

REPORT No. 144751-IN

INDIA

RURAL WATER SUPPLY AND SANITATION PROJECT FOR LOW INCOME STATES (P132173)

INSPECTION PANEL INVESTIGATION REPORT



JANUARY 15, 2020

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Abbreviations

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| BOD | Biochemical Oxygen Demand |
| BTOR | Back to Office Report |
| CAPEX | Capital Expenditure/Capital Cost of a Water Supply Scheme |
| CAS | Country Assistance Strategy |
| CNT | Chhota Nagpur Tenancy Act |
| CPS | Country Partnership Strategy |
| DO | Dissolved Oxygen |
| DPMU | District Project Management Unit |
| DPR | Detailed Project Report |
| DWSD | Drinking Water and Sanitation Department (Jharkhand) |
| EA | Environment Assessment |
| EA-EMF | Environmental Assessment-Environment Management Framework |
| EDS | Environmental Data Sheet |
| EMP | Environmental Management Plan |
| ESR | Elevated Storage Reservoir |
| FGD | Focus Group Discussion |
| FIR | First Information Report |
| GP | <i>Gram Panchayat</i> |
| GRM | Grievance Redress Mechanism |
| IDA | International Development Association |
| IEC | Information, Education and Communication |
| IPP | Indigenous Peoples Plan |
| IPPF | Indigenous Peoples Planning Framework |
| ISDS | Integrated Safeguards Data Sheet |
| ISR | Implementation Status & Results Report |
| LIS | Low Income States |
| lpcd | Liters Per Capita Per Day |
| MoDWS | Ministry of Drinking Water and Sanitation |
| MTR | Mid-Term Review |
| MVS | Multi-Village Scheme |
| MVWSC | Multi-Village Water and Sanitation Committee |
| NGO | Non-Governmental Organization |
| NOC | No Objection Certificate |
| NPMU | National Project Management Unit |
| O&M | Operations and Maintenance |
| OP/BP | Operational Policies/Bank Procedures |
| PESA | Panchayat Raj (Extension to Scheduled Area) Act |
| PIP | Project Implementation Plan |
| PRI | Panchayat Raj Institution |
| RPF | Resettlement Policy Framework |

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| RWSS-LIS | Rural Water Supply and Sanitation Project for Low Income States |
| SA | Social Assessment, Capacity Building and Communication Framework |
| SLWM | Solid and Liquid Waste Management |
| SMF | Social Management Framework |
| SPMU | State Project Management Unit |
| ST | Scheduled Tribes |
| SVS | Single-Village Scheme |
| TDIP | Tribal Development Implementation Plan |
| TDP | Tribal Development Plan |
| TTL | Task Team Leader |
| VWSC | Village Water and Sanitation Committee |
| WASH | Water Sanitation and Hygiene |
| WHO | World Health Organization |
| WTP | Water Treatment Plant |

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Executive Summary

Background

1. This Investigation Report responds to two Requests for Inspection of the India Rural Water Supply and Sanitation Project for Low Income States (the “Project” or “RWSS-LIS”). The first Request was submitted by 104 Santhal tribal community members from Giddhi Jhopri, a habitation in the state of Jharkhand, (“the first Requesters”) on September 21, 2018 (the “first Request”). The second Request was submitted by 130 Santhal and Ho tribal community members from Purani Basti, a habitation in the state of Jharkhand, (“the second Requesters”) on December 12, 2018 (the “second Request”, both the first and second Requests are hereinafter referred to as the “Requests”). The Requests alleged harm from the construction of two Multi-Village Schemes (MVSs): the Bagbera MVS and the Chhotagovindpur MVS. Both the first and second Requesters (“the Requesters”) asked for confidentiality.

2. The Panel registered the first Request on November 5, 2018 and received the first Management Response on December 11, 2018. The Panel registered the second Request on December 18, 2018 and received the second Management Response on January 28, 2019 (both the first and second Management Responses are hereinafter referred to as the “Management Responses” or the “Responses”). Since the Requests raise similar issues relating to the same Project, the Panel decided to process them jointly for efficiency purposes. After conducting a visit to the area, the Panel issued its Report and Recommendation on February 12, 2018, confirming the technical eligibility of the Requests and recommending an investigation into the alleged issues of harm and related non-compliance. The Board approved the Panel’s recommendation on March 1, 2019. The Panel issued its Investigation Plan on April 18, 2019.

Project Description

3. The Project is a US\$1 billion operation, of which the International Development Association (IDA) finances US\$500 million equivalent and the Government of India the rest. The Project was approved on December 30, 2013, with a planned duration of six years. Implemented in the states of Assam, Bihar, Jharkhand and Uttar Pradesh, the Project supports investments to improve water supply and sanitation, including construction of new infrastructure and rehabilitation and expansion of existing schemes. According to the Project Appraisal Document (PAD), whereas most habitations are expected to be served by single-village schemes (SVSs) using local groundwater sources, MVSs will serve communities with surface water from rivers where local groundwater sources are limited or of poor quality. The Project is currently implementing 1,077 water schemes, of which 189 are in the State of Jharkhand (182 SVSs and two MVSs under Batch I and five MVSs under Batch II).

4. In 2019, the Project was restructured to: (i) cancel US\$250 million of the IDA credit and (ii) revise the results framework to align it with the current reality of the Project.

Requests for Inspection and Management Responses

5. The Requesters question the locations of the Water Treatment Plant (WTP) in Bagbera on the Giddhi Jhopri Hill and the Elevated Storage Reservoir (ESR) near the Purani Basti habitation associated with the Chhotagovindpur MVS. They argue that site selection did not adequately analyze alternatives that would have avoided or minimized harm to the communities. They claim the Project should have been assigned an environmental Category A instead of Category B. The Requesters express concern that the schemes will impact the hydrology of the area. They worry that the MVSs will cause pollution from sludge generated from the water treatment process. They also contend they will become impoverished by having to pay for piped water.

6. The Requesters argue that the Project should have triggered the World Bank Operational Policy on Physical Cultural Resources (OP/BP 4.11). The first Requesters allege that the Bagbera WTP is constructed on their community land and will “*disrupt their way of life and culture.*” They claim that the WTP was built in their sacred grove and burial grounds and that it restricts access to the community’s resources, including pasture lands, traditional herbs and red mud. The second Requesters contend that the ESR near Purani Basti associated with the Chhotagovindpur MVS is being built on community land and “*threatens the continuation of essential cultural practices of the [i]ndigenous communities.*” They allege this location is an important martyrdom site. The Requesters fear the Project is part of a larger plan to expand the boundaries of the adjacent city of Jamshedpur and convert their tribal, Scheduled Area, into an urban area.

7. The Requesters claim that as a Scheduled Area, their habitations have special protections under national law and that a *Gram Sabha* resolution is a pre-condition for starting any development activity in their habitation. They allege that the relevant *Gram Sabha(s)* were not consulted and did not give their approval on the site locations. The Requesters add they have not been provided information regarding the specific schemes in a language they understand. They also express fear of retaliation and claim that their peaceful protests were responded to with either police force or threats.

8. In its Responses, Management acknowledge shortcomings in compliance with Bank safeguard policy requirements related particularly to weaknesses in design and supervision, consultations, disclosure of documents, non-objection of works ahead of approved Environmental Management Plans (EMPs) and failure to apply the Bank’s Policy on Physical Cultural Resources (OP/BP 4.11). Management also recognizes that approval of the habitation-level *Gram Sabha(s)* did not take place and is unable to confirm that broad community support for the MVSs in their current sites has been achieved as required by Operational Policy on Indigenous Peoples (OP/BP 4.10).

9. Management states that the size and impact of the schemes financed under the Project justify the environmental categorization of the Project as “B.” Regarding the hydrological impact, Management states that communities’ access to existing local water sources will not be affected by the Project. As for sludge disposal, Management explains that the specific approach to sludge management and disposal would be in place by the time the schemes become operational and will be detailed in the updated EMP.

10. Management expresses understanding of the Requesters' concerns about the urban expansion in Jamshedpur. According to the Responses, even though the Government is considering the expansion of city limits for purposes of regional planning and integration, there is no link between this and the Project, which aims to provide water to rural communities. The Responses also explain that participation in the schemes is voluntary and the Project will not force the inhabitants to pay if they do not use piped water.

11. Management commits to several actions, including: (i) hiring experts in anthropology and cultural heritage to assist the Bank; (ii) finalizing, consulting and disclosing the EMPs for the Bagbera and Chhotagovindpur schemes; (iii) ensuring that the executive summaries of the safeguard instruments are disclosed in Hindi; (iv) consulting the Requesters' habitations to better understand their concerns and identify compensatory measures; (v) applying OP/BP 4.11 and (vi) reviewing the processes followed to document community "no objection" to the siting of significant infrastructure associated with the two MVSs in Jharkhand.

Environmental Assessment

12. ***Design Overview of the Multi-Village Schemes.*** Both the Bagbera WTP (design capacity of 37 million liters of water per day) and the Chhotagovindpur WTP (design capacity of 46 million liter of water per day) are relatively large construction projects, each requiring almost five acres of land for the WTP alone. The ESR near Purani Basti— subject to this investigation—and Chhotagovindpur WTP are associated with the Chhotagovindpur MVS. In terms of the major structures, the Chhotagovindpur MVS was at the time of the Panel visit in July 2019 fully constructed and operating in testing mode, while the Bagbera MVS was estimated by the District Project Management Unit (DPMU) at 70 per cent completion.

Site-Specific Environmental Assessment

13. ***Environmental Assessment - Environmental Management Framework.*** An Environmental Assessment-Environmental Management Framework (EA-EMF) was prepared for each of the four states—Assam, Bihar, Jharkhand and Uttar Pradesh. The Panel notes that a well-established procedure was detailed in the EA-EMF to ensure that environmental impact and mitigation measures were identified within the EMP for an MVS. The Panel notes that the EA-EMF, Social Management Framework (SMF), Social Assessment, Capacity Building and Communication Framework (SA) and Tribal Development Plan (TDP) for the state of Jharkhand were developed during the first half of 2013 as stand-alone documents without considering social and environmental impacts in an integrated manner. The EA-EMF did not consider the Project's impact on tribal communities, whether beneficial or detrimental to them. Lack of an integrated approach on environmental, social, tribal and cultural matters fundamentally weakened the impact assessment and mitigation process.

14. ***Project Categorization.*** The Project was assigned an environmental Category B as per the Bank's environmental screening and classification of the Project as a whole. The EA-EMF for Jharkhand indicates that sub-projects would be classified as Category 1 and Category 2 schemes. Category 2 schemes would have more significant environmental impact, and as such, would

require a site-specific environmental appraisal in addition to the environmental datasheet required for Category 1 schemes. The Bagbera and Chhotagovindpur MVSs were designated as Category 2 schemes, indicating their potentially more significant environmental impact.

15. The Panel agrees that a framework approach is appropriate when the underlying sub-projects are unknown, provided that site-specific environmental and social assessments are carried out. With proper identification of potential impact and mitigation measures, informed by consultations with affected communities, few if any impacts would have been irreversible.

16. **The Panel recognizes that the Project was designed to build rural water supply and sanitation schemes with potential site-specific impacts in which few are irreversible and for which mitigating measures could readily be designed. Notwithstanding the fact that required procedures of the Environmental Assessment-Environmental Management Framework were subsequently not followed, the Panel finds the designation of the Project as an environmental Category B to be in compliance with Bank Policy on Environmental Assessment (OP/BP 4.01).**

17. **Detailed Project Reports.** In its review of the Detailed Project Reports (DPRs), the Panel found no evidence that a separate, site-specific environmental appraisal was developed as per the EA-EMF requirements for the two MVSs subject to this investigation. The Panel could also not find evidence of discussions related to water supply delivery choices offered to tribal communities. Nor was the Panel able to identify any site analysis that documented the existence, or not, of burial grounds, sacred groves and trees, medicinal plants and herbs used by local inhabitants or a description of the red mud used by the villagers to decorate their homes. With no impact analysis of different sites, there was also no mitigation plan developed.

18. **Environmental Management Plans.** The Panel notes that site-specific EMPs were not prepared and included in either of the DPRs as required by EA-EMF. Both the Financing and Project Agreements require that applicable EMPs in accordance with the EA-EMF be submitted to the Bank for review and approval. These requirements were not met or monitored by Management prior to construction.

19. A generic EMP covering the two schemes was initially prepared—by the Contractor—and submitted for government approval in July 2015, over two years after the DPRs were produced in October 2013. The Bank team first reviewed it in June 2017, after the construction had already started in 2016. Management received updated site-specific EMPs for each of the schemes in June 2019 and conditionally approved them on June 28, 2019.

20. The Environmental Management Plans were only finalized in June 2019, when construction of the Bagbera Multi-Village Scheme was reported as 70 percent complete and the Chhotagovindpur Multi-Village Scheme was completed and already in testing mode. **The construction of the Bagbera and Chhotagovindpur Multi-Village Schemes financed under the Project proceeded without the preparation of required, site-specific environmental and social assessments and Environmental Management Plans. The Panel finds Management in non-compliance with Bank Policy on Environmental Assessment (OP/BP 4.01) for not**

ensuring analysis of the potential environmental, social and cultural impact of these schemes and development of related mitigation measures.

21. ***Retrofitting the Environmental Management Plans.*** The Panel has reviewed the retrofitted EMPs and notes that they largely represent good professional practice. The Panel notes, however, that the EMPs do not address the anticipated increased volumes of wastewater in communities that will necessarily result from the provision of expanded household water supply service.

22. Even though the solid and liquid waste management is an integral part of the Project and prominently mentioned in the environmental framework and in supervision documents, solid and liquid waste management impact was not identified and addressed in the 2019 retrofitted Environmental Management Plans. **The Panel finds Management in non-compliance with Bank Policy on Environmental Assessment (OP/BP 4.01) for not ensuring the coverage of environmental and health risks presented by open disposal of household wastewater and their mitigation measures in the 2019 retrofitted Environmental Management Plans for the Bagbera and Chhotagovindpur Multi-Village Schemes.**

Environmental and Economic Concerns

23. ***Hydrology, Water Quality and Sludge Management.*** The Panel heard about the community's preference for using traditional water sources, especially for rituals, and concerns that these sources might be affected by the Project. They also reported that their traditional knowledge of water management was not considered by the Project. The Panel notes that no cultural assessment or consultations took place to determine the potential impact of the schemes on the tribal cultural value of water within Giddhi Jhopri and Purani Basti.

24. The Panel understands that the river intake points for the Bagbera and Chhotagovindpur schemes are located over 10 kilometers and eight kilometers, respectively, from the communities' drinking water access. The sub-surface soils that predominate between source and community are of types that prohibit rapid movement of groundwater. Given these values, the Panel agrees with the Management Response that withdrawal of water from the Subarnarekha River to supply the schemes will not affect either surface-water or groundwater sources in Requesters' habitations.

25. Community members claimed that without information on how the WTPs (associated with both MVSSs) would operate and what would happen to their waste, they were unaware of the potential negative effects from disposal or release of contaminated sludge. The Panel recognizes from site control documentation that measurements taken to date indicate negligible quantities of these metals in the source water. The Panel agrees with Management's assessment regarding the low risk of heavy metal contamination in the small volumes of sludge regularly generated.

26. The Panel notes that, even though issues related to hydrology, quality of water and sludge were addressed in Project documents, there is a lack of awareness among many community members regarding contamination of the local sources of surface water and groundwater and the health benefits of treated, piped water.

27. In reviewing the hydrology, water quality, and sludge management concerns raised by the Requesters, the Panel finds that these matters have been considered in the design of the Multi-Village Schemes and that relevant procedures are addressed in the applicable 2019 Environmental Management Plans for the two schemes. **The Panel finds Management in compliance with Bank Policy on Environmental Assessment (OP/BP 4.01) in addressing environmental issues regarding hydrology, water quality and sludge management in the design and implementation of the Project and in the 2019 Environmental Management Plans.**

28. ***Affordability Concerns.*** Several community members did not see the need for 24/7 water availability and access to piped water. They expressed concern that because of the Project they will have to pay for water, and this will further impoverish them. The Panel notes that provisions have been developed to ensure the affordability of the schemes as detailed in the Project Implementation Plan (PIP) and the PAD. The Panel notes that fears among households of not being able to pay for water should have been addressed more strongly in the consultation process and communication activities.

Impact on Indigenous Communities

Impact on Culture and Community Resources

29. ***Safeguards Approach on Indigenous Issues.*** The Project triggered the Bank Policy on Indigenous Peoples (OP/BP 4.10), recognizing the presence of tribal people in Project areas in Jharkhand who meet the characteristics of indigenous peoples listed in the policy. During Project preparation, a decision was made by Management not to trigger OP/ BP 4.11 on Physical Cultural Resources. The Panel notes that Project documents do not properly identify impact on physical cultural resources as a potential risk, even though Project activities were located in areas with significant tribal populations and involved the construction of relatively large infrastructure, particularly in the State of Jharkhand. The Panel notes that the failure to trigger OP/BP 4.11 and to assess impact on physical cultural resources as required by that policy contributed to the cultural harm experienced by tribal communities in Giddhi Jhopri and Purani Basti. Management acknowledged that the Project should have applied OP/BP 4.11 and later triggered this policy in the context of the December 2019 Project restructuring after the harm occurred.

30. In addition to a SMF for the four states, a draft SA and a draft TDP were prepared in 2013 for the state of Jharkhand. A Tribal Development Implementation Plan (TDIP) was approved in August 2018, two year after construction on the two MVSs had started. The Panel notes that the SA and TDP present limited information on the religion, language, culture and customary land-use practices of the different tribal communities in Jharkhand. The TDP and SA do not mention the Bagbera and Chhotagovindpur schemes and their specific locations. The TDP contains generic provisions for how indigenous peoples should participate in the Project, but these are neither specific to the different schemes, nor targeted at the realities of the directly affected communities.

31. The Panel notes that a Social Assessment and Tribal Development Plan were prepared for the State of Jharkhand. In the Panel's view, absent a site-specific Social Assessment—which analyzes the characteristics of the affected tribal communities and impact on them—and detailed mitigation and consultation measures, the draft Tribal Development Plan is akin to a framework

document such as the Indigenous Peoples Planning Framework outlined in Bank Policy on Indigenous Peoples (OP/BP 4.10).

32. The Panel finds that although the Bagbera Water Treatment Plant and Elevated Storage Reservoir near Purani Basti are being implemented in areas customarily used by tribal communities, Management failed to ensure the preparation of site-specific Tribal Development Plans, which led to significant harm to the culture, religion and way of life of tribal communities adjacent to these sites in non-compliance with Bank Policy on Indigenous Peoples (OP/BP 4.10).

33. *Impact on Customary Use of Land and Natural Resources.* The Project design assumed the Project would have mainly positive impacts on tribal peoples who would benefit from improved access to piped water. The Panel notes that, based on this premise and in the absence of site-specific assessments, important social and cultural impacts on tribal communities, which could have been avoided or mitigated, were overlooked.

34. During the Panel's visit to Giddhi Jhopri, Santhal tribal community members elaborated on the cultural and spiritual importance of Giddhi Jhopri Hill and how it intrinsically relates to their cultural identity and way of life. Community members pointed out that the Bagbera WTP was built on their sacred grove, where they conduct different religious and cultural practices and where they seek guidance from the spirits of their ancestors. The Panel team was shown how much the sacred grove had been reduced, with a significant portion of its former area now within the boundaries of the WTP. Community members also reported that the WTP was built over the community's burial site and expressed concern about the spirits of their ancestors having been disturbed by the construction of the WTP. The Panel team observed that the construction of the Bagbera WTP reduced the pasture area for goats, the collection area of medicinal herbs and restricts access to culturally significant red mud available at the hilltop. Although Management states in its first Response that it would make efforts to ensure that the red mud remains available to the community, the Contractor as well as the local community were unaware of this arrangement. Community members in Giddhi Jhopri asserted that the construction of the Bagbera WTP in the current location disrupted periodic rituals and the organization of their community festivals and feasts.

35. The Panel also visited the ESR site near Purani Basti associated with the Chhotagovindpur MVS and met with Ho and Santhal tribal community members. The Ho, like other tribal communities in Jharkhand also have a strong belief in spirits and their supernatural powers. They said the ESR was built on a martyrdom site with significance for the local community as well as the State of Jharkhand. Community members explained that the burial site and memorial stones honoring the martyrs were razed during construction of the ESR, and the martyrdom site is now inaccessible for prayer and offering. Community members told the Panel that the three busts of the martyrs built by the Contractor are culturally inappropriate; the Ho do not worship idols and do not erect busts for the deceased. The Panel team heard from community members that the *Gota Pooja* annual celebrations and the *Jaher Dungri* sacrificial ceremony and feast that were held every five years took place on the ESR site.

36. The Panel notes that the Social Assessment and Tribal Development Plan do not adequately assess the customary use of natural resources, religious practices or cultural festivals of Santhal and Ho tribes. **The Panel finds that Management did not ensure the identification and mitigation of the impact on customary use of land, resources and sites that hold cultural significance to the affected tribal communities near the Bagbera Water Treatment Plant and Elevated Storage Reservoir near Purani Basti in non-compliance with Bank Policies on Environmental Assessment (OP/BP 4.01), Indigenous Peoples (OP/BP 4.10) and Physical Cultural Resources (OP/BP 4.11).**

Consultation and Disclosure of Social Safeguard Instruments

37. During its visit, the Panel team heard repeated complaints that community members had not been consulted about the Project prior to key Project-related decisions being made. From the review of the consultation and disclosure of information of the key safeguard documents, the Panel notes that whether adequate tribal participation was ensured and the methodology used in the consultations—including how participants were invited, the format of meetings, and the documentation that was shared with participants—are unclear.

38. In terms of access to information, most Project documents were only available in English, despite the fact that Hindi is commonly spoken in Jharkhand and the tribal communities also speak Santhali or Ho. The Panel notes that there were important shortcomings in the disclosure of information both in terms of the cultural appropriateness of the information and the availability of Project documents.

39. The Panel notes that no consultations were held in the *Gram Panchayats* of the Requesters' habitations during the preparation of the TDP for Jharkhand. Given the lack of site-specific TDPs, consultations with respect to this important policy document also did not take place with these affected tribal community members. Therefore, the Panel notes that free, prior and informed consultations leading to broad community support for the Bagbera WTP and Purani Basti ESR were not carried out. As a result, important risks to tribal communities were overlooked and these communities were not provided key Project information before Project activities commenced. The affected tribal communities also told the Panel that they did not participate in the decision-making of the schemes and opposed its location.

40. **The Panel finds shortcomings in the consultations and disclosure of the Social Assessment, Tribal Development Plan and Tribal Development Implementation Plan, including inadequate documentation of the consultation process, insufficient disclosure of information and lack of translation of key Project documents into Hindi and tribal languages in non-compliance with Bank Policy on Indigenous Peoples (OP/BP 4.10). In addition, the Panel finds that Management did not ensure a process of free, prior and informed consultations with affected tribal communities in Giddhi Jhopri and Purani Basti in the absence of site-specific Tribal Development Plans in non-compliance with Bank Policy on Indigenous Peoples (OP/BP 4.10).**

Site Selection Requirements and Assessments

Site Selection Process and Decision-making

41. ***Decision-making Requirements in Project Documents.*** The Panel notes that the Requesters' habitations are in Scheduled Areas. The 2013 draft TDP includes a substantive review of the legal and institutional framework governing tribal development and water and sanitation activities in Jharkhand, including the constitutional provisions and Panchayat Extension to Scheduled Areas (PESA) Act, safeguarding the interests of tribal population. The TDP states that in Scheduled Areas, where a habitation is the basic unit, the Project needs to consider the habitation as the primary management unit. The TDP explains that according to the PESA Act, any proposal or plan presented by the larger *Gram Panchayat* (the village-level government) requires prior consultation and approval by the *Gram Sabha* (community assembly) at the habitation level before they are taken up for implementation.

42. The TDP also requires details about water supply alternatives be considered through a consultative process involving all stakeholders and the discussions thereof be included in the site-specific Detailed Project Reports (DPR). The Panel notes that free, prior and informed consultations should have been carried out as part of the DPR preparation, particularly with tribal populations living in or next to the selected sites.

43. ***Site Selection Process.*** Community members from Giddhi Jhopri and Purani Basti told the Panel team they were unsure of how the current site, located in what they consider their ancestral community land, was selected. While the Government and Management consider the site of the Bagbera WTP and Purani Basti ESR as "uninhabited government land," the Requesters allege that this designation is a legal oversimplification. In their view, all common property resources of a village that are registered as "uninhabited government land" are tribal land under customary rights.

44. The Panel team understands from the DPMU that the following factors were taken into account for MVS site selection: that the Project beneficiaries would be contributors towards the capital cost of the water supply scheme; that consultations leading to *Gram Sabha* approval take place; that the Project be implemented on government land; that it would be technologically feasible; and that it is not a historical, religious, or burial site.

45. The Panel understands that no-objection certificates were required for major construction works. In the case of the Bagbera WTP, a no-objection certificate was issued in January 2016, conditional on further obtaining *Gram Sabha* approval. For the ESR near Purani Basti, the no-objection certificate could not be found and was retroactively issued in December 2018, more than two years after construction works started.

46. The Panel notes that Project documents do not envision any adverse Project impact on land or resources customarily used by tribal peoples. The Panel also notes that without a formal record of the selection of the Bagbera WTP and Purani Basti ESR site, the Panel found no evidence that the EA-EMF, TDP and TDIP requirements were followed regarding the analysis of social and environmental impact and consultations with affected communities.

47. ***Gram Sabha Approval.*** Community members in Giddhi Jhopri and Purani Basti including the Ho and Santhal tribal leaders, told the Panel that a *Gram Sabha* did not take place in their habitations.

48. The Panel notes that the Bagbera WTP site was endorsed at a meeting in the Madhya Gagidih *Gram Panchayat* in Ranidih on February 6, 2016, but residents of Giddhi Jhopri were not present at that meeting. The Panel understands that Management is unclear whether Giddhi Jhopri Hill is located in Giddhi Jhopri or the adjoining Ranidih. The Panel notes that the WTP is closer to the Giddhi Jhopri than Ranidih and that several government documents reviewed by the Panel from 2015 state that the WTP is located in Giddhi Jhopri. Despite that, the Panel notes that works on the Bagbera WTP proceeded without *Gram Sabha* approval at the Giddhi Jhopri habitation, as required by the TDP.

49. In the case of the ESR near Purani Basti, the second Management Response recognizes that there is no evidence that a *Gram Sabha* was held in South Sarjamda *Gram Panchayat* to obtain community's consent to the ESR site. The Panel also notes that that a *Gram Sabha* approval did not take place at the required level of the habitation in Purani Basti.

50. The Panel notes that no site-specific TDPs were prepared and Management did not follow up with the Government to ensure that habitation *Gram Sabha* approvals had taken place or to obtain records of these decisions and of consultations at the site level. The Panel also notes that when residents of both Giddhi Jhopri and Purani Basti learned about the site locations, they expressed their objection. The opposition to the Bagbera WTP site was reported in the media and recorded in the Project's Mid-Term Review. Yet, despite this well-known opposition, the works continued without action by Bank Management. The Panel notes that selection of the Bagbera WTP and ESR near Purani Basti sites without evidence of broad community support for those decisions contravenes a key requirement of the OP/BP 4.10.

51. **The Panel finds that site selection for the Bagbera Water Treatment Plant and the Elevated Storage Reservoir near Purani Basti was not approved by the habitation *Gram Sabha(s)* despite the requirements of the tribal decision-making process set forth in the Tribal Development Plan and Tribal Development Implementation Plan. The Panel finds that these sites were selected without considering the social and cultural importance of the sites to affected tribal people. The Panel also finds that the works proceeded in the absence of broad community support from affected tribal community members. Consequently, the Panel finds the selection for the two sites in non-compliance with Bank Policy on Indigenous Peoples (OP/BP 4.10).**

Retaliation

52. During the Panel's visit, community members from both Giddhi Jhopri and Purani Basti expressed concern about alleged retaliation. The Panel heard about the use of physical force against women and children from Giddhi Jhopri during the construction of the perimeter wall for the Bagbera WTP. They reported that when construction works started in Giddhi Jhopri in July 2016, they protested peacefully but police responded disproportionately using violence. They stated that as a result several people suffered serious injuries and had to go to the hospital. Government

authorities, on the other hand, told the Panel team that police were deployed because community members threatened to use bows and arrows against construction workers. In discussions with residents of Giddhi Jhopri and Purani Basti, the Panel also heard about the deployment of police at community meetings, which allegedly created an atmosphere of intimidation.

53. The Panel understands that while Management was not aware of retaliation, disruption of works due to local tribal communities' opposition to the Bagbera WTP site was acknowledged in the 2016 Mid-Term Review. However, Management did not address this issue prior to the filing of the Requests for Inspection.

Expansion of the Jamshedpur City Limits

54. During its field visit, the Panel team heard from tribal community members that Jamshedpur has steadily expanded towards their villages. They believed the Bagbera and Chhotagovindpur MVSs had been developed to meet the rising demand for drinking water created by the influx of non-tribal residents that moved into the area to work. Tribal community members expressed concern that the increased water supply will further accelerate the migration of non-tribal residents into their habitations. They fear that the MVSs are part of a larger plan to expand the boundaries of Jamshedpur and convert their habitations into an urban area.

55. The Panel notes that Management in its Responses state that while the Government of India is considering the expansion of city limits for purposes of regional planning and integration, the Project and the Draft Masterplan for Jamshedpur Urban Agglomeration are not explicitly linked. The Panel reviewed Project documents and was not able to find any explicit links between the schemes and the Draft Masterplan. Project documents do not mention the expansion of the city limits or the Draft Masterplan. The Panel notes that one of the Requesters' main concerns is the potential for the MVSs to accelerate urbanization and lead to changes in the governance system and erosion of the tribal people's rights to land and resources. The Panel notes that since no site-specific consultations took place in Giddhi Jhopri and Purani Basti prior to the site selection for the MVSs, tribal community members had no avenue to raise these concerns. As a result of both the lack of consultations and site-specific assessments, this important contextual risk was not considered by the Project.

Grievance Redress Mechanism

56. The Panel notes that a Project Grievance Redress Mechanisms (GRM) was to be established within the first six months of Project implementation. However, community members with whom the Panel team met were unaware of a GRM or how to lodge complaints. The Panel understands from interactions with government officials and review of Project documents that a culturally appropriate GRM recognizing the traditional customary dispute-resolution mechanisms was not put in place. Early knowledge of grievances could have enabled a timely resolution of the issues encountered by the Project and helped build trust with the communities.

57. The Panel notes that during critical stages of the Project there was no functioning Grievance Redress Mechanism for affected communities to raise their concerns, and that the customary tribal dispute settlement mechanisms were neither considered nor used by the

Project. The Panel finds Management’s failure to ensure the establishment of a timely, accessible, effective, and culturally appropriate Grievance Redress Mechanism in non-compliance with Bank Policy on Indigenous Peoples (OP/BP 4.10).

Project Supervision and Remedial Actions

Supervision

58. ***Capacity building and institutional arrangements.*** Implementation challenges and overall Project risks were foreseen during Project preparation. The Panel notes that a lack of effective Bank supervision and corrective measures with regards to Project components A and C hampered the ability of the Project to develop capacity to manage and monitor implementation activities, and to build institutional structures to support operation and maintenance of the infrastructure investments. This contributed to the insufficient attention to safeguards.

59. ***Supervision Design.*** The Panel notes that the Bank conducted 10 implementation support missions, including the Mid-Term Review, between June 2014 and September 2019. Management told the Panel team that the supervision of Project implementation proved highly challenging; while the Project works themselves were relatively predictable, the array of sites, the geographical spread, and the high turnover of Bank Project staff responsible for supervision hindered the team’s ability to adequately follow up on issues and agreed actions.

60. From its review of aide memoires and Back to Office Reports, the Panel notes that serious concerns such as the adequacy and timeliness of safeguard instruments and their implementation were flagged early and consistently throughout the Project. However, Management did not proactively follow up on the identified problems. The Panel also notes that the supervision risk ratings initially underestimated the Project’s social and environmental risks and rated them as “low.” It was only in January 2016 that these risks were upgraded to “moderate” and in April 2018 to “substantial.”

61. ***Supervision of the Bagbera and Chhotagovindpur MVs.*** There were specific shortcomings in supervision and follow-up action on required safeguard documentation and processes. Aide memoires describe absent or low-quality environmental datasheets and Detailed Project Reports without the required EMPs. There were also repeated comments about the delays in finalizing the TDP and the TDIP, and the absence of a tribal specialist at Project Management Unit.

62. The Panel notes that Management underestimated the social risks of MVs. Even though the two MVs involved 38 *Gram Panchayats* and were implemented in Scheduled Areas, where known tensions existed between tribal and non-tribal communities, the main risk foreseen was the risk of exclusion from Project benefits. The lack of understanding of the social context had implications for how Management supervised the Project.

63. An additional lapse in timely Bank supervision and adequate follow-up relates to the consumption norms of the two MVs. The PIP states that the Project was designed for the MVs to have a consumption norm of 70 liters per capita per day (lpcd). Only in November 2014—more

than a year after the DPRs were completed—did the Bank discover that the Jharkhand MVSs had a norm consumption of 135 lpcd, nearly twice the planned amount. While Management expressed concern in the supervision reports, that this increase would aggravate sanitation issues, it did not act to ensure that environmental and social issues were adequately assessed or to determine whether environmental plans remained adequate.

64. ***Management Reaction to Community Opposition.*** Although community’s opposition to the Bagbera WTP site were flagged in 2015 and 2016 aide memoires, this did not lead to a broader discussion within the Bank’s task team and the matter was not escalated to senior Bank Management. Issues related to alleged violence and retaliation at the sites were not mentioned in any of the aide memoires, despite incidents being widely reported in the Jharkhand media. During implementation, safeguard issues in Jharkhand were not raised at a sufficiently high level of Management until after the Mid-Term Review.

65. The Panel also notes that the complaints about the Project were not adequately responded to by Bank Management. Although the Requesters wrote to the Bank in April 2018, Management only met with the Requesters and deployed a mission to the site in October 2018, six months after the first complaint had been received and only after the first Request had been submitted to the Panel.

66. ***Site safety.*** The Panel considers the occupational and community safety risks at construction sites as another example of weak supervision and follow-up. Shortcomings were flagged in the aide memoire of February 2017 Implementation Support Mission. During its visit in July 2019, the Panel noted these shortcomings remained. In this regard, the absence of secure fencing for example exposed workers, community members and animals to the risk of falling into wet wells, which at the time of the Panel’s visit contained water from the testing of valves and pipes.

67. The Panel notes that Bank supervision did not consider contextual risks, did not systematically and proactively follow up on identified problems and lacked a functioning internal mechanism for escalating issues. **The Panel finds that Management failed to provide adequate implementation support or to take relevant, effective action—prior to the Requests—to ensure implementation of required environmental and social measures in non-compliance with Bank Policies on Investment Project Financing (OP/BP 10.00), on Environmental Assessment (OP/BP 4.01) and Indigenous Peoples (OP/BP 4.10). This contributed to the significant harm experienced by the indigenous peoples of Giddhi Jhopri and Purani Basti.**

Remedial Actions

68. In its Responses, Management indicates a comprehensive package of “Actions Going Forward” based on an agreement with the Borrower. Specific measures concerning the Bagbera WTP include supporting consultations with the Giddhi Jhopri community to identify and agree on compensatory measures, which may include providing culturally appropriate benefits to the community, undertaking an assessment of physical cultural resources and ensuring access to the hilltop site. Specifics in the second Response include similar consultations with residents of Purani

Basti to identify and agree on compensatory measures, which may include addressing concerns related to the martyrs' memorial.

69. The Panel commends Management for initiating the above actions, but it observed during its mission in July 2019 that several actions had been delayed and that little progress had been made in efforts to ensure dialogue with the affected communities towards identifying suitable remedial action. While the Panel welcomes the exercise of ensuring policy compliance, even retroactively, it remains unclear how the harms experienced by the tribal communities will be addressed.

Conclusions

70. Serious harm to Santal and Ho tribal communities in Giddhi Jhopri and Purani Basti—including adverse impact on customarily used land and natural resources, desecration of burial sites, impacts on sacred grove and disruption of community gathering places used for traditional ritually organized ways of life—are linked to non-compliance by Management in relation to several key policies.

71. Although Project activities were implemented in areas with significant tribal populations recognized as indigenous under the Bank policy, Project documents did not identify the specific impact of the Bagbera WTP and ESR near Purani Basti on cultural resources and religious practices as a potential risk. Furthermore, site-specific cultural impact may have been identified had the site-specific essential safeguards instruments had been prepared and implemented in a holistic and integrated manner.

