

Report No. 157498-KZ

THE INSPECTION PANEL

REPORT AND RECOMMENDATION ON A REQUEST FOR INSPECTION

KAZAKHSTAN

SOUTH-WEST ROADS: WESTERN EUROPE- WESTERN CHINA INTERNATIONAL TRANSIT CORRIDOR PROJECT (CAREC 1B & 6B) (P099270)

APRIL 13, 2021

**The Inspection Panel Report and Recommendation
on a
Request for Inspection**

**Kazakhstan: South-West Roads: Western Europe-Western China International Transit
Corridor Project (CAREC 1b & 6B) (P099270)**

A. Introduction

1. The Inspection Panel (the “Panel”) received a Request for Inspection (the “Request”) for the World Bank-financed Kazakhstan South-West Roads: Western Europe-Western China International Transit Corridor Project (CAREC 1b & 6B) (the “Project”) on December 24, 2020. The Request was submitted by a representative on behalf of four community members of the village of Shakpak Baba, Tyulkubas District, Turkistan Oblast,¹ Republic of Kazakhstan (the “Requesters”). The Requesters have asked the Panel to keep their identities confidential.

2. The Request pertains to five issues. First, the Requesters allege that in 2017 eight houses were flooded and sustained material damage as a result of poorly maintained drains for which the Project was responsible. Second, the Requesters allege that roadworks associated with the Project caused floods that blocked private wells, cut off access to a canal that used to supply local households with irrigation water, and disrupted access to natural spring water from an adjacent mountain range. Third, the Requesters allege that the village has seen an increase in road traffic accidents linked to the roadworks. They also claim that traffic safety plans have not been adequately consulted on or disclosed to the public. Fourth, the Requesters claim that a crossing point for cattle under the road was partially blocked with debris because of gravel from the roadworks. Finally, the Requesters allege a general lack of meaningful consultation and disclosure of information concerning the Project, in addition to the inadequate disclosure of the traffic safety plans mentioned above. In substance, the Requesters allege non-compliance with the Bank’s Policy on Environmental Assessment (OP/BP 4.01).

3. The Panel registered the Request on February 11, 2021, and Management submitted its response (the “Management Response” or the “Response”) on March 15, 2021. Due to the COVID-19 pandemic and related travel restrictions, the Panel was not able to conduct a field visit during its eligibility assessment and adopted a virtual format to gather information for its recommendation as to whether an investigation is warranted.

4. In accordance with the Panel Resolution,² the purpose of this report is to determine the eligibility of the Request and make a recommendation to the Board of Executive Directors (the “Board”) on whether an investigation of the matters alleged in the Request is warranted. The Panel determined that the Requesters and the Request meet the technical eligibility criteria. However, as discussed in Section E.2, the Panel does not find sufficient grounds to recommend an investigation.

¹ In 2018, South Kazakhstan Oblast (Region) was renamed Turkistan Oblast.

² Inspection Panel. 2020. Inspection Panel Resolution No. IBRD 2020-0004.

B. The Project

5. The Project was approved by the Board on April 7, 2009. The total cost of the Project is US\$2.5 billion, of which US\$2.125 billion is financed through a Specific Investment Loan from the International Bank for Reconstruction and Development (IBRD) (“the World Bank” or “the Bank”). The Project was restructured three times: in 2012, 2015 and 2017. The Project is active, and the current project closing date is December 31, 2021. The Project was 89.57 percent disbursed at the time of receipt of the Request. The Government of Kazakhstan is the Borrower.

6. According to the Project Appraisal Document (PAD), the Project Development Objective is to “*increase transport efficiency on the road sections between Aktobe/Kyzylorda oblast border and Shymkent, and to improve road management and traffic safety in Kazakhstan.*”³ The Ministry of Transport and Communications, through the Committee for Roads (CfR), is the implementing agency.⁴ The Project has been assigned Environmental Category A, and has triggered the safeguard policies on Environmental Assessment (OP/BP 4.01) and Involuntary Resettlement (OP/BP 4.12).⁵

7. The Project has five components with estimated loan amounts as follows: Component 1 is the upgrade and reconstruction of road sections along the corridor within Kyzylorda Oblast, excluding Kyzylorda bypass (US\$1.13 billion). Component 2 is the upgrade of road sections along the corridor within South Kazakhstan Oblast from the border of Kyzylorda Oblast to Shymkent, including the bypasses to Kyzylorda and Shymkent (US\$747.2 million). Component 3 covers project management consultants to assist the CfR with the management of Project implementation (US\$5.5 million). Component 4 covers institutional development and preparation of action plans to improve road safety and road services (US\$3 million). Component 5 covers consulting services for supervision of civil works under the first and second components (US\$46.8 million).⁶

8. The Request pertains to Component 2, which was restructured in June 2012.⁷ The restructuring allowed the financing of the upgrade of an additional 80 kilometers (km) of highway, originally outside the Project’s scope, from Shymkent to the border with Zhambyl Oblast. According to the Restructuring Paper, “*353 kilometers of roads would be upgraded under this*

³ World Bank. 2009. Project Appraisal Document (“PAD”), Kazakhstan: South West Roads Project: Western Europe - Western China International Transit Corridor (CAREC-1b & 6b). Washington, DC: World Bank. p. ii, Project development objective. Available at: <http://documents1.worldbank.org/curated/en/486231468273029850/pdf/440680PAD0P099101Official0Use0Only1.pdf>.

⁴ PAD, p. 69, para. 7.9.

⁵ PAD, p. iii.

⁶ PAD, p. ii.; the Project also includes an unallocated amount for physical and price contingencies of US\$188.2 million.

⁷ World Bank. 2012. Implementation Status & Results, Kazakhstan: South-West Roads Project: Western Europe-Western China International Transit Corridor (CAREC 1B & 6B) (P 099270) Seq. 9. Available at <http://documents1.worldbank.org/curated/en/433721468263648871/pdf/ISR-Disclosable-P099270-12142012-1355524924130.pdf>.

*component compared to the initial target of 273 kilometers.”*⁸ Shakpak Baba, where the Requesters live, is located within the additional 80 km of highway and is close to the border with Zhambyl Oblast. The restructuring also included the construction of a road tunnel, located on a bypass of Shakpak Baba, approximately 1.5 km northeast of the village. Construction of the 800-meter tunnel was proposed by the Contractor as reported in the 2015 Implementation Status & Results Report and is ongoing.⁹ After completion, the bypass, including the tunnel, will divert traffic away from the existing road through Shakpak Baba.

C. Summary of the Request

9. The Request for Inspection, attached as Annex 1 to this report, was submitted on December 24, 2020 by a representative on behalf of four Requesters who have asked for confidentiality. Their grievances are:

10. **2017 Flooding.** The Requesters claim that in 2017 eight houses on Boranbay Bagysbekov Street, in the village of Shakpak Baba, were flooded because the Project, which should have maintained the drains, failed to do so. Material damage was not compensated, except to one resident, who was reimbursed KZT 120,000 (approximately US\$285). Since 2017 there has been a drought, and therefore, there have not been any additional floods. However, the threat of flooding remains, according to the Requesters.

11. **Availability of Water.** The Requesters claim that (i) they are no longer able to use their wells to irrigate their gardens because the wells were blocked by the 2017 flood, (ii) natural spring water that found its source in the nearby Karatau Mountains is no longer available because the roadworks dislodged a concrete irrigation pipe that used to supply the houses with water, and (iii) the roadworks have altered the natural ecological balance of spring water.¹⁰ This situation, they claim, has deprived households of access to water, and many residents can no longer grow vegetable products to supplement their food supply, which has added a financial burden to them.

12. **Traffic Accidents and Fatalities.** The Requesters allege that delays in the construction of the bypass and tunnel have led to an increase in road accidents on the main street of the village of Shakpak Baba that still serves as the principal Shymkent-Almaty road. They allege that this has specifically led to collisions with pedestrians and between vehicles and overturning of vehicles. In

⁸ World Bank. 2012. Restructuring Paper on a Proposed Project Restructuring of the Kazakhstan: South-West Roads Project: Western Europe-Western China International Transit Corridor (CAREC 1B & 6B) Project. p.3, para. 11. Available at: <http://documents1.worldbank.org/curated/en/468821468271840448/pdf/640440PJPR0P090Official0Use0Only090.pdf>.

⁹ World Bank. 2015. Implementation Status & Results, Kazakhstan: South-West Roads Project: Western Europe-Western China International Transit Corridor (CAREC 1B & 6B) (P 099270) Seq. 15. Available at: <http://documents1.worldbank.org/curated/en/717921468273288965/pdf/Kazakhstan-SOUTH-WEST-ROADS-WESTERN-EUROPE-WESTERN-CHINA-INTERNATIONAL-TRANSIT-CORRIDOR-CAREC-1B-6B-P099270-Implementation-Status-Results-Report-Sequence-15.pdf>.

¹⁰ On March 29, 2021, the Requesters clarified that this refers to snowmelt and rain, which percolates into the ground and fills up the wells. Currently, it is not functioning and not raising the water level in the wells.

the Request for Inspection, the figures in the following table, drawn from official police records, show the number of accidents and fatalities:¹¹

<i>Year</i>	<i>Fatalities</i>	<i>Injured</i>
2017	7	91
2018	11	103
2019	6	103

Road Accidents (source: Request for Inspection)

13. Furthermore, they allege that the Project-required traffic safety plans have not been made available in a format that is accessible to the public, including to Project stakeholders.

14. **Cattle Crossing.** The Requesters allege that a large culvert under the bypass that is used as a crossing point by cattle is partially blocked with debris and gravel from the roadworks. They claim that this is due to a failure by the Project to adequately maintain the culverts.

15. **Disclosure of Information and Consultation.** The Requesters allege that, in addition to the failure to adequately disclose traffic safety plans, there was a general lack of meaningful consultation and disclosure of Project information.

16. **Alleged “Copyright Infringement”.** The Requesters raise concerns about the copyright of the tunnel’s design. They allege that after a partial collapse of the tunnel wall in August 2019, which delayed works, a new engineering firm was hired and that this firm does not have the legal right to use the design, or the capacity to adequately address the collapse.

D. Summary of the Management Response

17. The Management Response is attached to this report as Annex 2. The Response contains a description of the Request, a description and background of the Project and Management’s Response. The following annexes to the Management Response are included: a table presenting the Requesters’ claims and Management’s detailed response to each claim; additional photographs; maps and figures; and photographs from the September 2020 complaint letter.

18. Management states that the Bank and the CfR responded to the issues raised in the Request when they were first communicated to the Bank on September 30, 2020.¹² Management states that it has carefully reviewed the Project implementation arrangement to ensure that it meets Bank policy requirements, and requested the Borrower to actively look into the community complaints raised in the September 2020 communication and the Request.¹³ Management states that the Borrower treated the allegations very seriously before the Request was filed. It notes that “*the Project’s engagement with the local community has been constant since 2014,*” taking into account the villagers’ concerns, regularly adjusting designs and including addressing issues that were not part of the Project’s scope.¹⁴

¹¹ The Panel understands that these figures, provided by the Requesters’ Representative, cover a 40 km segment of road, from the border of Zhambyl Oblast, near Shakpak Baba, to the village of Zhaskeshu.

¹² Management Response, p. 5, para. 15.

¹³ Management Response, p. 6, para. 18.

¹⁴ Management Response, p. 6, para. 18.

19. After receiving the September 2020 letter, the Bank on November 13, 2020, arranged a field mission to meet with the Requesters' representative, the local community, the implementing agency and the Contractor on site.¹⁵ Management states that during the mission, the CfR confirmed arrangements to address some of the actions related to the Project, and, although not its responsibility, some actions not related to the Project. These actions include expanding the culvert capacity under the existing main road through the village, paving the drainage canal and fixing the "concrete pipe irrigation channel" as soon as the road can be closed to carry out these works. The CfR requested that the residents provide details related to the flood damage claims for review and identification of the responsible party, but no submissions have been received by the CfR to date.¹⁶

20. In February 2021, the Bank team visited the Project site again and engaged with the community members, including the 13 residents of eight properties that were flooded in 2017.¹⁷ The Bank team informed the community that the Bank mission's goal was "*to obtain a better understanding of the issues raised, so that they could be reviewed and addressed and invited them to raise issues of concern.*"¹⁸

21. **2017 Flooding.** Management states that the April 2017 flooding was not related to the Project. It adds that in April 2017 several regions of Kazakhstan experienced severe flooding caused by heavy rainfall and snowmelt and that nationwide, 7,000 people were evacuated, at least 70 people were rescued from floodwaters, and approximately 1,500 homes were damaged.¹⁹ An independent hydrologist commissioned by Management confirmed Management's assessment that in Shakpak Baba flooding was caused by rainwater trapped at the village's lowest point from local topography and inadequacy of the village's drainage infrastructure. According to Management, the hydrologist also analyzed the drainage of the terrain, and assessed that the increase in the area of catchment draining from the new bypass road in April 2017 was not significant, and that the rainfall would have caused flooding at the culvert under the existing road regardless.²⁰

22. Regarding the culvert, Management states that there is no evidence that it was clogged at the time of the 2017 flood. It adds that, according to the hydrologist, the capacity of culverts was not sufficient to absorb the large volumes of water caused by the April 2017 rainfall with or without the new bypass road.²¹ After the 2017 flood, the CfR and the Contractor committed to implementing a number of flood mitigation measures, including expanding the capacity of the culvert and lining the drainage ditch that cuts across the village, even though such work is not part of the Project. These works are planned to be done after completion of the bypass road. The CfR has also committed to maintaining the existing road surface and adjacent drainage.²²

23. **Compensation Claims by Flooded Households.** Management states that some residents requested compensation for the 2017 flooding damage to their properties from the local

¹⁵ Management Response, p. 5, para. 15.

¹⁶ Management Response, p. 5, para. 15.

¹⁷ Management Response, p. 5, para. 16.

¹⁸ Management Response, p. 6, para. 17.

¹⁹ Management Response, p. 7, para. 23.

²⁰ Management Response, pp. 7 and 9, paras. 24 and 26.

²¹ Management Response, p. 9, para. 27.

²² Management Response, pp. 10 and 11, paras. 29 and 30.

government (Akimat of Tyulkubas District) on April 17, 2017.²³ After the Akimat’s subsequent visit and assessment, the Akimat advised the residents in a written response dated May 4, 2017, that the damage to temporary and non-residential household structures caused by the flood was not eligible for compensation in accordance with Article 58 of the Law of the Republic of Kazakhstan on “Civil Protection” dated April 11, 2014. On July 15, 2017, the Akimat paid compensation to a resident whose house qualified as a residence and whose floor was damaged by flood water.²⁴

24. **Availability of Water.** Management states that the Request “*specifically conflates*” water-related issues affecting Shakpak Baba that are not related to the Project.²⁵ During the February 2021 mission, the Bank team was shown the wells of several houses with depths that they reported ranged from 12 to 17 meters. According to Management, the wells were clean and in good condition. One resident indicated that the well in their property was clogged after the 2017 flood but had since been cleaned and is now functional.²⁶

25. Management states that the Request “*erroneously*” claims that Project works have had an impact on the availability of spring water used by the residents to water gardens.²⁷ The local water authority confirmed with Management that there is no groundwater spring on the northern side of the valley where the bypass road runs and, therefore, there is no impact from the road or tunnel construction on groundwater springs used by the village.²⁸ Regarding a concrete pipe to supply irrigation water, Management states that there is no connection to the Project; the pipe was installed in 2017 by the local government to increase the flow of irrigation water from an existing canal, which itself sources water from springs originating outside the catchment.²⁹

26. Management understands that the “*natural spring water*” in the Request is “*seasonal snowmelt water*” from the Karatau Mountains that some residents who have limited access to irrigation canals use that to water their gardens.³⁰ Management states that road construction under the Project does not affect the flow of the snowmelt water, as six culverts under the bypass road allow water to flow downhill to the village.³¹ Management indicates that water shortage has occurred in all regions of Kazakhstan, particularly in the south and west, and that the country has entered a cycle of water shortage that may continue until 2030.³² Management also refers to global climate change as a cause of less snowfall in winter resulting in less snowmelt water in spring.³³

27. **Traffic Accidents and Fatalities.** Management acknowledges that the delay in Project implementation has indeed resulted in delays in diverting road traffic away from the village, which was one of the intended Project benefits. Management indicates that the construction works on the

²³ Management Response, p. 11, para. 32.

²⁴ Management Response, p. 11, para. 32.

²⁵ Management Response, p. 7, para. 22.

²⁶ Management Response, pp. 11-12, paras. 34 and 35.

²⁷ Management Response, p. 12, para. 36.

²⁸ Management Response, p. 12, para. 36.

²⁹ Management Response, p. 13, para. 39.

³⁰ Management Response, p. 14, para. 40.

³¹ Management Response, p. 14, para. 41.

³² Management Response, p. 14, para. 42.

³³ Management Response, p. 15, para. 43.

twin-barrel tunnel have been delayed for several reasons: contractor change due to the previous Contractor's bankruptcy; technical complication in the tunnel works; and COVID-19 pandemic restrictions. In this regard, Management states that such delay does not constitute an adverse impact resulting from the Project compared to the pre-project situation.³⁴

28. Management states that the Request's allegation that the Project delays led to increased road accidents is "*not accurate*" as the figures in the Request are not consistent with the official police records for Shakpak Baba and the police records do not indicate that the accidents increased during the Project period, defined as the year works started in Shakpak Baba (2015) to the present.³⁵ Management states that a major safety risk on the existing road is the unregulated location of roadside traders, something being addressed by the Akimat. The Akimat has worked to remove informal traders from the roadside and provide them with safe space for trading.³⁶ Management adds that the Project had established a Quality Center for road asset management and road safety.³⁷ Management specifies that the number of accidents, including the number of accidents involving pedestrians, has not increased.³⁸ The numbers of road accidents, fatalities, injuries and involvement of pedestrians inside Shakpak Baba, as provided in the Response are presented in the table below:³⁹

<i>Year</i>	<i>Accidents</i>	<i>Fatalities</i>	<i>Injured</i>	<i>Pedestrians involved</i>
2012	7	9	7	1
2013	9	2	18	3
2014	8	2	19	2
2015	6	4	4	4
2016	2	1	1	2
2017	10	0	14	3
2018	8	2	7	3
2019	4	1	7	1
2020	5	1	7	0

Road Accidents inside Shakpak Baba Village limits (source: Management Response)

29. Concerning the Traffic Management Plan, in Management's view the Contractor has taken the necessary measures to ensure proper traffic safety management related to the Project construction, including at the junction of the new bypass and the existing road.⁴⁰ Management states that there is no indication or evidence that traffic volume has increased as a result of the upgraded road sections before and after Shakpak Baba. Management notes that there is no alternative east-west road connection for at least 200 km around Shakpak Baba from which traffic could be drawn or re-routed to the upgraded Project road.⁴¹

³⁴ Management Response, pp. 17-18, para. 49.

