

**MANAGEMENT RESPONSE TO  
REQUEST FOR INSPECTION PANEL REVIEW OF THE  
AFGHANISTAN: SUSTAINABLE DEVELOPMENT OF NATURAL RESOURCES –  
ADDITIONAL FINANCING (P116651), AND SUSTAINABLE DEVELOPMENT OF  
NATURAL RESOURCES II (P118925)**

Management has reviewed the Request for Inspection of the Afghanistan: Sustainable Development of Natural Resources – Additional Financing (P116651), and Sustainable Development of Natural Resources II (P118925), received by the Inspection Panel on December 3<sup>rd</sup> and December 6<sup>th</sup>, 2012 and registered on January 4<sup>th</sup>, 2013 (RQ13/01). Management has prepared the following response.

February 8, 2013



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## ABBREVIATIONS AND ACRONYMS

ARCH	Alliance for the Restoration of Cultural Heritage
BP	Bank Procedures
CE	Common Era
DAFA	<i>Délégation Archéologique Française en Afghanistan</i> (French Archaeological Delegation to Afghanistan)
EI	Extractive Industries
EITI	Extractive Industries Transparency Initiative
EMP	Environmental Management Plan
EPP	Emergency Project Paper
ESIA	Environmental and Social Impact Assessment
ESMF	Environmental and Social Management Framework
FCS	Fragile and Conflict-affected State
FS	Feasibility Study
GoA	Government of the Islamic Republic of Afghanistan
ISN	Interim Strategy Note
MCC	MCC-Jiangxi Copper Consortium
MJAM	MCC-JCL Aynak Minerals Company Limited
MoIC	Ministry of Information and Culture
MoM	Ministry of Mines
MoUD	Ministry of Urban Development
NEPA	National Environmental Protection Agency
OP	Operational Policy
PAF	Project Affected Family
RAP	Resettlement Action Plan
RPF	Resettlement Policy Framework
SDNRP	Sustainable Development of Natural Resources Project
ToR	Terms of Reference
UNAMA	United Nations Assistance Mission in Afghanistan
UNESCO	United Nations Educational, Scientific and Cultural Organization

## Currency Unit

Exchange Rate as of February 8, 2013

1 USD = 51.86 AFN (Afghani)  
1 AFN = 0.01921 USD

## EXECUTIVE SUMMARY

i. On January 4, 2013, the Inspection Panel registered two Requests for Inspection, IPN Request RQ 13/01 (“the Request”), concerning the Afghanistan: Sustainable Development of Natural Resources–Additional Financing (P116651), and Sustainable Development of Natural Resources II (P118925) (collectively, “the Project”), financed by the International Development Association (the Bank).

### Background

ii. The Request raises social, environmental and cultural concerns with respect to the proposed exploitation<sup>1</sup> of the Aynak copper deposit (“Aynak”). Mes Aynak, (“copper well” in Dari), is located within the Aynak concession area in Logar province, one of the poorest provinces in Afghanistan. Copper resources were actively exploited at Aynak, from the first to ninth centuries CE, and possibly much earlier. Physical cultural resources at Mes Aynak have been documented since the early 1960s. There is evidence that the site includes a Buddhist monastic complex, town site, temples, ancient copper mining galleries and hundreds of sculptures. Security risks have made archaeological work at the site nearly impossible for much of the past thirty years, until security at the site improved in 2010. Up until that time, much looting and destruction had occurred.

iii. Recognizing that successful development of mineral resources (such as the Aynak copper mine) will significantly contribute to economic growth, diversification and job creation, and will help catalyze development in other sectors, Afghanistan requested Bank support for its oil, gas and mining sector development. Beginning in 2006, the Bank commenced a programmatic approach through the provision of three technical assistance projects (two of which are the subject of the Request) to provide support in the building of the institutions and frameworks necessary to ensure Afghanistan’s sustainable mineral resource development. These technical assistance projects support institutional capacity building activities to enable the Government of the Islamic Republic of Afghanistan (GoA) to regulate its mineral and hydrocarbon resource sector in a transparent manner, and to foster private sector development. These activities are ongoing and include, *inter alia*, the GoA’s preparation of a national sectoral Environmental and Social Management Framework (ESMF), consistent with the Bank’s relevant Operational Policies. Bank support *does not finance any commercial mining*.

iv. In 2007 the GoA granted a 30-year commercial concession to an international developer to explore and exploit Aynak’s resources. The developer is considering the potential environmental and social impacts related to the Aynak mine development through the preparation of its Environmental and Social Impact Assessment (ESIA), Resettlement Action Plan (RAP), and Environmental Management Plan (EMP). These instruments are governed by the ESMF. It is critical to note that to date, no exploitation has taken place since the necessary regulatory approvals are yet to be issued by GoA. In fact, this commercial investment for exploitation is still under preparation and unlikely to commence

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<sup>1</sup> Exploitation is commonly referred to as mining, the process of extraction of minerals from rock taken from the earth.

for a few years. To best prepare for these activities, some initial resettlement activities are being carried out by the commercial developer and the GoA.

v. In preparation for future exploitation, the Project is supporting the GoA's institutional capacity building efforts that relate to commercial mining concession awards, licensing, and regulation and monitoring. Project support also includes the preservation of Aynak antiquities and support for alternative livelihoods through sustainable artisanal and small-scale mining. As a result, the GoA has initiated a coordinated, phased approach towards its commercial development of Aynak, together with its management of the Mes Aynak physical cultural resources through the development of appropriate mitigation measures. These mitigation measures, for which there is more time for further assessment, range from: (a) salvage archaeology in a "Red Zone,"<sup>2</sup> where physical cultural resources are assessed to be at risk of loss from first phase exploitation; to (b) archaeological options proposed by internationally recognized experts for the broader Mes Aynak site.

vi. In its Notice of Registration the Inspection Panel notes that the Request refers to Bank policies and procedures and that the claims presented in the Request may constitute policy non-compliance by the Bank. The Request is incorrect in its description of the plans for environmental and social management of the site and does not fully take into account the long lead time before exploitation. It also seeks to link the Bank to the proposed commercial development of Aynak by alleging that the Bank has not: (a) sufficiently considered potential adverse impacts, in particular with regard to water use, pollution, and impacts on agriculture; (b) provided for a transparent resettlement process; (c) provided for adequate consultations and access to information; and (d) appropriately protected the physical cultural resources at Mes Aynak.

vii. These allegations stem from the Requesters' failure to distinguish between the obligations of: (a) the Bank through its technical assistance support, under the Project; and (b) those of the GoA and the mine developer under the mining concession agreement. As such, the Request asserts harmful outcomes stemming from both the Bank's technical assistance support, and the investment mining of Aynak, the latter of which is *not financed under the Project*. As is called for under the Resolution establishing the Inspection Panel, this Management Response addresses all of the allegations that relate to the Bank's compliance with its operational policies and procedures under the Project. In addition, the Requesters incorrectly portray the timing and sequence of regulatory processes and events planned for the site.

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<sup>2</sup> The Red Zone defines an area where physical cultural resources are to-date assessed to be at risk of loss from first phase exploitation. As noted in Map 2, the broader Mes Aynak site includes many other numbered sites for subsequent archaeological investigation – field security permitting. Areas 10 and 12 are being considered by the GoA for in situ preservation given extensive structures, monasteries, stupas, and possibly statues. Area 14 may represent options for in situ protection of antiquity mining technology; as sought by the Requesters.

## Country Context

viii. ***Despite the economic progress of the past few years, Afghanistan remains an extremely poor, fragile state in conflict, with a high dependency on international support.*** The country lags behind on major social indicators, and living standards are among the lowest in the world. While there have been substantial improvements in the lives of Afghans over the past ten years, public spending, which has been supported by donor funding, will become fiscally unsustainable once those funds decline

ix. ***The resource sector has the potential to allow Afghanistan to move towards more sustainable and equitable growth and to reduce aid-dependency.*** Afghanistan has significant mineral resources, the development of which will significantly contribute to economic growth and job creation, and help catalyze development in other sectors. Recognizing this, the Government requested Bank assistance to build the institutions and frameworks necessary to ensure that when mineral resource development takes place it is environmental and socially sustainable. Such development is predicated on security, a sound and transparent regulatory environment, and responsible private sector partners.

x. ***Bank Project implementation support through its field work in Afghanistan is carried out under extreme and risky security circumstances.*** In spite of these difficult challenges, the Bank team has made numerous field visits to the Aynak area, on those occasions when security permitted. In light of the 2014 transition and upcoming national elections, the security situation requires continuous reassessment.

## The Project

xi. ***As part of a programmatic approach to oil, gas and mining sector development in Afghanistan, the Executive Directors approved the following technical assistance operations:*** (a) Sustainable Development of Natural Resources Project (SDNRP) in 2006 (USD30 million); (b) SDNRP-Additional Financing (SDNRP-AF) in 2009 (USD10 million); and (c) Second SDNRP (SDNRP-2) in 2011 (USD52 million). All three<sup>3</sup> are currently under implementation, however, only the latter two are the subject of the Request.

xii. The objectives of SDNRP-AF and SDNRP-2 (“Project”) are closely aligned:

- *SDNRP-AF* aims to assist the GoA in improving the capacity of the Ministry of Mines (MoM) to effectively regulate the mineral and hydrocarbon resource sector in a transparent manner, and to foster private sector development. SDNRP-AF pursues this objective through four components: (i) improving MoM’s internal efficiency and streamlining internal processes; (ii) developing regulatory capacity to effectively regulate and handle mining and hydrocarbon activities; (iii) supporting the development of mineral resources including enhancing the Recipient’s capacity in the tendering process of key mineral deposits and revenue management; and (iv) enhancing sector governance.