72. Shortcomings in consultation and disclosure of information, lack of site-specific tribal development plans and the lack of ensuring habitation-level *Gram Sabha* approvals for the infrastructure subject to this investigation led to sub-projects failing to obtain the support of the tribal communities that the Project was partly meant to benefit. The lack of a functioning GRM did not allow for problems identified in the Requests to be addressed in a timely and culturally appropriate manner.

73. Several factors contributed to inadequate and ineffective Bank supervision. The Panel regards the absence of a contextual risk approach to targeting supervision efforts and the lack of a reliable system for escalating critical issues within the Bank's structure. Red flags, such as community protests about site selections, were overlooked by Management when action could have made a difference.

74. Management has agreed to weaknesses with regard to Project design and supervision, consultations, disclosure of key safeguard documents, initiation of works ahead of approved EMPs and failure to apply OP/BP 4.11. The Panel recognizes the efforts by Management following the Request and hopes that through consultations solutions acceptable to the communities can still be found.

Chapter 1: Introduction

1.1 Background to the Requests

1. This Investigation Report (the “Report”) of the World Bank Inspection Panel (the “Panel”) presents the findings and analyses of the issues raised in two separate but related Requests for Inspection of the India Rural Water Supply and Sanitation Project for Low Income States (the “Project” or “RWSS-LIS”). The first Request was submitted by 104 Santhal tribal community members from Giddhi Jhopri, a habitation in the state of Jharkhand, (“the first Requesters”) on September 21, 2018 (the “first Request”). On October 9, 2018, they sent the Panel a supplement to their original Request, explaining the harm in further detail. The second Request was submitted by 130 Santhal and Ho tribal community members from Purani Basti, a habitation in the state of Jharkhand, (“the second Requesters”) on December 12, 2018 (the “second Request”, both the first and second Requests are hereinafter referred to as the “Requests”). The Requests alleged harm from the construction of two Multi-Village Schemes (MVSs): the Bagbera MVS and the Chhotagovindpur MVS. Both the first and second Requesters (“the Requesters”) asked for confidentiality.

2. The Panel registered the first Request on November 5, 2018 and received Management’s Response to it on December 11, 2018. The Panel registered the second Request on December 18, 2018 and received Management’s second Response on January 28, 2019 (both the first and second Management Responses are hereinafter referred to as the “Management Responses” or the “Responses”). Since the Requests raise similar issues relating to the same Project, the Panel decided to process them jointly in the interest of efficiency. The Panel visited the area in December 2018 and issued its Report and Recommendation on February 12, 2019, confirming the technical eligibility of both Requests and recommending an investigation into the alleged harm and related non-compliance. The Board approved the Panel’s recommendation on March 1, 2019. The Panel issued its investigation plan on April 18, 2019.

1.2 Requests for Inspection and Management Responses

3. The section below summarizes the Requests for Inspection and the Management Responses. More detail is provided in subsequent chapters.

Requests for Inspection

4. The Requests raise similar concerns, but they relate to two different MVSs financed by the Project. The first Request raises concerns about the construction of a Water Treatment Plant (WTP) and adjacent ESR (Elevated Storage Reservoir), both part of the Bagbera MVS (hereinafter referred to as the “Bagbera WTP”). The second Request relates to the construction of an ESR near Purani Basti associated with the Chhotagovindpur MVS (hereinafter referred to as the “ESR near Purani Basti”).

5. ***Environmental Impact.*** The Requesters criticize the locations of the Bagbera WTP on Giddhi Jhopri Hill and the ESR near the Purani Basti habitation. They argue that site selection inadequately analyzed alternatives that would have avoided or minimized harm to local communities. They allege the Project lacked site-specific environmental and social assessment to

explore potential adverse effects of the MVSS. They argue this oversight is in non-compliance with the World Bank Operational Policy on Environmental Assessment (OP/BP 4.01).¹ They also claim the Project should have been designated as environmental Category A instead of as Category B, since it created wide-ranging impact on ecology, human health and safety, and the rights of indigenous peoples.

6. The Requesters worry that the schemes as currently designed will divert significant volumes of water from nearby Subarnarekha River, thereby adversely affecting the hydrology of the area, including that of local bodies of water that are central to their cultural practices.² They are also concerned about pollution from the sludge generated by the water treatment process and claim that Project documents lack required information on sludge management.³

7. ***Impact on Cultural and Community Resources.*** The Requesters argue the Project should have triggered the World Bank Operational Policy on Physical Cultural Resources (OP/BP 4.11) and that the Project's failure to assess its impact on these resources and consider related mitigation measures is in non-compliance with OP/BP 4.11. Although the Santhal and Ho are recognized as *Adivasi*⁴ tribes under national law and fulfill the criteria for indigenous peoples under the World Bank Operational Policy on Indigenous Peoples (OP/BP 4.10), the Requesters contend that no assessment was conducted to evaluate the specific effects of the two MVSS on indigenous peoples or to examine Project alternatives.⁵

8. The first Requesters allege that the Bagbera WTP is constructed on their community land and will “*disrupt their way of life and culture.*”⁶ They claim the WTP was built in an area containing a sacred grove and burial grounds, and that the construction of the Bagbera WTP is restricting access to community resources including pasturelands, traditional herbs and culturally significant red mud. The second Requesters contend that the ESR near Purani Basti is being built on community land and martyrdom site. They allege the ESR construction “*threatens the continuation of essential cultural practices of the Indigenous communities.*”⁷ Both Requesters also claim they hold different festivals in the Bagbera WTP and ESR near Purani Basti sites. Specific allegations of harm are elaborated in Chapter 3.

9. ***Affordability Concerns.*** The Requesters challenge the need for piped water in their habitations which, they claim, already enjoy access to clean, free water. They therefore perceive the schemes as initiatives that threaten to impoverish their communities by charging for drinking water.⁸

10. ***Expansion of the Jamshedpur City Limits.*** The Requesters worry the Project is actually part of a larger plan to expand the boundaries of adjacent Jamshedpur City and incorporate their habitations into the growing urban area. They fear such expansion will erode the legal protections

¹ Second Request for Inspection, p. 11.

² First Request for Inspection, Supplement to the Request for Inspection, p. 13.

³ Ibid., p. 15.

⁴ Adivasi or tribal groups are considered the original inhabitants of India.

⁵ First Request for Inspection, Supplement to the Request for Inspection, p. 20.

⁶ Ibid., p. 1.

⁷ Second Request for Inspection, p. 5, para 2(a).

⁸ First Request for Inspection, Supplement to the Request for Inspection, p. 1.

presently afforded their community as a Scheduled Area⁹ and thereby lead to further marginalization of their indigenous communities.¹⁰

11. **Consultations.** The Requesters claim they were neither consulted nor involved in decision-making on site selection or implementation of the schemes. They maintain that, as part of a Scheduled Area, their habitations enjoy special protections under national law and that a *Gram Sabha*¹¹ resolution is a prerequisite for performing any development activity in their habitations. They allege that the relevant *Gram Sabha(s)* were not consulted and did not approve the sites chosen. They also claim the tribal governance systems, known as *Majhi-Pargana* among the Santhal and *Munda-Manaki* among the Ho, were “*completely sidestepped*” in the site-selection process.¹² They contend no attempts were made to achieve broad community support for the Project, in non-compliance with OP/BP 4.10, and argue that by neglecting to conduct appropriate consultation, important risks to indigenous peoples’ resources and cultural heritage were overlooked.

12. **Disclosure of Information.** The Requesters claim to have received no Project information regarding the specific schemes in a language they understand. They allege some documents were provided in English, but not in Hindi, Santhali or Ho. They also complain they could not access environmental or social assessments for the schemes.

13. **Retaliation.** The Requesters express fear of retaliation for raising their concerns. The first Requesters state that, when construction started in 2016, police officers used force in response to a peaceful protest. They further allege that, since that altercation, many community members have found it difficult to obtain “character certificates,” which are needed in India for securing employment. The second Requesters allege that community members were threatened with “*dire consequences*” when they tried to protest the construction of the ESR on their customary land.¹³

Management Responses to the Requests

14. Management issued separate Responses to the first and second Requests acknowledging shortcomings in compliance with Bank safeguard policy requirements for implementation of construction of the Bagbera WTP and the ESR near Purani Basti. Management describes these deficiencies as “*weaknesses in design and supervision, the conduct and documentation of consultations, the disclosure of key scheme-specific documents, non-objection of works ahead of an approved EMP [Environmental Management Plan] and failure to apply the Bank’s policy on Physical Cultural Resources (OP 4.11).*”¹⁴

15. **Site Selection and Related Consultations.** Management contends there is strong demand for piped water and the Project made significant efforts to consult affected communities about the decision to build both MVSs and about their design. However, Management admits “*there appear*

⁹ Scheduled Areas refer to officially notified areas marked by significant presence of tribal population, geographic compactness, and social and economic underdevelopment.

¹⁰ First Request for Inspection, Supplement to the Request for Inspection, p. 7.

¹¹ Community assembly.

¹² First Request for Inspection, Supplement to the Request for Inspection, p. 19.

¹³ Second Request for Inspection, p. 2.

¹⁴ Management Response to the first Request for Inspection, p. 8, para 29.

to have been weaknesses in consultation and its documentation at the level of [the first and second Requesters'] habitation[s].”¹⁵ Management also acknowledges there the required *Gram Sabha* approvals did not take place in Giddhi Jhopri and Purani Basti prior to the site selections. In addition, Management states that given divisions in the communities and weaknesses in the documentation of the consultation process, Management “*is not able to confirm unambiguously that broad community support, as required by OP 4.10, was achieved.*”¹⁶ Management also acknowledges that no consultations with the directly impacted habitations took place for the preparation of the scheme-specific EMPs.¹⁷ The Management Responses provide detail on site selection and consultations. (See Chapter 4.)

16. ***Environmental Assessment.*** Management states that the size and impact of the schemes financed under the Project justify the environmental designation of the Project as Category B because it was not expected to have significant adverse environmental or social effects. Furthermore, it explains that because the locations of the schemes were unknown at the time of Project approval, the RWSS-LIS used a framework approach to address social and environmental risks.

17. Although the Project’s legal agreement between the World Bank and the Government required scheme-specific EMPs be submitted to the Bank for review and approval before the start of civil works, the Responses admit “*this requirement was not met, and Management acknowledges that the Bank did not follow up to ensure compliance.*”¹⁸ The Responses state the EMPs are currently being updated to address shortcomings identified in the Requests.

18. Regarding the hydrological impact of the schemes, Management states that the communities’ access to existing local water sources will not be affected by the Project, given the locations of the Bagbera MVS and Chhotagovindpur MVS water intake points. Furthermore, the amount of water extracted from the Subarnarekha River in both cases will be negligible when compared to the river’s total water flow. Management also explains that specific approaches to sludge management and disposal will be in place by the time the schemes become operational, and that these approaches will be detailed in the updated EMPs.

19. ***Impact on Culture and Community Resources.*** The Management Responses acknowledge that OP/BP 4.11 should have applied to the Project and that no systematic assessment of physical cultural resources took place. However, it notes “*that efforts were made by the implementing agency to achieve objectives that are consistent with those of the policy.*”¹⁹ Management also explains that OP/BP 4.11 will be triggered by the Project’s restructuring. The first Response points out that the Bagbera WTP is being built on government land and the area remains accessible to the community for assembly, grazing livestock and foraging plants.²⁰ The second Response explains that the ESR near Purani Basti is also being built on government land and there is sufficient land

¹⁵ Management Response to the first Request for Inspection, p. 9, para 32 and Management Response to the second Request for Inspection, Executive Summary, p. vii, para xii.

¹⁶ Management Response to the first Request for Inspection, p. 10 and Management Response to the second Request, p.11.

¹⁷ Management Response to the first Request for Inspection, p. vii.

¹⁸ Ibid., Executive Summary, p. vii, para xi.

¹⁹ Ibid., p. 13, para 47.

²⁰ Ibid., p.14.

available to allow for the cultural uses described in the Request.²¹ The Responses further provide details on cultural resources. (See Chapter 3.)

20. ***Expansion of Jamshedpur City Limits.*** The Response expresses understanding of the Requesters' concerns about the urban expansion of Jamshedpur City and the perceived threat to tribal habitations of losing legal protections afforded to them as Scheduled Areas. However, Management argues that although the Government is considering expanding Jamshedpur's city limits for purposes of regional planning and integration, there is no link between the Draft Master Plan for Jamshedpur Urban Agglomeration and the Project, which aims to provide water to rural communities.²²

21. ***Affordability concerns.*** The Response explains that participation in the schemes is entirely voluntary and the Project will not charge for continuing use of existing local water sources. The new source of treated piped water will be delivered via a metered scheme to ensure that only those who use it will be charged. The Response further argues that the suggested monthly water tariff in Jharkhand is, in any case, relatively inexpensive—less than one-third of the current average monthly cost of electricity in the community.²³

22. ***Confrontations at the Project site.*** The first Management Response acknowledges that “*more proactive actions with the Project authorities should have taken place to follow up on agreed actions and to appropriately understand and address what appears to be significant resistance to the construction of the WTP[...].*”²⁴ The second Management Response says that at a meeting, community representatives mentioned that the *Mukhiya*—the *Gram Panchayat* (GP) leader—threatened to involve the police if protests did not desist, but cited no instance of actual police intimidation. Management points out they have made clear to the Government the Bank's intolerance of any reprisals for peaceful protests and will continue to work with it to prevent retaliation.²⁵

23. ***Actions Going Forward.*** In both Responses Management explains that halting construction could risk (i) retaliation by the larger GPs that support the schemes against those who oppose them, (ii) the loss of jobs held by community members employed by the schemes, and (iii) safety hazards caused by leaving the sites idle at an advanced stage of construction.²⁶

24. Management states they will support the Government of Jharkhand's efforts to discuss options with the concerned communities to achieve a satisfactory resolution. Management also commits to several actions, including (i) hiring experts in anthropology and cultural heritage to assist the Bank, (ii) finalizing, consulting, and disclosing the EMPs for the Bagbera and Chhotagovindpur schemes, (iii) ensuring that the executive summaries of the safeguard instruments are disclosed in Hindi, (iv) consulting the Requesters' habitations to understand better their concerns and to identify compensatory measures, (v) applying OP/BP 4.11, and (vi)

²¹ Management Response to the Second Request for Inspection, p.17.

²² Ibid, p. 11, para 40.

²³ Ibid, p. 14, para 47.

²⁴ Management Response to the First Request for Inspection, p. 11, para 39.

²⁵ Management Response to the Second Request for Inspection, p. 18, para 62.

²⁶ Management Response to the First Request for Inspection, p. 16, para 60 and Management Response to the Second Request for Inspection, Executive Summary, p. ix., para xx.

reviewing the procedure for documenting the communities’ “no objection” to the siting of significant infrastructure associated with the two MVSs in Jharkhand.

1.3 Country and Tribal Context, and Project Description

25. ***Country Water Supply Sector.*** India is the world’s third largest economy in purchasing power parity terms and has in recent years been among the fastest growing economies.²⁷ The country has made significant progress in poverty reduction, with extreme poverty dropping from 46 percent to an estimated 13.4 percent during the two decades prior to 2015. Nevertheless, India remains home to an estimated 176 million poor people and development has been uneven, with gains in economic prosperity and access to opportunities differing among population groups and geographic areas.²⁸ Rural areas lag behind urban areas, and at the time the Project was prepared, nearly 70 percent of India’s 1.2 billion people lived in rural areas.²⁹

26. Despite considerable investments in the water and sanitation sector in the last five decades, according to the 2011 census only 31 percent of the 167 million rural households have access to tap water and domestic toilets.³⁰ Furthermore, these households relied primarily on handpumps, which do not always provide reliable, affordable and sustainable service. That sustainability is further threatened by depletion of water tables, deterioration in water quality and poor operations and maintenance. Moreover, India is one of the most water-stressed countries in the world.³¹ Over the past few decades, groundwater extraction has risen exponentially, and India has become the largest user of groundwater sources, pumping out 25 percent of all groundwater extracted in the world.³²

27. The Government of India’s Twelfth Five Year Plan (2012-17) gave top priority to investment in infrastructure and improving water and sanitation services, particularly in rural areas.³³ The World Bank India Country Partnership Strategy (CPS) of 2013-2017 identifies improved water supply and sanitation services as a strategic engagement area. In addition to supporting the decentralization of programs and policies under ongoing RWSS projects, key strategic shifts under this CPS include (i) piloting an array of management models for large or multi-village schemes, (ii) supporting sustainable RWSS programs by linking GPs with higher levels of government and strengthening the capacity of institutions, (iii) integrating water supply and sanitation interventions into catchment area protection schemes, household and village environmental sanitation programs, solid and liquid waste management, and health and hygiene awareness promotion, (iv) piloting the use of Public-Private Partnership models for efficient and accountable service provision, and (v) institutionalizing and scaling up proven policies and strategies demonstrated by various Bank-supported projects.³⁴

²⁷ World Bank India Overview, <https://www.worldbank.org/en/country/india/overview>. Accessed: January 13, 2020.

²⁸ Ibid.

²⁹ PAD, p. 1, para 1.

³⁰ Ibid., p. 1, para 2.

³¹ India: Systematic Country Diagnostic - Realizing the Promise of Prosperity, 2018, World Bank Group, p. 24.

³² World Bank, Helping India Manage its Complex Water Resources, March 22, 2019. Available at: <https://www.worldbank.org/en/news/feature/2019/03/22/helping-india-manage-its-complex-water-resources>. Accessed: December 10, 2019.

³³ PAD, p. 1, para 1.

³⁴ World Bank, Country Partnership Strategy for India (2013-2017), p. 34, para 85.

28. ***Tribal context.*** The State of Jharkhand, from where the Requests came, was carved out of the southern part of Bihar State and became independent in November 2000 after decades of political struggle by tribal people. Jharkhand—the name means “area covered by forest”—has a unique relationship with the forest and its tribal communities.³⁵ It has more forested areas and larger tribal populations than other Indian states. Jharkhand is the heartland of the Scheduled Tribes (STs)³⁶ population in the Chhota Nagpur Plateau and the Santhal Parganas of central eastern India.³⁷ The plateau and its surrounding plains form the traditional homeland of the Santhals.³⁸ The ancient homeland of the Hos is the Kolhan area of West Singhbhum, a southern district of Jharkhand.³⁹

29. Jharkhand has a Scheduled Tribes population of 8,645,042—which corresponds to 26.2 percent of the state’s total population⁴⁰—and 32 tribal groups, the largest being the Santhal, Munda, Oraon, and Ho.⁴¹ The Santhal group is the third largest Scheduled Tribe in India and the largest in Jharkhand, with its population of 2,410,509 representing 34 percent of Jharkhand’s Scheduled Tribes population. The Ho tribe is the fourth largest in Jharkhand, with 10.5 percent of the state’s Scheduled Tribe population.⁴² East Singhbhum District—the specific source of the Requests—has a Scheduled Tribe population of 552,187, amounting to 27.85 percent of the district’s population.⁴³ It is one of 15 out of 24 districts in Jharkhand officially recognized as falling under the Government of India’s Fifth Scheduled Areas,⁴⁴ in which special constitutional protections to tribal peoples apply.⁴⁵

30. The Santhal and Ho tribes of Jharkhand have distinctive social structures, languages, traditional power structures and common ritual patterns and are recognized as indigenous as per the World Bank Policy on Indigenous Peoples. Both tribes follow the animistic *Sarna* religion, which believes in supernatural powers and is practiced by 13.8 percent of Jharkhand’s population.⁴⁶ They live in areas contiguous to their ancestral burial grounds. While Hindi is the official language in the state of Jharkhand, tribal people also speak other languages, including Santhali and Ho, which are Munda languages belonging to the Austro-Asiatic language family.⁴⁷ Santhali is one of the oldest languages in India.

³⁵ Jharkhand Environmental Information System, http://jharenvis.nic.in/Database/jharkhand_2326.aspx. Access: 1/4/2020

³⁶ To protect the interests of the tribal population, specific schedules were added to the Constitution of India in 1949 under its article 244 (2). The term “Scheduled Tribes” refers to the protection provided to tribal populations under these schedules, which concern specific areas.

³⁷ India and the Rights of Indigenous Peoples, C.R Bijoy, Shankar Gopalakrishnan and Shomona Khanna, 2010, p. 153.

³⁸ Amit Soni, Santhal Customary Law: An Anthropological Perspective in the Journal of the Anthropological Survey of India, Volume 49, December 2000, p. 115.

³⁹ Basanta Mohanta, Death Rituals of the Ho tribe: An Anthropological Observation, p. 61.

⁴⁰ Statistical Profile of Scheduled Tribes in India, 2013, Ministry of Tribal Affairs, Government of India, p. 121, Table 1.6.

⁴¹ Social Assessment, Capacity Building and Communication Framework for the Rural Water Supply & Sanitation Project in Jharkhand, March 2013, p. 12.

⁴² Jharkhand Tribal Development Plan, March 2013, p. 25.

⁴³ India and the Rights of Indigenous Peoples, C.R Bijoy, Shankar Gopalakrishnan and Shomona Khanna, 2010, p. 160.

⁴⁴ Scheduled Areas refer to officially notified areas marked by significant presence of tribal population, geographic compactness as well as social and economic backwardness.

⁴⁵ The Scheduled Areas (State of Jharkhand), Order, 2007. Available at: [https://tribal.nic.in/DivisionsFiles/NCST-RM/NCST/7TheScheduledAreasJharkhand\)Order2007\(C_O_229\)-11042007.pdf](https://tribal.nic.in/DivisionsFiles/NCST-RM/NCST/7TheScheduledAreasJharkhand)Order2007(C_O_229)-11042007.pdf).

⁴⁶ Jharkhand Tribal Development Plan, March 2013, p. 26.

⁴⁷ India and the Rights of Indigenous Peoples, C.R Bijoy, Shankar Gopalakrishnan and Shomona Khanna, 2010, p. 160.

31. The economy of the Scheduled Tribes relies primarily on agriculture, although gathering and hunting were historically important economic activities. Scheduled Tribes are among the poorest in India and in Jharkhand. They have lower development indicators—such as literacy rates, nutrition, health and access to services, including water and sanitation—than the non-tribal population. According to the 2011 Census, only 19.7 percent of their households have tap water on the premises compared to 46.6 percent of all households in India.⁴⁸

32. **Project Description.** The Project is a US\$1 billion operation, with the International Development Association (IDA) financing US\$500 million equivalent and the Government of India the rest. The Project Implementation Plan (PIP) was agreed to by the Government of India and Governments of Assam, Bihar, Uttar Pradesh, and Jharkhand on October 3, 2013. The Project was approved on December 30, 2013 and the closing date is March 31, 2020. Its development objective is “*to improve piped water supply and sanitation services for selected rural communities in the target states through decentralized delivery systems and to increase the capacity of the Participating States to respond promptly and effectively to an Eligible Crisis or Emergency.*”⁴⁹

33. The Panel learned that the Project’s design was based on two decades of World Bank and Government of India collaboration on state-level water supply and sanitation projects. That sector collaboration introduced a new vision of integrated water supply, household and institutional sanitation and community-wide environmental sanitation to improve sustainable service delivery.⁵⁰ Earlier collaborative projects included:

- The Andhra Pradesh Rural Water Supply and Sanitation Project (US\$150 million loan, approved in 2009)
- The Second Karnataka Rural Water Supply and Sanitation Project (US\$151.6 million loan, approved in 2001)
- The Uttarakhand Rural Water Supply and Sanitation Project (US\$120 million loan, approved in 2006)
- The Punjab Rural Water Supply and Sanitation Project (US\$154 million loan, approved in 2006).

34. Implemented in the states of Assam, Bihar, Jharkhand and Uttar Pradesh, the RWSS-LIS has four components: A) capacity building and sector development; B) infrastructure development; C) Project management support; and D) contingency emergency response. Three of these components are relevant to the Requests. Chief among them is Component B, which supports “*investments for improving water supply and sanitation coverage, including construction of new infrastructure and rehabilitation and augmentation of existing schemes.*”⁵¹ According to the Project Appraisal Document (PAD), whereas most habitations are expected to be served by single-village schemes (SVSs) using local groundwater, MVSs will serve communities with surface water from rivers where local groundwater sources are limited or of poor quality.⁵² The Project is

⁴⁸ Statistical Profile of Scheduled Tribes in India, 2013, Ministry of Tribal Affairs, Government of India, p. 276, Table 6.5

⁴⁹ PAD, p. 3, para 8.

⁵⁰ Project Implementation Plan, Volume 1 – Governments of India, Assam, Bihar, Jharkhand, and Uttar Pradesh, 2013. Rural Water Supply and Sanitation Project for Low Income States (RWSS-LIS), p. xv, para 1.

⁵¹ PAD, p. 5.

⁵² Ibid.

currently implementing 1,077 water schemes, of which 189 are in the State of Jharkhand (182 SVSs and two MVSs under Batch I and five MVSs under Batch II).⁵³

35. Also important relative to the Requests are Project Components A and C. Component A supports “*the building of institutional capacity for implementing, managing, and sustaining Project activities, along with sector development studies to inform policy decisions.*”⁵⁴ Component C includes “*project management support to the various entities at the national, state, district, and village levels for implementing the Project, including staffing, consultancy and equipment costs, and internal and external financial audits.*”⁵⁵ The Project supports increased responsibility delegated to the Panchayat Raj Institutions (PRI)⁵⁶ at the district and village levels for design and implementation of the schemes, and to the State and District Water and Sanitation Missions for policy and oversight.⁵⁷ A National Project Management Unit (NPMU) was to be established at the Ministry of Drinking Water and Sanitation (MoDWS) together with State Project Management Units (SPMUs) and District Project Management Units (DPMUs).

36. The Project was assigned environmental Category B and originally triggered the Bank’s safeguard policies relating to Environmental Assessment (OP/BP 4.01), Natural Habitats (OP/BP 4.04), Indigenous Peoples (OP/BP 4.10), Forests (OP/BP 4.36), and Projects on International Waterways (OP/BP 7.50). In December 2019, the Physical Cultural Resources Policy (OP/BP 4.11) was also triggered. The Involuntary Resettlement Policy (OP/BP 4.12) will be the subject of a later restructuring.

37. **Project Restructuring.** The Project was restructured three times in 2019 (June, July and December 2019). The Restructuring Paper states “*at this late stage of implementation, it is clear that the Project in its current design cannot achieve its objectives before the Project closing date of March 21, 2020.*”⁵⁸ The paper explains that while more than 80 percent of the implementation period had elapsed, only 26 percent of the IDA funds had been allocated to the Project, which entered its last year in a “*protracted state of unsatisfactory progress.*” It cites poor performance and several implementation challenges, including insufficient contract capacity, weak contract management, inadequate staffing at the national, state and district PMU levels, and poor capacity to implement safeguards requirements.

38. A first phase restructuring was approved in June 2019 to cancel US\$117 million equivalent and deploy it to another project to be presented to the Board. A second restructuring was approved in July 2019 to cancel US\$ 133 equivalent and revise the results framework.⁵⁹ A third restructuring was conducted in December 2019 to trigger OP/BP 4.11.⁶⁰ While Management committed to

⁵³ Aide memoire - Tenth Implementation Support Mission, September 2019.

⁵⁴ PAD, p. 4, para 12.

⁵⁵ Ibid., p. 5.

⁵⁶ *Panchayati Raj* is a system of governance encompassing lower tiers of government, in which *Gram Panchayats* (village governments) are one of the basic units of administration.

⁵⁷ PAD, p. 7, para 16.

⁵⁸ Restructuring Paper - IN Rural Water Supply and Sanitation Project for Low Income States (Report No.: RES33042), July 31, 2019, paras 1.

⁵⁹ Ibid., para 4-6.

⁶⁰ Restructuring Paper - IN Rural Water Supply and Sanitation Project for Low Income States, December 7, 2019.

trigger OP/BP 4.12 for the Project, this will be done under a later restructuring, depending on how quickly the participating states can comply with the requirements of these policies.⁶¹

1.4 Panel's Investigation Process and Methodology

39. The Panel determined eligibility after reviewing the Requests and Management Responses and visiting the Project area in December 2018. On February 12, 2019, the Panel reported to the Bank's Board of Executive Directors and recommended an investigation. The Board approved this recommendation on March 1, 2019, and the Panel published its Investigation Plan on April 18, 2019.⁶²

40. Consistent with its mandate, the Panel investigated the issues raised in the Requests relating to the Bank's operational policies and procedures, focusing on harm arising from instances of non-compliance. The investigation team assigned to this task was led by Panel Member Jan Mattsson and included Senior Operations Officer Reinett Erkan, Operations Officer Tamara Milsztajn and Research Assistant Rupes Dalai. The team also relied on two expert consultants—Chris McGahey, a public health engineer with a specialty in water and sanitation, and Navin Rai, an anthropologist with expertise in indigenous issues and World Bank policies.⁶³

41. The investigation assessed whether the Bank had complied with its policies and procedures addressing:

- Environmental Assessment (OP/BP 4.01)
- Indigenous Peoples (OP/BP 4.10)
- Physical Cultural Resources (OP/BP 4.11)
- Investment Project Financing (OP/BP 10.00)

42. The investigation gathered the requisite information and data through extensive examination of documentation obtained in both Washington and India, visits to the Project sites, and meetings with all relevant stakeholders. Additional fact-finding was performed through 17 interviews with Bank staff.

43. The visit to India took place from June 29 to July 11, 2019. In New Delhi the team met with the Ministry of Finance, the MoDWS, the NPMU, and with World Bank Country Office staff. The team also conferred with independent tribal experts. In Ranchi, the capital of Jharkhand State, the team met with the Drinking Water Supply Department (DWSD) of Jharkhand, the Tribal Affairs Department and the SPMU, as well as hydrology and land experts.

44. In Jamshedpur the team met with the DPMU and other district officials. It visited the Bagbera WTP and adjacent habitations and toured the site with the Contractor and site engineer. The team met with the local Santhal tribal leaders, members of the *Gram Sabha* and community

⁶¹ Restructuring Paper - IN Rural Water Supply and Sanitation Project for Low Income States (Report No.: RES33042), July 31, 2019, para 10.

⁶² Available at: <https://www.inspectionpanel.org/sites/www.inspectionpanel.org/files/cases/documents/128-129-Investigation%20Plan-18%20April%202019.pdf>

⁶³ See Annex 5 for more information on the Panel members and expert consultants.

members of Giddhi Jhopri, as well as members of the Madhya Gaghidih's GP, the Village Water and Sanitation Committee (VWSC), and the *Jal Sahiyas*.⁶⁴ The team met with the East Gagidih GP—which had approved a previous site of the Bagbera WTP—and visited the Chhotagovindpur WTP and the ESR near Purani Basti. The team talked with Santhal and Ho tribal leaders, community leaders, and members of the Purani Basti *Gram Sabha* and the South Sarjamda GP, as well as members of the VWSC and the *Jal Sahiyas*.

45. In order to better understand the community's attachment to the lands where the WTP and ESR are located and their cultural and religious practices, the team had extensive discussions with community members and their tribal leaders. It visited the sites and held focus group discussions (FGDs) with different sub-groups of affected people, including (i) community members who claimed their relatives had been buried at the Project sites, (ii) alleged victims of retaliation, and (iii) people who observed different cultural practices. These meetings were held in private locations in small groups, and in tribal languages to ensure settings conducive to meaningful conversations. The team conducted separate meetings with women to understand the gender-differentiated impact of the Project and hear their specific views on the issues raised in the Requests.

46. This Report is structured in six chapters:

- **Chapter 1** (this chapter) introduces the report and briefly summarizes the Project and its context. It presents the issues raised in the Requests and the Management Responses, outlines the Panel's investigation process, and explains the design and focus of the investigation, including the methodology used.
- **Chapter 2** provides an overview of the design of the Bagbera and Chhotagovindpur MVSs. It examines the environmental assessment and mitigation processes put in place through the EA-EMF, and the environmental categorization of the Project. It discusses specific environmental concerns raised by the communities, including traditional perceptions of water, hydrology, water quality, sludge management, and solid waste and wastewater management, as well as affordability concerns.
- **Chapter 3** examines the impact on the culture, religion, way of life and customarily used natural resources of the tribal community members in Giddhi Jhopri and Purani Basti. It examines how safeguard instruments—including the Social Management Framework (SMF), the Social Assessment, Capacity Building and Communication Framework (SA),⁶⁵ the Tribal Development Plan (TDP) and the Tribal Development Implementation Plan (TDIP)—assess Project impact on tribal communities. The chapter also reviews the consultation process for the preparation of the different instruments.

⁶⁴ *Jal Sahiyas* are selected by the GPs using the following criteria: primacy is given to women from the “jal barwa” (“water filler”) community in a village that also fills water for other households in the village; to daughters-in-law of the village; to women with an education qualification of up to class X; and women between 25 and 45 years old at the time of selection. The post is permanent, ending only in case of death, resignation by the individual or in case there are any proven charges of financial irregularity.

⁶⁵ In this report, the “Social Assessment, Capacity Building and Communication Framework” is also referred to as “Social Assessment.”

- **Chapter 4** reviews the site selection process, required consultations, and decision-making that led to the siting of the Bagbera WTP and ESR near Purani Basti. It analyzes alleged retaliation against community members in the two locations. It explores local concerns that the Project is part of a larger plan to expand the boundaries of adjacent Jamshedpur City and incorporate the tribal community habitations into a growing urban area. The chapter concludes by analyzing the Grievance Redress Mechanism (GRM).
- **Chapter 5** examines Bank supervision of the Project during implementation, focusing on the Bagbera and Chhotagovindpur MVSSs. The chapter discusses underlying challenges, such as the wide scope of the Project with its many sites and highly decentralized approach to district and village levels in four low-income states with weak capacity. It illustrates specific supervision shortcomings with impact on the affected communities. The chapter also addresses the remedial actions and retrofitting measures adopted by the Bank.
- **Chapter 6** presents the Panel's conclusions.

Chapter 2: Environmental Assessment

2.1 Introduction

47. This chapter presents an overview of the design of the Bagbera and Chhotagovindpur MVSSs. It examines the environmental assessment and mitigation processes established through the EA-EMF, and the environmental categorization of the Project. It discusses specific environmental concerns raised by the Requesters, including traditional perceptions of water, hydrology, water quality, sludge management, and solid waste and wastewater management, as well as local willingness to pay for piped water.

2.2 Requests for Inspection and Management Responses

Requests for Inspection

48. **Categorization.** The Requesters contend that the RWSS-LIS was wrongly designated an environmental Category B project. They explain that due to the numerous schemes implemented in this Project, and specifically in Jharkhand, there will be wide-ranging impact on indigenous peoples. They state that large infrastructure construction often has diverse effects on ecology, human health and safety, resources, and the rights of people. They add that *“a large-scale infrastructure development project that has the potential to irreversibly destroy or damage a physical cultural resource, such as a traditional graveyard and sacred grove, must be considered a “sensitive” adverse environmental impact within the scope of the definition of a Category A project.”*⁶⁶ Therefore, according to the Requesters, the Project required a *“rigorous environmental assessment which should have been done as per Category A standards.”*⁶⁷

49. **Environmental Assessment Process.** The Requesters question the environmental review of the locations of the two MVSSs. They allege that while an EA-EMF was prepared for the State of Jharkhand as a whole, there were no site-specific environmental and social assessments of the two facilities. They claim this is in non-compliance with Bank policies.

50. The Requesters allege the Project conducted no environmental assessment of the potential adverse impact of sub-projects relating to hydrology, water quality and sludge management. They are concerned that the extraction of significant volumes of water from nearby Subarnarekha River will adversely affect the hydrology of the area, including local bodies of water now in daily use for, among other things, certain cultural practices.

51. **Affordability Concerns.** The Requesters claim they do not need piped water in their habitations as they already have access to clean water free of charge, and they fear becoming indebted by having to pay for piped water. While the Requests do not explicitly mention cultural issues with using piped water, the Panel heard this concern during its eligibility and investigation visits.

⁶⁶ First Request for Inspection, Supplement to the Request for Inspection, p. 13 and second Request for Inspection, p. 9.

⁶⁷ First Request for Inspection, Supplement to the Request for Inspection, p. 14 and second Request for Inspection, p. 10.

52. ***Water Quality, Hydrology and Sludge Concerns.*** The Requesters are concerned about the quality of water produced by the WTPs, associated with the Bagbera and Chhotagovindpur MVSSs. They are similarly concerned about pollution from sludge generated by the WTPs, that they believe could be toxic, and claim that Project documents lack relevant information on these issues.