³⁵ Management Response, p. 15, para. 44.

³⁶ Management Response, pp. 15-16, para. 46.

³⁷ Management Response, p. 4, para. 10.

³⁸ Management Response, p. 15, para. 44.

³⁹ The data provided by the Requesters are different to that provided by Management, as the former cover a 40 km segment of road, and the latter cover a 5.5 km segment of road.

⁴⁰ Management Response, p. 16, para. 47.

⁴¹ Management Response, p.17, para. 48.

30. **Cattle Crossing.** Management views that the Request “*erroneously*” alleges that the box culvert of the Project bypass road, which serves as a cattle underpass, was clogged by debris.⁴² Management considers that it is highly unlikely that the box culvert was blocked to the extent that it could not fulfill its intended function due to its dimension. Management considers that if the culvert had been blocked, the water would not have traveled downstream to the village where the flooding occurred.⁴³ Management responds that the Contractor, at the instruction of the CfR, cleaned the small amounts of mud from the box culvert floor in October 2020, and it is no longer blocked and is passable for cattle.⁴⁴ Management adds that the culvert will be cleaned regularly, as part of normal operations and maintenance.⁴⁵

31. **Disclosure of Information and Consultation.** Management states that the Environmental and Social Impact Assessment (ESIA) for the Project was prepared and disclosed by the Borrower and the Bank on June 24, 2008. A site-specific ESIA for the Shymkent-Zhambyl Oblast border was prepared and submitted by the Borrower on June 4, 2012. Management indicates that the Borrower disclosed it then, and the Bank disclosed it on March 2, 2021.⁴⁶ Management notes that the ESIA became inaccessible online due to the renaming of the lead ministry and internet domain change. The Borrower re-disclosed the ESIA after Management’s request on February 6, 2021. Management adds that the Environmental Management Plan (EMP) prepared in 2018 by the new Contractor completing the tunnel was disclosed by the Borrower on March 2, 2021, and by the Bank the next day. A supplementary ESIA for the design revision from a deep cut to an 800-meter tunnel was approved by the State Expertise on October 20, 2014, and a Resettlement Action Plan (RAP) for the A2 “Khorgos-Almaty-Shymkent-Uzbekistan border corridor (593-632 km)” was prepared and disclosed by the Borrower on March 17, 2014, and by the Bank the next day.⁴⁷

32. Management shared a table that lists 15 consultations that occurred between January 2009 and September 2014 along the Western Europe-Western China road corridor project carried out by the Public Monitoring Group. Management’s consultation table shows that the residents of Shakpak Baba were consulted at least twice: on August 6-8, 2012, and September 17-25, 2014, during meetings with Tyulkubas District residents.⁴⁸

33. **Alleged “Copyright Infringement”.** Management states that the alleged “copyright infringement” is a legal dispute between an engineering bureau “Shymkent Kazdorproekt” and the CfR, and Management notes that it is not a matter of compliance with Bank policy and it does not cause or could have any adverse impact on the community, the environment or the quality of the road and tunnel construction. Management states that the Bank has no role in this dispute.⁴⁹

34. **Conclusion.** Management views that it has followed the policies and procedures applicable to the matters raised by the Request. Management believes that the Requesters’ rights or interests have not been, nor will they be, directly and adversely affected by a failure of the Bank to

⁴² Management Response, p. 11, para. 31.

⁴³ Management Response, p. 11, para. 31.

⁴⁴ Management Response, p.vi, para. vii; p. 11, para. 31.

⁴⁵ Management Response, p.10, para. 30.

⁴⁶ Management Response, p. 18, paras. 50 and 51.

⁴⁷ Management Response, p. 18, para. 52.

⁴⁸ Management Response, pp. 18-19, para. 53.

⁴⁹ Management Response, pp. 19-20, paras. 54 and 55.

implement its policies and procedures. Furthermore, Management adds that, in its view, the Request is “*misleading*” as it tries to link a number of unrelated yet adverse impacts experienced by the Shakpak Baba community to the Project while ignoring the sources of these impacts. Management concludes that, upon its careful review, the issues raised in the Request do not pertain to the Project and cannot be supported by facts.⁵⁰

E. Panel’s Review and Observations

35. The Panel team was composed of Panel Member Mark Goldsmith, Senior Environmental Specialist Nicolas Kotschoubey, Senior Operations Officer Serge Selwan, Research Assistant Rupes Dalai, and Junior Professional Officer Ayako Kubodera. Because of the technical nature of some aspects raised in the Request, the Panel hired the services of Luis López García, a civil engineer and hydrogeology specialist, to provide the team with a preliminary analysis of the hydrogeological aspects of the Request. Due to the ongoing COVID-19 pandemic and the Bank’s travel restrictions in this regard, the Panel team did not travel to Kazakhstan for an eligibility visit. Instead, the Panel conducted several virtual meetings with Bank staff, officials of the Ministry for the National Economy, the CfR, the local government of Tyulkubas District, the local office of the Kazakhstan Committee of Water Management, the National Highway Management Operator, and the Requesters and their representative.

36. The Panel expresses its appreciation to all stakeholders for their readiness to meet virtually and share their views and provide detailed information and documentation relating to the concerns raised in the Request for Inspection.

37. The Panel’s review is based on information presented in the Request, the Management Response, documentary evidence and information gathered through discussions with the Requesters, Management and government officials. The following review covers the Panel’s determination of the technical eligibility of the Request according to the criteria set forth in the Panel Resolution (subsection E.1) and the Panel’s observations and review (subsection E.2) supporting the Panel’s recommendation.⁵¹

E.1 Determination of Technical Eligibility of the Request

38. The Panel determined that the Request meets all six technical eligibility criteria of paragraph 29 of the Panel Resolution. The Panel notes that its confirmation of technical eligibility, which is a set of verifiable facts focusing to a large extent on the content of the Request as articulated by the Requesters, is not an assessment of the substance of the claims made in the Request.

- Criterion (a): “*The affected party consists of any two or more persons with common interests or concerns and who are in the borrower’s territory.*” The Request was submitted by four community members who live in a village along the Project area in Kazakhstan. The Panel spoke with the Requesters and their representative since the receipt of the Request, and considers this criterion met.

⁵⁰ Management Response, p. 20, para. 56.

⁵¹ Panel Resolution, paras. 13-15 and 29.

- Criterion (b): *“The Request does assert in substance that a serious violation by the Bank of its operational policies and procedures has or is likely to have a material adverse effect on the Requester.”* The Requesters believe that they have suffered, and will continue to suffer, harm resulting from failure by the Bank to comply with its policies and procedures, specifically OP/BP 4.01. The Panel finds that this criterion is met.
- Criterion (c): *“The Request does assert that its subject matter has been brought to Management’s attention and that, in the Requester’s view, Management has failed to respond adequately demonstrating that it has followed or is taking steps to follow the Bank’s policies and procedures.”* The Requesters state that since September 2020 they have engaged with the World Bank office in Nur-Sultan. According to the Requesters, they wrote to the Bank on September 12, 2020, and held a meeting with the Bank, the CfR representatives and the construction company on November 13, 2020. On December 9, 2020, the Requesters’ representative received a response from the Bank to the letter sent on September 12, 2020. The Panel was provided with various exchanges Requesters had with Management. The Requesters said that the response from Management was unsatisfactory to them. The Panel finds this criterion is met.
- Criterion (d): *“The matter is not related to procurement.”* The issues concerning the consulting engineer and copyright are tied and relate to procurement and are not within the mandate of the Inspection Panel. They are therefore not the subject of this report. However, the Request raises other concerns about social and environmental impacts. Hence, this criterion is met for these aspects.
- Criterion (e): *“The related loan has not been closed or substantially disbursed.”* At the time of receipt of the Request, the disbursement rate for the Project was 89.57 percent. The Project is active, and the current closing date is December 31, 2021. Therefore, this criterion is met.
- Criterion (f): *“The Panel has not previously made a recommendation on the subject matter or, if it has, that the Request does assert that there is new evidence or circumstances not known at the time of the prior Request.”* The Panel has not previously made a recommendation on the issues raised in this Request, and thus this criterion is met.

E.2 Panel Observations and Review

39. The Panel acknowledges the serious concerns of the Requesters. The Panel appreciates their submissions and the productive virtual discussions that have been held with the Panel. The Panel also acknowledges Management’s detailed response to the issues raised and readiness to provide further information, and government agencies’ cooperation and willingness to provide information.

40. In making its recommendation to the Board and in line with its Operating Procedures, the Panel considers the following: whether there is a plausible causal link between the harm alleged in the Request and the project; whether the alleged harm and possible non-compliance by the Bank with its operational policies and procedures may be of a serious character; and whether

Management has dealt appropriately with the issues, or has acknowledged non-compliance and presented a statement of remedial actions that address the concerns of the Requesters. Below, the Panel records its observations on the alleged harm and compliance, noting that in doing so, it is not making any definitive assessment of the Bank's compliance with its policies and procedures and any adverse material effect this may have caused.⁵²

41. **2017 Flooding.** The Requesters allege that although eight properties were flooded in 2017, only one resident was compensated, and that the risk of flooding is still present. According to Management and local officials, the seven other properties were either temporary or non-residential structures and therefore not eligible for compensation under national law. Management responded to the allegations with a detailed study that it commissioned from the University of Leeds, United Kingdom. The Panel notes that the study indicated that the reasons for the flood were exceptional rainfall and snowmelt and inadequate drainage in the village, none of which were associated with the Project. This is in addition to the fact that the flooding was widespread in the south of Kazakhstan. The study also reported that the slight increase in catchment area that was created as a result of the new bypass road probably had a negligible impact on the flooding.

42. This situation was confirmed by government officials who, in meetings with the Panel, indicated their concern that future high levels of rainfall and snowmelt from the Karatau Mountains may pose a flood risk to the village, and that inadequate measures are in place to prevent future floods.

43. The Panel notes that floods are serious events and can cause significant impact to people and property. The Panel notes that in April 2017 there was a heavy rainfall event recorded in the region and Shakpak Baba was one of several villages where houses and other buildings were flooded. Technical information about the cause of the flooding in Shakpak Baba was provided by Management and this has been independently reviewed by the civil engineer and hydrogeology specialist hired by the Panel. The independent specialist corroborated Management's technical analysis and conclusions concerning the cause of flooding. The Panel concurs that the primary cause of flooding was likely to be the combination of an exceptional rainfall and snowmelt event in 2017 and the lack of capacity of culverts associated with the existing road through the village. Therefore, the Panel is of the view that there is no plausible linkage between the 2017 flood event and the Project.

44. **Availability of Water.** The Requesters allege that three sources of water (wells, irrigation, snowmelt) were affected by the Project. First, they claim that some residents used private wells to irrigate their gardens and orchards, and that the wells became clogged after the 2017 flood. They also claim that a communal concrete pipe that channels irrigation water from a canal to the village was non-functioning, resulting in residents losing the opportunity to supplement their livelihood by growing their own vegetable products. They further allege that, owing to road works, the "*ecological balance of natural spring water*" (snowmelt) supply from the Karatau Mountains to the houses became "*damaged*". They allege that the roadworks disrupted the runoff, which had previously been evenly distributed and which had also supplied groundwater.

⁵² The Inspection Panel at the World Bank Operating Procedures, April 2014, para. 43. Available at: <https://www.inspectionpanel.org/sites/ip-ms8.extcc.com/files/documents/2014%20Updated%20Operating%20Procedures.pdf>.

45. Management considered that during its February 2021 visit it verified that the private wells it checked were not clogged, were functional, and that water was available at a depth of 12 to 17 meters. Management added that the flow of irrigation water had been temporarily disrupted by the local water company, not by the Project, and that the concrete pipe that channels the water has since been put back in operation. Finally, Management considered that the “*natural spring water*”, referring to seasonal snowmelt water coming down from the Karatau Mountains, is not affected by the roadworks.

46. The Panel notes that government representatives expressed a range of views with regard to availability of water. Regarding the wells, government officials explained to the Panel that the wells were blocked because of natural events (spring runoff) and that the main problem with wells was the overall declining water levels, which were quoted as being from 5 to 17 meters below ground level. Government representatives also were of the view that wells, present in every yard in the village, were in greater use in former times, but less so since the installation of the piped-water distribution system. They also explained to the Panel that water levels in the wells was not likely to have changed.

47. Government officials also communicated to the Panel that water levels from irrigation channels from mountain springs varies by year and precipitation. They were of the view that the current water flow was threatening to overflow the irrigation channels and that the Project most likely did not have an impact on this source.

48. Finally, regarding the natural spring water supply from the Karatau Mountains, government officials informed the Panel that the road and tunnel works have modified the water flow from the mountains (snowmelt) that used to run in several streams and is now directed into fewer channels, resulting in a more focused flow.

49. The Panel acknowledges that access to water is a fundamental issue for the Requesters and reviewed multiple different sources of information. The Panel observes that wells that could have been clogged as a result of the 2017 flood currently appear to be clear of debris as indicated from photos provided to the Panel. The Panel notes that any blockage connected to the 2017 flood would be unrelated to the Project. The Panel also observes that irrigation water is sourced from outside the Project area and Project activities were unlikely to have affected it.

50. Finally, the Panel observes that information concerning snowmelt and the potential impact on surface and groundwater from the construction of the tunnel is very limited in the associated supplementary ESIA. According to the data available, the construction of the new road and tunnel does not appear to have affected the supply of seasonal snowmelt coming down from the Karatau Mountains, either as surface or groundwater. The Panel notes that the capacity of the conduits installed by the Project underneath the new bypass road are sufficient to allow the natural flow of surface runoff; this view is confirmed by the civil engineer and hydrogeology specialist the Panel hired. The Panel, therefore, is of opinion that the alleged harm to the water supply outlined by the Requesters is not plausibly linked to the Project.

51. **Traffic Accidents and Fatalities.** The Requesters allege that the roadworks have led to an increase in road accidents and that delays in roadworks have aggravated this situation.

52. Management considered the information presented by Requesters erroneous. In discussions with the Panel, different government interlocutors explained that as the works continue, the traffic keeps going through the village. They added that safety plans and procedures are in place, speeding rules are enforced, and the Contractor is on the construction site to enforce such rules. The Panel was also informed that in the past vehicle speed was low but now, because the road has been upgraded, speeds have increased. The Panel was told that motorists entering Shakpak Baba forget that they have entered an inhabited area and forget to slow down. The Panel was also told that, as Shakpak Baba is in an historical apple growing area, accidents may occur because of roadside vendors and pedestrians crossing the road at dangerous places. The Panel was not provided information about the road safety work undertaken by the “Quality Center,” which is mentioned in the Management Response. The Panel was informed that accident numbers are expected to decrease when the bypass is finished, and it is anticipated that one side of the tunnel will be in operation as early as June 2021. It was also informed that an apple vending center, which will be accessible for villagers to sell produce safely, will be established.

53. The Panel verified that a Traffic Management Plan, dated 2021, is available on the Project website. However, the date of disclosure of this document is not known. During meetings with local officials, the Panel was informed that they received complaints from Shakpak Baba residents and that these complaints covered a wide range of grievances, including traffic accidents.

54. The Panel observes that there is a high number of serious road accidents recorded in Shakpak Baba. The Panel notes that, while the traffic management plan exists, community members are not aware of it. Furthermore, the Panel observes that there seems to be a limited effort in terms of physical design, driver awareness and other measures normally intended to improve safety for motorists, pedestrians and street vendors.

55. The Panel also observes that accident figures do not appear to have significantly increased in the village as a result of roadworks, which started in Shakpak Baba in 2015. The level of accidents between 2012 and 2020 is similar before and after construction started. The Panel concurs that the Project has not significantly changed the road accident rate in Shakpak Baba and, in addition, it appears likely that completion and use of the bypass will ultimately result in a safer road through the village. Hence, the Panel observes no adverse impact from the Project on the rate of accidents as compared to the no-project scenario.

56. **Cattle Crossing.** The Requesters claim that at kilometer 333 a culvert used as a cattle crossing point is partially blocked with gravel from construction that has contributed to accumulating water and mud inside the cattle crossing.

57. The Panel notes that Management indicated that the culvert was cleaned in October 2020 and that it will be cleaned regularly as part of normal operations and maintenance. The Panel observed that the large culvert under the road used as cattle crossing point does not appear to be blocked in the photograph (taken in November 2020) provided in the Management Response. The Panel further notes the steps taken to address this issue. First, a smaller culvert was replaced by

the current larger culvert, at the request of local residents, to act as a cattle pass. Second, the Project installed another large culvert approximately 10 kilometers further along the road to also function as a cattle pass. The Panel notes Management's assertion that the culverts and cattle passes on the Project road will be cleaned regularly as part of normal operations and maintenance. The Panel concurs that the culverts built by the Project are adequate and fit for purpose provided they are maintained on a regular basis. The Panel considers that the impact on the culvert was temporary, and not of a serious nature or character.

58. **Disclosure of Information and Consultation.** The Panel notes the Requesters' concern that, in their view, the Project should have published traffic safety plans from the beginning and that they have not been made aware of their availability. The Panel also notes Requesters' allegation of a general lack of consultation and disclosure.

59. The Panel also notes that the Management Response indicated numerous consultations carried out over the course of 2010-2014, including some with the residents of Shakpak Baba. Regarding disclosure of environmental and social documents, the Panel notes that these were prepared and disclosed by the Bank and the Government in 2008, and by the government only in 2012. The Panel notes that disclosure seems to have been inconsistent, and some documents became inaccessible when the government changed its website, but these were re-disclosed in 2021. The Panel was able to verify their disclosure.

