

Report No. 43350-AR

The Inspection Panel 

Report and Recommendation

**Argentina: Santa Fe Road
Infrastructure Project
(Loan No. 7429-AR)**

April 18, 2008

The Inspection Panel

Report and Recommendation on Request for Inspection

Re: Request for Inspection Argentina: Santa Fe Road Infrastructure Project (Loan No. 7429-AR)

1. On September 13, 2007, the Inspection Panel (the “Panel”) received a Request for Inspection, dated September 7, 2007, related to the Argentina: Santa Fe Road Infrastructure Project (the “Project”). The Request was signed and submitted by Mr. Hector E. Jullier and Ms. Ana Rosa Tizianel, residents of Franck, Province of Santa Fe (PSF), Argentina, on behalf of themselves and ten other residents of the Project-affected area who had also signed the Request (the “Requesters”). On September 26, 2007, the Requesters sent the Panel certain clarifications to the terms of the Request for Inspection. They also asked the Panel to treat a letter addressed to the Panel, dated August 31, 2007, and attached documents, as part of the Request for Inspection. The September 7 Request, the September 26 clarifications and the August 31 letter constitute the Request for Inspection (the “Request”).
2. The Requesters claim that they, and other area residents, are and will be directly affected by the design and implementation of the Project. Attached to the Request are a number of documents providing background and technical information related to the concerns of the Requesters regarding compensation, highway design and alleged adverse environmental and economic impacts of the Project, together with copies of letters to and from Provincial and Federal authorities and World Bank¹ staff.
3. The Request for Inspection is the third Request the Panel has received concerning this Project. It raises issues very similar to those presented in the two previous requests.² On August 28, 2006, the Panel received a Request for

¹ “World Bank,” “Bank” or “IBRD” mean the International Bank for Reconstruction and Development.

² Four of the current Requesters were also among the persons that signed the earlier Requests that the Panel received in relation to the Project.

Inspection (the “First Request”), dated August 20, 2006. The Request was submitted by Mr. Hugo Mario Arriola-Klein and Dr. Nancy Beatriz Jullier, residents of Chateaux Blanc, district of San Agustín, PSF, Argentina. They represented residents who live and work in the location known as Chateaux Blanc. On September 21, 2006, the Panel received a second Request for Inspection (the “Second Request”), dated September 21, 2006. This Request was submitted by Mr. Victor Hugo Imhoff and Ms. María Alejandra Azzaroni, on their own behalf and on behalf of people living in San Jerónimo del Sauce, in the Department of Las Colonias, PSF, Argentina.

4. The Panel registered the First and Second Requests and decided to process them jointly for reasons of economy and efficiency since they referred to the same Project and issues. The Panel assessed whether these two Requests were eligible and whether they warranted an investigation. It concluded that, while the Requesters were otherwise eligible to submit a Request for Inspection, the procedural criterion requiring that the Requesters have brought the “*subject matter (...) 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*” was not fully met. The Panel therefore determined that it could not make a recommendation on whether to investigate the subject matter of the Requests for Inspection at that time.³
5. The Panel registered the third and current Request for Inspection on the Inspection Panel Register and notified the Board of Executive Directors and Bank Management on October 19, 2007 of the registration. Management submitted its Response to the Request for Inspection on November 20, 2007.
6. On December 21, 2007, the Panel requested the Board of Executive Directors to extend the deadline for submitting the Report and Recommendation, originally due on that same day. In its Memorandum to the Executive Directors, the Panel noted that the processing of the Request coincided with recent changes in the PSF Government, thereby leading to the appointment of new officials and possible staff changes in the Project Implementation Unit (PIU). In light of this, “and after discussing the matter with the Requesters and the Executive Director representing Argentina” the Inspection Panel took the view that “*the interests of all parties concerned with the Request would be better served if the Panel delays the issuance of its report on the eligibility of the Request and its recommendation...*” for “*about 90 days.*”⁴ The Board approved the Panel’s recommendation on a non-objection basis on January 9, 2008.

³ Inspection Panel Report and Recommendation, Request for Inspection, Argentina Santa Fe Road Infrastructure Project (Proposed), November 16, 2006, ¶64.

⁴ Memorandum to the Executive Directors and Alternates of the International Bank for Reconstruction and Development, Argentina: Santa Fe Road Infrastructure Project (Loan No. 7429-AR), Extension of Report Submission Date, INSP/R2007-0007, December 27, 2007.