Management Responses

53. ***Categorization.*** In its Responses, Management states that the Project was designated as Category B because at the time of Project preparation it was not expected to have significant adverse environmental or social impact. Since the locations of many of the sub-projects were unknown at the time of appraisal, a framework approach was used. Management asserts that, based on site-specific screening in line with the EA-EMF and SMF, the B categorization was adequate.⁶⁸

54. ***Environmental Assessment Process.*** The Management Responses explain that the EA-EMF established procedures for screening environmental impact and identifying mitigation measures. Given the potentially more significant environmental impact of the two MVSSs—and the fact that they were classified as Category 2 schemes—the Borrower was required to prepare scheme-specific EMPs and Environmental Data Sheets (EDS) with more detailed analyses of the environmental and health impact as part of facility design. This would include “*an evaluation of environmental and public health impacts, risk assessment and the design of mitigation measures.*”⁶⁹

55. The Project legal agreement required the Bank to review and approve the EMPs before commencement of civil works. The Responses admit “*this requirement was not met, and Management acknowledges that the Bank did not follow up to ensure compliance.*”⁷⁰ The Responses add that the EMPs were being updated to address shortcomings identified in the Requests.

56. ***Water Quality, Hydrology and Sludge Concerns.*** The Responses describe the amount of water withdrawn from the Subarnarekha River as negligible when compared to the river’s total water flow and explains that withdrawal will have no effect on groundwater levels in the vicinity of the two MVSSs given their distance from the source of water extraction. It also explains that, due to the increased water consumption resulting from piping water to homes, adequate wastewater management systems are required to avoid contamination of local rivers and groundwater.⁷¹

57. The Responses note that the river water contains very low levels of heavy metals, almost meeting the relevant Indian drinking water standards. The second Management Response points out that the ESR near Purani Basti does not generate sludge, only the Chhotagovindpur WTP, which is not associated with the Requests. It emphasizes that a specific approach to sludge management and disposal will be in place when the schemes become operational and will be detailed in the updated EMPs.

⁶⁸ Management Response to the first Request for Inspection, Annex 1, p. 21 and Management Response to the second Request for Inspection, Annex 1, p. 31.

⁶⁹ Management Response to first Request for Inspection, p. 11, para 40.

⁷⁰ Management Response to the first Request for Inspection, Executive Summary, p. vii, para xi and Management Response to the second Request for Inspection, Executive Summary, p. viii, para xv.

⁷¹ Management Response to the first Request for Inspection, Annex 1, p. 22.

58. ***Affordability Concerns.*** As to the cost of piped water, Management explains that there is a strong demand for the Project as evidenced by the number of the households that have already opted to participate in the scheme. In Giddhi Jhopri, 19.1 percent have already paid their community contribution.⁷² It confirms that community members can, however, continue using existing sources of water free of charge. The piped water supply will be made available through a metered scheme to ensure that only those who use piped water will be charged. The Responses add that consultations and information-sharing about tariffs will intensify in the period ahead.

2.3 Bank Policies

59. The Bank's Policy on Environmental Assessment (OP/BP 4.01) states that "*the Bank requires environmental assessments of projects which are proposed for Bank financing to help ensure that they are environmentally sound and sustainable, and thus to improve decision making.*"⁷³ According to the policy, the environmental assessment "*evaluates potential risks and impacts in the project's area of influence,*"⁷⁴ including those on "*physical cultural resources.*"⁷⁵ Furthermore, OP/BP 4.01 identifies ways to improve project selection, siting, planning, design, and implementation "*by preventing, minimizing, mitigating, or compensating for adverse environmental impacts and enhancing positive impacts.*"⁷⁶ The Bank favors preventive measures over mitigatory or compensatory measures, whenever feasible.⁷⁷

60. A range of instruments can satisfy the Bank's requirements, including an EMP and an Environmental and Social Management Framework.⁷⁸ OP/BP 4.01 also requires that for any sub-project "*the project coordinating entity or implementing institution carries out [an] appropriate EA[Environmental Assessment].*"⁷⁹ It also states that the EA considers natural and social aspects in an integrated way.⁸⁰

61. The policy requires the Bank to undertake environmental screening in order to determine the appropriate level of EA. Relying on this assessment, a project is environmentally classified based on "*type, location, sensitivity, and scale of the project and the nature and magnitude of its potential environmental impacts.*"⁸¹ The impacts of a Category B project are "*site-specific; few if any of them are irreversible; and in most cases mitigatory measures can be designed.*"⁸²

⁷² Ibid., p. 9, para 32.

⁷³ OP 4.01 - Environmental Assessment, para 1.

⁷⁴ Ibid., para 2.

⁷⁵ Ibid., para 3 and BP 4.01 - Environmental Assessment, para 3.

⁷⁶ OP 4.01 - Environmental Assessment, para 2.

⁷⁷ Ibid.

⁷⁸ Ibid., para 7.

⁷⁹ Ibid., para 9 and BP 4.01 - Environmental Assessment, para 10.

⁸⁰ OP 4.01 - Environmental Assessment, para 3.

⁸¹ OP 4.01 - Environmental Assessment, para 8 and BP 4.01 - Environmental Assessment, para 2.

⁸² OP 4.01 - Environmental Assessment, para 8(b).

2.4 Panel Observations and Analyses

2.4.1 Design Overview of the Multi-Village Schemes

62. Component B of the Project includes construction of new infrastructure or rehabilitation and augmentation of existing schemes, with safe disposal of wastewater. New SVSs and MVSs were to be built, depending on the specific characteristics of each area. SVSs are small, piped water schemes, usually using local groundwater obtained from deep-bore wells. MVSs are larger schemes that utilize surface water from rivers where locally available groundwater has quality or quantity problems. MVSs cover more than one *Gram Panchayats* (GPs) and may involve the construction of conventional WTPs, ESRs for each village/GP, and piped distribution networks to provide connections to all households. In Jharkhand, 189 schemes are being implemented, of which 182 are SVSs and seven are MVSs. The two Jharkhand Batch I MVSs, Bagbera and Chhotagovindpur, are together designed to supply a total of 445,000 rural people across 38 GPs with 24/7 piped water supply.⁸³

63. The Project is informed by the MoDWS's long-term strategic plan (2011-22) to ensure safe drinking water for all rural households. This plan targets access by 2022 to 70 liters per capita per day (lpcd)⁸⁴ within household premises or at a horizontal or vertical distance of not more than 50 meters from households.⁸⁵ According to the PIP, the water supply schemes will be designed to provide a consumption norm of 70 lpcd with 100 percent of household connections. The PIP envisions adequate quantity and pressure in the habitations covered to achieve the 70 lpcd consumption norm.⁸⁶ The Panel notes, however, that according to the Detailed Project Reports (DPRs) prepared in 2013, the Bagbera and Chhotagovindpur MVSs were designed to have a consumption norm of 135 lpcd nearly twice the planned amount. However, the Bank only became aware of this fact in November 2014, more than a year after the DPRs were completed.⁸⁷ This change has implications for the Project's sanitation component as the additional consumption of water will result in an increase in waste water generation and related assessment and management of its environmental impact. This is further discussed in paragraphs 82-87 in relation to the EMPs for the MVSs.

64. Both the Bagbera WTP (design capacity of 37 million liters per day) and the Chhotagovindpur WTP (design capacity of 46 million liters per day) are relatively large construction projects, each requiring almost five acres of land for the treatment plant alone. The schemes consist of multiple structural components, including water intake from the river, raw water intake lines between the river and the WTP, the WTP, treated water conveying lines to the

⁸³ Management Response to the first Request for Inspection, Executive Summary, p. v, para iii.

⁸⁴ Consumption norms for water supply is suggested by the Central Public Health and Environmental Engineering Organization (CPHEEO) in India. http://cpheeo.gov.in/upload/uploadfiles/files/3_40.pdf. The recommended norms for towns with piped water supply without sewerage system is 70 lpcd; for cities with piped water supply where sewerage system is existing or contemplated, 135 lpcd and in metropolitan cities with piped water supply where sewerage system is existing or contemplated, 150 lpcd.

⁸⁵ Project Implementation Plan, Volume 1 – Governments of India, Assam, Bihar, Jharkhand, and Uttar Pradesh, 2013. Rural Water Supply and Sanitation Project for Low Income States (RWSS-LIS), p.1, Section 1.

⁸⁶ Ibid., p. 35, para d.

⁸⁷ Aide memoire – Second Implementation Support Mission, October 27 to November 25, 2014, Annex 3, p. 25, para 2(B)(i). *The drinking water norms adopted by the Government of India for piped water supply in towns and cities are as follows: http://ddws.nic.in/awrsp_norms.htm, Towns without sewerage – 70 lpcd, Cities with sewers/proposed – 135 lpcd, Mega cities with sewers/proposed – 150 lpcd.*

ESRs, distribution networks, and household connections. See below for the key features of each MVS (Table 1) and their geographical coverage (Figures 1 and 2). Further schematic details are provided in Annexes 2.

| S.N. | Bagbera | | Purpose | Chhotagovindpur | |
|------|---|--|--|--|---|
| | Scheme Component | Notes | | Scheme Component | Notes |
| 1 | Intake well and pump house with allied components (pump house, RCC approach bridge, twin staff quarters, raw water pumps, transformer yard) | From Subarnarekha River near Sapda; Per capita design demand, 135 liters/capita/day; 2040 demand estimate of 29.20 million liters per day; 9m diameter; 27m height; 2 working/1 standby pump | Collection of raw source water from associated river; Pressurizing of source water to move it through the raw water transmission main; Transformer for backup power supply | Intake well and pump house with allied components (river bank protection, approach bridge) | From Subarnarekha River; Per capita design demand, 135 liters/capita/day; 12m diameter; 30m height; 3 working/3 standby pumps |
| 2 | Raw water transmission main | Length 14.5 km | Carriage of raw water from river intake to WTP | Raw water transmission main | Length 10.5 km |
| 3 | Water treatment plant (WTP) | | See schematic and description in Annex 2 | Water treatment plant (WTP) | |
| 4 | Conveying mains | Length 5.2 km | Transporting water to elevated service reservoirs | Conveying mains | Length 11.5 km |
| 5 | Elevated service reservoirs and watchman quarters | Five in number | Storage, pressurizing, and disinfecting water before distribution | Elevated service reservoirs and watchmen quarters | Five in number |
| 6 | Distribution network | 13.2 km | Transporting water to users | Distribution network | 13.5 km |
| 7 | House service connections | No. 21,732 | Metered, individual service to users | House service connections | No. 24,974 |

Table 1: Scheme Components

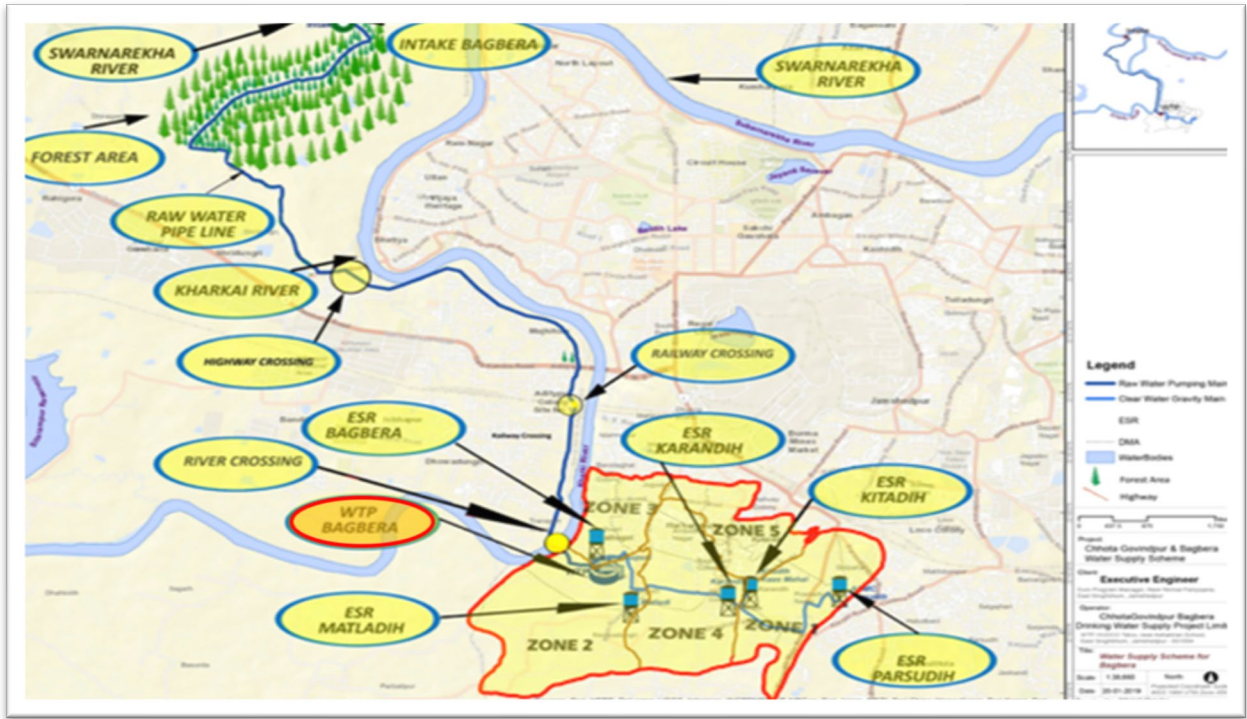


Figure 1: Bagbera Multi-Village Scheme and the Bagbera WTP highlighted in red, located in the area of the first Requesters' habitation.

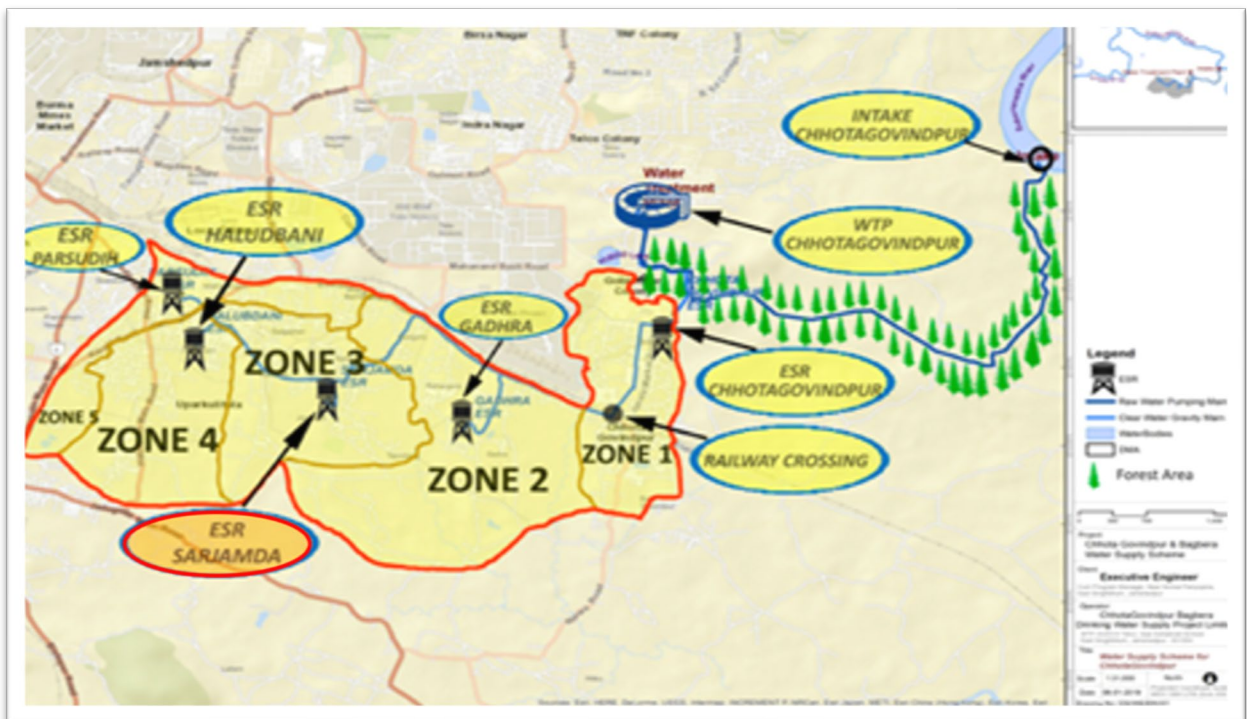


Figure 2: Chhotagovindpur Multi-Village Scheme and ESR Sarjamda highlighted in red located in the area of the second Requesters' habitation.

65. The Chhotagovindpur MVS was fully constructed and operating in test mode at the time of the Panel visit in July 2019, while the Bagbera WTP and its intake pipeline were still under construction (the Bagbera MVS was estimated by the DPMU at 70 percent completion). The structures of Bagbera WTP and associated ESR near Giddhi Jhopri and the ESR near Purani Basti associated with the Chhotagovindpur MVS were already in place (see photos.) In figure 2 above, the ESR near Purani Basti associated with the Chhotagovindpur MVS, is marked as the “ESR Sarjamda” since it refers to the area the ESR is serving and not the particular habitation close to where the ESR is located.



Photo 1: The Bagbera WTP and associated ESR construction site.



Photo 2: ESR near Purani Basti, associated with the Chhotagovindpur MVS

2.4.2 Environmental Assessment Process

66. **Project Categorization.** A review of the EA-EMF for Jharkhand indicates that it lays out its objectives to “(i) *provide a systematic approach for identifying the various possible environmental impacts at the different stages of the scheme, (ii) identify appropriate mitigation measures for addressing the identified environmental impacts.*”⁸⁸ The EA-EMF states that as per OP 4.01, the RWSS-LIS is categorized as environmental Category B, since the environmental evaluation suggests that the sub-project components involve simple, appropriate and low-cost technologies that do not pose any significant environmental consequences. The EA-EMF also indicates that sub-projects would be classified as Category 1 and Category 2 schemes. Category 2 schemes would have more significant environmental impact and, as such, would require a site-specific EA in addition to the environmental datasheet required for the Category 1 schemes. The EA-EMF also indicates that since the exact size and scope of the various sub-projects were not yet known a framework approach was applied.⁸⁹

67. The Panel understands that the Bagbera and Chhotagovindpur schemes will provide safe drinking water and proper sanitation infrastructure that are expected to have a positive impact on the environment. It notes that construction activities may lead to minor and temporary negative environmental impact. To identify site-specific impacts the EA-EMF lays out an EA procedure and requires an EMP for approval before construction to mitigate those impacts. The Panel also notes that a differentiated approach was applied in that schemes with more potential environmental risk would receive a more rigorous assessment. The Panel believes the EA-EMF detailed a well-established procedure to ensure that environmental appraisal results and mitigation measures were included in the EMP for an MVS. The Panel agrees that a framework approach is appropriate when the underlying sub-projects are unknown, provided that site-specific environmental and social assessments are carried out. With proper identification of potential impact and mitigation measures—informed by consultations with affected communities—few if any effects would have been irreversible.

68. **The Panel recognizes that the Project was designed to build rural water supply and sanitation schemes with potential site-specific impacts in which few are irreversible and for which mitigating measures could readily be designed. Notwithstanding the fact that required procedures of the Environmental Assessment-Environmental Management Framework were subsequently not followed, the Panel finds the designation of the Project as an environmental Category B to be in compliance with Bank Policy on Environmental Assessment (OP/BP 4.01).**

69. **Environmental Assessment - Environmental Management Framework.** An EA-EMF was prepared for each of the four states—Assam, Bihar, Jharkhand and Uttar Pradesh. The Jharkhand EA-EMF dated July 2013 outlines as its objectives to “(i) *provide a systematic approach for identifying the various possible environmental impacts at the different stages of the scheme, (ii) identify appropriate mitigation measures for addressing the identified environmental impacts and, (iii) devise an institutional arrangement for mainstreaming environmental*

⁸⁸ Environmental Assessment & Environmental Management Framework for the World Bank Assisted Water Supply Project in Selected Districts of Jharkhand, July 2013, p. 90, Section 5.1.5.1.

⁸⁹ Ibid., Executive Summary, p. A.

*management in project implementation processes.”*⁹⁰ The EA-EMF states that “*while the proposed project interventions are expected to result in overall environmental and public health improvements in the state, potential adverse impacts could occur if the schemes are not properly designed, sited, implemented, and maintained.*”⁹¹

70. The EA-EMF requirement for sub-projects includes the development of an EDS for all sub-projects, whether MVSs or SVSs.⁹² Based on the potential impact identified in the EDS and the nature of the scheme, it would be classified as either Category 1 or Category 2.⁹³ Category 2 schemes—with potentially more significant environmental impact—would require detailed, site-specific environmental appraisals, including an evaluation of environmental and public health effects, a risk assessment and the design of mitigation measures. The Bagbera and Chhotagovindpur MVSs were identified as Category 2 schemes.⁹⁴

71. The EA-EMF describes the role of the DPMU and the use of an environmental screening tool to evaluate the schemes against various policies, laws, guidelines and procedures in order to obtain the necessary clearances and permissions.⁹⁵ Furthermore, it stipulates that the screening of schemes must be in line with OP/BP 4.01, whereas the EA will lead to triggering of other relevant Bank policies and the development of an EMP for a particular scheme.⁹⁶ However, as discussed in Chapter 3 the EA-EMF explains that OP/BP 4.11 is not applicable since “*no existing cultural property will be damaged.*”⁹⁷ The EA-EMF stresses that institutional and implementation arrangements associated with capacity building and operational support require focused attention.⁹⁸

72. The Panel notes that the EA-EMF provides some information on the history and geography of Jharkhand, including information on its demographics, administrative structure and economic and land-use activities. However, beyond stating the tribal nature of the state, no further information is provided about the tribal populations. As discussed in the following chapter, the Panel notes that the SA, SMF, TDP and EA-EMF were developed during the first half of 2013 as stand-alone documents. A TDIP was prepared in July 2018. However, the documents lacked an approach for integrating these instruments within the described environmental assessment process for Category 2 schemes with potentially more significant impact. The Panel notes that the EA-EMF includes a checklist⁹⁹ for screening of sub-projects for disturbance to sacred sites or other cultural values but did not consider any cultural impact on the traditional structures and way of life of the tribal communities, whether beneficial or detrimental. Furthermore, the EA-EMF called for no site-specific social assessments.

⁹⁰ Ibid., p. 90.

⁹¹ Ibid., Executive Summary, p. E.

⁹² Ibid., p.176, Annex 18, *EA-EMF Jharkhand is an environmental data sheet checklist for water supply and is divided into various sections: a general description; location; groundwater source and quality information; surface water location, quality and sustainability and a referral to annex 13 for guidelines for sustainability of groundwater sources.*

⁹³ Ibid., Executive Summary, p. F.

⁹⁴ Management Response to the First Request for Inspection, p. 11, para 42 and Management Response to the Second Request for Inspection, p. 15, para 49.

⁹⁵ Environmental Assessment & Environmental Management Framework for the World Bank Assisted Water Supply Project in Selected Districts of Jharkhand, July 2013, p. 91, Section 5.1.5.2.

⁹⁶ Ibid., p. F.

⁹⁷ Ibid., p. B.

⁹⁸ Ibid., p. F.

⁹⁹ Ibid., p.191. Section 7.

73. The Panel notes the EA-EMF presents a well-designed roadmap of how environmental assessments for Category 2 MVSSs should be conducted and how management plans should be developed. The EA-EMF, however, does not require the Project to examine environmental, social, tribal or cultural matters as part of a holistic assessment of impact. The lack of an integrated approach fundamentally weakened the impact assessment and mitigation process.

74. **Detailed Project Reports.** The Panel notes that according to the EA-EMF, the DPRs would contain all necessary environmental information and technical specifications for the MVSSs and SVSSs. Furthermore, the TDIP and TDIP stipulate that the DPRs include details of the discussions about water supply delivery choices.¹⁰⁰ The EA-EMF describes the requirements for determining appropriate sites for locating MVS structures, such as WTPs and ESRs. The Panel understands this requirement to mean that a site-specific environmental appraisal process, the EDS questionnaire and consultations with the local communities were required prior to finalizing site selection, and relevant information was to be included within the specific DPR.

75. In its review of the DPRs the Panel found no evidence that a separate, site-specific environmental appraisal was developed per the EA-EMF requirements for the Category 2 MVSSs.¹⁰¹ The Panel could also find no evidence of discussions about water supply delivery choices offered to tribal communities. Nor, as is further discussed in Chapter 3, could the Panel identify any site analyses documenting the existence—or absence—of graves, sacred groves and trees, medicinal plants and herbs, or the red mud used by villagers. Without such analyses no mitigation plans were developed.

76. **Environmental Management Plans.** The Panel notes that the EA-EMF for Jharkhand states “*the screening of schemes will identify scheme specific issues and based on OP 4.01 on Environmental Assessment, relevant Bank policies will be triggered to develop a mitigation plan which will be an Environmental Management Plan for a particular scheme.*”¹⁰² The EA-EMF specifically requires that “*all schemes be designed to have minimal adverse environmental impacts and an environmental mitigation and management plan with dedicated funding [be] drawn up and monitored for compliance.*”¹⁰³ As mentioned above, the Bagbera and Chhotagovindpur MVSSs required detailed, scheme-specific environmental appraisals to inform the EMPs.

77. The Panel notes that site-specific EMPs were not prepared and included in either of the DPRs. The Panel also notes that both the Financing and Project Agreements require that applicable EMPs in accordance with the EA-EMF be submitted to the Bank for review and approval.¹⁰⁴ These requirements were not met or monitored by Management prior to construction. The Panel understands that site-specific EMPs were included in neither of the DPRs submitted to the Bank for review, in spite of the OP 4.01 requirement of a “*process of mitigating, or compensating for*

¹⁰⁰ Jharkhand Tribal Development Plan, March 2013, p. 51 and Tribal Development Implementation Plan for ‘Neer Nirmal Pariyojna’ (RWSSP-LIS), July 2018, p. 13.

¹⁰¹ Environmental Assessment & Environmental Management Framework for the World Bank Assisted Water Supply Project in Selected Districts of Jharkhand, July 2013, p. 91, Section 3: *The Detailed Scheme Report (DSR) for Category 2 schemes should be accompanied by the Environmental Data Sheet (EDS) as well as the Category 2 environmental appraisal.*

¹⁰² Ibid., p. F.

¹⁰³ Ibid., p. 90, Section 5.1.4.1.

¹⁰⁴ Project Agreement between International Development Association and State of Jharkhand, February 7, 2014, Section I.A.2.c.ii and Financing Agreement between India and International Development Association, February 7, 2014, Section I.D.1.

adverse environmental impacts.”¹⁰⁵ The Management Responses acknowledge this requirement was not met and admit that an EMP was not included in the DPR to inform the bidding process.¹⁰⁶

78. The Panel’s review indicates that initially a combined generic Bagbera and Chhotagovindpur EMP was prepared by the Contractor and submitted for government approval in July 2015—20 months after the DPRs were prepared in October 2013—and approved by district authorities in 2017. The combined EMP was subsequently modified and one EMP for each scheme was prepared. The Bank team reviewed the updated versions in June 2017, while construction started on the Bagbera scheme in July 2016 and the Chhotagovindpur scheme in October 2016.¹⁰⁷ The versions of the EMPs that were submitted to the district executive engineer on August 2, 2017, incorporating comments from the SPMU and DWSD, was approved by the district authorities on October 5, 2017, and in December 2018 Management submitted extensive comments on the EMPs. Management received updated, site-specific EMPs for each of the schemes in June 2019 and conditionally approved them on June 28, 2019.¹⁰⁸

79. The Panel considers that, by allowing the Project to proceed without a specific EMP for each scheme, Management violated OP/BP 4.01 provisions on environmental assessment, as well as the EA-EMF requirements. The latter clearly states “*each scheme could be accorded technical clearance only after getting an environment clearance from the Environmental Specialist*” at district level.¹⁰⁹ In addition, the Bank is supervising and implementing the Project in violation of the language currently in the Bagbera scheme EMP that states “[t]he EMP shall be made binding on all Contractors operating on the site and will be included in the contractual clauses. Non-compliance with, or any deviation from, the conditions set out in this document shall constitute a failure in compliance.”¹¹⁰ Both EMPs were not included in the contractual clauses for the Bagbera and Chhotagovindpur schemes, and therefore cannot be made binding to Contractors or provide a basis for assessment of compliance. This creates risk around each component of the Project and those affected by construction and operations.

80. While welcoming Management’s candor in acknowledging that the EMPs were not ready at the time of the DPRs submission, the Panel considers this a serious oversight. In the Panel’s view, Management understates the significance of neglecting timely preparation of site-specific EMPs for the Bagbera and Chhotagovindpur MVSSs.

81. The Environmental Management Plans were only finalized in June 2019, when construction of the Bagbera Multi-Village Scheme was reported as 70 percent complete and the Chhotagovindpur Multi-Village Scheme was completed and already in testing mode. **The construction of the Bagbera and Chhotagovindpur Multi-Village Schemes financed under**

¹⁰⁵ OP 4.01– Environmental Assessment, para 2.

¹⁰⁶ Management Response to the first Request for Inspection, p. 11, para 41 and Management response to the second Request for Inspection p. 15, para 50.

¹⁰⁷ Management Response to the second Request for Inspection, P. 15, para 51 and p. 16, para 54. *Chhotagovindpur construction works commenced in October 2016.*

¹⁰⁸ Status of Implementation of Bank Management Response’s Action Plan, dated November 14, 2019 received on 14 November 2019.

¹⁰⁹ Environmental Assessment & Environmental Management Framework for the World Bank Assisted Water Supply Project in Selected Districts of Jharkhand, July 2013, p. 91.

¹¹⁰ Environmental Management Plan Bagbera Multi-Village Water Supply Scheme, East Singhbhum District, Jharkhand (Conditionally approved in June 2019), p. 30.

the Project proceeded without the preparation of required, site-specific environmental and social assessments and Environmental Management Plans. The Panel finds Management in non-compliance with Bank Policy on Environmental Assessment (OP/BP 4.01) for not ensuring analysis of the potential environmental, social and cultural impact of these schemes and development of related mitigation measures.

82. ***“Retrofitting” the EMPs.*** Due to the incompleteness of EMPs, Management has indicated that “retrofitted” EMPs are in place to address the environmental impact, even though this is long after construction begun, and the environmental impact has occurred. In its Responses, Management indicate that it is working with local authorities to address any weaknesses in the EMPs.¹¹¹ During the Panel’s visit in July 2019, Management also shared the updated EMPs for both schemes conditionally approved in June 2019.

83. The Panel has reviewed the retrofitted EMPs and notes that it is good professional practice for the EMP to address each component of the works from the intake structure and accompanying physical plant to the installation of delivery points within household compounds. Each component involves environmental disruption and requires mitigation and restoration measures. The June 2019 EMPs address most components, but the Panel’s review of this version of the Bagbera EMP did not find mitigation or restoration measures related to the excavation and installation of the piping and appurtenances of the distribution network or house service connections. Raw water transmission main impacts are addressed, vaguely in the Bagbera EMP: *“Attempt will be made to avoid routing alignment through sensitive areas. If it is necessary to route through forest/sensitive areas, it will be ensured that minimum possible length of pipeline will pass through the same. These areas will be minimally disturbed during construction and will be restored post construction.”*¹¹²

84. The EA-EMF identifies as one of the Project’s environmental impacts that *“additional use of water will result in increases in waste water generation.”*¹¹³ The Panel notes that although the EA-EMF recognized this significant, predicted environmental risk—and it was discussed regularly in aide memoires¹¹⁴—the threat remained unaddressed. Neither of the EMPs for the Bagbera and Chhotagovindpur schemes address the increased volumes of wastewater expected to result from expanded household water supply service.

85. The Panel notes that the Project design and budget include a significant Solid and Liquid Waste Management (SLWM) component—a reflection of the integrated nature of the Project—synchronizing water supply and sanitation improvements to optimize health and livelihood outcomes. The PIP notes that SLWM *“is one of the key components to bring about improvement in the general quality of life in rural areas”*¹¹⁵ and includes master plan preparation to address safe

¹¹¹ Management Response to the first Request for Inspection, p. 12, para 42 and Management Response to the second Request for Inspection, p. 15, para 50.

¹¹² Environmental Management Plan Bagbera Multi-Village Water Supply Scheme, East Singhbhum District, Jharkhand (Conditionally approved June 2019), p. 19.

¹¹³ Environmental Assessment & Environmental Management Framework for the World Bank Assisted Water Supply Project in Selected Districts of Jharkhand, July 2013, p. 81.

¹¹⁴ Aide memoires of Project Implementation Support Missions – Nov 2015, August 2016, February 2017, July 2017, and January 2018.

¹¹⁵ Project Implementation Plan, Volume 1 – Governments of India, Assam, Bihar, Jharkhand, and Uttar Pradesh, 2013. Rural Water Supply and Sanitation Project for Low Income States (RWSS-LIS), p. 159.

disposal of liquid waste, lane side drains, and solid waste collection and disposal—grounded in community management models and social and behavioral change. Data from baseline studies indicate clearly that open drains are customarily the primary means of household wastewater disposal.¹¹⁶ The Panel notes that decades of global experience in water supply improvement projects suggests individual household connections increase water usage and therefore the generation of wastewater. Uncontrolled disposal of increased volumes of household wastewater into backyards and lanes creates stagnant pools and increases environmental and public health risks. These potential risks were noted in the EA-EMF for Jharkhand that states “[w]astewater generated by households including cattle sheds flows into open surface drains that are often choked, leading to stagnation of wastewater in the lanes and bylanes. Presence of stagnant water in open drains and open areas is a breeding ground for mosquitoes and other harmful organisms, which lead to water related diseases.”¹¹⁷

86. The retrofitted EMPs do not address the anticipated increased volumes of wastewater in communities that will necessarily result from the provision of expanded household water supply service. The Panel notes that as villages currently lack the physical infrastructure to manage this waste—a significant source of pollution, vector breeding and environmental deterioration—it is unclear how the schemes can meet the OP/BP 4.01 objective of “*environmentally sound and sustainable*” infrastructure implementation and operation.¹¹⁸ Because this is not addressed in the retrofitted EMPs and no environmental assessment has been prepared for the Project’s sanitation component, a significant risk to households and communities remains unaddressed by the Project.

87. Even though the solid and liquid waste management is an integral part of the Project and prominently mentioned in the environmental framework and in supervision documents, solid and liquid waste management impact was not identified and addressed in the 2019 retrofitted Environmental Management Plans. **The Panel finds Management in non-compliance with Bank Policy on Environmental Assessment (OP/BP 4.01) for not ensuring the coverage of environmental and health risks presented by open disposal of household wastewater and their mitigation measures in the 2019 retrofitted Environmental Management Plans for the Bagbera and Chhotagovindpur Multi-Village Schemes.**

2.4.3 Environmental and Affordability Concerns

88. ***Hydrology and Quality of Water Concerns.*** The Requesters told the Panel of their concerns that the extraction of water from the Subarnarekha River will likely adversely affect the hydrology of the area. During its visit, the Panel team conducted FGDs with women in Giddhi Jhopri¹¹⁹ and Purani Basti.¹²⁰ They repeatedly voiced their preference for traditional water sources (wells, handpumps, springs, streams, rivulets, ponds, lakes, etc.) They questioned the quality and

¹¹⁶ Environmental Assessment & Environmental Management Framework for the World Bank Assisted Water Supply Project in Selected Districts of Jharkhand, July 2013, pp. 277, 283, and 296.

¹¹⁷ Ibid., p. 60, Section 3.6.3.

¹¹⁸ OP 4.01 – Environmental Assessment, para 1.

¹¹⁹ Two dedicated focus groups with women were held with approximately 15-20 women. The Panel also had separate side discussions with the women during the two bigger habitation meetings.

¹²⁰ The Panel had separate side discussions with the women after the habitation meetings at the ESR site with about 10 women. A specific focus group with women was also held with five women to discuss the religious and burial practices.

hygienic aspects of piped water since they know it would come from a river they believe is contaminated by waste and animal corpses. They expressed distrust of piped water as being not “natural” for their rituals and explained that community members must make use of local bodies of water for their rituals. The women explained they feared that families would no longer be able to conduct their ritual cleansing practices after the death of a family member or the birth of a child if the water bodies dried up.

89. Community members reported they were not consulted about the water supply schemes in their habitations, and that their traditional knowledge of water management was neither sought nor considered. Women in particular felt that, although they are responsible for collecting water in their households, their views were not heard. The Panel understands cultural aspects relating to traditional perceptions of water were not considered in the EA-EMF but were recognized in the 2018 TDIP. The TDP mentions in passing that “[d]iscussions with local tribal leaders and block level engineers on usage of drinking water revealed that the tribals prefer to use drinking water from natural streams.”¹²¹ The TDIP notes that tribal community members traditionally prefer flowing water as a source of drinking water. It explains that stagnant sources of water (lakes, ponds, etc.) are used for “other than drinking purposes”¹²² and that it is therefore important to keep this “cultural aspect”¹²³ in mind when designing water schemes. Despite these assertions, the Panel notes that no cultural assessment or consultations took place to determine the potential impact of the schemes on the tribal cultural value of water within Giddhi Jhopri and Purani Basti, and no measures were designed to address these concerns.

