

# Safeguard Due Diligence Report

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Due Diligence Report on Social and Land Acquisition Impacts  
May 2017

## AZE: Road Network Development Investment Program, Tranche 4

Prepared by Azeravtoyol Open-Joint Stock Company for the Republic of Azerbaijan and the Asian Development Bank.

## ABBREVIATIONS

AAY	–	Azeravtoyol Open-Joint Stock Company
ADB	–	Asian Development Bank
km	–	kilometer
LARF	–	land acquisition and resettlement framework
LARP	–	land acquisition and resettlement plan
m	–	meter
MFF	–	multitranche financing facility

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**REPUBLIC OF AZERBAIJAN**



**“AZƏRAVTOYOL” OJSC**

**Tranche 4, Road Network Development Investment Program,  
Multi-tranche Financing Facility (MFF1)**

**Project: Rehabilitation of Local Roads in Ganja-Gazakh Region**

**Due Diligence Report on Social and Land Acquisition Impacts**

**Prepared by: “IRD Engineering” MMC**



**23 May 2017**

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## 1. INTRODUCTION

Azerbaijan is geographically located in the centre of the East-West (between the Black Sea and the Caspian Sea) and the North-South (between Russia, Iran and Turkey) transit routines. Substantial work has been done in the development of main road network of Azerbaijan Republic with the support of international financial institutions, including the Asian Development Bank. This report has been prepared under Rehabilitation of Local Roads in Ganja-Gazakh Region, Tranche 4, Road Network Development Investment Program, Multi-tranche Financing Facility (MFF1). In October 2016, a representative of IRD Engineering, consult to “Azeravtoyol” OJSC, examined the local roads in Ganja-Gazakh region with the participation of representatives of local executive and municipality and they determined the critical parts of roads that require substantial rehabilitation. This report is prepared based on field data collected including topographic, demographic, technical and economic details for proposed road. Under this task, following local roads (total length – 40.7 km) are proposed for rehabilitation, as given below:

### a) **NCB No. 1: 16.6 km**

1. Vurgun-Kohnə Gishlag (Y-05-04 /16.6 km), Agstafa Region

### b) **NCB No. 2: 24.1 km**

2. Agstafa-Ashagi Kesemen-Zelimkhan (Y-05-05 /9.6 km), Agstafa Region
3. Soyug Bulag-Tinglik (Y-05-09 /9.3 km), Agstafa Region
4. Kommuna (Y-35-06 /2.6 km), Qazakh region
5. Qazakh-Duzgishlag (Huseynbeyli section) (Y-35-11 /2.6 km) Qazakh region.

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## 2. PROJECT DESCRIPTION

### 2.1-BRIEF DESCRIPTION OF VURGUN-KOHNE GISHLAG RURAL ROAD (Y-05-04) (16.6 KM)



***Project road***

The length of the Vurgun-Kohne Gishlag rural road (Y-05-04) is 16.6 km with connections to Goyjeli (length 450 m); Tatli (length 550 m) and Yaradullu (length 1000 m) rural roads. This road provides main transport connectivity between Kohne Gishlag village and Vurgun settlement. The alignment passes through agricultural land of Goyjeli, Tatli and Yaradullu villages towards the East and reaches Kohne Gishlag village. This existing road was designed and constructed between 1980 and 1985. The road is at the end of its economic life and deformations have appeared such as settlement, cracks and other damage to many parts of the road.

This road serves for several public areas and education centers (5 school buildings, 3 post-offices, 1 hospital, 5 libraries, 4 municipality buildings, 2 kinder-gardens, 5 village study-groups), therefore rehabilitation of this road is considered important to the village residents.



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In total, 8,217 persons are local permanent users of these roads, i.e. residents of Vurgun, Goyçəli, Tatlı, Yaradullu and Kohnə Gishlag settlements, located on project road.