7. The purpose of this Report is to determine whether the Request satisfies the eligibility criteria for an Inspection, as set forth in the 1993 Resolution⁵ establishing the Panel and the 1999 Clarifications,⁶ and whether to recommend an investigation of the matters alleged in the Request for Inspection.

A. The Project

8. The Project aims at improving transport conditions, including road safety, of a segment of National Route 19⁷ between the PSF and the Province of Cordoba, along a strategic road corridor linking the PSF with regional and international markets. Project objectives also include identifying transport infrastructure and trade facilitation constraints, fostering territorial planning, assessing and managing environmental and social impacts resulting from the execution of large civil works, and monitoring and evaluating the execution of infrastructure investments.⁸ These objectives are to be achieved through two components: civil works (Part 1) and institutional strengthening (Part 2). The Request for Inspection raises issues about Part 1 of the Project, which provides for upgrading Route 19 between the town of Santo Tomé in the PSF and the border of the Province of Cordoba, including widening this segment of the road to convert it into a dual carriageway. This Project component provides also for the alignment of three sharp curves, and for constructing four lane by-passes in San Jeronimo del Sauce and San Pereyra, ground-level interchanges at the intersections with rural and urban roads, and turn lanes and returns at intervals of 6km each.⁹
9. According to Management Response, the Project is part of a broader infrastructure strategy aimed at, *inter alia*, making Santa Fe the most competitive province in Argentina.¹⁰ As a national road, the improvement of Route 19 would fall under the jurisdiction of the national Government. However, limited fiscal resources have led the national Government to accept PSF's offer to provide financing for the Project.¹¹
10. Management states that the upgrading of Route 19 is the first phase of a two-phase project. The first phase, financed by the World Bank, provides for improving a total of 136 km of Route 19 between the cities of Santo Tomé in the PSF and the province of Cordoba, and constructing a dual carriageway to convert Route 19 into a four lane highway (highway; in Spanish, *Autovía*). Under the second phase, Route 19 would eventually be transformed into a

⁵ Resolution No. IBRD 93-10 of September 22, 1993, hereinafter "the Resolution".

⁶ The 1999 Clarifications to the Resolution (hereinafter "the 1999 Clarifications") are contained in the "Conclusions of the Board's Second Review of the Inspection Panel" dated April 20, 1999.

⁷ National Route 19 is hereinafter referred to as "Route 19."

⁸ Loan Agreement, Schedule 1 (Project Description).

⁹ Loan Agreement, Schedule 1.

¹⁰ Management Response to the Request for Inspection, November 20, 2007, ¶10. Attached as Annex II to this Report.

¹¹ Management Response, 10.

freeway, with dual carriageways and limited access at toll booth points (freeway; in Spanish, *Autopista*).¹² The Bank finances upgrading of 130km of Route 19, while works in the remaining 6km in the province of Córdoba will be funded by the National Road Directorate (DNV). The PSF is to expropriate land north of the existing road alignment to reach a right of way (ROW) of 120m.¹³ Under the Project design, the dual carriageway will run along the northern part of the 120m ROW.¹⁴

11. Part 2 of the Project aims at providing institutional support to the PSF and is composed of five subcomponents, related to road safety, measurement of logistic costs in the PSF, strengthening of the strategic planning capacity, strengthening of the capacity of the Provincial Road Directorate (DPV) to enhance environmental and social management, and a design capacity building program to incorporate monitoring and evaluation analysis in infrastructure projects.
12. According to Management's Response, as of November 2007, no disbursements had been made under the loan, and road upgrading works had not commenced. The PSF concluded the bidding process for upgrading Route 19 and was expected to complete the evaluation process by the end of November 2007.¹⁵ Management notes that the works will commence only when the Resettlement Action Plan (RAP) is carried out in a manner acceptable to the Bank.¹⁶

B. Financing

13. The total cost of the Project is about US\$173.1 million. The IBRD loan to the PSF is US\$126.7 million, while the PSF provides US\$46.4 million. The loan is guaranteed by the Argentine Republic. The IBRD Board of Executive Directors approved the loan on February 13, 2007. The Loan Agreement is dated June 12, 2007, and became effective on August 17, 2007. The Closing Date of the loan is June 30, 2012.

C. The Request

14. The Requesters believe that they "*will suffer damages as a consequence of failures or omissions by the World Bank*" in the design and supervision of the

¹² See Management Response, ¶19. During its visit to Santa Fe on March 10 -17, 2007, the Panel was informed that the second phase of the Project referred to in the Management Response is still in a planning stage.

