

## **ANNEXES**

### **c. Client's Response – Oyu Tolgoi**

- i. Oyu Tolgoi response to PCM complaint, dated 2 October 2013;
- ii. “Oyu Tolgoi LLC comments on OT Watch letter to European Bank on Reconstruction and Development – alleging policy violations committed by Oyu Tolgoi” submitted to the PCM on 6 June 2014.

### **d. Client's Response – Energy Resources**

- i. Energy Resources response to PCM complaint, dated 21 October 2013;
- ii. Response Letter to NGOs: “Goviin Gazar Shoroo”, “Tsetsiinutag”, “Khil Hyazgaargui Alkham”, “Oyu Tolgoi Watch”, dated 30 August 2012;
- iii. Information on Complained Herders submitted by Energy Resources, 26 November 2013;
- iv. Energy Resources response to PCM complaint, dated 30 May 2014.

Map of Complainants' winter camps in relation to OT and ER roads and infrastructure, prepared by Complainants during October 2013 meetings with PCM.

**c(i) Client's Response (Oyu Tolgoi response dated 2 October 2013).**



No. 4554/RD

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**DEAR ANOUSH BEGOYAN,**

In August 2013, EBRD informed OT that a group of herders from Javkhlant bagh, supported by OT Watch and a local NGO, submitted a complaint about Oyu Tolgoi (OT) and Energy Resources through EBRD's Project Complaint Mechanism (PCM).

OT supports the PCM process and recognizes complaints mechanism processes as valuable and important tools available for use by communities impacted by mining and other development projects. OT is committed to working with the PCM through their process, with the intention of finding common ground with the complainants. We remain committed to being a good neighbor in the South Gobi and are committed to working together to find an outcome to issues that is acceptable to all.

The document attached to this letter serves as OT's formal response to EBRD's PCM team as requested as part of PCM's initial complaint eligibility assessment.

If there is any further inquiry, please let us know.

*Attachment: 8 pages*

Copied to:

- Susan Wildau, CDR Associates

Best regards,

  
BAIGALMAA SHURKA

GENERAL MANAGER FOR REGIONAL DEVELOPMENT AND SOCIAL PERFORMANCE

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**OT Response to EBRD Complaint**  
Phase: Initial Eligibility Assessment  
October 2 2013

### **Context**

In August 2013, EBRD informed OT that a group of herders from Javkhlant bagh, supported by OT Watch and a local NGO, submitted a complaint about Oyu Tolgoi (OT) and Energy Resources through EBRD's Project Complaint Mechanism (PCM).

OT supports the PCM process and recognizes complaints mechanism processes as valuable and important tools available for use by communities impacted by mining and other development projects. OT is committed to working with the PCM through their process, with the intention of finding common ground with the complainants. We remain committed to being a good neighbor in the South Gobi and are committed to working together to find an outcome to issues that is acceptable to all.

This document serves as OT's formal response to EBRD's PCM team as requested as part of PCM's initial complaint eligibility assessment.

### **OT Response**

#### Summary

OT recognizes that its presence in the South Gobi has the potential to impact the local community, including from transportation infrastructure and the use of roads. OT has identified these potential impacts and developed and implemented various programs, initiatives, and procedures to mitigate, manage and compensate for impacts associated with transportation within the Project Area of Influence in consultation with local communities, stakeholders, and local government. This is fully detailed and described in various sections of OT's Environmental and Social Impact Assessment (or ESIA.)<sup>1</sup> Three ESIA management plans that are most relevant (for construction and operation) include:

- **Resettlement Action Plan:** This plan describes the process for identifying impact zones and associated compensation for eligible herder households for impacts on pasture, livelihoods, etc. resulting from OT within the Project Area of Influence. This includes impacts resulting from the construction and use of roads during construction and operation.
- **Transportation Management Plan:** This plan describes specific transport-related environmental impacts on vegetation, livestock and local communities, the implementation of control measures, and public perception towards traffic management issues. This includes management measures to minimize, mitigate, and manage OT-related vehicle movements.
- **Community Health, Safety and Security Management Plan:** This plan describes various management measure to ensure that OT protects the health, safety and security of people and communities from negative impacts related to OT within the Project Area of Influence, including from transportation.

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<sup>1</sup> The ESIA was carried out by teams of independent experts to look at the environmental and social impacts of OT from construction through operation. The ESIA includes baseline information and describes how Oyu Tolgoi will minimize and manage its environmental and social impacts, as well as maximize the positive benefits of the operation. This document was developed in accordance with international lender standards. The full ESIA, including the baseline assessment, impact assessment, and construction and operational management plans can be found on OT's website here: [www.ot.mn/ESIA](http://www.ot.mn/ESIA).

OT is committed to working with the impacted community to ensure any impacts as a result from OT are managed properly. To this end, OT maintains that it has gone through a very robust, thorough process to:

1. Identify impacts related to transportation;
2. Design mitigation measures to manage the impacts;
3. Implement them (in some cases, this is an on-going process);
4. Provide adequate compensation for those herder households considered eligible based on a robust, transparent, community stakeholder-driven process; and
5. Adapt current programs and develop new programs to ensure that any expected impacts are accounted for.

The above decisions are made jointly with soum authorities. However, we also recognize that there is opportunity to improve and invite feedback on our performance from the community directly through our various established community engagement processes, through our local offices, and through our established grievance mechanism (as described in the Stakeholder Engagement Plan within the ESIA.)

Based on the information provided by the complainants to EBRD regarding OT, OT requests additional information from the complainants about the issues of concern and the specific roads used by OT. We recognize that the complainants' have various concerns related to transportation, but it is unclear if the issues are clearly associated with OT, as a result of increased transportation in the South Gobi in general, or impacts associated with other mining projects and companies. Based on the current information available in the complaint, it appears that the complainants' alleged impacts may or may not be associated with OT when looking at the location of their camps mentioned in the complaint (i.e., they are located adjacent to or near the ER road, not the OT-GS road.)

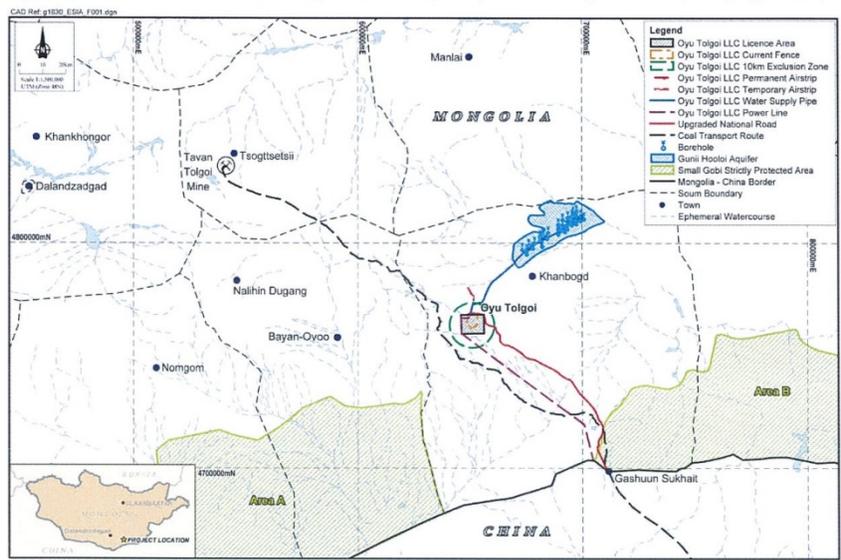
Therefore, we believe this necessitates further communication with the herder households/ complainants and that more detailed information is provided.

**Supporting Material**

Project Area of Influence

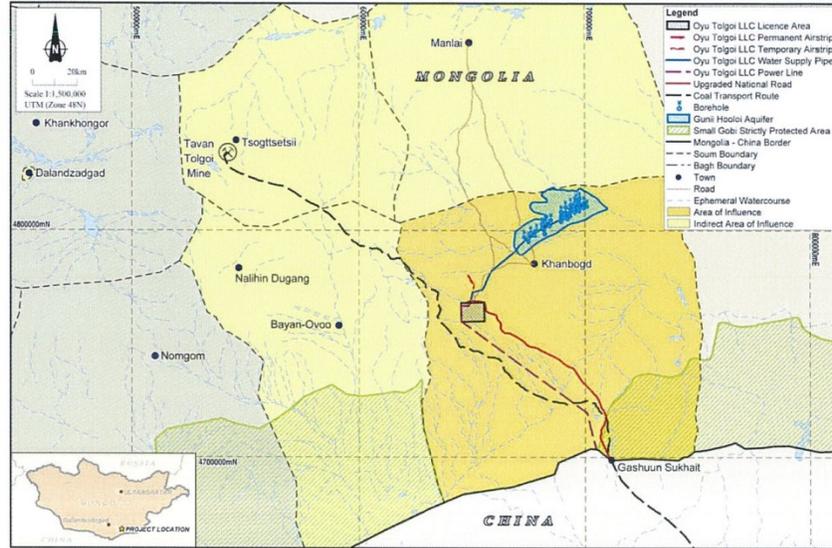
The following map shows the key features and locations of infrastructure associated with OT.

**Key Project Features and Locations (Source: ESIA, Chapter A4 – Project Description, Figure 4.2)**



Within this area, the ESIA further defines the Project Area of Influence – both direct and indirect.

**Project Location and Project Area of Influence (Source: OT ESIA, Chapter D15 Resettlement Action Plan, Figure 15.1)**



### Road Infrastructure

Throughout the construction of OT, OT has used a number of national and regional roads for various transportation needs. For the purposes of this response, OT will focus on the main road mentioned in the complaint: the road from OT Site to Gashuun Sukhait, known as the “OT-GS road.”

#### *The OT-GS Road<sup>2</sup>*

An existing road from the Chinese border at Gashuun Sukhait passes close to the OT site and is used by the OT for access to the border crossing and for access to Khanbogd *soum* centre and beyond. This route is used for the transport of concentrate and extends for approximately 105 km southeast from the north gate of the Mine Licence Area (or MLA), following an existing earth road (a designated national road) to Gashuun Sukhait, the border post on the Mongolian side. The town of Ganqimaodu is located on the Chinese side of the border. The road design has been prepared by OT in accordance with a Memorandum of Understanding, signed with the Government of Mongolia in 2007. The existing road was used for local transportation and trade and was also used to access the border crossing at Gashuun Sukhait. During construction, the earth road has been used by OT for the materials imported from China. The earth road has been improved during this time by grading and the road is currently being upgraded

<sup>2</sup> On the maps above, this road is named “Upgraded National Road.”

to a national specification sealed bitumen road that will be used by OT and general traffic (but not by coal trucks).

Since 2011, OT has been actively paving the road and aimed to complete the work prior to the commencement of shipments. However, permitting and other delays have resulted in delays of several months.

OT has been improving and paving the OT-GS road in sections. As of the beginning of October 2013, road construction was currently over 85 % complete and advancing well, with many sections 100% complete. This includes the construction of various herder and animal crossings along the road.

OT will continue paving four significant sections from the OT site to the Tsaagan Khad junction (zone 1 (27 km), zone 2A (27 km), zone 2B (27 km) and section of zone 3 (4.77 km) where it joins up with the Energy Resources (ER) road through December 2013. From this junction, OT's trucks will use paved road all the way to Gashuun Sukhait. The remaining sections of the OT road will then be completed during 2014, at which point we will stop using the ER road. OT intended to complete the paving of the road before commencement of shipments, but the work was delayed due to permitting delays. However, OT has taken measures to ensure that impacts were mitigated and managed as much as possible to reduce the impact on the community and the environment. Measures included carefully controlling speed limits to ensure that any short term impact is minimized, installing animal crossing points, etc.

#### *Other road infrastructure*

During construction and operation, OT has used existing regional and local roads for a variety of purposes (such as the road from OT to Khanbogd, OT to Manlai, etc.) OT has in some cases needed to build new roads, some temporary and some permanent, in order to build necessary linear infrastructure (such as the along the Gunii Hooloi water pipeline, road from OT to the temporary and new airport, etc.) Impacts associated with the use and building of these transportation corridors was accounted for in the original impact assessment. As such, relevant measure to mitigate and manage impacts were developed and implemented<sup>3</sup> as described in the transportation and CHSS management plans, and where impacts could not be avoided or properly, these were recognized and compensation was provided through the Resettlement Action Plan.

#### Compensation under the Resettlement Action Plan (or RAP)

##### *Overview*

The RAP describes the process of identifying individuals impacted by OT. The RAP covers all of OT's activities that have the potential to result in impacts to land use and the physical and economic displacement of people living on and/or using the land required/disturbed by the OT in Khanbogd *soum*, including from transportation.

Within OT's overall 'project impact area' as defined in the RAP and outlined above, OT further identified and mapped a series of different 'impact zones.' These zones were agreed through community consensus, endorsed by the decision of the joint Working Group established by the *soum* governor, and

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<sup>3</sup> Some of these measures continue as well.

have been used to determine community and household-level entitlements for livelihood restoration and other assistance.

#### *Impact Zones*

There are several impact zones related to transportation that were identified in the RAP. These are fully described in the RAP. The RAP identifies specific impact zones (i.e., the OT-GS Road Corridor) as well as more general impact zones for herders using summer pasture and winter pasture that could be impacted by construction activities, including the use of national, regional and local roads; building of new transportation corridors; etc.) All affected people residing on grazing land adjacent to project features (such as roads and pipelines) were entitled to compensation and livelihood restoration measures through economic displacement sufficient to assist them to restore and improve their pre-project living standards, income earning capacity and/or livestock production levels. OT also carried out resettlement of a very small number of families (10) residing in the Mine License Area, though this is unrelated to impacts associated in the complaint. These programs are further described below.

#### *Description of the Resettlement and Compensation Process*

Oyu Tolgoi successfully carried out both *physical resettlement* of herder families and livelihood restoration compensation (*economic displacement*) to mitigate impacts caused by OT. These two processes relate to physical resettlement off the mine site and economic displacement associated with ancillary offsite infrastructure.

- *Physical Resettlement*

Prior to Rio Tinto's involvement in the project, 10 herder households residing in the vicinity of Mine License Area in 2004 were resettled. This program was implemented to enable the future development of the project whilst ensuring the safety and ongoing sustainability of the herder families' livelihoods.

Under the program, these 10 herder households were resettled in 2004 and received a compensation package agreed upon through a consultation process and in accordance with the World Bank Operational Directive 4.30 (subsequently 4.12) on Involuntary Resettlement (then the recognized international guidance for resettlement). The compensation package included transportation and accommodation (winter shelter) support, livestock assistance, education tuition, employment opportunities, and additional training for herder family members. OT never forced a single herder to sign the resettlement agreement and move their winter shelter.

Since 2004 OT has monitored the outcomes of the resettlement program. This has shown that since resettlement the families' income streams have increased, that they are at least as well off as prior to resettlement, and generally that they are no longer solely reliant on herding for their livelihood. Additional income has come from employment with OT, establishment of businesses and increased stock. The majority of families have maintained or increased their herd size since resettlement.

- *Economic Displacement Compensation Program*

The compensation agreements were established under our Economic Displacement Compensation program, designed to focus on economic livelihood restoration for families whose access to

pastureland and water are disrupted to varying degrees by OT. All affected people residing on grazing land adjacent to project features (such as roads and pipelines) are entitled to compensation and livelihood restoration measures sufficient to assist them to restore and improve their pre-project living standards, income earning capacity and/or livestock production levels.

The compensation agreements were developed according to Rio Tinto's Community Standard, IFC and EBRD guidelines and through a consultative process with affected herders. In early 2011, the Khanbogd Governor established a Compensation Working Group (WG), whose role was to define the economic displacement impacts and negotiate compensation and livelihood support measures. The WG included representatives from OT, representatives from affected herder households, each of the bagh Governors, as well herders of different ages and different socio-economic status.

The role of the WG also included mediating disputes related to eligibility, entitlements or the implementation process and facilitating the implementation of the compensation and livelihood support packages with affected households. All decisions regarding the compensation packages, including addressing complaints, were endorsed by this WG. The compensation WG no longer has set meeting dates, it continues to exist with the same membership as has been in place over the last 18 months and can be reconvened as required in response to any grievances or concerns raised by herder households. However, decision regarding the membership will be made by the newly appointed soum governor.

Through the Economic Displacement Compensation program, 89 potentially impacted herder families were identified (including the 5 families originally relocated by Oyu Tolgoi) as potentially experiencing "economic displacement," defined as when a project's actions impinge upon people's livelihood and causes some economic loss. As of September 2013, 88 families had signed economic displacement compensation agreements.

The recent compensation agreement was developed according to Rio Tinto's Community Standard, IFC and EBRD guidelines and through a consultative process with affected herders and were conducted in a participatory manner, driven by the local community. OT will continue to closely monitor the livelihoods of these households to identify changes and trends so that OT can continue to ensure that our neighbours have a healthy and prosperous future.

*Complainants and OT's Compensation Process:*

With regards to the EBRD complaint and the 14 complaint signatories<sup>4</sup>:

- None of the complainants were eligible for compensation under OT's economic displacement program as a result of project and/or transportation-related impacts due to the criteria outlined in the RAP and endorsed by the Compensation Working Group.
- Only 2 of the 14 complaints were eligible to participate in the Economic Displacement Program, but associated with impacts other than those related to the GS-OT road and/or transportation. These herders were fully compensated.
- None of the herders' camps are within the impact zone of the OT-GS road or other OT roads as defined in the RAP. However, they appear to be directly adjacent to or near the ER Road.

