

ASIAN DEVELOPMENT BANK

**FINAL REPORT
OF THE
SPECIAL PROJECT FACILITATOR
ON THE
RAWALPINDI ENVIRONMENTAL IMPROVEMENT PROJECT
IN
PAKISTAN**

ADB Loan 2211-PAK/2212-PAK(SF) (13 December 2005)

(Complaint received 28 May 2009)

October 2010

ABBREVIATIONS

ADB	Asian Development Bank
AP	affected person
CWUS	Central and West Asia Department, Urban Services Division
EA	executing agency
IA	implementing agency
LAA	Land Acquisition Act
OSPF	Office of the Special Project Facilitator
PMU	Project Management Unit
PRM	Pakistan Resident Mission
RAR	Review and Assessment Report
REIP	Rawalpindi Environmental Improvement Project
RP	Resettlement Plan
SPF	Special Project Facilitator
STP	sewage treatment plant
WASA	Water and Sanitation Authority

CONTENTS

	Page
EXECUTIVE SUMMARY	iii
I. BACKGROUND	1
A. The Project	1
B. The Complaint	1
C. Determination of Eligibility	1
II. REVIEW AND ASSESSMENT	2
A. Methodology	2
B. Identification of Stakeholders	2
C. Findings and Recommendations	2
D. Proposed Course of Action	3
III. COURSE OF ACTION	4

EXECUTIVE SUMMARY

1. The Asian Development Bank's (ADB) Rawalpindi Environmental Improvement Project¹ in Pakistan comprised (i) environmental sanitation (including sewerage, sewage treatment, stormwater drainage, solid waste management, slaughterhouse replacement, and public toilets); (ii) water supply improvement (including replacement of tubewells, rehabilitation and construction of distribution networks, water meter installation, and water supply and sanitation facilities in schools); and (iii) institutional development (including development of municipal management, an urban environmental development plan, asset management, and urban planning). One of the subprojects was the construction of a sewage treatment plant (STP) for Rawalpindi.

2. The Office of the Special Project Facilitator (OSPF) received a complaint about the STP by e-mail on 28 May 2009 and declared it eligible for the Consultation Phase of the Accountability Mechanism on 18 June 2009. The complainants were losing agricultural land that was to be used for the STP. While they had already been paid for their land, the STP construction had not yet started, and the complainants were still growing and harvesting crops. The complainants were primarily concerned about the compensation rates for their land but also raised environmental issues. OSPF reviewed and assessed the complaint and recommended a number of actions to resolve the issues of the complaint, including a multistakeholder consultation, explanation of land compensation procedures and rates, briefings on site selection and environmental issues, implementation of the Resettlement Plan, and other activities. The complainants decided to continue with the consultation process, and they as well as ADB and the government provided comments on the Review and Assessment Report.

3. Due to several factors, the recommended course of action could not be implemented as planned. OSPF organized a briefing on land valuation, a meeting with a senior Board of Revenue official, and a visit to an operating STP. However, the national law on land acquisition stipulated that only the courts could revise land compensation rates, so that consultations were unable to resolve that issue. Meanwhile, the loan for the project had been suspended in February 2009 and was closed in December 2009; the possibility of taking up the STP in a new program planned for 2011 was open but contingent on certain actions by the government. Since the consultation had been unable to resolve the key issue of land compensation, and the project had been closed with no clear indication of if or when the STP would actually be built, the Special Project Facilitator concluded that no further consultation would be purposeful, and the complaint was closed. OSPF, however, made it clear that, should the STP be taken up under a new loan, and if the complainants felt they were harmed by an action or omission of ADB, they could come back to OSPF.

¹ ADB. 2005. Report and Recommendation of the President to the Board of Directors on Proposed Loans to Pakistan for the Rawalpindi Environmental Improvement Project. Manila. Loans 2211-PAK and 2212(SF)-PAK for \$20 million and \$40 million, respectively, approved on 13 December 2005.