*Figure 1: Road of Vurgun-Kohne Gishlag Village (Km: 01+947)*



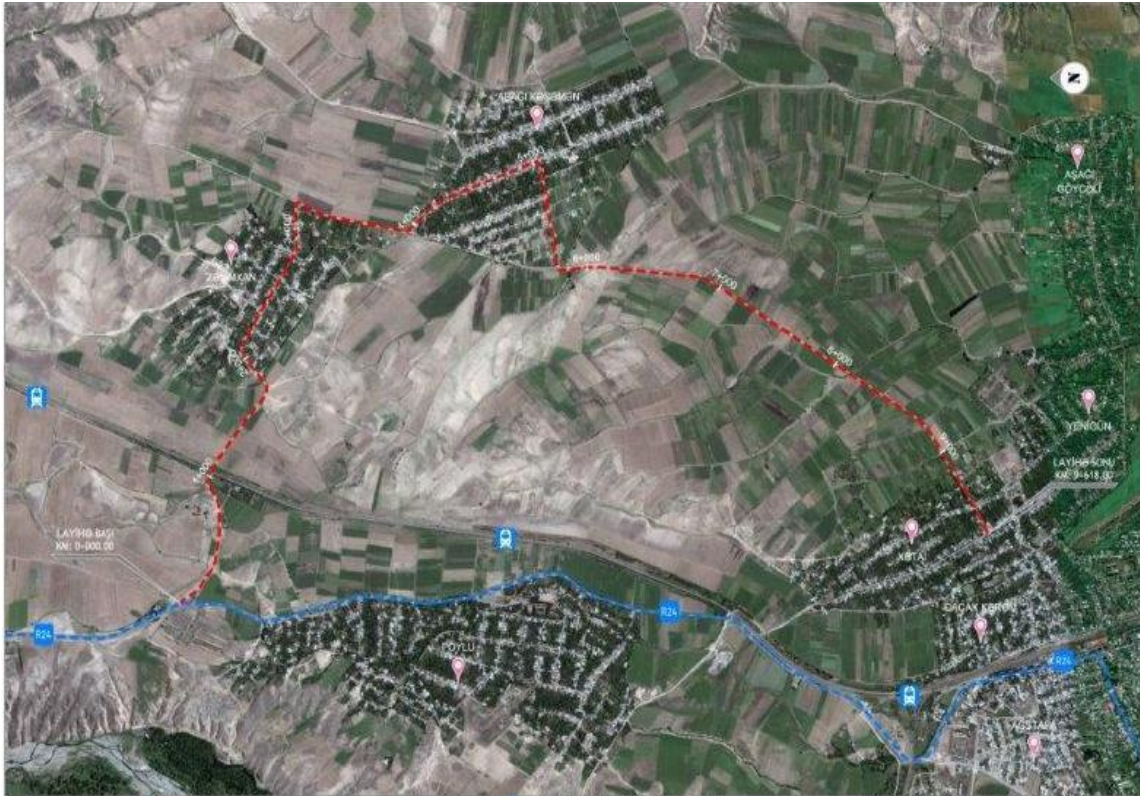
*Figure 2: Road of Goycheli village*



*Figure 3. Road of Kohne Gishlag village (end of the project alignment)*



## 2.2- BRIEF DESCRIPTION OF AGSTAF-AASHAGI KESEMEN-ZELIMKHAN (Y-05-05 / 9.6 KM) RURAL ROAD



### ***Project road***

Agstafa-Ashagi Kesemen-Zelimkhan rural road (length -9.6 km) provides transport connectivity between Zelimkhan, Ashagi Kesemen, Khatai, Yenigun and Gachag Kerem villages of Agstafa region and as well as access to R24 road surrounding to Poylu village. There are several deformations on the existing road such as settlement, cracks and damages. This road serves for several public areas and education centers (4 school buildings, 2 post-offices, 2 hospitals, 2 libraries, 3 municipality buildings, 2 kinder-gardens, 3 village study-groups), herefore rehabilitation of this road is considered important to the village residents.

In total, 9980 persons are local permanent users of these roads from the settlements of Zelimkhan, Ashagi Kesemen, Khatai, Yenigun and Gachag Kerem.



