harvested.		
3	Severe impact/ vulnerable house holds	Severely affected people (10% or more land take) as well as households headed by an elderly or woman	Severely affected people (10% or more land take), house holds headed by an elderly or woman	Priority to be given to able household members in employment opportunities under the civil works contracts and jobs created in service/rest areas that will be established once the highway becomes operational.	Civil works contract	ARS-PIU, contractor and executive powers
4	Temporary impacts	Various types: temporary impacts concerning traffic diversion and temporary loss of access	General public, owners of roadside structures	The contract will require the civil works contractor to be responsible for the temporary acquisition and reinstatement of all land required outside the road reserve for construction camps, offices, borrow pits, materials storage sites, materials for processing sites and haul roads. The contract will select the land parcels they require and they will be responsible for negotiating agreements with land owners to occupy the land. In the event that a contractor fails to obtain agreement with any landowner, he will be required to select an alternative site and negotiate a new agreement. No involuntary occupation of land for temporary construction purposes will be allowed.	Civil works contract	PIU-ARS, contractor and executive powers

G. Compensation Eligibility and Entitlements

99. If “land for land” is chosen as the compensation option, ARS-LAD will locate on the town map the possible relocation site / replacement plots from which the DPs can choose. They will also identify the associated infrastructure requirements (service roads, drainage, sanitation, water supply and electricity facilities) and site-preparation costs. All relocation activities will be carried out with the consent and cooperation of the DPs.

100. The land swap option will be provided to the affected households if they prefer getting land plots of the same size and quality to cash compensation. Public land is available for swap in most affected areas, and local government and municipal officials confirmed during the public consultation meetings and inquiries from ARS that alternative land plots of the same size and quality can be provided, where available, to those who prefer. The transaction cost and other start up costs of using new land plots would be shouldered by ARS through its own budget.

101. DPs who prefer a land swap will be assisted by ARS-LAD in making a standard application stating their preference for the land swap option. The application will be filed by ARS-LAD to the concerned rayon executive power and local municipality with a request to allocate appropriate land plots. The rayon executive power/local municipality then proposes alternative land plots for consideration of the land owners. After consideration of all available options, the DP has the right to drop their preference to land swap and elect cash compensation. Once the land plot for swap is agreed between the land owner and local authorities transaction is registered in the records of Local Land Office/SLCC and State Real Estate Registration Service. Related registration and transaction costs are covered by ARS.

102. Throughout the process, ARS-LAD/PIU and the national resettlement specialist from the Project Management Consultant will be accessible to DP and provide necessary assistance in addressing any grievances.

103. All land swaps will be completed prior to initiation of civil works. The PMC national resettlement specialist will work closely with ARS to ensure that the land swaps are processed appropriately and timely and all related transaction costs are covered by ARS.

G. Gender Impact and Mitigation Measures

104. Women have important economic roles and engage in a very wide range of income making activities in the agricultural and marketing sector. The Program will pay particular attention to ensure that women are the recipients of the compensation pertaining to their activities and to ensure that women who are de-facto household heads are clearly listed as beneficiaries of compensation and rehabilitation proceedings under the loan. In order to ensure the above the following actions will be considered:

- (i) Impact assessment will disaggregate the DPs gender-wise and will clearly indicate the number of affected women-headed households and their pre-Program socioeconomic status.
- (ii) Women will be encouraged to actively participate in all LAR-related consultations and negotiations.
- (iii) LARP monitoring/evaluation will pay special attention on the impact of resettlement on women and other vulnerable groups.
- (iv) All compensation due to woman-headed families will be given to only the women family head and/or provided with new titles in their names.
- (v) In case of spouses, if the title is under the name of the woman the compensation will be provided to the woman and the new title for the remaining plot will be kept in her name.

V. PUBLIC PARTICIPATION, GRIEVANCE REDRESS AND DISCLOSURE

105. Officials of district (rayon), municipal (baladiya) and villages (kant) have been informed about the Program, and their assistance have been solicited in the conduct of the census of DPs and the DMS. Several consultation meetings have been held during the preparation, finalization and implementation of LARPs. Prior to the finalization of a LARP and its submission to Project authorities, DPs have been informed on the results of the census and DMS. These consultations will be continued upon the mobilization of the PMC and SC to ensure that communities are fully aware of the project activities, their entitlements in case of emerging LAR issues during implementation, grievance redress mechanism and the employment opportunities in the civil works.