60. The Panel notes that both the site-specific ESIA for the Shymkent-Zhambyl Region border, and the supplementary ESIA carried out for the tunnel do not appear to have been consulted upon. The Panel also notes that ESIAs were effectively not disclosed on the Project website for an extended period. While the Panel recognizes the potential weaknesses in the consultation and disclosure process of the above-mentioned ESIA documents, the linkage to the other alleged harms of the Project is not sufficient to recommend an investigation.

F. Panel Recommendation

61. The Panel notes that the Requesters and the Request meet the technical eligibility criteria set forth in the Panel Resolution. However, the Panel considers the following: the absence of a plausible link between the Project and (i) the 2017 flooding of houses in Shakpak Baba, and (ii) the alleged clogging of wells and loss of irrigation water. The Panel also notes (iii) no material increase in the rate of road accidents in Shakpak Baba, and (iv) the acceptable state and maintenance of cattle crossing culverts underneath the bypass road. As such, despite the weaknesses in the consultation and disclosure process, the Panel does not find sufficient grounds to recommend an investigation.

62. The Panel notes that this recommendation does not preclude the possibility of a future Request for Inspection based on new evidence or circumstances not known at the time of the current Request.

63. If the Board of Executive Directors concurs with this recommendation, the Panel will advise the Requesters accordingly.

Annex I

Request for Inspection

Кому: Исполнительному секретарю Инспекционного совета
To: Executive Secretary, The Inspection Panel
1818 H Street, NW, Washington, DC 20433, USA
Факс: 202-522-0916; or c/o the appropriate World Bank Country Office

1. Мы, [REDACTED] проживаем в селе Шакпак Баба, Тюлькубасский район, Туркестанская область, Республика Казахстан. Наши адреса прилагаются. Наши заявления, подтверждающие полномочия нашего представителя ИСАЛИЕВА БАУЫРЖАНА МОМЫНЖАНУЛЫ, прилагаются.

2. Нам причинен и может быть причинен ущерб в результате недостатков и упущений Всемирного Банка в ходе реализации проекта «Реконструкция автомобильной дороги А-2 «Хоргос – Алматы – Шымкент – гр. Республики Узбекистан», участок «Шымкент – гр. Жамбылской области» км 593-632», осуществляемого в Республике Казахстан, Туркестанская область, Тюлькубасский район, село Шакпак Баба [проект South-West Roads: Western Europe-Western China International Transit Corridor (Carec 1B&6B) Идентификационный номер P099270].

3. В 2014 году в рамках проекта «Модернизация системы управления автодорожной отраслью с учетом мнения граждан» (грант Фонда институционального развития Всемирного Банка по Соглашению № TF014526, выделенный общественному объединению «Благо») был проведен мониторинг Проектов Реконструкции Транспортного Коридора «Западная Европа – Западный Китай» и «Астана – Темиртау», в том числе и проекта «Реконструкция автомобильной дороги А-2 «Хоргос – Алматы – Шымкент – гр. Республики Узбекистан», участок «Шымкент – гр. Жамбылской области» км 593-632». В ходе мониторинга были выявлены следующие нарушения:

1. На пикете 344 необходимо установить железобетонную водопропускную трубу диаметром 1,5 метров.
2. На пикете 333 поднять уровень трубы 4х2,5 метра (скотопрогон).
3. Прорезать грунтовую канаву по проезду от арыка на точке пикета 333 до трубы под главной улицей аула (действующей трассы Алматы – Шымкент), прочистить эту трубу. В дальнейшем чистку осуществлять силами ДЭП ЮКО филиала АО НК «Казавтожол».

В ходе полевого мониторинга 06.09.2020 года выявлено:

- a. Труба на пикете 344 установлена только в 2019 году.
- b. Скотопрогон на пикете 333 установлен. Однако выход с южной стороны отчасти завален гравием, осыпавшимся с дорожного покрытия, вследствие чего скопилась влага и грязь внутри скотопрогона.
- c. Грунтовая канава на пикете 333 до трубы главной улицы Боранбая Багысбекова села Шакпак Баба прорыта. Но стены канавы осыпаются, покрыты густыми зарослями растений, канал засорен. Водопропускная труба под главной улицей села засорена.

12 апреля 2017 года следствием этих нарушений стало затопление ливневой водой домовладений по улице Боранбая Багысбекова №№ [REDACTED]. Причинен материальный ущерб, который никому из домовладельцев не компенсирован, кроме жителя дома № [REDACTED] которому возмещена часть причиненного материального ущерба в размере [REDACTED] тенге. Угроза затопления водой, в случае ливневых дождей или таяния снега, домовладений, расположенных по сторонам канавы на пикете 333 не снята.

- d. На окраине земельных участков домов с четными номерами села проложена железобетонная труба, предназначенная для поливной воды. Однако это сооружение своей роли не выполняет. Приусадебные участки домов не получают

поливную воду, большинство жителей лишены возможности пополнять свой продуктовый рацион собственной овощной продукцией. Некоторые жители поливали свои сады и огороды водой из открытых колодцев, используя электродвигатели. Но после затопления 2017 года колодцы засорены.

- e. В ходе строительства незавершенного участка дороги нарушен экологический баланс, связанный с обеспечением земельных участков домов с четными номерами природной родниковой водой с Каратауских гор.
- f. Затянувшиеся работы по прокладке двухпутного тоннеля «Шакпак Баба» «обнуляют» смысл, и предназначение самого проекта для жителей села Шакпак Баба, так как главная улица села до сих пор выполняет роль трассы Шымкент-Алматы. Это в свою очередь привело к трагическим последствиям – в результате дорожно-транспортных происшествий (наезд на пешеходов, столкновения и опрокидывания транспортных средств):
 - в 2017 году погибло 7 человек, ранено 91;
 - в 2018 году 11 погибших, 103 ранено;
 - в 2019 году 6 погибших, 103 ранено.
- g. Проектная организация, выполнившая проект тоннеля, в ответ на наш запрос сообщила о грубейшем нарушении законодательства Республики Казахстан, а именно Закона РК «Об архитектурной, градостроительной и строительной деятельности в Республике Казахстан», а также «Положения об авторском надзоре разработчиков проектов за строительством предприятий, зданий и сооружений и их капитальным ремонтом» СНиП РК 1.03-03-2010:
- автор проекта двухпутного тоннеля ТОО «Шымкент Каздорпроект» отстранен, по непонятным причинам, от выполнения работ по авторскому надзору. Кроме того, являясь единственным правообладателем на проектно-сметную документацию по проекту тоннеля на территории Республики Казахстан на основании прилагаемого к данному обращению Заключения № 01-0646/14 от 20 октября 2014 года Республиканского государственного предприятия «Госэкспертиза», ТОО «Шымкент Каздорпроект» никому этих прав не передавал и не делегировал. Несмотря на обращение коллектива проектной организации с письменным заявлением в адрес Консультанта по надзору за строительством «TEMELSU» в ассоциации с «CONSULT LTD» о запрете использования проекта при строительстве, Консультант продолжает проведение строительных работ по объекту. Таким образом, нарушены авторские права правообладателя на проектно-сметную документацию, а также нарушено законодательство Республики Казахстан в части выполнения обязательств по авторскому надзору за ходом строительства.

4. Все нарушения, изложенные в подпунктах a, b, c, d, e, f пункта 3 настоящего обращения, прямо противоречат «Социально-экологическому стандарту 4: Обеспечение безопасности и здоровья населения» Всемирного Банка.

Нарушение, изложенное в подпункте g пункта 3 настоящего обращения, противоречат «Условиям контракта на проектирование, строительство и сдачу объектов «под ключ» Международной федерации инженеров-консультантов (FIDIC).

Все организации, не приславшие ответ на наш запрос, нарушили «Социально-экологический стандарт 10: Взаимодействие с заинтересованными сторонами и раскрытие информации» Всемирного Банка.

5. Мы обращались к сотрудникам Всемирного Банка 12 сентября 2020 года путем направления своего письма Постоянному Представителю Всемирного Банка в Казахстане. С аналогичными письмами мы обращались 12 сентября 2020 года ко всем стейкхолдерам проекта: к Заказчику (Комитет автомобильных дорог), к Консультанту по надзору за строительством («TEMELSU» в ассоциации с «CONSULT LTD.»), к ТОО «СК Инжиниринг», к строительной компании ОАО «EVRASKON».

13 ноября 2020 года состоялась встреча жителей села Шакпак Баба и представителя жителей ИСАЛИЕВА Б.М. с представителями Всемирного Банка [REDACTED] и представителями Заказчика, КУП и строительной компании.

16 ноября и 1 декабря 2020 года мы обращались к Заказчику и получили ответ только (i) по вопросу компенсации материального ущерба, причиненного жителям села Шакпак Баба и (ii) по вопросу ликвидации угрозы затопления водой, в случае ливневых дождей или таяния снега, домовладений, расположенных по сторонам канавы на пикете 333, но оба ответа для нас являются НЕУДОВЛЕТВОРИТЕЛЬНЫМИ.

Мы получили ответ [REDACTED] 09 декабря 2020 года. Содержание ответа (дословно): «Мы направили Ваши оба письма в Комитет автодорог с просьбой предоставить Вам подробные ответы и разъяснения и разобраться в вопросах, поднятых Вами. Пожалуйста, дайте нам знать, получили ли Вы письменный ответ от Комитета и были ли разрешены Ваши вопросы».

Но Комитет автомобильных дорог своих ответов не дал, о [REDACTED] в тот же день (09.12.2020 г.) своим письмом (дословно):

«Доброе утро, уважаемая [REDACTED]

К сожалению, я не получил ответа от Комитета автомобильных дорог (КАД).

В то же время я информирован о журналистском запросе, на который КАД дал своевременный ответ.

Следовательно, в действиях чиновников автодорожной отрасли явно прослеживается тенденция игнорирования запросов граждан.

Что ж, вполне логичным станет наше обращение в международные правовые институты, благо проект ПОКА имеет активный статус.

Спасибо, с уважением, Бауыржан.

P.S.

Уважаемая [REDACTED]

Я уверен:

1. в субъективизме юристов Комитета автомобильных дорог, поэтому мы не получим от них ИСТИННОЙ правовой оценки проблемы лишения проектной организации ТОО «Шымкент Каздорпроект» прав авторского надзора за проектом строительства тоннеля.
2. что Комитет автомобильных дорог «умоет руки» в вопросе обеспечения компенсации материального ущерба, понесенного жителями села Шакпак Баба в апреле 2017 года.

С уважением, Бауыржан».

Отсутствие ответов от Заказчика (Комитет автомобильных дорог), ТОО «СК Инжиниринг», Консультанта по надзору за строительством («TEMELSU» в ассоциации с «CONSULT LTD.»), строительной компании ОАО «EVRASKON» по комплексу наших проблем, а также переадресация наших проблем Постоянным представительством Всемирного Банка в Казахстане Заказчику, который фактически дал ответы только на две наши проблемы, но и эти ответы не решают наши проблемы – дают нам основание для обращения в Инспекционный Совет Всемирного Банка.

6. Просим Инспекционный Совет рекомендовать Исполнительным директорам Всемирного Банка провести расследование указанных вопросов.

Подпись представителя:  ИСАЛИЕВ Б.М.

Число: 24 декабря 2020 года.

Почтовые адреса, телефон, адрес электронной почты:

ИСАЛИЕВ Б.М. [REDACTED] Республика Казахстан, [REDACTED]

мобильный телефон [REDACTED]

E-mail: [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Список приложений:

1. Заключение РГП «Госэкспертиза» по тоннелю от 20.10.2014 г.
2. Заявление [REDACTED] от 06.09.2020 г.
3. Заявление [REDACTED] от 06.09.2020 г.
4. Заявление [REDACTED] от 06.09.2020 г.
5. Заявление [REDACTED] от 06.09.2020 г.
6. Заявление [REDACTED] от 06.09.2020 г.
7. Заявление [REDACTED] от 19.11.2020 г.
8. Заявление [REDACTED] от 24.11.2020 г.
9. Заявление [REDACTED] от 25.11.2020 г.
10. Заявление [REDACTED] от 28.11.2020 г.
11. Письмо ОМГ от 12.09.2020 г.
12. Письмо Постоянному Представителю Всемирного Банка в Казахстане господину [REDACTED]
13. Письмо в КАД от 16.11.2020 г.
14. Сопроводительное письмо от 01.12.2020 г.
15. Письмо [REDACTED] от 30.09.2020 г.
16. Письмо [REDACTED] от 09.12.2020 г.
17. Ответ [REDACTED] от 04.05.2017 г.
18. Ответ ТОО Шымкент Каздорпроект от 14.09.2020 г.
19. Ответ КАД от 14.12.2020 г.



ПРЕДСЕДАТЕЛЮ КОМИТЕТА
АВТОМОБИЛЬНЫХ ДОРОГ
МИНИСТЕРСТВА ИНДУСТРИИ И
ИНФРАСТРУКТУРНОГО РАЗВИТИЯ
РЕСПУБЛИКИ КАЗАХСТАН
БАРМАКОВУ С.С.

от гражданина Республики Казахстан

[REDACTED]
(фамилия, имя отчество)

141411- [REDACTED]

[REDACTED]
(адрес места жительства: область, район сельский
округ, село)

мобильный телефон: [REDACTED]

адрес электронной почты (e-mail): [REDACTED]

ЗАЯВЛЕНИЕ

В связи с затоплением моего домовладения ливневой водой 12 апреля 2017 года мне причинен материальный ущерб, который я прошу мне возместить.

Поручаю направить данное заявление и вести дальнейшую переписку с Комитетом автомобильных дорог Министерства индустрии и инфраструктурного развития Республики Казахстан по данному вопросу от моего имени руководителю Общественной Мониторинговой Группы ИСАЛИЕВУ БАУЫРЖАНУ МОМЫНЖАНУЛЫ

Дата: 19.11.2020 г.

Подпись: [REDACTED]

ПРЕДСЕДАТЕЛЮ КОМИТЕТА
АВТОМОБИЛЬНЫХ ДОРОГ
МИНИСТЕРСТВА ИНДУСТРИИ И
ИНФРАСТРУКТУРНОГО РАЗВИТИЯ
РЕСПУБЛИКИ КАЗАХСТАН
БАРМАКОВУ С.С.

от гражданина Республики Казахстан

[REDACTED]
(фамилия, имя отчество)

ИИН: [REDACTED]

[REDACTED]
(адрес места жительства: область, район сельский
округ, село)

мобильный телефон: [REDACTED]

адрес электронной почты (e-mail): [REDACTED]

ЗАЯВЛЕНИЕ

В связи с затоплением моего домовладения ливневой водой 12 апреля 2017 года мне причинен материальный ущерб, который я прошу мне возместить.

Поручаю направить данное заявление и вести дальнейшую переписку с Комитетом автомобильных дорог Министерства индустрии и инфраструктурного развития Республики Казахстан по данному вопросу от моего имени руководителю Общественной Мониторинговой Группы ИСАЛИЕВУ БАУЫРЖАНУ МОМЫНЖАНУЛЫ

ИИН [REDACTED]

Дата: 24.11.2020 г.

Подпись: [REDACTED]

ПРЕДСЕДАТЕЛЮ КОМИТЕТА
АВТОМОБИЛЬНЫХ ДОРОГ
МИНИСТЕРСТВА ИНДУСТРИИ И
ИНФРАСТРУКТУРНОГО РАЗВИТИЯ
РЕСПУБЛИКИ КАЗАХСТАН
БАРМАКОВУ С.С.

от гражданина Республики Казахстан

[REDACTED]
(фамилия, имя отчество)

ИИН: [REDACTED]

[REDACTED]
(адрес места жительства: [REDACTED]

округ, село) [REDACTED]

мобильный телефон: [REDACTED]

адрес электронной почты (e-mail): _____

ЗАЯВЛЕНИЕ

В связи с затоплением моего домовладения ливневой водой 12 апреля 2017 года мне причинен материальный ущерб, который я прошу мне возместить.

Поручаю направить данное заявление и вести дальнейшую переписку с Комитетом автомобильных дорог Министерства индустрии и инфраструктурного развития Республики Казахстан по данному вопросу от моего имени руководителю Общественной Мониторинговой Группы ИСАЛИЕВУ БАУЫРЖАНУ МОМЫНЖАНУЛЫ

ИИН [REDACTED]

Дата: 25.11.2020

Подпись: _____ [REDACTED]

ПРЕДСЕДАТЕЛЮ КОМИТЕТА
АВТОМОБИЛЬНЫХ ДОРОГ
МИНИСТЕРСТВА ИНДУСТРИИ И
ИНФРАСТРУКТУРНОГО РАЗВИТИЯ
РЕСПУБЛИКИ КАЗАХСТАН
БАРМАКОВУ С.С.

от гражданина Республики Казахстан

[REDACTED]
(фамилия, имя отчество)

ИИН [REDACTED]

[REDACTED]
(адрес места жительства: область, район, сельский

округ, село) [REDACTED]

мобильный телефон: [REDACTED]

адрес электронной почты (e-mail): _____

ЗАЯВЛЕНИЕ

В связи с затоплением моего домовладения ливневой водой 12 апреля 2017 года мне причинен материальный ущерб, который я прошу мне возместить.

Поручаю направить данное заявление и вести дальнейшую переписку с Комитетом автомобильных дорог Министерства индустрии и инфраструктурного развития Республики Казахстан по данному вопросу от моего имени руководителю Общественной Мониторинговой Группы ИСАЛИЕВУ БАУЫРЖАНУ МОМЫНЖАНУЛЫ

ИИН [REDACTED]

Дата: 28.11.2020 _____

Подпись: [REDACTED]

To: Executive Secretary, The Inspection Panel
1818 H Street, NW, Washington, DC 20433, USA
Fax: 202-522-0916; or c/o the appropriate World Bank Country Office

1. We, [REDACTED] are living in the village Shakpak Baba, Tulkubas district, Turkistan oblast, the Republic of Kazakhstan. Our addresses are attached. The statements confirming the authority of our representative ISALIEV BAUYRZHAN MOMYNZHANULA are attached.