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<sup>4</sup> Though OT has mapped the location of the complainants' camps, we are not including it in this document in order to respect the complainants' privacy.

*Engagement with Complainants*

With regards to the 14 complainant signatories, OT assessed if any of the complainants had previously filed complaints through OT's established grievance mechanism or indirectly through one of our local offices. The outcome of this assessment is as follows:

- None of the complainants have issued complaints through OT's established grievance mechanism.
- None of the complainants have previously issued complaints or grievances to OT related to transportation.
- One of the complainants is involved in the ongoing parallel complaint process through CAO for an unrelated complaint.

## **c(ii.) Client's Response (Oyu Tolgoi response dated 6 June 2014).**

### **Oyu Tolgoi LLC comments on OT Watch letter to European Bank for Reconstruction and Development - alleging policy violations by Oyu Tolgoi LLC**

#### **Background**

In early April 2014 Oyu Tolgoi LLC (OT) was provided with a copy of the 16-page letter dated 1 April 2014 from OT Watch to the European Bank for Reconstruction and Development (EBRD), alleging violations by OT and Energy Resources LLC of EBRD social and environmental policies. The letter supplemented earlier complaints to the EBRD Project Complaint Mechanism, submitted on 1 July 2013 and 6 September 2013, incorporating complaints by undisclosed herders from Javkhlant bagh in Khanbogd soum and Uekhii bagh in Manai soum.

OT herein provides to EBRD its comments to the various general and specific allegations regarding OT, and specifically does not include any reference to allegations directed at Energy Resources LLC.

#### **The Complaint**

In general terms the complainants state that negative impacts caused by construction and use of OT related roads have occurred without EBRD due diligence and supervision, leading to unmitigated loss of pasture and nomadic herd movement. The complaint refers to "a multitude of roads, which includes roads specific to its (OT's) operations, as well as existing roads". The roads referred to are;

- i) 105-kilometer OT site-Gashuun Sukhait road,
- ii) diversion road from Tsagaan Khad to Gashuun Sukhait border crossing,
- iii) 42-kilometer road from OT site to Khanbogd soum centre,
- iv) the road from OT site to Ulaanbaatar via Khanbogd soum, Manlai soum, Choir and Mandalgovi,
- v) the OT site to Gunii Hooloi water bore field,
- vi) all formal and informal roads leading to and from various project facilities, including to the permanent and temporary airports, quarries, water bores, worker camps, river diversions and electrical diversion lines, and
- vii) other local roads.

The complaint goes on to describe generalised impacts on herders arising from the use of the roads listed about. The generalized impacts cited are;

- i) dust pollution
- ii) fragmentation of pastures and local rivers and streams
- iii) loss of pasture land
- iv) loss of access to water resources
- v) noise pollution from traffic, and
- vi) pollution from vehicles and drivers.

Specific negative impacts attributed to OT include alleged damage to herder and herd health and safety, livelihood and economic impacts, indigenous tradition and culture, and a failure to consult and inform affected persons.

#### **OT Comments**

Most of the allegations and examples cited in the complaint document are unsubstantiated or out-of-date. While some of the negative impacts cited are valid, there is no acknowledgment of mitigation undertaken or compensation provided to affected

herders. Many of the impacts referred to are cumulative in nature, resulting from increased traffic generally, not OT traffic specifically. OT does not intend to respond with a point-by-point refutation or commentary on every paragraph in the complaint document. Rather it will address the most egregious inaccuracies; direct cross-reference to the OT Watch letter is advised during reading.

Studies mentioned in this response are in the public domain or can be viewed on request. The response concludes with some reflections on the road traffic situation in the South Gobi generally and some suggestions for a government-led strategy to establish a sustainable road and pasture network.

## **Roads**

### **105-kilometer OT site-Gashuun Sukhait road**

This is a public road and is now paved to high specification standard. The statements in the complaint document are out of date and incorrect. Compensation, to a formula agreed by a compensation committee convened by the Khanbogd soum government, was paid in 2011-12 to all herders who graze along the route, including new well construction. No comment can be made about the tragic death of a local man in a traffic accident in 2013 because it remains under police investigation.

### **Diversion road from Tsagaan Khad to Gashuun Sukhait border crossing**

Very little livestock grazing occurs along this section of road, which is close to the Chinese border in very dry desert conditions and abuts a herding- prohibited 'special protected area'. Delays to the issuing of government permits meant that the sealing of this road could not be completed in 2013 as planned. A newly agreed plan with the Mongolian authorities will join the Gashuun Sukhait road to the existing sealed road (the 'coal road'), which will be further upgraded in the process, effectively optimizing the transport corridor and reducing overall impacts.

### **42-kilometer road from OT site to Khanbogd soum centre**

This is a public road that has been progressively upgraded by OT to all-weather gravel top over the past two years and is graded by OT every two weeks. Compensation was paid in 2011-12 to all herders who graze animals in the corridor that includes the OT-KB road and Gunii Hooloi pipeline to a formula agreed by a compensation committee convened by the Khanbogd soum government. Since OT construction was completed in early 2013 and steady state operations have commenced, OT traffic on the road is greatly reduced. Feasibility study for upgrade to a sealed road has been completed and early work for the upgrade will commence in 2014, to be completed in 2015. No comment can be made about the tragic death of a local man in a traffic accident in 2013 because it remains under police investigation.

### **Road from OT site to Ulaanbaatar via Khanbogd soum, Manlai soum, Choir and Mandalgovi,**

This is a national road. OT has substantially upgraded the OT-Manlai section (where OT-related traffic is proportionally highest) including culverts and gravel improvement along much of it. Since OT construction was completed in early 2013 and steady state operations have commenced, OT traffic on the road is substantially reduced. Most of the traffic is non-OT related and certainly between Choir and Ulaanbaatar, OT-related traffic is a minor component of the overall traffic load.

### **OT site to Gunii Hooloi water bore field**

The Gunii Hooloi water bore and pipeline access road is well maintained by OT. It experiences only light OT traffic and is used extensively by local herders. Compensation

was paid in 2011-12 to all herders who graze along the route to a formula agreed by a compensation committee convened by the Khanbogd soum government. One herder family was resettled based on their request. The process was undertaken in line with IFC/EBRD/RT standards. Technical and vegetation rehabilitation (extensive planting of saxual trees) were completed along the route in active collaboration with affected herders. Grazing occurs freely and, in fact, herd animals seek shelter behind pump houses along the route during severe weather.

**Formal and informal roads leading to and from various project facilities, including permanent and temporary airports, quarries, water bores, worker camps, river diversions and electrical diversion lines.**

Post-construction, many of these roads have been rehabilitated and are no longer in use by OT. Rehabilitation and seeding to return construction-disturbed areas to pasture continues. For instance, the temporary airport is no longer used and rehabilitation of this entire area will commence in June 2014. All remaining roads are well maintained by OT, they experience only light OT traffic and used by local herders. Economic displacement compensation was provided in 2011 where applicable.

**Other local roads**

Other roads established formally or informally by local people are generally not used by OT vehicles except when visiting herders during consultation visits and activities such as refurbishing water wells, part of OT's herder support program.

**Generalised Impacts**

**Dust pollution**

Scientific studies show that 98% of dust raised by vehicle traffic settles back to the ground within 250 meters of source, unless kept airborne by strong winds (strong enough to create natural dust storms in any event). On this basis a 500 meter threshold was agreed by the Khanbogd compensation committee and was used in the determination of compensation criteria for roads constructed or used exclusively by OT.

During construction of the upgraded OT site-Gashuun Sukhait road, water and biodegradable additives that bind soil were sprayed on dusty sections during work periods to reduce dust generation. Similar methods will be deployed in the upgrading of the OT site to Khanbogd soum centre road in 2024/15. In 2013, OT paved 5km of Khanbogd soum center roads, greatly reducing traffic-generated dust in the town.

A livestock epidemiology study commissioned by OT in Khanbogd soum in 2013 indicated no livestock diseases caused by dust, but where observed were due to a range of other, often treatable, causes.

Dust is a constant companion in the Gobi region and monitoring shows that ambient, region-wide dust levels, particularly during strong wind events, far exceed any local effects due to road traffic.

**Fragmentation of pastures and local rivers and streams**

There are no formally designated, surveyed or fenced pastures in Mongolia; they are deemed a national asset and their use by herders and livestock accords with customary usage rights. Hence pasture cannot technically be fragmented in any legal sense. While the movement of herds can be locally blocked by obstructions, natural or constructed, there is usually another route within walking distance.

Where roads are not 'formed up' herd animals (and wildlife) do not experience difficulty in crossing roads. That said, where roads are 'formed up', such as the OT site-Gashuun Sukhait road, camels can experience difficulty in accessing steep sides (although direct observation indicates that this is not generally occurring on the OT constructed roads). On formed-up roads OT has constructed animal access ramps every several kilometers and specifically at herder-requested crossing points. Signs have been placed leading up to all crossing points advising drivers to be alert for animals.

OT and OT contractor drivers receive road safety training, including on the need to be aware of and avoid animals, for their own safety as much as anything. OT and contractor vehicles have strictly monitored speed controls and there have been very few animal deaths caused by OT or contractor vehicles. Where this happens compensation at agreed rates is paid (hence herders have an incentive to 'over report' and the reports are reliable on the low side). OT continues to implement creative ways to prevent vehicle-livestock interaction. For instance, OT has designed and made available to herders 'high visibility' reflective collars for camels to help avoid collision at night by any vehicle, whether OT's or otherwise. Moreover, designated and paid road maintenance workers maintain surveillance of animal near main roads and inform OT of any concerns on roads.

There is no fragmentation of (ephemeral) rivers and streams by OT roads. Sub-surface water continues to flow under unformed roads and causeways, and culverts allow occasional floodwaters to flow freely. Formed up roads have well designed culverts or bridges at all river crossings. In a number of instances, herders have specifically asked for pond and/or well locations to be re-located on a preferred side of a road, and OT has obliged.

In short, the claim for fragmentation of pasture and rivers is not supported by evidence.

#### **Loss of pastureland**

There is loss of pastureland in Khanbogd soum due to OT facilities and construction road works. This is unavoidable in such an open-range environment, however loss was reduced wherever possible through route adjustment, and the residual losses were assessed and compensated for under economic displacement provisions in OT's Resettlement Action Plan. The adequacy of the economic displacement compensation will be determined in a post-resettlement audit to be undertaken in 2014/15.

A complete pastureland assessment across Khanbogd soum is currently being carried out by Nutag Partners, a nationally recognized pasture assessment agency. This will help identify the extent and cause of overall pasture loss in the region, most of what appears to be due to drought conditions and overgrazing. This is consistent with the overall increase in herd numbers in the past decade - livestock numbers published in annual soum statistics have increased year on year, contrary to OT Watch claims that they have declined.

The overgrazing thesis is also consistent with the presence of good pasture inside the OT mine lease. OT's grazing access protocol with local herders allows for herd access to the lease during defined periods in spring and autumn, and access to the mining lease is otherwise closed under the agreed compensation package. The ability to control grazing access under a mutually agreed and managed protocol is providing a unique opportunity to study sustainable grazing options. Under controlled grazing conditions pasture inside the mine fence closest to OT facilities is in good shape relative to elsewhere in Khanbogd soum.

#### **Loss of access to water resources**

Over the past three years, OT in collaboration with soum authorities and herders has refurbished or restored some 70 herder wells and bores. By 2015 the number of new reliable watering points provided by OT across Khanbogd, Manlai and Bayan Ovoo soums will exceed 100.

Current drought conditions remain a concern, however this is due to annual weather cycles, not due to OT's presence. For instance, an OT meeting with approximately 50 herders at the Haliv area (just north of Khanbumbat airport) on 5 March 2014 to discuss water shortages started with angry demands on OT, and then progressed to general acknowledgement that water decline is part of a natural cycle related to weather conditions.

OT has made the commitment that where herders within 20 km of OT site claim that wells have dried up, OT will immediately supply trucked water until the reason for water loss is determined and resolved - to date this has occurred only once. The longer-term resolution at Haliv where 'tight' ground conditions prevail will include a trialing a new design of herder well that should recharge at a faster rate than the traditional well.

In 2013, OT located a mid-level ground water basin close to Khanbogd soum centre, sufficient to supply potable water to an expanded town for 35 years. In 2014, an extraction permit will be applied for and OT will install a supply pipeline, treatment and pumping facility and a bulk storage tank at Khanbogd soum center.

It is simply incorrect to state that there is a loss of water resource access in the region due to OT's presence; on the contrary, country natural drought conditions aside, it is improving and had been positively acknowledged by most herders.

#### **Noise pollution from traffic**

Winter shelters are located away from roads, by design, and herders have the ability to locate ger camps wherever they like. A convoy system for trucks travelling on the OT site-Gashuun Sukhait road means the heaviest traffic movements and noise are well monitored and controlled. OT drivers and contractors are trained and specifically advised to avoid disturbance of herds and herders, including avoiding "loud honking".

#### **Pollution from vehicles and drivers**

OT drivers and contractors are trained and specifically required to avoid discarding litter, tires, fuel, lubricants and other rubbish. This is enforceable under contract. OT also employs 'road maintenance' workers who are paid to clear rubbish along the main roads. This happens weekly; most of the rubbish comes from non-OT sources. Used tires are valuable to herders to help construct animal shelters and are not to be found lying on the side of roads.

Due to these combined activities the roads radiating from OT site are remarkably clear of litter compared to desert regions in many other parts of the world, including elsewhere in Mongolia.

#### **Health and Safety impacts**

As mentioned above, a livestock epidemiology study completed in Khanbogd soum in 2013 indicated no livestock health issues were caused by dust. Where disease was observed it was due to a range of other causes, much of which can be treated by improved veterinary services as part of the overall herder livelihood support program.

Likewise, there are no observable links between OT's presence and respiratory or other human health issues in Khanbogd soum. A comprehensive herder health survey across

Khanbogd soum carried out in 2013 is in final preparation and will be publically released in the next month. This survey is undertaken by the Public Health Institute using a methodology endorsed by the Health Scientific Committee of Mongolia. As well as commissioning the Khanbogd herder health and other surveys, OT has contributed to the improvement of health services in the region, including donations of medical equipment and assistance with medical staff sponsorship. Overall, there is increased coverage of doctors in Umnugovi aimag from 15:10,000 people in 2005 to 25:10,000 in 2012. In addition, OT provides two scholarship specifically for students studying at medical institutions, who will work in KB after graduation.

The SOS medical clinic at OT site runs shared training sessions with local medical staff and assists with things such as Xray services and medical evacuation to Ulaanbaatar on OT's site plane.

Recognizing that improved roads and sealing would lead to unsafe, high speed driving by local people, OT has worked with local authorities to ensure safety training for locals through institutions such as the school and the Elderly Association. Road signs and regular police presence at soum center intersections are highly visible. OT collaborates with the police to conduct random vehicle checks on inter-soum roads and deploy radar checks for speeding along the OT-Kanbogd soum center road. As a result of these and other activities, public road safety behavior has improved noticeably in the past year.

#### **Livelihood and economic impacts**

Recognizing that it is increasingly difficult for nomadic herders to maintain parity in Mongolia's rapidly developing economy, amongst a portfolio of assistance programs OT has instituted a Herder Livelihood Support Program in collaboration with herders and local authorities. Its purpose is to help maintain herder lifestyle and livelihoods overall, while recognizing that some younger family members may also want to transition into the 'new' economy.

Specific herder livelihood improvement projects include the 2013 soum-wide animal health survey, refurbishing water wells (over 70 by the end of 2013), the removal of dung from winter shelters and animal dipping, support for establishing cooperatives, provision of animal fodder in the post-winter period, introduction of electric shearing for camels and sheep, disturbed land rehabilitation, pasture and saxual tree regeneration, camel wool and milk branding initiative, and assistance to identify tourism ventures.

#### **Indigenous tradition and culture**

OT sustains a Cultural Heritage Management Plan (CHMP) that is lauded nationally and sets a benchmark for the rest of Mongolia. The CHMP and its activities are documented comprehensively in various public domain materials.

While Mongolian herders do not meet the IFC/EBRD definition of indigenous peoples, OT recognizes that they are land-connected peoples with long generational attachments to the region and unique customs. Herders experience relative poverty, however it is not due to their distinctiveness as a people, but rather the fragility of their livelihoods in the face of a rapidly modernizing economy.

OT is working with local elders to ensure the protection of tangible cultural artifacts and the continuity of non-tangible culture and performance art. The most recent example of this was OT's support for the revival of Camel Caravan skills - see <https://www.youtube.com/watch?v=lqx6DgcwhMg>.