90. To assess the anticipated hydrological effects of scheme operation, the Panel relied on the EMPs and its own calculations. The Panel understands that the Subarnarekha is a 395-kilometer-long seasonal river. It originates 15 kilometers south of Ranchi. Just 50 kilometers from its origin the Subarnarekha’s flow is controlled by the 35.5-meter-high Getalsud Dam, a multi-purpose project completed in 1971 that permits consistent flow through monsoon and non-monsoon seasons.¹²⁴ The river’s average discharge is 392 cubic meters per second—or nearly 34 billion liters per day.¹²⁵ The Bagbera WTP is designed for a maximum capacity of 37 million liters per day and the Chhotagovindpur WTP has a capacity of 46 million liters per day. Together the two MVSs’ capacity corresponds to less than 0.24 percent of the average Subarnarekha River discharge.

91. The river intake points for the Bagbera and Chhotagovindpur schemes are located more than 10 kilometers and eight kilometers, respectively, from the habitations requiring drinking water access. The sub-surface soils that predominate between the source and the communities prohibit rapid movement of groundwater. Given these values, the Panel agrees with the Management Responses that withdrawal of water from the Subarnarekha River to supply the schemes will affect neither surface nor groundwater sources in the Requesters’ habitations.

¹²¹ Jharkhand Tribal Development Plan, March 2013, p. 38.

¹²² Tribal Development Implementation Plan for ‘Neer Nirmal Pariyojna’(RWSSP-LIS), July 2018, p. 10.

¹²³ Ibid.

¹²⁴ India Water Portal – Subarnarekha is Dying. Who’s Responsible, <https://www.indiawaterportal.org/articles/subarnarekha-dying-whos-responsible>, Accessed: July 25, 2019.

¹²⁵ Wikiwand, Subarnarekha River, https://www.wikiwand.com/en/Subarnarekha_River, Accessed: July 25, 2019.

92. The Panel notes that Annex 3 of the June 2019 EMP for the Bagbera scheme confirms the adequacy of the river discharge to satisfy the scheme’s withdrawal requirements.¹²⁶ The amended EMP for the Chhotagovindpur scheme states, without supporting data, that the river’s “*flow rate is greater than the project’s water requirement.*”¹²⁷ Despite these assurances, the Panel could not confirm in interviews or any documentation the existence of well logs that described groundwater yield, quality, drilling depth, soils encountered, or other specific information that would determine the inability to use groundwater and install multiple SVSs instead of the large MVSs. Standard practice would have this documented for each developed water source.

93. The Panel notes that the June 2019 EMP for the Bagbera scheme states that a process will be in place during its operation to monitor the quality of both source water and treated water. According to the EMP, water quality will be tested daily at the source, at the WTP and at each ESR. At the consumer end, testing will take place every seven days.¹²⁸ The Contractor has committed to appoint an environment, health and safety supervisor to be responsible for the water quality surveillance program.¹²⁹ Testing will be done in the Project’s in-house laboratory, and the cost of laboratory operations is included in the operations and management (O&M) budget.¹³⁰

94. The Panel notes that information about test reporting, protocol training and monthly source-water-quality readings for the Bagbera scheme from April 2018 through March 2019 are provided in Annex 4 of the 2019 EMP for the scheme. As noted in the accompanying Summary Report, “*all heavy metals [were] found [to be] below the detection limit*”¹³¹ and of 16 parameters tested, only “*BOD [Biochemical Oxygen Demand] and DO [Dissolved Oxygen] [were] found [to be] just above the tolerance limit as per inland surface water, class C (IS-2296-1982).*”¹³² Excessive DO indicates a healthy water body. Excessive BOD indicates a high level of organic contaminants in the source water, which the Bagbera WTP is designed to remove.

95. The quality—and therefore safety—of the drinking water delivered by the schemes is the responsibility of the State of Jharkhand. The Indian drinking water standard IS 10500 (2012),¹³³ establishes the methods of analysis and the permitted values for each included parameter. Each WTP is equipped with a laboratory responsible for conducting the testing. To assess the adequacy of testing for safe drinking water, the Panel refers to the World Health Organization’s (WHO) Guidelines for Drinking Water Quality.¹³⁴ The recommended sampling frequency is governed by the size of the population served.¹³⁵ The Panel understands that the sampling schedule proposed

¹²⁶ Environmental Management Plan Bagbera Multi-Village Water Supply Scheme, East Singhbhum District, Jharkhand (Conditionally approved in June 2019), Annexure 3, p. 39.

¹²⁷ Environmental Management Plan Chotagobindpur Multi-Village Water Supply Scheme, East Singhbhum District, Jharkhand (Conditionally approved in June 2019), p. 39; refer to Annexure- 3 for Water Availability and Source Sustainability Certificate (in Hindi, untranslated by the Panel).

¹²⁸ Environmental Management Plan Bagbera Multi-Village Water Supply Scheme, East Singhbhum District, Jharkhand (Conditionally approved in June 2019), p. 24.

¹²⁹ Ibid., p. 26.

¹³⁰ Ibid., p. 27.

¹³¹ Ibid., p. 48.

¹³² Ibid.

¹³³ Bureau of Indian Standards, Indian Standard Drinking Water — Specification (Second Revision), <http://cgwb.gov.in/Documents/WQ-standards.pdf>. Accessed: December 15, 2019.

¹³⁴ World Health Organization (2017). Guidelines for Drinking-water Quality, Fourth Edition Incorporating the First Addendum, <https://apps.who.int/iris/bitstream/handle/10665/254637/9789241549950-eng.pdf;jsessionid=BAF5AA2F3C401AEDA4D43DB8918C0547?sequence=1>

¹³⁵ Ibid., p. 67, Table 4.4.

by the operating Contractor exceeds the recommended WHO values and, as such offers a protective program for water users.

96. The Panel notes that, although issues relating to hydrology and quality of water were addressed in Project documents, many community members are unaware of contamination of the local sources of surface water and groundwater and the health benefits of treated, piped water. Such benefits include reduction of diarrhea, malaria and Japanese encephalitis, which are prevalent in the area. The Project envisioned the appointment of support organizations to carry out Information, Education and Communication (IEC) programs on improved sanitation and hygiene practices. The Panel understands that brochures and a detailed “Frequently Asked Questions” document describing the Project were available in Hindi, and educational activities were organized for community members. The Panel also understands that *jal sahiyas* were appointed in Jharkhand to generate awareness about water and sanitation and collect household’s community contributions.¹³⁶ Nevertheless, the IEC and awareness raising activities did not seem to have been effectively implemented in the habitations of the Requesters. Management also acknowledges some shortcomings in the implementation of the IEC activities. These include the lack of translation of IEC materials in Santali and Ho tribal languages and delays in engaging support organizations in Jharkhand, who were responsible for community mobilization, capacity building and IEC activities at the village level.

97. **Sludge Management.** Community members told the Panel they were concerned about the sludge generated by the WTPs. They claimed that without information on how the WTPs would operate and manage its waste, they were unaware of the risks created by disposal or release of contaminated sludge. As the communities were concerned about the water being polluted at the water intake source, there was also worry that the sludge would be similarly contaminated. The Panel also heard from Requesters that it was not clear how much sludge would be generated by the WTP and how it would be disposed of.

98. Management stated that the low levels of heavy metal contaminants in the raw water at the intakes of the WTPs suggest the sludge should not be considered toxic waste.¹³⁷ Water analysis during a 12-month period showed low levels of heavy metals in the raw water, below or close to the level of the relevant Indian standard.¹³⁸ Furthermore, the Management Responses indicate that the WTP is designed to be able to remove heavy metals and other contaminants to ensure that the drinking water is delivered according to standard. In addition, sludge management will be detailed in the updated EMP and will be supervised by the DWSD of the State of Jharkhand.¹³⁹

¹³⁶ Management Response to the second Request for Inspection, p.5.

¹³⁷ Management Response to the first Request for Inspection, p. 15, para 56.

¹³⁸ Ibid.

¹³⁹ Ibid., Annex 1, p. 24.



Photo 3: Chhotagovindpur Water Treatment Plant

99. Both the Giddhi Jhopri (Bagbera MVS) and Purani Basti (Chhotagovindpur MVS) Requesters raise concerns about the sludge generated at the WTPs. The Panel heard about an accidental release of sludge from the Chhotagovindpur WTP. As described to the Panel, the release occurred during a pilot draining of a clariflocculator in the Chhotagovindpur WTP. A large volume of released water overwhelmed the WTP retention tanks and entered its overflow line that empties into a public drain. That drain overflowed into the streets of the community adjacent to and downhill from the WTP. The Panel learned that the event was a one-day accidental release before the WTP’s sludge recycling mechanism was operational and that measures have been taken to avoid a recurrence. According to the Contractor, the overflow pipe remains in place as a security measure, but recirculation controls now in operation should prevent further accidental spillage.

100. The Panel understands the sludge from each WTP consists of alum—that serves as a coagulant early in the treatment process—and organic and inorganic material removed from the raw source water. The coagulated sludge could also contain metals.¹⁴⁰ The Panel recognizes from site control documentation that measurements taken to date indicate negligible quantities of these metals in the source water.¹⁴¹ The Panel agrees with Management’s assessment regarding the low risk of heavy metal contamination in the small volumes of sludge regularly generated. However, the Panel also notes that, to ensure this low risk to health and the environment, the WTP operators should submit sludge samples for testing by a professional, certified laboratory before use or

¹⁴⁰ U.S. Environmental Protection Agency, Drinking Water Treatment Plant Residuals Management Technical Report: summary of residuals generation, treatment, and disposal at Large Community Water Systems, EPA 820-R-11-003, September 2011, p. 7-3. “The characteristics of coagulation sludge vary depending on initial water quality and the amount and type of coagulant used. Coagulation sludge predominately contains the coagulant metal hydroxides along with source water natural organic matter, suspended solids, microorganisms, heavy metals, and other organic and inorganic constituents. Metals frequently found in coagulation sludge include aluminum, arsenic, and occasionally cadmium, chromium, copper, iron, lead, manganese, nickel, and zinc.” <https://www.epa.gov/sites/production/files/2015-11/documents/dw-treatment-residuals-mgmt-tech-report-sept-2011.pdf>. Accessed: August 15, 2019.

¹⁴¹ Reviewed by Panel during site visit in July 2019.

distribution. The Contractor told the Panel that analyses will be conducted in accordance with Indian standards.¹⁴²

101. The Panel also points out that the WHO recommends a “*range of human exposure controls (e.g., personal protective equipment, handwashing and personal hygiene)*”¹⁴³ for sludge handlers, farmers and agricultural workers who use the sludge. As a precaution, the Panel suggests that the WTP require its workers and any farmers with access to sludge receive clear information on its potentially pathogenic nature, the recommended use of gloves and face masks, and the importance of washing with soap and water all hands, faces and materials coming in contact with the sludge.

102. In its review of the June 2019 EMP for the Bagbera scheme—and confirmed in discussions with the Contractor—the Panel learned that from January through June and from October through December during a typical year, the “[r]equired quantity of sludge will be used for gardening at the project sites. Remaining sludge will be offered to local farmers for use as manure in their farms free of cost. Desirous farmers will have to make their own transport arrangements for transporting the sludge to their respective farm locations. In case of partial offtake of sludge by farmers, remaining sludge will be transported and disposed of at the approved disposal sites, listed in the Debris Management Plan.”¹⁴⁴ As described in the EMPs, from July through September, when sludge volume is expected to increase due to rain, the sludge will be safely managed by dewatering facilities established in the WTPs.¹⁴⁵ The Panel understands from interviews that district-level staff are awaiting Government direction regarding the identification and approval of disposal locations for dried sludge.

103. In reviewing the hydrology, water quality, and sludge management concerns raised by the Requesters, the Panel finds that these matters have been considered in the design of the Multi-Village Schemes and that relevant procedures are addressed in the applicable 2019 Environmental Management Plans for the two schemes. **The Panel finds Management in compliance with Bank Policy on Environmental Assessment (OP/BP 4.01) in addressing environmental issues regarding hydrology, water quality and sludge management in the design and implementation of the Project and in the 2019 Environmental Management Plans.**

104. **Affordability Concerns.** During its visit, the Panel noted that there is strong support for piped water from the broader community. At the same time, community members in Giddhi Jhopri and Purani Basti told the Panel that access to water is not a problem for them as there are many wells and boreholes nearby. These community members also see no need for 24/7 water

¹⁴² Central Public Health & Environmental Engineering Organization Manual on Sewerage and Sewage Treatment Systems – 2013, Planning of Sludge Treatment and Utilization of the Government of India, p. 2-32, Section 2.15.

¹⁴³ World Health Organization. Sanitation Safety Planning: Manual for Safe Use and Disposal of Wastewater, Greywater and Excreta, 2006, p. 61.

¹⁴⁴ Environmental Management Plan Bagbera Multi-Village Water Supply Scheme, East Singhbhum District, Jharkhand (Conditionally approved in June 2019), p. 71.

¹⁴⁵ Ibid., pp. 71-72. “1. Sludge will be sacked temporarily at a predetermined area/place; 2. This temporary sludge dumping site will be arranged with the permission of the land owners or the respective Gram Panchayat or obtained on lease. As mentioned earlier, local farmers would be free to lift any quantity of sludge that they might require for use as manure; 3. Sludge generated in the WTP will be dumped daily at this temporary site until it can be transported to the approved landfill sites for final disposal; 4. Opportunities will be explored with local entrepreneurs interested in using this sludge as a business opportunity for income generation; 5. Awareness creation and sensitization of the farmers about the usefulness of the sludge as a manure would be created through interactive meetings and consultations; 6. A temporary sludge retention facility has been provided for at the WTP site.”

availability and access to piped water. In addition, they expressed concern that, they will have to pay for water and that this will further impoverish them. In its visit to both habitations the Panel heard that many households lack regular income and rely on daily wage labor. Community members fear they will be unable to afford tariffs proposed for household water delivery and will therefore accumulate debt. This fear derives from their experience of payments for another utility—electricity—with bills that kept increasing, eventually becoming unaffordable on a regular basis. Community members worry about incurring insurmountable debt and being forced to relocate from their tribal lands as a result.

105. The Panel notes that the PIP presents an approach to community ownership through capital expenditure (CAPEX) and full recovery of operations and maintenance expenses through user charges.¹⁴⁶ The PIP further states that decisions on capital cost contributions and operations and maintenance cost recovery are based on community affordability levels. The PIP and discussions with Bank Management, the SPMU, and the DPMU clarified that the contribution towards the capital cost is a one-time upfront payment of Rs. 450 (US\$6.33)¹⁴⁷ per beneficiary household, but that for Scheduled Caste/Scheduled Tribe/Below Poverty Level households one-time payment would be on a concessional basis of Rs 225 (US\$3.17) per household.¹⁴⁸ The Panel understands that this financial contribution towards domestic connection for water supply will enable households living within 10 meters of the network to connect at no additional charge.¹⁴⁹

106. Regarding cost recovery, the PIP states that the “*Project will adopt a phased approach for achieving full O&M cost recovery through user charges, subject to an affordability ceiling.*”¹⁵⁰ The PIP explains that the Bank’s experience with similar socioeconomic households in other rural water supply schemes indicate a willingness to pay in the range of Rs 50-70 (US\$0.71-0.99) per household per month.¹⁵¹ Where affordable charges are inadequate to cover O&M costs, GPs and state governments will provide transparent subsidies through available O&M grants. A minimum monthly O&M tariff of Rs 62 (US\$0.90) will be charged, but the GPs have the discretion to charge more. The PIP also indicates that the VWSCs in the GPs will define the monthly tariffs but can increase or decrease user charges to different user groups.¹⁵²

107. The Jharkhand SA explains that most households are willing to pay for piped water, although the amounts vary. The document relies on analysis of primary data collected from 30 GPs, 60 villages and 960 households randomly selected in five districts to better understand key issues relating to water availability, coverage and willingness to pay.¹⁵³ The assessment shows that in East Singhbhum—the Requesters’ district—68 percent are willing to pay something for piped and treated water, while the rest did not respond—primarily because they were unsure about the Project. But the qualitative survey indicated households would pay after seeing the difference

¹⁴⁶ Project Implementation Plan, Volume 1 – Governments of India, Assam, Bihar, Jharkhand, and Uttar Pradesh, 2013. Rural Water Supply and Sanitation Project for Low Income States (RWSS-LIS), p. 35, para (h).

¹⁴⁷ Exchange rates as of November 6, 2019.

¹⁴⁸ Management Response to the second Request for Inspection, p.3.

¹⁴⁹ Project Implementation Plan, Volume 1 – Governments of India, Assam, Bihar, Jharkhand, and Uttar Pradesh, 2013. Rural Water Supply and Sanitation Project for Low Income States (RWSS-LIS), p. 36.

¹⁵⁰ Ibid.

¹⁵¹ Ibid.

¹⁵² Ibid.

¹⁵³ Social Assessment, Capacity Building and Communication, Framework for the Rural Water Supply & Sanitation Project in Jharkhand, p. 37, Section 3.3.

made in their lives by having access to better water and more of it.¹⁵⁴ No one in East Singbhum declared they were unwilling to pay anything.

108. Community members told the Panel that they know about the CAPEX contribution and the monthly payments required to get water piped to their homes, and that signing up for it is not compulsory. The Panel team met with many residents who support the Project and who had already enrolled in the water scheme; the team saw the connections and water meters outside their dwellings. The Panel also met with Multi-Village Water and Sanitation Committee (MVWSC)¹⁵⁵ members and heard from community members in both Requesters' habitations who feel excluded from the MVWSC and are poorly informed of its activities. The Panel notes, therefore, the need to strengthen IEC activities in the area and to educate the communities about water usage and its economic implications.

109. Local and state authorities informed the Panel that existing water sources—both those managed by the Government and those operated informally through community structures—will remain available after installation of household water supply connections. The Government will continue to manage these deep wells and handpumps for several years. After such government maintenance ceases, these sources will be left in place with unsupervised access. However, officials told the Panel team that no new government-funded sources will be created in areas served by schemes developed for the Project. The communities said that, due to the long delays getting funds and services from the local government, they maintain existing water sources by raising funds among themselves to pay for repairs. Local authorities confirmed this practice to the Panel, citing their limited resources, and added that in future they will prioritize areas that lack access to piped water.

110. The Panel concludes that provisions have been developed to ensure affordability of the schemes as detailed in the PIP and the PAD. The Panel notes that residents' fears concerning the affordability of water should have been addressed more directly in the consultation process and IEC activities. More broadly, the Panel believes consultations with the affected communities in Giddhi Jhopri and Purani Basti and targeted awareness-raising and educational activities could have helped mitigate local concerns about water quality, sludge management and the Project's impact on existing water resources. It could also have helped increase community acceptance of the Project.

¹⁵⁴ Ibid., p. 40.

¹⁵⁵ The MVWSC is composed of representatives of the individual village water and sanitation committees of the GPs included in the service area of the MVS. It has the role of endorsing and signing off on scheme design and implementation phase payments.

Chapter 3: Impact on Indigenous Communities

3.1 Introduction

111. This chapter discusses how the Project affects the socio-cultural way of life and the customarily used land and natural resources of tribal¹⁵⁶ communities in Giddhi Jhopri and Purani Basti. It examines how safeguard instruments—including the SMF, SA, TDP and TDIP—assess the Project’s effects on tribal communities. The chapter also reviews the consultation process used when preparing the safeguard instruments.

3.2 Requests for Inspection and Management Responses

Request for Inspection

112. ***Impact on Culture and Community Resources.*** The first Requesters allege the WTP is being built in Giddhi Jhopri on community land—which has historical and cultural significance for the Santhal tribe—and is thereby “*destroying their way of life and culture.*”¹⁵⁷ They claim the WTP site is located in a sacred grove—or *Jaher*—inhabited by the spirits of their ancestors. They state their community performs a cultural and spiritual practice called *Jantad Pooja* at the grove and that a series of festivals take place on this site. They contend it has been a graveyard and cremation ground “*since time immemorial*” and “[t]here is deep anger in the affected communities that the resting place of their ancestors is being used as a site for the water treatment plant.”¹⁵⁸

113. The first Requesters point out that the WTP affects their access to herbs and shrubs gathered by the community for medicinal purposes such as treating jaundice, blood clots, headaches, post-pregnancy maladies, colds and insect bites, and for supplementing vitamin D. Furthermore, they claim the availability of red mud—found at this location and used for painting houses, cleaning and packing goods—has been curtailed. They allege the WTP’s construction makes it harder to collect *puru* twigs for household fires and for fencing home gardens. They also worry that the WTP hinders access by their goats to pastureland.

114. The second Requesters allege the Project “*threatens the continuation of essential cultural practices of the [i]ndigenous communities.*”¹⁵⁹ They state the ESR near Purani Basti is being built on their community land, which has cultural significance for them. Annual celebrations take place at this site and sacrificial ceremonies and ritual feasts are held there every five years. These Requesters further argue that the ESR is located at a martyrdom site—important for both the community and the State of Jharkhand—that honors three community members who sacrificed their lives in the struggle for Jharkhand’s statehood. They complain that the Project has replaced traditional memorial stones or boulders removed by the Contractor with culturally inappropriate busts of these martyrs.

¹⁵⁶ In this report, indigenous peoples and tribal peoples are used interchangeably.

¹⁵⁷ First Request for Inspection, Supplement to the Request for Inspection, p. 5.

¹⁵⁸ Ibid., p. 5, para 2(a).

¹⁵⁹ Second Request for Inspection, p. 5, para 2(a).

115. Both Requests contend that, although the Santhal and Ho meet the criteria in OP/BP 4.10 for indigenous peoples, no assessment was conducted to evaluate the schemes' specific impact on tribal peoples. In addition, they claim the SA prepared for Jharkhand incorrectly states that Project interventions would not affect indigenous communities. They allege the Project lacks a plan to mitigate the effects of the schemes on indigenous peoples and state they have not been compensated for the harm already caused, which is in non-compliance with OP/BP 4.10. The Requests also argue the Project should have triggered Bank Policy OP/BP 4.11 on Physical Cultural Resources and that failure to assess the Project's impact on physical cultural resources and design related mitigation measures is in non-compliance with that policy.

116. **Consultation and Disclosure.** The Requesters assert that—due to the absence of appropriate consultation—important risks to indigenous peoples' resources and cultural heritage were overlooked. The Requesters allege a failure to provide adequate information about the Project in a language that local residents can understand. Some documents were available in English, but not in Hindi, Santhali or Ho. The first Requesters state they eventually did gain access to certain Project documents—after evoking the Right to Information Act—but that they incurred expenses in doing so, and they were not given environmental or social assessments for the scheme.

Management Responses

117. **Impact on Culture and Community Resources.** Management acknowledges that OP/BP 4.11 should have applied to the Project and explains it will be triggered as part of the Project's restructuring. However, it notes *"that efforts were made by the implementing agency to achieve objectives that are consistent with those of the policy."*¹⁶⁰ Management reports that, while there was no systematic assessment of cultural resources, *"the Contractor and district authorities made concerted efforts to jointly identify with the community areas of significance to the community prior to starting the works."*¹⁶¹

118. The first Response refers to a discussion with the Madhya Ghaghidih Gram Panchayat's Mukhiya—the elected village leader—and villagers,¹⁶² and two meetings in February and March 2016 with members of the Giddhi Jhopri community, including the Requesters. According to Management, records from the DPMU and audio recordings of these two meetings make no mention of community raising issues related to burial grounds or worship places inside the Bagbera WTP perimeter. Management states, however, that meetings with local residents did lead to modification of the WTP site footprint to avoid disturbing places of cultural and religious significance. The Contractor also changed the WTP's boundary design to accommodate a sacred tree.¹⁶³

119. The first Management Response explains that the Giddhi Jhopri habitation reportedly has a sacred tree, sacred stones and a congregation area at the apex of the hill, now immediately adjacent to the Bagbera WTP's southern boundary wall. The Response adds that the Giddhi Jhopri site is identified by unmarked boulders under vegetation on the southeastern side of the hill and

¹⁶⁰ Management Response to the first Request for Inspection, p. 13, para 47.

¹⁶¹ Ibid., p. 13, para 49.

¹⁶² Management Response to first Request for Inspection, Annex 1, p. 1.

¹⁶³ Ibid., p.13.

two tombstones located under a tree, meters from the WTP's southeastern corner wall. It also explains that a burial ground for an adjacent habitation—Jata Jhopri—was reportedly on the southwestern part of the hilltop, next to three small shrines marked by a few boulders and stones.¹⁶⁴

120. Management states it tried to understand the pre-construction situation on the hilltop by analyzing satellite images, photographs and a video of the site made prior to construction. Management explains the pictures and video identified no distinctive artifacts on the WTP site. However, due to the typical physical characteristics of Santhal burial sites—which are located under vegetation—and cremation grounds, this review could not reliably confirm their presence or absence at the site. Management also explains that the discussions the Bank team held with community representatives made no mention of spirits living at the WTP location or of festivals taking place on the hill.¹⁶⁵

121. Management states that most of the land on the hill will remain available for goat grazing, community assembly and there is access to plants and shrubs used by the local population since only 3.59 acres—or 25 percent—of the hill is used for the Bagbera WTP.¹⁶⁶ According to the first Management Response, the Contractor has confirmed that none of the red mud has been taken away and Management will follow up to ensure that it remains available to the local communities.

122. Regarding the ESR near Purani Basti, the second Management Response states there is contradictory information about whether the boulders honoring the three martyrs pre-dated the construction of the ESR. The second Requesters told the Bank that the original boulders were destroyed during construction and that the Contractor erected the busts without consulting the community. The Contractor, on the other hand, reported that the ESR location contained no boulders prior to construction and that the community explicitly asked the Contractor to finance the busts.¹⁶⁷

123. The second Response cites different accounts of the use of the ESR site near Purani Basti, also known as Romantic Maidan. While the second Requesters indicated that the *Gota Pooja* and *Jaher Dangri* traditional festivals take place there, members of the VWSC said these events occur at an adjacent location and that currently the ESR site is only used for playing soccer and some parts for open defecation. The second Management Response states that historical satellite images reveal no visible artifacts or structures on the plot used for the ESR construction.¹⁶⁸ The Response maintains that, in any event, “*there is sufficient land available [...], even considering the presence of the ESR, to allow for the cultural uses described in the Request for Inspection.*”¹⁶⁹ Management points out that the ESR occupies less than 14 percent of the total area of the plot.¹⁷⁰

124. Management recognizes that the tribal communities in Jharkhand affected by the Project are considered Indigenous Peoples under OP/BP 4.10. Therefore, during Project preparation a TDP was prepared for the Jharkhand portion of the Project. Management explains that the TDP includes

¹⁶⁴ Ibid.

¹⁶⁵ Ibid.

¹⁶⁶ Ibid., p. 14.

¹⁶⁷ Management Response to second Request for Inspection, p.16.

¹⁶⁸ Management Response to second Request for Inspection, Annex 1, p. 23., para 2.

¹⁶⁹ Ibid., p. 17, para 56.

¹⁷⁰ Ibid., p.16.

provisions to ensure that tribal settlements are targeted in Project benefits, and that informed consultations leading to the identification of demand-driven schemes in tribal areas take place in culturally appropriate ways.¹⁷¹

125. **Consultation and Disclosure of Information.** Management explains that while consultation and disclosure of Project documents was broadly satisfactory at the state and revenue-village level,¹⁷² there have been weaknesses in consultation and disclosure at level of the Requesters' habitation.¹⁷³ According to Management, during preparation of the SMF and the TDP national and regional workshops were organized in May and June 2013. During preparation of the TDP, consultations were held in 60 habitations across 30 GPs in five districts, as well as with state, district and block officials. The documents were disclosed on the MoDWS website and were available for review from 2013 until 2015, when the website was shut down. Management states that consultations on the EA-EMF, SMF and TDP were conducted in Hindi. A Hindi version of the executive summary of EA-EMF was circulated to stakeholders in advance of the regional and national consultation workshops held in Jharkhand during May-June 2013. However, Management admits it cannot confirm the disclosure of the Jharkhand safeguard documents in Hindi and that there have been shortcomings in the application of OP/BP 4.01 and OP/BP 4.10, especially with respect to consultations and public disclosure in Hindi.¹⁷⁴

3.3 Bank Policies

126. The World Bank's Policy on Indigenous Peoples (OP/BP 4.10) requires Bank projects to include measures to "*avoid potentially adverse effects on Indigenous communities*" and when avoidance is not feasible "*to minimize, mitigate or compensate for such effects.*"¹⁷⁵ The policy recognizes that "*the identity and cultures of Indigenous Peoples are inextricably linked to the lands on which they live and the natural resources on which they depend.*"¹⁷⁶ For this reason, the policy requires particular attention be paid to (i) the customary rights of indigenous peoples pertaining to lands or territories that they traditionally owned, or customarily used or occupied, and where access to natural resources is vital to the sustainability of their cultures and livelihoods, (ii) the need to protect such lands and resources against illegal intrusion or encroachment, and (iii) the cultural and spiritual values that the indigenous peoples attribute to such lands and resources.¹⁷⁷

127. According to OP/BP 4.10, for projects involving the preparation and implementation of multiple sub-projects where indigenous peoples are likely to be present or have a collective attachment that cannot be determined until the sub-projects are identified, an Indigenous Peoples Planning Framework (IPPF) is required.¹⁷⁸ The IPPF includes (i) the types of sub-projects likely to be financed under the project and its potential effects on indigenous peoples, (ii) a plan for carrying out the SA for such sub-projects, (iii) a framework for ensuring consultation with the

¹⁷¹ Management Response to first Request for Inspection, p.6.

¹⁷² A revenue village is a small administrative region in India with defined borders.

¹⁷³ Management Response to first Request for Inspection, Annex 1, p. 6.

¹⁷⁴ Management Response to the first Request for Inspection, Annex 1, p. 21 and Management Response to the second Request for Inspection, Annex 1, pp. 31 and 37.

¹⁷⁵ OP 4.10 - Indigenous Peoples, para 1.

¹⁷⁶ Ibid., para 2.

¹⁷⁷ Ibid., para. 16.

¹⁷⁸ Ibid., para 13.

affected indigenous peoples at each stage of the project, (iv) institutional arrangements for evaluating project impact on indigenous peoples, and (v) monitoring and reporting mechanisms.¹⁷⁹

128. OP/BP 4.10 states that if the screening confirms the presence of indigenous peoples or their collective attachment to the project area, a SA must be prepared to evaluate the project's potential effects on those indigenous peoples and to examine project alternatives where adverse effects may be significant.¹⁸⁰

129. The policy further instructs that, based on that SA and in consultation with affected indigenous peoples' communities, an Indigenous Peoples Plan (IPP) must be prepared and must include (i) a summary of the results of the free, prior and informed consultations with affected indigenous peoples carried out during project preparation that led to broad community support for the project, (ii) a framework for ensuring consultations during project implementation, (iii) an action plan with measures to ensure that indigenous peoples receive culturally appropriate benefits and to address potential adverse effects, (iv) accessible grievance procedures, taking into account customary dispute-settlement mechanisms among indigenous peoples, and (v) mechanisms for monitoring, evaluating and reporting.¹⁸¹

130. Regarding the consultation process, OP/BP 4.10 requires (i) an appropriate gender and intergenerationally inclusive framework that provides opportunities for consultation with the affected indigenous peoples' communities at each stage of the project, (ii) consultation methods appropriate to the social and cultural values of the affected indigenous peoples and their local conditions, and (iii) that indigenous peoples receive all relevant project information in a culturally appropriate manner.¹⁸² BP 4.10 requires the Bank to assist the borrower in carrying out consultations with indigenous peoples throughout the project cycle—recognizing existing indigenous peoples organizations and tribal leaders—and in maintaining a record of the consultation process.¹⁸³ The policy requires disclosure of the SA and draft IPPF/IPP in an appropriate form, manner, and language.¹⁸⁴

131. OP/BP 4.11 defines physical cultural resources as “*movable or immovable objects, sites, structures, groups of structures, and natural features and landscapes that have archaeological, paleontological, historical, architectural, religious, aesthetic, or other cultural significance.*”¹⁸⁵ The policy describes such resources as “*integral parts of people's cultural identity and practices.*”¹⁸⁶ Furthermore, the policy states that the impact on physical cultural resources in projects is an integral part of the EA process, including the collection of data, impact assessment, and formulation of the mitigation measures and management plan.¹⁸⁷

¹⁷⁹ Ibid., Annex C.

¹⁸⁰ BP 4.10 - Indigenous Peoples, para 6.

¹⁸¹ OP 4.10 - Indigenous Peoples, para. 12 and Annex B.

¹⁸² Ibid., para. 10.

¹⁸³ BP 4.10 - Indigenous Peoples., para 2.

¹⁸⁴ OP 4.10, para 15.

¹⁸⁵ OP 4.11 – Physical Cultural Resources, para 1.

¹⁸⁶ Ibid., para 2.

¹⁸⁷ BP 4.11 - Physical Cultural Resources, para 4 and BP 4.11 - Physical Cultural Resources para 6 and 8.

3.4 Panel Observations and Analyses

3.4.1 Impact on Culture and Community Resources

Safeguards Approach on Indigenous Issues

132. The Panel notes that both Giddhi Jhopri and Purani Basti are located in Scheduled Areas, with special legal protections under the Indian Constitution, as recognized by Management and the Government of India. These locations are home to large populations of tribal peoples, including the Santhal and Ho. Both tribes have distinctive social structures, languages, traditional decision-making, and cultural and ritual practices. Their way of life is intrinsically connected to the lands and natural resources (land, water, trees, plants, rocks, etc.) they have customarily used.

133. **Physical Cultural Resources.** During preparation of the Project, a decision was made by Management not to trigger OP/BP 4.11 on Physical Cultural Resources. There is no rationale in the PAD or the Integrated Safeguards Datasheet for this decision. Management acknowledges in its Responses that the Project should have triggered OP/BP 4.11 and explains the oversight was because none of the EA-EMFs for the four states identified Project risks or impact related to the presence of physical cultural resources.¹⁸⁸

134. The Panel reviewed the Project documents and noted that they do not properly identify impact on physical cultural resources as a potential risk, even though Project activities were located in areas with significant tribal populations and involved the construction of relatively large infrastructure, particularly in the state of Jharkhand. The EA-EMF explains that OP/BP 4.11 is inapplicable because “*no existing cultural property will be damaged.*”¹⁸⁹ At the same time the document recognizes “*possible damage to places of cultural, heritage and recreational importance*”¹⁹⁰ as likely during construction. The EA-EMF Summary recognizes that poorly designed management plans could damage locally significant cultural areas or archeological sites, and that adverse impact on cultural or heritage sites could occur due to incorrect selection of sites for intakes, WTPs and transmission lines.¹⁹¹

135. The EA-EMF contains a checklist for screening sub-projects. That checklist includes the need for assessing whether a proposal would disturb sacred sites or cultural values, and for explaining the safeguards proposed to address these issues.¹⁹² Despite this requirement such screening did not take place in the specific sites for the Bagbera WTP and Purani Basti ESR. The Panel notes that the failure to trigger OP/BP 4.11 and to assess impact on physical cultural resources as required by that policy contributed to the cultural harm experienced tribal communities in Giddhi Jhopri and Purani Basti. The Panel acknowledges that Management later

¹⁸⁸ Management Response to the first Request for Inspection, p. 5, para 18.

¹⁸⁹ Environmental Assessment & Environmental Management Framework for the World Bank Assisted Water Supply Project in Selected Districts of Jharkhand, July 2013, p. B.

¹⁹⁰ Ibid., p. 90.

¹⁹¹ Executive Summaries, Environmental Assessment - Environmental Management Framework Studies of Assam, Bihar, Jharkhand and Uttar Pradesh, pp. 9 and 28.

¹⁹² Environmental Assessment & Environmental Management Framework for the World Bank Assisted Water Supply Project in Selected Districts of Jharkhand, July 2013, p. 185.

triggered OP/BP 4.11 in the context of the December 2019 Project restructuring after the harm occurred.

136. ***Social Assessment, Tribal Development Plan and Tribal Development Implementation Plan.*** The Project triggered OP/BP 4.10, recognizing the presence of tribal peoples in Project areas in Jharkhand who meet the characteristics of indigenous peoples listed in the policy. Whereas not all tribal populations in the four implementing states are considered indigenous, those in Project districts of Jharkhand are.¹⁹³ For the purposes of this report both tribal peoples and indigenous peoples are used interchangeably.

137. The PAD states that four of the six districts where the Project would be implemented are recognized as tribal territories—home to Scheduled Tribes (STs)—where special constitutional protections apply. Hence, in addition to a SMF for the four states, a draft SA and draft TDP were developed during Project preparation in 2013 for the State of Jharkhand. A TDIP was approved in August 2018. All these documents recognize the presence of STs with characteristics different from mainstream society in the Project area, and specifically acknowledge the presence of the Santhal and Ho peoples.