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<sup>3</sup> SDNRP is fully disbursed and will close on May 31, 2013.

- SDNRP-2 aims to assist the MoM and the National Environmental Protection Agency (NEPA) in further improving their capacities to effectively regulate the GoA's mineral resource development in a transparent and efficient manner, and foster private sector development. The activities supported under SDNRP-2 include, *inter alia*: (i) capacity building support to MoM in relation to the development of sector policy frameworks and the tendering process of the Hajigak iron ore deposit; (ii) strengthening the capacity of MoM and NEPA for regulation and monitoring of operations, including implementation of a licensing system, inspection and contract compliance monitoring functions; and (iii) support towards the preservation of Mes Aynak antiquities and support for alternative livelihoods through sustainable artisanal and small scale mining.

### The Request for Inspection

xiii. Two Requests for Inspection were submitted to the Inspection Panel. The Panel is treating both as one. The first Request was submitted by one resident of the Mes Aynak area of Logar Province who has requested to remain anonymous. A second Request was sent by the Alliance for the Restoration of Cultural Heritage (ARCH) (a Washington, DC-based organization with representation in Kabul).

### Management Response

xiv. ***Management notes that the Request fails to distinguish between the obligations of: (a) the Bank through its technical assistance support, under the Project; and (b) those of the GoA and the mine developer, MJAM.***<sup>4</sup> As such, the Request asserts harmful outcomes stemming from both the Bank's technical assistance support, and the investment mining of Aynak, the latter of which is not financed under the Project. ***The Bank-supported Project comprises technical assistance that does not finance this or any commercial mining investment.***

xv. ***Management further notes that the Requesters have confirmed that no exploitation has taken place.*** One of the main reasons for this is that the regulatory authorities are waiting for the completion of the required safeguard instruments. The technical assistance is *inter alia* building the GoA's capacity to regulate its commercial oil, gas, and mining activities, which includes the regulation of MJAM's commercial mining investment for the exploration<sup>5</sup> and exploitation of the Aynak copper resource.

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<sup>4</sup> The Aynak Mining Contract was signed between the GoA and the MCC-Jiangxi Copper Consortium (MCC-JCL), with an effective date of 8 September 2008. The MCC-JCL Aynak Minerals Company Limited (MJAM) is registered as a wholly-owned subsidiary of MCC. MCC assigned the rights of the Aynak Mining Contract to MJAM on 16 November 2008.

<sup>5</sup> Exploration refers to geological mapping and geochemical surveys to determine the viability of a mineral prospect. Aynak is undergoing more detailed exploration which is characterized as the Feasibility Stage. This determines the quality and quantity of the resource. Common field surveys include surface mapping, sampling of rock core from drilling, geophysical surveys and computer 3D modeling.



xvi. ***In Management's view the Request for Inspection erroneously implies that no actions have been or will be taken by the Bank to address relevant issues raised by the Requesters.*** As mentioned above, the Bank's technical support includes assistance to the GoA in the preparation of its ESMF under the Project, consistent with the Bank's Operational Policies. In turn, MJAM is assessing the potential environmental and social impacts of its commercial investment through the preparation of the safeguards instruments that need to comply with the GoA's applicable laws. Specifically, the potential impacts stated in the Request are being addressed by MJAM in the preparation of its ESIA, RAP, and EMP (see Annexes 2 and 3). Local consultations will be undertaken on these documents, which will in turn, inform MJAM's Feasibility Study (FS). This process is still ongoing and the relevant documents will be disclosed when available, consistent with Bank policy.

xvii. ***Management confirms that resettlement activities are on-going.*** Currently underway are the resettlement activities for the first five villages impacted by proposed exploitation at Aynak. Initial land acquisition actions undertaken by the GoA and MJAM were corrected following Bank advice. The GoA prepared a RAP and undertook local consultations consistent with Bank policy. Payment of compensation is ongoing. The MoM has undertaken a preliminary study of the potential sites for tailings dams and access roads, and has disclosed the finding on the MoM website. An additional RAP will be prepared for these and other activities.

xviii. ***Management recognizes the significant value of the Mes Aynak archaeological site and has incorporated into the Project specific actions to aid the GoA in protection of physical cultural resources.*** Component C of the SDNRP-2 includes "Supporting the implementation of the Archaeological Recovery and Preservation Plan of the Aynak antiquities." Under this component, the GoA continues to undertake significant efforts to protect Mes Aynak, including deploying more than 40 archaeologists and over 450 local workers. GoA has assessed the Mes Aynak physical cultural resources issues and is working towards preparation of an archaeological management plan consistent with Bank policy. The Bank continues to engage relevant stakeholders, including ARCH, in support of the protection of Afghanistan's physical cultural resources.

xix. ***In this regard Management shares the Requesters' objectives for the protection of physical cultural resources at Mes Aynak, but disagrees with a number of specific assertions made in the Request.*** Such allegations refer specifically to the characterization of the GoA's approach to protect the physical cultural resources at Mes Aynak as salvage archaeology for the entire site. The GoA has initiated a phased approach to both archaeology and mineral exploitation that supports the coexistence of commercial mining activities and the management of physical cultural resources. The Minister of Mines has publicly stated that no mining exploitation can begin until the regulatory review processes are completed. Thus, the GoA approach will require the inclusion of a range of mitigation measures to be developed as part of the Mes Aynak Archaeological Management Plan for the broader Mes Aynak site. Moreover, the GoA has established a security perimeter to encompass and protect the Mes Aynak cultural property site from further looting and destruction. The French Archaeological Delegation to Afghanistan (DAFA), an independent agency under a Government-to-Government partnership (not funded by the

Project), is undertaking a lead role in coordinating (with GoA) the Mes Aynak excavation and has, since 1923, conducted significant archaeological work in Afghanistan. Management does not share the Requesters' concern about DAFA's competence to manage the archaeological work program.

## Conclusion

xx. ***Management has carefully reviewed the issues raised by the Requesters and does not agree with the allegations of non-compliance and harm.*** The extremely difficult country and sector context, together with the GoA's first undertaking of commercial mining, presents many operational challenges to all concerned. In spite of this difficult operating environment, including severe security circumstances, the Bank has complied with all policies and procedures applicable to the matters raised in the Request. Management concludes that the Requesters' rights or interests have not been, nor will they be, directly and adversely affected by a failure of the Bank to implement its policies and procedures.

xxi. ***The Bank will continue to encourage the GoA to adequately implement the environmental, social, and physical cultural protection measures guided by global good practices.*** Given the importance of the mining sector to the country's broader economic strategy, Management will continue to provide adequate, timely, and high-quality implementation support to the GoA, addressing many of the concerns raised in the Request, including through a range of ongoing measures.

## I. INTRODUCTION

1. On January 4, 2013, the Inspection Panel registered two Requests for Inspection, IPN Request RQ 13/01 (hereafter referred to together as “the Request”), concerning the Afghanistan: Sustainable Development of Natural Resources–Additional Financing (P116651), and Sustainable Development of Natural Resources II (P118925), financed by the International Development Association (the Bank).

2. ***Structure of the Text.*** The document contains the following sections: Section II describes the country context; Section III describes the two projects that are the subject of the Request; Section IV presents the Request; and Section V presents Management’s response. Annex 1 contains the Requesters’ claims, together with Management’s detailed responses, in table format. Additional annexes provide information on the regulatory review process and the Project’s environmental documentation; a progress report of the Mes Aynak Advisory Panel; and an overview of supervision missions and field visits.

## II. THE CONTEXT

3. ***Afghanistan is a fragile state in conflict and is donor-dependent.*** Despite gains in building a central government, Afghanistan remains fragile and dependent on the international community. While there have been substantial improvements in the lives of Afghans over the last 10 years, the public spending that has been funded by donor inflows—both on and off budget—will be fiscally unsustainable once such funds decline. In addition, security conditions pose a formidable challenge to the country’s development and external partner support.

4. ***Afghanistan has low capacity and weak institutions.*** The conflicts over the years have had a highly destructive impact on state institutions and human resources. The international community has been supporting the Government of the Islamic Republic of Afghanistan (GoA) since 2001 through investments and building capacity for service delivery.

5. ***Despite the economic progress of the past few years, Afghanistan remains extremely poor.*** The country lags behind on major social indicators, and living standards are among the lowest in the world. Much of the Afghan population continues to be deprived of housing, clean water, electricity, medical care, and jobs.

6. ***The resource sector is a potential source of growth.*** Afghanistan’s biggest economic challenge is moving towards more sustainable and equitable growth to reduce aid-dependency. The resource sector offers a window of opportunity as well as challenges in this regard, including potential capture by political elites and other interest groups. Afghanistan has significant mineral resources, much of which is locked in the ground pending development of supporting infrastructure. Successful development of mineral resources will significantly contribute to economic growth, diversification and job creation, and will help catalyze development in other sectors. Such development is predicated on

security, a sound and transparent regulatory environment, and responsible private sector partners.

7. ***EITI: Laying the groundwork for inclusive growth and sustainable development.*** The GoA has endorsed the principles of the Extractive Industries Transparency Initiative (EITI) and has been designated by the Oslo-based secretariat of the EITI as a “candidate” country. Recognizing the need for a solid foundation, the GoA requested the Bank to assist in building the institutions and frameworks necessary to ensure the sustainable development of the country’s mineral resources, leading to inclusive growth. To realize the mining sector’s full potential, the GoA has embarked upon a multi-sectoral approach that will develop hard and soft infrastructure that is guided by sound environmental and social principles and practices.