A. Public Participation in the LARP Preparation and Implementation

1. Project Stakeholders

106. Consultations about the proposed construction of the Alat–Masalli road section started in 2005 as part of the preparation for the initial environmental and social impact assessment for the Highway 2 Project. To ensure that stakeholders are aware of the resettlement policies, an information campaign and public disclosure program was conducted in 2007 as part of the RAP preparation. Affected owners and users of land and buildings within the required road ROW of the final alignment, officials (executive power and local land offices) of concerned municipalities traversed by the alignment, private contractors who will undertake the civil works, the State Land and Cartography Committee, the Ministry of Finance and its regional representatives, and the ARS as the executing agency are considered as the primary stakeholders for the Project. The secondary stakeholders include officials of the affected villages and rayons, nongovernmental organizations (NGOs), the SLCC, and the general public. The stakeholders' view and recommendations were properly considered in the preparation and implementation of the land acquisition activities.

2. Information Dissemination, Participation, Consultation and Disclosure

107. Information about the project was disseminated and issues were discussed during the consultation meetings. Stakeholders were informed through the distribution of the Project Information Brochure (PIB) and Resettlement Information Booklet (RIB) translated to local language, containing the brief information about the Project and the RAP prepared under the Highway 2 Project. Initial discussions were held with the primary stakeholders (community members/landowners and community and district officials on the project concept and planned interventions during the preliminary and detailed design phases of the Project. The LAD, SLCC, district officials and the Consultant in consonance undertook this first major consultation. The draft RAP was prepared in consultation with the stakeholders and DPs after the final road alignment had been determined and staked out. A major consultation concerning the draft RAP was undertaken. Based on the result of initial consultation and information dissemination, the project was able to: (a) avoid critical areas and minimize dislocation and resettlement with the adjustment of the road alignment, and (b) reduce potential conflicts with the affected communities. Consultations were conducted in three phases, as described below.

108. Phase 1: Consultation during the RAP Preparation. This phase occurs during the RAP development and preparation. During this phase, the public, particularly the DPs were informed of the Project and the RAP. They were informed of the Project impacts and compensation policies, and institutional arrangements. Preliminary consultation meeting and focused group discussions were undertaken. Notices for such consultation, indicating the

place, date and time, were posted in public places. The first public consultations in Neftchala and Jalilabad were undertaken on 25 and 26 July 2007.

109. The following were discussed in these consultation meetings:

- (i) Project Background and Objectives
- (ii) Description of the final alignment
- (iii) Potential impacts including environment, land acquisition and resettlement
- (iv) Mitigation Measures for Adverse Impact
- (v) Implementation Schedule and Activities
- (vi) Consultation and Participatory Development Process

110. DPs, community officials and other stakeholders took part in these meetings. It was also in these meetings that the DPs confirmed their consent that their land and assets/properties could be acquired by the Project, subject to proper compensation. They were again consulted after the final RAP was drafted. The DPs, stakeholders and local institutions as well as women were consulted as part of the participatory planning process. During the conduct of the transect walk, informal discussions were had with potential DPs on potential impact of the project including land acquisition. During these initial consultations, a wide ranging issues and concerns were raised, the summary of which is presented below:

111. Affected communities recognize that the new road network will contribute to and accelerate socio-economic development in impacted areas. However, DPs also raised a number of concerns that have to be addressed:

- (i) Fair and immediate compensation for affected assets and properties
- (ii) Address the environmental and safety issues concomitant to construction and improved traffic
- (iii) Impact on public utilities should be avoided if not minimized; if unavoidable repair and rehabilitation measures should be instituted immediately
- (iv) Protection of cultural and historical sites and monuments; and
- (v) Community/public access across the road during and after construction should be ensured.

112. The ARS explained that (i) compensation will be based on the valuation methodology and inventory attached to the RAP to ensure transparency; (ii) EMP will provide measures to mitigate project impact on environment, safety and cultural heritage; (iii) road will be designed to minimize impact on utilities and any damaged utilities will be repaired; and (iv) overpasses and underpasses will be constructed to allow easy access for both sides of the Highway.