Contrary to the claim in the complaints document, OT is not gearing its sustainable pasture management plans to "settled" agricultural activity. Choices of livelihood are strictly left to herder families themselves. On this basis it is very evident that many younger family members all over Mongolia are choosing to leave the herding lifestyle, frequently for urban living and education opportunities in Ulaanbaatar. Counter to this trend, work options for local people exist at OT or in an expanding broad-based regional economy that OT is helping to foster. Unlike much of the rest of Mongolia, these are providing opportunities for younger family members to remain living in Khanbogd soum. Other choices by herder families include the maintenance of nomadic herds, often looked after by hired help, and also having a family home in Khanbogd soum centre. These are personal choices and represent a flexible hybrid approach to maintaining customs as well as modern amenity.

A recent initiative by OT to demonstrate electric shearing machines and training to help herders lift camel wool productivity and value is an example of where OT is actively helping herder families maintain sustainable nomadic lifestyles. Herders will make their own choices, however OT is doing everything appropriate to facilitate improved productivity while providing for the maintenance and evolution of traditional livelihoods and custom.

#### **Failure to consult and inform affected persons**

OT consults extensively with local people and authorities through a broad variety of mechanisms, including attendance at bagh meetings, soum center town hall meetings, weekly engagement with the Elderly Association, daily meetings with local authorities, NGOs, individual household visits by OT liaison officers, specific field visits relating to activities such as water well restitution, participatory environmental monitoring, household surveys, radio broadcasts and community-organized events. All these activities are well documented. Major roads and pasture concerns have been at the top of issues discussed, with feedback acted upon, such as the construction of animal crossings. More specifically, people affected by major road construction have received tailored compensation packages based on detailed consultation. It is simply incorrect to state that affected persons have not been consulted.

#### **Conclusion**

The South Gobi region is in rapid economic and social transition due to the presence of mining. Residents' lives and livelihoods are changing rapidly by their own choice - a very obvious manifestation of this is the steady increase in vehicle ownership in the district, many of which are late model four-wheel drives. Herder family vehicles in Khanbogd soum have increased by 30% each year for the last 8 years. Most families now have at least one car and/or motorbike (in itself, the greatly improved mobility of herders has added substantially to their social and human capital). While there was a temporary impact on roads by OT traffic in the construction period, this has now subsided and is stable relative to increasing non-OT vehicles on the roads.

OT acknowledges that there has been an overall impact on pastures due to increased vehicle traffic in the region; however OT has compensated for the loss of amenity and livelihood it has caused, and has moved rapidly to mitigate and rehabilitate disturbed areas. It has made good progress in paving the roads that have the greatest heavy vehicle use and will progressively extend this paving over of the next few years. In short, OT's share of dust generation, road use and pasture disturbance has been moderate, mitigated, compensated and is declining relative to other road users.

OT has consistently and meaningfully consulted with local authorities and community members on all issues, including escalating road use and its associated effects. Public road use will increase in the future and a linked-up regional traffic management plan is needed to ensure compatible pasture grazing and increased vehicle use. Due to its span of control on its workforce and contractors, OT has its own traffic management well in control, however it cannot be accountable for others. OT wants to take an active role in a linked-up regional traffic strategy, an urgent need in which government should take the lead.

Likewise, degradation of pasturelands is due to a complex set of factors, including herd size, increased stocking ratio of goats, increased mobility and climate change. Seeking to declare a singular accountability on mining companies will not help solve the issue. Consensus-based agreement on hybrid economic futures that diversify livelihood options and also preserve dearly held traditional and cultural norms is needed. OT is willing to take a major role in this work, however it is reluctant to do this when others are advocating short-term alternatives that will not lead to sustainable outcomes.

In conclusion, OT categorically refutes that it is singularly accountable for unmitigated negative impacts due to increasing vehicle traffic in the south Gobi region. On the contrary, it claims there is a demonstrable net-positive impact on livelihoods and the general standard of living, much of it due to increased mobility. This is not to say nothing should be done to ameliorate negative aspects of proliferating traffic and pasture degradation. OT strongly advocates for and is ready to join a government-led coalition to develop a regional traffic management strategy.

## d(i.) Client's Response – Energy Resources response dated 21 October 2013.



### ENERGY RESOURCES LLC

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Date: 21 October 2013

Ref: 971

EUROPEAN BANK FOR RECONSTRUCTION AND  
DEVELOPMENT  
(ATTN TO PROJECT COMPLAINT MECHANISM  
OFFICER)

We, at Energy Resources LLC ("Company"), are writing this letter upon reviewing the inquiries raised in a document submitted by some of the herders from Javkhilant bagh, Khanbogd soum to the European Bank for Reconstruction and Development ("EBRD") on 21 June 2013.

Energy Resources LLC has been operating the Ukhaa Khudag ("UHG") coking coal mine since April 2009 and is a legitimate holder of a mining license 11952A covering 2,962 hectares area. As a mining license holder, the Company has been working strictly in compliance with all applicable Mongolian legislation including the Environmental Protection Law, the Law on Environmental Impact Assessment and the Minerals law while meeting the investment standards set by EBRD in a timely manner.

In accordance with the EBRD's financing requirements, its Environmental and Social policy 2008 and as part of our UHG coal mine project, the Company has been working in compliance with the following documents and ensured their consistent implementation:

- UHG project Phase I – Environmental and Social Impact Assessment ("ESIA");
- UHG project Phase I – Environmental and Social Action Plan ("ESAP");
- UHG project Phase II – ESIA;
- UHG project Phase II – Environmental and Social Management Plan ("ESMP");
- UHG project Phase II – Public Consultation and Disclosure Plan ("PCDP");
- UHG Project Phase II – Resettlement Action Plan ("RAP").

The Phase II of the UHG project involved expansion of the open-pit mine, further infrastructure development around the mine-site and the miners' camp as well as construction and development of the Company's coal handling and preparation plant, a power plant, a water supply system, an air strip and coal export railway to the Chinese border. Within this framework, the ESIA-based ESMPs were implemented and measured against all applicable criteria, and Environmental and Social Performance reports have been submitted to EBRD semi-annually (in February and August, respectively) since 2009.

The aforementioned complaint issued by herders from Khanbogd soum, Umnugobi aimag, is broad in scope and is rooted in cumulative regional impacts caused by years of coal transportation on branches of dirt road to the Chinese border and/or mining activities by numerous companies rather than addressing a complaint to a particular company and/or its activities. The ESIA clearly indicates that coal transportation on dirt road passing through Tsoigtsetsii, Bayan-Ovoo and Khanbogd soums had been taking place since 2005, long before the UHG mine coal transportation began in 2009.

Regardless, Energy Resources LLC has taken a series of proactive measures in mitigating the adverse impacts caused by coal transport operations in the region, namely upgrading of the coal-haul road surface from dirt to gravel, construction of 245km heavy-duty paved road from Ukhaa Khudag mine to the Gashuun Sukhait border point at the Company initiative and with its own investment, and substantial measures undertaken towards building a railway parallel to the paved road.

In order to ensure transparency of our operations and community involvement in carrying out the above projects, wide-range of community consultations and meetings have been held with various stakeholder groups, namely:

- 6 separate community consultation and disclosure events with a total attendance of 4,000 people since 2008;
- Community consultations and meetings with various stakeholders including local authorities, civil society, NGOs and herders;

- Community consultations with a particular focus on the coal-haul road have been held with herders who reside along the road in Tsogttsetsii, Bayan-Ovoo and Khanbogd soums with a total attendance of 1,500 in September 2010;
- Affected herder families were visited twice a month for the entire duration of the road construction to better address their voices and concerns and take response measures.

Below is our response to major concerns raised through the abovementioned document (as there was a discrepancy between the original letter in Mongolian and its English translation, our response is based on the inquiries raised in the original letter).

**1. "Multiple branches of roads lead to loss of our pasture land and means of livelihood, posing threat to our traditional nomadic culture and the way of living"**

In general, coal transportation activities started in the region in about 2005. Energy Resources LLC commenced coal mining in 2008 and started its coal transport operations from Tavantolgoi area in Tsogttsetsii soum, Umnugobi aimag to Gashuun Sukhait border point in September 2009 through a gravel road on "Tavantolgoi coalfield – Chuluun Ovoo – Javkhant bagh – Gashuun Sukhait border point" route. Prior to starting the gravel road transportation, the Company, along with 3 other legal entities, formed a Coal Road LLC joint venture (each buying 25% stake in the new company) set to work in charge of the gravel road maintenance and upgrading. The Coal Road LLC had worked in charge of the maintenance and upgrading of the 254 km gravel surface road prior to the Tavantolgoi-Gashuun Sukhait paved road was constructed and put into operation. By 2011, Energy Resources LLC had invested a total of approx. MNT 5.8 billion in the gravel road maintenance through Coal road LLC.

Further to the Mongolian Government Resolution No.83 in 2010 aimed at supporting the country's coal exports and protecting the eco-system of the Gobi region, Gobi road LLC, a wholly-owned subsidiary of Energy Resources LLC, was granted a permission to construct 240 km heavy-duty paved road from UHG mine to Gashuun Sukhait border point.

Energy Resources LLC invested approximately MNT 150 billion in the road construction and signed a concession agreement with the Government under which the road is to be transferred to the Government in 10 years from the commissioning. The paved road was put into operation in October 2011. By constructing the road and conducting its coal transportation on a paved road, the Company is considered to have made a substantial private-sector investment that has a significant contribution in reducing the negative environmental and social impacts caused by the gravel road operation.

While preventing overall land erosion, dust generation and degradation of vegetation in the region, the paved road has around 25 livestock-crossings and more than 50 traffic signs that give priority for livestock to cross, all agreed-upon by the affected herder communities and intended to minimize the disturbance to the pasture land.

Since the early stages of the road project, the Company has assessed the socio-economic baseline in the affected area, made projections on likely environmental and social impacts that could occur during or after the road construction and has taken various measures to address and mitigate the risks that could have adverse impact on herders' health, safety and means of living. More specifically, the Company determined the road impact area in accordance with the "buffer zone" and the "area of influence" formally stated in articles 3.1.6 and 12.2 of the Mongolian Law on Auto Road and identified 34 herder families that had been residing in the area of impact. The Company has spent more than MNT 200 million in carrying out the following:

- 10 herder families were resettled;
- 5 deep drill wells and 2 hand operated wells were constructed;
- 2 wells were refurbished;
- 1 winter camp was built for a herder family;
- 1 spring camp was moved and reconstructed;
- 1 hectare vegetable field was moved and fenced;
- 2 deep drill wells and a winter camp were arranged for 2 herder families resided in the road quarry impact area.

44% of the affected herders were solely reliant on herding for their livelihood and some of the herder families had lost majority of their livestock during extremely harsh winters of 2009-2010. Taking these into account and within an overall framework of the auto road impact prevention and mitigation measures, the Company has spent more than MNT 353 million in support of the affected families' livelihoods. These included settling of Khan bank loan outstanding for 2 herder families, education tuition for 2 vulnerable families and livestock support etc.

In addition to the above, the Company has provided hay and fodder worth of MNT 100 million to the affected communities every year since 2009. In 2012 alone, 398 herder families were provided with 9050 packages of hay, 2910 sacks of fodder and 2181 sacks of silage. Energy Resources LLC has also started implementing "Herder family sustainable livelihood support program" ("SLSP") in 2012. This is a three-year program to eligible herder households in

the UHG project impact area with provision of low interest loans to start-up new business or expand existing enterprise in livestock husbandry, crop farming etc to boost the household income and to support the herders' livelihood.

On another note, in recent years, Umnugobi aimag has consistently been ranked as one of the country's Top 5 aimags with the highest livestock population growth rate, thus contradicting the herders' claims about the communities completely losing their livestock and nomadic way of living. Precisely, as of the 1<sup>st</sup> half of 2013, livestock population in Umnugobi aimag grew by 444,804 to 1,864,057 while the total livestock population in Khanbogd soum has grown from 123,281 in the end of 2012 to 142,448 in the 1<sup>st</sup> half of 2013 (*Source: National Statistical Office report <http://web.nso.mn/portal/indecx.php?v=16&m=25&s=1&id=1044>*). We therefore recommend that the raised issues are based on factual information and statistical data.

**2. *"The dust pollution related health issues have been periodically raised by the herder communities living in the vicinity of the coal-haul road, but the mining companies are not conducting health impact assessments nor taking corrective measures"***

As mentioned above, Energy Resources LLC has been using its own paved road for coal transportation since October 2011.

The Company has since approached other mining companies operating in the area and sent them each an offer to use the paved road alongside with a copy of the road use agreement and terms and conditions. So far, only state-owned company Erdenes Tavantolgoi has accepted the offer, signed a road use agreement with the Company and has been using the road for its coal transportation since May 2012.

A joint team consisting of the Company's health, safety, environment and community relations units regularly organizes trainings on road safety, environmental protection, waste management and health related topics for the affected community groups.

As part of its health support program and in order to help strengthen the local capacity to deliver quality health services, support community health and promote healthy way of living among the host communities, the Company has organized "Healthy citizen - Regional development" public health awareness campaigns jointly with the Umnugobi aimag Department of health for four consecutive years since 2009. The annual event has reached 2,773 people across 7 soums of Umnugobi aimag. Moreover, in August 2012, Community health screening and in-service physician training program were jointly implemented by the Company, Ulaanbaatar Songdo hospital, Ewha Medical University of South Korea and the Umnugobi aimag Department of health. As part of this initiative, a team of 13 highly-skilled physicians and nurses carried out health check-ups among the community members including the Company employees resettled in South Gobi, their family members, herders from 8 soums of Umnugobi aimag and local people who required urgent medical assistance. A total of 1,214 patients benefited from pediatrics, cardiovascular, oncology, gynecology and ultrasound examinations and received necessary treatments and medicines free-of-charge. As the program aims to raise the quality of local health services, 2 local physicians (Tsoigtsetsii soum) received internships for in-service training as part of the health awareness campaign.

The Company's health program and initiatives go beyond legislative or other requirements and have reached large local communities. For instance, to support fight the national level outbreak of Hepatitis A, the Company has financed and organized a community-based vaccination outreach program through which vulnerable local population including more than 500 children from local communities have received vaccine shots.

For three consecutive years from 2010 to 2012, the Company organized its annual community health awareness building training and campaign - "*Healthy Citizen - Future of the Region*". The goal of this program is to build the capacities of local health professionals to deliver quality service to the public and to enable community members to protect their own health by increasing their knowledge and awareness of maintaining a healthy lifestyle. It aligns with the Company's commitment to invest in community health as reflected in its management plans to mitigate any adverse impact associated with the UHG project activities. Within the framework of the program, trainings and campaigns focusing on various topics including reproductive health, smoking, alcohol consumption, spread of HIV/STD, diet & exercise, household accident and injury, environmental disaster were organized among youth, health professionals, truck drivers, herders and soum center community members.

Since August 2010, Energy Resources has been partnering with the Mongolian Employers' Federation (MONEF) to implement on a pilot basis Asian Development Bank financed HIV prevention program to develop a model intervention package for the infrastructure sector, including mining. The HIV prevention program targets the Company workers, local community and vulnerable groups in the impact area. By implementing this program the Company intends to improve workers' health education, raise awareness among staff about potential risks of HIV/AIDS and STI transmission, and more importantly, to institute a sustainable mechanism that will prevent from the spread of HIV among the Company workers and local community as well.

Overall, the Company has been actively implementing wide range of health support activities in addition to following the commitments set out in its ESMP-based Community health and safety management plan.

**3. "Livestock health is deteriorating due to dust; cattle entrails, originally traditional food of Mongolia, became unfit for consumption"**

As a responsible mining company, Energy Resources LLC implements ESMP: Grievance management plan and strives to address community complaints in a timely manner.

In 2011, the local authorities together with the herder community members approached all mining companies in the region and called for collaborative efforts against dust pollution caused by coal transportation on dirt road and requested the companies to cover the costs required for resettlement (winter/ summer camps, water well etc) of affected herder groups. Although the Company had been using its own paved road for the coal transportation, we have arranged resettlement of 3 herder families who had resided alongside the dirt road and covered the costs required for construction of deep drill wells and moving their winter camps.

In preventing and mitigating adverse impacts during and after the auto road construction, we have actively communicated and cooperated with community council members from the affected areas in Tsogtsetsii, Bayan-Ovoo and Khanbogd soums as well as direct representatives from the affected herder groups and have worked proactively and effectively in handling their requests and complaints. The Company contracted 15 herders in 2010, 25 herders in 2011, 31 herders in 2012 and 28 herders in 2013 respectively in order to ensure their involvement in monitoring the potential impact mitigation during the road construction and road utilization stages. The Community relations team of the Company has maintained frequent dialogue with these herders and held informative and/or consultative meetings with them twice every month for the duration of the auto road construction.

Seven out of fifteen herders who submitted the complaint to EBRD (namely, Ts.Jargalsaikhan, D.Borkhuu, A.Majigsuren, Kh.Surenkhoo, D.Adiya, Ch.Enkhzul, L.Nerzul) reside and herd their livestock within 1 km distance from our UHG-Gashuun Sukhait auto road route. These herders are a contract-based, road monitoring workers of the Company and perform their contract duties by informing the other herders about the road safety and animal crossings, preventing livestock from getting injured by the road operations or informing the Company officials about breaches of the road traffic rules etc. The Company constructed a hand operated well to the family of Ts.Jargalsaikhan in 2010 and covered tuition fee for the family's student son while D.Adiya's family was provided with a new winter camp and a deep drill well. In addition to the above, Ts.Jargalsaikhan had approached the company in 2012 with a request to have his winter camp reconstructed. Upon reviewing it, we initially declined the request as the family winter camp was deteriorated due to the coal operations on dirt roads and had little or no disturbance from our paved road operations. However, by the time the company started to implement the railway project, the associated studies found the family winter camp within the railway impact area and facilitated the cost required for the winter camp reconstruction through the railway resettlement plan and budget. The rest of the complainants, except mentioned seven, are not from the Company impact area.