8. ***Insecurity in Afghanistan significantly impacts aid delivery.*** The World Bank Independent Evaluation Group’s Country Program Evaluation 2002-2011 points out that the Bank’s Afghanistan country program operates under particularly difficult circumstances.<sup>1</sup> While Afghanistan is a Fragile and Conflict-affected State (FCS) it differs from most other FCSs in two significant ways. First, Bank engagement in a FCS usually occurs during the post-conflict phase; in contrast, Afghanistan’s post-conflict conditions, manifested during 2002-05, have since deteriorated markedly, with increasing attacks on civilians. Second, unlike in the majority of FCSs, in Afghanistan the international development community itself is a target of attacks. The seriousness of the conflict with regard to development support is underscored by the assassination of numerous government officials in recent years, as well as by the attacks on United Nations facilities in 2009 and 2011. In light of the 2014 transition and upcoming national elections, the security situation requires continuous reassessment. Insecurity and attendant restrictions on mobility as well as the insularity of the international development community have increased steadily in the past several years, affecting working conditions for staff and hampering the delivery and effectiveness of support. Despite the extremely difficult context, the World Bank Group has established and sustained a large program of support to Afghanistan.

9. ***Aynak commercial mining investment.*** In 2007 the GoA granted a 30-year commercial concession to MJAM,<sup>2</sup> an international developer, to mine the copper resources at Aynak. Mes Aynak, (“copper well” in Dari), is located within the Aynak concession area in Logar province, one of the poorest provinces in Afghanistan. The developer is considering the potential environmental and social impacts related to the Aynak mine development through the preparation of its Environmental and Social Impact Assessment (ESIA), Resettlement Action Plan (RAP), and Environmental Management Plan (EMP) (see Annexes 2 and 3). These instruments will be governed by a national sectoral Environmental and Social Management Framework (ESMF) that the GoA is preparing with Bank support. It is critical to note that to date, no exploitation activities have taken place

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<sup>1</sup> Independent Evaluation Group (2012): *Afghanistan Country Program Evaluation 2002-2011*, The World Bank.

<sup>2</sup> The Aynak Mining Contract was signed between the GoA and the MCC-Jiangxi Copper Consortium (MCC), with an effective date of 8 September 2008. The MCC-JCL Aynak Minerals Company Limited (MJAM) is registered as a wholly-owned subsidiary of MCC. MCC assigned the rights of the Aynak Mining Contract to MJAM on 16 November 2008.

since the necessary regulatory approvals have yet to be issued by the GoA. In fact, this commercial investment is still in its preparation phase and it is anticipated that resource exploitation will not commence for a few years. To best prepare for these activities, some initial resettlement activities are being carried out by the commercial developer and the GoA.

10. ***Mes Aynak is an archaeological site that includes a Buddhist monastic complex, town site, temples, ancient copper mining galleries and hundreds of sculptures that date from the first to ninth centuries CE.*** The GoA has initiated a phased approach that supports the coexistence of mining and the management of physical cultural resources. This includes mitigation measures, for which there is more time for further assessment, that range from: (a) salvage archaeology in a “Red Zone,” where physical cultural resources are assessed to be at risk of loss from first phase exploitation; and (b) archaeology for the remainder of the broader site, to be further elaborated in the Mes Aynak Archaeological Management Plan to be prepared by the Ministry of Information and Culture (MoIC), with assistance from the French Archaeological Delegation to Afghanistan (DAFA)<sup>3</sup> and the United Nations Educational, Scientific and Cultural Organization (UNESCO). The GoA’s ongoing engagement of UNESCO is an important step to increase capacity, analyze options for the protection of the broader Mes Aynak site, and receive input from a wider cohort of national and international experts on Mes Aynak. Based upon a number of critical facts, including the public commitments of GoA, exploitation is unlikely to begin before 2016, thus allowing time for more analysis and documentation of environmental, cultural and social measures, including guidance from independent experts, as part of the GoA’s capacity building activities.<sup>4</sup>

11. ***Mes Aynak is not an archaeological chance find resulting from any mining activities.*** The physical cultural resources of Mes Aynak have been documented since the early 1960s, although security risks made work at the site nearly impossible for much of the past thirty years, until the recent improvements in the security situation. In 2004, the MoIC started archaeological assessments. As a result of security concerns the work was suspended and systemic looting occurred, resulting in removal or destruction of many artifacts. In 2007 the GoA awarded the Aynak mining concession and established a security perimeter around Mes Aynak, protecting it from further looting and hostilities.

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<sup>3</sup> DAFA was established in 1923 at the request of the Afghan government to ensure archaeological research in Afghanistan. In 2002, in agreement with the Afghan authorities, the Ministry of Foreign Affairs decided to reopen and restart activities with DAFA in Afghanistan. DAFA belongs to the network of 27 French research institutes abroad. It has undertaken a lead role in detailed field investigation of Mes Aynak under a Government-to-Government agreement and is not funded under SDNRP2.

<sup>4</sup> The GoA released a statement (January 2013) that “...the vitally important conservation work at the Mes Aynak archaeological site will continue alongside preparations for the Copper Mine in the vicinity. The Government wants to conserve the cultural site and the pieces of historical importance ...no work will be carried out by the Copper Mining company until we have prior approval and clearance from the Ministry of Information and Culture of the Islamic Republic of Afghanistan with regards to archaeological sites of Mes Aynak, as per Afghan law.”

### III. THE PROJECTS

12. As part of a programmatic approach to oil, gas and mining sector development in Afghanistan, the Executive Directors approved: the: (a) Sustainable Development of Natural Resources Project (SDNRP) in 2006; (b) the SDNRP-Additional Financing (SDNRP-AF)<sup>5</sup> in 2009; and (c) the Second SDNRP (SDNRP-2)<sup>6</sup> in 2011. This support is purely technical assistance to assist GoA with, *inter alia*, strengthening its capacity to regulate its commercial oil, gas, and mining activities, including the regulation of MJAM's commercial mining investment for the exploration and exploitation of the Aynak copper resource. ***This technical assistance is not financing the Aynak investment.***

13. ***Project<sup>7</sup> Development Objectives and Components***

- ***The objective of SDNRP-AF*** is to assist the GoA in improving the capacity of the Ministry of Mines (MoM), and to foster private sector development in the sector. SDNRP-AF has four components and a series of related sub-components, including:
  - (a) *Improving MoM's Internal Efficiencies*, and streamlining processes within the MoM administration department.
  - (b) *Developing Regulatory Capacity*. Establishment of new departments within MoM to effectively regulate and handle mining and hydrocarbon activities.
  - (c) *Developing Mineral Resources*. This consists of: (i) supporting the sector policy unit of MoM in formulating extractive industry policy, undertaking market analysis and preparing sector laws, regulations and guidelines; (ii) supporting MoM's geological survey process; (iii) carrying out of an inventory of the assets of mineral-based state-owned enterprises, conducting strategic sector studies and analyzing the functioning and comparative advantages of state-owned enterprises; (iv) provision of technical assistance, equipment and operating costs to enhance MoM's capacity in the tendering process of key mineral deposits and revenue management.
  - (d) *Enhancing Sector Governance*. This includes: (i) establishment of an international advisory council to: (1) review procedures for awarding licenses and contracts for all major transactions; and (2) conduct of an annual

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<sup>5</sup> The approval of SDNRP-AF was in response to advances in the oil, gas and mining sector, most notably the growing interest of international investors in Afghanistan's mining sector. The GoA requested additional financing under SDNRP to expand Project activities by including technical assistance support for the Aynak copper and Hajigak Iron Ore transactions. The overall objective of SDNRP remained unchanged.

<sup>6</sup> The design of SDNRP-2 was firmly guided by the Extractive Industries Value Chain analyses and informed by the implementation results under the first SDNRP operation, and its scope was expanded to include an additional stakeholder, the National Environmental Protection Agency (NEPA) for Afghanistan.

<sup>7</sup> For purposes of this Management Response, SDNRP-AF and SDNRP-2 are collectively referred to as the "Project" as these two operations are the subject of the Request.

audit of cadastre functions; and (ii) support for implementation of EITI principles through the establishment of a multi-stakeholder EITI committee.

- **SDNRP-2** aims to assist the GoA in improving the capacity of the MoM and National Environmental Protection Agency (NEPA) to effectively regulate the mineral and hydrocarbon resource sector in a transparent manner, and to foster private sector development in the sector. It has four distinct components with a series of related sub-components, including:
  - (a) *Preparation of Award of Contracts and Licenses*. This includes: (i) development of sector policy frameworks and data collection; (ii) provision of support to the MoM through: (1) establishment of a secretariat of the Inter-Ministerial Committee; (2) continued advisory assistance from the International Advisory Panel (IAP); and (3) assistance in the tendering process of the Hajigak iron ore deposit; (iii) provision of support to the Afghan Geological Survey.
  - (b) *Regulation and Monitoring of Operations*. This includes: (i) supporting the implementation of a licensing system; (ii) strengthening inspection and contract compliance monitoring functions of MoM and NEPA; (iii) supporting the establishment of the MoM Mining Institute; (iv) improving the business environment and commencing the corporatization process for state mineral enterprises; (v) supporting the implementation of the EITI; (vi) supporting the consultation processes for, and providing analytical input into, the development of policy frameworks for mineral revenue management.
  - (c) *Preservation of Aynak antiquities and support for alternative livelihoods through sustainable artisanal and small-scale mining*. This includes, *inter alia*, supporting the implementation of the Archaeological Recovery and Preservation Plan of the Aynak antiquities (the Mes Aynak Archaeological Management Plan).<sup>8</sup>
  - (d) *Project Implementation Support* to the PMU in Project implementation, particularly in the areas of monitoring and evaluating Project activities, complying with fiduciary and safeguards requirements, public information disclosure and public consultation processes.