*Figure 4: Road of Zalimkhan village (km01+030)- railway crossing*

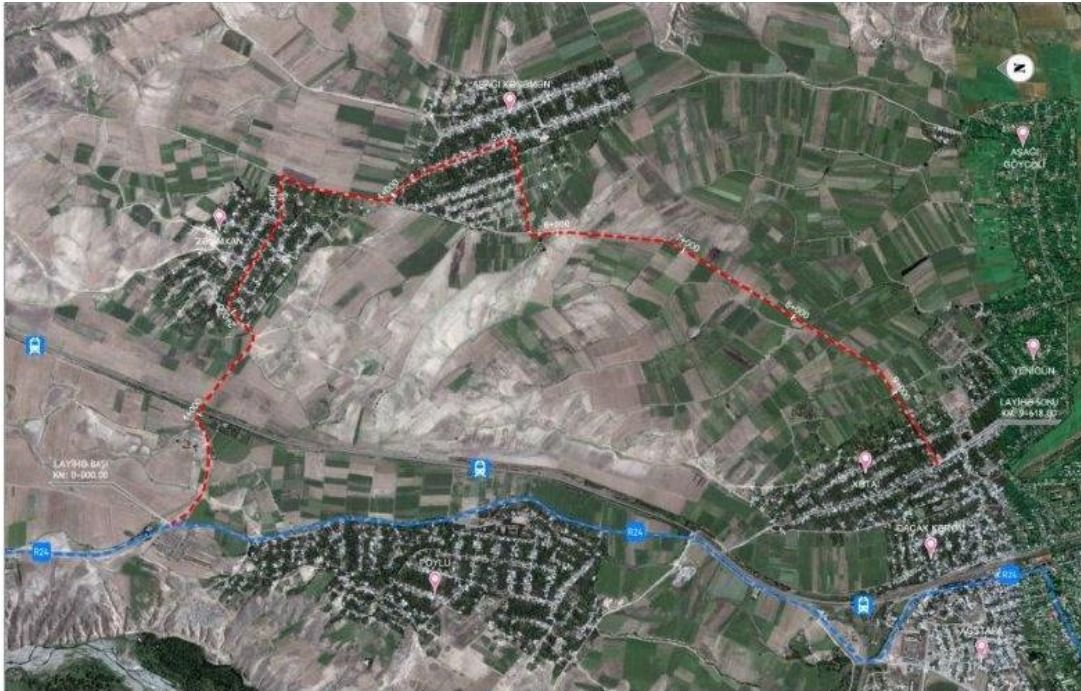


*Figure 5: Road of Ashagi Kesemen village*

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#### 2.3 – BRIEF DESCRIPTION OF SOYUG BULAG-TİNGLİK (Y-05-09 / 9.3 KM) RURALROAD



#### *Project road*

Soyug Bulag-Tinglik rural road (Y-05-09 / 9.3 km) provides the main transport connection between Kochvelili, Hezi Aslanov, Soyug Bulaglar villages and Garayazi settlement. The total length of this road with the associated access roads is 9.3 km. Kochvelili-Soyug Bulag section (length 1812 m)

- Soyugbulag-Soyugbulaglar section (length 3380 m);



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- Soyugbulag-Hezi Aslanov section road (length 3693 m);
- Soyugbulag- Qarayazı section (length 415 m);

Totally, 1,917 persons are local permanent users of these roads from nearby settlements. This road will serve for several public areas and education centers (4 school buildings, 1 post-office, 4 hospitals, 3 libraries, 2 municipality buildings, 1 kinder-garden, 2 village study-groups), therefore rehabilitation of this road is considered important to the village residents. This road also provides the access to R24 road.



*Figure 6: Existing road- Starting point of project*

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*Figure 7: Splitting of the project alignment towards Hezi Aslanov village*