The OT Watch NGO (OT Watch and Shuteen Daviluut NGOs were mentioned in the unofficial English translation of the petition though not mentioned in the original letter), however, sent a formal inquiry (No.039/ 12, attached to this letter, *Attachment A*) to a number of ministries and companies operating in the region including Energy Resources LLC, on 6 August 2012. The Company issued a written response (No.1051, attached herewith; Original letter in Mongolian – *Attachment B1*; Unofficial English translation - *Attachment B2*) on 30 August 2012. Our response letter provided answers and clear explanations on the preventive and mitigation measures we have been carrying out with regard to the auto road social impact assessment as well as resettlement issues.

We think it is also worthwhile to mention that on 24 August 2012, herders from Khanbogd soum and OT Watch and Shuteen Daviluut NGOs asked all mining companies engaged in coal transportation activities in the region for a joint consultative meeting in which only Energy Resources LLC representatives were present and provided information on its activities.

To the best of our knowledge, most of herders' claims submitted to government authorities or coal transportation companies ask the mining companies to cease transporting coal on dirt roads and start using a paved road. For instance, herders from Javkhant bagh, Khanbogd soum have expressed their concerns over coal transportation on dirt road and protested against its impacts by blocking the dirt road on 21-24 August 2012 and the auto road on 3-4 September 2012 (e-mail feedback dated 7 September 2012 was sent further to an inquiry by Sarah I Ruck, Principal Social Advisor, Environment & Sustainability, EBRD). Energy Resources LLC has been informing the affected herders about its call for other mining companies to share the paved road instead of using the dirt road. We have been keeping our road open for third-party users, and local residents are entitled to use the road free-of-charge.

Summing up the above, we, at Energy Resources LLC, have been operating in the region fully within our commitment to respect the rights of the host communities and work in compliance with the lender's performance requirements. We

will continue to work towards addressing and mitigating risks derived from our operations that may violate the rights of the community members and have impact on herders from our project impact area.

Above information is also included in our auto road RAP as well as annual and semi-annual Environmental and social performance reports submitted to EBRD accordingly.

Sincerely,

Corporate Social Responsibility & Community Engagement Department  
ENERGY RESOURCES LLC

**d(ii.) Client's Response (Response Letter to NGOs dated 30 August 2012).**



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2012. 08. 30 № 1051  
танай 2012. 08. 06 -ны № 039/12 -т

“ГОВИЙН ГАЗАР ШОРОО”, “ЦЭЦИЙ  
НУТАГ”, “ХИЛ ХЯЗГААРГҮЙ АЛХАМ”,  
“ОЮУ ТОЛГОЙН ХЯНАЛТ”  
ТӨРИЙН БУС БАЙГУУЛЛАГУУДАД

Шаардлагын хариу хүргүүлэх тухай

Та бүхний 2012 оны 8 дугаар сарын 6-ны өдрийн 039/12 тоот албан бичгээр ирүүлсэн шаардлагатай танилцаж, дараах хариуг хүргүүлж байна.

Өмнөговь аймагт уул уурхайн чиглэлээр үйл ажиллагаа явуулж байгаа олон компаниудын нэг нь Цогтцэций сумын нутагт байрлах Ухаа Худаг нүүрсний ордыг ашиглаж байгаа манай Энержи ресурс компани юм. Та бүхний сэтгэлийг зовоож, шаардаж байгаа байгаль орчныг хамгаалах, сөрөг нөлөөллийг бууруулах, нийгмийн нөлөөллийн үнэлгээний талаар манай компани тууштай бодлого явуулж, орон нутгийн иргэд олон нийтэд нээлттэй ил тод байх зарчмыг хэрэгжүүлж дэс дараатай арга хэмжээ авч, дэд бүтцийн төслүүд хэрэгжүүлж байна. Тухайлбал Цогтцэций, Баян Овоо, Ханбогд сумдын нутгаар дайрсан 240 км хатуу хучилттай авто зам барьж ашиглалтанд оруулан нүүрсээ тэвжэрлэдэг бөгөөд бусад компаниудад ч зам ашиглах нь нээлттэй байна.

Тус компани нь Ухаа Худаг-Гашуун Сухайт хилийн боомт хүртэл хатуу хучилттай 240 км авто замын барилгын ажлыг 2010-2011 онд хийж гүйцэтгэсэн бөгөөд Монгол Улсын Авто замын тухай хууль, Байгаль орчинд нөлөөлөх байдлын үнэлгээний тухай хууль болон газар эзэмших, өмчлөх харилцаа, газар чөлөөлөх, нүүлгэн шилжүүлэх үйл ажиллагааг зохицуулсан бусад холбогдох хууль тогтоомжийг мөрдлөг болгохын зэрэгцээ олон улсын санхүүжүүлэгч байгууллагуудын шаардлагуудад нийцүүлэн байгаль орчин, нийгмийн сөрөг нөлөөллийг бууруулах арга хэмжээний төлөвлөгөөг боловсруулан хэрэгжүүлж ажилласан.

Мөн Монгол Улсын Их Хурлын 2010 оны 32 дугаар тоот тогтоол, Засгийн газрын 2012 оны 93, 161 дүгээр тогтоолуудад тус тус заасан ёсоор концессын гэрээгээр Ухаа Худаг-Гашуунсухайт чиглэлийн төмөр замын суурь бүтцийн барилга угсралтын ажлыг гүйцэтгэх үүргийг Энержи Ресурс Рэйл ХХК-д хүлээлгэсний дагуу төмөр замын төслийн бүхий л үе шатанд төр засгийн шийдвэрийг хэрэгжүүлэх түүнчлэн орон нутгийн төр захиргааны байгууллагууд, орон нутгийн иргэд, малчидтай уулзалт, хэлэлцүүлгүүдийг шат дараатайгаар зохион байгуулан ажиллаж байна.

Та бүхний гаргасан шаардлагын дагуу Ухаа Худаг-Гашуун сухайт чиглэлийн авто зам, төмөр замын Байгаль орчин, нийгмийн нөлөөллийн үнэлгээ, нөлөөллийг бууруулах ажлын төлөвлөгөө, олон нийтийн хэлэлцүүлгийн төлөвлөгөөний хэрэгжилтийн байдлын товч тайланг хавсралтаар хүргүүлж байна.

Та бүхэн уул уурхай, тээврийн компаниуд тус бүрийн үйл ажиллагаанд үнэлгээ дүгнэлт гарган ажиллаж байгаа гэдэгт найдаж байна.

Хүндэтгэсэн,  
ГҮЙЦЭТГЭХ ЗАХИРАЛ



Г.БАТЦЭНГЭЛ

### УХАА ХУДАГ-ГАШУУН СУХАЙТ ЧИГЛЭЛИЙН АВТО ЗАМ

Нүүрсний экспортыг нэмэгдүүлэх, говийн бүсийн экосистемийг хамгаалах зорилгоор гаргасан Монгол Улсын Засгийн газрын 2010 оны 83 дугаар тогтоолоор Энержи Ресурс ХХК-ийн охин компани болох “Говийн зам” ХХК-д Өмнөговь аймгийн Цогтцэций сумын Ухаа Худаг нүүрсний орд газраас Гашуун сухайтын боомт хүртэлх 240 км хатуу хучилттай авто замыг барьж байгуулах зөвшөөрөл өгснөөр авто замын барилгын ажлыг 2010 оны 5 дугаар сараас эхлүүлсэн. Замын ажиллагааг явуулахдаа Монгол Улсын Авто замын тухай хууль болон газар эзэмших, өмчлөх харилцаа, газар чөлөөлөх, нүүлгэн шилжүүлэх үйл ажиллагааг зохицуулсан бусад хууль тогтоомжийг мөрдлөг болгохын зэрэгцээ Европын Сэргээн Босголт, Хөгжлийн Банкны /ЕСБХБ/ шаардлагууд болон холбогдох олон улсын стандартуудыг хангаж ажиллав. Төслийн явцад Энержи Ресурс ХХК-ийн нийгмийн хариуцлагын бодлогын дагуу орон нутгийн иргэд болон бусад талуудын оролцоог ханган, ил тод, нээлттэй байх зарчмыг баримталж ажилласан.



*Зураг 1. Хатуу хучилттай авто замын барилгын ажлын явц, ашиглалт*

#### ➤ БАЙГАЛЬ ОРЧИН, НИЙГМИЙН НӨЛӨӨЛЛИЙН ҮНЭЛГЭЭ (БОННУ)

Энержи Ресурс ХХК нь авто замын барилгын үйл ажиллагааг эхлэхдээ төслийн нийгэм эдийн засгийн судалгааг санаачлап хийсэн. Ингэснээр авто зам баригдах явцад болон тавигдсаны дараах үеийн нийгэм, эдийн засгийн нөлөөллийг тогтоож, сөрөг нөлөөллөөс урьдчилан сэргийлэх, бууруулах, малчдын эрүүл мэнд, аюулгүй байдал, эд хөрөнгийг үүсч болзошгүй сөрөг үр дагавраас хамгаалах боломжийг олгосон. Нөлөөллийн бүсийг тогтоохдоо Монгол Улсын Авто замын тухай хуулийн 3.1.6-д заасан “хяналт тавих зурвас газар” болон мөн хуулийн 12.2-г заасан нөлөөллийн бүсийн зурвасыг тодорхойлох заалтуудыг баримтлав. Замын барилгын ажлын явц болон ашиглалтын үеийн нийгэм, эдийн засгийн нөлөөллийн үнэлгээнд үндэслэн авто замын трассаас хоёр тийш нэг километрээс дотогш зурвас газрыг нөлөөллийн бүсээр тогтоосон.

Нийгэм эдийн засгийн судалгааны хүрээнд авто зам дайран өнгөрөх Цогтцэций, Баян-Овоо, Ханбогд сумдын нөлөөллийн бүсэд нутаглаж буй 25 өрхийн 84 иргэдээс санал асуулга, ярилцлага авч, уулзалтууд зохион байгуулав. Судалгаагаар нөлөөллийн бүсэд нийт 34 малчин өрх, 25 худаг, уст цэг, 23 өвөлжөө, 2 хаваржаа, 1 дүнзэн байшин, төмс, хүнсний ногоо, мод тарьдаг 1 талбай хамрагдаж байгааг тогтоосон. Нөлөөллийн бүсэд байрлаж буй малчин өрхүүд болон байгууламжуудын талаар нарийвчлан судалж, тэдгээрт учирч болзошгүй нөлөөллийг тогтоож, нөлөөлөл үргэлжлэх хугацаа, нөлөөллийн зэрэглэл, бууруулах арга замуудыг тодорхойлсон.

Судалгаан дээр үндэслэн “Авто замын ажлын сөрөг нөлөөллийг бууруулах ажлын төлөвлөгөө”, “Нүүлгэн шилжүүлэлтийн төлөвлөгөө” болон нөхөн олговрын стратегийг боловсруулсан.

➤ СӨРӨГ НӨЛӨӨЛЛИЙГ БУУРУУЛАХ, НҮҮЛГЭН ШИЛЖҮҮЛЭЛТИЙН ТӨЛӨВЛӨГӨӨ

Автозамын барилгын ажлын явцад болон цаашид замын ашиглалтын үед үзүүлэх нийгмийн нөлөөллийн судалгаанаас үндэслэн сөрөг нөлөөллийг бууруулах, урьдчилан сэргийлэх ажлыг төлөвлөн хэрэгжүүлсэн бөгөөд нөлөөллийн бүсэд амьдарч буй 10 өрхийг нүүлгэн шилжүүлэлтэнд хамруулсан. Нүүлгэн шилжүүлэхдээ авто замын трасс нь өвөлжөө ба худгийн дундуур гарсан, түгээмэл тархацтай ашигт малтмалын карьерийг урт хугацаагаар ашиглах зэрэг зайлшгүй тохиолдолд нүүлгэх буюу 5 гүн өрмийн, 2 гар худаг шинээр гаргаж, 2 худгийг сэргээн засварлаж, 1 өвөлжөө шинээр барьж, 1 хаваржаа нүүлгэн шилжүүлж, 1 га ногооны талбайг хашаажуулав. Нүүлгэн шилжүүлэх, нөхөн олговрыг олгохдоо хөрөнгийг биет байдлаар нөхөн сэргээх, илүү сайжруулах бодлого баримталж бэлэн мөнгө өгөхөөс татгалзах гэсэн ЕСБХБ-ны шаардлагыг хангаж ажилласан ба үйл ажиллагаатай холбоотой бүх зардлыг компаниас бүрэн хариуцаж нийт 200 гаруй сая төгрөг зарцуулаад байна. Нүүлгэн шилжүүлэх үйл ажиллагаанд малчдын төлөөлөл, нутгийн удирдлага, газрын даамал, компанийн төлөөлөл оролцсон баг байгуулж малчдын оёрдийнх нь санал хүсэлтийг авч, орон нутгийн удирдлагатай зөвлөлдөж эдгээр өрхтэй нүүлгэн шилжүүлэлтийн гэрээ байгуулж хамтран ажилласан.



Зураг 2. Шинээр барьсан худаг болон өвөлжөө

Мөн нөлөөллийн бүсийн өрхүүдийн авто замын хөдөлгөөнтэй дасан зохицох, эдийн засгийн зэрэг нөлөөг дэмжих үүднээс арга хэмжээнүүдийг төлөвлөж хэрэгжүүлж эхэлсэн. Энэ хүрээнд мал аж ахуй, газар тариалан, жижиг дунд үйлдвэрлэл, үйлчилгээг орон нутгийн хүрээнд хөгжүүлэх арга хэмжээг авч байна. Ханбогд, Баян-Овоо, Цогтцэций сумуудад 2011 оны 4 дүгээр сарын 18-аас 24-ны өдрүүдэд “Эрчимжсэн мал аж ахуй, газар тариалан, жимс, жимсгэнэ, тэжээлийн ургамал тариалах арга зүй” сэдэвт сургалтыг явуулсан. Мэргэжлийн сургагч багш нар хичээлийг заасан ба нийт 58 иргэн сургалтанд хамрагдсан. Иргэдийн зүгээс уг сургалтыг амьжиргаанд нь хэрэгтэй мэдлэгийг өгсөн, үр өгөөжтэй сургалт боллоо гэж өндрөөр үнэлж байв.



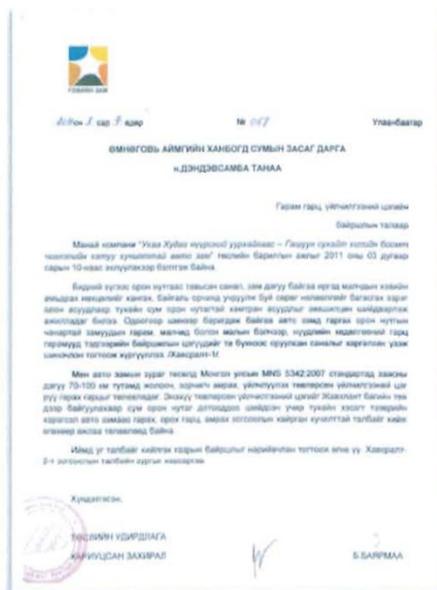
Түүнчлэн нөлөөллийн бүсийн малчдын амьжиргааны байдалд хөндлөнгийн мониторинг судалгааг хийж малчдын тогтвортой амьжиргааг дэмжих хөтөлбөр болосруулан 2012-2015 онуудад хэрэгжүүлэхээр үйл ажиллагааг эхлүүлээд байна.

Зураг 3. Агрономич сургагч багш Ханбогд сумын иргэдэд хичээл зааж буй байдал

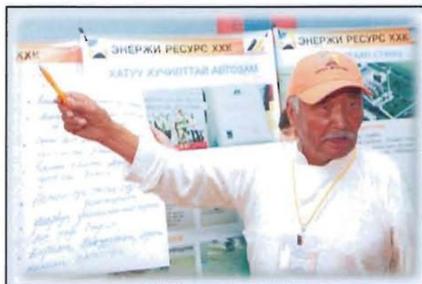
Малчдын өвөлжилтийн хэрэгцээнд зориулж өвс тэжээлийн дэмжлэг үзүүлдэг ба автозамын нөлөөллийн малчдад 2010-2011 оны өвөлжилтөд зориулж 100 гаруй сая төгрөгийн өвс тэжээлийн туслалцааг үзүүллээ.

#### ➤ МАЛЧИДТАЙ ЗӨВЛӨЛДӨХ, ОЛОН НИЙТИЙН ХЭЛЭЛЦҮҮЛЭГ

Компани нь авто замын барилгын ажлыг эхлүүлэхдээ иргэдийн оролцоог хангах, байгаль орчин нийгмийн нөлөөллийн үнэлгээг танилцуулах, үүний дотор автозамын маршрут, барьж байгуулах хугацаа, барилгыг хариуцан гүйцэтгэх компаниуд, гарам гарцны асуудлуудын талаар танилцуулж, санал хүсэлтийг нь авч үйл ажиллагаандаа тусган ажилласан.