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<sup>8</sup> Current archaeological activities are funded by: (a) the MoM through the SDNRP-2 and MoIC; and (b) the French Government through DAFA. Going forward, capacity building at MoIC will be supported by the MoM through continued use of DAFA under SDNRP-2, combined with UNESCO's global expertise, for which procurement is underway to support MoIC in capacity building, preparation of the Mes Aynak Archaeological Management Plan, and consultations and workshops.

14. ***Both SDNRP-AF and SDNRP-2 are under implementation.*** In December 2012, the closing date for SDNRP-AF was extended and it is now set to close on May 31, 2013. The closing date for SDNRP-2 is set for June 30, 2016.

#### IV. THE REQUEST

15. Two Requests for Inspection were submitted to the Inspection Panel for SDNRP-AF and SDNRP-2. The Panel is treating both as one. The first Request was submitted in Pashto by one resident of the Mes Aynak area of Logar Province who requested to remain anonymous. A second Request was sent by the Alliance for the Restoration of Cultural Heritage (ARCH), a Washington, DC-based organization with representation in Kabul. ARCH states that it is acting on behalf of “dozens of members of the local affected population, which, being fearful of repercussions,” have requested it to submit the Request on their behalf. The Request also attaches two online petitions launched by expatriate Afghans and refers to a campaign with similar goals launched by two Thai organizations. Management has engaged with ARCH over the last 18 months. Management notes that some Board members of ARCH also have business interests in the extractive sector in Afghanistan.

16. Attached to the Request are several annexes:

- (a) Signatures (Afghans living in Afghanistan)  
*[ Names were removed for confidentiality purposes ]*
- (b) Signatures (Afghans living abroad)
- (c) International Petitions
- (d) White Paper
- (e) Conference Report
- (f) Illustrations.

No further materials were received by Management in support of the Request.

17. The Request raises social, environmental and cultural concerns with respect to the proposed commercial mining of Aynak. The Panel notes that the Request refers to a number of Bank policies and procedures in the context of the concerns cited in the Request and that the claims presented in the Request may constitute non-compliance with Bank Policies.



## V. MANAGEMENT'S RESPONSE

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

19. ***Management has carefully reviewed the issues raised by the Requesters and does not agree with the allegations of non-compliance and harm.*** The extremely difficult country and sector context, together with the GoA's first undertaking of commercial mining, presents many operational challenges to all concerned. In spite of this difficult operating environment, including severe security circumstances, the Bank has complied with all policies and procedures applicable to the matters raised in the Request. Management believes that the Requesters have no basis to claim and are also not able to demonstrate that their rights or interests have been or will be, directly and adversely affected by a failure of the Bank to implement its policies and procedures.

20. ***Management notes that the Request fails to distinguish between the obligations of: (a) the Bank through its technical assistance support, under the Project; and (b) those of the GoA and the mine developer, MJAM, under the mining concession agreement.*** As such, the Request asserts harmful outcomes stemming from both the Bank's technical assistance support, and the investment mining of Aynak, the latter of which is not financed under the Project. The Bank-supported Project comprises technical assistance that does not finance the commercial mining investment. Instead, the Bank is providing financing towards, *inter alia*, building GoA's capacity to regulate its commercial oil, gas, and mining activities, which include the GoA's own and singular undertaking to license a commercial mining investment under its agreement with MJAM to explore and exploit Aynak. Several allegations of non-compliance raised in the Request ignore this distinction.

21. ***In Management's view the Request for Inspection is based on assumed harmful outcomes of Project implementation and wrongly implies that no actions will be taken to address relevant issues raised in the Request.*** The Request alleges that the Bank has not: (a) sufficiently considered potential adverse impacts, in particular with regard to water use, pollution, and impacts on agriculture; (b) provided for a transparent resettlement process; (c) provided for adequate consultations and access to information; and (d) appropriately protected the physical cultural resources at Mes Aynak. The Request is incorrect in its description of the plans for environmental and social management of the site and fails to take into account the long lead time before exploitation gets underway. The potential environmental and social impacts of the Aynak mine development are being assessed by MJAM for submission to the GoA, and the required safeguard instruments for mitigation and risk management are being developed, following Afghan law.

22. ***Management confirms that the GoA's ESMF being prepared under SDNRP-AF is consistent with the Bank's relevant operational policies and that the ESMF will guide exploitation activities.*** Management understands that specific questions raised in the Request about mining techniques and associated potential impacts will be covered in MJAM's ESIA and the EMP, and that local consultations will be undertaken on both documents, which in turn will inform MJAM's Feasibility Study (FS). This pro-

cess is still ongoing and the documents will be disclosed when available, consistent with Bank policy. Also ongoing are the resettlement activities for the first five villages impacted by proposed exploitation at Aynak. Inadequacies in the initial land acquisition actions undertaken by the GoA and MJAM were corrected following Bank advice. The GoA prepared a RAP and undertook local consultations consistent with Bank policy. Payment of compensation is ongoing. The MoM has undertaken a preliminary study of the potential sites for tailings dams and access roads, and has disclosed the finding on the MoM website. An additional RAP will be prepared for these and other activities.

#### **OP 4.10 (Indigenous Peoples)**

23. *Management disagrees with Requesters' characterization of the pastoral nomads ("Kuchis") in the impact zone as "an indigenous minority population."* The designation of the Kuchis by the United Nations Assistance Mission in Afghanistan (UNAMA) as "one of the principal vulnerable populations in the country," with which the Bank agrees, does not in itself result in the Kuchis falling within the definition of Indigenous Peoples as set forth in OP 4.10. This policy defines Indigenous Peoples based on four distinct socio-cultural criteria, none of which include economic vulnerability. Therefore this policy is not applicable to this Project.

#### **OP 4.11 (Physical Cultural Resources)**

24. *Management recognizes the significant value of the Mes Aynak archaeological site and has incorporated into the support it provides to the GoA specific actions to aid the archaeological recovery and preservation.* In addition to the specific actions to aid GoA in the archaeological recovery and preservation activities that are included under Component C of SDNRP-2, the GoA has made significant efforts to protect the resources at Mes Aynak, which were being looted or destroyed until recently. The GoA has assessed the Mes Aynak physical cultural resources issues and is working towards preparation of a management plan consistent with Bank policy. In the meantime, Management continues to engage relevant stakeholders, including the Requesters, in support of the protection of Afghanistan's physical cultural resources.

25. *Management has been aware of the issues raised in the Request and has engaged with ARCH* over the past 18 months, through correspondence, meetings and workshops, both at the task team level and at the level of Bank Management. Management met with ARCH on February 7, 2013 in the context of this Management Response to discuss its concerns.

26. *Management shares the Requesters' objectives for the protection of physical cultural resources at Mes Aynak, but disagrees with a number of specific assertions made in the Request.* Such allegations refer specifically to the characterization of the GoA's approach to protect the physical cultural resources at Mes Aynak. The GoA has initiated a phased approach to both archaeology and mineral exploitation that supports the coexistence of commercial mining activities and the management of physical cultural resources. The Minister of Mines has publicly stated that no mining exploitation can begin until the regulatory review processes are completed. Thus, the GoA approach will require

the inclusion of a range of mitigation measures to be developed as part of the Mes Aynak Archaeological Management Plan for the broader Mes Aynak site. In 2010, the MoM and MoIC signed a Memorandum of Understanding to ensure that the Aynak mine development conserves and preserves the physical cultural resources found on site, and that the two ministries continue to work closely together. The area of initial impact has been defined as the Red Zone (see Map 2). Since then the GoA and DAFA have been undertaking salvage archaeology and documentation in the Red Zone that will feed into the preparation of the Mes Aynak Archaeological Management Plan. The Requesters cite the salvage work in the Red Zone, while not acknowledging the phased approach for the broader Mes Aynak area for which the Mes Aynak Archaeological Management Plan will be prepared, with options including in situ preservation.<sup>9</sup> The GoA has been coordinating inter-agency dialogue through the Mes Aynak Advisory Panel (see Annex 4).

27. ***Management understands that exploitation of the mine is unlikely to begin before 2016, which gives adequate time to carry out phased archaeological work at Mes Aynak.*** Initially, the GoA and MJAM had plans to begin exploitation as early as 2012. However, the GoA now recognizes the extent of work and time needed for MJAM to complete the preparatory technical work (ESIA and FS) and obtain regulatory approval.

28. ***Management does not share the Requesters' assertion regarding DAFA's qualifications and competencies.*** DAFA has been involved in significant archaeological work in Afghanistan since 1923. Since the Bank's engagement with the GoA on these issues, Management has not received communications from subject matter experts challenging DAFA's competence or capability to undertake this task, as characterized by the Requesters.

29. ***In Management's view the Bank has followed OP 4.11, taking into consideration the unique circumstances and exceptional security challenges at Mes Aynak.*** Management wishes to stress its strong concerns that disclosure and/or local consultation present serious challenges regarding the safety and integrity of the Mes Aynak cultural property site, as well as the lives of the national and international archaeologists, and communities providing workers. For this reason such consultations to date had to be restricted to Kabul.