I. BACKGROUND

A. The Project

1. The Asian Development Bank's (ADB) Rawalpindi Environmental Improvement Project (REIP)¹ in Pakistan comprised (i) environmental sanitation (including sewerage, sewage treatment, stormwater drainage, solid waste management, slaughterhouse replacement, and public toilets); (ii) water supply improvement (including replacement of tubewells, rehabilitation and construction of distribution networks, water meter installation, and water supply and sanitation facilities in schools); and (iii) institutional development (including development of municipal management, an urban environmental development plan, asset management, and urban planning). One of the subprojects was the construction of a sewage treatment plant (STP) for Rawalpindi. The City District Rawalpindi was the executing agency (EA), and one of the implementing agencies (IAs) was the Water and Sanitation Authority (WASA). ADB suspended the REIP on 3 February 2009, and the loan was closed on 31 December 2009 before any work on the STP had been started. Construction of the STP may be considered for financing under a proposed new program, the Punjab Cities Improvement Investment Program.²

B. The Complaint

2. The Office of the Special Project Facilitator (OSPF) received a complaint about the STP by e-mail on 28 May 2009.³ OSPF acknowledged receipt of the complaint, requested additional information, and then registered the complaint on 4 June 2009. The complainants' main issue was the compensation offered for their land, which they believed was too low. In addition, the valuation assigned to one village was substantially higher than that of the three other affected villages, and the land was differently categorized. The complainants also raised concerns over possible harm to the environment due to the STP, which they feared would also lower the value of nearby properties, and they thought the ponds of the STP would be too close to their houses. The complainants were further concerned that population growth in Rawalpindi might require future expansion of the plant, requiring even more land, and they questioned the site selection process.

C. Determination of Eligibility

3. To determine the eligibility of the complaint, OSPF held discussions with the Urban Services Division of ADB's Central and West Asia Department (CWUS) and checked how CWUS had dealt with the complainants' earlier concerns. OSPF also fielded a Mission to Pakistan from 11 to 16 June 2009, led by the Special Project Facilitator (SPF). The Mission interviewed the leader of the complainants, visited the project site, and held a meeting with a large group of complainants. The Mission also interviewed concerned ADB staff and held meetings with the Project Management Unit (PMU) of the IA and officials in the Punjab provincial government. OSPF determined the complaint to be eligible on 18 June 2009.

¹ ADB. 2005. Report and Recommendation of the President to the Board of Directors on Proposed Loans to Pakistan for the Rawalpindi Environmental Improvement Project. Manila. Loans 2211-PAK and 2212(SF)-PAK for \$20 million and \$40 million, respectively, approved on 13 December 2005.

² This Multitranche Financing Facility may be considered by the ADB Board of Directors in 2011, but the STP is not expected to be included in the first tranche.

³ See <http://www.adb.org/Documents/SPF/REIP-Complaint-letter.pdf>

II. REVIEW AND ASSESSMENT

A. Methodology

4. The review and assessment included (i) a desk-based review of documents, including the Report and Recommendation of the President, back-to-office reports, memoranda of understanding, and the 2007 Resettlement Plan (RP) and the draft of its 2009 update; (ii) interviews with ADB staff and management involved in the Project; (iii) site visits; (iv) individual interviews with the complainants' representative and with complainants;⁴ and (v) interviews with government stakeholders, the EA, and the IA. The interviews were conducted using semistructured questionnaires. A local facilitator and two translators supported OSPF in interviewing complainants and government stakeholders.

B. Identification of Stakeholders

5. The Review and Assessment Report (RAR) identified the stakeholders as the complainants, the government (particularly the PMU), and ADB's CWUS and Pakistan Resident Mission (PRM).

6. The complaint letter came from affected persons (APs) from the village of Jabbar Miana, but during the eligibility mission, members of the three other affected villages—Adiala, Gorakhpur, and Gidhpur—joined the complaint. Most of them were small landowners, but three complainants were tenants. The complainants' land is located in the plain of the Soan River and is irrigated by tube wells or by water pumped using animal traction. They cultivate wheat, pulses, melons, cabbage, carrots, other vegetables, and fodder for their cattle. They selected as their representative Mr. Qazi Asad Mahmood, a land owner from Jabbar Miana and a lawyer by profession.