¹³ During the 1970s the national Government expropriated land along 54km of the north side of the Route.

¹⁴ The Panel was informed that the future freeway would require construction of an additional dual carriageway that would occupy the central ROW area, south of the carriageway to be built under the Bank-financed Project. The original Route 19 would then become a service road.

¹⁵ Management Response, ¶17.

¹⁶ Management Response, ¶17.

Project.¹⁷ More specifically, they list several instances of non-compliance with Bank operational policies and procedures, and related harm and losses—for which they state they have evidence—including: “*discrimination*” and “*intimidating notices,*” “*inequity of the values,*” “*risk of flooding,*” “*lack of planning and delimitation of areas,*” and the “*possibility of future pollution and contamination.*”¹⁸

15. The Requesters claim that, as a result of the Project the area will suffer an “*devolution of economic and social development with respect to the rural activities in the zone of influence of Nat. Route 19,*” and no economic support to undertake new activities or help the existing ones is provided. In their view, by causing “*the loss of the practical use of a paved road (unique) in a wide area, and the use restriction that will be created by the motorway...*”¹⁹ the Project will worsen the already declining economic conditions of the area, where dairy farms as family business are disappearing and farming is done by tenants or contractors.
16. The Requesters also state that the Project is incompatible with the area’s hydrological situation. They believe that the “*loss of agronomic balance in the soil produces insufficient absorption and retention of rainwater...*” and claim that this will be aggravated by the spillways in the Route for the passage of water, which are inadequate. They add that the proposed “*new elevated carriageway will act as a contention and the culvert (north side) will operate as a collector of the ever increasing flows, which will cause problems of flooding in the neighboring fields and affect the population settlements...*”²⁰ In this context, the Requesters refer to the situation created by the “*flood disasters*” in December 2006 and March 2007 as well the “*increasing risk of flooding in the city of Santo Tomé.*”²¹ In addition, according to the Requesters, “*future possibility of pollution and contamination*” will result from the Project. They argue that the quarries that will be used for the soil needed to elevate the new carriageway to 0.80m, may become “*a potential space for waste dumps or undue use for human emergency settlements, or animals.*”
17. The Requesters further allege that the expropriations carried out under the current Project took place on the basis of cadastral information for a 1970s project to build a highway adjacent to Route 19. They believe that the use of those measurements leads to a situation in which most of the affected owners will be expropriated of an amount of land larger than what is needed for the Project, in some cases up to 15 or 20 percent. According to the Requesters, “[t]here is also inequity in the appraisal of the fields to be expropriated, since there are differences of up to 70 % in the values proposed for adjacent fields

¹⁷ Request p. 1.

¹⁸ Request p. 1 and Clarifications to the terms of the Request for Inspection.

¹⁹ Clarifications to the terms of the Request for Inspection.

²⁰ Clarifications to the terms of the Request for Inspection.

²¹ Clarifications to the terms of the Request for Inspection.

*and with the same production potential.*²² They also claim that the compensation under the Project is “*not consistent with point 36 of the previous inspection report.*”²³

18. They also state that they have presented their complaints in person and by sending letters on several occasions including, *inter alia*, letters sent on April 3, 2007, July 19, 2007 and August 27, 2007 to the World Bank and by sending additional letters to Undersecretary of Investment Projects and External Financing. They consider the answers that they received inadequate and state that they were not offered any solutions to the problems raised by them. The Requesters also state that, as of the date of the Request, they had not received an answer to their letter sent on August 27, 2007.
19. On August 31, 2007, the Requesters submitted a letter to the Panel expressing again their concerns about the Project and asked that the letter be considered as an integral part of the Request. In this letter the Requesters refer to their 2006 Requests for Inspection and claim that not only has the situation not improved but also new facts have developed that support their previous concerns. They request a limitation of the expropriations to 30m up to the 18th kilometer on the National Route 19, and the elimination of the projected elevation of the layout to “*level +0.80.*” Moreover, they request that the Project must include adequate spaces for drainage, the establishment of a parallel program that supports the absorption of left-over waters from the entire area, and the replacement of artificial drainages with natural drainages. The Requesters also ask for the application of an equitable system of compensation for all the plots acquired for the construction of the highway.
20. The Requesters ask the Panel to recommend to the Board of Executive Directors of the World Bank that an investigation be conducted on the alleged matters.
21. The above claims may constitute non-compliance by the Bank with various provisions of the following Operational Policies and Procedures, *inter alia*:

OP 1.00	Poverty Reduction
OMS 2.20	Project Appraisal
OP/BP 4.01	Environmental Assessment
OP/BP 4.12	Involuntary Resettlement
OP/BP 10.00	Investment Lending: Identification to Board Presentation

²² Clarifications to the terms of the Request for Inspection.