Мөн “Нээлттэй хэлэлцүүлэг, өдөрлөг” арга хэмжээг 2010 оны 9 дүгээр сарын 3-наас 6-ны өдрүүдэд Ханбогд, Баян-Овоо, Цогтцэций сумдуудад явуулсан. Арга хэмжээний хүрээнд иргэдэд Энержи Ресурс ХХК-ийн нүүрсний уурхайн талаар мэдээлэл өгч, авто замын төсөл, хариуцлагатай уул уурхай, аюулгүй ажиллагаа, орон нутгийн хөгжлийг дэмжих хөтөлбөрүүдийн талаар танилцуулсан. Уг арга хэмжээнд ойролцоогоор 1500 иргэд идэвхи санаачлагатай оролцов.



*Зураг 4 Авто замын төслийн талаар хэлэлцүүлэг*

“Авто замын барилгын ажлын сөрөг нөлөөллийг бууруулах ажлын төлөвлөгөө”, “Нүүлгэн шилжүүлэлтийн төлөвлөгөө” хэрэгжүүлэх, хэрэгжилтийн явцад хяналт тавихдаа Энержи Ресурс ХХК-ийн Орон Нутгийн Харилцааны Баг (ОНХБ) нь орон нутгийн удирдлага, нутгийн зөвлөл, замын гүйцэтгэгч компаниуд, орон нутгийн иргэд, малчидтай нягт хамтран ажиллав. Зам барилгын ажлын явцад ОНХБ нь нөлөөллийн бүсэд байгаа малчидтай сард 2 удаа уулзаж, тэдний санал хүсэлтийг хүлээн авах, холбогдох газруудад уламжлах, шийдвэрлэх арга хэмжээг авч хэрэгжүүлсэн.

Мөн компанийн зүгээс замын ажлын гүйцэтгэгч компаниудад байгаль орчинд үзүүлэх сөрөг нөлөөллийг бууруулах, хөдөлмөрийн аюулгүй байдлыг хангах болон нөлөөллийн бүсийн малчин өрхүүд, байгууламж, тахилгат уул овооны талаар танилцуулж, иргэдтэй хэрхэн хамтарч ажиллах, тэдний эрх чөлөө, аюулгүй байдалд нөлөөлөхгүй байх, талаар заавар зөвлөгөө өгч, сургалт явуулсан.

**Гомдол барагдуулах механизм**

Төслийн явцад санал, гомдол шийдвэрлэхдээ орон нутгийн иргэд, малчдын санал хүсэлтийг ОНХБ авч, тухай бүрд нь шийдвэрлэж байв. Замын барилгын ажлын явц, малчдыг нүүлгэн шилжүүлэх, нөлөөлөлд өртсөн байгууламжийг шинээр барих, засварлах зэрэг үйл ажиллагаанд малчдыг хяналтаар ажиллуулсан нь үр дүнтэй болж, тэдний санал гомдлыг шийдвэрлэхэд эерэгээр нөлөөлсөн.



Замын барилгын үйл ажиллагааны явцад олон салаа зам гаргахгүй байх, нөхөн сэргээлтийг хийх, хог хаягдлыг ил задгай хаяхгүй байх зэрэг иргэд малчдаас тавьсан шаардлага, санал, гомдлуудыг гүйцэтгэгч компаниудад уламжлан цаг тухайд нь шийдвэрлүүлж ажиллалаа. Гүйцэтгэгч компаниуд Энержи Ресурс ХХК-ийн тавьсан шаардлагыг хангаж, иргэдийн саналыг хүлээн авч хамтран ажилласан.

*Зураг 4. Ханбогд сумын Аман ус хэмээх газар гаргасан гар худгийг малчид хүлээж авав.*

Энержи Ресурс ХХК-ийн зүгээс хатуу хучалттай авто замыг барих барилгын ажлыг хэрэгжүүлэхдээ байгаль орчны сөрөг нөлөөллийг бууруулах менежменттэй ажиллахаас гадна нийгмийн нөлөөллийг тооцож нөлөөллийн бүсэд байрлаж буй малчин өрхүүдын эрхийг хүндэтгэн, байгууламж, тахилгат уул овоо, археологийн хайгуул, авран хамгаалалт болон нийгэм эдийн засгийн судалгааг хийж, үүсч болзошгүй сөрөг нөлөөллөөс урьдчилан сэргийлэх, бууруулах арга хэмжээг шат дараатай авч хэрэгжүүлэв. Компани нь орон нутгийн удирдлагууд, нутгийн зөвлөл, малчин өрхүүд болон гүйцэтгэгч компаниудтай ил тод, оролцооны зарчмыг баримталж хамтран ажилласан. Түүнчлэн, нөлөөллийн бүсэд хамаарагдаж буй малчин өрхүүдтэй нүүлгэн шилжүүлэлт, авто замын барилгын ажлын явцын “иргэдийн хяналт”-ийг бий болгож олон нийтийн оролцоог хангаж ажиллалаа.

Мөн түүнчлэн олон уурхайн нүүрс тээвэрлэлтийн үйл ажиллагаа явагдаж буй шороон замын байгаль орчин, нийгмийн сөрөг нөлөө, малчдын эрүүл мэнд, аюулгүй байдалд болон бэлчээрийн доройтол зэрэг асуудлаас үүдэн сум орон нутгийн удирдлагаас хүсэлт гаргасны дагуу 2012 онд 3

малчин өрхөд худаг, худгийн байр, өвөлжөө барьж өгч, нийт 93,9 сая төгрөгийн зардлаар нүүлгэн шилжүүлээд байна.



ЭНЕРЖИ РЕСУРС ХХКОМПАНИЙ  
УДИРДЛАГУУДАД

ӨМНӨГОВЬ АЙМГИЙН  
БЯАН-ОВОО СУАНЫН ЗАСАГ ДАРГА  
Утас: 70534202  
Утас: 70534202

2011.08.09 № 243  
Танай \_\_\_\_\_-ийн № \_\_\_\_\_

**Хүсэлт гаргах тухай**

Та бүхэнд энэ өдрийн мэнд хүргье.  
Тус сумын нийт нутгаар сайхан зун болж намартай золгон өвлийн бэлтгэл хангах ажлаа төлөвлөж байна.

Таван толгой нүүрсний уурхайгаас Гашуун сухайтын хилийн боомт хүртэлх замын 86 км нь Могойт багийн нутаг дэвсгэрээр дайрч өнгөрдөг. Энэ замын нөлөөллийн бүсэд 15 малчин өрх хамрагддаг. Дээрх шороон замын дагуу малчин өрхүүдийн зүгээс амьдрах нөхцөлгүй болсон талаар, их бүтээн байгуулалтын явцад энгийн өрд иргэд ихээхэн хохирч байгааг харгалзан үзэж нүүлгэн шилжүүлэх саналыг удаа дараа бидэнд, та бүхэнд тавьсан боловч өнөөдрийг хүртэл тодорхой шийдэлд хүрээгүй байна.

Сум, багийн удирдлагууд бид малчин өрхийн тэргүүлэгчидтэй харилцан ярилцаад нөлөөллийн бүс дэх малчин өрхүүдийг, нүүрсний шороон замын дагуу нүүрс тээвэрлэж буй томоохон аж ахуйн нэгжүүдэд хуваарилан санал хүргүүлж байна.

Танай компани нь нөлөөллийн бүс дэх П.Норовдорж, Т.Мөнгөнцагван, Ч.Идарзориг нарын малчин өрхүүдтэй хамтран ажиллаж нүүлгэн шилжүүлэх, өвөлжөө бууц байгуулахад дэмжлэг үзүүлэхийг хүсье.

ЗАСАГ ДАРГА



X. БАТБОЛД

D:\Нью Федерация\дариул А-4\2011\08\2011

51074

Ийнхүү Энержи ресурс ХХК нь автозамыг 2011 онд ашиглалтад оруулж, замын засвар арчилгаа, нөхөн сэргээлт, хөдөлгөөний аюулгүй ажиллагаа зэрэг нийт замын трасс дагуу 130 гаруй ажлын байр бий болгон ажиллаж байна.



Энержи ресурс ХХК-ийн 2012 оны  
1051 тоот албан бичгийн 2 дугаар хавсралт

## УХАА ХУДАГ- ГАШУУН СУХАЙТ ЧИГЛЭЛИЙН ТӨМӨР ЗАМ

Монгол Улсын Засгийн газартай 2012 оны 5 дугаар сарын 31-ний өдөр байгуулсан “Ухаа Худаг-Гашуун сухайтын чиглэлд төмөр замын суурь бүтэц барих, ашиглах, шилжүүлэх тухай” ТӨХ2010/198-94-1 тоот гэрээг үндэслэн төмөр замын барилга угсралтын ажлыг эхлүүлэх болсон. Монгол Улсын Их Хурлын 2010 оны 32 дугаар тогтоолоор батлагдсан “Төрөөс төмөр замын тээврийн талаар баримтлах бодлого”, Монгол Улсын Засгийн газрын 2012 оны 161 дүгээр тогтоолоор, 1/06 тоот тусгай зөвшөөрлөөр төмөр замын суурь бүтэц барих үүргийг “ЭНЕРЖИ РЕСУРС РЭЙЛ” ХХК-д олгосон болно.

### ➤ БАЙГАЛЬ ОРЧИН, НИЙГМИЙН НӨЛӨӨЛЛИЙН ҮНЭЛГЭЭ (БОННУ):

Төмөр замын суурь бүтцийн барилгын болоод ашиглалтын явцад үүсч болзошгүй сөрөг нөлөөллийг бууруулах, урьдчилан сэргийлэх үүднээс 2009-2010 онд Монгол улсын Байгаль орчныг хамгаалах тухай хууль, Монгол улсын Байгаль орчинд нөлөөлөх байдлын үнэлгээний тухай хуулийн хүрээнд Байгаль орчин, Нийгэмд нөлөөлөх байдлын нарийвчилсан үнэлгээ (БОННБНУ)-г Environmental Resources Management (ERM) нь Sustainability East Asia LLC (Sustainability)-ийн хамтаар ЖЭМР Консалтинг ХХК болон Хөгжлийн Эрин ТББ-ийн тусламжтайгаар Европын Сэргээн босголт Хөгжлийн банкны (ЕСБХБ) Гүйцэтгэлийн шаардлага (2008) болон Азийн Хөгжлийн банкны (АХБ) Аюулгүй үйл ажиллагааны бодлого, Олон улсын Санхүүгийн Корпорацийн (IFC) Гүйцэтгэлийн стандартууд, АХБ-ийн Аюулгүй үйл ажиллагааны бодлого, Санхүүжилтийн Экватор зарчмын шаардлагуудын дагуу нийцүүлэн боловсруулсан. Тус үнэлгээний үр дүнд 2012 оны байдлаар гарч болох өөрчлөлтөнд нэмэлт тодотгол хийхээр ажлын зохицуулалт эхлээд байна.

Төмөр замын трасс дагууд Соёлын өвийг хамгаалах үүднээс барилгын өмнөх археологийн хайгуул авран хамгаалах малтлага судалгааг гүйцэтгэсэн. Энэ судалгааг 2009 оны 7 дугаар сард Археологийн хүрээлэн гүйцэтгэсэн. Үүний үр дүнд Хүрээлийн болон Дундад зууны үеийн 44 талбай тодорхойлогдсон. Эдгээрээс МЭӨ II мянганаас МЭӨ VII зууны үеийн 3 ш дөрвөлжин булш, Монголын үеийн 39 ш дугуй хэлбэрийн булш, талбайнуудын 2 нь Түрэгийн үед (МЭ VI-VIII зуун) хамаарах бөгөөд энэ нь Говийн бүсийн хувьд маш ховор тохиолдол юм. Судалгааны үр дүнд нийт 46 булшинд малгалт хийсэн бөгөөд шинжлэх ухааны судалгааны зориулалтаар Монголын Шинжлэх Ухааны Академийн Археологийн хүрээлэнд шилжүүлсэн.

### ➤ ЭЭРЭГ НӨЛӨӨЛӨЛ

Төмөр зам нь авто тээврийн замыг бодвол 3 дахин бага газрыг ашигладаг ба төмөр замыг ашигласанаар газрын гадаргын эвдрэл багасч, хөрсний элэгдэл, агаарын тоосжилт, ургамлын доройтол буурч газрын нөөцийн ашиглалт сайжирах, мөн дизель хөдөлгүүртэй галт тэрэг нь тэр орчмын замаар явах автомашины хөдөлгүүрээс гарах бохирдуулах бодистой харьцуулахад 15 дахин бага бохирдуулах бодис агаарт гаргадаг зэргээс төмөр зам нь одоогийн үүсээд байгаа байгаль экологийн доройтлыг бууруулахад ихээхэн ач холбогдолтой юм.

Мөн түүнчлэн авто замын тээврээс үүсэх осол гэмтэл нь төмөр замын тээвэртэй харьцуулахад 7 дахин их тохиолддог болох нь тогтоогдсон байдаг ба авто машинаар нүүрс тээвэрлэлт багасч энэ нь тухайн орон нутгийн иргэд болон жолооч нарын аюулгүй байдлыг хангахаас гадна зам, тээврийн сүлжээ, харилцаа холбоо, банкны үйлчилгээ, болон усан хангамж зэрэг бусад сум орон нутгийн дэд бүтцийн хөгжилд хувь нэмэр оруулах эерэг нөлөөтэй юм.

### ➤ СӨРӨГ НӨЛӨӨЛЛИЙГ БУУРУУЛАХ АЖЛЫН ТӨЛӨВЛӨГӨӨ

Төмөр замын суурь бүтцийн барилгын ажлын БОПНУ-г хөндлөнгийн мэргэжлийн байгууллагуудаар хийлгэсэн дүгнэлтээр төмөр замын трассын дагуух 500 метр газар нь шууд нөлөөллийн бүс, харин шууд бус нөлөөллийн бүсийг 5 км хэмээн тогтоосон болно. Түүнчлэн Монгол Улсын Төмөр замын тээврийн тухай хуулийн 3 дугаар зүйлд заасан суурь бүтэц, дагнасан хэрэглээний зам, талбайн аюулгүй байдлыг хангах зориулалт бүхий газар, барилгын ажлын эрсдэлээс урьдчилан сэргийлэх зорилгоор 500 метрийн шууд нөлөөллийн бүсийн газрыг чөлөөлөх, нүүлгэн шилжүүлэлт хийхээр төлөвлөж байна.

2008 онд хийгдсэн БОННУ-ны дүгнэлтээр төмөр замын трассын дагуух шууд нөлөөллийн бүсийн 17 өрх, шууд бус нөлөөллийн бүсэд хамрагдах 54 малчин өрхүүдэд нийгэм эдийн засгийн суурь судалгааг хийсэн бөгөөд 2012 онд шууд нөлөөллийн бүсийн 10, шууд бус нөлөөллийн бүсэд хамрагдах 64 малчин өрхүүдэд нийгэм эдийн засгийн суурь судалгааг шинэчлэн хийсэн.

Нөлөөллийн бүсийн малчдын нийгэм эдийн засгийн суурь судалгаанд төмөр замын нөлөөлөлд байгаа 80 орх хамрагдсан. Судалгаагаар шууд нөлөөллийн бүсэд болон трассаар өвөлжөө худаг ус нь тусгаарлагдаж буй нүүлгэн суурьшуулалтад хамрагдах нийт 17 өрх байгаа бөгөөд 3 худаг, 10 өвөлжөө, 1 модон байшин, 2 бетонон байшин, 1 ногооны талбай хамрагдаж буйг тогтоон тэдгээрт учирч болзошгүй нөлөөллийг тогтоож, нөлөөллийн үргэлжлэх хугацаа, зэрэглэл, бууруулах арга замыг тодорхойлон малчидтай хэлэлцэх ажил үргэлжилж байна.