2. We have suffered and may suffer more harm as a result of shortcomings and oversights by the World Bank regarding the project reconstruction of the highway A-2 "Khorgos-Almaty-Shymkent- border of the Republic of Kazakhstan" sector of the road "Shymkent – border of the Jambyl Region kilometers 593-632" in the Republic of Kazakhstan, Turkestan oblast, Tulkubas district, village of Shakpak Baba [project: "South-West Roads: Western Europe-Western China International Transit Corridor (CAREC 1B&6B" Identification number P099270)

3. In 2014, within the framework of the project "Modernization of the road industry management system considering the citizens views " (World Bank Institutional Development Fund grant under Agreement No. TF014526 awarded to the Public Association "Blago"), there were two projects monitored. The first project "Western Europe-Western China" and "Astana-Temirtau". And the second project "Reconstruction of A-2 highway "Khorgos - Almaty - Shymkent - border of the Republic of Uzbekistan", sector "Shymkent – border of Jambyl Oblast", km 593-632". The following violations were identified during the monitoring:

1. At picket marker 344 a reinforced concrete conduit with a diameter of 1.5 meters needs to be installed.
2. At picket marker 333 raise the level of the 4 x 2.5-meter pipe (cattle crossing).
3. Cut a soil ditch along the passageway from the creek at picket point 333 to the pipe under the main street of the village (the existing Almaty-Shymkent highway) and clean this pipe. In the future, cleaning should be carried out by the DEP YuKO branch of NC "Kazavtozhol" JSC.

The field monitoring report on 06.09.2020 shows:

- a. The pipe on picket 344 was not installed until 2019.
- b. The cattle crossing at picket 333 is installed. However, the exit on the south side is partly blocked with gravel from the pavement which has attributed to accumulating water and mud inside the cattle crossing.
- c. The ditch from picket marker 333 to the pipe under the main street of Boranbay Bagysbekov in Shakpak Baba village has been dug. But the sides of the ditch are crumbling, covered with dense vegetation, and the channel is clogged. The drainpipe under the main street of the village is also clogged.

On April 12, 2017 these violations resulted in flooding of houses No. [REDACTED], [REDACTED], [REDACTED], [REDACTED] on Boranbay Bagysbekov Street with rainwater. The material damage was not compensated to any of the owners, except for residents of the house [REDACTED], who was reimbursed partly for the material damage in the amount of [REDACTED] KZT.

The issue of floods recurring in the event of heavy rains or melting snow to the households on the sides of the ditch at picket 333 has not been resolved.

- d. At the edge of the land parcels of even-numbered houses in the village, there is a reinforced concrete pipe intended for the irrigation water. However, this facility is non-functional. The land parcels do not receive the irrigation water, and most of residents have lost the opportunity to replenish their livelihood with their own vegetable products. Some residents used to water their gardens and orchards from open wells using electric motors. However, after the flood in 2017, the wells became clogged.
 - e. Due to the construction of the unfinished road section, the ecological balance of natural spring water supply from the Karatau Mountains to the land parcels of even-numbered houses became damaged.
 - f. The protracted construction of the double track tunnel at “Shakpak Baba” disregards the meaning and purpose of the project itself for the residents of Shakpak Baba village, since the main street of the village remains as the Shymkent-Almaty highway. This has led to tragic consequences - as a result of road accidents such as pedestrians getting struck/run over by vehicles and collisions with turning vehicles:
 - In 2017 seven people died and 91 were injured;
 - In 2018 11 people died and 103 were injured;
 - In 2019 6 people died and 103 were injured.
 - g. The contractor that built the tunnel project responded to our request and notified us about the gross violation of the Republic of Kazakhstan law, in particular the Law of the Republic of Kazakhstan "About architectural, urban planning and construction activities in the Republic of Kazakhstan", as well as "Regulations on designer supervision of developers of projects for the construction of enterprises, buildings and structures and their overhaul" SNiP RK 1.03-03-2010:
 - The designer of the double track tunnel, “Shymkent Kazdorproekt” LLP, was suspended for unknown reasons from executing the work. In addition, “Shymkent Kazdorproekt” LLP, being the sole owner of the design and budget for the tunnel in the Republic of Kazakhstan on the basis of Conclusion No. 01-0646/14 dated October 20, 2014 of the National State Enterprise “Gosexpertiza”, has neither transferred nor delegated these rights to anyone. This is in spite the written complain of the design team to the Construction Supervision Consultant “TEMELSU” in association with “CONSULT LTD” to prohibit the use of the construction design. However, the Consultant continues to do the construction works on the site. Thus, the copyright holder's rights to their design and construction documents have been infringed upon. The legislation of the Republic of Kazakhstan has been violated in terms of copyrights for the design of the construction works.
4. All the violations mentioned in paragraph 3 (a), (b), (c), (d), (e), (f) of this complaint directly contravene the World Bank's "Environmental and Social Standard” 4: Ensuring World Bank’s Community Health and Safety".

The violation mentioned in the sub-paragraph (g) of paragraph 3 of this complaint contravenes the "Conditions of Contract for the Design, Construction and Handover of Turnkey Facilities" of the International Federation of Consulting Engineers (FIDIC).

All organizations that have not responded to our request have violated the World Bank Environmental and Social Standard 10: Stakeholder Engagement and information disclosure”.

5. We contacted the World Bank staff on September 12, 2020 by sending our letter to the World Bank Resident Representative in Kazakhstan. We addressed similar letters on September 12, 2020 to all project stakeholders: The Client (Committee for Roads), the Construction Supervision Consultant (“TEMELSU” in association with “CONSULT LTD”), “SK Engineering” LLP, and the construction company “EVRASKON” OJSC.

On November 13, 2020, a meeting was held between residents of Shakpak Baba village and residents' representative B.M. ISALIEV with representatives of the World Bank led by [REDACTED] and representatives of the Client, PMC [KUP] and the construction company.

On November 16 and December 1, 2020, we contacted the Client and received a reply only (i) on the issue of compensation for material damage to the residents of Shakpak Baba village and (ii) on the issue of eliminating the threat of flooding due to the heavy rains or snow melt to the households located on the sides of the ditch at picket 333. But both replies are UNSATISFACTORY to us.

We received a response from the [REDACTED] on December 09, 2020. The content of the response (verbatim): *"We have sent both your letters to the Committee for Roads asking for detailed answers and clarifications and to solve the issues you raised. Please let us know whether you have received a written reply from the Committee and whether your concerns have been resolved"*.

However, the Committee for Roads has not given us answers. We notified [REDACTED] about the same day (09.12.2020) with our letter (verbatim):

"Good morning, dear [REDACTED]

Unfortunately, I have not received a response from the Committee for Roads (CFR).

At the same time, I am informed of the journalist's enquiry, to which the CFR responded in a timely manner.

Consequently, there is a clear tendency from the Committee for Roads to ignore citizens' requests.

Well, it is only logical that we should turn to international legal institutions, WHILE the project has an active status.

Thank you, respectfully, Bauyrzhan.

P.S.

Dear [REDACTED]

I'm sure:

1. regarding the bias of the lawyers of the Committee for Roads, we will not get a TRUE legal assessment of the problems of depriving the design organization "Shymkent Kazdorproekt" LLP of the architectural supervision of the tunnel design project.
2. that the Committee for Roads will "wash its hands" from securing compensation for the material harm suffered by the villagers of Shakpak Baba in April 2017.

Sincerely, Bauyrzhan".

In the absence of a response from the Client (Committee for Roads), "SK Engineering" LLP, the Construction Supervision Consultant ("TEMELSU" in association with "CONSULT LTD"), and construction company JSC "EVRASKON" to our problems, as well as the redirection of our problems by the World Bank office in Kazakhstan to the Client, which actually gave answers to only two of our problems, even those answers do not solve our problems - it gives us grounds for appeal to the Inspection Panel of the World Bank.

6. We request the Inspection Panel to recommend the Executive Directors of the World Bank to investigate these issues.

Signature of the representative: _____ ISALIEV B.M.

Date _____

Postal addresses, telephone, e-mail address:

B.M. ISALIYEV, [REDACTED]
mobile phone [REDACTED] E-mail: [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

List of attachments:

1. Conclusion of RSE "Gosexpertiza" regarding the tunnel dated 20.10.2014.
2. [REDACTED]'s statement dated 06.09.2020.
3. Statement by [REDACTED] dated 06.09.2020.

- 4.Statement by [REDACTED] dated 06.09.2020.
- 5.Statement by [REDACTED] dated 06.09.2020.
- 6.Statement by [REDACTED] dated 06.09.2020.
- 7.Statement by [REDACTED] dated 19.11.2020.
- 8.Statement by [REDACTED] dated 24.11.2020.
- 9.Statement by [REDACTED] dated 25.11.2020.
- 10.Statement by [REDACTED] dated 28.11.2020
- 11.OMG letter dated 12.09.2020
- 12.Letter to [REDACTED] in Kazakhstan.
- 13.Letter to CAD dated 16.11.2020.14.Cover letter dated 01.12.2020.
- 15.Letter from [REDACTED] dated 30.09.2020
- 16.Letter from [REDACTED] dated 09.12.2020
- 17.Response of Akimat to [REDACTED] dated 04.05.2017.
- 18.Response from Shymkent Kazdorproekt LLP dated 14.09.2020
19. Response of the CfR dated 14.12.2020.

To the Chairman of the Committee

On the Roads

Ministry of Industry and

Infrastructure Development

Of the Republic of Kazakhstan to

Barmakov S.S.

From the citizen of the Republic of Kazakhstan

(First name, Middle name, Last name)

Identification number: _____

(Address, region, village)

Phone number: _____

Email address: _____

STATEMENT

Due to the flooding of my house and grounds with the storm water on April 12, 2017 I have suffered material harm, for which I request to be reimbursed.

I request to direct this complaint and have further correspondence with the Committee on Roads of the Ministry of Industry and Infrastructure Development of the Republic of Kazakhstan on this issue on my behalf to the Head of the Public Monitoring Group ISALIYEV BAUYRZHAN MOMYNZHANULY.

Date: _____

Signature: _____

Annex II

Management Response

**MANAGEMENT RESPONSE TO
REQUEST FOR INSPECTION PANEL REVIEW OF THE
REPUBLIC OF KAZAKHSTAN: SOUTH WEST ROADS
WESTERN EUROPE – WESTERN CHINA INTERNATIONAL TRANSIT
CORRIDOR PROJECT (CAREC-1B & 6B) (P099270)**

Management has reviewed the Request for Inspection of the Republic of Kazakhstan: South West Roads Western Europe – Western China International Transit Corridor Project (CAREC-1b & 6b) (P099270), received by the Inspection Panel on December 24, 2020 and registered on February 11, 2021 (RQ20/04). Management has prepared the following response.

March 15, 2021

CONTENTS

Abbreviations and Acronyms	iii
Executive Summary	iv
I. Introduction.....	1
II. The Request	1
III. Project Background	3
IV. Management’s Response	5

Annexes

Annex 1.	Claims and Responses
Annex 2.	Additional Photographs
Annex 3.	Map and Figures
Annex 4.	Photographs from the September 2020 Complaint Letter

ABBREVIATIONS AND ACRONYMS

CFR	Committee for Roads
ECMWF	European Centre for Medium-Range Weather Forecasts
EIA	Environmental Impact Assessment
ERA5	5th Generation Reanalysis of the ECMWF
ESF	Environmental and Social Framework
ESIA	Environmental and Social Impact Assessment
GRM	Grievance redress mechanism
Ha	Hectare
IBRD	International Bank for Reconstruction and Development
IDA	International Development Association
IDF	Institutional Development Fund
INT	Integrity Vice Presidency
IPN	Inspection Panel
Km	Kilometer
M	Meter
ESPUR	Expert Council for Transparency and Sustainable Development
NGO	Nongovernmental organization
OMG	Public Monitoring Group
OP/BP	Operational Policy/Bank Procedure
PM	Picket marker
RAP	Resettlement Action Plan
TF	Trust Fund
TMP	Traffic Management Plan
WE-WC	Western Europe–Western China

Currency Unit

Kazakhstani Tenge (KZT)
(as of March 15, 2021)

1 US\$ = 418.39 KZT

1 KZT = US\$ 0.0024

EXECUTIVE SUMMARY

The Project

- i. The Republic of Kazakhstan: South West Roads Western Europe – Western China International Transit Corridor Project (CAREC-1b & 6b) (P099270) is supported by a US\$2.125 billion investment project finance loan, first approved in 2009. The Project objectives are to improve transport efficiency along road sections in the Kyzylorda, South Kazakhstan and Almaty Oblasts; improve road management; and increase traffic safety in Kazakhstan. The Project to date has helped to build or upgrade 1,130 kms of priority roads in Kazakhstan and supported critical road sector reforms. It has generated benefits for transit, trade, and services between major economic centers, along the road, and in adjacent towns and cities.
- ii. The Request for Inspection pertains to lot 1 of the upgrading of the Shymkent–Zhambyl Oblast border section along the existing Almaty – Shymkent highway (A2). The current A2 runs through *Shakpak Baba* village where it is used for local traffic as well as long-distance through traffic. The Project supports the construction of a new Bypass Road, including a tunnel, which will eventually become the new routing of the A2 and divert through traffic around Shakpak Baba. The current section of the A2 that runs through Shakpak Baba will remain in function as the Village Road, serving local traffic.

The Request

- iii. The Request alleges that (a) the construction of the road has affected the community's supply of natural spring water; (b) poor maintenance of a drainage pipe under the Village Road and a drainage channel caused a flood that damaged several households in April 2017, for which no compensation was paid; (c) community household plots do not receive irrigation water as a result of Project construction activities; (d) prolonged construction activity that involves the tunnel is causing an increase in road accidents, including vehicle collisions with pedestrians; (e) a culvert under the Project's Bypass Road that is used as a crossing point by cattle is partially blocked with debris; and (f) there are deficiencies related to stakeholder engagement, including consultation and disclosure of information.

Management's response

- iv. ***In Management's view, this Request is inappropriate, in that it tries to link a number of adverse impacts experienced by the Shakpak Baba community to the Project, without establishing any evidence or even plausibility of such linkages.*** Management has carefully reviewed the issues raised in the Request and concluded that they do not pertain to the Project and cannot be supported by facts.

It is also not clear why issues that are now presented in the Request as very serious were not raised in 2017, when they are alleged to have occurred.

- v. The Bank and the Committee for Roads responded immediately and appropriately when the issues raised in the Request were first communicated to the Bank on September 30, 2020. The Bank reviewed the issues and requested a formal response from the implementing agency and also arranged for a mission to meet with the Requesters' Representative, the local community, the implementing agency and the Contractor on site, which occurred on November 13, 2020. During the meeting, the Committee for Roads confirmed arrangements for actions to address the concerns, which were the Committee's responsibility, although not related to the Project. The Committee for Roads also requested residents to provide details with regard to the flood damage claims, for review and identification of the responsible party. To date no such submissions have been received by the Committee for Roads. However, a Request for Inspection was filed on December 24, 2020.
- vi. ***A Bank team visited the Project site again in February 2021 and engaged with community members, including the 13 residents of the eight properties that were flooded in 2017. Management notes that the affected residents were unaware of the list of concerns raised in the Request for Inspection on their behalf.*** They explained that they had submitted compensation claims to the local government regarding the damages from the 2017 flood. However, they said that they did not further pursue these claims until the Requesters' Representative contacted them in 2020 regarding their concerns. Individuals who told the Bank team that they had signed the Request for Inspection explained that they were under the impression that this was to pursue the flood compensation matter, but were not aware or supportive of the fact that other issues in the Request were raised on their behalf. While the Request raises the flooding damage for all eight households, at least two owners of these affected properties told the Bank team that they had no complaints and no intention to pursue a formal complaint, while one owner even stated that their house had not suffered any damages at all from the 2017 flood.
- vii. ***Management's review of the allegations raised in the Request demonstrates that they lack basis, and that the cited adverse impacts are either unrelated to the Project or not present:***
 - The community's supply of natural spring water was ***disrupted due to maintenance works*** on the village's irrigation canals carried out by the local water authority during spring-summer 2020;
 - Community wells, which allegedly were clogged, were found to be ***clear and functional***;
 - The drainage pipe under the Village Road and the drainage channel, which allegedly caused the flooding, ***were not installed by the Project*** and are unrelated to the road design supported by the Project;

- The flood that affected several households in April 2017 was a ***nation-wide flooding*** event. Rainfall in Shakpak Baba represented a one-in-44 years event that caused similar flooding and damages in the region and across the country;
 - The official police records for Shakpak Baba show that there is ***no increase in road accidents***, including those involving pedestrians, since before the Project's construction of the new Bypass Road started;
 - The box culvert under the Bypass Road is ***not blocked with debris*** and is passable for cattle;
 - An overview of consultations and disclosure of Project-related documents does not support the alleged shortcomings.
- viii. ***Management remains concerned about the legitimacy and integrity of this Request and has shared these concerns and supporting evidence with the Panel.***

I. INTRODUCTION

1. On February 11, 2021, the Inspection Panel registered a Request for Inspection, IPN Request RQ 20/04 (hereafter referred to as “the Request”), concerning the Republic of Kazakhstan: South West Roads Project Western Europe – Western China International Transit Corridor (CAREC-1b&6b) (P099270) (hereafter referred to as “the Project”), financed by the International Bank for Reconstruction and Development (“the Bank”).

2. ***Structure of the Text.*** The document contains the following sections: Section II presents the Request; Section III presents the Project background; and Section IV provides Management’s response. Annex 1 presents the Requesters’ claims, together with Management’s detailed responses, in table format. Annexes 2, 3 and 4 include photographs, figures and a map.

II. THE REQUEST

3. The Request for Inspection was submitted by a representative (referred to below as the “Requesters’ Representative”) on behalf of four residents of the village of Shakpak Baba, Tyulkubas district, Turkestan Oblast,¹ Republic of Kazakhstan (hereafter referred to as the “Requesters”). The Requesters have asked for confidentiality.