²³ Request p. 1. On November 16, 2006, the Panel issued its Report and Recommendation to determine the eligibility of the above-mentioned 2006 Requests for Inspection. Paragraph 36 of the Report summarizes Management Response to the Requests, with respect to the compensation issue, as follows: “*According to Management, expropriated land will be compensated in cash, with the amount corresponding to replacement cost at market price. Compensation will be provided before land acquisition is undertaken.*”

D. Management Response

22. On November 20, 2007, the Panel received Management's Response to the Request for Inspection. The main body of the Response addresses so-called Special Issues raised in the Request, and Annex I responds in detail to the Requesters' claims. Management states that the major concerns of the Requesters, which are analyzed in the Management Response, were also highlighted in a meeting with the Requesters on October 31, 2007, in Franck, Argentina.
23. The Management Response first addresses the issue of flooding that, according to the Requesters, may result from the proposed elevation (0.80m) of the new carriageway to be constructed under the Project. Management states that the Requesters offer no engineering or other evidence in support of their allegation, while from a safety and engineering point of view the proposed elevation is necessary to avoid that, during intense rain, water crosses the new improved Route 19, as it has happened thus far with the present Route. Management refers to the "*professional rigor of the engineering designs*" prepared by "*well-known Argentine engineering firms*," and the "*stringent quality control process*" for these designs. This brought about the adoption of the "*basic principle of road design standards*"²⁴ reviewed and approved by both the Bank and the DPV. Because of this, the concerns of the Requesters, in Management's view, are not "*well founded*."
24. According to the Response, the Bank complied consistently with the policy on Environmental Assessment (OP/BP 4.01): all the studies and simulations conducted in Project preparation comply with sound standards. Therefore, it is Management's position that the Project will not worsen the hydrological situation of the area, but, to the contrary, it will reduce the risk of flooding compared to the without-project conditions. The engineering designs were also re-examined with respect to the risk of flooding, after severe rain and flooding of Route 19 occurred in March 2007. A Bank mission traveled to the area to check the Project designs, while the national authorities withheld the approval of these designs until the PSF again analyzed and re-examined them to ensure "*their robustness*."²⁵ Both the Bank's and the PSF's review confirmed the soundness of the designs and concluded that the Project will not increase the risk of flooding of the areas surrounding Route 19. Management further claims that the PSF has discussed the issue of flooding and drainage with the Requesters and in general with Project affected people in various public hearings. According to Management, in one of these meetings, one of the current Requesters even acknowledged that the area's

²⁴ Management Response, ¶20.

²⁵ Management Response, ¶23.

hydrological issues pre-dated the Project and the flooding was not an issue that the Project had to solve.

25. In response to the Requesters' claim that the Project design provides for excessive land expropriation and their request to limit the expropriations to 30m up to the 18th kilometer, rather than taking land for a 120m ROW, Management states that the issue of the amount of land to expropriate was carefully reviewed and that the PSF was asked to study alternatives to reduce land taking. The PSF decided that it will expropriate lands to reach the planned 120m ROW, and justified this decision on three grounds. The first relates to construction costs and potential negative environmental externalities. According to the Response, with a reduced ROW, the soil for the construction of the embankments would have to be partially extracted in a location far from the Route site, where land would have to be purchased and soil transported to the construction site, thus doubling the costs of construction of the embankments. In addition, the extraction of soil from locations outside the ROW could create negative environmental liabilities. The second reason for maintaining the 120m ROW is that it will allow constructing frequent returns to minimize restrictions in accessing roadside properties, as requested by affected communities. The third reason for confirming the project design is that the DPV standards require 120m of ROW for eventual construction of a limited-access high speed freeway, as planned under phase two of the program.
26. The Response also states that the Requesters' proposal to limit expropriations to 30m would not be safe and cost effective, and does not seem to be based on any technical justification. It would create a 60m ROW, which would not allow enough space for a dual carriageway highway, and would be even below the 100m standards for a single-lane carriageway. Management also states that the additional proposal of expropriating the land incrementally, to reach the 120m of ROW when the decision to construct the freeway is made, is not possible for the three reasons explained above.
27. Management further states that in an area where the average size of the properties is 100 hectares, "*in fifty percent of the properties less than 4 hectares will be acquired to expand the ROW*"²⁶ under the Project. About 50 percent of the land required to upgrade Route 19 was acquired by the National Government in 1970; the remaining hectares that will be expropriated are located in 236 properties along the Route. In addition, 27 buildings will be displaced, 20 houses, 6 business and one school. The Response states that a RAP was prepared in accordance with OP/BP 4.12 on Involuntary Resettlement and it will be implemented before commencing the physical works. Management adds that the RAP includes an information and communication program. For landowners and households and businesses to be displaced, "*additional programs are included.*"²⁷ For those physically displaced, the program provides support for families and businesses "to