Төмөр замын төслийн хэрэгжилтээс бий болох шууд болон шууд бус нөлөөлөлд өртөж байгаа малчин өрхүүдэд нөлөөлөх сөрөг нөлөөллийг бууруулах ажлын төлөвлөгөөг боловсруулсан ба дараах дэд төлөвлөгөөг хэрэгжүүлнэ. Үүнд:

- ОРОН НУТГИЙН ИРГЭДИЙН ЭРҮҮЛ МЭНД, АЮУЛГҮЙ БАЙДАЛ

Орон нутгийн иргэд, малчдын эрүүл мэнд, аюулгүй байдал, тэдгээрийн өмч хөрөнгө, мал сүргийн бүрэн бүтэн байдалд сөрөг нөлөө үзүүлэхгүй байх

- ОРОН НУТГИЙН ИРГЭДИЙН ЭРХ

Орон нутгийн иргэд, удирдлагын оролцоог хангах, тэдэнд мэдээлэл ил тод түгээх  
Орон нутгийн иргэд байгууллагаас ирсэн санал, хүсэлт, гомдлыг шуурхай барагдуулах

- ОРОН НУТГИЙН СОЁЛЫН ӨВ

Орон нутгийн ёс заншил, түүх, соёлын биет ба биет бус өв, үнэт зүйлсийг хүндэтгэн хамгаалах

- ОРОН НУТГИЙН НИЙГЭМ, ЭДИЙН ЗАСГИЙН ХӨГЖИЛ

Орон нутгийн иргэдийг ажлын байраар хангах  
Орон нутгийн аж ахуйн нэгж, жижиг дунд бизнес эрхлэгчдийг нэн тэргүүнд дэмжиж ажиллах

### ➤ МАЛЧИДТАЙ ЗӨВЛӨЛДӨХ, ОЛОН НИЙТИЙН ХЭЛЭЛЦҮҮЛЭГ

Энержи Ресурс ХХК-ийн зүгээс төмөр замын төсөл хэрэгжилтийн явцад олон нийтийн хэлэлцүүлэг мэдээлэл түгээх төлөвлөгөөний (ОНХМТТ) хүрээнд төслийн талаар үнэн зөв мэдээлэл түгээхийн зэрэгцээ иргэдтэй нүүр тулж уулзан тэдний ойлголт, хандлага, орон нутгийн зүгээс үүсэх нөхцөл байдлыг тодорхойлох, олон нийтийн зүгээс гарсан санал зөвлөмжийг үйл ажиллагаандаа тусгах зорилгоор малчид, орон нутгийн удирдлагууд, олон нийтэд зориулсан уулзалт, хэлэлцүүлгүүдийг үе шаттайгаар зохион байгуулсан.

Манай компани 2009 оноос хойш нийт 6 удаагийн 4000 гаруй иргэдийг хамруулсан “нээлттэй хэлэлцүүлэг, өдөрлөг”-ийг Өмнөговь аймгийн 5 сумдыг хамран зохион байгуулж, малчид, орон

нутгийн иргэд, торийн бус байгууллагуудад мэдээлэл хүргэж, харилцан санал солилцож ирсэн нь салбарын хэмжээнд үлгэр жишээ болохуйц шинэлэг, үр дүнтэй алхам болж чадсан.

Төмөр замын төслийн хүрээнд хамгийн сүүлд зохион байгуулсан олон нийтэд зориулсан арга хэмжээний тоймоос дурьдвал:

- Нөлөөллийн бүсийн сумын удирдлагуудтай хийсэн уулзалт, хэлэлцүүлэг  
(2012 оны 7 дугаар сарын 4-6 ний өдрүүдэд Ханбогд, Баян-Овоо, Цогтцэций сумдад)
- Нөлөөллийн бүсийн малчидтай хийсэн уулзалт, хэлэлцүүлэг  
(2012 оны 8 дугаар сарын 2-4 ний өдрүүдэд Ханбогд, Баян-Овоо, Цогтцэций сумдад)
- Нөлөөллийн бүсийн сумдын удирдлага, гүйцэтгэгч компаниуд, Энержи Ресурс Рэйл компанийн 3 талт уулзалт, хэлэлцүүлэг  
(2012 оны 8 дугаар сарын 20-22 ний өдрүүдэд Ханбогд, Баян-Овоо, Цогтцэций сумдад)

Дээрх уулзалт хэлэлцүүлгүүдийн хүрээнд “Энержи Ресурс Рэйл” ХХК-ийн төмөр замын төслийн талаар болон төмөр замын маршрут, нийцүүлэх стандарт, барьж байгуулах хугацаа, гүйцэтгэгч компаниудын талаар мэдээлэл өгч, нөлөөллийн бүсийн айл өрхүүдийн байгаль орчин, нийгмийн нөлөөллийн үнэлгээг танилцуулж, сөрөг нөлөөллийг бууруулах төлөвлөгөөг хэлэлцүүлээ.

*Зураг5. Төмөр замын төслийн талаарх хэлэлцүүлэг*



*Малчдын хэлэлцүүлэг. /Цогтцэций 2012.08.04/*

*Малчид трассын газрын зураг үзэж байна.*



*Малчдын хэлэлцүүлэг. /Ханбогд 2012.08.03/*

*Малчид саналаа илэрхийлж байна /Баян-Овоо/*

Цаашид Өмнөговь аймгийн удирдлагууд болон аймгийн ТББ-уудын төлөөллүүдэд зориулсан уулзалт, хэлэлцүүлгүүдийг зохион байгуулж, мэдээлэл хүргэн ажиллахаар төлөвлөж байна.

**d(ii) Client's Response (Response Letter to NGOs dated 30 August 2012). Unofficial translation.**

*Unofficial translation*

TO: NGOs "GOVIIN GAZAR SHOROO", "TSETSII NUTAG", "KHIL HYAZGAARGUI ALKHAM", "OYUTOLGOI WATCH"

August 30, 2012

**Subject: Response to inquiry**

We write this in response to your formal inquiry (No.039/12) dated 6 Aug 2012.

Energy Resources LLC, operating the Ukhaa Khudag coking coal mine located in Tsogttsetsii soum of Umnugobi aimag, is one of many companies engaged in mining activities in the region. The Company has followed and implemented consistent policy towards addressing the issues of concern indicated in your inquiries such as environmental protection, mitigation of adverse impacts and social impact assessment. We believe in being transparent with and responsive to our stakeholders and have taken collective measures towards ensuring the above through infrastructure development and other means. For instance, we use our own 240 km paved road for coal transportation and leave the road sharing opportunity open for third-party users.

The construction of the 240 km paved road connecting our Ukhaa Khudag mine with the Gashuun Sukhait border point took place in 2010-2011 and complied with all applicable Mongolian legislation including the Law on Auto Road, the Law on Environmental Impact Assessment and other relevant regulations on land use, ownership and resettlement issues as well as performance requirements of international lenders while following the commitments set out in our Environmental and social impact management plans.

Moreover, as the Energy Resources Rail LLC, an indirect wholly-owned subsidiary of the Company, was contracted to construct the base railway structure from Ukhaa Khudag to Gashuun Sukhait through a concession agreement, within the framework of the Mongolian Parliament Resolution No. 32 in 2010 and the Government Resolutions No. 63 and No.161 in 2012, we are making full efforts in meeting the standards and requirements set by the Government in each and every step of our operations and holding periodic consultations and information sessions with various stakeholders including the local authorities and NGOs, host communities and affected herders.

Further to your request and inquiries, here we attached brief performance reports of our Environmental and social impact assessment, Environmental and social impact mitigation plan and Public consultation and disclosure plan for both the auto road and the railroad on the Ukhaa Khudag – Gashuun Sukhait route.

We believe that your works involve reviews and assessments on all individual mining and transportation companies and their operations.

Sincerely,

G.BATSENGEL  
CEO

Attachment 1 to  
..... letter by the Chief Executive Officer of Energy Resources LLC

#### UKHAA KHUDAG-GASHUUN SUKHAI PAVED ROAD

With the aim to increase coal export volume and to protect the ecosystem of the Gobi region, the permission to build 240 km of paved road from Ukhaa Khudag coal mine in Umnugobi aimag to Gashuun Sukhait border gate was granted to “Gobi Road” LLC, a subsidiary of the “Energy Resources” LLC in 2010 based on Resolution #83 of the Government of Mongolia. Subsequently, the road construction work began in May 2010. Throughout the road construction phase, the Company ensured compliance with Mongolian Law on Auto Road and other relevant laws and regulations on land acquisition, land ownership, resettlement and evacuation. In addition, performance requirements by the European Bank for Reconstruction and Development (“EBRD”) and relevant international norms and standards on Corporate Social Responsibility (“CSR”) were adhered to. During the project cycle, we ensured transparency and participation of the local community by providing accurate and up-to-date information about the project and consulted with the local community and other stakeholders in line with the Company’s CSR policy.



Photo1. Construction of paved road

#### ➤ ENVIRONMENTAL AND SOCIAL IMPACT ASSESSMENT (ESIA)

Energy Resources LLC conducted the project’s socio-economic study prior to start of road construction. By determining any socio-economic negative impacts associated with the road construction project, the Company was able to take appropriate measures to mitigate any negative impacts identified and to prevent any possible negative impact on herder health and safety and damage to their property. In determining the impact zone, clause 3.1.6 on “monitoring strip” and clause 12.2 on “determining impact area” from the Mongolian Law on Auto Road were adhered to. Based on the socio-economic study that covers both the construction and operation phase, the impact area was determined to be the area within 1 km on each side of the road alignment. Within the framework of the socio-economic study, meetings, interviews and questionnaires were conducted among 84 members of 25 households residing in the three impact soums of Tsogttsetsii, Bayan-ovoo and Khanbogd through which the paved road alignment is routed. Survey findings revealed that within the impact area, a total of 34 herder households, 25 water wells and water points, 23 winter corral, 2 spring corrals, 1 wooden building and 1 vegetable growing field were affected. A detailed assessment was carried out on affected herder households and structures to determine the project impact, impact duration, impact category and the appropriate impact mitigation measures. Based on the survey, the “Road Impact Mitigation Plan”, “Resettlement Action Plan” and the compensation and entitlement strategies were devised accordingly.

➤ NEGATIVE IMPACT MITIGATION, RESETTLEMENT ACTION PLAN

Based on both the construction and operation phase impact assessments, a negative impact mitigation plan was implemented. Totally 10 herder households were physically displaced. A resettlement was carried out in cases where the auto road alignment cuts through and separates herder winter corrals from their water wells. As a result, 5 deep water wells, 2 hand water wells were established, 2 water wells were renovated, 1 winter and 1 spring corrals were resettled and 1 hectare of vegetable growing field was fenced. In addition, resettlement was also carried out if a household happens to reside in the impact area of a quarry site which will be exploited by the Company for construction.

When carrying out resettlement and compensation, the Company complied with the guidance provided by the EBRD on resettlement and adhered to the policy of constructing or renovating the physically displaced structures instead of providing monetary compensation. The Company was responsible for all resettlement and compensation expenses which amounted to approximately MNT200 million.

A team consisting of herder representative, local administration, land superintendent and the Company representative was appointed responsible for carrying out the resettlement and finalized the resettlement agreement with the physically displaced households based on their proposition and consultation with the local administration officials.



*Photo2. Newly constructed water well and winter corral*

Various community cohesion measures were taken to support the positive impact of the project and to provide opportunity for affected herders to generate income other than livestock farming. Within the framework of this objective, various actions are being taken at the local level to develop livestock husbandry, crop farming and small and medium enterprises. During 18<sup>th</sup>-24<sup>th</sup> April 2011, introductory methodology training on intensive livestock farming, crop farming, berry and fodder farming was organized among 58 members of affected households in Tsogttsetsii, Bayan-Ovoo and Khanbogd soums. This training conducted by specialist trainers was well received by its participants for its benefit and specific knowledge. Moreover, based on the external monitoring survey conducted among the affected herders, a Sustainable Livelihood Support Program was developed and is being implemented over a four year period from 2012 to 2015.



*Photo3. An agronomist is providing training for residents of Khanbogd soum*

Unofficial translation

The Company provides hay and fodder for impact area herders. As such for the winter of 2010-2011, more than MNT100 million was spent by the Company in providing hay and fodder for the paved road impact area herders during the harsh winter months.

➤ CONSULTATION WITH HERDERS, DISCUSSION WITH LOCAL COMMUNITY

Prior to start of our road construction work, the Company ensured community participation and involvement in the decision that affects their livelihood. This involved discussing our project's environmental and social impact assessment along with specific details on the new road alignment, expected timeframe for completion, our contractors, our operational plans and our proposed solutions to issues such as road crossing. Consultation in turn enabled community input in identifying appropriate mitigation and management options available to us in addressing issues of concern to them.



In addition, the Company organized an “Open Day and Consultation” event between 3<sup>rd</sup>-6<sup>th</sup> September 2010 in Khanbogd, Bayan-Ovoo and Tsogtsetsii soums. During this event we disclosed information to the public about our mining activity, the new road construction project, responsible mining principles, safety issues and the Company’s community development programs and initiatives. It is estimated that a total of 1500 local community members participated in this open day and consultation event.



*Photo4. During public consultation on road construction*

The Company's Community Engagement Team (CET) cooperated fully with local administration officials, community development advisory councils, our road construction contractors and the local community members in implementing and monitoring the "Road construction negative impact mitigation plan" and "Resettlement Action Plan". During the road construction phase, the Company carried out consultative meetings with impact area herders and received their comments and suggestions on our operations, passed it on to relevant departments that are responsible and took further measures to solve any issues identified.

Moreover, the Company organized a seminar and provided advice for its construction contractors on environmental impact mitigation, labor safety, impact area herders and their property, sacred mountains and respecting community rights and ensuring their safety.

#### **Grievance mechanism**

During the road construction project, the Company's CET received and handled community grievances throughout the project cycle. The Company also contracted some impact area herders to perform monitoring of road construction, resettlement, rebuilding and renovating of structures together with the Company. This has proven especially beneficial in handling community grievances and suggestions more effectively.

The main community concerns and feedbacks received were regarding environmental rehabilitation, not creating multiple unpaved roads for coal transportation during paved road construction and waste management. These concerns were passed onto our contractors and relevant departments of the Company so that appropriate actions can be taken to address issues raised. Our contractors also fully cooperated with the Company in providing responsive solution to community grievances.



*Photo5. Hand water well built in Khanbogd soum is being transferred to herder ownership*

Energy Resources LLC undertook step-by-step measures to mitigate any negative impact associated with paved road construction work by having a sound environmental impact mitigation plan, determining the impact area based on a socio-economic study, respecting the rights of local community and local sacred mountains in the impact area and conducting archaeological survey and rescuing any artifacts in collaboration with Mongolian Archaeological institute.

We involved local administration, community development advisory council, herder households and our contractors in the project cycle to enable transparency and to develop mutually beneficial relationship. In addition impact area herder performed "citizen monitoring" duties during the road construction phase and resettlement.

In addition, at the request of the local administration 6 households were resettled in 2012 at the expense of the Company due to some environmental and social concern, especially regarding health and safety of herders and loss of pastureland which resulted from use of unpaved road by numerous mines located in the region for coal transportation.

Energy Resources LLC completed and commissioned its paved road in 2011. Over 130 new jobs were created in road maintenance and road safety work along the newly constructed road alignment.

#### **UKHAA KHUDAG- GASHUUN SUKHAIT RAILROAD**

In accordance with the Mongolian government resolution #161 a Special Permission #1/06 was granted to Energy Resources Rail LLC to build base railway structure based on the Parliament of Mongolia's decision #32 on "Policy Guidance on Railway". In accordance with #TUH2010/198-94-1 concession contract signed with the Mongolian Government on 31<sup>st</sup> May 2012 to "Build, operate and transfer the Ukhaa Khudag-Gashuun Sukhait railway base structure", the Company began its railway construction work.

##### **➤ ENVIRONMENTAL AND SOCIAL IMPACT ASSESSMENT:**

With the aim to mitigate any negative impacts associated with construction and operation of the railway base structure, a detailed environmental and social impact assessment was carried out in line with Mongolian Law on Environmental Protection and Mongolian Law on Environmental Impact Assessment in 2009-2010. Environmental Resources Management (ERM) together with Sustainability East Asia LLC (Sustainability) conducted the project's Environmental and Social Impact Assessment (ESIA) with assistance from JEMR Consulting (JEMR) and Development Era NGO, two local contractors. The project's ESIA was developed to meet the EBRD's Performance Requirements (PRs), Asian Development Bank's (ADB) Safe operation policy, International Financial Corporation's (IFC) performance requirements and Equator principles. To reflect evolving local conditions and change in legal framework, some revisions and updates were made to the ESIA in 2012.

In order to protect cultural heritage of the local community, a pre-construction archaeological survey was conducted along the railway alignment in 2009 by the Archaeological Institute of Mongolia which was followed up by artifacts recovery work. As a result, 44 sites belonging to the Bronze and middle ages were determined. From the tombs and graves that were discovered, 3 square and 39 round Mongolian tombs from the (2 B.C -7 B.C) and 2 from Turkish period (6 B.C-8 B.C) were found. All these are considered to be very rare findings in the Gobi region.

##### **➤ NEGATIVE IMPACT MITIGATION PLAN**

Based on the ESIA conducted by external professional body, the direct impact area is 500 meters along the railway alignment and the indirect impact area was determined to be 5 km along the railway alignment. In line with the article 3 of the Mongolian Law on Railway Transportation, a resettlement is planned for in the area 500m on both sides of the railway alignment to ensure site safety and to protect people and structures from construction related accidents and risks.

In 2008, a socio-economic baseline study was conducted among 17 households in direct impact area and 54 households in indirect impact area along the railway alignment. However, in 2012 the Socio-economic baseline was updated to include 10 more households in indirect impact area.