4. The Request alleges that (a) the construction of the road has affected the community’s supply of natural spring water; (b) poor maintenance of a drainage pipe under the Village Road and a drainage channel caused a flood that damaged several households in April 2017 for which no compensation was paid; (c) community household plots do not receive irrigation water as a result of Project construction activities; (d) prolonged construction activity that involves a tunnel is causing an increase in road accidents, including vehicle collisions with pedestrians; (e) a culvert under the Project’s Bypass Road that is used as a crossing point by cattle is partially blocked with debris; and (f) there are deficiencies related to stakeholder engagement, including consultation and disclosure of information.

5. The Notice of Registration included the Request (with names redacted) and a sample statement of an affected person sent to the Chairman of the Committee for Roads of Kazakhstan. The Request makes note of 19 attachments, none of which were included with the Notice of Registration. These include:

- (a) Conclusion of Republican State Expertise (RSE) “Gosexpertiza” regarding the tunnel, dated October 20, 2014;

¹ Formerly South Kazakhstan Oblast, renamed to Turkistan Oblast on June 19, 2018.

- (b) Nine statements from individuals, names redacted, dated between September 6, 2020 and November 28, 2020;
 - (c) Public Monitoring Group (OMG) letter, dated September 12, 2020;
 - (d) Letter with name and date redacted;
 - (e) Letter to the Committee for Roads dated November 16, 2020; cover letter dated December 1, 2020;
 - (f) Two letters, names redacted, dated September 30 and December 9, 2020;
 - (g) Response of Akimat to redacted name, dated May 4, 2017;
 - (h) Response from Shymkent Kazdorproekt LLP, dated September 14, 2020; and
 - (i) Response of the Committee for Roads, dated December 14, 2020.
6. No further materials were received by Management.

III. PROJECT BACKGROUND

South West Roads Project Western Europe – Western China International Transit Corridor

7. **Project Objectives.** The Project objectives are to improve transport efficiency along road sections in the Kyzylorda, South Kazakhstan² and Almaty Oblasts; improve road management; and increase traffic safety in Kazakhstan.

8. **Project Components.** The original Project was comprised of five components. It was restructured three times to, inter alia, reallocate Project savings to finance additional activities, change the Project development objectives and extend the closing date. The first restructuring in 2012 included an additional 80-km Shymkent–Zhambyl Oblast border road section along the Western Europe–Western China (WE-WC) corridor under Component 2. The Shakpak Baba Bypass Road related to the Request was included during the 2012 restructuring under Component 2. The second restructuring in 2015 added an 85-km road section along the Center–South corridor within Almaty Oblast under a new Component 6 and costs to the other components were adjusted. In 2017, an additional 96-km road section was added to Component 6 along the WE-WC corridor within Almaty Oblast along with activities to further improve road safety, roadside services, and road maintenance and operation. The current components are as follows:

- Component 1: Upgrade and reconstruction of road sections along the WE-WC corridor within Kyzylorda Oblast (excluding the bypass to Kyzylorda) (US\$1,085 million).
- Component 2: Upgrade and reconstruction of road sections within South Kazakhstan Oblast, including the bypass to Kyzylorda (US\$700 million).
- Component 3: Project Management Consultants (US\$8.2 million).
- Component 4: Institutional Development, Road Safety, Road Services and Road Asset Management System (US\$4 million).
- Component 5: Supervision of civil works (US\$55.5 million).
- Component 6: Upgrade and reconstruction of road sections within Almaty Oblast (US\$272 million).

9. The Request for Inspection pertains to lot 1 of the upgrading of the Shymkent–Zhambyl Oblast border section along the existing Almaty – Shymkent highway (A2). The current A2 runs through Shakpak Baba village, where it is used for local traffic as well as the long-distance through traffic. The Project supports the construction of a new **Bypass Road**, including a tunnel, which will eventually become the new routing of the A2 and divert through traffic around Shakpak Baba. The current section of the A2 that runs through

² Renamed to Turkestan Oblast on June 19, 2018.

Shakpak Baba is referred to here as the ***Village Road***, which will continue to function as such when the A2 bypass is completed.

10. ***Project Status.*** The Project is on track to achieve its objectives. As of today, 1,130 kms of the WC-WE transit corridor have been completed under the Project and opened to traffic, closing critical connectivity gaps between major cities and to the borders with Russia and Uzbekistan. The investments are already generating benefits for transit, trade, and services between economic centers, along the road, and in adjacent towns and cities. In addition, the Project supported important institutional reforms in the road sector by separating policy-making and operational functions, which led to creation of a new national operator of the road network, establishment of a quality center for road asset management and road safety, and enhanced competition in the road construction industry.

11. Disbursements are US\$1.904 billion (90 percent) to date. Component 1 civil works on a 760-km stretch of road (14 lots) in Kyzylorda Oblast have been completed. Out of 10 lots under Component 2, only a 39-km section of the Khorgos-Almaty-Shymkent-Uzbekistan border corridor, which included the Shakpak Baba Bypass Road and the 800-meter twin-barrel tunnel, remains to be completed. Progress on six road sections in Almaty Oblast (total 180 km) under four contracts (Component 6) is mixed: three contracts are under execution and one contract was terminated in April 2020 due to non-performance and is in the rebidding stage. The current closing date is December 31, 2021.

Enhancing Demand-Side Governance of Road Administration Project

12. The Request for Inspection cites the US\$305,000 Institutional Development Fund (IDF) grant that supported the ***Enhancing Demand-Side Governance of Road Administration Project***. (TF014526). The objective of this project was to enhance the participatory performance monitoring and evaluation of the Kazakhstan Road Administration (Ministry of Transport and Communications)³ by building capacity to effectively engage civil society organizations and local communities in the implementation of transport projects. Through this activity, the Bank and the Government of Kazakhstan sought to reinforce third-party monitoring and strengthen stakeholder consultation under the World Bank road engagements in Kazakhstan, including those financed by the Project. However, the grant has been suspended and cancelled due to integrity concerns. The planned activities did not take place.

³ Current name is *Ministry of Industry and Infrastructural Development (MIID)*

IV. MANAGEMENT'S RESPONSE

13. The Requesters' claims, accompanied by Management's detailed responses, are provided in Annex 1.

14. ***In Management's view this is an inappropriate Request, in that it tries to link a number of adverse impacts experienced by the Shakpak Baba community to the Project, without establishing any evidence or even plausibility of such linkages. Management has carefully reviewed the issues raised in the Request and concluded that they do not pertain to the Project and cannot be supported by facts.*** It is not clear why issues that are presented in the Request as very serious were not raised, either in writing or during missions to the village, when they are alleged to have occurred, in 2017.

15. ***The Bank and the Committee for Roads responded immediately and appropriately when the issues raised in the Request were first communicated to the Bank by the Requesters' Representative on September 30, 2020.*** The Bank immediately reviewed the issues and requested responses from the implementing agency and also arranged for a mission to meet with the Requesters' Representative, the local community, the implementing agency and Contractor on site, which occurred on November 13, 2020. During the meeting, the Committee for Roads confirmed arrangements for actions to address some concerns immediately, which – although not related to the Project – were the Committee's responsibility. The Committee for Roads committed to expand the culvert capacity under the Village Road, pave the drainage channel, and fix the concrete pipe irrigation channel as soon as the Village Road can be closed to traffic to carry out these works.⁴ The Committee for Roads also requested residents to provide details with regard to the flood damage claims, for review and identification of the responsible party. To date no such submissions were received by the Committee for Roads. However, a Request for Inspection was filed on December 24, 2020.

16. ***A Bank team visited the Project site again in February 2021 and engaged with community members, including the 13 residents of the eight properties that were flooded in 2017. Management notes that the affected residents were unaware of the list of concerns raised in the Request for Inspection on their behalf.*** They explained that they had submitted compensation claims to the local government regarding the damages from the 2017 flood. However, they said that they did not further pursue these claims until the Requesters' Representative approached them in 2020 to ask about potential issues that could be raised with the Bank. Individuals who told the Bank team that they had signed the Request for Inspection explained that they were under the impression that this was to pursue the flood compensation matter, but were not aware or supportive of the fact that other issues in the Request were raised on their behalf. While the Request raises the flooding damage for all eight households, at least two owners of these affected properties told the Bank team that they had no complaints and no intention to pursue a formal

⁴ To avoid major traffic disruptions, the Village Road (through which the A2 highway is currently routed) can only be closed for works once the new Bypass Road is open for traffic.

complaint, while one owner even stated that their house had not suffered any damages at all from the 2017 flood.

17. ***The Bank team advised the community members that the Bank mission's goal was to obtain a better understanding of the issues raised, so that they could be reviewed and addressed and invited them to raise issues of concern.*** Community members, including the households noted above, were open and vocal in the meetings the mission held. They openly and forcefully voiced criticism directly at local government representatives who were present in some meetings. There were no signs of intimidation or fear of retaliation, as claimed in the Request. Community members openly expressed their concerns, including complaints about what they saw as failings of the local government.

18. ***Management has carefully reviewed Project implementation arrangements to ensure that they continue to meet Bank policy requirements.*** Moreover, the Bank has requested the Borrower to actively look into the community complaints raised both in the letter received by the Bank on September 30, 2020, and the Request. While unrelated to the Project, these allegations have been taken very seriously by the Borrower and were treated as such, even before the Request for Inspection was filed. It is noteworthy that the Project's engagement with the local community has been constant since 2014 and that the Borrower has been taking into account villagers' concerns regularly, which led to design adjustments and even included issues that were not part of the scope of the Project.

19. ***Management's review of the matter demonstrates that the allegations raised in the Request lack basis, and that the cited adverse impacts are either unrelated to the Project or not present.***

- The community's supply of natural spring water was ***disrupted due to maintenance works*** on the village's irrigation canals carried out by the local water authority during spring-summer 2020;
- Community wells, which allegedly were clogged, were found to be ***clear and functional***;
- The drainage pipe under the Village Road and the drainage channel, which allegedly caused the flooding, ***were not installed by the Project*** and are unrelated to the road design supported by the Project;
- The flood that affected several households in April 2017 was a ***nation-wide flooding event***. Rainfall in Shakpak Baba represented a one-in-44 years event that caused similar flooding and damages in the region and across the country;
- The official police records for Shakpak Baba show that there is ***no increase in road accidents***, including those involving pedestrians, since before the Project's construction of the new Bypass Road started;
- The box culvert under the Bypass Road is ***not blocked with debris*** and is passable for cattle;

- An overview of *consultations and disclosure* of Project-related documents does not support the alleged shortcomings.

20. *In addition, Management has concerns about the legitimacy and integrity of this Request and has shared these concerns and supporting evidence with the Panel.*

21. Management's responses to the issues raised by the Request are provided in more detail below.

22. *The Request specifically conflates a number of water-related issues affecting Shakpak Baba village that are not related to the Project. The pertaining allegations raised in the Request also contradict each other.* These alleged impacts pertain to the following: (a) surface water runoffs that caused the 2017 flooding; (b) clogged groundwater wells; (c) surface water from nearby streams which is channeled to the village for irrigation; and (d) surface water from snowmelt from the Karatau Mountains that is collected in the village's drainage ditch. Management specifically notes that the Request appears to raise the allegation that the Project has resulted in *too much* water being drained to the village and leading to the flooding, while at the same time alleging that the Project has altered the surface drainage with the result that *too little* water for irrigation reaches the village. The paragraphs below explain how both allegations are incorrect.

2017 Flooding in Shakpak Baba Village

23. *The April 2017 flooding cited in the Request is not related to the Project.* In April 2017, heavy rainfall and snowmelt caused severe flooding in several regions of Kazakhstan. The country's *Committee for Emergency Situations* reported that more than 7,000 people had to be evacuated, and at least 70 people had to be rescued from floodwaters. Around 1,500 homes were damaged. Several villages and cities in the *Tyulkubas* district were affected by local flooding, including Shakpak Baba and other nearby villages, as well as neighborhoods of Shymkent city, all of which is publicly documented.

24. *Management has reviewed the matter and concluded that the flooding in Shakpak Baba village was due to the magnitude of the April 2017 rainfall coupled with increased snowmelt. The size of the village drainage infrastructure was not equipped to deal with the magnitude of the water influx of this prolonged, heavy, once-in-44 years rainfall event.* Due to the local topography and inadequacy of the village's drainage infrastructure, rainwater was trapped at the village's lowest point and caused flooding. Management commissioned a technical review of the issue by an independent hydrologist. The technical review confirmed Management's own assessment.

25. *April 2017 precipitation volumes.* There was repeated heavy rainfall in April 2017 that exceeded the average rainfall for the period by 22 percent.⁵ Rainfall in Shakpak Baba totaled 53.76 mm over four days, April 10-13, 2017, with rainfall earlier in the month and after these dates as well. The hourly data also shows the highest hourly intensities (3.68

⁵ Kazakhstan Annual Climate Monitoring Bulletin: 2017. Astana, published in 2018, <https://www.kazhydromet.kz/ru/klimat/ezhegodnyy-byulleten-monitoringa-sostoyaniya-i-izmeneniya-klimata-kazahstana>

mm/hr) of the month were late on the day of April 12, 2017, when the flooding is reported.⁶ A precipitation analysis of ERA5⁷ climate data for the village location shows that the event in April 2017 was a significant one in terms of rainfall volume, particularly on April 12. This, coupled with the preceding rainfall and snowmelt runoff from the nearby mountains, would have saturated the catchments and further increased runoff. Using various scientific analyses of the data from the European Centre for Medium-Range Weather Forecasts (ECMWF) 5th Generation Reanalysis (ERA5), Intensity-Duration-Frequency curves were back-fitted to estimate that this type of event would occur only once in 44 years.⁸



Photo 1: April 2017 Flooding of properties in Shakpak Baba

⁶ Technical Assessment for road project in Kazakhstan: A2 Culvert Drainage Investigation, Shakpak Baba village, Kazakhstan. Feb 2021(a). Dr. Mark Trigg, BEng MSc CEng CEnv MCIWEM, Associate Professor of Water Risk, School of Civil Engineering, University of Leeds, United Kingdom.

⁷ The European Centre for Medium-Range Weather Forecasts (ECMWF) 5th Generation Reanalysis (ERA5) is a composite gridded output provided by ECMWF for the globe, using a careful combination of rain gauge data, satellite measurements, and climate models to interpolate where there is no data available.

⁸ Technical Assessment for road project in Kazakhstan: Flood Mitigation Options for A2 Culvert, Shakpak Baba village, Kazakhstan. Feb 2021(b). Dr. Mark Trigg, BEng MSc CEng CEnv MCIWEM, Associate Professor of Water Risk, School of Civil Engineering, University of Leeds, United Kingdom.



Photo 2: April 2017 Flooding of properties in Shakpak Baba

26. ***Drainage analysis of the terrain also shows that the new Bypass Road in April 2017 increased the area of the catchment draining only by a small degree, around 12 percent in the worst case.***⁹ This is not a significant increase in drainage area and would only result in very small increases in flow to the Village Road culverts. Small changes in drainage areas are expected with road schemes in general, and this is particularly modest in reality. In addition, this change was only temporary, as construction was still ongoing at the time. To date (February 2021) all planned culverts are in place in the Bypass Road and therefore the Village Road's culvert catchments are more or less as before construction. The analysis of the rainfall shows that the flooding would have happened regardless of the moderate change in drainage area due to the Bypass Road and the April 2017 event would have caused flooding at the Village Road's culvert in any case.

27. ***Village Road culvert: There are 12 culverts in total under the Village Road. There is no evidence that the culvert cited in the Request was clogged at the time of the flood in 2017, as is alleged.*** Properties on both sides of the Village Road were flooded, which means that the water could not escape downstream of the culvert either. Another culvert is located in the area of flooded houses, less than 100 m away from the culvert in question. The combined capacity of both culverts of about 2.5 m³/s was still not sufficient to absorb the large volumes of water caused by extreme rainfall in April 2017, with or without the new Bypass Road.¹⁰ It is not possible that the flooding shown in Photo 1 above is caused by a single clogged road culvert.

⁹ Trigg, Technical Assessment, 2021(a).

¹⁰ Trigg, Technical Assessment, 2021(b).



Photos 3 - 6: April 2017 Flooding impacts in the Turkestan region
(photos do not include Shakpak Baba Village)

28. At the request of the Committee for Roads, the Contractor had cleaned the culvert in March 2017 before the flood occurred. The photographs of the culvert shared by the Requesters' Representative in his complaint letter of September 30, 2020, also do not show that the culvert was clogged (see Annex 4) and do not match the situation in 2017.

29. ***Much of the Request pertains to the village's drainage infrastructure, which is not part of the Project.*** While the Contractor was tasked to maintain and repair the Village Road surface and culverts under it, cleaning adjacent village infrastructure, including the drainage ditch, was not part of the Project nor the contract. Immediately after the flood in April 2017 as a mitigation measure against future floods, the local government dug a wider drainage ditch through Shakpak Baba village as well as four km downstream connecting to the river. While the cleaning and maintenance of this drainage ditch was the responsibility of the local government, the Contractor cleaned it following the request of local residents made during the Bank's visit in November 2020.

30. ***The Committee for Roads was responsive to the request of the local residents and committed already in 2017 to implement a number of flood mitigation measures, which are not related to the Project.*** This included expanding the capacity of the culvert under the Village Road and lining the drainage ditch that cuts across the village. These works are planned to be done after completion of the bypass, when the traffic will be diverted to the new Bypass Road, making it possible to temporarily close the Village Road for the above works. The culverts/cattle underpasses on the Bypass Road will be cleaned regularly, as part of normal operations and maintenance. The Committee for Roads has also committed

to ensure that the Village Road will be properly maintained by the responsible entity, including the adjacent drainage infrastructure.

31. ***Project Bypass Road box culvert: The Request erroneously alleges that the box culvert (also serving as cattle underpass) of the Project Bypass Road was also clogged by debris.*** Given the box culvert's dimension (4 m x 2.5 m), it is highly unlikely that it was blocked to the extent that it could not fulfill its intended function. Moreover, had the box culvert indeed been clogged, as the Request alleges, the water would have been blocked there and would not have been able to travel downstream to the village where the flooding occurred. The photographs submitted by the Requesters' Representative to the Bank on September 30, 2020 (see Annex 4) confirm that the box culvert is fully functional and not blocked, and show the presence of a small amount of mud on the culvert floor, most likely introduced by water flow and cattle. Nevertheless, the Contractor at the instruction of the Committee for Roads, cleaned the small amounts of mud from the box culvert floor in October 2020 (photo 5 of Annex 2). The Request, however, alleges that this box culvert / cattle underpass is still clogged.