²⁶ Management Response, ¶28.

²⁷ Management Response, ¶29.

*restore their socioeconomic conditions to the level that existed prior to displacement.”*²⁸

28. Management argues that under the Project lands are acquired in accordance with the laws of the PSF.²⁹ It adds that the Province *“agreed with the Bank to follow Bank compensation policies for land acquisition.”*³⁰ Management’s Response describes the valuation methodology followed by the DPV in order to establish the amount of compensation to be paid. This amount has to be equal to the objective value of the land (*“valor objetivo”*) plus direct/indirect damage caused by the expropriation of the land. Various elements are taken into account to evaluate rural land, such as quality and productivity of the land, soil configuration, and real or presumed rent/income from the land. Other characteristics, including the location of the land and the expropriated surface of affected land, also contribute to determining the final price offered to the landowner. According to Management, evidence shows that the PSF has been conducting this process in an equitable way, taking also into account that *“rural land valuation under the best circumstances inevitably involves a degree of subjectivity ... [because] [n]o two plots of lands are ever identical so comparisons with neighboring plots as a valuation basis can never be perfect.”*³¹
29. Management states that it has closely supervised the land acquisition process. It adds that to date *“Management has not seen any evidence of intimidatory communication or discrimination”*³² towards the land owners as alleged by the Requesters. When asked by the Project team, project affected people did not report any lack of respect behavior by members of the PIU and, Management notes, even the Requesters, in their August 24, 2007 letter, thank the PIU for responding to their questions and concerns and offering explanations.
30. With respect to the consultation process, Management states that project affected people have had numerous opportunities to express their concerns, including in public meetings and through an electronic mailbox and physical mailboxes in 15 communities. Management notes that the Project design underwent a number of changes thanks to the consultations with affected peoples, whose concerns were key in the decision making process regarding for example road alignments of bypasses, the location of road crossings and the types of restoration programs for urban areas. Management also states that the Requesters *“have participated actively in the consultation process and their concerns about access to productive land have been accommodated in the Project.”*³³ Management further states that the Project team participated actively in the consultations as well, participating in meetings, talking to landowners and communicating their concerns to the PIU.

²⁸ Management Response, Box at p. 11.

²⁹ See Management Response, ¶31 for a brief description of the land acquisition process.

³⁰ Management Response, ¶32.

³¹ Management Response, at note 30.

³² Management Response, ¶35.

³³ Management Response, ¶38.

31. Management's Response also includes a section specifically addressing the Bank's compliance with the policies and procedures that, in the Requesters' view, the Bank has violated.
32. OP/BP 4.01 Environmental Assessment: Management states that the "*EA was an integral part of Project design.*" The Project was classified as Category B because the new road will run along the existing road alignment, land acquisition is only required to expand the ROW and few cases of displacements are taking place. The EA determined that "*no significant adverse sensitive, diverse or unprecedented environmental impacts are expected to occur.*"³⁴ In addition, the PSF has prepared the Environmental and Social Management Plan (ESMP), which identifies potential environmental impacts³⁵ and social issues along with appropriate mitigation measures, and reflects concerns of the project affected people and the local governments.
33. OP/BP 13.05 Project Supervision: The Project team has carried out various supervision missions and a number of smaller site visits to supervise the implementation of the RAP and the land acquisition and to take care of urgent issues such as the flooding following the intense rains in March 2007.
34. World Bank Policy on Disclosure of Information: The Project Information Document (PID), the Integrated Safeguard Data Sheet (ISDS), the ESMP, the RAP are available in the Infoshop in Washington DC and in the Public Information Center (PIC) in Buenos Aires, Argentina. Local municipal offices may provide a summary of the ESMP, which together with the RAP is also available in Spanish. "*The PIU made available to the 2007 Requesters—after receiving a request from them—a copy of the ESMP and RAP.*"³⁶
35. Management concludes by stating that the "*Bank has made every effort to apply its policies and procedures and to pursue concretely its mission statement in the context of the Santa Fe Road Infrastructure Project.*"³⁷ As a result, Management believes that the rights and interests of the Requesters have not been, nor are likely to be, harmed by a failure of the Bank to implement its policies and procedures.
36. On November 30, 2007, the Panel received a letter from the management of the PIU providing comments and additional information on the various issues raised in the Request for Inspection. The Panel acknowledged this letter and reiterated to the management of the PIU that the mandate of the Inspection Panel is to review