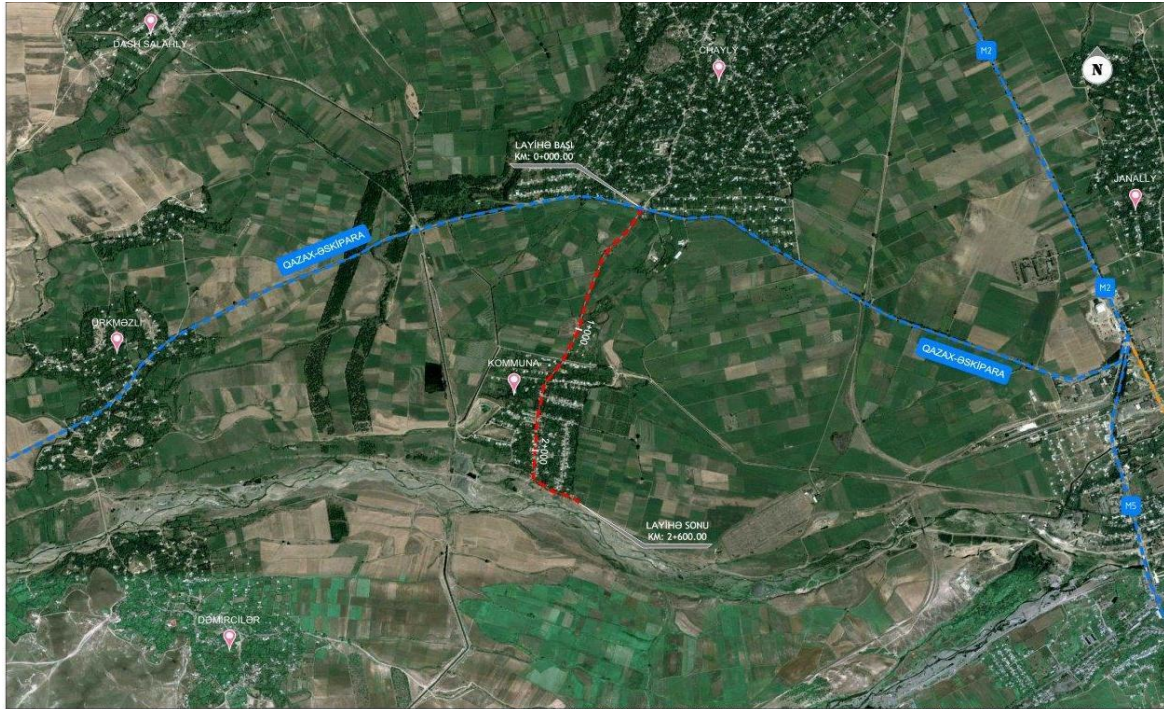
*Figure 8: Road of Garayazi village (km 6+500)*



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#### 2.4–BRIEF DESCRIPTION OF KOMMUNA (Y-35-06 / 2.6 KM) RURAL ROAD *Project road*



Kommuna rural road connects Chayli and Kommuna villages of Gazakh region and provides an important transport connectivity. This road connects to the Gazakh-Eskipara road, which is important for region and is the access to M2 Motorway. Kommuna village is the most densely populated area in the Gazakh region. Length of the designed alignment of Kommuna rural road is approximately 2.6 km. In total, 7,874 residents are the permanently users of this road. Therefore, rehabilitation of this road is considered important for village residents.





Figure 9: *Entrance to Kommuna village (start point of the project alignment– Km 0+000)*