Compensation Claims by Flooded Households

32. ***Some residents requested compensation for flooding damage to their properties from the local government (Akimat of Tyulkubas district) on April 17, 2017.*** The Akimat visited and assessed the damages on April 24, 2017, and in a written response dated May 4, 2017, advised the residents that the damages to temporary and non-residential household structures caused by the flood were not eligible for compensation, in accordance with national civil protection legislation. Article 58 of the Law of the Republic of Kazakhstan on "Civil Protection," dated April 11, 2014 (No. 188-V 3PK), states that "*Not eligible for compensation are: 1) temporary structures, household and other structures that do not belong to real estate in accordance with the legislation of the Republic of Kazakhstan on architectural, urban planning and construction activities, as well as illegally constructed structures and 2) valuable clothing, luxury items or made of precious metals, items of artistic value.*" Consequently, on July 15, 2017, the Akimat paid compensation to the owner of a house that qualified as a residence and where the water infiltrated the house and damaged the floor. According to the Akimat, and as confirmed by the owner, the compensation was provided for the replacement of the floor inside the house.

33. Residents whose application for compensation was rejected by the Akimat did not approach the Committee for Roads, the Bank, or the Project grievance redress mechanism (GRM) or otherwise raise the matter, until August 2020.

Water Supply

34. ***Water Wells: None of the community members (including the residents of the flooded properties) met by the team on February 22 and 24, 2021 was aware of current issues with, or complaints about, clogged wells.*** Houses have piped and safe drinking water, but also retain a groundwater well, which residents use as a backup for occasional service interruptions and household needs (cattle and gardening). The Bank team was shown the wells of several houses by their residents. The wells were clean and in good

working condition. The depths ranged from 12 to 17 meters. Other residents demonstrated how they used water pumps to extract water from the wells.

35. One resident indicated that the well on their property was indeed clogged after the 2017 flood but that it had been cleaned out afterwards and was functional since then. There were no concerns raised by residents about the current state of the wells.



Photos 7-8: Wells on two different properties that were flooded in 2017

36. ***Availability of Spring Water: The Request erroneously claims that Project works have had an impact on the availability of spring water used by residents to water their gardens.*** Management confirmed with the local water authority that there are no groundwater springs on the northern side of the valley (where the Bypass Road runs) that are used by the village. The only spring used by the village is sourced from the other side of the valley and feeds into one of the village's two irrigation canals. Therefore, there is no impact from the road or tunnel construction on groundwater springs used by the village.

37. ***Two irrigation canals feed water to the gardens of the houses on the north side of the village.*** Water is shared between the properties supplied by these canals. The canals are managed by the local water authority and the water flow is regulated by national legislation. Neither irrigation canal sources water from within the area of influence of the new Bypass Road system. The western canal comes from a separate catchment, away from

and upstream of the new road. The “Ozernyi” spring water, which originates in the Talas-Alatau mountains to the south, feeds the 5.5 km long eastern canal.¹¹

38. ***During May-June 2020, the local water authority carried out major repair works on this system, which led to a temporary suspension in supply of irrigation water to the village.*** The repair works included mechanical clean-up, installation of hydraulic facilities (4 locks regulating water level alongside the irrigation canal). However, this year the water will be supplied as usual once the season starts. The repair works were not a part of the Project.



Photo 9: Irrigation canal control point feeding to Shakpak Baba village

39. ***Concrete Pipe to Supply Irrigation Water: There is no connection between the cited concrete irrigation pipe and the Project. This pipe was installed in 2017 by the local government. It is not part of the Project, nor was it supported by the Project or installed by the Project Contractor.*** Most houses in Shakpak Baba village have gardens and access to the irrigation canal to water them. Three houses had complained in 2017 to the local government that the water coming from the irrigation canal had decreased and was insufficient. In response, the local government installed a reinforced concrete pipe to help direct the water from the irrigation system to these gardens. Management is not in a position to opine on the quality or functionality of this irrigation pipe.

¹¹ Chapter 66, para. 1 and chapter 72 of the Water Code of the Republic of Kazakhstan (a Special Permit for Water Use issued by the “Aral-Syrdarya Basin Inspection for the Regulation of the Use and Protection of Water Resources” of the Committee for Water Resources of the MEGPR RK (dated valid from 11.01.2018 to 11.01.2023)).



Photos 10-11: Irrigation pipe (not part of the Project)

40. ***Availability of Seasonal Snowmelt Water (“natural springs”): The Request’s allegation that the “ecological balance” of snowmelt water is “damaged” due to the road construction is not accurate.*** The “natural spring water” cited in the Request is understood to refer to *seasonal snowmelt water* coming down from the Karatau mountains. Some residents (who have limited access to the irrigation canals) reportedly use this snowmelt to water their gardens. The snowmelt runoffs occur from April to June and vary depending on annual precipitation, the snowpack and other hydrometeorological conditions.

41. ***The Project road construction does not affect the flow of this snowmelt water as six culverts under the Shapbak Baba Bypass Road between km 595 and km 601 upstream of the village allow the water to flow under the Bypass Road downhill to the village.***¹² The slope of the terrain allows the natural flow of the snowmelt water from the mountains, when it is sufficient, to be directed through the culverts on the new road and to the village.

42. ***Water shortages have occurred in all regions of Kazakhstan, particularly in the southern and western regions of the country over the last several years.*** Neighboring countries have also been experiencing similar water shortages. Over the last three years, Kazakhstan has entered a cycle of “water shortage,” which may continue until 2030. The

¹² In addition to the two referenced box culverts at PMs 333 and 344 (4m x 2.5m each), under the Shapbak Baba village bypass (between km 595 and 601), there is an additional box culvert (4m x 2.5 m) at PM 323 and three pipe culverts (1.5 m diameter) at PM 320, PM 324, and PM 349.

volume of the “total river runoff: per year is 90 or 100 cubic km, of which 50.8 cubic km is local runoff, the rest coming from transboundary rivers. The total volume in 2019 amounted to 83 cubic kilometers, 20 percent less than the annual average and 40 percent less than the 2016–2017 average.¹³

43. ***Due to the impact of climate change, Central Asian countries, including Kazakhstan, experience less snowfall (but more rainfall) in winter and consequently less water from snowmelt in spring.*** Scientific research for the period 1941–2011 shows increasing trends in air temperature in Kazakhstan for all seasons, and a decreasing trend of days with the minimum daily temperature below freezing point (0 C).¹⁴ This is a global impact that is unrelated to local developments.

Road Accidents and Traffic Volume

44. ***Road Accidents: The Request’s allegation that Project delays have led to increased road accidents is not accurate. The accident and fatality figures presented in the Request are not consistent with the official police records for Shapak Baba village.*** There are no indications or evidence that accidents have increased during the Project period. To the contrary, since the start of the Project works, according to official records, accidents have been reduced, while the number of pedestrians involved in accidents has remained the same. The source of the figures presented in the Request is not clear.

45. ***According to local official police records, the number of accidents on the Village Road (running for about 6km within Shapak Baba village, between kms 595 and 601) has not increased over the period of 2012-2020 and the number of fatalities has in fact decreased (see Table 1 below).***

<i>Year</i>	<i>Accidents</i>	<i>Fatalities</i>	<i>Injured</i>	<i>Pedestrians involved</i>
2012	7	9	7	1
2013	9	2	18	3
2014	8	2	19	2
2015	6	4	4	4
2016	2	1	1	2
2017	10	0	14	3
2018	8	2	7	3
2019	4	1	7	1
2020	5	1	7	0

Table 1: Road Accidents inside Shapak Baba Village limits (source: Traffic Police)

46. ***Hence, there is no basis to claim that the Project works have led to an increase in road accidents or fatalities on the Village Road.*** A major safety risk on the Village Road is the unregulated location of roadside traders. To address this issue, the regional office of the national roads agency (KazAvtoZhol) has been communicating with the

¹³ Statement by the Ministry of Ecology, Geology and Natural Resources, April 7, 2020.

¹⁴ Salnikov, V., Turulina, G., Polyakova, S., Petrova, Y. and Skakova, A. (2014). “Climate change in Kazakhstan during the past 70 years.” *Quaternary International*.

Akimat to remove informal traders from the roadside due to road safety risks and provide them with safe space for trading.

47. **Traffic Management.** The Contractor has a Traffic Management Plan (TMP) in place.¹⁵ In Management's view, the Contractor has taken necessary measures to ensure proper traffic safety management in relation to Project construction, including the junctions between the new Bypass Road and the Village Road. The Project engineer and the local police regularly monitor these measures. Road signs, barriers, road markings and signal posts are updated and replaced as necessary.



Photo 12: Speed reduction signs at entry from the four-lane completed section to two-lane Village Road



Photo 13: Speed reduction signs at entry at the junction approach before exit to the village

¹⁵ <https://europe-china.kz/en/fininst>



Photo 14: Entry from the four-lane completed section to two-lane Village Road



Photo 15: Exit from the two-lane Village Road to the four-lane completed section

48. ***Traffic Volumes:*** *There is equally no indication or evidence that the traffic volume has increased as a result of the completion of the upgraded road sections before and after Shakpak Baba village. This road is and was the only road connection available for traffic between Almaty and Shymkent. There is no alternative east-west road connection at least 200 kms around Shakpak Baba from which traffic could be drawn or re-routed to the upgraded Project road, and which otherwise would not have passed through Shakpak Baba.*

49. ***Management notes that the delay in Project implementation has indeed resulted in a delay in diverting road traffic away from the village, which is one of the intended Project benefits. Such delay, however, does not constitute an adverse impact resulting from the Project when compared to the pre-project situation, as required by the Inspection Panel Resolution.***¹⁶ The works on the construction of the twin-barrel tunnel have been delayed for several reasons: a change in contractor (as a result of the previous

¹⁶ Paragraph 39, Resolution No. IBRD 2020-0004 and Resolution No. IDA 2020-0003 The World Bank Inspection Panel September 8, 2020. “For assessing material adverse effect, the without-project situation should be used as the base case for comparison, taking into account what baseline information may be available. Non-accomplishments and unfulfilled expectations that do not generate a material deterioration compared to the without-project situation will not be considered as a material adverse effect for this purpose.”

contractor's bankruptcy), technical complications in the tunnel works, and the restrictions resulting from the COVID-19 pandemic. Management currently expects the tunnel to be completed by the end of 2021.

Consultations and Disclosure

50. **Disclosure.** The ESIA for the Project was prepared and disclosed by the Borrower and the Bank on June 24, 2008. A site-specific ESIA for the Shymkent – Zhambyl region border (Section 1 593-632km and Section 2 632-674km) was prepared and submitted to the Bank by the Borrower on June 4, 2012. That document was disclosed by the Borrower, but does not appear to have been disclosed by the Bank.

51. Due to changes in the Project's website (caused by the renaming of the lead ministry and its internet domain), the earlier disclosed ESIA became inaccessible online. Management requested that the Borrower re-disclose the ESIA, which it did on February 6, 2021. The Bank also disclosed the 2012 site-specific ESIA on the Bank's website on March 2, 2021. Additionally, an EMP prepared in 2018 for the new Contractor completing the tunnel was re-disclosed by the Borrower on March 2, 2021 and by the Bank on March 3, 2021.

52. A supplementary ESIA to cover the design revision from a deep cut to an 800-meter tunnel was prepared in January 2014 and approved by the State Expertise of the Government of Kazakhstan on October 20, 2014. A Resettlement Action Plan (RAP) for the A2 "Khorgos-Almaty-Shymkent-Uzbekistan border corridor (593-632km)" was prepared and disclosed by the Borrower on March 17, 2014 and by the Bank on March 18, 2014.

53. **Consultations.** Frequent consultations were carried out for the WE–WC road corridor projects by the Public Monitoring Group (OMG) hired by the Bank through the IDF grant as well as through a Memorandum of Understanding with the Committee for Roads, Project Management Consultant and a group of NGOs.

<i>Consultation Purpose</i>	<i>Date</i>	<i>Participants</i>
Public consultations on the proposed design of the section, selection of alternatives, Environmental and Social Impact Assessment (ESIA) report, land acquisition and resettlement procedures.	January 15-17, 2009; May 13, 2010; October 27, 2010.	Kyzylorda city – 98 people, Turkestan city – 47 people, Shieli village – 125 people, Zhanakorgan village – 117 people, Temirlan village - 83 people.
Public consultations on the project design decisions (road characteristics, bridges, underpasses for animals and farm traffic, fencing etc.), land acquisition, and resettlement procedures.	July 29, 2010	In total 76 people, including: Local residents, Representatives of local authorities and NGO, Representative of Committee for Roads, Representative of local Committee for Roads.
Public consultations on the project design and preparation of	February 18, 2011; June 30, 2012.	In total 420 people, including: Residents of Tyulkubas and Sairam districts,

<i>Consultation Purpose</i>	<i>Date</i>	<i>Participants</i>
the RAP for A2 “Korgos- Almaty-Shymkent-Uzbekistan border corridor (593-632km)”.		Local government representatives for Tyulkubas and Sairam districts, Representative of local Committee for Roads, Representative of design engineer.
RAP of Temirlan by-pass, project design and environmental impact.	June 30, 2009; February 11, 2010; February 18-19, 2010; January 16, 2011; March 28, 2011.	In total 921 people, including: Project affected people and residents, representatives of local authorities and NGO, Representative of Committee for Roads, Representative of local Committee for Roads.
ESIA for Shymkent – Zhambyl region border (Section 1 593- 632km and Section 2 632-674).	April 19, 2011	Residents of Tyulkubas and Sairam district villages (66 people), Local government representatives for Tyulkubas and Sairam districts, Representative of local Committee for Roads, Representative of design engineer.
Meetings with Tyulkubas district residents in South Kazakhstan oblast.	August 6-8, 2012	Residents of 8 settlements (28 people total): Shakpak Baba, Momyshtuly, Sarykemer, Nurlykent, Aysha Bibi, Kostobe, Myrzatay.
Meetings with Aktobe oblast residents.	April 24-28, 2013	Residents of 6 settlements in Aktobe oblast (127 people total): Zhaisan, Martuk, Kensakhara, Sarzhansay, Khlebodorovka and Kuraily.
Meetings with Tyulkubas district residents.	September 17-25, 2014	Supervision engineer, Representatives of local government for Tyulkubas district, Residents of following 10 villages (185 people total): Zhaskeshu, Shukyrbulak, Kabanbay, Tausagyz, Dauan, Bakybek, Akbiik, Shakpak Baba, and Sjabagly.

Table 2. Overview of consultations

Alleged “Copyright infringement”

54. *The Request raises a “copyright infringement” allegation, which Management understands to be a legal dispute between the engineering bureau “Shymkent Kazdorproekt” and the Committee for Roads regarding the engineering bureau’s claim to have the right to carry out architectural supervision of the tunnel design.* The original design of the road section was prepared by a different engineering bureau, *SK Engineering*, which was hired by the Committee for Roads to carry out the design supervision. During Project implementation an 800-m tunnel (for which “Shymkent Kazdorproekt” prepared the design) was added to the road design. However, the arrangement for design supervision remained between the Committee for Roads and *SK Engineering*. “Shymkent Kazdorproekt” is now claiming to be hired for design supervision for the tunnel, as the author of the tunnel design. The Committee for Roads, however, claims that it has no contractual relationship with “Shymkent Kazdorproekt” which was hired by the contractor at the time.

55. ***Management notes that this legal dispute is not a matter of compliance with Bank Policy, nor does it cause or could any adverse impacts on the community or the environment, or the quality of the road and tunnel construction.*** The Bank also does not have any role in this legal dispute.

Conclusion

56. ***In Management's view, the Bank has followed the policies and procedures applicable to the matters raised by the Request. As a result, Management believes that the Requesters' rights or interests have not been, nor will they be, directly and adversely affected by a failure of the Bank to implement its policies and procedures.*** In Management's view, this Request is misleading, in that it tries to link a number of the unrelated, yet adverse impacts experienced by the Shakpak Baba community to the Project, while ignoring the evident sources of these impacts. Management has carefully reviewed the issues raised in the Request and concluded that they do not pertain to the Project and cannot be supported by facts.

ANNEX 1.
CLAIMS AND RESPONSES

No.	Claim	Response
1.	<p>1. We are living in the village Shakpak Baba, Tyulkubas district, Turkistan oblast, the Republic of Kazakhstan. Our addresses are attached. The statements confirming the authority of our representative are attached.</p> <p>2. We have suffered and may suffer more harm as a result of shortcomings and oversights by the World Bank regarding the project reconstruction of the highway A-2 “Khorgos-Almaty-Shymkent-border of the Republic of Kazakhstan” sector of the road “Shymkent - border of the Jambyl Region kilometers 593-632” in the Republic of Kazakhstan, Turkestan oblast, Tyulkubas district, village of Shakpak Baba (project: “South-West Roads: Western Europe-Western China International Transit Corridor (CAREC IB&6B” Identification number P099270).</p> <p>3. In 2014, within the framework of the project “Modernization of the road industry management system considering the citizens views” (World Bank Institutional Development Fund grant under Agreement No. TF014526 awarded to the Public Association “Blago”), there were two projects monitored. The first project “Western Europe-Western China” and “Astana Temirtau”. And the second project “Reconstruction of A-2 highway “Khorgos-Almaty-Shymkent-border of the Republic of Uzbekistan”, sector “Shymkent - border of Jambyl Oblast, km 593-632”. The following violations were identified during the monitoring:</p> <p>(i) At picket marker 344 a reinforced concrete conduit with a diameter of 1.5 meters needs to be installed.</p>	<p><i>In Management’s view the issues raised in the Request do not pertain to the Project and cannot be supported by facts. It is also not clear why issues that are now presented in the Request as very serious were not raised in 2017, when they are alleged to have occurred.</i></p> <p>The Request raises concerns about a flood in April 2017; Management notes that this coincides with flooding that took place nationwide¹⁷ and is not therefore specifically Project related.</p> <p>Management wishes to clarify that the Bank’s Environmental and Social Framework (ESF) does not apply to the Project, as the Request appears to assume. The Project is governed by the Bank’s safeguard policies in place at the time the Project was approved (OP/BP 4.01 and others).</p> <p>Shakpak Baba village is located near the site of ongoing construction of a twin-barrel tunnel and a Bypass Road around the village that is part of a 39-km section of road being rehabilitated along the Shymkent-Zhambyl Oblast border. The current road is part of the Almaty-Shymkent-Tashkent corridor and passes directly through the village (referred to herein as “Village Road”). Once completed, the bypass will divert the traffic around the village, a change that has been highly welcomed by its inhabitants.</p> <p>The “violations” referred to in the NGO (“Blago”) Public Association’s monitoring report of 2014 are not violations, but rather suggestions for construction adjustments that were made by the monitoring group. Many of these suggestions were adopted and integrated in the road design. They do not constitute Bank policy violations as presented.</p> <p>Please see Item 2 below for details regarding the specific actions.</p> <p>The NGO “Blago” received a grant of US\$305,000 from the World Bank’s Institutional Development Fund that supported the Enhancing Demand-Side Governance of Road Administration Project, the objective of which was to enhance the participatory performance monitoring and evaluation of the Kazakhstan Road Administration (Ministry of Transport and Communications)¹⁸ by building capacity to effectively engage civil society organizations and local communities in the implementation of transport projects (TF 014526). The grant covered the period of December 31,</p>

¹⁷ <https://floodlist.com/asia/kazakhstan-snowmelt-floods-april-2017>

¹⁸ Current name is Ministry of Industry and Infrastructural Development.