7. The City District Rawalpindi was the executing agency of the Project, and WASA was the IA for the STP. The PMU, located at the WASA building in Rawalpindi, reported to the Housing, Urban Development, and Public Health Engineering Department in Lahore. A number of consultants, engineers, and social development specialists supported the PMU in the implementation of the Project. The project director had overall responsibility for implementation of the RP.

8. CWUS was responsible for administration of the Project jointly with PRM. Until early March 2009, the project officer was based in ADB Manila, but from then on the project officer was based in PRM in Islamabad. Two resettlement specialists were also based in PRM, while the environment specialist was based in ADB Manila.

C. Findings and Recommendations

9. The RAR grouped the issues into three categories—compensation and livelihood, location of the STP, and safe environment.

10. **Compensation and Livelihood.** Most of the complainants had already been paid for their land but thought the compensation rates were too low. The compensation was based on the rate for non-irrigated land even though much of the land had wells. The village of Adiala was

⁴ OSPF verified the list of complainants, the total number being 25, all male. Twenty-four were interviewed directly, and one was interviewed by telephone. OSPF held a separate meeting with six female family members.

assessed after the other three villages and received a higher compensation rate, which the three villages viewed as unfair. The government thought the rates were just and fair; furthermore, under the Land Acquisition Act (LAA), the complainants had the option of pursuing the matter in court if they disagreed with the valuation, and the government would abide by the decision of the court. However, many complainants lacked an understanding of the LAA, and only a few had contested the award in court. ADB had requested the PMU to revise the RP, and several versions had been discussed. Both the LAA and the RP required paying compensation for nonland assets, as well as land, before the government could take possession of the land. Since the government had not yet taken possession, the complainants were still cultivating and harvesting crops from the land. The complainants were also very concerned about their livelihood after losing their land. Those who were tenants would lose their work entirely. The government mentioned that some district cadre posts and jobs at the STP might be available for the affected people.

11. **Location of the STP.** Some of the complainants thought the STP should be built on barren land or on government land, but not on their agricultural land. The government said it had no other land available and insisted that this site had been identified after thorough consideration of alternatives. It was very concerned that the City of Rawalpindi urgently needed the STP.

12. **Safe Environment.** The complainants were concerned about mosquitoes, flooding and erosion, groundwater contamination, and bad odors from the STP. They were also afraid that the STP would have a negative effect on land in the vicinity, be built too close to residences, and possibly force them to leave the area. The government, by contrast, was concerned about the quality of the farmers' current irrigation water and thought the STP would improve the health of the nearby villagers. Technical concerns could be dealt with—flooding would be addressed by building a high bund around the STP, there would be a buffer zone with trees, and the STP ponds would be lined to prevent seepage.

13. The RAR concluded that there was need first to respond to the complainants' priority concern about compensation. It was not clear how long it would take the court to rule on the cases submitted by complainants. ADB and the Government would have to discuss the sequence of interventions (construction of missing links in the sewage system and implementation of the RP), including the complete disbursement of compensation for land and nonland assets, so that the APs would be provided definite information on how long they would be able to continue cultivating their land. OSPF proposed a set of ground rules to make sure interactions among the parties were respectful and appropriate.

D. Proposed Course of Action

14. The proposed course of action was a compilation based on stakeholders' suggestions for addressing their concerns. The parties were to comment on the proposed activities, and the list was to be discussed during a multistakeholder consultation, when it could again be adjusted and changed as the parties saw fit.

15. Regarding compensation and livelihood, the RAR recommended that ADB and the PMU make a realistic assessment of the time needed until a court ruling could be expected, and that ADB and the Government of Punjab agree on a plan for including the REIP in the proposed new project. A brochure should be provided to APs that explained the LAA in clear terms, and briefings should be organized on land valuation and on employment opportunities in the STP.

Once the STP was constructed, there should be an open and transparent process for recruiting permanent residents of the districts to work at the STP. The PMU should implement the updated and approved RP and provide thorough briefings about it for APs.

