



January 11, 2008

The ADB Board of Directors
Asian Development Bank
P.O. Box 7890980
Manila, Philippines

RE: PHULBARI COAL PROJECT (BAN 39933-01)

Dear Director:

We, the undersigned organizations, are writing with regard to ADB's proposed Phulbari Coal Project (BAN 39933-01), which is scheduled for approval by the ADB Board on 27 March 2008. We believe the Phulbari Coal Project is in violation of the ADB Energy Policy (1995), Indigenous Peoples Policy (1998), Involuntary Resettlement Policy (1995), Environment Policy (2002), and Public Communication Policy (2005).

The current political situation in Bangladesh does not allow freedom of speech and assembly in the region. The project is fiercely opposed by the people of the region in the four sub-districts of Birampur, Nawabganj, Parbatipur, and Phulbari; yet public documents approved by the ADB continue to state that there is community support. The non-transparent and unaccountable processes at the project planning stage have made us deeply concerned about the capacity of the ADB, its proposed private sector partner Global Coal Management/Asia Energy PLC, and local authorities to adequately and justly prepare for and deliver on social and environmental aspects of this project.

We therefore urge you to discontinue ADB's pre-appraisal due diligence on this Project and take it out of the funding pipeline due to the following issues:

1) Violation of ADB Energy Policy (1995)

The Summary Environmental Impact Assessment (SEIA) of the Phulbari project (dated August 2006 and posted on ADB website on August 16, 2006) mentions that "At full production, about 8 million tonnes will be exported by rail and barges to an offshore reloading facility at Akram Point for export to international markets, some 4 million tonnes will be exported to India via railway, and the remaining 3 million tonnes will be used for a proposed mine-site 500 MW power plant and sold for domestic use" (SEIA , page 2).

Paragraph 86 (ix) of ADB Energy Policy states (excerpts highlighted) that “Coal is the primary energy source in the Bank’s largest DMCs and its use is a major cause of environmental degradation. The Bank should actively promote environmentally sound mining practices and clean coal technologies. As coal is an increasingly internationally traded commodity, the Bank should not directly finance coal mine developments except where it is for captive use by a thermal power plant, and economically superior to other coal supply options.”

We submit that the premise of the ADB Energy Policy is to only approve financing of mine-mouth projects. Phulbari is clearly not a “captive use” mine-mouth project as the majority (almost 80%) of the coal is intended for export to India and international markets. Since the ADB Energy Policy has to apply in its entirety to the full Project -- and not merely to sub-projects in a piece meal fashion -- it is our view that Phulbari Coal Project stands in violation of the ADB Energy Policy. We are thus surprised that ADB Management cleared the concept paper for this project in October 2005 and continues to conduct “due diligence” on this project when it so clearly violates an existing Board approved policy.

2) Massive Displacement, Loss of Livelihoods and Basic Services

According to ADB management, Phulbari Coal Project would create approximately 50,000 affected people (12,000 affected households, including 2,200 indigenous peoples) in the project area, out of which 43,000 people will be physically displaced.¹ According to the December 2006 version of the Resettlement Plan for the Coal Mine Area of the Phulbari Coal Project prepared by Asia Energy PLC, compensation would be provided to legal owners of land and houses, and other socially recognized agricultural land users and sharecroppers would receive livelihood restoration grants for a period of two years.

However, the Expert Committee formed by the Government of Bangladesh to evaluate Asia Energy’s project documents found that 129,417 persons will be directly affected by the project and 220,000 persons will be indirectly affected due to the de-watering of the mine area and because the primary source of water in this area is tubewells.²

In addition to displacement, severe loss of livelihoods will result as the land proposed for the project is one of the most fertile and populated areas in a country that is prone to chronic water-logging and where much of the land is uncultivable for many months of the year. **The recent cyclone clearly demonstrates the true value of such land for food security and habitation for the entire country.** Out of the total land proposed for the Phulbari open-pit mine, 78% is agricultural land and there is

¹ As per Asia Energy’s Draft Resettlement Plan dated December 2006; SEIA suggests 40,000 people will be physically displaced.