³⁴ Management Response, ¶42.

³⁵ In 2007 the PSF prepared a new Annex of the ESMP regarding "*Restoration of Environmental Liabilities along the RN19 Corridor,*" which concludes that "*there are no illegal waste dumps along the ROW of National Road 19.*" The Requesters allege that the quarries that will be used for the soil needed to elevate the new carriageway to 0.80m, may become a potential space for waste dumps.

³⁶ Management Response, ¶46.

³⁷ Management Response, ¶47.

the Bank's compliance with its own policy and procedures in the preparation, appraisal and implementation of a Bank-financed project, upon receiving a Request for Inspection from Project affected people. While the Panel appreciates information related to the Project, the Panel wishes to reiterate that it does not review the performance of the Borrower or the implementing agency.

E. Eligibility

37. The Panel must determine whether the Requests satisfy the eligibility criteria for an Inspection, as set forth in the 1993 Resolution establishing the Panel and the 1999 Clarifications, and whether to recommend an investigation of the matters alleged in the Request for Inspection.
38. The Panel Chairperson, Werner Kiene, together with Operations Officer Tatiana Tassoni and expert consultant Eduardo Abbott visited Argentina from March 10–17, 2008. During their visit, the Panel met with signatories of the Request and with other affected people in the area near Santa Fe. The Panel also met with national Government officials, and with the Governor of the Province of Santa Fe and other provincial authorities, with officials of the Provincial Ministries and the PIU in Santa Fe, and with Bank staff in Buenos Aires.
39. The Panel wishes to express its deep appreciation to the Requesters for showing Project areas of concern and to other affected people who met with the Panel. The Panel also wishes to thank the Governor of the Province and other PSF authorities for meeting with the Panel and sharing their insights about the Project. The Panel's deep appreciation also goes to management and staff of the PIU for their fine assistance and for providing documents and discussing points of concerns with the Panel team visiting the Project area. The Panel also wishes to thank the National Director of Projects with International Financial Institutions for meeting with the Panel team in Buenos Aires and providing valuable comments about the Project; and Bank staff in Buenos Aires for providing relevant information, engaging in valuable and rich discussions with the Panel team and assisting with logistical arrangements.
40. This was the second Panel visit to the Santa Fe Road Infrastructure Project area. The Panel visited Santa Fe in November 2006 in the context of the first two Requests for Inspection the Panel received in August and September 2006 in relation to the then proposed Project. On that occasion, the Panel met with the signatories of both Requests and with the management and staff of the PIU on a number of occasions to discuss in depth points of concern raised in the Request. PIU staff also traveled with the Panel team on the segment of Route 19 to be upgraded under the Project to explain thoroughly the Project design and how the widening of Route 19 is to affect the area.