113. Phase 2: Consultations on the Draft RAP. After the draft RAP was prepared, LAD assisted by the RAP Consultant in conducting another public consultation to inform the stakeholders and DPs about the draft final RAP and the Grievance and Redress Mechanism. The DPs were informed about the scope of impact, the Compensation Matrix and the procedure for payment. Likewise, project implementation schedule were shared with the public and the DPs. The consultation in Jalilabad and Neftchala was conducted on 25 September 2009. Participants to this consultation meeting included:

- (i) representatives of DPs;
- (ii) officials from relevant local government bodies;
- (iii) competent and authoritative community representatives, women, and elders; and
- (iv) representatives of local NGOs and businesses as the case may be

114. Results of the official consultation undertaken in the different districts with various stakeholders were fully documented and comments and reaction to the draft were integrated into the Final RAP.

115. Phase 3 – Consultation after approval of the RAP. Prior to the implementation of the RAP in October 2010, the ARS, together with the monitoring consultant, conduct a consultation meeting in every affected village, where the scope of impact, compensation methodology and rates, land swap option and grievance redress mechanisms were explained to the DPs. These issues were also described in a simple handbook distributed among DPs. The contact address of ARS and monitoring consultant were indicated in the handbook. The monitoring consultant also provided his mobile number to the DPs so they can contact him in case of queries or complaints. DPs were also informed about the numbers at ARS which they can contact in case of grievances. Informal follow-up consultations continued from October 2010 to January 2011.

116. Consultations Conducted as Part of the Due Diligence for the MFF. On 11 May 2012, a follow-up consultation was conducted in Masalli as part of the due diligence for this project where concerns related to impacts during construction, location and number of underpasses and grievance redress were raised. DPs also inquired how the project will address temporary impacts during construction and the compensation of municipality land affected by the project. It was explained that the reconciliation and updating of land records concerning municipality land is ongoing. Compensation will follow after the records have been corrected and verified. As for temporary impacts during construction, contractors will be responsible for identifying areas where temporary impacts cannot be avoided, for securing agreements with the owners and in paying the appropriate rental fees and compensation payments.

117. Afterwards, a follow-up consultation was conducted on 12-13 February 2014 in the project area. ARS Resettlement Specialist met with the severely affected families and other stakeholders in Gacagkend and Girmizikend village. He informed people on the construction schedule. In addition, Project information brochures were distributed to the interested persons, as well as local officials (The brochure is attached as an appendix 1). Severely affected DPs expressed that they are looking forward to be employed by the Contractor when the construction starts. The resettlement specialist also conducted a visit to the proposed road corridor together with the municipality representatives and confirmed that all acquired areas are free of any perennials and development.

118. It was agreed that more community consultations will be done by ARS and its consultants and contractors before the start of civil works to ensure that communities are fully aware of the project activities, and to designate grievance focal points for the project who can be contacted in case of adverse impacts.

B. Grievance Redress Mechanism

119. A grievance mechanism will be setup to allow a DP to refer any disagreeable decision, practice or activity arising from land or other assets compensation. DPs will be fully informed of their rights and of the procedures for addressing complaints whether verbally or in writing during consultation, survey, and time of compensation. In order to record and handle grievances SC will appoint a grievance focal point within its team. He/she will also be responsible for preparation of a database of grievances and reporting to PIU of ARS quarterly. The Grievance Focal Point (GFP) will be responsible for handling grievance at the local level care. This will be managed by ensuring full participation and consultation with the DPs, and by establishing extensive communication and coordination between the affected

communities, the ARS-LAD, PMC, SC, contractor and local governments. Complaint and grievances will be addressed through the process described in Table 16.

Table 16: Grievance Resolution Process

Step	Responsible Units and Time Frame
Step 1	Complaint resolution is first attempted at the village (municipality) level with the help of GFP and considers involvement of the ARS-PIU/LAD, SC, and village authorities and informal mediators.
Step 2	If still unsettled, a grievance can then be lodged to the Rayon Grievance Redress Commission (GRC). ⁷ Within 15 days the Rayon GRC will attempt to resolve the case or recommend its settlement to the MoF. The SC and PMC may also assist at this stage.
Step 3	If after the Rayon GRC intervention no solution has been reached a grievance can be directly lodged to MoF (as the government designated control agency on LAR issues). The DP must lodge the complaint within 1 month after receiving response from the Rayon GRC and provide the necessary documents supporting his/her claim. MoF will provide a response within 15 days of registering the complaint. The MoF decision should be in compliance with the provisions of the LARF.
Step 4	If the DP is still not satisfied with the MoF decision, the DP can submit his/her complaint to the appropriate court of law for resolution.