No.	Claim	Response
	<p>(ii) At picket marker 333 raise the level of the 4 x 2.5-meter pipe (cattle crossing).</p> <p>(iii) Cut a soil ditch along the passageway from the creek at picket point 333 to the pipe under the main street of the village (the existing Almaty-Shymkent highway) and clean this pipe. In the future, cleaning should be carried out by the DEP YuKO branch of NC “Kazavtozhol” JSC.</p> <p>All the violations mentioned [below] in paragraph 3 (a), (b), (c), (d), (e), (f) of this complaint directly contravene the World Bank’s “Environmental and Social Standard” 4: Ensuring World Bank’s Community Health and Safety”.</p>	<p>2013–December 31, 2016, but it was suspended by Suspension Notice on May 28, 2015 and cancelled on July 31, 2015 due to integrity concerns. The planned activities did not take place.</p>
2.	<p>The field monitoring report on 06.09.2020 shows:</p> <p>a. The pipe on picket 344 was not installed until 2019.</p> <p>b. The cattle crossing at picket 333 is installed. However, the exit on the south side is partly blocked with gravel from the pavement which has attributed to accumulating water and mud inside the cattle crossing.</p> <p>c. The ditch from picket marker 333 to the pipe under the main street of Boranbay Bagysbekov in Shakpak Baba village has been dug. But the sides of the ditch are crumbling, covered with dense vegetation, and the channel is clogged. The drainpipe under the main street of the village is also clogged.</p> <p>On April 12, 2017 these violations resulted in flooding of houses No. REDACTED on Boranbay Bagysbekov Sheet with rainwater. The material damage was not compensated to any of the owners, except for residents of the house REDACTED who was reimbursed partly for the material damage in the amount of REDACTED KZT.</p>	<p><i>Much of the Request pertains to the village’s drainage infrastructure, which is not part of the Project. While the Contractor was tasked to maintain and repair the Village Road surface and culverts under it, cleaning adjacent village infrastructure, including the drainage ditch, was not part of the Project nor the contract. There is also no evidence that the culvert under the Village Road was clogged at the time of the flood in 2017. The Request’s general assumption that drainage infrastructure was clogged in 2017 and led to the flooding is not plausible or credible.</i></p> <p>Responses in detail:</p> <p>(i) At picket marker (PM) 344 on the Bypass Road, a box culvert measuring 4mx2.5m was installed by the Contractor in May 2019. It was not part of the original design, as according to drainage mapping there was little catchment area associated with this culvert. However, it was built at the request of the local government of Tyulkubas district and the local residents to largely function as a cattle pass. Since the contract with the previous contractor was terminated (due to contractor bankruptcy), the construction of the culvert was undertaken by the new Contractor, who was engaged on the Project in January 2018. The design and construction for this box culvert were initiated by the new Contractor in May 2018. This section of the road was already completed and had to be demolished to install the culvert,</p>

No.	Claim	Response
	<p>The issue of floods recurring in the event of heavy rains or melting snow to the households on the sides of the ditch at picket 333 has not been resolved.</p>	<p>which took some time; the work was completed in May 2019.</p> <p>(ii) At PM 333 on the Bypass Road, the originally designed surface water drainage culvert (2mx2m) was replaced with a 4mx2.5m box culvert in 2015 (constructed between September 2014 and July 2015) at the request of local residents and local government so that it could also act as a cattle pass. The existence in the original design plan of a culvert at this location indicates that the road designers were aware of the need for drainage of surface water there.</p> <p>After the September 2020 complaint was received from Requesters' Representative (see Item 8 below), at the instruction of the Committee for Roads, the Contractor cleaned the cattle pass at PM 333 in October 2020 and cleared it of gravel and mud. However, to Management's knowledge, at no point has the cattle pass been clogged or unable to allow water to drain or cattle to pass.</p> <p>Actions (i) and (ii) were undertaken by the Contractor at the request of the residents, and as per instruction of the Committee for Roads.</p> <p>(iii) The drainage channel (a dirt ditch) between PM 333 and a pipe culvert under the Village Road was dug in April 2017 by the local government (Akimat), not by the Contractor. The channel was previously a narrow and shallow ditch but was widened and deepened by the local government after the 2017 flood as a mitigation measure against future floods. The Bank team was informed that the cleaning and maintenance of the drainage channel and other infrastructure in the village were the responsibility of the local government (Akimat of Tyulkubas district). However, the Contractor cleaned the pipe culvert under the Village Road in November 2020 (following the Bank team's visit). In response to residents' requests, the Contractor extended the pipe culvert's length by 1.5m and cleaned the drainage channel in November 2020. (Annex 2, photos A1-3).</p> <p>The Bank team, together with the Committee for Roads, visited the sites in November 2020 following receipt of the September 2020 letter of complaint and noted that both culverts at PMs 344 and 333 were functional and clean.</p> <p>In April 2017, heavy rainfall and snowmelt caused severe flooding in seven regions of Kazakhstan, including the Shymkent area. The country's Committee for Emergency Situations reported that more than 7,000 people had to be</p>

No.	Claim	Response
		<p>evacuated, and at least 70 people had to be rescued from the floodwaters. Around 1,500 homes were damaged.</p> <p>The local government also confirmed that the rainfall that year was very heavy and flooded villages in Tyulkubas district and nearby areas. According to the Kazakhstan Annual Climate Monitoring Bulletin: 2017 (Astana, 2018), although monthly rainfall averaged over the entire country was mainly below the norm, rainfall exceeded the norms by 22 percent in April 2017.</p> <p>Management's review is based on a technical analysis by an independent hydrologist (associate professor at Leeds University). Drainage analysis of the terrain also shows that the new Bypass Road in April 2017 increased only by a small degree the area of the catchment draining, around 12 percent in the worst case. This is not a significant increase in drainage area and would only result in very small increases in flow to the Village Road culverts. Small changes in drainage areas are expected with road schemes in general, and this is particularly modest in reality. In addition, this change was only temporary, as construction was still ongoing at the time. To date (February 2021) all planned culverts are in place in the Bypass Road and therefore the Village Road's culvert catchments are more or less as before construction. The analysis of the rainfall shows that the flooding would have happened regardless of the moderate change in drainage area due to the Bypass Road and the April 2017 event would have caused flooding at the Village Road's culvert in any case.</p> <p>A precipitation analysis based on the European Centre for Medium-Range Weather Forecasts 5th Generation Reanalysis (ERA5)¹⁹ of climate data for the location shows that a large rainfall event occurred on April 12, 2017 and that preceding rainfall and snowmelt runoff from the nearby mountains would have saturated the catchments and further increased runoff. Rainfall totalled 53.76 mm over 4 days (April 10-13, 2017), and it rained both before and after these dates as well. The hourly data also shows the highest hourly intensities of the month were late on April 12 (3.68 mm/hr) when the flooding was reported.²⁰ A small steep catchment such as the location of the Request would have a relatively rapid response time to high intensity rainfall, making it particularly sensitive in this case and even more so with the wet</p>

¹⁹ ERA5 is a composite gridded output provided by ECMWF for the globe, and it uses a careful combination of rain gauge data, satellite measurements and climate models to interpolate where there is no data available

²⁰ Technical Assessment for road project in Kazakhstan: A2 Culvert Drainage Investigation, Shapak Baba village, Kazakhstan. Feb 2021(a). Dr. Mark Trigg, BEng MSc CEng CEnv MCIWEM, Associate Professor of Water Risk, School of Civil Engineering, University of Leeds, UK.

No.	Claim	Response
		<p>antecedent conditions. Using various scientific analyses of the ERA5 data, including retrofitted Intensity-Duration-Frequency curves, it was estimated that this type of event would occur only once in 44 years.²¹</p> <p><i>It is not plausible that clogging of a culvert under the Village Road could have been responsible for the flooding, as the Request claims.</i> There are 12 culverts in total under the Village Road. There is no evidence that the culvert cited in the Request was clogged at the time of the flood in 2017, as is alleged. Properties on both sides of the Village Road were flooded, which means that the water could not escape downstream of the culvert either. Another culvert is located in the area of flooded houses, less than 100 m away from the culvert in question. The combined capacity of both culverts of about 2.5 m³/s was still not sufficient to absorb the large volumes of water caused by extreme rainfall in April 2017, with or without the new Bypass Road.²²</p> <p>Moreover, there is no evidence that the culvert actually was clogged at the time of the flood. At the request of the Committee for Roads, the Contractor had cleaned the culvert in March 2017, which was before the April 2017 flood. The photographs of the culvert shared by the Requesters' Representative in his complaint letter of September 30, 2020, also do not show that the culvert was clogged and do not match the situation in April 2017.</p> <p>Some residents requested compensation for flooding damage to their properties from the local government (Akimat of Tyulkubas district) on April 17, 2017. In response, the Akimat of Tyulkubas district visited the village and conducted an assessment of damages on April 24, 2017 and in a written response (dated May 4, 2017) advised the residents that the damages to temporary and non-residential household structures caused by the flood were not eligible for compensation, in accordance with Article 58 of the Law of the Republic of Kazakhstan on "Civil Protection," dated April 11, 2014 No. 188-V 3PK, which states that "<i>Not eligible for compensation are: 1) temporary structures, household and other structures that do not belong to real estate in accordance with the legislation of the Republic of Kazakhstan on architectural, urban planning and construction activities, as well as illegally constructed structures and 2) valuable clothing, luxury items or made of precious metals, items of artistic value.</i>" The Akimat of</p>

²¹ Technical Assessment for road project in Kazakhstan: Flood Mitigation Options for A2 Culvert, Shakpak Baba village, Kazakhstan. Feb 2021. Dr. Mark Trigg, BEng MSc CEng CEnv MCIWEM, Associate Professor of Water Risk, School of Civil Engineering, University of Leeds, UK.

²² Trigg, Technical Assessment, 2021(a).

No.	Claim	Response
		<p>Tyulkubas district paid compensation to the owner of a house that qualified as a residence and where water infiltrated the house and damaged the floor. The resident had submitted videos showing water inside the house and damages to the floor; the compensation amount was KZT 127,807 (about US\$318 equivalent at the time). According to the Akimat, and as confirmed by the owner, the compensation was provided for the replacement of the floor inside the house, on July 15, 2017.</p> <p>Residents whose application for compensation was rejected by the Akimat did not approach the Committee for Roads, the Bank, or the Project grievance redress mechanism (GRM) or otherwise raise the matter, until August 2020.</p> <p>After the floods in 2017, the Committee for Roads agreed to have the Contractor carry out the following works to help address future flooding risks in Shakpak Baba village:</p> <ul style="list-style-type: none"> • Expanding the capacity of the culvert under the Village Road; and • Lining the drainage ditch that cuts across the village. <p>These works are planned to be done after completion of the new Bypass Road, when the traffic will be diverted there, making it possible to temporarily close the Village Road for completion of the above works.</p> <p>Going forward, the culverts/cattle underpasses on the Project road will be cleaned regularly, as part of normal operations and maintenance. The Committee for Roads has also committed to ensure that what will become the “old” Village Road is properly maintained by the responsible entity, including the adjacent drainage infrastructure.</p>
3.	<p>d. At the edge of the land parcels of even-numbered houses in the village, there is a reinforced concrete pipe intended for the irrigation water. However, this facility is non-functional. The land parcels do not receive the irrigation water, and most of residents have lost the opportunity to replenish their livelihood with their own vegetable products. Some residents used to water their gardens and orchards from open wells using electric motors. However, after the flood in 2017, the wells became clogged.</p>	<p>Concrete pipe. The reinforced concrete pipe at the edge of land parcels of some houses alleged as non-functional in the Request was installed by the local government (Akimat of Tyulkubas region) in 2017 to help direct the water from the irrigation system to these houses (photos 10-11). The pipe is linked to one of the irrigation canals from which these houses receive their water.</p> <p>Irrigation canals. Two irrigation canals feed water to the gardens of the houses on the north side of the village. Water is shared between the properties supplied by these canals. The canals are managed by the local water authority, KAZSUSHAR. Neither irrigation canal sources water from within the area of influence of the new Bypass Road system. The western canal comes from a separate catchment, away from and upstream of the new road. The “Ozernyi” spring water, which originates in the Talas-Alatau mountains to the</p>

No.	Claim	Response
		<p>south, feeds the 5.5 km long eastern canal, which is separate from the groundwater system on the opposite side of the valley from the village.²³ A total of 260 land parcels (16,832 ha) in Tyulkubas district receive irrigation water through the canals from the ‘Ozernyi’ spring. The water flow, which is regulated by national legislation, is 200 liters per second.</p> <p>This irrigation system was not affected by the construction works of the road or the tunnel.</p> <p>During May-June 2020, the local water authority carried out major repair works on this system, which led to a temporary suspension in supply of irrigation water to the village. The repair works included mechanical clean-up, installation of hydraulic facilities (4 locks regulating water level alongside the irrigation canal). However, this year the water will be supplied as usual once the season starts. The repair works were not a part of the Project.</p> <p>Wells. During its visit on February 22, 2021, the Bank team checked the allegedly clogged wells and was told by Shakpak Baba residents that they did not have any complaints in this regard. Every house has piped and safe drinking water, but also retains a groundwater well, which residents use as a backup for occasional service interruptions, and household needs (cattle and gardening). Wells appeared clean and functional. Residents noted that the water levels in the wells have decreased significantly and are now about 12-17 m deep, although they could not say exactly when this occurred. Some well owners stressed that the last time they observed a high-water level was in the early 2000s. Over the last 6-10 years, the wells have not been used as actively as before due to the lower water volume.</p> <p>The decrease in the water levels in wells is a result of the overall reduction in water supply in the region and not related to the Project. The water shortage has affected all regions of Kazakhstan, particularly the southern and western regions of the country in recent years. Neighboring countries have also been experiencing similar water shortages. Over the last three years, Kazakhstan has entered a cycle of “water shortage,” which may continue until 2030. The volume of the “total river runoff: per year is 90 or 100 cubic km, of which 50.8 cubic km is local runoff, the rest coming from transboundary rivers. The total volume in 2019 amounted to 83 cubic</p>

²³ Chapter 66, para. 1 and chapter 72 of the Water Code of the Republic of Kazakhstan (a Special Permit for Water Use issued by the “Aral-Syrdarya Basin Inspection for the Regulation of the Use and Protection of Water Resources” of the Committee for Water Resources of the MEGPR RK (dated valid from 11.01.2018 to 11.01.2023)).

No.	Claim	Response
		kilometers, 20 percent less than the annual average and 40 percent less than the 2016–2017 average. ²⁴
4.	<p>e. Due to the construction of the unfinished road section, the ecological balance of natural spring water supply from the Karatau Mountains to the land parcels of even-numbered houses became damaged.</p>	<p><i>Availability of seasonal snowmelt water (“natural springs”).</i> The “natural spring water” cited in the Request likely refers to seasonal snowmelt water coming down from the Karatau mountains. Some residents (who have limited access to the irrigation canals) reportedly use this snowmelt to water their gardens from April till June when runoffs occur, and which vary depending on annual precipitation, snow pack and other hydrometeorological conditions.</p> <p>The Project road construction does not affect the flow of this snowmelt water as six culverts under the Shakpak Baba Bypass Road between km 595 and km 601 upstream of the village allow the water to flow downhill and to the village.²⁵ The slope of the terrain allows the natural flow of the snowmelt water from the mountains, when it is sufficient, to be directed to the culverts on the new road and to the village.</p> <p>According to a representative from KAZSUSHAR, the state authority that manages irrigation water supply for the district, Shakpak Baba village has not benefited from the snowmelt water from the Karatau mountains over the last several years as a result of natural processes, including the recent droughts in South Kazakhstan (now Turkestan) Oblast that have led to reductions in groundwater levels, snowmelt, rainwater runoff and soil moisture. The spring snowmelt water runoffs that have occurred are thus captured by arable agricultural lands at the foot of the mountains and do not extend further under drought conditions. See also Item 3, above on general water shortages.</p> <p>The representative of KAZSUSHAR also noted that the supply of water to Shakpak Baba village residents for garden irrigation is sufficient and is being drawn from 11 watercourses, mainly the Arys, Zhabagaly, and Balykty rivers.</p>
5.	<p>f. The protracted construction of the double track tunnel at “Shakpak Baba” disregards the meaning and purpose of the project itself for the residents of Shakpak Baba village, since the main street of the village remains as the Shymkent-Almaty highway. This has led to tragic consequences - as a result</p>	<p><i>Management notes that while the delay in Project implementation has resulted in a delay in diverting road traffic away from the village via the bypass, this does not constitute an adverse impact when compared to the pre-project situation.</i></p> <p>The works on the construction of the twin-barrel tunnel have been delayed for several reasons: a change in contractor (as a result of the previous contractor’s bankruptcy); technical</p>

²⁴ Statement by the Ministry of Ecology, Geology and Natural Resources, April 7, 2020.