² *Report of the Expert Committee to Evaluate Feasibility Study Report and Scheme Development of the Phulbari Coal Project, pg 47.* The report is in Bangla but a summary translation can be provided to you.

limited possibility for land rehabilitation. The majority of affected people will not be employed by the mine and projections of multiplier effects of such an operation are based on spurious grounds. Thus the impoverishment of thousands is a likely scenario. Given the sheer magnitude of affected people, wide spread opposition and social unrest is likely to remain an ongoing reality of this project.

3) Environmental Degradation

The Project will have severe environmental consequences. First, no practical ground level tests appear to have been conducted on the actual impact of dewatering in the mining area and thus long term impacts of such a procedure on desertification in the area remain highly uncertain. The Expert Committee Report indicates that arsenic contamination of water could be a real possibility during and after the mine life of 30-35 years given the depth of the coal extraction (656-1028 ft). Asia Energy PLC documents suggest that land will be filled after extraction and the company will leave a freshwater lake at the end of the mine life. However, environmental experts maintain that neither the land (dredged and rehabilitated) nor the ensuing "lake" will be conducive to agriculture or other activities such as fisheries given the toxicity level of both. The depletion of groundwater will impact approximately 314 sq km. Though Asia Energy claims that it will re-inject water in the area, its discussion on this issue is based on speculative hydrological and climactic projections.³

Second, the main coal off-loading facility will be at Akram Point, a deep water anchorage site situated within the Sundarbans Reserve Forest. The Sundarbans are a World Heritage Site given its biodiversity and marine habitat. Equally disturbing is the admission in the SEIA that shipping channels "...will pass at least 1.5 km from these protected areas" (SEIA, page 7). Moreover, preventive measures suggested in the SEIA deals inadequately with rail and river accidents frequently associated with mining activity of this scale, not to mention response to sudden large scale natural disasters as Bangladesh has recently witnessed.

Finally, though the ADB continues to maintain that the EIA and SIA "have been carried out to a very high international standard by the sponsor"⁴ both the EIA and the SIA have been commissioned by the same company which wishes to extract the coal; hence, serious conflict of interest issues remain endemic in the project. This is especially so given that Asia Energy's leadership is dubious and it has no pre-existing record of operating a coal mine.⁵

4) Human Rights violations

On 26 August 2006, around 20,000 local residents participated in a large peaceful gathering to protest the displacement of the large number of people to give way to the project. Regretfully, the

³ See R. Moody, "Bangla Nagar: August 26, 2006" 28 August 2006

⁴ *Response from ADB President Kuroda to Civil Society Organizations about the Phulbari Coal Mine*; July 23, 2007, mimeo

⁵ See <http://www.minesandcommunities.org/Action/press1101.htm>

Bangladesh Rifles opened fire on the demonstrators. Three people from the Phulbari area were killed, one paralyzed and over a 100 people were injured in the horrifying incident. Moreover, in February 2007, Mr. SM Nuruzzaman, one of the local leaders of the Phulbari campaign, was detained and tortured.⁶

Based on local reports, intimidation of local community members continues, preventing them from openly gathering in groups and voicing concerns regarding this project. However, ADB management continues to publicly support the project. And ADB documents continue to maintain: *"The entire process has been underpinned by free, prior, and informed consultations with stakeholders, including local communities, NGOs, various levels of government, inter-ministerial committees, and outside stakeholders. Public consultation has been and remains a continuous process."*⁷ This is particularly disturbing given the conflicting reports from community members themselves (see Disclosure section below).

5) Indigenous Peoples Policy

The affected indigenous peoples of the Munda, Santal and Mahili ethnic groups have been farmers and agricultural laborers in the region for generations. The draft Indigenous People's Development Plan (page 47) for the Phulbari project proposes indigenous families into resettlement sites with only 1/8 hectare of land per household or cash compensation for resettlement. The resettlement sites are in areas already densely populated, with little scope to obtain alternative agricultural land and labor opportunities. It is also unlikely that they will be able to purchase land of equal productive capacity from the non-indigenous population given limited compensation offered and existing land scarcity. The project violates ADB IP Policy with regard to consultations with these groups and given the unlikelihood of these groups to sustain their way of life under the resettlement options suggested.