138. The April 2013 SMF—prepared as a result of the synthesis of the SAs conducted in the four Project states—guides policy, institutional arrangements, and implementation. It presents itself as a tool for the implementation, monitoring and supervision of interventions that address social issues and risks.¹⁹⁴

139. The SA provides a general overview of Jharkhand's socio-demographics and context. It analyzes the applicable legal framework, as well as existing capacity and training needs. It presents a capacity building plan to guide the process of community awareness-building, gender-mainstreaming, construction facilitation and public participation components in Project districts.¹⁹⁵ It also presents an IEC campaign for behavioral change. The SA states that the Project's beneficiary profile is heterogeneous, comprising several sub-groups distinguished by their tribal and non-tribal status, ethnicity, gender, differential endowment, differing economic groups and other regional features. It identifies the large ST population in Jharkhand and states that between 15 and 73 percent of the population in the six Project districts in Jharkhand belong to various tribal groups with unique identity, diverse religious and cultural practices and different languages and festivals.¹⁹⁶

140. The SA mentions that under the Project four different types of schemes will be implemented in six districts of Jharkhand. It also lists how many schemes of each type will be implemented in the different districts but does not identify the specific schemes and their locations.¹⁹⁷ The SA provides some district-level demographic data, including information on gender, literacy rates and urban and rural populations. It also includes socioeconomic data as well

¹⁹³ PAD, p.15.

¹⁹⁴ Social Management Framework, April 2013, p. 5.

¹⁹⁵ Social Assessment, Capacity Building and Communication, Framework for the Rural Water Supply & Sanitation Project in Jharkhand, pp. 8, 20 and 69-78.

¹⁹⁶ Ibid., p.7.

¹⁹⁷ Social Assessment, Capacity Building and Communication, Framework for the Rural Water Supply & Sanitation Project in Jharkhand, pp. 16-17.

as information about economic activities, lands and assets and access to water and sanitation services based on a survey conducted with a sample of 960 households in 60 villages across 30 GPs in Jharkhand and focus groups studies.¹⁹⁸ The SA also gives an overview of the culture, religion and languages in Jharkhand,¹⁹⁹ including a listing of major festivals and fairs. The Panel notes that while the SA presents relevant information about the general population in the specific districts in Jharkhand and provides useful guidance for capacity building and the IEC campaign, it resembles a framework document in that it identifies neither the people directly affected by Project activities nor the specific impact on them. Furthermore, it lacks detailed analysis and guidance regarding social, cultural and political characteristics or customary land-use practices of the different tribal communities. Supervision documents confirm that no baseline information had been collected in the Project areas, “*despite the fact that the project has completed three years of operations in Jharkhand and 62 SVSs have been commissioned.*”²⁰⁰ The documents specifically mention that—in the absence of a proper baseline study—data on inclusion of tribal population was lacking until 2017.²⁰¹

141. The Panel notes that neither the SA nor the SMF require site-specific social assessments, but both recommend a TDP to ensure that tribal populations are included in the Project’s benefits. The TDP summarizes the main findings of the Jharkhand SA, analyzes the applicable national legal framework and provides a framework for how tribal peoples should participate in the Project and partake of its benefits.

142. The TDP points out that most of the habitations sampled in the SA are composed of mixed tribal and non-tribal communities.²⁰² It contains generic, baseline socioeconomic and demographic information for five sample districts in Jharkhand, four of them predominantly tribal, and clarifies that “*the baseline information discussions are confined to general assessment of the situation in sample districts.*”²⁰³ This data consists of information on health and access to basic services, such as water and sanitation and electricity, and it is not disaggregated among the tribal and non-tribal populations. In addition, the TDP provides state-level data for ST populations related to literacy, nutrition, mortality and poverty indicators.²⁰⁴ It also presents limited information on the religion, language and culture of the STs in the state, without distinction among the cultural and religious practices of the different tribes. The TDP mentions the number of SVSs and MVSs planned but does not list their specific locations.²⁰⁵ The Panel notes that the TDP contains generic provisions for how indigenous peoples should participate in the Project, but these are neither specific to the different schemes nor targeted at the realities of the directly affected communities.

143. Although the “Final Draft TDP” was disclosed in 2013, Bank aide memoires consistently mentioned that the TDP was not finalized until the end of 2015. The November 2015 aide memoire states that “*a tribal development plan has been drafted for Assam and Jharkhand but needs to be finalized considering local conditions. The final version also needs to be uploaded on the project*

¹⁹⁸Ibid., p.22.

¹⁹⁹Ibid., pp. 28 and 30.

²⁰⁰ Aide memoire – Sixth Implementation Support Mission, February 6-17, 2017, Annex 3, p. 28, para 7.

²⁰¹ Ibid.

²⁰² Jharkhand Tribal Development Plan, March 2013, p. 11.

²⁰³ Ibid., p. 37, para 4.1.

²⁰⁴ Ibid., pp. 25-27.

²⁰⁵ Ibid, p. 19.

*web site. The field staff needs to be oriented on the TDP and the plan needs to be operationalized.”*²⁰⁶ The 2016 Social Compliance Review confirms for the first time that the TDP had been prepared by the SMPU more than two years after the Project was approved.²⁰⁷ However, the Panel has seen no evidence that the TDP was finalized or that a version of the TDP—other than the 2013 draft—was prepared.

144. The Project started preparing a TDIP in 2014 to provide guidance on how schemes should be selected, designed and governed in tribal areas. The TDIP seeks to guarantee participation of tribal peoples in Project planning, implementation and decision-making, ensuring that they benefit from the Project and guaranteeing the development of tribal peoples without compromising their dignity, culture or heritage.²⁰⁸ Instead of containing the provisions of a site-specific TDP, the TDIP improves upon and updates the 2013 TDP, and provides guidance on how to operationalize it. The TDIP includes no information about the specific schemes to be financed under the Project or information on the demographic, social, religious, cultural and political characteristics of the tribal communities that might be directly affected by the MVSSs, or the lands and resources they customarily use.



Photo 4: Bagbera WTP near the Giddhi Jhopri habitation

145. The Panel notes that the TDIP was approved only in August 2018, two years after the construction of the two MVSSs in Jharkhand had started. The document itself recognizes that “*batch 1 scheme[s] ...[are] on the verge of completion and in these schemes the coverage of tribal households have not been deliberately focused upon.*”²⁰⁹

²⁰⁶ Aide memoire – Fourth Implementation Support Mission, November 16- 30, 2015, p. 15, para 48.

²⁰⁷ Compliance Review of Social Safeguards and Social Development Issues, August 2016, p. 29.

²⁰⁸ Tribal Development Implementation Plan for ‘Neer Nirmal Pariyojna’(RWSSP-LIS), July 2018, p. 7, Section 1.4.

²⁰⁹ Ibid., p. 8, Section 2.2.

146. OP 4.10 requires that, if the screening of specific sub-project identified in the IPPF indicates that indigenous peoples are present in the area of the sub-project, before the sub-project is implemented a social assessment is carried out and an IPP is prepared in accordance with the policy.²¹⁰ The Panel notes that the Project prepared the SA and TDP as framework documents for the State of Jharkhand. Nevertheless, the Project conducted no site-specific social assessment of the affected tribes or TDPs with measures to address impact from the Bagbera and Chhotagovindpur MVSs prior to the start of works. The Compliance Review of Social Safeguards from August 2016 includes among its proposed mitigation measures “*development of a Tribal Development Plan for each tribal sub-project with separate budget for TDP activities.*”²¹¹ The August 2017 aide memoire recognizes that “*in the absence of a Tribal Development Specialist, no tribal plans have been made nor relevant provisions have been included in the scheme level DPRs.*”²¹²

147. Management acknowledges this in its Responses, which state that “*OP 4.10 on Indigenous Peoples is applicable to the Project, and a Tribal Development Framework was prepared consistent with the requirements of the policy. However, no scheme-specific social assessment towards preparation of a TDP was undertaken.*”²¹³ The Panel notes that, as a result, the sub-projects were uninformed about tribal customary use of and attachment to lands and natural resources affected by the Bagbera WTP and ESR near Purani Basti and designed no measures to mitigate these impacts.

148. The Panel notes that a Social Assessment and Tribal Development Plan were prepared for the State of Jharkhand. In the Panel’s view, absent a site-specific Social Assessment—which analyzes the characteristics of the affected tribal communities and impact on them—and detailed mitigation and consultation measures, the draft Tribal Development Plan is akin to a framework document such as the Indigenous Peoples Planning Framework outlined in Bank Policy on Indigenous Peoples (OP/BP 4.10).

149. The Panel finds that although the Bagbera Water Treatment Plant and Elevated Storage Reservoir near Purani Basti are being implemented in areas customarily used by tribal communities, Management failed to ensure the preparation of site-specific Tribal Development Plans, which led to significant harm to the culture, religion and way of life of tribal communities adjacent to these sites in non-compliance with Bank Policy on Indigenous Peoples (OP/BP 4.10).

Impact on Customary Use of Land and Natural Resources

150. The Project design assumed the RWSS-LIS would have mainly positive impact on tribal peoples who would benefit from improved access to piped water. The PAD states that “*the proposed project interventions are not likely to have any adverse impact on the tribal groups.*”²¹⁴ It mainly recognizes the risk of tribal exclusion from Project benefits, since most of the tribal people are socially and economically vulnerable and often excluded from development initiatives.

²¹⁰ OP 4.10 – Indigenous Peoples, para 14.

²¹¹ Compliance Review of Social Safeguards and Social Development Issues, August 2016, p. 9.

²¹² Aide memoire – Seventh Implementation Support Mission, July 17-August 4, 2017, Annex 3, p. 29, para 30.

²¹³ Management Response to the first Request for Inspection, Annex 1, p. 21.

²¹⁴ PAD, p. 15.

Hence, the PAD explains that targeting of services is essential and that a TDP has been prepared with the goal of promoting “*inclusive, equitable and sustainable water supply and sanitation delivery through empowering grassroots tribal institutions in tribal areas.*”²¹⁵

151. The SMF states that “*the project expects no negative impacts to the occur as a result of its interventions.*”²¹⁶ The SA does not identify any potential adverse impact on tribal lands, natural resources, cultural or religious practices. Among the perceived risks of the Project affecting tribal groups, it lists conflict among tribal and non-tribal communities in the payment of user charges, chances of VWSC overruling the needs of villagers and Scheduled Tribes as well as exclusion of tribal communities in non-tribal areas.²¹⁷

152. Like the PAD, the TDP envisions no adverse Project impact on land and resources customarily used by tribal communities. The main risk identified is possible exclusion from benefits due to the “*history of [tribal] vulnerability and prolonged marginalization.*”²¹⁸ The Panel notes that the TDP seems to have been drafted predominantly envisioning SVSs, which entail less risks than MVSs. The Bagbera and Chhotagovindpur MVSs involved 38 GPs²¹⁹ and infrastructure including WTPs, ESRs and pipe network, thus requiring more land and potentially creating more adverse impact on tribal communities.

153. The 2018 TDIP also inadequately assesses the Project’s impact on tribal peoples. It states that “*the proposed project interventions are not likely to have any adverse impact on the tribal groups.*”²²⁰ The document briefly mentions that “*it must be ensured that no land, common land, religious places and places attached with tribal culture and heritage is disturbed by virtue of project implementation*” and that “*digging and distribution of pipeline will also take care that these places are not disturbed.*”²²¹ The TDIP states that the “*cultural heritage of tribal people like [...] jaher sthan, sasandiri, etc will be secure and safe.*”²²²

154. The Panel notes that, because mainly positive impacts were envisioned and no site-specific assessments were produced, important social and cultural impacts on tribal communities—which could have been avoided or mitigated—were missed. Such impacts are elaborated on below.

155. ***Impact on the Sacred Grove and Burial Grounds.*** During its December 2018 and July 2019 visits to India, the Panel met with Santhal and Ho tribal community members from Giddhi Jhopri and Purani Basti. In both habitations people told the Panel how the Bagbera WTP and ESR near Purani Basti significantly affected their cultural practices.

156. Giddhi Jhopri community members explained their attachment to Giddhi Jhopri Hill and how it intrinsically relates to their cultural identity and way of life. While the Management Response states that the lands were registered as “*uninhabited government land,*” community

²¹⁵ Ibid.

²¹⁶ Social Management Framework, p.5.

²¹⁷ Social Assessment, p. 7.

²¹⁸ Jharkhand Tribal Development Plan, March 2013, p. 10, para 7.

²¹⁹ Management Response to the first Request for Inspection, Executive Summary, p. v.

²²⁰ Tribal Development Implementation Plan for ‘Neer Nirmal Pariyojna’(RWSSP-LIS), July 2018, p. 5.

²²¹ Ibid., p. 19, para 3.

²²² Ibid., p. 13.

members told the Panel that the hilltop is customarily used for various communal, cultural and religious purposes.

157. Community members from Giddhi Jhopri told the Panel the Santhal of the Giddhi Jhopri habitation are the *khunt-kattidar*—direct descendants of the pioneers who cleared the forest and settled there. The Santhal said their ancestors chose their current settlement site in a ritually organized manner in order to ensure the wealth and economic well-being of the inhabitants. They continue to maintain strong cultural and religious ties to the lands they inhabit and consider their identity to be intrinsically linked to the land they have traditionally occupied.



Photo 5: Sacred grove and the sacred tree close to the WTP perimeter.

158. As mentioned, the Santhal and Ho have traditionally practiced animistic *Sarna* religion.²²³ The Santhal believe numerous spiritual beings of different kinds—called *Bonga*—inhabit the world and that they live in close association with these spirits. The *Bonga* must be placated with prayers and offerings to ward off evil. A characteristic feature of the Santhal village is a sacred grove—or *Jaher*—on the edge of the settlement. The site is considered the abode of the spirits, and it is where the village priest, the *naeki*, offers periodic sacrifices to the principal Santhal deities.²²⁴ The primary act before settling a village is selecting the sacred spot and offering sacrifices to the *Bonga*. If the signs through divinations show that the *Bonga* have accepted the offerings and are pleased with the choice of location, the village is established. *Sal* trees in the sacred grove are selected as abodes for the deities. Rituals are performed under these trees, where the *Bonga* are believed to appear and express themselves.²²⁵ Branches from sacred trees are ceremonially planted in the courtyards of homes. The worship of nature holds utmost importance

²²³ “*Sarna*” also translates as those who are “non-converted to other religion” (Hinduism, Christianity, etc.).

²²⁴ Kochar, V. K. “Village Deities of the Santal and Associated Rituals.” *Anthropos* 61, no. 1/2 (1966): 241-57. Available at: www.jstor.org/stable/40458237.

²²⁵ Social Assessment, Capacity Building and Communication, Framework for the Rural Water Supply & Sanitation Project in Jharkhand, p. 28.

in every sphere of tribal life and culture. The sacred groves host several community activities, such as harvest festivals, wedding ceremonies and birth rituals.²²⁶

159. During the Panel's visit to Giddhi Jhopri, tribal community members confirmed that the Santhal religion, culture and way of life center on the worship of spirits. The Panel team was shown the *Jaher* where the *Sal* tree is located close to the boundary wall of the WTP. The Panel understands that the tree's flowers are used in wedding ceremonies. The community members acknowledged that the Contractor changed the original boundary wall to ensure that the tree was accessible. Both community members and the Contractor told the Panel that this was the only change made in design of the WTP due to cultural considerations. However, community members complained that the WTP was built in their sacred grove, where they conduct different cultural practices and seek spiritual guidance. The Panel team was shown how much the sacred grove had been reduced, with a significant portion of its former area now within the boundaries of the WTP. The Panel notes the visual impact of the WTP and the cultural inappropriateness of having a WTP on burial grounds even if there is still some land available on the site.



Photo 6: Sacred tree of the community members touching the WTP perimeter wall.

160. Community members told the Panel that the Santhal prefer to cremate their dead if they can afford to do so and bury the cremated remains. Bodies or remains are buried close to the sacred grove and memorial stones are normally placed there to honor the dead. Giddhi Jhopri community members showed the Panel graves of ancestors and said the hill had been used as a burial site for generations. A community member showed the Panel team where a few relatives had been buried just inside the WTP perimeter while other family ancestors had grave sites marked with memorial stones located just outside the boundary wall. The Panel learned that community tradition includes both graves marked with stones and unmarked graves. The Panel also observed two tombstones near the foothill erected in memory of two members of the community after their death, dated

²²⁶ Chakraborty, Parikshit. (2019). Socio-Cultural Aspects of Sacred Grove: The Study in a Santal Village, pp. 51-52.

1987, which shows that the community has been using the land as a graveyard for at least more than 30 years. Community members reported that the WTP construction has disturbed the spirits of their ancestors. They are concerned that, under these circumstances, they would be unable to placate them with prayers and offerings. This was clearly an issue both highly significant and emotional to the people who spoke to the Panel team.



Photo 7: Two tombstones near the foothill dated 1987.

161. The Panel also visited the ESR site near Purani Basti site and met with Ho and Santhal tribal community members. The Ho, like the Santhal, worship different spirits, also called the *Bonga*, believed to inhabit nearby jungles and hills. They worship the *SinghBonga*—the sun god—whom they consider their supreme deity and who is responsible for rain, crops and other elements necessary for life.²²⁷ They believe in ancestor worship, seeking blessings from benevolent spirits and appeasing the hostility of malevolent spirits.

162. The Ho, too, both bury and cremate their dead. The spirit or soul of the departed is considered a god who remains in the area and looks after the family's welfare, which is why family buries the remains of their relatives, whether cremated or not, close to their habitation area.²²⁸ Each clan has a separate burial site or cremation place close to their house. Some Ho bury their relatives on their premises. For burials of bodies the Ho dig stepped pits aligned in a north-south direction. Cremated remains are ceremonially collected and put in a decorated pot that is then buried. The Ho place memorial stones or *Sasandhiri* to cover graves or mortal remains, and this ritual symbolizes the completion of the final purification ceremony of a deceased. Placing a memorial stone on the burial site is compulsory in Ho society. Respected people are honored with an additional memorial stone close to a public space in the village.²²⁹ The size of the memorial stone

²²⁷ Mohanta, Basanta Kumar. (2015). Living Megalithic Culture of the Ho Tribe of Eastern India, p.242.

²²⁸ Ibid., p. 244.

²²⁹ Ibid., pp. 248-249.

depends on the social status and financial condition of the family of the deceased and the availability of stones in nearby hills or jungles.

163. During an FGD in Purani Basti, Ho tribal members told the Panel team in detail about their rich spiritual tradition, including their connection to nature. They said the ESR built near their habitation was built on a martyrdom site significant to the community and the State of Jharkhand. The team learned that the community observed Martyrdom Day annually at the site to honor three local people who died in the political struggle for Jharkhand's statehood.



*Photo 8: Memorial stones at the burial sites of the now the Purani Basti ESR location.
(Photo provided by Requesters)*

164. A relative of one of the martyrs told the team that a brother and two of his comrades were cremated in Jamshedpur and their remains were subsequently buried in what is now the Purani Basti ESR location. According to the relative, memorial stones were placed at the burial sites. Community members said these stones were razed during construction of the ESR, and that the martyrdom site is now inaccessible. The relative expressed anger about the desecration and helplessness at being unable to protect the final resting place of an ancestor whose spirit now wanders restlessly. This view was shared by the tribal leaders.

165. Community members told the Panel that the three busts the Contractor created to honor the martyrs are culturally inappropriate, since they do not worship idols and do not believe in erecting busts for the deceased. Although the Contractor told the Panel that they acted in good faith to try to address the issue and that the community explicitly asked for the busts, community members said they were not consulted about the busts.

166. The Panel notes that the SA and the TDP acknowledge that the Scheduled Tribes in Jharkhand have a distinct religion and cultural identity. The documents mention that the animistic *Sarna* religion—with its strong belief in supernatural powers—is practiced in Jharkhand. The SA

and TDP mention in passing that “[t]heir lives are closely associated with the nature as they eke out their livelihoods from the natural environ – streams, trees, plants, animals etc.”²³⁰ The SA states that tribal communities consider themselves as living and doing everything in close association with the spirits of their ancestors. The SA acknowledges that rituals are performed under the groves of Sal trees (also called *Jaher*) where the *Bonga* is believed to express himself.²³¹ While the SA and TDP briefly mention that STs have distinct religious and cultural practices, they fail to capture the cultural richness of Santhal and Ho. The documents do not explain in detail what their cultural and religious practices are and make no distinction among the practices of both Santhal and Ho. Absent site-specific social assessment and analysis of impact, these cultural and religious practices were not considered in the site selection or design of the Bagbera WTP and ESR near Purani Basti, and significant harm to tribal way of life resulted.

167. **Impact on Cultural Festivals.** Community members asserted that construction of the Bagbera WTP in its current location disrupted periodic Santhal rituals and the organization of community festivals and feasts. They explained that the festivals held on Giddhi Jhopri Hill are culturally important and serve to renew their social relationships with neighboring Santhal habitations. Such social relationships often promote marriages between the various exogenous clans.

168. In Purani Basti, the Panel team heard from community members that the *Gota Pooja* annual celebration and the *Jaher Dungri* sacrificial ceremony and feast held every five years take place on the ESR site. The Panel learned that the cultural significance of the site attracted people from outside the community who travel to participate in these celebrations. The team heard that during the *Gota Pooja*, community members place an egg on the ground and all cattle are let loose. The person whose cow breaks the egg wins good fortune for the next year’s harvest.

169. Community members worried where people would keep their cattle during the festivities, now that there is less space at the site due to the ESR near Purani Basti. They also mentioned that the ESR has reduced the space available for community events, such as the annual soccer tournament organized in the same field. While the Panel recognizes that the area available for the community has diminished, as evidenced by photographs presented by the Requesters, the team observed there is still land available to perform different cultural practices at the site.

170. The Panel understands that while the SA recognizes that Scheduled Tribes celebrate different festivals and provides a list of them, it does not explain their significance or traditions or how these festivals might be affected by the Project. The TDP has no information on cultural festivals and practices and whether this cultural heritage is material to their identity. Absent such assessments, no measures were proposed to avoid impact on cultural festivals.

171. **Impact on Cultural Use of Natural Resources.** During its visit, the Panel team observed that the Bagbera WTP reduced the size of the goat pasture on the Giddhi Jhopri hilltop, but there is still grazing land available near the WTP as pointed out by the first Management Response. The

²³⁰ Jharkhand Tribal Development Plan, March 2013, Executive Summary, p. 7. and Social Assessment, Capacity Building and Communication, Framework for the Rural Water Supply & Sanitation Project in Jharkhand, p. 12.

²³¹ Social Assessment, Capacity Building and Communication, Framework for the Rural Water Supply & Sanitation Project in Jharkhand, p.28.

Panel understands that most tribal community members are daily laborers and that goats provide valuable sustenance and supplemental income. The Panel also notes that the impact on grazing was not assessed in Project documents.



Photo 9: Goats grazing on the Bagbera WTP hill.

172. The Panel also observed several traditional medicinal herbs growing on Giddhi Jhopri Hill which according to community members are used for treatment, including of headaches, post-pregnancy maladies, colds and insect bites. The Panel notes that there is now a reduced supply of these herbs due to loss of habitat caused by construction of the Bagbera WTP.



Photo 10: Shrub growing on the hill of the Bagbera WTP site used for traditional medicinal purposes.

173. The Panel saw the red mud that the Santhal use for beautifying their house walls and sanitizing their house floors. The community told the Panel that Giddhi Jhopri Hill was the sole source of this culturally significant mud, mined by the Scheduled Tribes of Giddhi Jhopri and five adjoining habitations. The Panel noticed that the perimeter wall of the Bagbera WTP restricts access to the red mud on the hilltop. The first Management Response states that efforts would be made to ensure the mud is made available by the Contractor.²³² However, neither the Contractor nor the community were aware of this arrangement, and the Panel team saw no evidence that mud was being made available to local people. The Contractor told the team that material excavated from the site belongs to the Ministry of Mines and would be auctioned to the highest bidder.



Photo 11: Santhal wall paintings using red mud.

174. The Panel notes Project documents do not evaluate the customary use of natural resources neither for the Project nor for the specific MVSs location. No mention is made of tribal use of medicinal herbs or red mud. Other than stating that Santhal and Ho are agriculturalist, Project documents do not recognize local goat husbandry. As these important resources and practices were omitted from Project documents, they were not assessed at site level and no measures were planned to mitigate impact on them.

175. The Panel notes that the Social Assessment and Tribal Development Plan do not adequately assess the customary use of natural resources, religious practices or cultural festivals of Santhal and Ho tribes. **The Panel finds that Management did not ensure the identification and mitigation of the impact on customary use of land, resources and sites that hold cultural significance to the affected tribal communities near the Bagbera Water Treatment Plant and Elevated Storage Reservoir near Purani Basti in non-compliance with Bank Policies on Environmental Assessment (OP/BP 4.01), Indigenous Peoples (OP/BP 4.10) and Physical Cultural Resources (OP/BP 4.11).**

²³² Management Response to first Request for Inspection, Annex 1, p. 3.

Measures to Include Indigenous Peoples in Project Benefits

176. As discussed above, Project documents envisioned no harmful impact on tribal communities, and considered exclusion of those communities from Project benefits to be the main Project risk. The TDP explains that “[t]ribal villages are scattered and some [are] located in inaccessible areas with inadequate road connectivity.”²³³ It states that “[h]and pump and wells are the most predominant drinking water sources in the tribal areas” but notes that these sources lack regular maintenance and are drying up due to depletion and the dropping of water tables.²³⁴

177. To address the risk of exclusion, the TDP states the “tribal habitations will receive priority in participation of the project” and that “all tribal settlements in a project district will automatically be eligible to participate in the project.”²³⁵ The TDP explains the Project’s focus on empowering tribal institutions and fostering community-driven development, and includes measures for awareness-raising among community members, community participation in planning and selecting technological options, ensuring equity in access to water, and building the capacity of local leaders and officials to operate and maintain the schemes.²³⁶ However, the Panel notes that differentiation is not adequately made on how to operationalize the community-driven development approach in SVSs versus MVSSs, which may involve several GPs, many more beneficiaries and include mixed communities.

178. The Panel notes that the 2018 TDIP contains clear and emphatic language related to respecting tribal culture, language and rights under the Constitution and the Panchayat Raj Extension to Scheduled Areas (PESA) Act. It also describes several measures aimed at ensuring that tribal peoples receive culturally appropriate Project benefits. These include targeting tribal populations in the selection of schemes, having tribal representation in the institutions responsible for implementing water and sanitation services, developing IEC tools in tribal languages and that take into account tribal culture, building the capacity of tribal peoples to implement the schemes, and ensuring that the technological options consider traditional knowledge and practices and are discussed with tribal populations. The document presents a framework to monitor and evaluate the implementation of these actions.

179. The TDIP workplan shows that most of these measures were to be carried out by the SPMU and the DPMU between August 2018 and July 2019.²³⁷ This includes preparing district-level TDIPs, mapping of relevant government departments and non-governmental organizations (NGOs) working on tribal issues, developing IEC materials in tribal languages, mapping of tribal leaders, and training of tribal VWSC members and *Jal Sahiyas*. The Panel notes that these measures would have been useful in the selection and preparation of the sub-projects and the process of consultation with affected tribal communities. However, they were proposed too late to be relevant since the TDIP was finalized two years after construction of the MVSSs had started.

180. The Panel recognizes that tribal communities in Jharkhand have less access to basic services—including piped water—than the rest of the population. The Panel also realizes that,

²³³ Jharkhand Tribal Development Plan, March 2013, p. 9.

²³⁴ Ibid., p. 10.

²³⁵ Ibid., p. 12.

²³⁶ Ibid., p. 11.

²³⁷ Tribal Development Implementation Plan for ‘Neer Nirmal Pariyojna’ (RWSSP-LIS), July 2018, pp. 26-31.

given their history of exclusion, the risk of tribal communities not benefiting from the Project was legitimate and worthy of attention. The measures envisioned in the TDIP to ensure that Project activities target tribal communities were appropriate. Nevertheless, most of these measures were either not implemented or were only implemented after site selections had been made and construction works had started, which effectively weakened or canceled their value. In addition, by presuming that improved access to service is always beneficial and a paramount objective, the Project did not consider that it might adversely affect tribal communities and their way of life due to the locations of the infrastructure or an initial resistance to imposed social change.

3.4.2 Consultation and Disclosure of Social Safeguard Instruments

181. During its visit, the Panel team heard repeated complaints that community members had not been consulted prior to key Project-related decisions and had not been able to access Project documents. The Panel therefore reviewed the consultations and disclosures of information of the safeguard documents as explained below.

182. ***Social Management Framework and Social Assessment.*** The SMF states that its development was based on a consultative process that engaged key stakeholders and sought their feedback at the national, state and local levels. Public meetings were conducted by the SA teams in all four states and in a few selected villages.²³⁸ According to the SMF, the SAs and TDP were disclosed on the websites of the central and state governments. The SMF states that a summary translated into local language was reportedly disseminated throughout Project districts. Disclosure at the community level would take place “*as a village entry activity with leaflets printed in the local language and distributed.*”²³⁹ An annex to the SMF includes consultation details per state, and lists the location, date and the type of person or group interviewed, as well as similar details about FGDs in different villages. However, after reviewing these records the Panel remains uncertain if adequate tribal participation was ensured in these consultations.

183. The SA explains that it was based on a participatory approach and consultations with stakeholders were ensured during all stages of the SA. In the process of preparing the SA, 30 FGDs with the rural community, 30 FGDs with women and self-help group members and 30 key informant interviews with GP representatives were reportedly conducted, and in-depth interviews were held with block and state counterparts.²⁴⁰ Discussions with the VWSCs, Jal Sahiyas, NGOs and academic institutions also took place.²⁴¹ A list of the stakeholders consulted was disclosed on the SPMU website as a stand-alone document, but it is not included in the SA.²⁴² The SA states that FGDs with community members took place in five districts of Jharkhand, including East Singhbhum, but does not list the dates of these meetings. Neither the SA nor the SPMU list mention how many tribal community members participated in the FGDs or consultations.

²³⁸ Social Management Framework, April 2013, p. 20.

²³⁹ Ibid., p. 5.

²⁴⁰ Social Assessment, Capacity Building and Communication, Framework for the Rural Water Supply & Sanitation Project in Jharkhand, p. 5.

²⁴¹ Ibid., p.24.

²⁴² Stakeholders consulted: Social Assessment, Capacity Building and Communication Framework for the Rural Water Supply and Sanitation Project in Jharkhand, 2013. Available at:

<http://112.133.209.136:8000/NNP/Docs/Stakeholder%20Consultation%20for%20SMF.PDF>

184. **Tribal Development Plan.** The Panel analyzed the consultations held during preparation of the TDP. The TDP states that, as part of the SA, stakeholder consultations were undertaken and that these raised significant issues. For the preparation of the TDP, consultations with community members took place in sample villages and included VWSC members, ward members, traditional village heads and elected PRI members—including the *Mukhiya*. Discussions were held with district officials in all five sample districts and involved NGO representatives, development professionals and prominent local leaders. At the state level, SPMU officials, local and international NGOs, development professionals, academics and training institutes were all consulted. In addition, meetings were held with tribal development officials.²⁴³

185. According to the TDP annex, consultations took place in Ranchi in January and February 2013 in five districts—including East Singhbhum—and in four villages in February 2013.²⁴⁴ The Panel understands that framework documents are generally not informed by consultations with all potentially affected communities and, in this case, it did not include the Requesters' villages. The TDP Annex includes the types of stakeholders that participated in the meetings. As the TDP contains neither attendance sheets nor information on the number of attendees, the Panel cannot determine how many tribal organizations, leadership and community members participated.

186. The TDP summarizes the main concerns raised in consultations, among them the need to (i) include tribal populations, who live in hilly areas and difficult terrains, (ii) subsidize or waive the cost of individual water connection installation, (iii) train *jal sahiyas* and develop effective, community-based approaches to performing operations and maintenance work, (iv) customize strategies for tribal areas, (v) consider sociocultural factors in consultation with community members when selecting technology, and (vi) create awareness of sanitation, water use and conservation. However, it is unclear to what extent or how the concerns raised were incorporated in the finalization of the TDP, or whether they influenced Project design.

187. The Panel notes that the TDP does not explain the methodology used in the consultations and contains no information on how participants were invited, the format of meetings, or the documentation that was shared with participants. The Panel also notes that the TDP does not adequately map the main tribal stakeholders at the different sites, including the specific tribal leaders and representative organizations that must be involved in the consultation process during the different stages of implementation of the two MVs.

188. Regarding the accessibility of information, the Panel understands that most Project documents were only available in English, despite the facts that Hindi is predominantly spoken in Jharkhand and most community members with whom the Panel met also speak Santhali or Ho. The Management Response states the Hindi version of the EA-EMF executive summary was circulated to GP members, self-help groups and government staff, but Management could not confirm the disclosure of the Hindi summaries of the EA-EMF, SMF and TDP in Jharkhand.²⁴⁵ The English version of the TDP was disclosed in the World Bank's Infoshop in April 2013.²⁴⁶ It was also posted on the DWSD's website in April 2013,²⁴⁷ but that website was taken offline by

²⁴³ Jharkhand Tribal Development Plan, March 2013, pp. 41-42.

²⁴⁴ Ibid., pp. 69-70.

²⁴⁵ Ibid., p. 7.

²⁴⁶ Submission Form – Disclosure of Environmental and Social Operational Documents to Infoshop.

²⁴⁷ Submission Form – Disclosure of Environmental and Social Operational Documents to Infoshop.

the end of 2015 and the document was only publicly disclosed again after the Panel received the Requests.²⁴⁸ Hence, the Panel notes there were significant shortcomings in disclosing information, both in terms of the cultural adequacy of the information provided and the availability of Project documents.

189. ***Tribal Development Implementation Plan.*** The Panel reviewed the TDIP's consultation process. The TDIP states that it was prepared in March 2015 following field visits to Project villages and district- and state-level workshops involving government officials, traditional leaders, NGOs and academics.²⁴⁹ The TDIP provides no information on which villages and habitations were included in the field visits. A document shared by Management mentions that district-level consultation workshops were held during December 2014 and January 2015.²⁵⁰ A state-level workshop involving traditional leaders, government representatives, NGOs, academics and Bank experts took place February 26-27, 2015.²⁵¹ Management explains that an 11-member core working committee was formed at this state-level consultation to finalize the TDIP, and that this committee met in March 2015. A seminar was held at the state level on June 17, 2015, to discuss the draft.²⁵² It is unclear whether subsequent consultations occurred before the approval of the TDIP in August 2018.

190. The TDIP summarizes the main issues raised during consultations, including the need to include tribal settlements in remote areas and to prioritize primitive tribal groups, the inclusion of the traditional governance system in Project arrangements, lack of trust in government schemes, the remoteness and quality of work and cultural aspects relating to water and sanitation in tribal settlements.²⁵³

191. The Panel believes the TDIP consultations were inadequately documented, as the TDIP includes no attendance sheets with information about precise dates and participants or about which villages were visited as part of this exercise. In addition, it is unclear how these consultations were informed as there is no evidence that the TDIP was translated into Hindi or any of the tribal languages.

192. OP 4.10 requires the IPPF to include a framework for ensuring free, prior and informed consultation with the affected indigenous peoples' communities at each stage of project preparation and implementation. As per the policy, the IPP includes a summary of the results of the free, prior and informed consultations with affected indigenous peoples' communities that were carried out during Project preparation and that led to broad community support for the Project.

193. The Panel notes that no consultations were held in the *Gram Panchayats* of the Requesters' habitations during the preparation of the TDP for Jharkhand. Given the lack of site-specific TDPs, consultations with respect to this important policy document also did not take place with these affected tribal community members. Therefore, the Panel notes that free, prior and informed

²⁴⁸ Ibid., pp. 6-7.

²⁴⁹ Tribal Development Implementation Plan for 'Neer Nirmal Pariyojna'(RWSSP-LIS), July 2018, p.5.

²⁵⁰ Bank Management Note to Inspection Panel on Capacity Building – Review of Documents – Training – TDP Preparation with Consultations, July 2019.

²⁵¹ Ibid.

²⁵² Ibid.

²⁵³ Tribal Development Implementation Plan for 'Neer Nirmal Pariyojna'(RWSSP-LIS), July 2018, pp. 8-10.

consultations leading to broad community support for the Bagbera WTP and Purani Basti ESR were not carried out. As a result, important risks to tribal communities were overlooked and these communities were not provided key Project information before Project activities commenced. The affected tribal communities also told the Panel that they did not participate in the decision-making of the schemes and opposed its location.