16. Concerning the location of the STP, the RAR recommended that the PMU prepare a briefing for ADB and the APs on the site selection. With regard to a safe environment, the RAR recommended that the PMU prepare a presentation on the results of the flooding assessment and orient the APs about safety measures such as pond lining to avoid groundwater contamination. The PMU should also circulate the results of an odor study that was planned for the detailed design stage, and the PMU environment specialist should provide a briefing for APs on his monitoring responsibilities and reach agreement on how to keep them regularly informed.

17. OSPF proposed to prepare a draft agreement on a course of action after the complainants had decided whether they wanted to continue with the consultation process, and after the parties had provided their comments on the RAR. This draft agreement for a course of action was to be discussed in a multistakeholder consultation in late September or early October 2009.

18. OSPF circulated the RAR to the parties on 24 July 2009, and on 19 August 2009 the complainants decided to carry on with the consultation process. The complainants, CWUS and the PMU provided comments on the RAR.

III. COURSE OF ACTION

19. The course of action was not implemented as planned due to several factors. The security situation in Pakistan later in 2009 was such that OSPF had difficulty visiting the country, and the planned multistakeholder consultation was not held. Meanwhile, ADB closed the loan for the project at the end of December 2009. ADB is planning a new investment program for Punjab cities infrastructure in 2011; while the STP could, in principle, be taken up under the new program, ADB made it clear that this would be considered only if certain conditions were met.

20. Given the prominence of land compensation among the concerns of the complainants, OSPF placed emphasis on this issue, and with the help of consultants, organized a briefing on land valuation for the complainants in December 2009. The key participant from the Board of Revenue unfortunately bowed out at the last minute, and a substitute from a lower level was not able to elucidate the land valuation process in this case to the satisfaction of the complainants. In April 2010, OSPF met with a senior official of the Board of Revenue together with the lead complainant, and the official confirmed that it was not possible to revise the land compensation award after it has been announced, except through the courts. ADB and other government officials corroborated this view, closing off the possibility of OSPF's resolving the compensation issue through consultation.

21. To help resolve the concerns about environmental issues, OSPF organized a visit by a group of the complainants to a functioning wastewater treatment plant in Faisalabad, of a design similar to that planned for the STP under REIP. The complainants appreciated the visit but reiterated that their main concern was the level of compensation for land.

22. The SPF convened a meeting in July 2010 with the complainants, the PMU project director and deputy director, and the project officer and resettlement specialist from PRM, at which the situation was reviewed and discussed. OSPF described the efforts it had made to

resolve the issues of the complaint. PRM described the status of the project: the loan had been closed, and ADB would consider taking up the STP under a new investment program only if clear government decisions were taken on two issues that would directly affect the STP—the treatment of cantonment water,⁵ and the Lai expressway.⁶ The PMU said that although the loan had been closed, it was still operating (with minimal staff), and the complainants could contact the office if they wanted to discuss any issues. The PMU also informed the meeting that the awards for nonland assets had been announced in June, although neither the complainants nor ADB had been aware of this. Further, the PMU said it was planning to possess the land and asked that the farmers harvest their crops in preparation for this.

23. The consultation had been unable to resolve the key issue about land compensation, and the project had been closed with no clear indication of if or when the STP would actually be constructed. Given these circumstances, the SPF informed the meeting that it appeared that no further consultation would be purposeful and that the case should be closed at this point. The SPF said that if ADB in the future did take up the STP under a new loan, and if the complainants felt they were harmed by an act or omission of ADB in relation to that new loan, they could come back to OSPF. However, the SPF emphasized that OSPF was very limited in what it could do about land compensation awards, once the awards had been announced. In addition, the complainants needed to work first to resolve their problem with the ADB operations staff before they submitted another complaint to OSPF.

⁵ The STP would need to be bigger if waste water from the cantonment (military camp) in Rawalpindi were to be treated by it, in addition to water from the rest of Rawalpindi.

⁶ The design of the outfall sewer bringing sewage to the STP would be affected if this expressway were to be built.