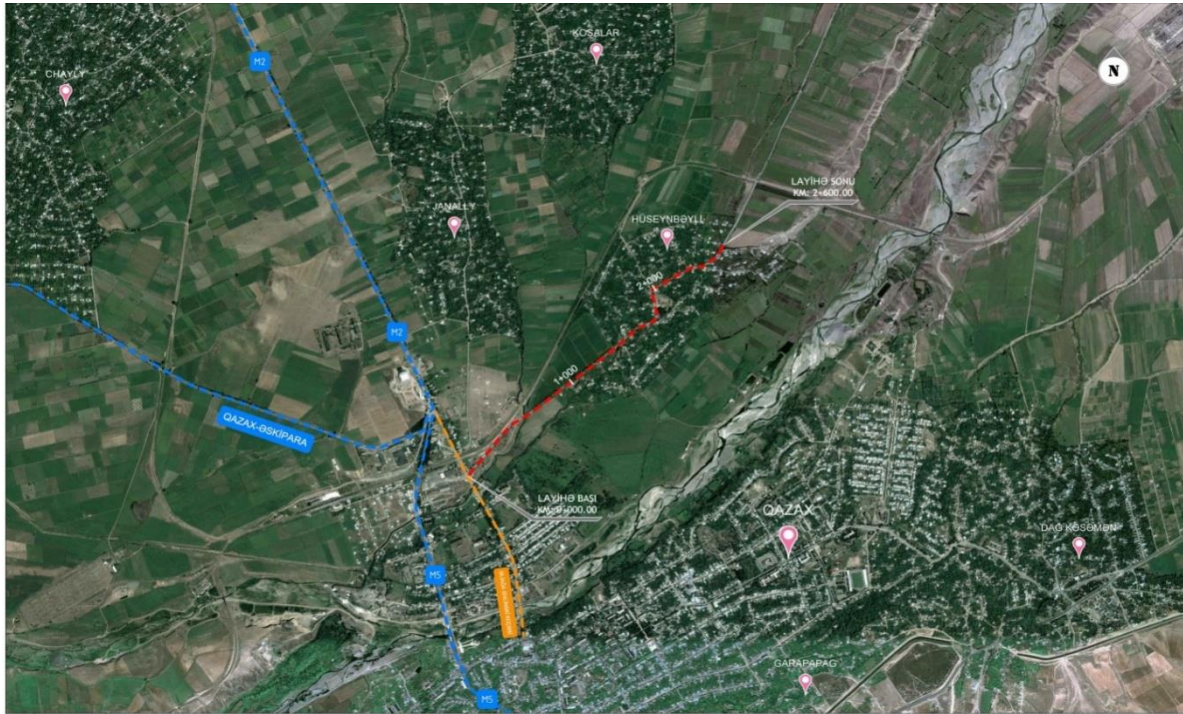


Figure10: *Kommuna village (inside of the village)*

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**2.5–BRIEF DESCRIPTION OF GAZAKH-DUZGISHLAG (HUSEYNBEYLİ SECTION) (Y-35-11 / 2.60 KM) RURAL ROAD**

*Project road*



The project alignment of Huseynbeyli section of Gazakh-Duzgishlag rural road (Y-35-11) splits from Baku-Gazakh-Georgia (M2) motorway in the North-West part of Gazakh City (Aliaga Shikhlinski street) to the right side (North-East) and stretches towards Huseynbeyli village. The road is the main transport connection between Gazakh City, the center of the region, and Huseynbeyli village. The length of the project road is 2.60 km.



*Figure11: Baku – Gazakh – Georgia (M2) motorway*



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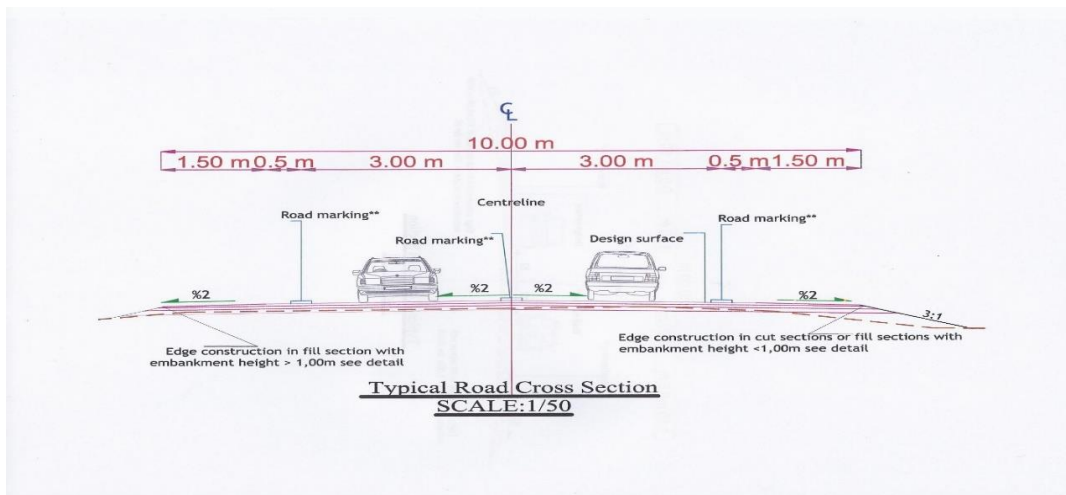
**3. Project`s technical parameters**

It was intended to be design and perform rehabilitation works as per road category IV of Vurgun-Kohne-Gishlag (Y-05-04 /16.6 km), Agstafa-Ashagi Kesemən-Zelimkhan (Y-05-05 /9.6 km), Soyuq Bulag-Tinglik (Y-05-09 /9.3) rural roads for Agstafa region, Kommuna (Y-35-06 /2.6 km) and Qazakh-Duzgishlag (Huseynbəyli section) (Y-35-11 /2.6 km) roads for Gazakh region. Under this project, the bridge`s lifespan on channel which is located on about 1 + 947 km of Vurgun-Kohne Gishlag route is ended and considered to replace it with new bridge because of becoming of useless and to repair the bridge which is located about 12 + 500 km on Hesensu river. Width of existing road is 10-12 m. In order to avoid the land acquisition and other impacts in populated areas, embankment will be adjusted as per site conditions keeping carriageway parameters same.

The design characteristics of the cross section are as follows:

- Embankment width: 10.0 m
- Number of lanes: 2
- Lane width: 3 m
- Carriageway width: 6 m (2 x 3m)
- Width of shoulder: 2m (2x2m; of which 0.50m will be paved)
- Carriageway gradient: 2%
- Shoulder inclination: 2%
- Embankment slope ratio (v & h):
- 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.