41. To determine the eligibility of the Request and whether an investigation of the Requesters' concerns is warranted, the Panel has reviewed the Request for Inspection and other letters and communications received from the Requesters expressing their continuing concerns about the Project; Management Response, and other relevant documents provided by Bank staff and the PIU. During its field visit, the Panel has thoroughly discussed the issues of concerns with the Requesters, with other residents and landowners impacted by the proposed road, with national and provincial authorities and with Bank staff.
42. During the visit, the Panel confirmed that the Requesters are legitimate parties under the Resolution to submit a Request for Inspection to the Inspection Panel. The Requesters live in the Project area and have common interests and concerns as required in Paragraph 9(a) of the 1999 Clarifications (*"The affected party consists of any two or more persons with common interests or concerns and who are in the borrower's territory"*).
43. The Panel notes that the Request *"assert[s] in substance that a serious violation by the Bank of its operational policies and procedures has or is likely to have material adverse effect upon the requesters."* (Paragraph 9(b)).
44. The Requesters express concerns that, based on the current Route design and expropriation plans, the Project could cause them harm as a result of the Bank's possible non compliance with its policies and procedures, in particular OP/BP 4.01 on Environmental Assessment and OP/BP 4.12 on Involuntary Resettlement. The Requesters believe that new facts have occurred to increase their worries since some Project affected people expressed their concerns to the Panel in the 2006 Requests.
45. Because of the high risk of flooding to which the area around Route 19 is exposed during periods of intense rains—as the *"flood disaster of March 27/28, 2007"* and the flooding of December 2006 have shown—the Requesters argue that the current Route design was not properly assessed in accordance with OP/BP 4.01 on Environmental Assessment. They believe that, because of inadequate drainage design, the proposed elevation of the new carriageway to be built will increase the risk of flooding of lands surrounding the road, rather than address the existing flooding problem. The Requesters, who are mostly farmers owning parcels of land along Route 19, claim that the current Route allows excess water to go over it, thus dissipating the flood rather quickly. The new carriageway, instead, designed to be roughly a meter higher than the current road, would not allow this "equalization" because the water passages (culverts and bridges) planned under the Project are not sufficient and this will cause or worsen the inundation of the surrounding fields.
46. Management responds that from a safety and engineering point of view the proposed elevation is necessary to avoid that, during intense rain, water crosses the new upgraded Route 19, as it has happened thus far with the present road. It

claims that while the drainage is currently insufficient, the Project was designed to improve this situation and avoid the harm feared by the Requesters. In this light, the engineering designs were also re-examined after the intense rain and flooding occurred in March 2007, as referred to by the Requesters, and their soundness was confirmed.

47. The Requesters also express concerns about the Project compensation and rehabilitation program. They claim that no socio-economic baseline survey was conducted to assess their economic situation after their land is expropriated, even if only partially. They state that the Project will exacerbate a downturn in the economic development of the area, but no economic support is provided to initiate new activities or help the existing ones. This they believe is in violation of Bank policy requirements that impoverishment risks deriving from involuntary resettlement are mitigated and people are assisted in restoring their livelihoods and standards of living. In addition, the Requesters claim that the process by which the compensation has been paid is in violation of Bank policies, because of the inadequate amounts of compensation and because people have been subjected to alleged “arm-twisting” to convince them to accept the proposed amounts.
48. The Requesters reiterate that consultation and disclosure of information about the Project are not adequate. They complain that communication about the Project in general and about each landowner specific situation was inadequate. Though the majority of landowners have signed agreements for the payment of compensation, they feel that they were not provided sufficient information to make an informed and satisfactory choice.
49. Management claims that evidence shows that the PSF has been conducting this process in an equitable way, and that to date “*Management has not seen any evidence of intimidatory communication or discrimination*”³⁸ towards the land owners as alleged by the Requesters.
50. The Requesters are also concerned about the amount of land to be expropriated under the Project, in violation of OP/BP 4.12’s requirement that involuntary resettlement, including lost of assets or access to assets, should be avoided or minimized. They believe that the planned expropriations are excessive, especially considering that the land acquisitions are not based on the Bank-financed Project but rather on a future project yet to be properly evaluated from an environmental, social and economic point of view.
51. The Panel notes that the subject matter of the Request is not related to procurement, as required by paragraph 9(d).

³⁸ Management Response, ¶35.