194. The Panel finds shortcomings in the consultations and disclosure of the Social Assessment, Tribal Development Plan and Tribal Development Implementation Plan, including inadequate documentation of the consultation process, insufficient disclosure of information and lack of translation of key Project documents into Hindi and tribal languages in non-compliance with Bank Policy on Indigenous Peoples (OP/BP 4.10). In addition, the Panel finds that Management did not ensure a process of free, prior and informed consultations with affected tribal communities in Giddhi Jhopri and Purani Basti in the absence of site-specific Tribal Development Plans in non-compliance with Bank Policy on Indigenous Peoples (OP/BP 4.10).

Chapter 4: Site Selection Requirements and Assessments

4.1 Introduction

195. This chapter examines the site selection process, required consultations and decision-making that led to the siting of the Bagbera WTP and the ESR near Purani Basti. It analyzes retaliation against community members in the two locations. It explores the communities' concerns that the Project is part of a larger plan to expand the boundaries of adjacent Jamshedpur City and incorporate the tribal habitations into an urban area. The chapter concludes with an analysis of the GRM.

4.2 Requests for Inspection and Management Responses

Requests for Inspection

196. *Site selections.* The Requests argue that the site selection process inadequately analyzed alternative sites that could have minimized environmental impact, and that no assessment was conducted specifically to evaluate the impact of the MVSs on indigenous peoples. They also contend they were not consulted on the site selection and construction of the facilities and were not party to the decision-making.

197. The first Requesters allege that the wrong *Gram Sabha* was consulted, and that the relevant habitation's *Gram Sabha* in Giddhi Jhopri has not consented to construction of the WTP on its current site. Since the habitation-level *Gram Sabha* decides on any development and any decision regarding community lands in Scheduled Areas, the Requesters consider the Bagbera scheme unconstitutional. They claim that most community members only learned about the site when the local Government came to a neighboring village with the police to "*reportedly coerce the villagers into giving their consent for use of their sacred grove for the water treatment plant.*"²⁵⁴ They further allege that women from their habitation were not involved in any consultation, even though a justification for the Project is that women bear the burden of collecting water and must travel far to do so.²⁵⁵

198. The second Requesters similarly allege that their habitation-level *Gram Sabha* did not consent to construction of the ESR near Purani Basti and that, in fact, they passed several resolutions opposing it. They state, "*little attempt has been made to take community views into account even though construction of a key component of the scheme is happening on land to which the community has deep historical and cultural ties.*"²⁵⁶ According to the Requesters the ESR near Purani Basti "*has been forced upon the communities despite their vehement opposition.*"²⁵⁷

199. Both Requests complain that the Santhal *Majhi-Pargana* and Ho *Munda-Munki* tribal governance systems "*were completely sidestepped*"²⁵⁸ during implementation of the schemes.

²⁵⁴ First Request for Inspection – Supplement to Request for Inspection, p. 8.

²⁵⁵ *Ibid.*, p. 8.

²⁵⁶ Second Request for Inspection, p. 12.

²⁵⁷ First Request for Inspection, Supplement to Request for Inspection, p. 18 and second Request for Inspection, p. 14.

²⁵⁸ First Request for Inspection – Supplement to Request for Inspection, p. 19.

200. **Retaliation.** The first Requesters explain that community members initially learned that the Bagbera WTP was being constructed on their sacred ancestral land when the construction machines arrived at the site. When people raised their concerns, the Requesters allege that state police officers beat and threatened them.²⁵⁹ In addition, they claim that after this incident many community members have had difficulty obtaining official “character certificates,” from law enforcement authorities, which are needed in India for various purposes, including securing employment.²⁶⁰

201. The second Requesters also express fear of retaliation. They claim community members were threatened with “*dire consequences*” when they tried to protest the construction of the ESR near Purani Basti on their land.²⁶¹

202. **Expansion of Jamshedpur City Limits.** The Requesters shared their concern that the MVSs are part of a larger plan to expand the boundaries of adjacent Jamshedpur City and incorporate their lands into the growing urban area. They believe this would erode legal protections—relating to control over land and water resources—they currently enjoy as a rural, indigenous community.²⁶²

Management Responses

203. **Site selection.** The first Management Response explains that the site initially selected for the Bagbera WTP in 2012 was on government land in the Purvee Ghaghidih GP. Following the opposition of local residents who claim to use that land as a place of worship, the district authorities moved the location to the current site. According to the Response, district authorities identified the current WTP site, which is located on a hilltop on government land north of the Giddhi Jhopri habitation and southwest of the Ranidih habitation. Management explains that without habitation-level maps it is impossible to identify whether the site clearly lies within the informally-agreed land usage area of Giddhi Jhopri or Ranidih.²⁶³

204. The second Management Response explains that the ESR near Purani Basti is located on government land registered as “*uninhabited*” by the State of Jharkhand. Since a land No Objection Certificate (NOC) for the ESR could not be found, district authorities asked the circle officer²⁶⁴ to issue one, which happened on December 21, 2018.

205. Management recognizes that local decision-making in tribal areas includes relevant units of local governance, not only through a *Gram Sabha* of the formally constituted GP but also by involving the *Gram Sabhas* of the habitations.²⁶⁵ Management acknowledges that the residents of Giddhi Jhopri were not present at the GP-level *Gram Sabha* that endorsed the Bagbera MVS site at a meeting held in February 2016 in Ranidih. Management explains that there are conflicting

²⁵⁹ Ibid., p. 16.

²⁶⁰ Ibid., p. 12.

²⁶¹ Second Request for Inspection, p. 2.

²⁶² Ibid., p.6.

²⁶³ Management Response to the first Request for Inspection, Annex 1, p. 0.

²⁶⁴ The circle officer is a district level official responsible for transfer/settlement/ lease of government land and monitoring the execution of tenancy and other revenue laws within the jurisdiction of the district.

²⁶⁵ Management Response to the first Request, p. 9, para 35.

accounts on whether residents were formally invited to the meeting and is unable to confirm one way or another.

206. As mentioned in Chapter 3, Management explains that the district Government conducted three consultations with community members, including one in February 2016 soon after the change of Bagbera WTP location, but that these consultations were not properly recorded through minutes and attendance sheets. Management acknowledges that there remains significant disagreement among community groups about the site location. Given these divisions in the community, and weaknesses in the documentation of the consultation process, Management explains it “*is not able to confirm unambiguously that broad community support, as required by OP 4.10, was achieved.*”²⁶⁶

207. The second Management Response admits that “*no Gram Sabha (community assembly) was held at the Gram Panchayat level to provide the community’s “no-objection” to the siting of the ESR [near Purani Basti associated with the Chhotagovindpur MVS].*”²⁶⁷ Management explains that since DPMU officials learned about opposition to the siting of the ESR in 2015, they have organized several consultations with affected communities, but it is unclear whether residents of Purani Basti participated in these meetings. Despite these efforts, given the alleged disagreements in the community and weaknesses in the documentation of the consultation process, Management again “*is not able to confirm unambiguously that broad community support, as required by OP 4.10, was achieved.*”²⁶⁸

208. Management points out that significant efforts were taken to ensure consultations among affected communities on the decision to develop the Bagbera and Chhotagovindpur MVSs and that these decisions were driven by strong demand across participating GPs. However, Management acknowledges that “*there appear to have been weaknesses in consultation and its documentation at the level of [the first and second Requesters’] habitation[s].*”²⁶⁹

209. **Community Opposition and Retaliation.** The first Management Response does not directly address the retaliation allegations. However, it does mention two incidents involving the police when works started in 2016 and cites press reports about another protest by tribal community members in front of the deputy commissioner’s office. The Response confirms that the Project’s 2016 MTR highlighted the constant opposition by tribal community members and the gaps in consultation during the planning of the alternative WTP site. Management recommended at the time that the DPMU engage with local residents to address their concerns. Management admits that “*more proactive actions with the Project authorities should have taken place to follow up on agreed actions and to appropriately understand and address what appears to be significant resistance to the construction of the WTP[...].*”²⁷⁰ According to its second Response, Management has made clear that the Bank does not tolerate retaliation and will continue to work with the Government to ensure it does not occur.²⁷¹

²⁶⁶ Management Response to the first Request for Inspection, p. 10, para 36.

²⁶⁷ Management Response to the second Request for Inspection, Executive Summary, p. vii, para xii.

²⁶⁸ Ibid., p. viii, para xiii.

²⁶⁹ Ibid., p. vii, para xii.

²⁷⁰ Management Response to the first Request for Inspection, p. 11.

²⁷¹ Management Response to the second Request for Inspection, p. 18, para 62.

210. *Expansion of the Jamshedpur City Limits.* Management understands the Requesters' concerns regarding urban expansion and their fear of losing certain legal protections afforded to them as Scheduled Areas if they are merged with the city. However, the Response contends there is no link between the draft master plan to expand the Jamshedpur urban area and this Project, and that the aim of the Project is to provide water to rural communities.²⁷²

4.3 Bank Policies

211. The Bank Policy on Environmental Assessment (OP/BP 4.01) states that *"the Bank requires environmental assessments of projects which are proposed for Bank financing to help ensure that they are environmentally sound and sustainable, and thus to improve decision making."*²⁷³ According to the policy, the environmental assessment evaluates potential risks and impact in the project's area of influence, examines project alternatives, and identifies ways of improving project selection, siting, design and implementation *"by preventing, minimizing, mitigating, or compensating for adverse environmental impacts and enhancing positive impacts."*²⁷⁴

212. The World Bank's Environmental Assessment Sourcebook is explicit about the need for the EA to inform the decision-making process on a project. It states that *"the Bank directive integrates EA or other environmental analysis into project preparation, including project selection, siting, and design decisions. ... This facilitates incorporation of the findings into selection of sites and technology, designs and implementation plans."*²⁷⁵

213. The World Bank Policy on Indigenous Peoples (OP/BP 4.10) is explicit about a project's need for broad community support by the affected indigenous peoples. The policy states that *"the Bank provides project financing only where free, prior, and informed consultation"*²⁷⁶ *results in broad community support to the project by the affected Indigenous Peoples."*²⁷⁷ It also states that *"[t]he Bank does not proceed further with project processing if it is unable to ascertain that such support exists."*²⁷⁸ BP 4.10 requires the Bank to help the borrower carry out the aforementioned consultations with the affected indigenous peoples' communities recognizing existing indigenous peoples' organizations/institutions, including tribal leaders throughout the project cycle.²⁷⁹ It also requires consultation process to start early since decision-making among indigenous peoples may be an iterative process.²⁸⁰

²⁷² Management Response to the second Request, p. ix.

²⁷³ OP 4.01 – Environmental Assessment, para 1.

²⁷⁴ Ibid., para 2.

²⁷⁵ The World Bank, Environmental Assessment Sourcebook, 1991. Volume 1. Washington, DC, p. 2, para 8.

²⁷⁶ OP 4.10 – Indigenous Peoples, footnote 4 – "Free, prior, and informed consultation with the affected Indigenous Peoples' communities" refers to a culturally appropriate and collective decision-making process subsequent to meaningful and good faith consultation and informed participation regarding the preparation and implementation of the project. It does not constitute a veto right for individuals or groups" (OP 4.10, footnote 4) and BP 4.10, para 2(a) "Free, prior, and informed consultation" is consultation that occurs freely and voluntarily, without any external manipulation, interference, or coercion, for which the parties consulted have prior access to information on the intent and scope of the proposed project in a culturally appropriate manner, form, and language (BP 4.10).

²⁷⁷ OP 4.10., para. 1.

²⁷⁸ Ibid., para 11.

²⁷⁹ BP 4.10 – Indigenous Peoples, para 2.

²⁸⁰ Ibid.

214. Regarding the GRM, OP 4.10 Annex B states that in projects affecting indigenous peoples, the IPP must include accessible procedures appropriate to the project to address grievances of indigenous peoples. These procedures must consider the availability of customary dispute settlement mechanisms.²⁸¹

4.4 Panel Observations and Analyses

4.4.1 Site Selection Process and Decision-making

Decision-making Requirements in Project Documents

215. During its visit, the Panel heard repeated complaints about the locations of the Bagbera WTP and ESR near Purani Basti and about the adverse cultural impact of constructing this infrastructure, as analyzed in Chapter 3. In both locations tribal community members reported they did not participate in the decisions to locate the infrastructure at its current sites and did not agree to them.

216. The Panel notes that the Requesters' habitations are located in East Singhbhum, which is recognized by the Government as a Scheduled Area and in which special constitutional protections apply.²⁸² The 2013 TDP includes a substantive review of the legal and institutional framework governing tribal development and water and sanitation activities in Jharkhand. It analyzes legal provisions that safeguard tribal rights and development such as the Chhota Nagpur Tenancy Act of 1908, the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act of 2006, the Scheduled Castes and Scheduled Tribes: (Prevention of Atrocities) Rules of 1995, and the provision of Scheduled Areas under the Fifth Schedule of the Constitution and PESA Act.²⁸³ The TDP lists the constitutional provisions safeguarding the interests of tribal communities and notes that, in order to protect the interests of the Scheduled Tribes, the provision of "Fifth Schedule" is enshrined in the Constitution under article 244 (2).²⁸⁴

217. According to the TDP, to strengthen democratic institutions at the grassroots level and empower people to enjoy effective participation in local governance, the Constitution's 73rd and 74th amendments of 1992 were later extended, with separate provisions to the Scheduled Areas as well through the PESA Act of 1996.²⁸⁵

218. The TDP states that with the PESA Act, the Panchayat Raj Institutions bodies at village levels have been vested special functional powers and responsibilities to (i) ensure effective participation of tribal people in their own development, and (ii) help preserve and conserve traditional rights over natural resources. The TDP explains that unlike other areas, where the

²⁸¹ OP 4.10 – Indigenous Peoples, Annex B, para 2(h).

²⁸² Scheduled Areas (State of Jharkhand), Order 2007. Available at: [https://tribal.nic.in/DivisionsFiles/NCST-RM/NCST/7TheScheduledAreasJharkhand\)Order2007\(C_O_229\)-11042007.pdf](https://tribal.nic.in/DivisionsFiles/NCST-RM/NCST/7TheScheduledAreasJharkhand)Order2007(C_O_229)-11042007.pdf)

²⁸³ Jharkhand Tribal Development Plan, March 2013, pp. 28-36.

²⁸⁴ Jharkhand Tribal Development Plan, March 2013, p. 29., Section 3.2.4 – "According to the TDP, the Fifth Schedule under article 244 (2) of the Constitution defines "Scheduled Areas" as such areas as the President may by Order declare to be Scheduled Areas after consultation with the governor of that State. The criteria for declaring any area as a "Scheduled Area" under the Fifth Schedule are: preponderance of tribal population, compactness and reasonable size of the area, available administrative entity such as district, block or taluk, and economic backwardness of the area as compared to neighboring areas."

²⁸⁵ Ibid., p.32.

revenue village is the basic unit, in tribal areas the Project must consider the habitation as the primary management unit.²⁸⁶ The TDP also explains that in the context of the PESA Act, the definition of “village” refers to a smaller area, normally the habitation.²⁸⁷

219. The TDP adds that every village (understood as the habitation in the tribal context and not the revenue village) shall have a *Gram Sabha* consisting of people whose names are included in the electoral rolls for the Panchayat. The TDP notes that the village *Gram Sabha* is not the *Gram Panchayat Gram Sabha*. According to the TDP, Section 10 of the PESA Act defines the powers of the village *Gram Sabha* to include managing natural sources such as land, water and forests falling within the limits of the village area under the Constitution and other relevant laws then in force.²⁸⁸ Under the PESA Act, the village *Gram Sabha* also safeguards and preserves the traditions and customs of the people, their cultural identity, community resources and the customary modes of dispute resolution.²⁸⁹ The TDP points out that as per the PESA Act, any proposal or plan presented by the *Gram Panchayat* (which comprise many habitations/villages, including tribal, non-tribal and mixed habitations/villages) requires prior consultation and approval by the village (understood as habitation) *Gram Sabha* before being taken up for implementation by the *Gram Panchayat*.²⁹⁰ The TDP emphasizes that in Scheduled Areas “*a tribal habitation/village will be responsible for planning, procuring, operating and maintaining water supply and sanitation activities.*”²⁹¹

220. The TDIP includes similar analysis of the legal framework and decision-making process required in tribal areas. The document specifically acknowledges that in Scheduled Areas approval of the habitation *Gram Sabha* is needed to proceed with water and sanitation schemes: “[I]nfrastructure relating to water supply and sanitation schemes will be made in consultation with tribal community and taking their consent.”²⁹² It also points out that “*the community will decide upon the place of construction and land availability and the consent of villagers will be taken in written (sic) by more than 2/3 of all villagers present and signed in a Gram Sabha.*”²⁹³ The document further recognizes the importance of carrying out habitation-level entry point activities during the pre-planning phase for building rapport with the communities.²⁹⁴

221. The TDP recognizes that in tribal areas the traditional governance systems of the *Munda-Manki* in Ho areas and the *Majhi-Pradhan* in Santhal areas have substantial influence. The TDIP also recognizes the role of the traditional governance system in Scheduled Areas. It notes that failure to involve the traditional governance system in the institutional arrangement of the Project may lessen representation and participation of tribal people. In order to address this risk, the TDIP states that “*the Gram Pradhan/Majhi Hadam/Munda/Pahan will be made patron of the project.*”²⁹⁵ The TDIP explains tribal leaders will be involved in all aspects of project implementation such as preparation of the beneficiary list, collection of operational and maintenance costs and monitoring

²⁸⁶ Jharkhand Tribal Development Plan, March 2013, p. 36.

²⁸⁷ Ibid., p. 45.

²⁸⁸ Ibid., p. 34.

²⁸⁹ Ibid., p. 46.

²⁹⁰ Ibid., p. 46.

²⁹¹ Ibid., p. 11.

²⁹² Tribal Development Implementation Plan for ‘Neer Nirmal Pariyojna’(RWSSP-LIS), July 2018, p. 19.

²⁹³ Ibid., p. 19.

²⁹⁴ Ibid., p. 18.

²⁹⁵ Ibid., p. 12.

construction. According to the TDIP, tribal representation in the VWSC would be ensured in areas with a mixed population.²⁹⁶

222. The TDP also requires the Detailed Project Reports to be prepared through a consultative process involving all stakeholders.²⁹⁷ It requires that details about the water supply delivery choices considered and the discussions thereof be included in the DPR.²⁹⁸ The TDP notes that consultations would be carried out during the project cycle for estimating land requirements, selecting locations, building capacity of different stakeholders and implementing IEC activities.²⁹⁹

223. However, the Panel notes that little effort was made to ensure that the DPRs were disclosed to the public. It also notes that free, prior and informed consultations should have occurred as part of the DPR preparation, particularly with tribal populations living adjacent to the sites, but did not occur in Requesters habitations. Management acknowledged in the July-August 2016 Mid-Term Review that: *“During planning, due to deferred social actions, no social review of the DPRs was taken up. No consultations on DPRs were conducted and recorded.”*³⁰⁰

Site Selection Process

224. Both Management and the Government are of the view that the locations of the Bagbera WTP site and Purani Basti ESR are registered as “uninhabited government land.” Government officials, however, attest that land records in East Singhbhum have not been updated since 1964 and this most recent survey did not assess tribal customary land use, which was done in the colonial period.

225. In a supplemental document provided to the Panel on August 27, 2019, the Requesters allege that the characterization of the Bagbera and Chhotagovindpur sites as “government land” is an oversimplification.³⁰¹ They argue that the classification of the land as “Anabad Bihar Sarkar” or “common property resources of a village” means that such land belongs to the inhabitants of the village as a whole. According to them, *“neither the government nor anybody from the village can encroach this land and the land cannot be used for anything other than the usage which was decided upon.”*³⁰² They indicate that this land belongs to the relevant *Gram Sabha*.

226. The Requesters explain that community land of tribal communities “is recorded as government land in survey and settlement operations [...]”.³⁰³ They also explain that records of customary usage practices were never prepared for Singhbhum area and because these lands were not fully surveyed, they would be registered as government land. They argue that the Chhota Nagpur Tenancy Act prohibits the transfer of land from tribal to non-tribal communities and that *“[t]he failure of the government to record common property resources of Adivasi has been repeatedly exploited to alienate indigenous land to non-indigenous land.”*³⁰⁴

²⁹⁶ Tribal Development Implementation Plan for ‘Neer Nirmal Pariyojna’(RWSSP-LIS), July 2018, p. 16.

²⁹⁷ Jharkhand Tribal Development Plan, March 2013, p. 53.

²⁹⁸ Ibid., p. 51.

²⁹⁹ Ibid., p. 53.

³⁰⁰ Aide memoire – Mid-Term Review Mission, July 25, 2016- August 5, 2016, p. 88, para 29.

³⁰¹ Supplemental document provided by the Requesters, August 27, 2019, p. 2.

³⁰² Supplemental document provided by the Requesters, August 27, 2019, pp. 3-4.

³⁰³ Supplemental document provided by the Requesters, August 27, 2019, p. 4.

³⁰⁴ Ibid.

227. The Panel team understands from the DPMU and Contractor that the following factors were taken into account for MVS site selection: that the Project beneficiaries would be contributors towards the capital cost of the water supply scheme; that consultations leading to *Gram Sabha* approval take place; that the Project be implemented on government land; that it would be technologically feasible; and that it is not a historical, religious, or burial site. Furthermore, residents of habitations in the vicinity should be considered for employment during the construction and later operation and maintenance of the plant.

228. In Giddhi Jhopri, the Requesters and other community members told the Panel team they were not consulted on the selection of the current location of the Bagbera WTP site—located in what they consider their community land. One community leader expressed the sentiment that a “*beautiful WTP could have been built*” that would work for everybody if they had participated in the decision-making process. They felt that the WTP had been imposed on them and that they had no opportunity to voice their opposition or propose alternatives.

229. The DPMU and the Contractor informed the Panel that three sites were originally considered for the Bagbera WTP based on the availability of government land. The first proposed site—near Matladih, was ruled out due to unfavorable environmental and technical conditions. The second proposed site was also in Matladih—approximately three kilometers from the Giddhi Jhopri Hill site—and Matladih community leaders reported they were approached by the government in 2011 to discuss it. This site choice was met with local opposition who said the land was used for festivals and football. The Contractor explained that, beyond these objections, local encroachment made the site too small, and it faced technical challenges at the water source intake. The community offered use of another area instead, but this was determined to be too small for the WTP. Although the second location was rejected partly due to the opposition of tribal community members, it seems that consideration of cultural impact was an afterthought rather than the result of prior consultation with tribal community members or ex ante assessment of cultural impact.

230. The DPMU and the SPMU told the Panel that Giddhi Jhopri Hill became the last available site, due to the requirement that government land be used. The Contractor described the site as less than ideal since it was located on a rocky hill, there was no access road and it imposed additional costs to excavate and stabilize the hill. Furthermore, it required changing the intake source and water supply route, which necessitated extra piping through government-owned forests and expensive digging beneath a railway line that required a NOC from the railroad authorities. The Contractor told the Panel that selecting the Giddhi Jhopri location increased their costs by 40 to 50 percent and delayed Project completion by 18 months.

231. The Panel notes that the contract for the construction of the Bagbera and Chhotagovindpur MVSs was awarded on June 25, 2015.³⁰⁵ A letter from the executive engineer to the circle officer dated October 29, 2015, states that NOCs had been received for the construction of the Bagbera WTP and ESR in Giddhi Jhopri (120m x 120m size) but local people were opposing the site because it is a religious place for the communities.³⁰⁶ A letter from the executive engineer to the sub-division officer of Dhalbum, East Singhbhum, dated October 31, 2015 also mentions that

³⁰⁵ Back to Office Report, April 4-7, 2016, para 3.

³⁰⁶ Letter from the Executive Engineer, DWSD to Circle Officer, Division Golmuri-cum-Jugsalai, October 29, 2015.

NOCs had been obtained for all sites, but unauthorized occupation of the WTP site in Giddhi Jhopri was obstructing commencement of works.³⁰⁷ On January 20, 2016, the circle officer provided another NOC for construction of the Bagbera WTP and ESR in the Giddhi Jhopri site based on a revised size area (80m x180m).

232. In Purani Basti, Santhal and Ho tribal community members told the Panel that the location of the ESR is tribal communal land, which has profound cultural significance to them. However, community members did not know how the ESR site near their habitation was selected and reported they were never consulted in the decision to build the ESR at the Purani Basti site.

233. The Panel heard from the South Sarjamda GP that selection of the ESR near Purani Basti site was done by the circle officer and the DPMU. Management and government officials informed the Panel team that the ESR is built on government land. The second Management Response explains that the ESR location site is registered as “uninhabited Jharkhand land,” as evidenced in the letter of authentication issued by the circle officer on May 26, 2012.³⁰⁸ However, Management recognizes that a NOC for the Purani Basti ESR could not be found and was retroactively issued in December 2018, after the first Request was received, and a few years after construction on the Purani Basti ESR had started.

234. The Panel notes that the site for the ESR near Purani Basti was selected based on availability of “uninhabited government land” and technical feasibility and did not include the required consideration of cultural impact, customary land use or *Gram Sabha* approval.

235. The Panel understands that while NOCs were required for major works, Project safeguards documents do not adequately assess the customary land use for infrastructure sites. The SA explains that lands would be required for: (i) water sources, (ii) water treatment plants, (iii) construction of ground level or overhead tanks, and (iv) water transmission and distribution pipelines. It also explains that preference would be given to use public lands, but if these were not available land would be acquired through voluntary land donation or outright purchase.³⁰⁹ Both the SA and the PAD present procedures to be followed in case of voluntary land donation.³¹⁰ Nevertheless, no Project documents envision impact on lands or resources customarily used by tribal people in Giddhi Jhopri and Purani Basti.

236. The DPMU was required to maintain land-related documentation but, as Management noted in several supervision reports, this did not take place.³¹¹ The Project’s MTR mentions several land-related grievances and that local government officials lacked understanding of applicable land acts, procedures, and identification of traditional and customary land-users and their rights.³¹² The Panel also has found no written record of alternative site analyses. Although the SPMU, DPMU and Management told the Panel team that multiple sites were considered, there appears to be no record of the selection or decision-making process that eventually led to the choice of the sites. Management offered the Panel limited explanation of the timing or the decision-making process.

³⁰⁷ Letter from the Executive Engineer to the Sub-Division Officer of Dhalbhum, East Singhbhum dated October 31, 2015.

³⁰⁸ Management Response to the second Request for Inspection, Annex 1, p. 23.

³⁰⁹ Social Assessment, p.62.

³¹⁰ PAD, p.45 and Social Assessment, p. 62.

³¹¹ Aide memoires – Fourth, Mid-Term, Sixth, Seventh, and Ninth Implementation Support Missions.

³¹² Aide memoire – Mid-Term Review Mission, July 25, 2016- August 5, 2016, p.87, para 23.

Without a formal record on the selection of sites, the Panel saw no evidence that the EA-EMF, TDP and TDIP requirements were followed regarding the analysis of social impact in the selection process.

Gram Sabha Approval

237. As explained above, the TDP and TDIP required *Gram Sabha* approval at the habitation level for any development projects implemented in tribal areas. Since *Gram Sabha(s)* are central to the decision-making process in the selection of the MVSs infrastructure locations, the lack of ensuring habitation level *Gram Sabha* approvals can be directly linked to the cultural harms experienced by tribal community members.

238. **Giddhi Jhopri.** The Panel notes that the January 2016 NOC issued by the government circle officer awarded for the WTP construction in Giddhi Jhopri was further conditioned on obtaining approval from the *Gram Sabha*. The NOC does not specify if this *Gram Sabha* needed to take place at the habitation or GP level. A meeting about the WTP site selection was called by the *Mukhiya* of Madhya Ghagidhi GP in Ranidih on February 6, 2016. This GP comprises four habitations including Giddhi Jhopri and Ranidih.³¹³ The meeting endorsed the Giddhi Jhopri Hill site for the WTP. The Panel understands, however, that no Giddhi Jhopri residents were present at that meeting, despite being directly affected by the Project, as acknowledged by Management.³¹⁴ Members of the GP told the Panel that they personally went to Giddhi Jhopri to invite community members to the meeting and that the meeting was also announced through the traditional *Dakua* system.³¹⁵

239. The Panel team heard from Giddhi Jhopri community leaders that they became aware that the NOC for the Giddhi Jhopri site had been awarded by the government circle officer through an article in the local newspaper in February 2016, whereupon they asked the local government to show them the *Gram Sabha* approval and expressed their opposition to the site. According to these community leaders, the authorities told them the location for the construction works had been approved, and the works would proceed. The first Management Response acknowledges that residents of Giddhi Jhopri asked the local Government to hold a *Gram Sabha* in Giddhi Jhopri, but that this request went unanswered.³¹⁶

240. The Panel understands that Management is unclear whether Giddhi Jhopri Hill lies within the informally-agreed land usage area of Giddhi Jhopri or Ranidih. Management's Response explains that there are no habitation-level maps to determine where the hill lies, but that the circle officer sent a letter to the Bank in November 2018 stating, "*it seems that the site would be in the Ranidih Hamlet.*"³¹⁷ However, Management also acknowledges that Giddhi Jhopri is closer and most affected by the WTP.³¹⁸

³¹³ Management Response to the first Request for Inspection, p. 5, Figure 1- *The four habitations are Jata Jhopri, Ranidih, Giddhi Jhopri, and Kitchi Tola.*

³¹⁴ *Ibid.*, Executive Summary, p.vi., para viii.

³¹⁵ The "*Dakua*" system involves bicycle messengers visiting different villages using traditional drum beatings, placards, and microphones.

³¹⁶ Management Response to the first Request for Inspection, p. 9, para 35.

³¹⁷ *Ibid.*, Annex 1, p. 18.

³¹⁸ *Ibid.*, Annex 1, p. 0.

241. During its visit, the Panel also observed that the Bagbera WTP is closer to Giddhi Jhopri. Residents of Giddhi Jhopri informed the Panel that it is only the Giddhi Jhopri community member who bury their dead on the hill and carry out different religious and cultural practices on this site. According to them, Ranidih communities never claimed this site as their “*common property resource*.” They also did not claim any customary use or practice in the hill. This was confirmed to the Panel by a community leader in Ranidih.

242. In a document shared with the Panel the Requesters stated that several government documents refer to the WTP location as “*Giddhi Jhopri Dungri (Giddhi Jhopri Hill)*.”³¹⁹ The Panel reviewed several governments issued by the DPMU including those from 2015 which confirm that the WTP is located in Giddhi Jhopri or on Gaghidih hill/Giddhi Jhopri.³²⁰ Giddhi Jhopri community members maintained that any development project on the hill would require consultation with and approval by the Giddhi Jhopri *Gram Sabha*. They added that this *Gram Sabha* should be presided over by the Majhi tribal leader, who, in their view, is the legitimate political representative at the habitation level. The community members in Giddhi Jhopri told the Panel that the Government did not seek approval from their *Gram Sabha*.



Photo 4: Traditional burial site on the Giddhi Jhopri hill.

243. The Panel notes that works on the Bagbera WTP started and proceeded without *Gram Sabha* approval at the habitation level, as required by the TDP. Management acknowledges that no systematic and documented consultations were held during the preparation of the site-specific EDS and DPR and that these documents have not been publicly disclosed to date.³²¹ The Panel

³¹⁹ Ibid., p.5.

³²⁰ Letter from the Executive Engineer to the Sub-Division Officer of Dhalbhum, East Singhbhum dated October 31, 2015 and Letter from the Executive Engineer, DWSD to Circle Officer, Division Golmuri-cum-Jagsalai, October 29, 2015.

³²¹ Management Response to the first Request for Inspection, p. 12, para 43 and Annex 1, p. 10.

notes that Management allowed the works on the Bagbera WTP to proceed despite the lack of broad community support from affected tribal communities for the location of the WTP and the fact that the NOC that was granted was conditional on obtaining *Gram Sabha* approval. This was known by local authorities since at least October 2015 and flagged by Management in its supervision reports since November 2015.³²² The opposition has also been widely reported in the local media since June 2016.³²³

244. The Panel recognizes that after months of opposition, meetings were held in Giddhi Jhopri, including in February, March, April and June 2016 and that a Multi-Village Water and Sanitation Committee (MVWSC) was formed in August 2017. However, the Panel notes that affected community members were not able to effectively participate in the design of the Bagbera WTP, since these meetings happened after decisions on the site had been made.

245. **Purani Basti ESR.** Community members from Purani Basti told the Panel that, since the ESR site was located on their communal land, any developments in this site would require approval from the Purani Basti habitation-level *Gram Sabha*. However, community members told the Panel that the required *Gram Sabha* did not take place in their habitation.

246. The DPR for Chhotagovindpur MVS records that a *Gram Panchayat* meeting was held in South Sarjamda on July 28, 2012. The purpose of this meeting was to present the Project in general to the GP and to ensure that all villages had been included. According to document, the GP agreed to cooperate with the implementation of the MVS.³²⁴ Management also states that a consultation meeting was held at the Sarjamda Panchayat building, with the participation of Bank technical, environment and social consultants in November 2014, but no information is provided regarding who from the community participated in this meeting, whether the tribal members participated and what was discussed.³²⁵

247. While the Panel notes the above-mentioned meetings, the Panel did not find evidence that meetings were held to discuss the site location with community members from the Purani Basti habitation prior to 2016. The second Management Response admits there is no evidence that a *Gram Sabha* was held in South Sarjamda GP (which comprises eight habitations, including Purani Basti) to obtain community consent to the ESR site.³²⁶ The Panel also notes that no *Gram Sabha* approval took place at the required habitation level in Purani Basti.

248. The Panel notes that a letter dated October 2015 from the executive engineer of DWSD to the sub-divisional officer of Dhalbum points out that community members opposed the location of the ESR at the “Romantic Football Field” and were obstructing construction works. However, the Panel understands that Management only became aware of the opposition to the site in October 2018.³²⁷

³²² Aide memoires – Fourth Implementation Support Mission, November 16- 30, 2015, Annex 3, p. 58, para 8 and Mid-Term Review Mission, July 25, 2016- August 5, 2016, Annex 8, p. 87, para 21.

³²³ Management Response to the first Request for Inspection, Annex 4, p. 87.

³²⁴ Detailed Project Report for Chhotagovindpur MVS, Volume I, Annex on South Sarjamda Gram Panchayat Raj Meeting from July 28, 2012.

³²⁵ Management Response to the second Request for Inspection, p. 27.

³²⁶ Ibid., pp. 11-12, para 41.

³²⁷ Ibid., p. 12.

249. Management explains that after the DPMU became aware of the opposition to the siting of the ESR in August 2015, it attempted to address these objections through various consultations, which included meetings on the Chhotagovindpur MVS in North and South Sarjamda *Gram Panchayats* on April 4 and 17, 2016.³²⁸ A broad-based meeting called an *aam sabha*, or general assembly open to all, which is not the statutory *Gram Sabha* with people living near the ESR, was also held in North Sarjamda's Panchayat on May 1, 2016. However, Management states it is unclear whether the residents of Purani Basti who objected to the siting of the ESR participated in these meetings and that based on the meeting records the discussions did not include the location of the ESR.³²⁹ Management also recognizes that participants in the *aam sabha* pointed out that the water schemes should be discussed and approved by the *Gram Sabha* and not by an *aam sabha*, and that traditional leaders had not been respected.³³⁰

250. From interviews with Management and reviews of aide memoires the Panel understands that, due to Project implementation delays, expediting the works was emphasized at the expense of social safeguard requirements. The 2016 MTR explained that the “*social management processes and actions to be taken up during preplanning and preparation phase were deferred to [the] implementation phase.*”³³¹ The MTR aide memoire mentions that, as a retrofit, meetings with the communities were being organized in 2016 to sensitize them about Project interventions.³³² However, the Panel notes this occurred after the sites had been selected. The Panel notes that, absent documentation about these consultations, and considering the lack of information—including in tribal languages or Hindi—about potential Project impact, it is unclear what was discussed during these consultations and how useful they were.

251. The Panel notes that no site-specific TDPs were prepared and Management did not follow up with the government to ensure that habitation level *Gram Sabha* approvals had taken place or to obtain records of these decisions and of consultations at the site level. The Panel also notes that when residents of both Giddhi Jhopri and Purani Basti learned about the site locations, they expressed their objection. The opposition to the Bagbera WTP site was reported in the media and recorded in the Project's MTR. Yet, despite this well-known opposition, the works continued without action by Bank Management. The Panel notes that selection of the Bagbera WTP and ESR near Purani Basti sites without evidence of broad community support for these decisions, contravenes a key requirement of OP/BP 4.10.

252. The Panel finds that site selection for the Bagbera Water Treatment Plant and the Elevated Storage Reservoir near Purani Basti was not approved by the habitation *Gram Sabha(s)* despite the requirements of the tribal decision-making process set forth in the Tribal Development Plan and Tribal Development Implementation Plan. The Panel finds that these sites were selected without considering the social and cultural importance of the sites to affected tribal people. The Panel also finds that the works proceeded in the absence of broad community support from affected tribal community members. Consequently, the

³²⁸ Ibid.