**Typical road cross section**



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**4. Involuntary settlement and impacts on land acquisition**

The project comprises the rehabilitation of 5 local roads (2 in Gazakh region and 3 in Agstafa region) to improvement the standard of road to Category IV. The rehabilitation of these local roads, with a total length of 40.7 km, is intended to implement for 2 Lots.

- 1) Vurgun-Kohnə Gishlag (Y-05-04 /16.6 km) for **NCB No. 1**, Agstafa Region

Total length:16.6 km

- 2) Agstafa-Ashagi Kesemen-Zelimkhan (Y-05-05 /9.6 km), Soyug Bulag-Tinglik (Y-05-09 /9.3 km), Qazakh-Duzgishlag (Huseynbeyli section) (Y-35-11 /2.6 km) and Kommuna (Y-35-06 /2.6 km) for **NCB No. 2**

Total length: 24.1 km

Rehabilitation works for the roads will be carried out within existing ROW because the width of existing roads is enough to perform the rehabilitation works. During examination it was determined that project parameters met the requirements of road Category IV, therefore there is no need the deviations for this road project. No land acquisition and other social impacts have been detected because of performing of rehabilitation works will be within the ROW of existing road. From this point of view, there was no need to prepare of Resettlement Plan.

If unanticipated impacts arise, all the necessary measures will be taken based on the Azeri laws and ADB Safeguard Policy

**4.1 National legislation**

- The **Constitution of Azerbaijan (November 12, 1995)** recognizes the citizens' right to own, use and dispose of 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).
- **The Law of Azerbaijan Republic on „Acquisition of Land for State Needs“-dated April 20, 2010, (No.987 III-Q)**

Applying of Decree of the President of Azerbaijan Republic on additional activities regarding to implementation of the Law on "Acquisition of Lands for State Needs" (15 February 2015, numbered 382) of Azerbaijan Republic has started.

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This law provides the detail procedure of acquiring the lands for state needs, calculating the amount of compensation, the rules of paying of this compensation as well as stipulates the other relations between the parties relating the land acquisition. There are the various legal documents which regulate the payment of the indemnity for loss of land and other property in Azerbaijan legislation.

- **Civil Code (28 December, 1999),**

157.9 Property may be alienated by the state only in cases permitted by the Law on "Acquisition of Lands for State Needs" of Azerbaijan Republic, in order to construct roads and other lines of communication, provide the reliable protection of state border through borderline, to build the facilities of great significance in defence purposes, to construct of mining industry facilities of national importance.

Article 246. Acquisition of lands for state needs

Article 247. Compensation to affected persons on land acquisition or rights on land

Article 249. The legal effect of the decision on land acquisition

- **Land Code (June 25, 1999),**

Article 70. Acquisition of Lands for State Needs

The Law on Acquisition of Lands for State Needs of Azerbaijan Republic provides the detail procedure of acquiring the lands for state needs, calculating the amount of compensation, the rules of payment of this compensation as well as stipulates the other relations between the parties relating the land acquisition.

Article 73. Basis of termination of individuals and legal entities` rights on land plots

- **Resolution of Cabinet of Ministers No. 42 (March 15, 2000)**
- **Decree of President of Azerbaijan republic No: 689 dated 26 December 2007**

On Applying of Decree of the President of Azerbaijan Republic dated December 07, 2007 No.506-IIIQD on "Amendments and Modifications to Civil Code of Azerbaijan Republic".

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In accordance with legislation, 20% additional compensation should be added to the calculated market price of the acquired property and be paid to the owner of real estate required the acquiring for states needs.

**Asian Development Bank**

The ADB Safeguard Policy Statement, 2009,

- 1.Safeguard requirements
- 2.Involuntary Resettlement Policy

ADB has appropriate policies and procedures on safety of affected persons regarding to acquisition of land and other property for the implementation of projects.

**5. Grievance Redress Mechanism (GRM)**

Any grievance and complaints may be considered as normal during the implementation of the project and mechanism will be used for addressing any complaints that arise during the implementation of projects and will be established as per provisions of the ADB`s Safeguard Policy Statement, 2009 (SPS) and Law on Acquisition of Lands for State Needs of Azerbaijan Republic:

5.1 The ADB`s,SPS 2009 states that a grievance redress mechanism should:

- Be scaled to the risks and impacts of the project;
- Address affected people's concerns and complaints promptly; and
- Use an understandable and transparent process that is gender responsive, culturally appropriate, and readily accessible to all segments of the affected people.