120. ARS-LAD shall cooperate with the GFP in handling complaints. Since the ARS headquarters is situated in the capital of city of Azerbaijan, the DPs can contact the ARS through the field representative of LAD at the Rayon level. The Rayon GRC will meet at least once a month to discuss complaints or queries from DPs and the general public. The field representative of ARS-LAD will be responsible for recording and following up on complaints received concerning projects under the MFF.

121. The ARS-PIU Safeguards Specialist, assisted by the GFP, shall be tasked for consolidating and reporting complaints received from projects under the MFF. Grievances shall be captured for monitoring and reporting using the Intake Form and logbooks of the GRC and ARS-LAD. The intake form shall be filled up by the complainant, with assistance from GRC representatives, if necessary. The ARS-PIU Safeguards Specialist will coordinate with GRC representatives at least on a monthly basis to update the integrated database of complaints. PIU shall prepare a summary report on grievances for submission to ARS and ADB which will be included in its quarterly progress report.

122. PMC will provide administrative/social support to ARS-PIU by (i) maintaining a file of GRC meetings and activities; (ii) preparing and regularly updating a consolidated database of complaints/queries received by members of GRC; and (iii) preparing on a quarterly basis a summary in tabular form with any necessary appendices, of the complaints received and status of the resolution of such complaints for inclusion in the quarterly progress report.

C. Disclosure

123. This LARP in the Azeri version will be made available at the ARS-PIU/ARS-LAD offices and at the rayon (district) offices where the project road under the MFF pass through. The Resettlement Framework in the English version will be disclosed on the ADB website after it is endorsed by ARS. The Azeri version of the LARP will be disclosed to affected communities and a pamphlet in Azeri, summarizing compensation eligibility and entitlement provisions, will be sent to all DPs with pending land acquisition activities before tranche appraisal.

⁷ People’s representatives, including DPs, are involved in the GRC.

VI. INSTITUTIONAL ARRANGEMENTS

124. Land acquisition and resettlement planning and implementation involves different agencies, including ARS-LAD, the State Committee for the Management of State Property, the State Land and Cartography Committee, the Executive Power of each Rayon, and the Program Management Consultant (PMC), the Supervision Consultant (SC) and the civil works contractor.

A. AzerRoadService Open Joint-Stock Company (ARS)

125. ARS has overall responsibility for the Project, including the preparation, implementation, and financing of all LAR tasks and for interagency coordination. ARS will exercise its functions through the Project Implementation Unit (ARS-PIU), which will be responsible for general project execution, and tasked with day-to-day project activities at rayon/subproject levels. ARS-PIU has a full-time Safeguards Specialist that coordinates with the PMC and SC on safeguards related matters.

B. ARS-Land Acquisition Division (ARS-LAD)

126. The PIU will be assisted by the Land Acquisition Division (LAD) in the preparation, and implementation of LAR-related tasks, including surveys, asset valuation, and community consultation, and LAR-related interagency coordination. The LAD's tasks involve coordinating and supervising the activities of the different district level commissions and units. It recommends to ARS management actions related to compensation and expropriation. The LAD is responsible for ensuring that all DPs are duly compensated and that mitigating measures are instituted by the civil work contractor as a result of temporary impacts.

127. Since its creation in 2006, LAD received formal training and gained hands-on experience on resettlement and land acquisition for various roads projects of the ARS including state, bilaterally, or multi-laterally funded projects. LAD staff are familiar with IFI policy principles on involuntary resettlement including the World Bank and ADB. ARS-LAD will be supported by local and international monitoring consultants from the Project Management Consultant (PMC) and the Supervision Consultant (SC). As part of capacity building, ARS-LAD staff will again be provided a refresher training on the ADB SPS (2009) and the LARF by the PMC Resettlement Specialist.

C. Program Management Consultant (PMC)

128. The PMC which will be engaged under Tranche 2 to assist the ARS in managing the implementation of the entire investment program and will have oversight functions over the supervision consultant in ensuring compliance with all safeguard requirements and reporting to ADB and EA. PMC will prepare implementation progress reports that include evaluation of LAR-related issues/problems and recommend remedial actions. The PMC will have a national resettlement specialist who will be tasked to (a) conduct due diligence prior to award of contracts to confirm if there are no pending permanent land acquisition issues, (b) conduct quarterly monitoring of the provision of employment for DPs, especially those who are severely affected or members of vulnerable households; (c) monitor and report on the temporary acquisition activities of the contractor, and (d) draft a corrective action plan in case of emerging LAR-related issues or safeguards non-compliance identified during construction.