In the direct impact area there are 17 households that will be physically displaced as the railway alignment separates their winter corral and water wells. It is found that 3 water wells, 10 winter corrals, 1 wooden house, 2 concrete houses, 1 vegetable field are under the direct impact area. An assessment of the project's impact on the above structures, impact duration and impact category is currently being determined in consultation with herder households. A railway impact mitigation plan is being developed for both direct and indirect impact area households. In addition, the following mitigation measures are planned for:

- COMMUNITY HEALTH AND SAFETY

To mitigate any potential negative impact on local community health and safety, and to protect their property and livestock

- COMMUNITY RIGHTS

To involve local community members and local administration in decision making, disclosing information about the project transparently and to handle any grievances in a timely manner

- LOCAL CULTURAL HERITAGE

To preserve and to protect tangible and intangible cultural heritage of the local region

- LOCAL ECONOMIC DEVELOPMENT

Provision of employment opportunities and to give priority to support local SME's

- CONSULTATION WITH HERDERS AND THE PUBLIC

As part of the Company's commitment to stakeholder engagement, public consultation and disclosure have been on-going throughout the Project to promote the engagement of the local community in the Project development and implementation. Within the framework of the Company's Public Consultation and Disclosure Plan (PCDP), Energy Resources LLC provided reliable factual information to the public, conducted face-to-face interviews and held various consultative meetings with diverse stakeholders including the local administration and herders to better understand local conditions and stakeholder concerns and to work with these groups to make more informed project decisions.

In order to engage directly with stakeholders who do not frequently travel to soum centers, the Company conducted 6 Open Ger (open house) events since 2009 on an annual basis, which reached more than 4000 local community members in 5 impact soums of Umnugobi aimag. During these events the Company exchanged ideas with the members of the public including herders and NGOs, provided project updates and future plans and enabled opportunity for the community to ask questions and seek clarification on any issues relevant to the project. This stakeholder engagement practice has proven to be both an effective and exemplary practice in the mining industry in Mongolia setting a new industry benchmark other companies can be judged against.

Within the framework of the railway construction work, the following stakeholder engagement activities were organized:

*Unofficial translation*

- Consultation with impact area soum administration officials (Khanbogd, Bayan-ovoo, Tsogttsetsii soums, 4<sup>th</sup>-6<sup>th</sup> July 2012)
- Consultation with rail impact area herders (Khanbogd, Bayan-ovoo, Tsogttsetsii soums, 2<sup>nd</sup>-4<sup>th</sup> August 2012)
- Three partite consultation involving rail construction contractors, soum administration officials and Energy Resources Rail LLC (Khanbogd, Bayan-ovoo, Tsogttsetsii soums, 20<sup>th</sup>-22<sup>nd</sup> August 2012)

In connection to the railway project, the Company organized the above mentioned focused discussions and consultations with local community and disclosed information on the planned railway construction project and its impact. Moreover, the community members provided their own views on how these impacts should be mitigated and managed by the Company.



*Photo6. During rail consultation-Local community members getting acquainted with railway alignment*

In the near future, the Company is planning to organize more consultative meetings to provide information to Umnugobi aimag administration and representatives of local NGOs.

d(iii.) Information on Complained Herders submitted by ER on 26 November 2013.

INFORMATION ON COMPLAINED HERDERS

\* Past communication with records only. During construction of the paved road, the Community Engagement team met informally with the road impact herders at least twice a month.

No	HERDER'S NAME	LOCATION	DISTANCE FROM ROAD /PAVED/	RELATIONSHIP	COMPENSATION	HAY&FODDER SUPPORT	Involvement in any community development projects & Sustainable Livelihood Support Program (SLSP)				GRIEVANCES RECEIVED request/			RECORDED PAST COMMUNICATION*		
							HEALTH	EDUCATION	SLSP	EMPLOYMENT	GRIEVANCE TYPE	DATE	RESPONSE/AC TION	EVENT	DATE	EVIDENCE/FA CT
<b>ER IMPACT AREA HERDERS</b>																
1	JARGALSAIKHANTS	Khambogd room, Javkhilant bagh, Zuunhanan	500 m		Hand well provided in 2010 /MNT3,000,000/	50 bundles of hay, 13 sacks of fodder provided in 2010,2011, 2012 /approx. MNT429,000 every year/		provided university tuition for his daughter in 2012 /MNT 1,300,000/	Participates in SLSP	Contracted as road control herder in 2011, 2012, 2013 /receives MNT150,000 monthly/	Water well	24-Jun-10	Established hand water well	CDAC member	2010	Meeting protocols
										Winter camp	1-Nov-12	Was included in rail RAP, the project however was transferred to Cvt	CDAC member	2011	Meeting protocols	
										Livestock killed while crossing the road	19-Aug-13	Investigation is being carried out to find out what Company's car hit the livestock	Hay support	2009-2012	Registration of beneficiaries	
2	BORKHUUD	Khambogd room, Javkhilant bagh, Khokh uzuur	1km			50 bundles of hay, 13 sacks of fodder provided in 2010,2011, 2012 /approx. MNT429,000 every year/	Received medical check up in 2012		Participates in SLSP	Contracted as road control herder in 2011, 2012, 2013 /receives MNT150,000 monthly/	Dirt road dust & road crossing	21-Jul-10	The Company built the paved road, the dirt road no longer used by the Company. Crossings were established on the paved road	CDAC member	2010	Meeting protocols
													CDAC member	2011	Meeting protocols	
													Participated in herders meeting for Rail Project	3 Aug 2012	Registration of meeting participants	
													Hay support	2009-2012	Registration of beneficiaries	
3	ADYAD & ENKHZUL	Khambogd, Javkhilant Zuun hashivch	200 m	Couple	Deep water well and Winter camp established in 2012 /MNT27,645,000/	50 bundles of hay, 13 sacks of fodder provided in 2010,2011, 2012 /approx. MNT429,000 every year/	Received medical check up in 2011, 2012		Participates in SLSP	Adya contracted as road control herder in 2011, 2012, 2013 /receives MNT150,000 monthly/	Dust	24-Jun-10	Was resettled to a location 2 km from the paved road	Home visit	18-Mar-11	Meeting report
											Deep water well & Winter camp	18-Mar-12	Deep water well and winter camp established	Participated in herders meeting for Rail Project	4 Aug 2012	Registration of meeting participants
5	NERZULL	Khambogd room, Javkhilant bagh, Shine us	800 m		Barn for water well /MNT3,818,000/	50 bundles of hay, 13 sacks of fodder provided in 2010,2011, 2012 /approx. MNT429,000 every year/			Participates in SLSP	Contracted as road control herder in 2011, 2012, 2013 /receives MNT150,000 monthly/	Deep water well		Was allowed to use from the Company's water wells	Hay support	2010-2012	Registration of beneficiaries
														Home visit	15-Sep-10	participated in questionnaire
6	ALTANGERELTS	Khambogd room, Javkhilant bagh, Ulaan tolgoi	2km	Majigouren's son-in-law		50 bundles of hay, 13 sacks of Fodder provided in 2012 /approx. MNT429,000/								Home visit 5 times	2010 -2013	
														Hay support	2012	Registration of beneficiaries

7	MAJIGSURENA & SURENGHUU	Khanbogd soum, Jarikhiant bagh, Alag del	1 km	Couple		50 bundles of hay, 13 sacks of fodder provided in 2010,2011, 2012 /approx. MNT429,000 every year/	Received medical check up in 2011, 2012		Participate in SLSP	Majigsuren contracted as road control herder in 2011, 2012, 2013 /receives MNT150,000 monthly/	Livestock fell in quarry pit after downpour		Gobi road contractor working for paved road construction provided monetary compensation	Participated in Open Ger event Participated in herders meeting of Bail Project Hay support	Oct-09 3-Aug-12 2009-2012	participated in questionnaire Registration of meeting participants Registration of beneficiaries
<b>NOT ER IMPACT AREA HERDERS AND GROUPS</b>																
8	Badamsuren	Khanbogd, Jarikhiant	17 km													
9	Odgang	Bayan-ovoo Khazrag	8km	Odkhuu's brother												
10	Enig O	Khanbogd, Jarikhiant	1,8 km	Majigsuren's mother												
11	Norovbanzad Ts															
12	Odkhuu B	Khanbogd, Jarikhiant	7 km	Couple												
13	Namsrai D	Khanbogd, Jarikhiant	5 km													
14	Tsetsegmaa /Zhuteen saviluu NGO	Khanbogd												Meeting in connection to road blockage	24-Aug-12 Bayan Ovoo soum	Meeting protocol
15	Sukhgerel /OT watch NGO	Ulaanbaatar									Sent a formal request (N8039/12)	6-Aug-12	A formal reply was sent (N81051)	CSR GM Sugarmaa met with Sukhgerel in person and delivered the Company's formal reply	31-Aug-12 UB	Record of meeting

## d(iv.) Client's Response – Energy Resources letter dated 30 May 2014.



### ENERGY RESOURCES LLC

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<http://www.energyresources.mn>

Date: 30 May 2014

Ref: 590

EUROPEAN BANK FOR RECONSTRUCTION  
AND DEVELOPMENT  
ATTN TO PROJECT COMPLAINT  
MECHANISM OFFICER

We, at Energy Resources LLC (“Company”), are writing this letter upon reviewing both the inquiries raised by herders from Javkhlant *bagh*, Khanbogd *soum* in June 2013 and the additional complaint submitted by the Oyu Tolgoi Watch NGO to the Project Complaint Mechanism (“PCM”) of the European Bank for Reconstruction and Development (“EBRD”) on 1 April 2014.

Energy Resources LLC has been operating the Ukhua Khudag (“UHG”) coking coal mine since April 2009 and is a legitimate holder of mining license 11952A covering 2,962 hectares area. Since its inception, the Company has worked in strict compliance with all applicable Mongolian legislation including the Environmental Protection Law, the Law on Environmental Impact Assessment and the Minerals Law while adhering to the Performance Requirements (“PR”) prescribed by the EBRD. The Company has always strived to be accountable for the environmental, social and economic impacts of its activity through a proactive sustainable development strategy within a strong governance framework.

As such, in accordance with the EBRD’s financing requirements and its Environmental and Social policy 2008 the Company has worked in full compliance with the following documents and ensured their consistent implementation throughout the UHG project development:

- UHG project Phase I – Environmental and Social Impact Assessment (“ESIA”)
- UHG project Phase I – Environmental and Social Action Plan (“ESAP”)
- UHG project Phase II – ESIA
- UHG project Phase II – Environmental and Social Management Plan (“ESMP”)
- UHG project Phase II – Public Consultation and Disclosure Plan (“PCDP”)
- UHG Project Phase II – Resettlement Action Plan (“RAP”)

The Company’s Phase I and Phase II ESIA and respective management plans were developed by internationally endorsed consulting firms including Sustainability LLC, Environmental Resource Management LLC and are designed to meet international lenders’ requirements. In addition, the project’s Detailed Environmental Impact Assessment and its follow-up Environmental Management Plans were updated in accordance with the amended Law on Environmental Impact Assessment and were approved by the Ministry of Nature and Green Development of Mongolia in June 2013.

The Phase II of the UHG project involved expansion of the open-pit mine and further infrastructure development around the mine-site and the miners’ camp as well as construction and development of the Coal Handling and Preparation Plant, a power plant, a water supply system, an air strip and coal export railway to the Chinese border. Within this framework, the ESIA-based ESMPs were implemented against all applicable criteria and Environmental and Social Performance reports have been submitted to the EBRD on a bi-annual basis every year since 2009.

The Company has worked entirely proactive with regards to the Phase I and II ESIA implementation taking consistent measures in preventing, reducing and mitigating potential adverse environmental and social impacts related to its mine development and coal transportation activities in a region characterized by limited access to basic infrastructure facilities and extreme climatic conditions. For example, 245 kilometers length industrial purpose paved road from UHG to the Gashuun Sukhait border point was built and put into operation at the Company’s initiative with its own investment. Moreover, in recognizing that a more permanent and sustainable coal transportation solution would be needed in the future, the Company has undertaken the feasibility study towards building a rail link.

In order to ensure transparency of its operations and community involvement in carrying out the above projects, wide-range of community consultations and meetings have been held with various stakeholder groups including local authorities, civil society, NGOs and herders, in addition to 6 separate community consultation and disclosure events with a total attendance of 4,000 people since 2008. These events served as a platform to discuss issues related to the project development and allowed the Company to receive community feedback and suggestions regarding its business and building a mutually beneficial relationship.

In September 2010, community consultations with a particular focus on the coal-haul road have been held with herders residing along the road in Tsogtsetsii, Bayan-Ovoo and Khanbogd soums with a total attendance of 1,500 locals. In addition to specific meetings held at each of the affected *baghs* and *soums*, the affected herder families were visited twice a month by the Company's community engagement officers for the entire duration of the road construction to better address herders' expectations and concerns.

The ESIA clearly states that coal transportation on dirt road passing through Tsogtsetsii, Bayan-Ovoo and Khanbogd soums had been taking place since 2005, long before the UHG mine coal transportation began in April 2009. Regardless, Energy Resources LLC has taken series of proactive measures in mitigating the adverse impacts caused by the coal transport operations in the region. These include upgrading of the coal-haul road surface from dirt to gravel, construction of an industrial purpose paved road and implementation of a railway project.

We hereby note that since 2011, Energy Resources LLC has been transporting coal on the paved road only.

Below is our response to major concerns raised and assertions made in the abovementioned complaints.

#### ***1. Clarification to some claims made by the OT Watch to PCM in April 2014***

##### *Protest and road closure<sup>1</sup>*

On 24 August 2012, herders from Khanbogd soum, OT Watch and Shuteen Gaviluut NGOs requested all mining companies engaged in coal transportation activities in the region for a joint consultative meeting in which only Energy Resources LLC representatives showed up and provided information on its activities.

To the best of our knowledge, local herders and the two abovementioned NGOs submitted a complaint to various government authorities and coal transportation companies operating in the Tavan Tolgoi formation to seize coal transportation on gravel roads and start using only the paved road built by the Company. Accordingly, a road blockage was organized seizing all traffic movement on the dirt road on 21-24 August 2012 and the blockage was extended to paved road on 3-4 September 2012. A request was issued to Energy Resources LLC to let all trucks transporting coal on the gravel road to use the paved road with reduced or no toll, to assist their effort in stopping coal transportation on the gravel road. (E-mail feedback dated 7 September 2012 was sent further to an inquiry by Sarah Ruck, Principal Social Advisor, Environment & Sustainability, EBRD).

The Company's representatives held a consultative meeting with the protestors involved in road blockage and explained the terms and conditions for using the paved road by third parties. The Company also submitted a letter to these groups with details on toll fee that was verified by the Mongolian Ministry of Road Transport and Construction and Urban Development. In addition, the Company supplied copies of letters it sent out to other companies (in January 2012) operating in the region, warranting them the use of paved road. Upon receiving clarification from the Company, the protestors agreed to lift the blockage of the paved road. The Company resumed its coal haulage operations on the paved road in the morning of September 5<sup>th</sup>. Thus, we have been keeping our road open for third-party users, and local residents are entitled to use the road free-of-charge.

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<sup>1</sup> OT Watch complaint document to PCM, page 3 and 14

Use of Ulaanbaatar - Tsogttsetsii and Tsogttsetsii - Dalanzadgad unsealed roads<sup>2</sup>

As part of its UHG project infrastructure development, the Company built and put into operation an airstrip in August 2009. Since then we have been transporting our employees and mine supplies by air in which two aviation companies – Eznis LLC and Air Mongolia LLC - have been responsible for our transportation of personnel and supplies. The routes of Ulaanbaatar - Tsogttsetsii (approximately 660 kilometers) and Tsogttsetsii - Dalanzadgad (approximately 100 kilometers) dirt roads are public road which are open for use by the public free of charge. Hence, it is our firm belief that the Company should be under no obligation to take over the government's role of building and paving public roads especially when our use of these roads are negligible.

UHG - Tsagaan Khad railroad<sup>3</sup>

To the best of our knowledge, there is no such rail link planned for construction between UHG mine and Tsagaan Khad. This route was previously considered in our long term coal transportation plan and is reflected in our ESIA Phase II, for which the Company has carried out the construction feasibility study. However in November 2012, the Government of Mongolia has passed a resolution to unify all rail links under a state owned company to build and manage the Tavan Tolgoi - Gashuun Sukhait and the Tavan Tolgoi - Sainshand rail links. Both these routes will be utilized by all exporting companies operating in Mongolia with usage tariff once it is commissioned. Thus, it cannot be argued that the rail project is production-to-market road for Energy Resources alone, rather the Tavan Tolgoi - Gashuun Sukhait rail link will serve the transportation needs of all companies including state owned companies operating in the Tavan Tolgoi coal formation.

245 km of paved road<sup>4</sup>

It is clearly a misunderstanding by the OT Watch in claiming that the 245 kilometers of paved road to the Chinese border was built by consortium of mining companies. The Energy Resources LLC built the UHG - Gashuun Sukhait paved road in 2011 at its own initiative, with 100% its own investment under a "Build-Operate-Transfer" Agreement with the Mongolian Ministry of Road, Transportation, Construction and Urban Development. The paved road was then open for use by other companies with road tariff that only applied to heavy duty vehicles only.

In February 2014, the control of the abovementioned road along with its rights and responsibilities with regards to operation and maintenance was transferred to the Erdenes MGL LLC, a state-owned company incorporated in Mongolia assigned by the Government of Mongolia pursuant to Government Resolution № 209. Currently, along with other users, the Company utilizes the paved road for its coal transportation by paying the road usage tariff in accordance with the relevant legislation.