³²⁹ Ibid., p. 13, para 44.

³³⁰ Ibid., p.14.

³³¹ Aide memoire – Mid-Term Review Mission, July 25, 2016- August 5, 2016, p. 86.

³³² Ibid.

Panel finds the selection for the two sites in non-compliance with Bank Policy on Indigenous Peoples (OP/BP 4.10).

4.4.2 Retaliation

253. During the Panel's visit, community members from both Giddhi Jhopri and Purani Basti expressed concern about alleged retaliation. The Panel heard about the alleged use of physical force against women and children from Giddhi Jhopri during the construction of the Bagbera WTP. Community members reported that when construction started in July 2016, they protested peacefully, but police responded disproportionately with violence. They said several people suffered serious injuries and went to the hospital. During a meeting with the community in Giddhi Jhopri, the Panel met a boy who was 13 years old at the time of the incident. He said he was seriously beaten and presented his medical records and x-rays to the Panel. Several women also showed the Panel their medical records and x-rays and reported they had been beaten by the police with batons and rifle butts. Government authorities, on the other hand, told the Panel team that police were deployed because community members were threatening to use bows and arrows against construction workers.

254. The Panel also saw an article from the *Hindustan Times* with pictures of clashes between the police and community members who opposed the Project. The article explains that the local Government requested deployment of police forces for 15 days until the WTP was built. A contingent of 88 police personnel reportedly stood guard at the site.³³³ Community members told the Panel that armed police teams were stationed at the Giddhi Jhopri side of the hill for a month during initial construction of the WTP perimeter wall and that the police patrolled daily in the habitation.

255. During meetings with residents in Giddhi Jhopri and Purani Basti, the Panel heard about the deployment of the police during consultation meetings with the communities in both locations, which created an atmosphere of intimidation. The Requesters provided the Panel with videos of consultation meetings organized by the local Government in Giddhi Jhopri that show about 10 policemen standing among community members while the location of the Bagbera WTP was discussed with government officials.³³⁴

256. Community members said the Government opened police cases against 39 people in 2016 but has not formally charged them to date. They reported that several individuals on the list had not participated in the protest. According to them, included on the list was a deceased person, children and people who were at work on the day of the protest. They also said the authorities compiled another list of 109 individuals by looking at voter rolls in the area and picking people at random, without knowing whether they had participated in any protest. These community members believe the authorities have not formally charged them or closed the police cases in order to instill in them a continuous fear of prosecution.

257. Government authorities acknowledged to the Panel that the police had filed a "First Information Report" (FIR) against some Giddhi Jhopri inhabitants. According to these authorities,

³³³ *Hindustan Times* Newspaper titled "Water War", July 16, 2016.

³³⁴ Videos provided by community members to the Panel dated July 15, 2016.

the FIR against 39 named individuals and 109 unnamed individuals has remained active, but they said these individuals will not be arrested unless they obstruct the Bagbera WTP construction works.

258. The Panel heard that community members from Giddhi Jhopri and three adjacent habitations had suffered retaliation in the form of denied “character certificates.” The Requesters explained to the Panel that this had adverse economic impact on community members since these certificates are required for re-employment, renewing contracts and securing new employment, including with the Tata Steel Company, one of the main employers in Jamshedpur. However, the Requesters told the Panel that this issue had been resolved and no longer remained a problem.

259. Women from Purani Basti told the Panel they are not being issued GP recommendations for *aadhar* cards—Indian “social security” cards—because they have been labeled “*trouble makers*.” They said Purani Basti is being bypassed for any new government-funded projects as it is now perceived to be an “*anti-development*” habitation. Community members also claimed they were threatened with legal action if they persisted in opposing the ESR.

260. The Panel understands that while Management was not aware of retaliation, Management knew about frequent disruption of works due to tribal communities’ opposition to the Bagbera WTP site, as acknowledged in the 2016 MTR.³³⁵ However, Management did not address this issue prior to the filing of the first Request, as is evident in the subsequent aide memoires. The Panel understands that senior Management became aware of the FIR filed against community members in 2018 and that it has asked the Government to close the files. However, according to Management, the Government told them that the FIR remains in place to ensure that local communities do not obstruct the construction of the Bagbera WTP.

261. The Panel notes that Management has made it clear that the World Bank does not tolerate coercion and retaliation and will continue to work with the concerned governments to ensure that this risk does not materialize. The Panel hopes Management will continue to follow up with the Government of India to ensure that community members are protected and have avenues to freely voice their complaints directly to the responsible authorities.

4.4.3 Expansion of the Jamshedpur City Limits

262. The Requesters’ concerns about the expansion of Jamshedpur city limits eroding tribal rights must be seen in the historical context of the State of Jharkhand. Jharkhand has a long history of struggle over legitimate control of land.³³⁶ Tribal peoples are considered the state’s original settlers. The demographics of Jharkhand have changed over time due to the arrival of non-tribal residents, whose population increased during the colonial period thanks to rapid urbanization and industrialization. Non-tribal residents arrived in even larger numbers after independence, when industries and mining projects expanded or opened in different parts of the state and major infrastructure projects, such as dams, were built.

³³⁵ Aide memoire – Mid-Term Review Mission, July 25, 2016- August 5, 2016, p. 87, para 21.

³³⁶ World Bank, 2015, Report on Land Governance Assessment Framework, Jharkhand, p. 33.

263. Settlement by non-tribal residents in territories that were historically home to tribal communities has created competing priorities and diverging interests. Land alienation among Schedule Tribes has been a problem in Jharkhand and, to avoid unrest, several legal provisions were adopted to restrict transfers of land belonging to tribal communities to non-tribal communities. In practice, however, lands continued being transferred and residential and commercial developments were established in tribal lands, creating legal challenges and tensions between tribal and non-tribal communities.³³⁷ Jamshedpur City was founded in 1908 as a company town in a densely forested area of the Chhota Nagpur Plateau inhabited by tribal communities. As a planned city Jamshedpur grew rapidly, propelled by the job opportunities generated by the Tata Iron and Steel Company.

264. During its field visit, the Panel observed the proximity of Giddhi Jhopri and Purani Basti to Jamshedpur, which is the largest urban center in Jharkhand. The Panel repeatedly heard from tribal community members that Jamshedpur has ceaselessly expanded towards their villages. Community members told the Panel they believe the Bagbera and Chhotagovindpur MVs had actually been developed to meet the rising demand for water created by the influx of non-tribal residents who have moved into the area to work. They said it was the non-tribal residents who had protested and demanded their habitations be included in the scheme in May 2014.³³⁸

265. Tribal community members fear the Bagbera and Chhotagovindpur MVs will accelerate the migration of non-tribal residents into their habitation. They are concerned the Draft Masterplan for Jamshedpur Urban Agglomeration is linked to the MVs and that these are being built to urbanize constitutionally protected Scheduled Tribe areas. Such an outcome would effectively erode the legal protections relating to tribal control over land and resources since, according to the Requesters, in areas considered urban, the Municipality Acts take precedence over the PESA Act that protects the land rights of STs.

266. The Management Responses explain that Giddhi Jhopri is located on the fringes of Jamshedpur city, the country's 36th largest urban agglomeration. The Responses state that while the Government is indeed considering expanding the city limits for purposes of regional planning and integration, the Project and the Draft Masterplan for Jamshedpur Urban Agglomeration are not linked.³³⁹ The Responses also point out that the Draft Plan has not been finalized. The Responses explain that the drinking water supply schemes included in the Project are driven by selection criteria for water quality and quantity, and a focus on poor areas and rural locations. In addition, Management points out there is strong local demand for the Project.³⁴⁰

267. The Panel reviewed Project documents and found no explicit links between the schemes and the Draft Masterplan for Jamshedpur Urban Agglomeration. Project documents do not mention the expansion of the city limits or the Draft Masterplan. The Panel notes that the Requesters' main concern is the potential for the MVs to accelerate urbanization and lead to changes in the governance system and erosion of the tribal people's rights to land and resources. The Panel notes that since no site-specific consultations took place prior to the site selection with tribal community

³³⁷ Ibid.

³³⁸ *The Avenue Mail*, May 25, 2014, "Bagbera and Kitadih Residents Fast for Water." Available at: <https://www.avenuemail.in/jamshedpur/bagbera-kitadih-residents-fast-water/45291/>

³³⁹ Management Response to the First Request for Inspection, p. 8, para 31.

³⁴⁰ Ibid., p. 7, para 32.

members from Giddhji Jhopri and Purani Basti, these affected communities had no avenue to raise these concerns. As a result of both the lack of consultations and site-specific assessments, this important contextual risk was not considered by the Project. While Management acknowledges that concerns about the schemes attracting non-tribal communities and leading to their village being classified as an urban service area were raised by tribal community members during meetings with the government in February and March 2016,³⁴¹ this happened only after decisions about the site location had been made.

4.4.4 Grievance Redress Mechanism

268. The Panel notes that Project documents envisioned the establishment of a Project GRM. The PAD states that the *“MoDWS will establish an integrated grievance redress mechanism for the project, capturing all grievances submitted to community organizations, local governments, local or state level administrations, and ensuring adequate follow-up.”*³⁴² The PAD also states that this GRM would be launched within the first six months of Project implementation and would subsequently be reviewed. The GRM would ensure easy access for complainants, prompt follow-up on grievances, recording and traceability of complaints and responses, appeal mechanisms and monitoring.

269. The 2013 TDP explains that grievances relating to water and sanitation schemes in Scheduled Areas would be resolved within the constitutional and legal framework of the state.³⁴³ The TDP foresees a three-tier GRM mechanism at the state, district and revenue village levels. At the state level two bodies would be established, a Water and Sanitation Grievance Redressal Committee and a Grievance Redressal Cell at the SMPU. The committee would be comprised of a representative of the Tribal Welfare Commissioner, prominent academics, a prominent woman organization, representatives of the PRIs, a representative of the revenue department, the Engineer in Chief of the SPMU and a well-accepted tribal leader. At the district levels, there would be a Grievance Redress Cell *“headed by the Deputy Commissioner and District Welfare Officer, Block Welfare Officer, Chairman.”*³⁴⁴ At the village level, a Cell facilitated by non-government support organization was planned. This would be the first point of contact for a complainant and would be expected to resolve grievances within a month. However, the Panel found no evidence that this envisioned system was implemented.

270. Government officials maintained during the Panel’s visit that the Project had a robust GRM system under the State Department of Drinking Water and Sanitation with a toll-free number and monthly committee meetings. They said the department had received no complaints specifically about the Project; and that complaints that were filed predominately concerned the water supply or quality issues of existing schemes.

271. Community members in Giddhi Jhopri and Purani Basti with whom the Panel team met were not informed about the existence of the GRM or how to file complaints. They said when they tried to voice grievances related to the Bagbera WTP site, the Government reacted by sending

³⁴¹ Ibid., Annex 1, p. 5.

³⁴² PAD, p. 67, para 8.

³⁴³ Jharkhand Tribal Development Plan, March 2013, p. 62.

³⁴⁴ Ibid.

police to the site. Community members stated that they had no avenue to raise concerns or voice complaints about the Project.

272. The Panel notes that the 2016 MTR indicates shortcomings in the GRM system. It flags that “[t]he SPMU needs to immediately ensure availability and display of a toll-free number that can be used for grievance redressal in all project villages with a dedicated staff to register and process complaints [...]”.³⁴⁵ A Bank supervision report from February 2017 flags that “no functional grievance redressal mechanism [was] in place – particularly under village level under the project.”³⁴⁶ In July 2017, the Bank supervision report notes that the Project had multiple vehicles for redressing grievances—the *Mukhyamantri Jan Samvad*, the toll-free number, the VWSC (*Jal Sahiya*), and by submitting oral or written complaints. However, it noted that the SPMU needed to better document the resolution of grievances, prepare monthly reports and share them with the Bank on a quarterly basis.³⁴⁷

273. Management in its Responses explain that the Project has a GRM in place at the national level and in Jharkhand people can submit grievances through multiple avenues. However, Management acknowledges that the State-level GRM is new and not well known in rural areas and local GRMs are insufficiently monitored and coordinated.³⁴⁸ Management also commits in its Responses to reviewing and strengthening the Project and site-level GRMs.³⁴⁹ The March 2019 aide memoire states the Project will soon launch a web-based GRM system for the entire State of Jharkhand that promises to redress grievances within seven days.³⁵⁰

274. The TDP recognizes that in Scheduled Areas the “Gram Sabha has power to safeguard the cultural identity, community resources and dispute resolution per traditional customs and regulations.”³⁵¹ However, the Panel notes from its interactions with government officials and reviews of Project documents that a culturally appropriate GRM—which recognizes the traditional, customary dispute resolution mechanisms—was not put in place. Tribal leaders with whom the Panel spoke were uninformed of the existence of the GRM and reported they had not been asked by the Project to support resolution of disputes prior to submission of the first Request.

275. The Panel notes that in the absence of a functioning Project GRM during a critical stage of the Project, community members had no avenue to raise their concerns and file grievances. Early knowledge of grievances could have enabled a timely resolution of the issues encountered by the Project and helped build trust with the communities.

276. The Panel notes that during critical stages of the Project there was no functioning Grievance Redress Mechanism for affected communities to raise their concerns, and that the customary tribal dispute settlement mechanisms were neither considered nor used by the Project. The Panel finds Management’s failure to ensure the establishment of a timely,

³⁴⁵ Aide memoire - Mid-term review, p.88.

³⁴⁶ Aide memoire – Sixth Implementation Support Mission, February 6-17, 2017, p. 10, para 36.

³⁴⁷ Aide memoire – Seventh Implementation Support Mission to Jharkhand: July 26–28, 2017, Annex 3, p. 29., para 32.

³⁴⁸ Management Response to the first Request, pp. 2-3.

³⁴⁹ Management Response to the first Request, p. 17.

³⁵⁰ Ninth Implementation Support Mission of the RWSSP-LIS, October 2018 to March 2019, Annex 3, p. 8, para 37.

³⁵¹ Jharkhand Tribal Development Plan, March 2013, p. 32.

accessible, effective, and culturally appropriate Grievance Redress Mechanism in non-compliance with Bank Policy on Indigenous Peoples (OP/BP 4.10).

Chapter 5: Project Supervision and Remedial Actions

5.1 Introduction

277. This chapter initially examines Bank supervision of the Project, focusing on the Bagbera and Chhotagovindpur MVSSs. It illustrates the effects of specific supervision shortcomings on the affected communities and analyzes the overall supervision design, specifically its adequacy considering the size, geographical spread and complexity of Project activities. The second part of the chapter addresses the remedial actions and retrofitting measures adopted by the Bank after receiving the Requests for Inspection.

5.2 Requests for Inspection and Management Responses

Requests for Inspection

278. The Requests allege this Project violates Indian legislation designed to protect indigenous communities and that Bank Management has “*failed to adequately monitor compliance with safeguards and local laws by the borrower.*”³⁵² The Requesters argue that Bank supervision of Project activities that might affect physical cultural resources has been markedly lacking.³⁵³ They claim Bank supervision of the Project in general was “*insufficient and wanting*” and thus in non-compliance with the Bank’s Policy on Environmental Assessment (OP/BP 4.01.)³⁵⁴ They note the failure to conduct scheme-specific environmental and social assessments, and the lack of attention to different risks—such as toxicity in the sludge—as examples of inadequate supervision.

Management Responses

279. The Management Responses explain that shortcomings in the Bank’s compliance with safeguard requirements have been identified and adds that these in part pertain to weaknesses in supervision.³⁵⁵ Management also adds that “*Bank supervision efforts underestimated the complexity of the implementation of the MVSSs in the tribal areas of Jharkhand*” and that “*corrective action has been included in the action plan.*”³⁵⁶ The Management Responses have committed to several remedial measures and to restructuring the Project,³⁵⁷ as discussed further in section 5.4.2.

5.3 Bank Policies

280. OP/BP 10.00, the Bank’s Policy on Investment Project Financing states that in providing implementation support, the Bank pays particular attention to reviewing the borrower’s monitoring of the performance of the project and compliance with its contractual undertakings. The Bank

³⁵² First Request for Inspection – Supplement to the Request for Inspection, p. 23, and second Request for Inspection, p. 19.

³⁵³ Second Request for Inspection, p. 17.

³⁵⁴ First Request for Inspection – Supplement to the Request for Inspection, p. 14, and second Request for Inspection, p. 11.

³⁵⁵ Management Response to the first Request for Inspection, p. 8, para 29 and Management Response to the second Request for Inspection, p. 11, para 39.

³⁵⁶ Management Response to the second Request for Inspection, Executive Summary, p. vii, para xi.

³⁵⁷ Management Response to the first Request for Inspection, p. 16, para 61 and Management Response to the second Request for Inspection, p. 18, para 64.

periodically assesses the project and reviews the borrower's monitoring of results, risks and implementation status, updating project information and identifying follow-up actions needed as appropriate.³⁵⁸ Implementation support and monitoring starts after project approval and includes signing and effectiveness of the project legal agreements, project implementation and completion, and closing of the financing account.³⁵⁹

281. According to OP/BP 4.01, “[d]uring project implementation, the borrower reports on (a) compliance with measures agreed with the Bank on the basis of the findings and results of the EA, including implementation of any EMP (Environmental Management Plan), as set out in the project documents; (b) the status of mitigatory measures; and (c) the findings of monitoring programs. The Bank bases supervision of the project's environmental aspects on the findings and recommendations of the EA, including measures set out in the legal agreements, any EMP, and other project documents.”³⁶⁰

282. OP 4.10 requires the Bank to review “the process and the outcome of the consultation carried out by the borrower to satisfy itself that the affected Indigenous Peoples’ communities have provided their broad support to the project.”³⁶¹ It also requires the Bank to pay special attention to the social assessment and to the record and outcome of the free, prior and informed consultation with the affected indigenous peoples’ communities as a basis for ascertaining whether there is such support. OP 4.10 also explains that when the IPPF confirms the presence of indigenous peoples in the area of the sub-project, “the borrower provides each IPP to the Bank for review before the respective program or subproject is considered eligible for Bank financing.”³⁶² BP 4.10 states that Bank supervision should “ascertain whether the relevant legal covenants related to the Indigenous Peoples and other instrument(s) are being implemented” and when the instruments are not implemented as planned “the Bank calls this to the attention of the borrower and agrees with the borrower on corrective measures.”³⁶³

5.4 Panel Observations and Analyses

5.4.1 Supervision

283. **Capacity building and institutional arrangements.** The Panel notes that implementation challenges and overall Project risks were foreseen during Project preparation. Given the critical importance of capacity building and operational management to the overall success of the Project and sub-projects in particular, Bank supervision of Project Components A (capacity building) and C (management support) was central.

284. The Project was designed to build the capacity of the MoDWS at the center while simultaneously establishing uniform implementation mechanisms in four states and strengthening state-, district- and village-level institutions. It was built on a set of agreed principles and actions

³⁵⁸ OP 10.00 – Investment Project Financing, para 19 and BP 10.00 – Investment Project Financing, para 36.

³⁵⁹ OP 10.00 – Investment Project Financing paras 2-24 and BP – Investment Project Financing paras 30-36.

³⁶⁰ OP 4.01 – Environmental Assessment, para 19.

³⁶¹ OP 4.10 – Indigenous Peoples, para 11.

³⁶² Ibid., para 14.

³⁶³ BP 4.10 – Indigenous Peoples, para 12.

to guide multi-state operations and facilitate national efforts consistent with the most current global good practices.

285. Underlying this design was the wide scope of the Project, with its numerous sites and highly decentralized approach in low-income states with weak capacity. The Project's many infrastructure works are spread over extensive geographic areas. As noted by the Tenth Implementation Support Mission in December 2019, 548 schemes (24 MVSs and 524 SVSs) are being constructed under Batch I of the Project.³⁶⁴ The initial plan proposed 28 MVSs and 689 SVSs under Batch I,³⁶⁵ including eight MVSs for Jharkhand, but due to the unsatisfactory response to multiple calls for bids, the number of Jharkhand MVSs under Batch I was reduced to two. Added to this are the 529 planned schemes (415 SVSs and 114 MVSs) in Batch II, including five MVSs in Jharkhand.³⁶⁶ The Panel notes that the number and geographical spread of the schemes posed significant challenges for Bank supervision, especially as the Project encountered serious implementation problems, including with planned capacity building and Project management support activities.

286. The Project was based on a complex institutional arrangement with many actors involved in Project implementation and with a focus on the delegation of responsibilities to district- and GP/village-level institutions for designing and implementing the specific schemes. At the district level, the DPMU would be responsible for Project implementation and coordinating the work of various district and state agencies, interfacing with the MVWSC for MVSs. The MVWSC's role included endorsing and signing off on scheme design and implementation phase payments.³⁶⁷

287. The Panel's review of the Project documents shows significant delays in establishing relevant structures, especially at the district and village levels and ensuring adequate staffing. The Management Responses acknowledge that the Jharkhand SPMU lacked a tribal specialist for more than two years, which delayed the finalization and implementation of the TDIP until August 2018.³⁶⁸ The July 2017 aide memoire also reveals the lack of staff to manage the GRM and states that "*given understaffed DPMUs in Jharkhand and UP may lead to a situation wherein grievances might not be redressed.*"³⁶⁹ The MVWSC for the Bagbera scheme was only formed in August 2017 and the MVWSC for Chhotagovindpur in January 2018, years after the schemes had been designed and more than a year after the commencement of works.³⁷⁰ Aide memoires acknowledge that MVWSCs lacked tribal representation as planned.³⁷¹

288. The Panel notes that a lack of effective Bank supervision and corrective measures with regard to Project Components A and C hampered the ability of the Project to develop capacity to manage and monitor implementation activities, and to build institutional structures to support operation and maintenance of the infrastructure investments. This contributed to the insufficient attention to safeguards, including the ambition to involve "*communities in each stage of planning,*

³⁶⁴ Aide memoire – Tenth Implementation Support Mission, September 2019.

³⁶⁵ Aide memoire – First Implementation Support Mission, June 2-25, 2014, pp. 5-6, paras 14(i) and (ii).

³⁶⁶ Aide memoire – Tenth Implementation Support Mission, September 2019.

³⁶⁷ PAD, pp. 7-8.

³⁶⁸ Management Response to the second Request for Inspection, p. 9, para 32.

³⁶⁹ Aide memoire – Seventh Implementation Support Mission, July 17 to August 4, 2017, p.11, para 39.

³⁷⁰ Management Response to the first Request for Inspection, Annex 1, p. 28 and Management Response to the second Request for Inspection, Annex 1, p. 37.

³⁷¹ Aide memoire – Second Implementation Support Mission, October 27 to November 25, 2014, p. 26, para 3 (i).

*designing, implementation, and monitoring. These activities will be organized strategically in conjunction with the hardware program and sequenced to build on each other systematically” as noted in the PIP.*³⁷²

289. ***Supervision Design.*** The PAD anticipates Bank implementation support missions at least twice a year, beginning with discussions at the national ministry level, followed by visits to the states and districts where sub-project interventions are underway. These missions would include the task team leader (TTL), co-TTL, procurement and financial management staff, environmental and social safeguards staff, and technical and institutional specialists and consultants, as appropriate. A team of specialist consultants would be recruited to support the Bank in reviewing implementation progress in each state, and interim implementation missions would be undertaken by Bank specialists as required. These missions would focus on institutional arrangements, implementation progress for the water supply and sanitation schemes, safeguards, procurement, financial management, and monitoring and evaluation. Regarding safeguards, the PAD explains supervision will verify that EMPs, TDPs and other Project efforts designed to enhance its social development outcomes are being appropriately implemented and adjusted as necessary.³⁷³

290. The Panel notes that the Bank conducted 10 implementation support missions, including the MTR, between June 2014 and September 2019. This approximately corresponds with the intended twice-yearly frequency. Management told the Panel team that the supervision of Project implementation proved highly challenging; while the Project works themselves were relatively predictable, the array of sites, the geographical spread and the number of parties involved all made supervision difficult.

291. The Panel notes from its review of aide memoires and BTORs that serious concerns such as the adequacy and timeliness of safeguard instruments and their implementation were flagged early and consistently throughout the Project. The Panel also notes that the supervision risk ratings initially underestimated the Project social and environmental risks and rated them as “low.” It was only in January 2016 that the risks were upgraded to “moderate”³⁷⁴ and in April 2018 to “substantial.”³⁷⁵ Other concerns raised in supervision reports included the lack of documentation of land used for Project infrastructure and the need to ensure “adequate safeguards when tribal community land is used for building drinking water supply assets.”³⁷⁶ While many aide memoires contain extensive, detailed lists of recommended actions, not all of them systematically review the status of such action items. In discussions with the Panel, Management acknowledged that few of the actions were effectively implemented. For instance, the lack of IEC materials in tribal languages was raised in November 2014 but remained unaddressed.³⁷⁷

³⁷² Project Implementation Plan, Volume 1 - Governments of India, Assam, Bihar, Jharkhand, and Uttar Pradesh, 2013. Rural Water Supply and Sanitation Project for Low Income States (RWSSP-LIS), p. 42, Section 4.2.2.

³⁷³ PAD, p. 58, para 4(iii).

³⁷⁴ Implementation Status and Results Report, January 24, 2016, p.7.

³⁷⁵ Implementation Status and Results Report, April 4, 2018.

³⁷⁶ Aide memoire – Second Implementation Support Mission, October 27 to November 25, 2014, p. 26, para 3(i).

³⁷⁷ Aide memoire – Second Implementation Support Mission, October 27 to November 25, 2014, p. 26 and Status of Implementation of Bank Management Response’s Action Plan – Bagbera and Chhotagovindpur MVS, November 14, 2019.

292. The Panel understands that about 80 Bank staff were involved in the Project throughout preparation and implementation.³⁷⁸ The Panel notes that the high turnover of Bank Project staff responsible for supervision hindered the team's ability to adequately follow up on issues and agreed actions. During interviews, staff also mentioned the lack of adequate budget to effectively supervise "four projects in one" as an important challenge and that the focus of supervision was to improve the Project's low disbursement rates.

293. ***Supervision of the Bagbera and Chhotagovindpur MVSs.*** Due to the large number of schemes under this Project, it is understandable that Bank staff and consultants could not visit all of them. The Panel learned that Management had confidence that SVSs under *Gram Panchayat* management was a successful service delivery model. They expressed some concern, however, about MVSs. This concern centered on the weaknesses in models of operation and maintenance for MVSs, and a realistic analysis of decentralized capacity to establish reliable service delivery. Management told the Panel that Project design limited MVSs to locations where they were needed and required thorough analysis of technical options before committing to their installation.

294. The Panel notes, however, that Management underestimated the social risks of MVSs. As mentioned in previous chapters, the Project design focused on SVSs, and Management assumed that the Project would mainly have positive social impact through improved access to water services. Even though the two MVSs involved 38 GPs and were implemented in Scheduled Areas, where known tensions existed between tribal and non-tribal communities, the main risk foreseen was the risk of exclusion from Project benefits. The lack of understanding of the social context had implications for how Management supervised the Project.

295. The contract for Bagbera and Chhotagovindpur MVSs was awarded in June 2015. In the case of Bagbera MVS, the ground-breaking ceremony happened in February 2016, but the commencement of works was delayed until July 2016 due to local opposition. In the case of Chhotagovindpur MVS, works started in October 2016 but the ground-breaking ceremony of the ESR near Purani Basti appears³⁷⁹ to have taken place in March 2016. While Management visited the two MVSs in Jharkhand prior to the first Request, Management took little or no action to address the tribal opposition to the schemes. The Bank visited the Bagbera and Chhotagovindpur MVSs in April 2016,³⁸⁰ followed by visits in February 2017,³⁸¹ November 2017³⁸² and March 2018.³⁸³ There was also a visit in May 2016 by the social safeguards team, which prepared a social safeguards compliance review to inform the Mid-Term Review discussions. However, except for the social safeguards team mission, the other visits were more focused on technical issues.

296. As mentioned in previous chapters, there were specific shortcomings in supervision and follow-up action on required safeguard documentation and processes. OP 4.01 directs Management to base "*supervision of the project's environmental aspects on the findings and*

³⁷⁸ List of staff and consultants involved in the Rural Water Supply Project in Low-Income States (P132173) provided by Bank Management.

³⁷⁹ Management Response to the Second Request for Inspection, Annex 1, pp. 37-38. - According to the Management Response, the Contractor shared pictures of what may have been a groundbreaking ceremony for the ESR on March 11, 2016.

³⁸⁰ BTOR, NNP RWSS LIS Jharkhand Field visit Report from 4-7 April 2016.

³⁸¹ Aide memoire – Sixth Implementation Support Mission, February 6 to 17, 2017, Annex 3., para 2.

³⁸² BTOR, November 19-22, 2017.

³⁸³ BTOR on the O&M Support Mission to Jharkhand, March 5-10, 2018.

recommendations of the EA including ... any EMP.”³⁸⁴ The specific EMPs for the Bagbera and Chhotavindpur schemes were not finalized by the counterpart, or concurred with by the Bank, prior to the start of the civil works in July 2016. Management engaged with the SPMUs and submitted letters to MoDWS on unmet requirements, including EMPs and tribal development documents. There were also repeated comments about the delays in finalizing the TDP and the TDIP, and the absence of a tribal specialist at PMU. It was an Implementation Support Mission in 2014 that belatedly discovered the missing site-specific EMPs for the Bagbera and Chhotagovindpur schemes.³⁸⁵ Full revised drafts of the EMPs were not received by the TTL until late June 2019. Since the required EMPs were not completed when construction started and continued to proceed, it was not possible for Management to assess the Project’s environmental impact.

297. The Panel notes that Management acknowledges that no systematic and documented consultations were held during the preparation of the EDSs and DPRs. The July 2016 Mid-Term Review aide memoire states that the environmental screening did not address real issues and had to be revised.³⁸⁶ The annex also points out that no consultations had taken place during the preparation of the DPRs and no SAs were conducted at site level. In contradiction to this observation, the document also states that the TDP was being implemented, with no specific details on how this could be the case in the absence of site-specific SAs and consultations during the preparation of the DPRs. Consultations should have taken place as part of the EDS and DPR preparation—particularly with tribal populations living immediately adjacent to the site of the water treatment plant. The Panel’s review of supervision records confirmed that such consultations were not undertaken.

298. An additional lapse in timely Bank supervision and adequate follow-up relates to the consumption norms of the two MVSSs. As discussed in Chapter 2, the PIP states that the Project was designed for the MVSSs to have a consumption norm of 70 lpcd.³⁸⁷ Only in November 2014—more than a year after the DPRs were completed—did the Bank discover that the Jharkhand MVSSs had a norm consumption of 135 lpcd, nearly twice the planned amount.³⁸⁸ The contracting for both schemes at 135 lpcd occurred in June 2015.³⁸⁹ The increase in lpcd is important as it seems it was anticipated that the area to be served by the MVSSs would grow and therefore have a higher consumption norm.

299. Based on the drinking water norms in India, this increase in consumption requires the scheme to have a sewage component.³⁹⁰ This is acknowledged by the Bank in the November 2015 aide memoire that cites “[p]ossible aggravation of sanitation issues in Chota Gobindpur as well as Bagbera areas as a consequence of installation of MVS.”³⁹¹ The Bank added the risk that

³⁸⁴ OP 4.01 - Environmental Assessment, para 19.

³⁸⁵ Aide memoire – Second Implementation Support Mission, October 27 to November 25, 2014, p. 10, para 19.

³⁸⁶ Aide memoire – Mid-Term Review Mission, July 25, 2016- August 5, 2016, p. 13.

³⁸⁷ Project Implementation Plan, Volume 1 – Governments of India, Assam, Bihar, Jharkhand, and Uttar Pradesh, 2013. Rural Water Supply and Sanitation Project for Low Income States (RWSSP-LIS), p. 155.

³⁸⁸ Aide memoire – Second Implementation Support Mission, October 27 to November 25, 2014, Annex 3, p. 25, para 2(B)(i). *The drinking water norms adopted by the Government of India for piped water supply in towns and cities are as follows: http://ddws.nic.in/awrsp_norms.htm. Towns without sewerage – 70 lpcd, Cities with sewers/proposed – 135 lpcd, Mega cities with sewers/proposed – 150 lpcd.*

³⁸⁹ Back to Office Report, April 4-7, 2016, para 3.

³⁹⁰ http://ddws.nic.in/awrsp_norms.htm.

³⁹¹ Aide memoire – Fourth Implementation Support Mission, November 16- 30, 2015, p. 54, para 20.

*“pools of stagnated used water, sewage, etc. are likely to increase substantially if the local population were to get assured water supply from the WSS”*³⁹² and *“[i]t is therefore recommended that a comprehensive sewerage scheme be developed for both areas.”*³⁹³ However, this Bank concern did not inspire a review of the DPR or other actions to ensure that the environmental and social impact was adequately assessed, or determine whether the EMPs remained adequate. The Ninth Implementation Support Mission in 2019 noted the lack of progress on the issue since an earlier mission and asked the SPMU to develop a SLWM roadmap by the end of April 2019. During its field visit, the Panel found no evidence of relevant action dealing with this matter.

300. Aide memoires describe absent or low-quality environmental datasheets and Detailed Project Reports without the required EMPs. Yet the Panel notes that the schemes progressed, without the Bank intervening. This prerequisite condition failed to be met for both schemes.

301. **Management Reaction to Community Opposition.** The Panel notes that the November 2015 aide memoire refers in passing to community resistance in Jharkhand regarding the intended location of the Bagbera WTP because *“the site was apparently some kind of prayer place for them.”*³⁹⁴ A March 2016 BTOR states the location of the Bagbera WTP site was not confirmed due to *“local people interference.”*³⁹⁵ The 2016 Mid-Term Review specifically mentions *“there [are] some land issues at Chhotagovindpur and Bagbera schemes”*³⁹⁶ with the issues described broadly as involving *“places of worship coming up on proposed lands”*³⁹⁷ and *“local resistance.”*³⁹⁸ It mentions that in Bagbera there is *“constant opposition with frequent disruptions to start work from local tribals, as they fear construction of project facilities at this location may lead to usurping their land by non-locals and eventual domination of settlers.”*³⁹⁹ Despite knowing about tribal communities’ opposition to the Bagbera WTP location since November 2015, Management did not go to the site until March 2016. Management subsequently went in May 2016, but only returned in February 2017 even though the opposition had escalated. During interviews, Bank staff explained they were told by the Government not to visit the site due to security reasons. The Panel, however, has seen no evidence of such discussions in supervision documents. While the Panel notes that staff security is of the utmost importance, the Panel has not seen evidence that the security situation was severe enough to have prevented any visits. The Panel also notes that no other efforts were made to better understand the opposition and tribal leaders’ views and no other arrangements were made, such as meeting with community members in secure locations or remotely.

302. The Panel notes that OP/BP 4.10 requires Management to review the process and the outcome of the consultations to satisfy itself that the affected indigenous peoples’ communities have provided their broad community support. The Panel notes that supervision documents do not seem to indicate that Management required from the Government documentation related to the consultation process and habitation *Gram Sabha* approvals to ascertain broad community support

³⁹² Ibid.

³⁹³ Ibid.

³⁹⁴ Ibid., p. 53, para 18.

³⁹⁵ Aide memoire – Mid-Term Review Mission, July 25, 2016- August 5, 2016 and Jharkhand Field Visit Report from March 4-7, 2016.

³⁹⁶ Aide memoire – Mid-Term Review Mission, July 25, 2016- August 5, 2016, Annex 8, p. 87, para 21.

³⁹⁷ Ibid.

³⁹⁸ Ibid.

³⁹⁹ Ibid.

from tribal communities. The Panel also notes that aide memoires raised concerns about the lack of land-related documentation and No Objection Certificates for government lands and pointed out that issues constraining land in Jharkhand included “*transfer of ST land due to prevalent special Acts for protection of lands that belongs to tribals.*”⁴⁰⁰ The Panel notes that Management allowed the works on the Bagbera WTP to proceed despite the lack of broad community support from affected tribal communities for the location of the WTP, and the fact that the NOC that was granted was conditional on obtaining *Gram Sabha* approval. In the case of the Purani Basti ESR, Management acknowledges in the Response that it was unaware of any opposition until the Requesters wrote to the Bank, even though it was raised in government documents from October 2015. None of the supervision documents show that the Bank verified that a No Objection Certificate was in place for the Purani Basti ESR location, and one was only issued in December 2018. The Panel notes that the schemes proceeded without site-specific social assessments, tribal development plans and the required habitation level *Gram Sabha* approvals without proactive and decisive action by Management.

303. The Panel further notes that issues related to the alleged violence and retaliation at the sites were raised in none of the aide memoires, despite being widely reported in the Jamshedpur media.⁴⁰¹ Regardless of whether the tribal opposition was known in mid-2016, the aide memoire of February 2017⁴⁰² makes no mention of it and there is no evidence Management addressed the problem before the first Request was registered.