129. PMC will also be tasked to improve awareness and capacity of relevant units on environment and social safeguards matters. Related to this, upon the mobilization of the PMC, all concerned staff both at ARS-PIU and ARS-LAD and rayon Executive Powers involved in land acquisition and resettlement activities will be oriented on the Program's

LARF, ADB SPS (2009) and the GoA Land Acquisition for State Needs (2010). The training will cover the following topics: (i) principles and procedures of land acquisition, (ii) public consultation and participation, (iii) entitlements and compensation and assistance disbursement mechanisms, (iv) grievance redress, and (v) monitoring of resettlement operations. The training budget will be incorporated in the contract of the PMC.

D. Supervision Consultant (SC)

130. The SC will monitor more closely the civil works contractor. The SC will also have a national resettlement specialist who will (i) closely work with the contractor in identifying members of severely affected and vulnerable households who can benefit from local employment opportunities, (b) regularly conduct consultations with communities along the project road and civil society organizations to inform on project activities and obtain feedback; (c) serve as grievance focal point in the field to form database of grievances and to report quarterly on the latest status; (e) assist the PMC in monitoring progress with regard to providing employment for DPs, and in reporting concerns/feedback from the community, and (f) assist in the preparation of corrective action plan, if needed.

E. Local Governments

131. Local governments at the rayon level have jurisdiction for land administration, valuation, and acquisition while a number of other local officials from the State Land Cartography Committee and State Committee for the Management of State Property will carry out specific roles such as titles identification and verification. DPs losing leased lands will be provided with the comparable lease land in the same village by the rayon akimats. The field representative of ARS-LAD will coordinate with the municipality in this regard and assist the DPs.

132. To provide effective interagency coordination and officially endorse the surveys and the compensation rates in each affected rayon, a special commission was formed composed of representatives from the MoF, rayon office, Land Cartography Committee, Head of affected municipalities, LAD, and other relevant authorities and organizations.

F. Other Government Agencies

133. The following agencies, including their district offices, will also be involved in LAR-related tasks:

- (i) Ministry of Finance (MOF) - controls the entire land acquisition process from consultation, valuation, LARF preparation and compensation payments. At the local level, MOF has rayon (district) offices to perform this role.
- (ii) State Committee on Property Issues (SCPI) - provides land registration data, and updates land documents after acquisition
- (iii) State Land and Cartography Committee (SLCC)- provides cadastral maps and list of DPs.

G. Civil Works Contractor

134. As a rehabilitation measure, members of households, which are either severely affected or vulnerable will be given priority in project-related employment. This requires close coordination with the civil works contractor and the municipalities in informing and prioritizing workers from the targeted households. Moreover, the contractor is responsible for identifying areas that may be affected temporarily during construction and in negotiating and compensating affected households/owners.

VII. RESETTLEMENT BUDGET AND FINANCING

135. ARS is responsible for all land acquisition costs associated with Project 2, including LAR administration and monitoring. Cost of compensating for land is placed at AZN 147295. A breakdown of this cost is shown in Table 17 below.

Table 17: Compensation Budget for Land Losses

Category	District	Land Classification	Area	Unit Cost (including 20% premium)	Calculated Amount of Compensation (AZN)
Private	Jalilabad	Agricultural	5.126	2,160	11,072.00
		Homestead	-	6,000	-
	Neftchala	Agricultural	50.09	2,160	108,198.00
		Homestead	-	-	-
	Subtotal		55.22		119,270.00
Municipality	Jalilabad	-	-	-	-
	Neftchala	Agricultural	5.488	2,160	11,854.00
		Non-agricultural	16.1163	* ⁸	27,800.00
		Pasture	0.3896	**	225.00
	Subtotal		21.99		28,025.00
Total			77.21		147,295.00

136. ARS-LAD and ARD-PIU staff involved in LAR-administration, coordination and follow-up, as well as transportation and communication support are charged under the regular budget of ARS. Land records verification and issuance of new titles is done through an agreement between ARS and the State Committee on Property Issues (SCPI). Program Management Consultant (PMC) will be involved in the monitoring of LAR activities, including the livelihood restoration activities and temporary land acquisition during project implementation. Related to this, resettlement monitoring and reporting budget shall be integrated into the contract for the PMC. Cost for LAR administration and monitoring is estimated at AZN 18,000. These cost estimates are presented in Table 18.