## **OP 8.00 (Rapid Response to Crises and Emergencies)**

30. ***Contrary to the assertion made in the Request, this policy correctly applies to the Project.*** Management confirms that OP 8.00 applies to all Bank financed operations in Afghanistan as noted in the successive Interim Strategy Notes (ISNs) considered by the Executive Directors. This approach was confirmed by the Bank's 2009-11 ISN for Afghanistan, considered by the Executive Directors in May 2009, which states that, "All

<sup>9</sup> The January 2013 Mes Aynak Advisory Panel Progress Report (see Annex 4, and [MoM website](#)) outlines the first two phases of archaeological work within the prioritized Red Zone area, where physical cultural resources are assessed to be at risk of loss from first phase exploitation. As noted in Map 2, the broader Mes Aynak site includes many other numbered sites for subsequent archaeological investigation – field security permitting. Areas 10 and 12 are being considered by GoA for in situ preservation given extensive structures, monasteries, stupas, and possibly statues. Area 14 may represent options for in situ protection of antiquity mining technology; as sought by the Requesters.

projects are eligible for processing under the Bank's Rapid Response to Emergencies (OP 8.00)" (para 108), which confirms the continued use of OP 8.00. This was reaffirmed in April 2012 when the 2012-14 ISN was considered by the Executive Directors. This policy was, therefore, correctly applied to the Project. Management reiterates that the Aynak mine investment is not financed by the Bank, and therefore is not governed by OP 8.00, but rather by Afghan law and the ESMF of the Project.

31. ***Management notes that some of the Operational Policies cited in the Request are not applicable to the Project.*** The Request specifically cites: OP 4.00 (Piloting the Use of Borrower Systems to Address Environmental and Social Safeguard Issues in Bank-Supported Projects); 4.04 (Natural Habitats); 4.07 (Water Resources Management); 7.50 (International Waterways), 7.60 (Projects in Disputed Areas). The rationale explaining why these policies are not applicable is set out in Annex 1 (Claims and Responses).

### **The Impact of the Security Situation on the Bank's Work in Afghanistan**

32. ***The security situation profoundly affects the Bank's work in the Mes Aynak area.*** Bank Project implementation support through its field work in Afghanistan is carried out under extreme and risky security circumstances. In spite of these difficult challenges the Bank team has made numerous field visits to the Aynak area, on those occasions when security permitted. Within the past two years, three field missions to Mes Aynak had to be cancelled shortly before commencing, due to the dangerous security circumstances. Planned field missions on several occasions had to be aborted and returned to Kabul as instructed by security staff. During one Bank mission to the field, as the team returned to Kabul on the Logar Highway, an attack occurred behind the team resulting in the death of an individual associated with another organization. In light of the 2014 transition and upcoming national elections, the security situation requires continuous reassessment.

33. ***In this context Management is very concerned about heightened media and internet reporting about Mes Aynak, which could lead to further security consequences for the site.*** The GoA is responding to this increased risk, temporarily suspending some archaeological activities and implementing new security measures to protect consultants and safeguard physical cultural resources. As discussed in Annex 1 (see Item 5b), the prevailing security situation presents unique and profound concerns regarding local consultation, disclosure and long-term sustainability planning for Mes Aynak.

### **Conclusion**

34. ***In Management's view, the Bank has followed the policies and procedures applicable to the matters raised in the Request.*** Management has carefully reviewed the issues raised in the Request and does not agree with the allegations of noncompliance. Management concludes that the Requesters' rights or interests have not been, nor will they be, directly or adversely affected by a failure of the Bank to implement its policy and procedures.

35. ***The Bank will continue to encourage the GoA to adequately implement the environmental, social, and physical cultural protection measures guided by global good practices.*** Given the importance of the mining sector to the country's broader economic strategy, Management will continue to provide adequate, timely, and high-quality implementation support to the GoA, addressing many of the concerns raised in the Request, including through a range of ongoing measures.



## ANNEX 1

## CLAIMS AND RESPONSES

No.	Claim	Response
1.	<p><b>OP 13.05: Project Supervision -</b> Eight specific areas reflecting potential harm to the population of Logar province, and showing neglect on the part of the World Bank.</p>	<p><b><i>The Project has been supervised adequately, meeting the requirements of OP 13.05, and takes a proactive approach in managing implementation risks.</i></b></p> <p>Management considers that it is important to distinguish between the roles, responsibilities and obligations of the Bank under the Bank-supported <b>Project</b> (SDNRP-AF and SDNRP-2); and those of the MoM and MJAM<sup>1</sup> under a commercial mining concession agreement. Management points out that the Request does not recognize this critical distinction.</p> <p>As more fully elaborated in the main text, the Bank is financing the SDNRP (including the Additional Financing) and SDNRP-2 (collectively the "Project"). The Project includes two broader sets of activities which aim to assist the MoM and NEPA in: (a) further improving their capacities to effectively regulate Afghanistan's mineral resource development in a transparent and efficient manner; and (b) fostering private sector development.</p> <p>The Bank is providing this assistance <i>inter alia</i> in support of the GoA's undertaking of a commercial mining investment (Aynak mine development) for the exploration and exploitation of the Aynak copper resource with MJAM.</p> <p>The Project is a Technical Assistance operation and is not financing commercial mine investments. Given the institutional capacity challenges faced by the MoM and significant efforts needed to build the capacity of the nascent NEPA, combined with an uncertain security environment, from the outset Bank Management provided sufficient resources needed for intensive supervision (well above the Bank wide average supervision coefficient for supervision). The Task Team Leader of SDNRP-2 is a Sector Leader within the Oil, Gas and Mining Policy Unit (SEGOM) and the Coordinator for extractive industries across the South Asia Region (SAR). The team has undertaken more than 45 missions since Project inception, and since 2010 has added an international senior social development specialist with knowledge of Afghanistan and conversant in Dari, and a project management specialist, both based in the field.</p> <p>The Project has also been financing several activities to complement regular supervision by Bank staff. For example, the Project is financing the services of an expert consultancy (GAF) to monitor and report to the GoA on contractual and regulatory compliance, including the preparation and implementation of the ESIA, EMP and Feasibility Study (FS) for the exploitation activities. Also, the Project was instrumental in obtaining the services of national/international archaeologists to support DAFA, MoM, MoIC and MJAM at Mes Aynak.</p>
2.	<p><b>OP 8.00: Rapid Response to Crises and Emergencies</b></p> <p>The World Bank Project regarding Mes Aynak is designated as an Emergency Operation. This would allow the Bank</p>	<p><b>OP 8.00 is correctly applied to this operation. OP 8.00 introduces the flexibility that typically is required for operations, such as this Project, in a FCS. Moreover, it does not contain provisions that bypass or waive safeguard requirements.</b></p> <p><b>It is important to stress that the investment component of the</b></p>

<sup>1</sup> MJAM is a joint-venture between two state-owned enterprises from China.

No.	Claim	Response
	<p>to exempt the project from certain of the requirements related to Physical Cultural Resources (Point 13). However, this project does not satisfy the requirement of an Emergency Operation and is improperly categorized as such.</p> <p>OP 8.00 defines an Emergency Operation as a "rapid response policy to address major adverse economic and/or social impacts resulting from an actual or imminent natural or man-made crisis or disaster" (Point 1.) Point 2 states that "the Bank may provide a rapid response to a borrower's request for urgent assistance in respect of an event that has caused, or is likely to imminently cause, a major adverse economic and/or social impact associated with natural or man-made crises or disasters."</p> <p>None of this applies to the mining of copper at Mes Aynak, which is a routine and long-term commercial project. Mining copper at Aynak requires a lead-in phase of at least three years. Indeed, two years have passed already without any serious infrastructure preparation (such as road-building, power generation etc.) having occurred. In what way does the mining of copper represent an emergency? We fear that this designation only serves the purpose of circumventing protections and regulations that by rights should apply. Afghanistan – like many countries where the WB operates – indeed suffers from security challenges, but that does not justify jettisoning the WB's well-crafted rules.</p>	<p><b>Aynak mine development is not financed by the Bank, and therefore is not governed by OP 8.00, but rather by Afghan law and the ESMF of the Project.</b></p> <p>The May 2009 Interim Strategy Note (ISN) was considered by the Bank's Executive Directors and authorizes the use of OP/BP 8.00 for processing operations in Afghanistan. Operating in a conflict situation requires a heightened level of flexibility in order to move rapidly under difficult conditions and to take advantage of windows of opportunity that emerge in these contexts. OP 8.00 may be used in conflict situations to provide this flexibility as conflict is a "man-made crisis" specifically authorized under the policy. This is confirmed by the Bank's Operational Policy on Development Cooperation and Conflict (OP/BP 2.30) which governs the Bank's activities in conflict countries. In discussing the Bank's strategy in conflict countries which are governed by ISNs, it states, "Emergency Bank assistance under the ISN is provided in accordance with the policies and procedures set forth in OP/BP 8.00, Rapid Response to Crises and Emergencies." In light of the fact that Afghanistan is severely impacted by ongoing conflict, all projects in Afghanistan are considered eligible under OP 8.00. The May 2009 ISN for Afghanistan states that, "for the period of this new ISN, the Bank intends to use OP/BP 8.00 for processing operations in Afghanistan" (para 108). This ISN provides the framework under which SDNRP-2 was prepared.</p> <p>This approach was confirmed by the Bank's 2012-14 ISN for Afghanistan, considered by the Executive Directors in April 2012, which states that "All projects are eligible for processing under the Bank's Rapid Response to Emergencies policies (OP 8.00)" (para. 105) which authorizes continued use of OP 8.00. Notwithstanding this, the Emergency Project Paper (EPP) recognizes the need to assist the GoA to address environmental and social issues emerging from any commercial mining investment.</p> <p><b>Management notes that the Requesters state that no infrastructure preparation has taken place yet. One of the main reasons for this is that the regulatory authorities are waiting for the completion of the required safeguard instruments.</b></p>
3.	<p><b>OP 4.00, Table A1: Environmental and Social Safeguards Policies</b></p> <p>The operational principles listed in this document include: a screening process that should commence as early as possible; assessment of potential impacts; assessment of compliance of the project with international obligations; feasibility studies to include siting alternatives; disclosure of the draft Environmental Assessment ("EA") "in a timely manner...in an accessible place and in a form and language understandable to key stakeholders."</p>	<p><b>OP 4.00, "Piloting the Use of Borrower Systems to Address Environmental and Social Safeguard Issues in Bank-Supported Projects" is not applicable to the Project.</b> SDNRP/SDNRP-2 were not prepared under OP 4.00.</p>
4.a.	<p><b>OP 4.01 Environmental Assessment/Disclosure</b></p>	<p><b>The potential environmental and social impacts of the Aynak mine development are being studied and the required safeguard</b></p>