The new railroad and its feasibility study<sup>5</sup>

As mentioned before, the responsibility of building a rail link connecting Tavan Tolgoi – Gashuun Sukhait is no longer under the Company's control. Hence, it is imprudent to cite references to the rail link that was previously planned to be constructed by the Company. Instead, the discussion of any issues related to the newly planned integrated rail link by the Government of Mongolia should be based on consultation of relevant documents and authorities for accurate and up-to-date information regarding its capacity, impact management and plan for maintenance etc.

Nevertheless, it must be emphasized that the railroad planned by the Company was not fenced due to environmental concerns and it is clearly stated in the ESIA, in the Notes to Reader section in the beginning of the document.

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<sup>2</sup> OT Watch complaint document pages 3-4

<sup>3</sup> Ibid., page 4

<sup>4</sup> Ibid., pages 3 and 13

<sup>5</sup> Ibid., pages 4 and 6

2. *“Multiple branches of roads lead to loss of our pasture land and means of livelihood, posing threat to our traditional nomadic culture and the way of living”*

Coal transportation before 2011

In general, coal transportation activities began in the region in about 2005 on dirt road. Energy Resources LLC commenced coal mining in 2008 and started its coal transport operations from Tavantolgoi area in Tsogttsetsii soum, Umnugobi aimag to Gashuun Sukhait border point in September 2009 using the gravel road via “Tavantolgoi – Chuluun Ovoo – Javkhlant bagh – Gashuun Sukhait route. Prior to starting the gravel road transportation, the Company, along with 3 other legal entities, formed the Coal Road LLC joint venture (each buying 25% stake in the new company) set to work in charge of the gravel road maintenance and upgrading. The Coal Road LLC had worked in charge of maintenance and upgrading of 254 km gravel road prior to the Tavantolgoi - Gashuun Sukhait paved road was constructed and put into operation. By 2011, Energy Resources LLC had invested a total of approx. MNT 5.8 billion in the gravel road maintenance through Coal Road LLC. Hence, it cannot be argued by the OT Watch that the Company has done nothing to consider the impacts of its activity and did not explore possible mitigation measures<sup>6</sup>. Not only the Company initiated the Coal Road LLC joint venture to upgrade the dirt road to gravel road, it explored further possibilities to mitigate the adverse impacts associated with coal transportation on unpaved road.

Environmental and social benefits of the paved road

Further to the Government of Mongolia Resolution No.83 in 2010 aimed at supporting the country’s coal exports and protecting the eco-system of the Gobi region, Gobi Road LLC, a wholly-owned subsidiary of Energy Resources LLC, was granted the permission to construct 245 km heavy-duty paved road from UHG mine to Gashuun Sukhait border point.

Energy Resources LLC invested approximately MNT 150 billion in the road construction and signed a concession agreement with the Government under which the road was to be transferred to the Government in 10 years from commissioning. The paved road was put into operation in October 2011. It is indisputable that by constructing the road in the first place and enabling its own and others’ coal transportation activity to resume on a paved road, the Company has made a substantial private-sector investment that had significant contribution towards reducing the negative environmental impacts associated with unpaved roads including land erosion, dust and degradation of vegetation in the region.

Our research findings reveal that by constructing the paved road, the following environmental and social benefits were derived:

- Road accidents and damage to property have decreased considerably by approximately 45%;
- Road accidents related to poor visibility due to generation of excessive dust was almost diminished;
- Substantial decrease in accident and injury to drivers;
- 70% reduction in accidents that involve trucks and haulage trailer falling into road gutter;
- Reduced fatigue in truck drivers (before each driver had to mend 60 kg of 3-4 tires on each trip);
- Dust generation from truck tires has completely disappeared;
- Substantial reduction in land erosion and degradation of vegetation;
- Pastureland along the paved road is no more covered in dust;
- Fuel consumption was reduced by 20%, thereby reducing financial cost and environmental footprint.

Mitigation measures

It must be noted here that there are no formally designated or privatized pasture for any herders and naturally it is impossible to build a road without “fragmenting” pastureland. However, the dirt road existed before the Company began its transportation activities and would be wrong to assume that Energy Resources’ paved road caused pasture fragmentation any more than the pre-existing state dirt road. Early in the project cycle, the Company assessed the socio-economic baseline in the project impact area, made projections on likely environmental and social impacts that could occur during and after the road construction and has taken various measures to address and mitigate the risks that could have adverse

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<sup>6</sup> OT Watch complaint document page 13

impact on herders' health, safety and means of living. Our measures include but not limited to the following:

- Determined the road impact area in accordance with the “buffer zone” and the “area of influence” formally stated in articles 3.1.6 and 12.2 of the Mongolian Law on Auto Road and identified 34 herder families that had been residing in the area of impact;
- In consultation with the affected herder communities, 25 livestock-crossings and more than 50 traffic signs that give priority for livestock were established to minimize the disturbance to the pasture land. Since the paved road is not constructed on high level, it is impossible to construct underpasses designed for animals to cross. However, the Company provided instructions and guidance for herders residing along the coal haulage road on how to use the road crossing;
- The Company has spent more than MNT 200 million to carry out the following activities based on the UHG project Resettlement Action Plan (“RAP”) that intended to mitigate inconveniences caused by the construction of the paved road:
  - 10 herder families were resettled;
  - 5 deep drill wells and 2 hand operated wells were constructed;
  - 2 wells were refurbished;
  - 1 winter camp was built for a herder family;
  - 1 spring camp was moved and reconstructed;
  - 1 hectare vegetable field was moved and fenced;
  - 2 deep drill wells and a winter camp were arranged for 2 herder families resided in the road quarry impact area.

The UHG project RAP was reviewed by the EBRD and we adhered to the Bank's performance requirements and its Environmental and Social Policy with regards to resettlement and compensation. To the best of our knowledge, currently there is no water well that belongs to our impact area herders separated by the paved road.

#### Livelihood support

Statistics indicate that more than 44% of the affected herders were solely reliant on herding for their livelihood and some of the herder families had lost majority of their livestock during extremely harsh winters of 2009-2010. Taking these into account and within an overall framework of the auto road impact prevention and mitigation measures, the Company has spent more than MNT 353 million in support of the affected families' livelihoods. These included settling of Khan bank loan outstanding for 2 herder families, education tuition for 2 families and livestock support etc.

In addition to the above, to date the Company has provided hay and fodder worth MNT 500 million to the affected communities since 2009. In 2012 and 2013 alone, over 400 herder families were provided with 15150 packages of hay, 2910 sacks of fodder and 2181 sacks of silage. Energy Resources LLC has also started implementing “Sustainable Livelihood Support Program” to promote and support the traditional way of livestock herding and help ensure sustainable income flow of herder families.

On another note, in recent years, Umnugobi aimag has consistently been ranked as one of the country's Top 5 aimags with the highest livestock population growth rate, thus contradicting the herders' claims about the communities completely losing their livestock and nomadic way living. Precisely, as of the 1<sup>st</sup> half of 2013, livestock population in Umnugobi aimag grew by 444,804 to 1,864,057 while the total livestock population in Khanbogd soum has grown from 123,281 in the end of 2012 to 142,448 in the 1<sup>st</sup> half of 2013<sup>7</sup>. We therefore recommend that the raised issues are based on factual information and statistical data.

3. *“The dust pollution related health issues have been periodically raised by the herder communities living in the vicinity of the coal-haul road, but the mining companies are not conducting health impact assessments nor taking corrective measures”*

As mentioned above, Energy Resources LLC has been using its own paved road for coal transportation since October 2011.

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<sup>7</sup> (Source: National Statistical Office report <http://web.nso.mn/portal/indexc.php?v=16&m=25&s=1&id=1044>).

The Company approached other mining companies operating in the area and sent them each an official letter to use the paved road alongside with a copy of the road use agreement and terms and conditions. So far, only state-owned company Erdenes Tavantolgoi has accepted the offer, signed a road use agreement with the Company and has been using the road for its coal transportation since May 2012.

#### Dust

As mentioned before, the commissioning of the paved road had brought about significant improvement in reducing dust generated by coal haul trucks. Additionally, the Company took appropriate measures to reduce the amount of dust generated in the vicinity of the mine site and the coal haul road in accordance with the Dust Management Plan of its project ESMP. These measures include the following:

- Construction of a 18 meter high fencing at our Tsagaan Khad coal stockpile;
- Watering of the coal haul road inside the mine pit with treated waste water;
- Improving our operational efficiency and, as a result, minimizing our coal stockpile;
- Continuous experimenting with treating the mine pit road with binding chemicals and agents to suppress dust generated by coal haul trucks;
- Installment of dust suction equipment at the Coal Handling and Processing Plant (CHPP);
- A working group has been established to conduct assessment of dust generation at different workplaces of the Company and to offer tailored solutions to reduce dust;
- In order to reduce the coal dust in the air, an integrated ash bunker has been put into operation;
- The Company is working to further reduce coal dust by producing a thick mixture from ash by adding water;
- Monitoring and measurement of dust is conducted at 4 specific points on the coal haul road at every 50km.

In addition, our Dust monitoring report is delivered to the local administration on a monthly basis and is also published on the UHG monthly bulletin for public information.

#### Community health

A joint team consisting of the Company's health, safety, environment and community relations units regularly organized trainings on road safety, environmental protection, waste management and health related topics for the affected community groups.

As part of its health support program and in order to help strengthen the local capacity to deliver quality health services, support community health and promote healthy way of living among the host communities, the Company has organized Community health screening and In-service physician training program for three consecutive years between 2010 and 2012. As part of this initiative, a team of highly-skilled physicians and nurses carried out health check-ups among the community members including the Company employees resettled in Umnugobi, their family members, herders from 8 soums of Umnugobi aimag and local people who required urgent medical assistance. A total of over 3,000 community members benefited from pediatrics, cardiovascular, oncology, gynecology and ultra-sound examinations and received necessary treatments and medicines free-of-charge.

The Company's health program and initiatives go beyond legislative or other requirements and have reached broad base communities. For instance, to support fight the national level outbreak of Hepatitis A, the Company has financed and organized a community-based vaccination outreach program through which vulnerable local population including more than 500 children from local communities have received vaccine shots.

For three consecutive years from 2010 to 2012, the Company organized its annual community health awareness building training and campaign - "*Healthy Citizen - Future of the Region*". The goal of this program was to build the capacities of local health professionals to deliver quality service to the public and to enable community members to protect their own health by increasing their knowledge and awareness of maintaining a healthy lifestyle. Moreover, it aligns with the Company's commitment to invest in the health of the community as reflected in its management plans to mitigate any adverse impact associated with the UHG project activities. Within the framework of the program, trainings and campaigns focusing on various topics including reproductive health, smoking, alcohol consumption, spread of HIV/STD, diet & exercise, household accident and injury, environmental disaster were

organized among youth, health professionals, truck drivers, herders and soum center community members.

Since August 2010, Energy Resources has been partnering with the Mongolian Employers' Federation to implement on a pilot basis ADB financed HIV prevention program to develop a model intervention package for the infrastructure sector, including mining. The HIV prevention program targets the Company's workers, local community and vulnerable groups (individuals who run small business along the coal road, entertainment service workers, and sex workers etc.) in the impact area. Various activities have been implemented for target groups, such as trainings for workers and community, distribution of information materials, leaflets and brochures, and free distribution of condoms. By implementing this program the Company intends to improve workers' health education, raise awareness among staff about potential risks of HIV/AIDS and STI transmission, and more importantly, to institute a sustainable mechanism that will prevent from the spread of HIV among the Company workers and local community as well.

Overall, the Company has been actively implementing a wide range of health support activities in addition to following the commitments set out in its ESMP-based Community health and safety management plan.

**4. *"Livestock health is deteriorating due to dust; cattle entrails, originally traditional food of Mongolia, became unfit for consumption"***

In April 2012 we have received a complaint requesting the Company to carry out a livestock health inspection. Upon consultation with the complained herder (N.Nyamjav), we agreed to resettle their family to new pasture and established water well. We would like to emphasize here again that since 2011, the Company has been transporting coal to the Gashuun Sukhait border point via paved road only and dust generation from coal transportation on the paved road is meager compared to before. As such, we cannot be held responsible for any dirt road related complaints beyond this time. Nevertheless, the Company has proactively engaged with herders residing along the coal haul road and sent our representatives to any community summoned meetings among mining companies operating in the region. Energy Resources LLC has in place an active Grievance handling mechanism and we strive to address community complaints in a timely manner.

Grievance handling

In 2011, the local authorities together with the herder community members approached all mining companies in the region and called for collaborative efforts against dust pollution caused by coal transportation on dirt road and requested the companies to cover the costs required for resettlement (winter/ summer camps, water well etc) of affected herder groups. Although the Company had been using its own paved road for the coal transportation, we have arranged resettlement of 3 herder families who had resided along the dirt road and covered the costs required for constructing deep drill wells and moving their winter camps.

In preventing and mitigating adverse impacts during and after the auto road construction, we have actively communicated and cooperated with community council members from the affected areas in Tsogtsetsii, Bayan-Ovoo and Khanbogd soums as well as direct representatives from the affected herder groups and have worked proactively and effectively in handling their requests and complaints. Moreover, the Company contracted 15 herders in 2010, 25 herders in 2011, 31 herders in 2012 and 28 herders in 2013 respectively in order to ensure their involvement in monitoring the potential impact mitigation during the road construction and road utilization stages. Our Community relations team has maintained frequent dialogue with these herders and held informative and/or consultative meetings with them twice every month for the duration of the auto road construction.

For instance, 7 of the herders who submitted the petition to PCM (namely, Ts.Jargalsaikhan, D.Borkhuu, A.Majigsuren, Kh.Surenkhoo, D.Adiya, Ch.Enkhzul, L.Nerzul) reside and herd their livestock within 1 km distance from our UHG-Gashuun Sukhait auto road route. These herders are contract-based, road monitoring workers of the Company and perform their contract duties by informing the other herders about the road safety and animal crossings, preventing livestock from getting injured by the road operations or informing the Company officials about breaches of the road traffic rules etc.

The OT Watch NGO (OT Watch and Shuteen Daviluut NGOs mentioned in the unofficial English translation of the petition though not mentioned in the original letter), however, sent a formal inquiry (No.039/ 12, attached to this letter; *Attachment A*) to a number of ministries and companies operating in the region including Energy Resources LLC, on 6 August 2012 to which the Company issued a written response (No.1051, attached herewith; Original letter in Mongolian – *Attachment B1*; Unofficial English translation - *Attachment B2*) on 30 August 2012. Our response letter provided answers and clear explanations on the preventive and mitigation measures we have been carrying out with regard to the auto road social impact assessment as well as resettlement issues.

We think it is also worthwhile to mention that on 24 August 2012, herders from Khanbogd soum and OT Watch and Shuteen Gaviluut NGOs asked all mining companies engaged in coal transportation activities in the region for a joint consultative meeting in which only Energy Resources LLC representatives were present and provided information on its activities

#### Compensations for complained herders

It must be noted here that the petitioners' list shows that many of them are couples or related (1. A.Majigsuren and Kh.Surenkhuu; 2. D.Adiya and Ch.Enkhzul; 3. Norovbanzad and B.Odkhuu; 4. B.Odkhuu and B.Odgarig are brothers; 5. O.Ishig is A. Majigsuren's mother; 6. Ts.Altangerel is A. Majigsuren's son-in-law). The Company constructed a hand operated well to the family of Ts.Jargalsaikhan in 2010 and covered tuition fee for the family's student son while D.Adiya's family was provided with a new winter camp and a deep drill well. In addition to the above, Ts.Jargalsaikhan had approached the company in 2012 with a request to have his winter camp reconstructed. Upon review, we initially declined the request as the family winter camp was deteriorated due to the coal operations on dirt roads and had little or no disturbance from our paved road operations. However, by the time the Company started to implement the railway project, the associated studies found the family winter camp within the railway impact area and facilitated the cost required for the winter camp reconstruction through the railway resettlement plan and budget. The rest of the petitioners, except mentioned 7, are not from the Company impact area.

#### **5. Conclusion**

Summing up the above, we, at Energy Resources LLC, have been operating in the region fully within our commitment to respect the rights of the host communities and worked in compliance with the lenders' performance requirements. We will continue to work towards addressing and mitigating risks derived from our operations that may violate the rights of the community members and have impact on herders from our project impact area.

The aforementioned complaint issued by herders from Khanbogd soum, Umnugobi aimag (geographically located alongside the Chinese border), is broad in scope and is rooted in cumulative regional impacts caused by years of coal transportation on branches of dirt road to the Chinese border and/or mining activities by numerous companies rather than addressing a complaint to a particular company and/or its activities.

Above information is also included in our auto road RAP as well as annual and semi-annual Environmental and social performance reports submitted to EBRD accordingly.

Sincerely,

  
Corporate Social Responsibility Department  
ENERGY RESOURCES LLC

**Map of Complainants' winter camps in relation to OT and ER roads and infrastructure.**

Legend

	- Mine related	1 - OT
	- Improved or gravel	2 - ER
	- paved road.	3 - BOTH
	- dirt road.	
	- deteriorated, improved.	
	- Quarry	
	- Quarry or operation	
	COMPLAINANTS	
	ACCIDENT	