Table 18: Estimated Budget for LAR Administration and Monitoring

Item	Estimated Cost (AZN)
LAR administration (including transport, communication and consultation activities)	10,000
Resettlement monitoring (including during civil works implementation)	
-Internal (by Program Management Consultant)	8,000
Total	18,000

137. The total cost of resettlement for Project 2 is estimated at AZN 181,824 (\$ 231,918) as presented in Table 19.

Table 19: Summary Resettlement Budget

Item	Cost (AZN)	Cost (\$)
Compensation for Land	147,295	187,876
LAR Administration and Monitoring	18,000	22,959
Contingency (10% of base cost)	16,529	21,083
Total	181,824	231,918

⁸ *, ** it means the unit cost changes according to land category

VIII. STATUS OF LAND ACQUISITION AND RESETTLEMENT

A. Compensation for Land Losses

138. All of the 92 affected private plots have been acquired. The 86 owners of these plots, as well as two municipalities have received their compensation payments with a combined amount of AZN 147,295 based on the valuation in the approved Highway 2 Project RAP (See Table 17). No transaction charges or fees were deducted from the compensation payments. Copies of the signed agreements have been registered with the State Committee on Property Issues (SCPI) for updating of registration and issuance of new land ownership certificates to the DPs. Cost of registration was shouldered by ARS.

B. Remaining LAR-Related Activities

139. The due diligence assessment conducted by the PPTA consultant confirmed that compensation payments and consultation processes followed the provisions indicated in the approved Highway 2 Project RAP. Compensation was paid based on the approved rates in the RAP and no deductions were made for depreciation, transaction, and registration expenses. ARS shouldered all these expenses. Interviewed DPs also confirmed the consultation process and dialogue that went through in the preparation and implementation of the RAP. However, the assessment also identified the following LAR-related activities that still need to be completed, monitored and reported.

- (i) Additional rehabilitation assistance for severely affected and vulnerable households in terms of prioritization of able household members in job opportunities in civil works from the Project;
- (ii) Identification of temporary land acquisition requirements during construction, finalization of agreements with affected landowners and provision of compensation/rental payments by the contractor prior to start of civil works
- (iii) Establishment, designation of grievance focal points and dissemination of information on the grievance mechanism for the Project.

140. These activities which are reflected in this LARP and will need to be monitored for the entire implementation of the project, particularly those concerning the additional rehabilitation assistance in the form of employment of members of severely affected and vulnerable households in project-related jobs.

141. A detailed program for identifying and prioritizing willing and able members of vulnerable and severely affected households for project-related jobs should be in place. Completion of these remaining activities and feedback from DPs will be reported in a LARP completion/compliance report to be prepared by the Resettlement Team of the Program Management Consultant (PMC).

IX. IMPLEMENTATION SCHEDULE

142. The preparation and implementation of LAR-related activities for Project 2 started during the preparation of the preliminary design of the road section for the Highway 2 Project in 2007. The Resettlement Action Plan (RAP) was prepared in October 2010 based on the detailed design and after the verification and resolution of land prices issues. Land acquisition for this road section has been substantially completed. This Land Acquisition and Resettlement Plan (LARP) picks up on the current status of land acquisition activities as described in the RAP agreed between the World Bank and the Government of Azerbaijan, focusing on the remaining activities, while ensuring compliance with the ADB SPS (2009) of both completed and remaining activities.

143. The following schedule reflects the activities for this LARP in relation to the processing and implementation of Project 2 of the ADB financed Second Road Network Development Program (See Table 20).