No.	Claim	Response
	<p>To date, no EA has been made public. As far as we have been able to determine, no feasibility studies have been conducted by the WB, Government of Afghanistan, or other stakeholder, or if they have been conducted, they are not known to any independent advisors or key stakeholders. This is despite the fact that active mining is supposed to commence in 2013. If a plan exists, which does not seem to be the case, then its publication has not been timely but is, indeed, long overdue.</p>	<p><b>instruments for mitigation and risk management are being developed. This process is still ongoing and therefore the relevant documents will be disclosed, consistent with Bank policy.</b></p> <p>Active mining (exploitation) at Aynak was originally scheduled to commence in 2013. However, Management points out that exploitation is unlikely to commence before 2016 given the time required to complete engineering, procurement and construction. Management understands that prior regulatory approval will take approximately one year. This gives MJAM adequate time to consult with key PAPs and stakeholders and prepare and disclose the ESIA, EMP, and FS for regulatory approval by the GoA. The Bank will remind MoM to ensure that development takes place only after the reports are prepared, reviewed and disclosed. The ESIA Terms of Reference (ToR) were reviewed by the Bank and the FS will be informed by the ESIA.</p> <p>Stages of ESIA development: MJAM is preparing the ESIA and EMP in accordance with Afghan law. This includes five steps: (1) submission by proponent of "Screening Report;"<sup>2</sup> (2) preparation of ESIA ToR; (3) ESIA process and Report preparation; (4) ESIA approvals and permit; and (5) monitoring. The Environment Law (Article 13) states that no ministry may grant authorization for the execution of an activity that is likely to have significant adverse effect on the environment unless an environmental permit has been issued by NEPA.</p> <p>Relevant legal provisions under Afghan Law: Article 19 of the Environmental Law requires affected persons to participate in each phase of ESIA, which includes meaningful opportunities through independent consultations and participation in public hearings. Moreover NEPA will not reach decision on any application for a permit until MJAM has satisfactorily demonstrated that the document is available for public review and has submitted proof of public hearings. NEPA shall publicize its decision and make available any relevant documentation for public review (sections 1-4).</p> <p>Responding to the Requesters' statement that the ESIA was long overdue, MJAM procured Hagler Bailly to prepare the ESIA and EMP in early 2009. The "Screening Report," dated December 24, 2009, was received by the MoM and NEPA. For a variety of internal reasons, the review of the Screening Report took nearly 10 months to complete. The final review process took place through collaborative workshops and bilateral meetings among the MoM, NEPA, Hagler Bailly, MJAM and other stakeholders.</p> <p>Further delays may occur. MJAM has expressed to the Government concern over security and is citing this as a prerequisite to undertaking all Project activities and preventing further delays.</p> <p>Management will follow up with the GoA to ensure disclosure of the relevant documents in line with the ESMF, which is being prepared following Bank policy.</p> <p>Beyond the requirements laid out in the relevant Laws, the MoM has made concerted efforts to ensure that sufficient information dissemination activities have taken place, including the sharing of information through its website.</p>
4.b.	<b>OP 4.01</b>	<b>Management recognizes the environmental and social risks as-</b>

<sup>2</sup> The EPP inadvertently states that (para 37) the Aynak ESIA was prepared and ready for submission during the drafting of the EPP. The reference should have been to the ESIA Screening Report.

No.	Claim	Response
	<p>Copper mining is associated with a number of significant risks to human health and to the natural environment. These risks can extend far into the future and can continue even after the closing of the mine; impacting the soil, air and water. Copper mines also permanently alter the landscape and the terrain, due to the high ratio of waste to ore – one ton of ore typically produces two tons of waste. The Environmental Protection Agency Report on Copper Mining provides an extensive summation of the risks and hazards, from which we cite only briefly the following:</p> <p>“Mine pits and underground workings; waste rock piles; tailings and other ponds; spent leach piles are of particular concern in the copper industry, because these are the areas in which toxic contaminants are most commonly found...they have the potential to present harm to the environment... Contaminants associated with these areas may include heavy metals and, from some, acid drainage. These contaminants may degrade ground water, surface water, soil, and air quality during mine operation and after mine closure... ..toxic to humans and to aquatic life and are known to accumulate in the environment and concentrate in the food chain.”</p> <p>Copper mining produces an inordinate amount of waste. It is not uncommon for the resultant waste piles to be 400 hectares in size. Clearly this represents a significant alteration of the terrain of Logar Province. We have seen no plan that explains how this will be mitigated, and what livelihoods or habitation will be possible following the closure of the mine. And this pertains only to the physical terrain. These waste piles also frequently contain toxic and at times, radioactive materials. In the U.S. increasingly stringent regulations have been put in place. Most recently, permits are only issued if it can be demonstrated that the aquifer on the site is not used for drinking water. The enormous challenges associated with managing the tailings associated with copper mining are well</p>	<p><b>sociated with mining. All potential impacts related to the Aynak mine development are required to be considered in the preparation of the relevant safeguard instruments by MJAM. Specific questions raised in the Request about mining techniques<sup>3</sup> and associated potential impacts will be covered in the ESIA and EMP. Local consultations will be undertaken on both documents and thereafter inform the FS.</b></p> <p>The Bank's extractives industries (EI) sector work is guided by the World Bank Group Management Response to the Extractive Industries Review (EIR Management Response, 2005). This includes: (a) strengthening governance and transparency; (b) proposing measures to mitigate mining impacts on the community and ensuring that the poor benefit from extractive industries; (c) developing capacity in agencies having jurisdiction over mine development to identify and assess risks; and (d) protecting the rights of people affected by EI investments. These guiding principles have subsequently been captured within the EI Value Chain (World Bank, March 2009), upon which the SDNRP-2 design is based. The EI Value Chain is an integrated, comprehensive approach to managing the full EI value chain including all steps of development and impact. In line with the above stated principles, the Project has several actions to assist the MoM and NEPA to build their capacity to manage environmental and social impacts and risks. These include strengthening the GoA's mining and environmental laws and regulations and the capacity to enforce them, both at the sectoral level and at the individual transaction level.</p> <p>One of the key outputs under the Project is the preparation and implementation of the ESMF, consistent with the applicable safeguard policies of the Bank. Finalization of the ESMF has been delayed because of capacity constraints within the Government relating to key elements of the ESMF. The draft Resettlement Policy Framework (RPF) was received by the Bank earlier this month. The ESMF including the RPF will undergo consultation by the GoA. It is intended that the MoM and NEPA will use the ESMF on a sector-wide basis while the Government continues to strengthen its guidelines and standards to better manage the environmental and social impacts associated with mining.</p> <p>Notwithstanding the delay in finalizing the ESMF, the SDNRP-2 continues to support capacity building for regulatory oversight of the ESIA and EMP implementation for the mine development, consistent with applicable Bank operational policies and national law, including the ESMF.</p> <p>Aynak mine development: The potential mining-related impacts referred to in the Request are being taken into account in the preparation of the relevant safeguard instruments as noted above. As part of Project supervision, the Bank will continue to advise the Government and monitor the situation. Post-mining landscaping will be covered within the FS under the mine closure plan section.</p>

<sup>3</sup> E.g., drilling, blasting, earth works, use of chemicals and water.