²⁵ In addition to the two referenced box culverts at PMs 333 and 344 (4m x 2.5m each), under the Shakpak Baba village bypass (between km 595 and 601), there is an additional box culvert (4m x 2.5 m) at PM 323 and three pipe culverts (1.5 m diameter) at PM 320, PM 324, and PM 349.

No.	Claim	Response
	<p>of road accidents such as pedestrians getting struck/run over by vehicles and collisions with turning vehicles:</p> <ul style="list-style-type: none"> - In 2017 seven people died and 91 were injured; - In 2018 11 people died and 103 were injured; - In 2019 6 people died and 103 were injured. 	<p>complications in the tunnel works; and the restrictions resulting from the COVID-19 pandemic. Prior to the Project, Shakpak Baba village had only one road, used by the village as well as through traffic. The Village Road is still in use and will continue to be until the new Bypass Road is constructed and through traffic is diverted away from the village. The Contractor has a proper TMP in place and has taken necessary measures to ensure proper traffic safety management in relation to Project construction, including the junctions between the Bypass Road and the Village Road. The Project engineer and the local police regularly monitor these measures. Road signs, barriers, road markings and signal posts are updated / replaced as necessary.</p> <p><i>The accident figures presented in the Request are not consistent with the official police records for Shakpak Baba village. There are no indications or evidence that accidents have increased during the project period. To the contrary, according to official records they have been reduced.</i></p> <p>Management has reviewed the accidents and fatalities listed in the Request. The source of these figures is not clear. While they are presented as pertaining to the 39-km section of the Almaty-Shymkent highway that passes through Shakpak Baba village (between km 593 to 632), they may in fact reflect figures for the <u>entire</u> 700 km stretch of the Almaty-Shymkent highway.</p> <p>According to local official police records, the number of accidents on the Village Road (running for about 6km within Shakpak Baba village, between km 595 and 601) have not increased over the period of 2012-2020 and the number of fatalities has in fact decreased (see Table 1 in main text). Hence, there is no basis to claim that the Project works have led to an increase in road accidents or fatalities on the Village Road.</p> <p>However, one of the major safety risks on the Village Road is the unregulated location of roadside traders. To address this issue, the regional office of the national roads agency, KazAvtoZhol, has been communicating with the Akimat to remove informal traders from the roadside due to road safety risks and provide them with safe space for trading.</p>
6.	<p>g. The contractor that built the tunnel project responded to our request and notified us about the gross violation of the Republic of Kazakhstan law, in particular the Law of the Republic of Kazakhstan “About architectural, urban planning and construction activities in the Republic of Kazakhstan”, as well as</p>	<p><i>Management notes that this legal dispute is not a matter of compliance with Bank policy nor does it result in any adverse impacts on the community or the environment.</i></p> <p>Management understands that this pertains to a legal dispute between the engineering bureau “Shymkent Kazdorproekt” regarding its claim to have the right to carry out architectural supervision of the tunnel design. The original design of the</p>

No.	Claim	Response
	<p>“Regulations on designer supervision of developers of projects for the construction of enterprises, buildings and structures and their overhaul” SNiP RK 1.03-03-2010.</p> <p>- The designer of the double track tunnel, “Shymkent Kazdorproekt” LLP, was suspended for unknown reasons from executing the work. In addition, “Shymkent Kazdorproekt” LLP, being the sole owner of the design and budget for the tunnel in the Republic of Kazakhstan on the basis of Conclusion No. 01-0646/14 dated October 20, 2014 of the National State Enterprise “Gosexpertiza”, has neither transferred nor delegated these rights to anyone. This is in spite the written complain of the design team to the Construction Supervision Consultant “TEMELSU” in association with “CONSULT LTD” to prohibit the use of the construction design. However, the Consultant continues to do the construction works on the site. Thus, the copyright holder’s rights to their design and construction documents have been infringed upon. The legislation of the Republic of Kazakhstan has been violated in terms of copyrights for the design of the construction works.</p> <p>The violation mentioned in the subparagraph (g) of paragraph 3 of this complaint contravenes the “Conditions of Contract for the Design, Construction and Handover of Turnkey Facilities” of the International Federation of Consulting Engineers (FIDIC).</p>	<p>road section was prepared by a different engineering bureau, <i>SK Engineering</i>, which was hired by the Committee for Roads to carry out the design supervision. During Project implementation an 800-m tunnel (for which “Shymkent Kazdorproekt” prepared the design) was added to the road design. However, the arrangement for design supervision remained between the Committee for Roads and <i>SK Engineering</i>. “Shymkent Kazdorproekt” is now claiming to be hired for design supervision for the tunnel, as the author of the tunnel design. The Committee for Roads, however, claims that it has no contractual relationship with “Shymkent Kazdorproekt” which was hired by the contractor at the time.</p> <p>The tunnel design was reviewed by Kazakhstan’s <i>Gosexpertiza</i> process and was found to meet the required technical standards. The EIA and EIA update were approved by the State Expertise before construction works for the tunnel began.</p>
7.	<p>All organizations that have not responded to our request have violated the World Bank Environmental and Social Standard 10: Stakeholder Engagement and information disclosure”.</p>	<p><i>It is not accurate that relevant Project agencies have not responded.</i></p> <p>The Bank responded on October 14, 2020 to the letter of complaint received on September 30, 2020. The Bank team met the complainants and the community in person on November 13, 2020. The Bank further responded on December 8, 2020 to inquiries from the complainant that were received on November 15, 2020. The Committee for</p>

No.	Claim	Response
		<p>Roads also met the complainant and the community on November 13, 2020, together with the Bank team, and responded with a letter on December 14, 2020. See Item 8 below for more detail.</p> <p>As noted earlier, this Project is governed by the Bank's OP/BP safeguard policies; the ESF, including the cited <i>Environmental and Social Standard 10</i>, does not apply.</p>
8.	<p>We contacted the World Bank staff on September 12, 2020 by sending our letter to the World Bank Resident Representative in Kazakhstan. We addressed similar letters on September 12, 2020 to all project stakeholders: The Client (Committee for Roads), the Construction Supervision Consultant ("TEMELSU" in association with "CONSULT LTD"), "SK Engineering" LLP, and the construction company "EVRASKON" OJSC.</p> <p>On November 13, 2020, a meeting was held between residents of Shapkap Baba village and residents' representative with representatives of the World Bank and representatives of the Client, PMC [KUP] and the construction company.</p> <p>On November 16 and December 1, 2020, we contacted the Client and received a reply only (i) on the issue of compensation for material damage to the residents of Shapkap Baba village and (ii) on the issue of eliminating the threat of flooding due to the heavy rains or snow melt to the households located on the sides of the ditch at picket 333. But both replies are UNSATISFACTORY to us.</p> <p>We received a response from the REDACTED on December 9, 2020. The content of the response (verbatim): <i>We have sent both your letters to the Committee for Roads asking for detailed answers and clarifications and to solve the issues you raised. Please let us know whether you have received a written reply from the Committee and</i></p>	<p>The Bank office in Kazakhstan received a letter of complaint sent to the Bank's email address on September 30, 2020. The Project team responded to the Requesters' Representative on October 14, 2020, informing that the Bank team and the implementing agency (Committee for Roads) would visit the site and meet with the residents in November 2020, to jointly review and discuss the issues. The Bank team, together with the implementing agency, and the teams of the Contractor and Engineer, went to the site to meet with the Requesters' Representative and residents on November 13, 2020. The team obtained authorization on an exceptional basis to travel during COVID-19 for this purpose. During this visit, it was agreed with the residents that the Committee for Roads would take various actions to address their concerns. The Contractor (upon instruction from the Committee for Roads) cleaned the cattle passes and the Village Road culvert immediately. On November 15, 2020, the Requesters' Representative wrote to the Bank team that he "agrees that the problems of Shapkap Baba residents could be resolved at the level of the Committee for Roads," but that the "issue of violation of copyright for supervision services by the design author requires legal investigation." On December 8, 2020, the Bank team responded that it had advised the Committee for Roads of the Representative's concerns and requested that it prepare a reply. The Committee for Roads responded in detail to the complaint letter, providing clarifications and the status of remedial actions for each issue. This response was sent to the village residents, with a copy to the Requesters' Representative, on December 14, 2020.</p>

No.	Claim	Response
	<p><i>whether your concerns have been resolved”.</i></p> <p>However, the Committee for Roads has not given us answers. We notified about REDACTED about the same day (09.12.2020) with our letter (verbatim): <i>Good morning, dear REDACTED</i> <i>Unfortunately, I have not received a response from the Committee for Roads (CFR). At the same time, I am informed of the journalist’s enquiry, to which the CFR responded in a timely manner. Consequently, there is a clear tendency from the Committee for Roads to ignore citizens’ requests. Well, it is only logical that we should turn to international legal institutions, WHILE the project has an active status.</i> <i>Thank you, respectfully, Villager’s Representative</i> <i>P.S. Dear REDACTED, I’m sure:</i></p> <p><i>1. regarding the bias of the lawyers of the Committee for Roads, we will not get a TRUE legal assessment of the problems of depriving the design organization “Shymkent Kazdorproekt” LLP of the architectural supervision of the tunnel design project.</i></p> <p><i>2. that the Committee for Roads will “wash its hands” from securing compensation for the material harm suffered by the villagers of Shakpak Baba in April 2017.</i> <i>Sincerely, Villager’s Representative</i></p>	
9.	<p>In the absence of a response from the Client (Committee for Roads), “SK Engineering” LLP, the Construction Supervision Consultant (“TEMELSU” in association with “CONSULT LTD”), and construction company JSC “EVRASKON” to our problems, as well as the redirection of our problems by the World Bank office in Kazakhstan to the Client, which actually gave answers to only two of our problems, even those answers do</p>	<p>Management considers that the Bank and the Committee were responsive to the complaints, having visited the site, met with the community despite COVID-19 risks and travel restrictions and responded in writing, as noted above. The meetings were held outdoors to minimize the health risks. The responses provided by the Committee for Roads in a letter dated December 14, 2020, provided answers and clarifications and proposed actions as feasible on all of the issues raised.</p>

No.	Claim	Response
	not solve our problems - it gives us grounds for appeal to the Inspection Panel of the World Bank.	

ANNEX 2.

ADDITIONAL PHOTOGRAPHS

Photos A1-3: Pipe culvert under Village Road (A2) (November 2020)



Photo A4: Cattle pass PM 333 on new Bypass road (November 2020)



Photo A5: Cattle pass PM 333 on new Bypass Road (February 2021)



Photo A6: Cattle pass PM 344 on new Bypass Road (November 2020)



Photo A7: Cattle pass PM 344 on new Bypass Road (February 2021)



ANNEX 3. MAP AND FIGURES

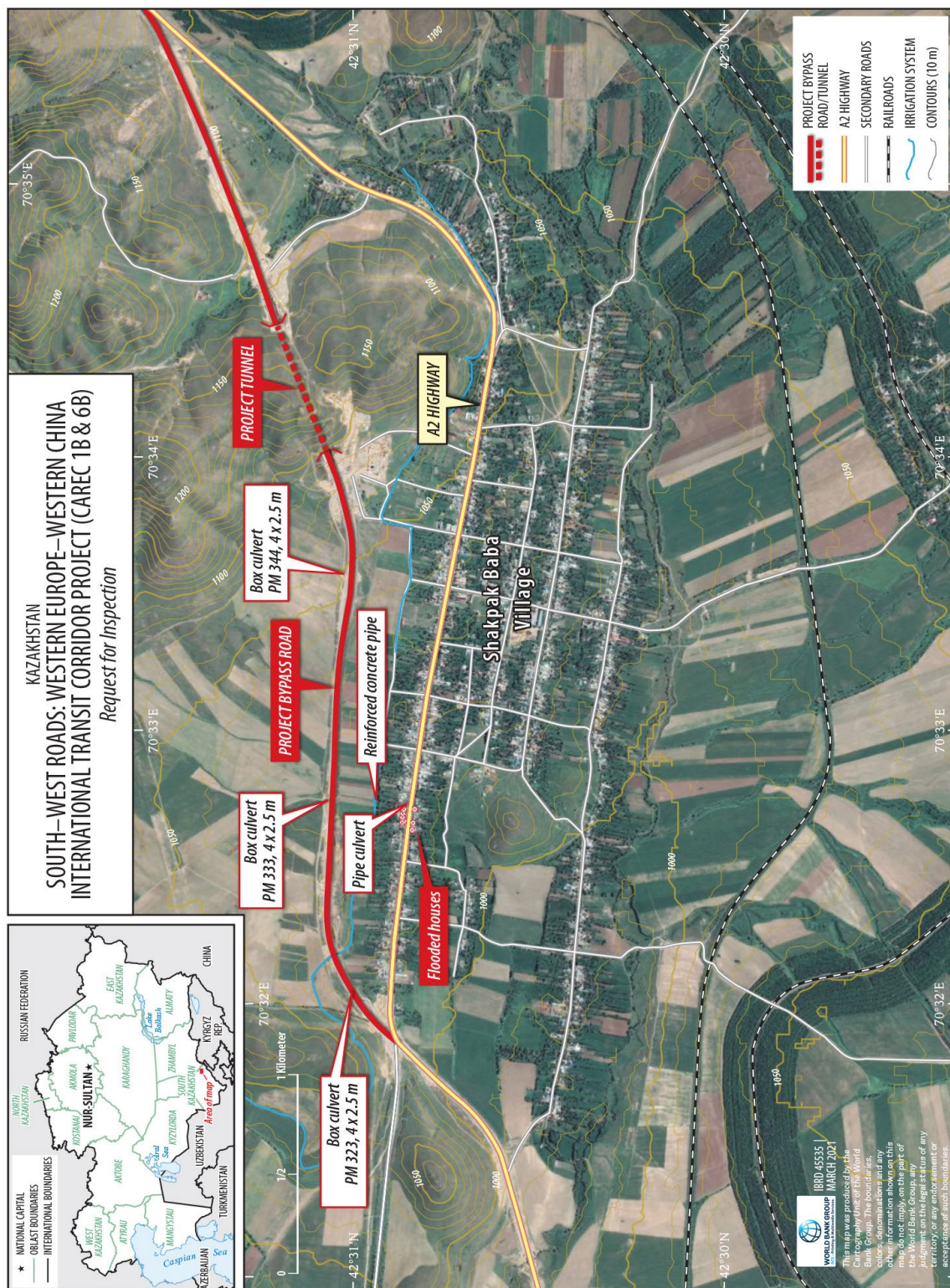




Figure A1: The Village Road and new Bypass Road culvert locations in Shakpak Baba Village

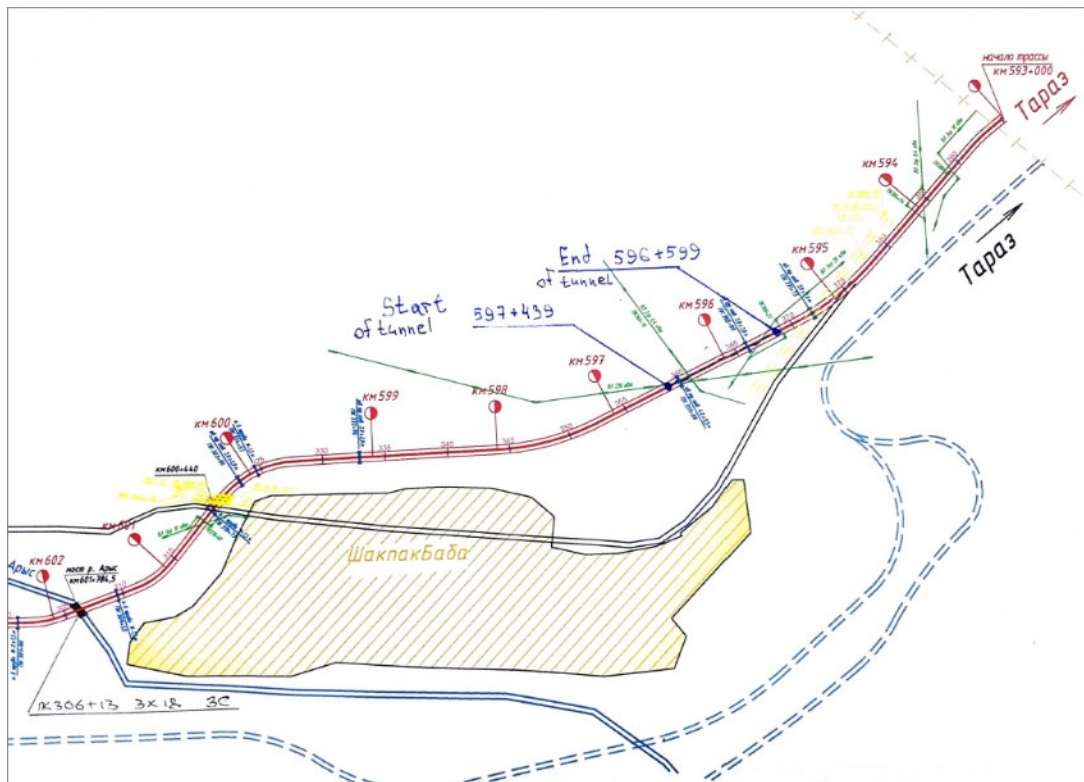


Figure A2: Shymkent – Zhambyl region road section under construction (tunnel + 39km road)

ANNEX 4.

**PHOTOGRAPHS PROVIDED BY THE REQUESTER'S REPRESENTATIVE (FROM THE
SEPTEMBER 2020 COMPLAINT LETTER)**



Photo provided by the Requesters' Representative showing the allegedly clogged culvert / cattle underpass on the new Bypass Road



Photo provided by the Requesters' Representative showing the floor of the allegedly clogged culvert / cattle underpass on the new Bypass Road



Photo provided by the Requesters' Representative showing the floor of the allegedly clogged culvert / cattle underpass on the new Bypass Road



Photo provided by the Requesters' Representative showing the allegedly clogged culvert on the Village Road