52. The Request satisfies the requirement in paragraph 9(e) that the related loan has not been closed or substantially disbursed.³⁹
53. Furthermore, the Panel has not previously made a recommendation on the subject matter of the Request. Therefore, the Request satisfies Paragraph 9(f).
54. The 1999 Clarifications further provide that the Panel shall satisfy itself that the Request “*does assert that the subject matter has been brought to Management’s attention and that, in the Requesters’ view, Management has failed to respond adequately demonstrating that it has followed or is taking steps to follow the Bank’s policies and procedures*” as set forth in Paragraph 9(c). In its Report and Recommendation concerning the Requests for Inspection received in 2006 the Panel stated that the procedural criterion provided in Paragraph 9(c) was not fully met because the first Requesters had approached the Bank shortly before filing their Request with the Panel, while the second Requesters approached the Bank and the Panel at the same time in September 2006.
55. Since the submission of the 2006 Requests, Project area affected people, including the current Requesters, have had the opportunity to express their points of concerns to Bank staff in several occasions—even through the Inspection Panel, which conveyed affected people’s letters to the Project team in a couple of occasions.⁴⁰ Bank Management also indicates in its Response to the present Request that the Project team and the PIU “*have interacted with the 2007 Requesters in many more instances than those pointed out by them in their Request.*”⁴¹ The Requesters, however, feel that the Bank has not satisfactorily addressed their concerns. The Panel therefore confirms that the Requesters satisfy the requirement set forth in Paragraph 9(c).
56. As noted before, during its visit to the Project area, the Panel has had the opportunity to discuss thoroughly the issues with all stakeholders involved. In meetings with the Panel, Bank staff in Buenos Aires have repeatedly expressed to the Panel their willingness to address the issues raised by the Requesters. The Panel notes that Bank Management has made a number of efforts to meet with the Requesters and other affected people to understand and try to solve their grievances. In this sense, Management states that actions have been taken, such as changes to the Project design to build access roads to the new Route 19 for landowners, even to some landowners who do not currently have access to the existing road, and to include more frequent returns (every 4km, rather than every 6km, according to Panel’s discussions with engineers of the PIU) to facilitate connections with nearby cities.

³⁹ According to the Resolution, “*this will be deemed to be the case when at least ninety-five percent of the loan proceeds have been disbursed.*” Footnote to Paragraph 14(c).

⁴⁰ Letter sent to the Panel on August 6, 2007 and forwarded to Management on August 7, 2007 and fax received by the Panel and submitted to Management on August 10, 2007.

⁴¹ Management Response, Annex 1, p. 32.

57. Notwithstanding these efforts claimed by Management, the Panel notes that the Requesters' complaints and the nature of their conflict with Bank staff have been mainly viewed by the latter as essentially focusing on the amount of compensation for their land. To the contrary, the Panel's discussions with the affected populations have showed that, though the amount of land compensation remains a concern, particularly at a time when per hectare yields for soybean have driven up the value of land, the people's fear of recurrent inundation of their fields for inadequate drainage of the upgraded Route as designed is an equal or even higher concern to most farmers.
58. The Panel acknowledges that after unexpected heavy rains occurred in December 2006 and March 2007, Bank staff have promptly responded to the new circumstances and requested a review of the Route design to ensure the soundness of Project design and that flooding of that magnitude be prevented in the future. The Panel also recently received a note from Management outlining certain actions that Management intends to carry out to improve transparency of land-related information (soil maps and cadastre data), provide capacity building on resettlement and consultations, monitor compensation payments and ensure continued review of Project design.⁴²
59. The Panel notes however that recent meetings between the Requesters and the PIU technical officials have not yielded satisfactory results. The Panel observes that the Requesters continue to be concerned about the issues raised in the Request for Inspection, and in particular about the hydrological situation in the Project area, should the design of the road, especially provisions for water drainage, remain unchanged.
60. The Panel also observes that while it believes that during its visit to Santa Fe the Panel team was provided with adequate information about other issues of concern to the Requesters, such as the methodology used to assess the value of the land, it also noted that affected people were, instead, unaware of important details related to this aspect of the Project and of the specifics of the changes in the Project design referred to by Management. In addition, other parties (a local telephone cooperative and a dairy cooperative) expressed concerns that they had not been properly consulted and that they may be affected by the Project.

F. Conclusions

61. The Panel finds that the Request and the Requesters satisfy the eligibility criteria for an Inspection, as set forth in the 1993 Resolution⁴³ establishing the Panel and the 1999 Clarifications.
62. The Panel notes that the Request and Management Response and additional communications of both parties with the Panel contain conflicting assertions

⁴² Communication dated April 9, 2008 to Inspection Panel Chairperson.

⁴³ Resolution No. IBRD 93-10 of September 22, 1993, hereinafter "the Resolution."

and interpretations about the issues, the facts, compliance with Bank policies and procedures, and harm, that could be addressed only with an investigation.

63. In view of the foregoing, the Panel recommends an investigation of the matters raised in the Request for Inspection. The Panel notes that the investigation would take into account progress in the implementation of the actions noted in the Management Response and other actions being carried out to address the concerns of the Requesters. The investigation, therefore, will focus on issues raised in the Request that still remain pending, particularly issues related to route design and flood risks, as well as disclosure of information and consultation with project affected people on resettlement and environmental aspects.