6) Violation of the Public Communications Policy

Many local elders claim that Asia Energy Corporation has only informed prospective affectee communities of the benefits of the project, and not explained the negative impacts it may cause the environment and the local communities. They also claim that they have never received nor been consulted on any key documents, e.g. environmental impact assessment, draft resettlement plan and draft indigenous peoples development plan, among others. The chairman of the Phulbari Municipality and elected commissioners of Phulbari have demanded that Asia Energy Corporation provide them key project documents, but to no avail. Asia Energy's information on its *Bangla* website reads more like public relations documents. Moreover, even Global Coal Management's site no longer contains the English versions of the draft EIA, Involuntary Resettlement Plan and Indigenous People's Plan as suggested by ADB staff.

⁶ <http://www.newagebd.com/2007/feb/13/nat.html>

⁷ See SEIA, para 280

Asia Energy's Public Communication and Development Plan (PCDP) cites that 74.1% of those surveyed between February and August 2005 felt that they would support the project if there was proper compensation; however, this survey was conducted while Asia Energy gave limited information about what the project would entail. The Expert Committee Report states that names of certain officials were listed in consultations where they were actually not present. The President of the Expert Committee Report, Professor Md. Nurul Islam was one of them. There are several such examples of misinformation.

Committee members found out that Asia Energy surveyors wrote down information and opinions of the local people in pencil while the form was written in English...local population are therefore suspicious about whether their opinion against the coalmine has been accurately reported by the surveyors...during the field visit and consultation with the local people the Committee members felt that the impression given in the [Asia Energy Feasibility Report] is far from accurate. The majority of the local community with whom the Bangladesh Government's Expert Committee exchanged views was against the Phulbari coal project" (See Expert Committee Report).

Conclusion

Asia Energy's Public Information Center was shut down after the killings in August 2006; the Bangladesh Government also signed an agreement with community members that the company would not return to the Phulbari area. We recognize that the current interim government under the state of emergency disregards this agreement; however, the agreement attests to the sheer lack of community support behind this project.

The project violates ADB social and environmental policies and its Public Communication Policy. And given the explicit human rights violations associated and anticipated with this project, we respectfully ask you to take leadership, and ensure that the Asian Development Bank discontinues its involvement in the Phulbari Coal Project. Please note that this letter supports the letter (attached) sent to you by Community members of Phulbari and other Bangladeshi citizens, dated December 15, 2007.

Sincerely yours,

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|-----------------------|---|---|
| 1. Hemantha Withanage | - | NGO Forum on ADB |
| 2. Bruce Jenkins | - | Bank Information Center (USA) |
| 3. Muhammad Riza | - | Yayasan Duta Awan - Solo (Indonesia) |
| 4. Violeta Corral | - | Public Services International Research Unit - Asia Desk |
| 5. Le Van Lan | - | Center for Rural Development in Central Vietnam (Vietnam) |