No.	Claim	Response
	<p>known, for one instance we may refer to the case of the Marundique Islands, Philippines, where tailings contaminated rivers, ground water and the marine environment.</p> <p>Mitigation processes for the above-mentioned risks are possible but complicated, often only partly satisfactory, expensive and they require competent continual monitoring. We have not seen a responsible plan for Mes Aynak and there is no indication that monitoring can be successfully accomplished, given the prevailing levels of non-transparency.</p> <p>Examples of dramatic consequences that can result from the improper management and insufficient precautions at copper mines abound. These can lead to an area becoming permanently uninhabitable. For example, the Anaconda Copper Mine in Montana had to be declared a Superfund Site. Levels of arsenic found in the water, soil and in medical testing of local residents made it necessary for them to be permanently removed from their homes and resettled, because even after mitigation measures the continual return of hazardous materials into the environment was deemed likely by the health authorities.</p> <p><b>From 2<sup>nd</sup> request:</b> How do they extract the minerals? Would they explode the parts where minerals are expected? Would poisonous chemicals be used there? Is it possible that these (poisonous) chemicals would get mixed into the bottom of underground water reservoirs? What if it is harmful for the people's lives and health in the surrounding localities?</p> <p>And the most important question is how the area will look like after the project is completed? Will its natural beauty remain the same or not? At present, Mohammad Agha area of Logar is entirely green. It has a lot of fruit trees. Will such produce not be affected after the mines start to be produce harmful materials?</p>	
4.c.	Regarding Mes Aynak, sources close to this project inform us that the World Bank has attempted to comply with environmental protection requirements by hiring an independent monitoring agency, but that a lack of access, in-	<p><b>Independent Monitoring</b></p> <p>As a responsibility of the GoA, the MoM has awarded a contract, under SDNRP-2, to an independent monitoring agency, GAF, to monitor compliance with the contractual and regulatory obligations under the</p>

No.	Claim	Response
	formation, and transparency has made it impossible for these consultants to fulfill their mandate.	<p>mining concession agreement.</p> <p>GAF has been operating for the last year and will continue to do so for the next three years. As noted above, the ESIA, EMP, and FS have yet to be submitted by MJAM to the GoA for regulatory review.</p> <p>GAF supports the work of the Government Mining Inspector and collaborates with the MoM, NEPA, its advisors, and national counterpart staff. GAF assumes the responsibility for auditing, monitoring, overseeing and assisting the Government in enforcement of MJAM's regulatory and contractual obligations.</p> <p>As part of Project supervision, the Bank engages with the MoM and NEPA on compliance monitoring issues, including those related to commercial mining transactions.</p>
4.d.	<p>Given the known and significant risks associated with copper mining, it is hard to understand why this project was initially given an Environmental Category "C" designation by the World Bank. We would like to know the reason for this classification. While it has since been upgraded to a "B" designation, the lower classification during the early phases of the project affected decisions and chosen directions of effort at a critical juncture, just as the hasty and unfounded decision for "emergency archeology" has set a disastrous course for the piecemeal destruction of the cultural heritage site.</p>	<p><b>Environmental Categorization</b></p> <p><b>The EA Category was changed from "C" to "B" for the SDNRP Additional Financing and SDNRP-2 because of the change in Project scope and the potential to realize inbound investments. This reclassification is required under BP.4.01.</b></p> <p>SDNRP was designed to build regulatory capacity within the country and no investment proposals had been received by the Government at that time; it was therefore classified as a Category "C" project. The SDNRP EPP noted that reclassification could take place as follows: "... In the event that a specific transaction leads to a potential direct investment by either the Government of Afghanistan or resources provided through IDA, an application for reclassification of the project will be considered" (paragraph 40).</p> <p>Once investor interest and potential for private sector participation grew, the Government sought additional financing from the Bank for an expanded scope, which included investment facilitation support for private sector participation; thus the Additional Financing operation was placed in Category "B." Given the sector development potential and investor interest, the subsequent operation, SDNRP-2, was also categorized as "B" and the following safeguard policies were triggered: (a) Environmental Assessment (OP/BP 4.01); (b) Physical Cultural Resources (OP/BP 4.11); and (c) Involuntary Resettlement (OP/BP 4.12).</p>
5.a.	<p>Loss of a heritage site with strong future tourism income potential; destruction of irreplaceable cultural heritage due to a mine plan based on insufficient data, and a neglect to study available options for reconciling mining and heritage preservation. (see OP 4.11 "Physical Cultural Resources")</p> <p>World Bank policy requires that the cultural impact of a project be assessed, among other methods, through collecting baseline data, an impact assessment, design of mitigating measures and formulation of a management plan.</p>	<p><b>Overall Compliance with OP 4.11 on Physical Cultural Resources</b></p> <p><b>The Bank has followed OP 4.11, taking into consideration the unique circumstances and exceptional security challenges at Mes Aynak.<sup>4</sup> Based on advice provided by the Bank, the GoA has made significant efforts to protect the physical cultural resources at Mes Aynak.</b></p> <p>The GoA has regulatory and administrative responsibility for addressing the impacts on physical cultural resources (see Law on the Preservation of Afghanistan's Historical and Cultural Artifacts, 2004). The intersection of mining and management of physical cultural resources is common in the South Asia region and expected at select proposed mines across Afghanistan. The Bank provided guidance to the GoA regarding physical cultural resource protection, by seeking out the expertise of international experts. The Bank responded to the requests of GoA for technical assistance: (a) in addressing immediate</p>

<sup>4</sup> Mes Aynak refers to the broader archaeological site which is located in and around the Aynak copper deposit.

No.	Claim	Response
		<p>emerging issues concerning cultural protection and mining; and (b) in developing measures for capacity building to close skills gaps and undertake more systematic preparation and implementation of cultural property management plans. SDNRP-2 has allocated USD5 million to archaeological and artisanal and small scale mining issues. The EPP notes that an additional USD30 million will be needed for full recovery and preservation of cultural artifacts for the Mes Aynak site (see Item 5.c. below).</p> <p>The Bank does not agree with the Requesters' statement that there is destruction of irreplaceable cultural heritage due to a mine plan based on insufficient data. While considerable damage was reported prior to the security perimeter being established, in 2010, the MoM and the MoIC signed a MOU to ensure that the Aynak mine development conserves and preserves the physical cultural resources found on the site, and that the two ministries would continue to work closely together for the safe removal and/or in situ preservation of the resources.</p> <p>Current archaeological activities are funded by: (a) the MoM through the SDNRP-2 and MoIC; and (b) the French Ministry of Foreign Affairs through DAFA. Going forward, capacity building at MoIC will be supported by the MoM through continued use of DAFA, combined with the global expertise of UNESCO under SDNRP2, for which procurement is underway to support MoIC's preparation of the Mes Aynak Archaeological Management Plan. This plan will provide options for reconciling mining and cultural protection by informing the ESIA prepared by MJAM. When MJAM begins exploitation, it will be a staged activity providing opportunity for continued archaeology on priority areas within the Red Zone and implementation of the management plan for the broader Mes Aynak site. The management plan will be prepared through collecting baseline data, undertaking an impact assessment, and formulating mitigating measures.</p> <p>Management notes that GoA capacity requires further strengthening to manage the intersection between mining and management of physical cultural resources. In response to this, SDNRP2 is supporting broader capacity building, using the joint expertise of DAFA and UNESCO. Capacity building within the MoIC to monitor and track the progress of cultural resource protection activities forms the core of the proposed UNESCO work program.</p>
5.b.	<p>This is ARCH's key area of competency; and to ensure that our conclusions are accurate, we have solicited the views of many independent subject matter experts. We have obtained and reviewed the archaeological survey conducted under the auspices of the World Bank (Delegation Archeologique Francaise en Afghanistan, Mes Ainak, A comprehensive assessment of the archaeological issue). Despite its name, this document cannot by any objective measure be described as "comprehensive." Rather, it is rudimentary at best and the survey was, of necessity, superficial and cursory. State of the art technical means and technological resources for collecting baseline data (for example through ground penetrating aerial photography</p>	<p><b>Assessment of Physical Cultural Resources</b></p> <p><b>The GoA has undertaken an adequate assessment of the physical cultural resources issues related to Mes Aynak and is working towards preparation of a Mes Aynak Archaeological Management Plan guided by OP 4.11.</b></p> <p>DAFA has been involved in significant archaeological work in Afghanistan since the 1920s, and is globally recognized for its expertise. Management has not received communications from subject matter experts challenging DAFA's competence or capability to undertake this task, as characterized by the Requesters.</p> <p>DAFA, as a partner of the GoA, undertook an initial assessment of archaeological issues at Mes Aynak in late 2010, and prepared a preliminary excavation plan and proposed budget, schedule, resource needs, and a strategy for archaeological activities.</p> <p>The Requesters have misinterpreted the intent of the DAFA report and its study.</p> <p>DAFA's work was not intended to comprise a comprehensive assess-</p>