304. The Panel notes that, although the 2015 and 2016 aide memoires flagged community concerns, this inspired no broader discussion within the Bank’s task team and the issue was not escalated to senior Bank Management. Some staff explained that while there was an extensive field presence by local consultants and the different schemes were visited frequently, there were shortcomings in the documentation and a lack of specific protocol on escalating issues to senior Management. Yet, even when the issues were known, inaccurate or incomplete information was collected, and Management never sought to better understand the tribal opposition to the schemes prior to the first Request. In the absence of decisive action by Management, tensions escalated and trust among the communities and government officials and the Bank deteriorated.

305. During implementation, safeguard issues in Jharkhand were not raised at a sufficiently high level of Management until after the Mid-Term Review.⁴⁰³ Senior Management indicated to the Panel that issues were “*mentioned*” but that they were never “*directly made aware.*” The Panel was told that Management’s principal sources of information were implementation status and results reports and aide memoires that regularly raised overall project issues but did not report deeply until early in 2019. Senior Management told the Panel team that they first became aware of the issues in Giddhi Jhopri when the first Request was submitted in September 2018.

306. The Panel also notes that the complaints about the Project were not adequately responded to. The Requesters first wrote the Bank in April 2018 and the Bank’s reaction was simply to acknowledge the complaint and forward it to the implementing agency.⁴⁰⁴ The first Requesters

⁴⁰⁰ Aide memoire – Seventh Implementation Support Mission, July 17 to August 4, 2017, State Annexes, p. 28, para 24.

⁴⁰¹ Numerous articles in local Hindi newspaper ‘Prabhat Khabar’, ‘Dainik Jagran’ in June-July 2016

⁴⁰² Aide memoire – Sixth Implementation Support Mission, February 6 to 17, 2017.

⁴⁰³ Aide memoire – Mid-Term Review Mission, July 25, 2016- August 5, 2016.

⁴⁰⁴ Bank email correspondence dated April 13, 2018 to Requesters.

wrote again to the Bank in June 2018, stating that no concrete steps had been taken by the implementing agencies. Management only met with the first Requesters and deployed a mission to the site in October 2018, six months after the first complaint had been received and only after the first Request had been submitted to the Panel.

307. **Site safety.** The Panel considers the occupational and community safety risks at construction sites as another example of weak supervision and follow-up. Shortcomings relating to the safety of construction sites were flagged in the Back to Office Report of the June 2018 Implementation Support Mission.⁴⁰⁵ The EA-EMF states that “[m]itigation would generally include: providing adequate protective gear for workers’ health and safety; isolating and barricading work areas to make them accident free and free from exposure to air pollutants [...] Construction waste to be safely stored and in no case be allowed to go into stormwater or other drains.”⁴⁰⁶

308. During its visit, the Panel noted the absence of secure fencing—exposing workers, community members and animals to the risk of falling into wet wells, which at the time of the visit contained water from the testing of valves and pipes. The entryway of the ESR near Purani Basti was open for anyone to enter. A wall along the length of the Bagbera WTP site had collapsed, allowing free access inside. Similar conditions prevailed at the water intake site on the river of the Bagbera WTP. As a result, people and animals had unimpeded access to sites strewn with boards containing rusty nails, construction aggregate remains and other hazards. This violates both standard practice and the June 2019 version of the EMP for the Bagbera scheme in which the Contractor is committed to “[p]revent unauthorized entry of outsiders into all project sites. This will be ensured by installing fences, barricades, etc. and posting adequate number of security personnel at each site.”⁴⁰⁷ During its visit, the Panel also noticed the absence of protective gear, including shoes, for workers on the WTP site. Although some of these shortcomings were flagged in the Back to Office Report of June 2018, of the Panel’s visit in July 2019 these and other shortcomings remained unaddressed.

⁴⁰⁵ BTOR Field visit under taken as a part of Contract Management Clinic, June 2018. “Poor quality of work indicating absolute lack of supervision from the contractor and DPMU/ SPMU side.” ‘Violation of safety provision while construction is under progress.’

⁴⁰⁶ Environmental Assessment & Environmental Management Framework for the World Bank Assisted Water Supply Project in Selected Districts of Jharkhand, July 2013, Section 5.2 D, pp. 105-106.

⁴⁰⁷ Environmental Management Plan Bagbera Multi-Village Water Supply Scheme, East Singhbhum District, Jharkhand (Conditionally approved in June 2019), p. 68.



Photo 5: Giddhi Jhopri WTP and ESR Construction Site.

309. In conclusion, the Panel agrees with Management’s references in its Responses to weaknesses in supervision. The Panel believes that, while task team members and Bank consultants were generally aware of Project shortcomings and safeguard issues, reporting was not always timely or detailed, proper escalation of issues within the Management structure was not conducted, and follow-up actions with the Government was typically either absent, late or otherwise ineffective.

310. The Panel notes that Bank supervision did not consider contextual risks, did not systematically and proactively follow up on identified problems and lacked a functioning internal mechanism for escalating issues. **The Panel finds that Management failed to provide adequate implementation support or to take relevant, effective action—prior to the Requests—to ensure implementation of required environmental and social measures in non-compliance with Bank Policies on Investment Project Financing (OP/BP 10.00), on Environmental Assessment (OP/BP 4.01) and Indigenous Peoples (OP/BP 4.10). This contributed to the significant harm experienced by the indigenous peoples of Giddhi Jhopri and Purani Basti.**

5.4.2 Remedial Actions

311. Management included in its Response a comprehensive package of “Actions Going Forward” based on agreement with the Borrower. Specific measures in the first Response concerning the Bagbera WTP include supporting the Government of Jharkhand’s consultations with the Giddhi Jhopri community to identify and agree on measures, such as (i) providing culturally appropriate benefits to the community, (ii) assessing physical cultural resources, (iii) ensuring access to the hilltop site and preservation of traditional plants, (iv) establishing new congregation and cremation areas, including reburial of mortal remains if found, (v) relocating or constructing replacement shrines, and (vi) retaining red mud excavated from the WTP site for

community use.⁴⁰⁸ Specific measures in the second Response include similar consultations with residents of Purani Basti to identify and agree on compensatory measures which may include addressing concerns relating to the martyrs' memorial and the Romantic Maidan, as well as reviewing issues concerning household access to water.⁴⁰⁹

312. The Management Responses set timelines to ensure required consultations, review and implementation of EMPs, monitoring of the execution of Bank safeguard policies, disclosure of safeguard documents in local languages, and a focus on the 400 community organizers present in all five districts of Jharkhand since May 2018. This focus intends to give these organizers a greater role in disseminating Project information, relaying community concerns and performing environmental and social monitoring, including Project and site-level GRMs. Management committed to reviewing safeguard compliance of the Category 2 schemes supported by the Project and to preparing an action plan for time-bound implementation of any remedies required. Finally, the Responses set a timeline for completing Project restructuring—including the application of OP/BP 4.11 among other initiatives. The second Response also emphasizes developing additional community information and training materials, engaging an agency to support consultation and training on environmental and social aspects, and hiring of experts in anthropology to help the Bank team oversee implementation of the TDP, TDIP and planned social audit.⁴¹⁰

313. The Panel commends Management for initiating the above actions, but during its July 2019 visit the Panel team observed that several of these actions had been delayed and that little progress had been made in ensuring dialogue with concerned communities to identify suitable remedial action. In a status update provided to the Panel in November 2019, Management reported progress had continued, and that certain actions had been completed. These included (i) a review of the processes followed to document community “no objection” to the siting of significant infrastructure associated with the two MVSs in Jharkhand, (ii) hiring an anthropologist to oversee the implementation of the TDIP, (iii) hiring an agency to support the consultation process and training on environmental and social issues, (iv) consultations in all GPs covered by the Bagbera and Chhotagovindpur schemes to update community members on implementation progress, (v) a comprehensive review of safeguard compliance of the Category 2 schemes supported by the Project, (vi) translation of the executive summaries of safeguard documents into Hindi, (vii) review of the scope of works and training of 400 community organizers in Jharkhand, and (viii) Bank review of draft EMPs.

314. The Panel notes that, concomitant with the Project restructuring, Management has commenced retrofitting all 548 sub-projects implemented under the Project's Batch I per the requirements of OP/BP 4.10, OP/BP 4.11 and OP/BP 4.12. This includes preparing a Resettlement Policy Framework for each state and adding Physical Cultural Resources annexes to the respective EA-EMFs.⁴¹¹ Furthermore, Management will ensure compliance with all mandatory policy requirements in the 529 additional sub-projects under Batch II (of which 5 MVSs are in Jharkhand).

⁴⁰⁸ Management Response to the Second Request for Inspection, p. 16, para 61.

⁴⁰⁹ Ibid., pp. 18-21, para 64.

⁴¹⁰ Ibid., p.x.

⁴¹¹ An outline of this Annex is presented in Environmental Management Framework (Annex on identification of Physical Cultural Resources [PCRs] – OP 4.11) dated May 28, 2019.

315. The Panel considers the retrofitting of the 548 sub-projects—to meet the requirements of the indicated policies within the timeline described—to be ambitious, especially as the Project will be closing in March 2020. The exercise will involve extensive engagements with the Project-Affected Persons across the many sites and an intensive effort to comply with OP/BP 4.10, OP/BP 4.11 and OP/BP 4.12.

316. Although the scale of this retrofitting is significant, the Panel notes that the capacity of the PMUs and counterpart agencies to satisfy these policies remains limited. As a further complication, the Panel understands that Project-affected tribal peoples question the usefulness of retrofitting schemes that are near completion and that have already irreversibly affected them. While the Panel welcomes the exercise of ensuring policy compliance, even retroactively, it remains unclear how the harms experienced by the tribal communities will be addressed.

317. The Panel recognizes Management's serious effort to implement proposed corrective measures and notes that construction of the MVSs is almost complete and therefore encourages dialogue directed at finding acceptable solutions to remedy harm already imposed on the indigenous communities. The Panel is encouraged by attempts to continue discussions between the DPMU and the affected communities and understands this process will continue after this Investigation Report is finalized.

Chapter 6: Conclusions

318. Aiming to provide safe, piped water and sanitation services to 7.7 million people in the low-income states of Assam, Bihar, Jharkhand and Uttar Pradesh the Project design was firmly rooted in extensive collaboration in water supply and sanitation services between the Government of India and the Bank. It reflected decades of experience gained through multiple projects and core principles of good global practices in the sector. Among those were using a decentralized process relying on strong interaction with local stakeholders, integrating water and sanitation solutions, and collaborating with the private sector through design-build-operate-transfer approaches to locally managed service delivery.

319. The Panel notes that the Project design was mostly geared towards designing and implementing Single Village Schemes and small Multi Village Schemes (in instances where groundwater extraction was not possible.) Management had confidence that the above schemes under Gram Panchayat management was a successful service delivery model to ensure targeted community involvement in the planning, implementation and operational management of the scheme. However, when it came to relatively large Multi Village Schemes—as is the case with the Bagbera and Chhotagovindpur schemes—concern centered on weaknesses in models of operation and maintenance for Multi-Village Schemes. The Panel notes that this concern did not translate into how to operationalize the community-driven development approach and site-specific assessments, which may involve several Gram Panchayats, many more beneficiaries and include mixed communities. This led to the design and construction of the Bagbera Water Treatment Plant and the Elevated Storage Reservoir near Purani Basti to become a traditional top-down, engineering-driven approach without active community assessment or involvement. In conclusion, the Panel highlights the following important issues:

320. ***Site-Specific Integrated Assessments.*** The design and implementation of sub-projects (in this case the Bagbera Water Treatment Plant and the Elevated Storage Reservoir near Purani Basti) omitted integrated environmental, social and cultural assessments. Project activities were located in areas with significant tribal populations recognized as indigenous under the Bank policy but did not identify the specific impact on cultural resources and religious practices as a potential risk. The Panel could not identify any site analyses documenting the existence—or absence—of graves, sacred groves and trees, medicinal plants and herbs, or the red mud used by villagers. The Project also overlooked the social context in which the schemes were operating. The environmental assessment focused on technical matters and Project documents did not consider the interconnected nature of environmental, cultural and social matters. Had these aspects been considered and implemented in a holistic manner, and site-specific essential safeguard instruments prepared, the Project impact on the Requesters may have been identified during the environmental appraisal process and adequately addressed up front through consolidated management plans. Serious harm to Santal and Ho tribal communities—such as the desecration of burial sites, impact on the sacred grove and disruption of community gathering places used for traditional, ritual ways of life and events—could have been avoided or mitigated.

321. ***Consultation and Disclosure.*** Shortcomings in the disclosure of appropriate documents, inadequate recordkeeping of the consultations and the failure to translate key Project documents into Hindi and tribal languages are serious concerns. Due to lack of site-specific TDPs, the affected

tribal communities were not consulted on the sub-projects and construction proceeded without their broad community support. Although the Tribal Development Plan prepared for Jharkhand called for the detailed project reports to include specifics and discussions about the water supply delivery choices under consideration, that was not done. Neither were consultations carried out during the Project cycle for estimating land requirements and selecting locations for relevant infrastructure.

322. ***Gram Sabha Approval.*** Habitation-level *Gram Sabha(s)* are central to the decision-making process in the selection of the Multi-Village Schemes infrastructure locations in Scheduled Areas. Not ensuring habitation-level *Gram Sabha* approvals for the infrastructure subject to this investigation can be directly linked to the cultural harm experienced by tribal community members. Management acknowledged that works on the sites started and proceeded without *Gram Sabha* approvals at the habitation level. By not following the customary decision-making process of the affected tribal peoples, the Project was not able to obtain broad community support for the site selections.

323. ***Grievance Redress Mechanism.*** The Panel's review of Project documents and discussions with tribal communities reveal a lack of a functioning Grievance Redress Mechanism—one which recognized traditional and customary dispute-resolution mechanisms. Tribal leaders with whom the Panel spoke were unaware of the existence of the Grievance Redress Mechanism and had not been asked by the Project to support resolution of disputes prior to submission of the first Request. Early knowledge of grievances could have produced timely resolutions to the issues encountered by the sub-projects and helped build trust with the communities. Had there been a functioning Grievance Redress Mechanism cognizant of tribal dispute-settlement processes, many of the problems identified in the Requests could have been adequately addressed in a timely and culturally appropriate manner.

324. ***Project Supervision.*** Several factors contributed to inadequate and ineffective Bank supervision. The Panel notes that Bank supervision did not consider contextual risks, did not systematically and proactively follow up on identified problems and lacked a functioning internal mechanism for escalating issues within the Bank's structure. Red flags, such as community protests about site selections, the lack of site-specific Environmental Management Plans and complaints from communities to the Bank Management, were not followed up on when action could have made a difference. Management failed to focus on these matters until well after decisions had been made and construction was underway. With hindsight, more effective supervision could have eliminated or mitigated the harm experienced by the tribal peoples in Giddhi Jhopri and Purani Basti.

325. ***Retrofitting and Redress.*** Management has candidly acknowledged weaknesses and has undertaken an Action Plan to address shortcomings, including retrofitting the Project to address requirements of Bank policies on Indigenous Peoples, Physical Cultural Resources and Involuntary Resettlement. The Panel hopes that through consultations, solutions acceptable to the communities can still be found.

Annex 1: Table of Findings

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| Environmental Categorization | <p>The Panel recognizes that the Project was designed to build rural water supply and sanitation schemes with potential site-specific impacts in which few are irreversible and for which mitigating measures could readily be designed. Notwithstanding the fact that required procedures of the Environmental Assessment-Environmental Management Framework were subsequently not followed, the Panel finds the designation of the Project as an environmental Category B to be in compliance with Bank Policy on Environmental Assessment (OP/BP 4.01).</p> |
| Environmental Management Plans | <p>The Environmental Management Plans were only finalized in June 2019, when construction of the Bagbera Multi-Village Scheme was reported as 70 percent complete and the Chhotagovindpur Multi-Village Scheme was completed and already in testing mode. The construction of the Bagbera and Chhotagovindpur Multi-Village Schemes financed under the Project proceeded without the preparation of required, site-specific environmental and social assessments and Environmental Management Plans. The Panel finds Management in non-compliance with Bank Policy on Environmental Assessment (OP/BP 4.01) for not ensuring analysis of the potential environmental, social and cultural impact of these schemes and development of related mitigation measures.</p> |
| Solid and Liquid Waste Management Impacts | <p>Even though the solid and liquid waste management is an integral part of the Project and prominently mentioned in the environmental framework and in supervision documents, solid and liquid waste management impact was not identified and addressed in the 2019 retrofitted Environmental Management Plans. The Panel finds Management in non-compliance with Bank Policy on Environmental Assessment (OP/BP 4.01) for not ensuring the coverage of environmental and health risks presented by open disposal of household wastewater and their mitigation measures in the 2019 retrofitted Environmental Management Plans for the Bagbera and Chhotagovindpur Multi-Village Schemes.</p> |

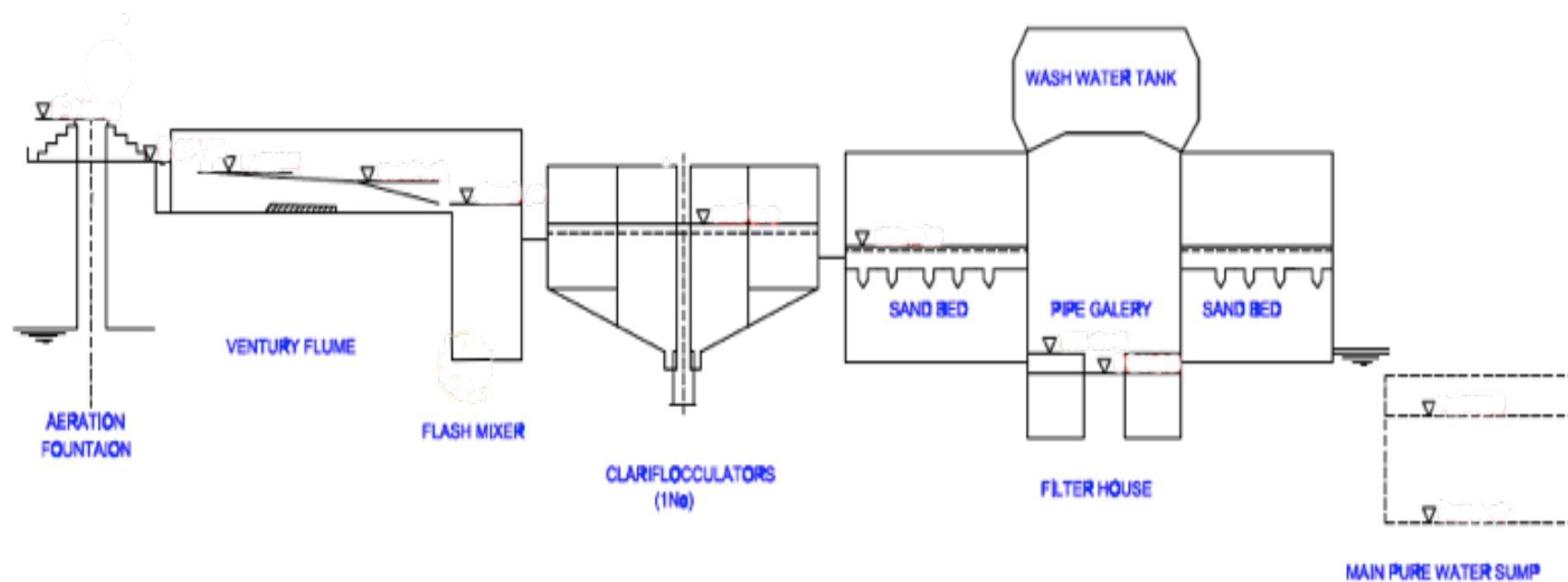
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| Hydrology, Water Quality and Sludge Management | <p>In reviewing the hydrology, water quality, and sludge management concerns raised by the Requesters, the Panel finds that these matters have been considered in the design of the Multi-Village Schemes and that relevant procedures are addressed in the applicable 2019 Environmental Management Plans for the two schemes.</p> <p>The Panel finds Management in compliance with Bank Policy on Environmental Assessment (OP/BP 4.01) in addressing environmental issues regarding hydrology, water quality and sludge management in the design and implementation of the Project and in the 2019 Environmental Management Plans.</p> |
| Site-Specific Tribal Development Plans | <p>The Panel notes that a Social Assessment and Tribal Development Plan were prepared for the State of Jharkhand. In the Panel’s view, absent a site-specific Social Assessment—which analyzes the characteristics of the affected tribal communities and impact on them—and detailed mitigation and consultation measures, the draft Tribal Development Plan is akin to a framework document such as the Indigenous Peoples Planning Framework outlined in Bank Policy on Indigenous Peoples (OP/BP 4.10).</p> <p>The Panel finds that although the Bagbera Water Treatment Plant and Elevated Storage Reservoir near Purani Basti are being implemented in areas customarily used by tribal communities, Management failed to ensure the preparation of site-specific Tribal Development Plans, which led to significant harm to the culture, religion and way of life of tribal communities adjacent to these sites in non-compliance with Bank Policy on Indigenous Peoples (OP/BP 4.10).</p> |
| Assessment of Impact on Indigenous Peoples | <p>The Panel notes that the Social Assessment and Tribal Development Plan do not adequately assess the customary use of natural resources, religious practices or cultural festivals of Santhal and Ho tribes. The Panel finds that Management did not ensure the identification and mitigation of the impact on customary use of land, resources and sites that hold cultural significance to the affected tribal communities near the Bagbera Water Treatment Plant and Elevated Storage Reservoir near Purani Basti in non-compliance with Bank Policies on Environmental Assessment (OP/BP 4.01), Indigenous</p> |

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| | Peoples (OP/BP 4.10) and Physical Cultural Resources (OP/BP 4.11). |
| Consultations | The Panel finds shortcomings in the consultations and disclosure of the Social Assessment, Tribal Development Plan and Tribal Development Implementation Plan, including inadequate documentation of the consultation process, insufficient disclosure of information and lack of translation of key Project documents into Hindi and tribal languages in non-compliance with Bank Policy on Indigenous Peoples (OP/BP 4.10). In addition, the Panel finds that Management did not ensure a process of free, prior and informed consultations with affected tribal communities in Giddhi Jhopri and Purani Basti in the absence of site-specific Tribal Development Plans in non-compliance with Bank Policy on Indigenous Peoples (OP/BP 4.10). |
| Decision-making on Site Selection | The Panel finds that site selection for the Bagbera Water Treatment Plant and the Elevated Storage Reservoir near Purani Basti was not approved by the habitation <i>Gram Sabha(s)</i> despite the requirements of the tribal decision-making process set forth in the Tribal Development Plan and Tribal Development Implementation Plan. The Panel finds that these sites were selected without considering the social and cultural importance of the sites to affected tribal people. The Panel also finds that the works proceeded in the absence of broad community support from affected tribal community members. Consequently, the Panel finds the selection for the two sites in non-compliance with Bank Policy on Indigenous Peoples (OP/BP 4.10). |
| Grievance Redress Mechanism | The Panel notes that during critical stages of the Project there was no functioning Grievance Redress Mechanism for affected communities to raise their concerns, and that the customary tribal dispute settlement mechanisms were neither considered nor used by the Project. The Panel finds Management's failure to ensure the establishment of a timely, accessible, effective, and culturally appropriate Grievance Redress Mechanism in non-compliance with Bank Policy on Indigenous Peoples (OP/BP 4.10). |

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| Supervision | <p>The Panel notes that Bank supervision did not consider contextual risks, did not systematically and proactively follow up on identified problems and lacked a functioning internal mechanism for escalating issues.</p> <p>The Panel finds that Management failed to provide adequate implementation support or to take relevant, effective action—prior to the Requests—to ensure implementation of required environmental and social measures in non-compliance with Bank Policies on Investment Project Financing (OP/BP 10.00), on Environmental Assessment (OP/BP 4.01) and Indigenous Peoples (OP/BP 4.10). This contributed to the significant harm experienced by the indigenous peoples of Giddhi Jhopri and Purani Basti.</p> |
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Annex 2: Water Treatment Plant Schematic and Description

The water treatment plants built to serve the Bagbera and Chhotagovindpur schemes utilize the same sequence of treatment components. These are shown in the following schematic drawing and described in the accompanying table.



Source: Chhotagovindpur DPR, Volume II, October 2013.

| | Treatment Component | Purpose | Notes |
|---|----------------------------|--|--|
| 1 | Aeration Fountain | -Refresh water oxygen content -Remove taste and odor -Precipitate iron and/or manganese | -Diameter 10m -5 Steps |
| 2 | Flume | Measurement of flow | none |
| 3 | Flash mixer | Coagulant and pH adjustment additives are rapidly and uniformly dispersed throughout a volume of water to create a generally homogenous liquid throughout the volume. | pH is raised by the addition of sodium hydroxide (NaOH) Coagulant used is alum, aluminum potassium phosphate, (KAl(SO ₄) ₂ , baking powder). |
| 4 | Clariflocculator | Two processes occur: coagulation-flocculation and settling to clarify water by removing turbidity and color through enhanced formation of precipitate that can be removed by settling to the bottom of a large, still clarifier. Clarified water flows out of the top of the settling basin for delivery to sand filter beds. | Coagulation-flocculation causes small particles in water to clump into larger aggregates that can be more easily separated from the water. The settling or clarification process makes the water clear by removing all kinds of particles, sediments, organic matter, and color. A portion of the settled material is returned to the head of the treatment works, and a portion (sludge) is passed into sludge tanks for drying/centrifuging and ultimate disposal. |
| 5 | Sand bed and pipe gallery | By passing the water through roughly 2 meters of sand, removal of suspended particles, unsettled flocs, and many pathogens is achieved. Multiple sand beds, and extensive pipe gallery, and a wash water tank are housed in the Filter House. | The Pipe Gallery received filtered water from the bottom of each sand bed and is used to introduce clear water needed to periodically “backwash” or cleanse each sand bed using water stored in the wash water tank. |
| 6 | Main clear water sump | This is a clear water reservoir from which treated water is pumped to all of the scheme’s elevated storage reservoirs. | Stored water is typically disinfected with chlorine gas before distribution to elevated storage reservoirs. |

Annex 3: Inspection Panel Members and Expert Consultants Biographies

Imrana Jalal, Chair: Ms. Jalal was appointed to the Inspection Panel on January 1, 2018. A Fiji national, Ms. Jalal brings to the Panel more than 30 years of experience across diverse geopolitical and multicultural environments in the private and public sectors.

As a Principal Social Development Specialist (Gender and Development) for the Asian Development Bank from 2010-2017, Ms. Jalal gained intimate knowledge of multilateral development bank operations in various sectors and demonstrated her ability to engage and build rapport and trust with stakeholders around various and complex issues. She was Chief Technical Adviser at the Pacific Regional Rights Resource Team Office from 1995-2010.

A lawyer by profession, Ms. Jalal was a Commissioner from 1999-2001 on the initial Fiji Human Rights Commission, the first of its kind in the Pacific Island countries. She is the author of “Law for Pacific Women: A Legal Rights Handbook,” architect of the Fiji Family Law Act 2003, and was a founding member of the Fiji Women’s Rights Movement. She was elected a Commissioner on the Geneva-based International Commission of Jurists (ICJ) in 2006 and served on the Commission’s Executive Board from 2011-2017. The ICJ was established to protect the independence of judges and lawyers.

Ms. Jalal earned a Master of Arts with a focus on Gender and Development from the University of Sydney, and an LLB and LLM (Hons.) in International Law from the University of Auckland. Her term runs through December 31, 2022. In April 2018, she was elected to become chair of the Panel, effective December 16, 2018. Imrana Jalal was appointed to the Inspection Panel on January 1, 2018. A Fiji national, Ms. Jalal brings to the Panel more than 30 years of experience across diverse geopolitical and multicultural environments in the private and public sectors.

Ramanie Kunanayagam, Panel Member: Ms. Kunanayagam, a Sri Lankan-born Australian citizen, was appointed to the Inspection Panel on December 16, 2018. She brings to the Panel more than 25 years of experience across diverse geopolitical and multicultural environments in the private and public sectors. Ms. Kunanayagam’s leadership experience spans the private, public and non-profit sectors.

Ms. Kunanayagam spent more than 10 years doing fieldwork in a remote part of East Kalimantan, Indonesia. She has held leadership positions in sustainability in both the private sector (working for two FTSE 10 companies) and the non-profit sector. Most recently she was the Global Head for Social Performance and Human Rights for BG Group. She is a member of the boards of two international non-profit development organizations – RESOLVE and Youth Business International. In addition, Ms. Kunanayagam is a Fellow at the University of Queensland, Australia, and an Executive Session member at Columbia University’s Centre for Sustainable Investment.

With her ability to distill information and cross-cutting sector experience, she brings valuable insights and a contemporary perspective to the Inspection Panel along with good judgment and the

ability to balance complex issues and consider the competing demands of diverse stakeholders while remaining independent and objective.

Ms. Kunanayagam has strong operational experience working across the entire project cycle. Her experience with multinational and international organizations and valuable experience living and working in more than 30 countries make evident her people skills and ability to broker trust relationships. Her appointment as a secondee to the World Bank very early in her career also gives her insights into and knowledge of the organization's operations that complement the expertise she has developed working alongside civil society, multilaterals, bi-laterals and communities affected by World Bank projects.

She earned a Masters in Anthropology from Monash University, Australia. Her appointment runs through December 15, 2023.

Mark Goldsmith, Panel Member: Mr. Goldsmith, a United Kingdom citizen, was appointed to the Inspection Panel on November 17, 2019. He brings to the Panel more than 25 years of experience managing complex projects and teams across the financial services, development, strategy consulting and energy sectors. His leadership extends to both the public and private sectors where he has demonstrated the ability to manage multi-stakeholders, understand complex issues and lead the implementation of industry-wide and sector-leading solutions.

Through his work in both emerging and developed economies, Mr. Goldsmith has dealt with a wide portfolio of complex and sensitive matters, including environmental, social, sustainability, safety, risk management and governance issues – experience that provides great value to the Panel. Before creating his own sustainability consultancy "FiveOak" in 2015, Mr. Goldsmith was Director, Responsible Investment for Actis for more than 10 years. During that time, he was a leader in environmental and social governance (ESG) thinking in the emerging markets. In this capacity he developed and promoted world class standards in business integrity, health and safety, social, environmental and climate change areas across all investment areas and companies and implemented robust corporate governance standards and transparent practices. From 2014 to 2019, Mr. Goldsmith was a non-executive director of ENEO, the power company of Cameroon, and chaired the board subcommittee on ESG for four of those years.

Mr. Goldsmith has led several assignments, including developing environmental and social training for CDC Group (the UK's developmental finance institute) on the International Finance Corporation's Performance Standards and providing ESG expert advice to an East Africa private equity fund and its portfolio companies.

He has a bachelor's degree in manufacturing engineering from the University of Nottingham and a master's degree in environmental pollution control, with distinction, from the University of Leeds. His appointment on the Panel runs through November 16, 2024.

Jan Mattsson, former Panel Member: Jan Mattsson served as Inspection Panel Member from November 17, 2014 to November 16, 2019. When his term as Panel Member expired during the finalization of the Report, he continued to work as consultant on the Report until its completion. A Swedish national, he brought to the Panel more than three decades of experience in the public

and private sectors, as well as in academia. This included development field work, policy advice, program management, and leadership roles at the United Nations where he established robust systems for results-based management, transparency and accountability. Throughout his career Jan Mattsson has demonstrated the ability to engage and build trust with multiple stakeholders around complex issues. He is passionate about social justice and ethics. He has a Ph.D. in engineering from the University of Linköping, Sweden, with a multi-disciplinary thesis on management of technological change.

Before joining the Panel, Jan Mattsson held positions in several UN agencies – including UNDP, UNIDO, UNFPA, WFP and UNODC. In his final UN assignment, he was UN Under-Secretary-General and Executive Director of UNOPS, an organization specializing in the implementation of development, humanitarian and peace-building operations on behalf of multiple partners. After leaving the UN, he founded [M-Trust Leadership](#), an advisory firm promoting socially responsible investments and partnerships among business, government and civil society in pursuit of sustainable development.

Jan Mattsson is co-founder of the [Museum for the United Nations - UN Live](#), and currently Chair of its Board. He is also Board Chair of two social enterprises: [EverImpact](#) and [SolarSack](#).

Navin K. Rai, Expert Consultant: Navin K. Rai obtained his Ph.D. from University of Hawaii, USA, in 1982 for a thesis dealing with the impacts of logging and mining on a hunting and gathering society in the Philippines. A Nepali national, Dr. Rai served as a Fulbright Visiting Professor at the University of Michigan, Ann Arbor, USA in 1988. He served as an Associate Professor at the Tribhuvan University, Center for Nepal and Asian Studies, Nepal from 1973 to 1988. Dr. Rai was the World Bank Indigenous Peoples Corporate Advisor (1999 -2012); in this role, he was responsible for drafting the World Bank Indigenous Peoples Policy and for implementing the World Bank corporate strategy on indigenous peoples and for this, he was recognized by the global Indigenous Peoples community as well as by the International Consortium of Investigative Journalists for effectively influencing the World Bank for a progressive corporate strategy on Indigenous Peoples.

Prior to his work at the World Bank, Dr. Rai was the Chief Technical Advisor for the German Agency for Technical cooperation (the GIZ) for rural development/ natural resource management projects in Nepal (1986 – 1994) and the Philippines (1995-1999); during this assignments, he led multi-national, multi-sectoral teams, coordinated the Environment and Natural Resource Sector Projects and worked extensively with grassroots communities in the management of natural resources. Dr. Rai served as an evaluation consultant for the Asia Indigenous Peoples Pact (2013 – 2014), the Asia Regional Human Rights Organization focused on Indigenous Peoples) for “Project Impact Evaluation: Promoting Rights-Based, Equitable and Pro-Poor REDD+ Strategies in the Mekong Sub-Region;” he evaluated the contribution of the project towards the recognition of indigenous peoples’ rights in REDD+ in five countries in the Mekong Region (Cambodia, Lao PDR, Myanmar, Thailand and Vietnam). He serves as the Expert Resource Person for the United Nations Institute for Training and Research (UNITAR) for the Annual UNITAR Training Programme (2004 – 2019) to enhance the conflict prevention and peace-making capacities of Indigenous Peoples’ representatives. Currently, he serves as the chair of the Indigenous Peoples Nepal Trust.

Dr. Rai's book, "*Living in a Lean-To: Philippine Negrito Foragers in Transition*", was published by the University of Michigan, Ann Arbor in 1990. He authored numerous World Bank reports and publications including the Indigenous Peoples and Poverty (2006); the World Bank Enhancing Development Benefits to Local Communities from Hydropower Projects: Technical Workshop Report (2010); the Implementation of the World Bank's Indigenous Peoples Policy: A Learning Review (2011); and the Draft Guidebook to Implementation of World Bank Indigenous Peoples Policy (2010). In 2005, Dr. Rai coordinated a Multilateral Financing Institutions Team to draft the Indigenous Peoples Plan for Laos - Nam Theun 2 Hydroelectric Project.

Christopher McGahey, Expert Consultant: Christopher McGahey has worked professionally in 25 countries since completing his Ph.D. at The Johns Hopkins University, Department of Geography and Environmental Engineering in 1994 where he studied public health engineering and conducted doctoral research on the mechanisms of virus removal from water by microporous membrane filters. He began his international career as a Peace Corps Volunteer in Kenya from 1982 through 1984 and directing a water, sanitation, and hygiene (WASH) program servicing refugees at the Thai-Cambodian border for the International Rescue Committee. He specializes in bridging programmatic challenges between experts in WASH, engineering, public health, social science, and governance as part of a systems approach to water and sanitation service delivery.

His work has ranged from designing and managing USAID's largest WASH project in war-torn Afghanistan to leading efforts to optimize the integration of water security and resilience concerns into sustainability planning. He has led research, planning, and assessments for both the non- and for-profit sectors in Sub-Saharan Africa, the Middle East, South Asia, Southeast Asia, and the Caribbean working with community leaders, governmental decision makers, multi-lateral consultative organizations, and senior executives. This has been his first opportunity to support the work of the World Bank's Inspection Panel.

Dr. McGahey's current portfolio focuses on improving service delivery, associated business planning, and targeting improved services toward populations at risk of malnutrition and stunting. Since 2013, he has served as Managing Director of his independent consultancy, Hillaria International, collaborating with multiple clients including the U.K. Royal Academy of Engineering, IMA World Health, Millennium Challenge Corporation/University Research Corporation, Management Sciences for Health, Tetrattech, IRCWash, Aguaconsult, Plan International, Safe Water Network, The World Bank, and the World Wildlife Fund.

Annex 4: Location Map of the Requests for Inspection