6. Souparna Lahiri - National Forum of Forest People & Forest Workers (India)
7. Jiten Yumnam - Citizens Concern for Dams and Development (NE India)
8. Gururaja Budhya - Urban Research Centre (India)
9. Nang Shining - Images Asia Environment Desk (Thailand)
10. Jessica Rosien - Oxfam Australia
11. Flint Duxfield - Aid/Watch (Australia)
12. Joanna Levitt - International Accountability Project (USA)
13. Dilena Patharagoda - Sri Lankan Working Group on Trade and IFIs (Sri Lanka)
14. Ravindranath Dabre - Centre for Environmental Justice (Sri Lanka)
15. Suranjan Kodithuwakku - Sri Lanka Green Movement (Sri Lanka)
16. Dang Ngoc Quang - Rural Development Services Centre (Vietnam)
17. Titi Soentoro - NADI (Indonesia)
18. Prof. Sanjai Bhatt - University of Delhi (India)
19. Prajeena Karmacharya - Rural Reconstruction Nepal / South Asia Alliance for Poverty Eradication (Nepal)
20. Sergei Vorsin - Eco Centre (Tajikistan)
21. A. Ercelan - Creed Alliance (Pakistan)
22. M. Nauman - Pakistan Institute of Labour Education & Research (Pakistan)
23. Mahar Safdar Ali - Anjuman Asiaye Awam (Pakistan)
24. Azhar Lashari - ActionAid - Pakistan
25. Philip Gain - Society for Environment and Human Development (Bangladesh)
26. Fabby Tumiwa - Institute for Essential Services Reform (Indonesia)
27. Srinivas Krishnaswamy - Greenpeace India
28. Ahmed Swapan - VOICE (Bangladesh)
29. Svetlana Spatar - The Ecological Society Green Salvation (Kazakhstan)
30. Zakir Kibria - Bangla Praxis (Bangladesh)
31. Anna Dreyzina - Oil Workers Rights Protection Organization Public Union (Azerbaijan)
32. Shailendra Yashwant - Greenpeace Southeast Asia
33. Sushovan Dhar - Vikas Adhyayan Kendra (India)
34. Prabin Man Singh - Collective Initiative for Research and Action (Nepal)
35. Naing Htoo - EarthRights International
36. Rustam Murzakhanov - Researcher of Environmental Law Center "Armon" (Uzbekistan)
37. Isagani Serrano - Philippine Rural Reconstruction Movement (Philippines)
38. Ram Wangkheirakpam - North East Peoples Alliance on Trade, Finance and Development (NE India)
39. Nursaule Umbetova - Ecological-Lawful Initiative Center "Globus" (Kazakhstan)
40. Parviz Umarov - Center for Development of Civil Society (Tajikistan)

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|--------------------------|---|---|
| 41. Shynar Izteulouva | - | NGO "TAN" (Kazakhstan) |
| 42. Pieter Jansen | - | Both ENDS (The Netherlands) |
| 43. Grainne Ryder | - | Energy Probe Research Foundation (Canada) |
| 44. Bruce Rich | - | Environmental Defense (USA) |
| 45. Ashish Fernandes | - | Greenpeace India |
| 46. Soile Koskinen | - | A SEED Europe (The Netherlands) |
| 47. Isabel de la Torre | - | Earth Economics (USA) |
| 48. Jim Enright | - | Mangrove Action Project (Thailand) |
| 49. Dr. Mae-Wan Ho | - | Institute of Science in Society (UK) |
| 50. Paula Palmer | - | Global Response (USA) |
| 51. Jennifer Scarlott | - | International Conservation Initiatives Sanctuary Asia (USA) |
| 52. Helen Leake | - | Forest Peoples Programme (UK) |
| 53. Dr. Andreas Missbach | - | Berne Declaration (Switzerland) |
| 54. Dr. Poonam Pande | | |
| 55. Yuki Tanabe | - | Japan Center for a Sustainable Environment and Society |
| 56. Knud Vocking | - | Urgewald (Germany) |
| 57. Suzanna Dennis | - | Gender Action (USA) |
| 58. Peter Fugazzotto | - | Oceans and Communities (USA) |
| 59. Sébastien Godinot | - | Les Amis de la Terre (France) |
| 60. Saodat Saidnazarova | - | CSSC "Kalam" (Tajikistan) |
| 61. Tom Kucharz | - | Ecologistas en Acción (Spain) |
| 62. Jenina Joy Chavez | - | Focus on the Global South (Philippines) |
| 63. Shalmali Guttal | - | Focus on the Global South (Thailand) |

Cc:

Board of Directors, ADB

Haruhiko Kuroda, President, ADB

Liqun Jin, Vice President (Operations 1), ADB

Kunio Senga, Director General, South Asia Regional Department, ADB

Robert Bestani, Director General, PSOD, ADB

Hua Du, Country Director, Bangladesh Resident Mission, ADB.

Mats Elerud, Senior Investment Specialist, PSOD, Asian Development Bank

Bart Edes, Head, NGO Center, ADB