5.2 The Law on Acquisition of Lands for State Needs of Azerbaijan Republic  
(No: III-Q- 987 dated April 20, 2010)

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The proposed grievance redress mechanism process is as shown:

Stage number	Name of stage	Description	Time frame
1	Project level	<p>In order to record and handle grievances the representative will be appointed by Engineer or Contractor and Grievance Log Book will be opened. Received and addressed grievances will be recorded and examined and the measures will be taken for the resolving of grievances and complaints. In purpose of ensuring the transparency in the delivery of complaints by residents, the contact numbers of that appointed representative will be delivered to the residents and suitable municipalities. While the recorded grievances and complaints are examined, necessary actions will be taken towards the resolution of grievances and complaints.</p> <p>If the grievance is not settled in this stage that grievance will be forwarded to Employer/Azeravtoyol OJSC by Consultant or AP and complainant will be informed accordingly.</p>	15 days
2	Azeravtoyol OJSC	When the complaint cannot be solved in the first step, the grievance will be forwarded to Azeravtoyol OJSC by the Grievance Focal Point. Afterwards the grievance will be examined within Azeravtoyol OJSC. Land Acquisition Division, PIU and if required Law Department will be involved accordingly.	15 days
3	Control Agency	Unless the AP agrees to the Azeravtoyol OJSC's decision he/she can be directly lodged his/her grievance to the Control	15 days



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	(Ministry of Finance)	Agency (MoF). State Financial Monitoring Service of MoF shall examine that grievance and submit its recommendation to Executing Agency within 15 days of registering the complaint.	
4	Court	If the DP is still not satisfied with the Control Agency's decision, the DP can submit his/her complaint to the appropriate court of law for resolution	May be change according to the complaint's substance

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**Template for Grievance Register (showing example grievances)**

Ref. No.	Date / Channel of Grievance Receipt	Name /contact details of plaintiff	Nature of Grievance	Category	Location	Status (Pending, Ongoing, Solved)	Action taken	Notes/Comments
1	06/05/2017  Via Engineer	Mrs A.	Noise is disturbing Mrs A and her animals	Noise	Km x	Solved	Contractor to provide sound insulation on generator at km x	Contractor was in breach of EMP. Letter sent to Contractor by Engineer.
2	12/06/2018  AAY	Mr.	Contractor has left debris on Mr B's field and damaged fence	Property damage	Km y	Ongoing	Engineer notified	Engineer and Contractor due to visit incident site

## 6. CONCLUSION

1. As per the findings of due diligence study involving analysis of project intervention and findings of the site visit, no any activity under this project will trigger involuntary resettlement.
2. During construction, there may be some temporary disturbance caused by the contractor. These temporary impacts will only be known during construction.
3. “Azeravtoyol” OJSC will address such issues through appropriate conditions in the civil works contract. The civil works contract will require contractors to negotiate and reach a mutual agreement with the owners/users of any land before it is used temporarily for the project activities. Proofs of such agreements will also be submitted to Azeravtoyol for review to ensure that all appropriate provisions in the LARF are complied with. Such agreements will be based on the following principles:
  - i. Rent shall be 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;
  - ii. Affected land and/or attachments on the land will be restored to its pre-subproject condition. Permanent damages to improvements/structures, if any, will be compensated in cash at replacement cost following the provisions in the entitlements matrix provided in the LARF and provisions made in the LARP if required.
4. 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 with mutual settlement based on the agreements for the following items, if applicable:
  - i. Loss of annual crop production
  - ii. Potential crop yield reduction for three years
  - iii. Loss of any trees or perennial crops
  - iv. Loss of use of grazing land
  - v. Loss of immovable assets and land attachments.
5. One of the conditions for release of final payment to the civil works contractor is the submission of proof that all temporarily used lands have been fully restored to their

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pre-project conditions and that there are no pending compensation issues related to the temporary use of land.

6. Any grievances by local people will be addressed through the grievance redress mechanism established under the project.

7. If during implementation any unanticipated impacts or additional impacts are identified then Azeravtoyol will prepare a LARP in accordance with the LARF and Safeguard Policy Statement of ADB. Until such planning documents are formulated, disclosed and approved by ADB, Azeravtoyol will not proceed with implementing the specific project components for which involuntary resettlement impacts are identified.