Table 20: Tentative Schedule for LARP Implementation

Activities and Milestones	2014													
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	2015 Jan	
A. LARP Approval and Disclosure														
A1. Final LARP review/approval		●												
A2. LARP web and local disclosure		■												
B. Final LARP Implementation														
B1. Preparation of pre-contract award compliance report						■								
B2. Review of compliance report and award of civil works contract.							■							
B3. Preparation of pre-mobilization resettlement monitoring report									■					
B4. Review of pre-mobilization resettlement monitoring report and Issuance of notice to proceed with civil works										■				
Start of civil works											●			
Compensation of temporary impacts during civil works and implementation of job creation for severely affected and vulnerable households												■	■	■

X. MONITORING AND EVALUATION

144. To ensure that projects under the MFF are implemented in compliance with the provisions of the LARF, an internal monitoring will be carried out during and after the implementation of the LARP. The monitoring will be carried out by the Program Management Consultant Resettlement Team.

Internal Monitoring

145. Internal monitoring will be carried out to assess the progress and results of LARP implementation and adjust the work program, if necessary. Indicators for internal monitoring

will be those related to process and immediate outputs and results. Specific internal monitoring indicators are shown in Table 21.

Table 21: Internal Monitoring Indicators

Monitoring Indicators	Basis for Indicators
Budget and Timeframe	<ul style="list-style-type: none"> • Have all land acquisition and resettlement staff been appointed and mobilized for the field and office work on time? • Have capability building and training activities been completed on schedule? • Have resettlement implementation activities been achieved according to the agreed plan? • Are funds for resettlement being allocated to the resettlement agencies on time? • Have resettlement offices received the scheduled funds? • Have funds been disbursed to the affected families according to the LARP? • Has all land required been acquired in time for project implementation? • Have all DPs received complete entitlements according to numbers and categories of loss set out in the entitlements matrix? • Have all DPs received complete payments on time? • Have all DPs losing temporary land been compensated? • Have all DPs received the agreed transport costs, relocation costs, income substitution support and resettlement allowances, according to schedule?
Delivery of DP Entitlements	<ul style="list-style-type: none"> • Have all replacement land plots or leases been provided? • Is the DP occupying a new house? • Is restoration proceeding for social infrastructure and services? • Are DPs able to access schools, health services, cultural sites, and activities? • Are income and livelihood restoration activities being implemented as set out in the income restoration plan? • Have the affected businesses received entitlements including transfer and payments for net losses resulting from lost business and stoppage of production? • Have consultations taken place as scheduled? • Have resettlement booklets and announcement been delivered?
Consultation, Grievance and Special Issues	<ul style="list-style-type: none"> • How many DPs know their entitlements? How many know if they have been received? • Has any DP used the grievance redress procedures? What were the outcomes? • Have conflicts been resolved?

146. Internal monitoring will be done through: (i) review of census information for all DPs, (ii) consultation and informal interviews with DPs, (iii) in-depth case studies, (iv) sample surveys of DPs, and (v) community public meetings. The results will be reported to ADB through monthly progress reports. The SC will include in its regular progress report an update on the LAR related rehabilitation activities, temporary land acquisition and other emerging LAR issues during the implementation of the civil works. One report will be prepared prior to the contractor mobilization and quarterly thereafter until completion of employment to severely affected households and temporary land use.

Appendix1

Information brochure

on Shorsulu to Jalilabad section of the Alat-Astara HighwayProject

1) Information on Project

Shorsulu–Jalilabad Section of Alat–Astara Highway Project starts from km 80+600 and ends km110+700. This section of project passes through Bilasuvar–Neftchala and Jalilabad regions and the total length of this section is 30.100 km.

Acquisition of project affected lands was completed in January 2011. The project's civil works are expected to commence at the end of the first quarter of 2015.

2) The issues to be considered during construction in accordance with the compensation entitlements

- a) During road construction recruitment issues of the individuals who is in the ability to work and willing to be employed at severely affected households has been examined. Thus, at the result of the conducted examination on this section of the project, 11 (eleven) persons from 6 (six) families were identified to be willing to work and that persons have been registered. That persons` names and contact numbers will be provided to the contractor company which will be selected.
- b) If any temporary impacts occur in construction process, or, if necessary, these issues will be solved by contractor company in accordance with the legislation.

3) Complaints management

A specialist will be assigned by contractor or construction supervision consultanting firm for receiving and reviewing of any complaints arising during construction and that specialt will be recommend for registering of complaints. The contact numbers of that person, assigned to receive the complaints will be supplied the people by local municipalities. If people have any requests on the project at present, they may obtain further information by contacting the following contact number:

"Land Acquisition Group" of "Azeryolservis" OJSC

Phone: 012 499 79 23