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	<p>and laser-based remote scanning technology) were not utilized, and the survey does not represent current international best practice. The archeologist who conducted the survey (Philippe Marquis of DAFA) has no doubt given this his best personal effort, but he was not provided with the time, resources, technical materials, manpower or mandate to conduct a proper survey; also, conducting such a survey is not his area of expertise, as he is a salvage archeologist. ARCH can provide several international experts who will attest to this conclusion. The failure to properly map, explore and evaluate the site is especially alarming given the magnitude and importance of this deposit.</p> <p><b>Second request</b></p> <p>Another important thing I came to know through the electronic and online media is that there are ruins of the ancient and historical city of Aynak. According to that, thousands of years ago, copper had been extracted from this part, as a result of which a civilized city came into being. The ruins of the city still exist under the ground. The remains of the said heritage could be dug up by geologists so that the tourists could be attracted to this place. This tourism will benefit Afghanistan in terms of revenue. This historical city is very important from an archeological standpoint as it can give us deep insight (information) about thousands of years-old Afghan history. The related world is very interested in the subject, and I am also aware about the petition which was signed by thousands of people demanding the historical ancient city of Aynak be preserved for future generations. I also have heard about a godown which has been used for the storing statues found during excavation of these historical sites. I wonder and feel sorry how such a historical city could be preserved in a godown. Keeping some statues and ancient remains in the museum is not</p>	<p>ment. Instead, DAFA embarked on a multi-year phased approach to evaluate the site in consideration of phased exploitation of by MJAM. This phased approach is reflected in one of the major outputs of DAFA's work, the distinction of the Red Zone from the wider Mes Aynak area. Within the Red Zone itself, the Mes Aynak Archaeological Project Progress Report (January 2013) denotes two phases of work; again reflecting the phased mining approach. Going forward, DAFA, in cooperation with UNESCO (currently under procurement) will continue its work in the field and will explore options for GoA management of physical cultural resources of the broader Mes Aynak site (see Map 2 and Item 5.c. below).</p> <p>West of Area 14 is expected to contain additional significant cultural resources as is the area 10 km east of the MJAM concession area; DAFA tried unsuccessfully in 1974 to undertake a field program for the latter, under inadequate field security. These areas away from the Aynak Central Copper Deposit still require security strengthening and have been scheduled for archaeological work in later phases.</p> <p>This recent work complements the earlier work at Mes Aynak, in which DAFA prepared: (a) a spatial data base of the archaeological artifacts with maps superimposing the location of the archaeological sites and the proposed mining and infrastructure; (b) short and long term plans for the management of the archaeological site; (c) a practical operational plan; and (d) future archaeological areas.</p> <p>As noted above, DAFA and UNESCO will use this initial assessment to inform the preparation of the Mes Aynak Archaeological Management Plan. Management understands that the time allocated for the assessment of issues was set by the GoA in the expectation that mining would commence in 2012 (discussed further in Item 5.c. below). In December 2011, the Bank proposed that the GoA host a consultative meeting (Mes Aynak Big Tent Meeting) to gain further input from national/international experts on this issue (see Item 5.d. below). That meeting, reduced in scope by the GoA, and the ARCH Washington Workshop form a basis for broader consultations to be undertaken by MoIC, as defined within the ToR for UNESCO.<sup>5</sup> Given the delay in the ESIA and FS, more time is available for preparation of the Mes Aynak Archaeological Management Plan including continued assessment (as discussed in Item 5.c. below).</p> <p>In Management's view it is paramount to take into consideration the unique circumstances and exceptional security challenges at Mes Aynak. Management wishes to stress its strong concern that disclosure and/or local consultation present serious challenges to the safety and integrity of the Mes Aynak cultural property site, as well as the lives of the national and international archaeologists, and communities providing workers.</p> <p>Regarding the Requesters' assertion that more information to the public is needed, one of the tasks of the UNESCO ToR is to assist the MoIC in developing and organizing workshops, training, study tours, communication campaigns, conferences, etc.</p>

<sup>5</sup> The draft UNESCO ToR include "...workshops, training, study tours, communication campaigns, conferences, etc. to support the preservation of cultural heritage around mining and large infrastructure development sites in Afghanistan .... UNESCO should lead in setting up a committee of national and international advisors to meet regularly and provide scientific advice to archaeological operations and the related management of cultural assets. Actions of the Committee will be facilitated through a Secretariat, which would officially be housed under MoIC."

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	<p>enough. The whole city cannot be preserved like that. It is almost impossible to transfer and place all the ruins somewhere else. We already have lost Buddha statues of Bamiyan and this destruction was condemned throughout the world, and now the approximately 5,000-year-old city of Aynak, which is much more significant than the Bamiyan statues, is being ignored. The world is silent as nobody cares about its excavation and preservation</p>	
5.c.	<p>The World Bank is funding and supporting the work of laborers and archaeologists on the site. The goal is to salvage objects from the upper strata of the deposit, an approach termed emergency archeology or salvage archeology.</p> <p>This is a procedure which on the one hand rescues some of the objects but only at the cost of simultaneously destroying the site. Any objects that cannot be moved are sacrificed, and even those that are removed are often damaged in the process. The possibility of maintaining a heritage site is eliminated by this process, and the lower levels of the historical deposit – which often are more valuable than the surface layers that have already been looted or damaged by the elements – can then never be excavated or explored. Buildings and structures, fragile objects, items too large to remove, and anything still below the surface, all of that is sacrificed. This mode of archeology is justified only when no other alternatives exist, for example because an ancient deposit is accidentally uncovered in the middle of a modern city during the construction of a subway system.</p> <p>This approach is highly prejudicial. The proper procedure according to international best practices and standards for cultural preservation would have been as follows: first, the deposits needed to be surveyed, mapped and evaluated. Next, the feasibility studies and mining plan needed to be reviewed to discover the extent to which the site could be responsibly excavated, documented and preserved in harmony with the</p>	<p><b>Mitigation Measures (Full-site Protection vs. Selective Mitigation – salvage/documentation)</b></p> <p><b>The combined measures of selective mitigation (including salvage archaeology and documentation) and preservation of the broader Mes Aynak site are appropriate under OP 4.11 (para 8). Hence, ARCH's assertion that "goals" have been set for salvage archaeology applies narrowly for the Red Zone.</b></p> <p>The GoA has initiated a phased approach to both archaeology and mineral exploitation that supports the coexistence of mining and the management physical cultural resources and includes a wide range of mitigation measures. These measures, for which there is more time for further assessment, range from: (a) Red Zone<sup>6</sup> salvage archaeology where physical cultural resources are assessed to be at risk of loss from first phase exploitation; and (b) archaeological options proposed by DAFA for the remainder of the broader site, to be further elaborated in the management plan to be prepared by MoIC (with assistance from DAFA and UNESCO).</p> <p>Elaborating on (b) above, the coexistence of mining and the management of physical cultural resources is common globally. Sustained mitigation and management of the physical cultural resources requires a tripartite partnership among the company, the Government and Civil Society.</p> <p>The assertion that the possibility of such a heritage park has been eliminated is not correct. The option for an in situ preservation (e.g., a heritage park) will be analyzed as part of the GoA's preparation of the Mes Aynak Archaeological Management Plan for the broader site and is envisioned by the Bank and recorded within the EPP (para 96). Within the broader Mes Aynak site, Areas 10 and 12 are being considered by DAFA for in situ preservation given extensive structures, monasteries, stupas, and possibly statues. Area 14 may represent options for in situ protection of antiquity mining technology. DAFA reports continued analysis regarding options, costs and security considerations for such an archaeology park.</p> <p>After 60 percent completion of archaeological activity within the Red Zone (down to virgin soil), DAFA reports that no evidence of Bronze Age cultural resources have been found. Ongoing archaeological activities supporting the preparation of the Mes Aynak Archaeological Management Plan would inform as to "deeper layers" of Bronze Age physical cultural resources across the broader Mes Aynak site. The assertion that deeper layers have not been studied to date therefore is</p>

<sup>6</sup> See also Map 2

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	<p>mining effort. Finally, a joint plan for heritage preservation and for mining should have been developed, inclusive of timelines. This did not happen; instead the decision was immediately presumptuously made (with support of the World Bank) that the site would be sacrificed and salvage archeology was to take place. The possibility of site preservation was never even considered. A plan was never developed and no reliable timeline was provided; instead, the archeologists have continually been given incorrect estimates of how short a time they only had available to rescue whatever they could before mining commenced.</p> <p>This false state of urgency has now gone on for years. In other words, there was in fact more than enough time for a responsible survey to be conducted and options to be discussed, and this had to be known to the World Bank mining department from the start, as they must be able to assess and predict how long it takes for a mine to be opened and they had to see and be able to evaluate the pace of preparations and therefore, the likely earliest start to mining – which at the present time, years into the contract, is still at least three and probably five years away according to independent mining experts. A prominent archaeological expert, who had been hired as the site manager, was summarily fired when he attempted to raise some of these issues. He is willing to give his name and to speak with the Inspection Panel. An extensive description and assessment of the site, its history and significance, is attached and substantiates the need for a proper archaeological survey (White Paper, Appendix d.)</p>	<p>not correct.</p> <p>The archaeological approach is not “highly prejudicial” as stated in the Request. The GoA approach is supported by a 2010 DAFA assessment of Mes Aynak issues including a preliminary excavation plan and proposed budget, schedule, resource needs, and a strategy for archaeological activities. The above actions complemented DAFA’s earlier work (see Item 5.b. above).</p> <p>Documentation of Mes Aynak is extensive. The Mes Aynak Archaeological Project Progress Report, January 2013 notes that 10,000 “contexts”(a wall or floor) have been recorded; each with drawings, photographs and written descriptions. This stands in comparison to a typical site for which DAFA reports 400-500 contexts would be recorded, 500 photographs and perhaps 100 drawings. A comprehensive digital plan of all the archaeological physical cultural property in the Red Zone is completed and forms the basis for a geographic information system for presentation. Surveyors have recorded 15,000 points to map the site. Procurement for 3D imaging is nearly complete. DAFA will return with the drone in May to complete high resolution (10 cm) aerial images, subject to security and local village approval. Management understands that exploitation of the site is highly unlikely to commence before 2016 given the time needed for MJAM to complete the preparatory technical work (ESIA and FS) and obtain regulatory approval, but using even that date impacts in the Red Zone would commence more than two years earlier. Therefore, Management does not agree that there has been a false sense of urgency. The timeline for the mining operation has been adjusted for a number of reasons including security, regulatory compliance and archaeology and general project preparation. Management has been advised by the GoA<sup>7</sup> that mining operations will only start once clearance has been received from MoC as per Afghan law. Management will continue to monitor this commitment of the GoA and achievement of the agreed milestones, and undertake appropriate measures.</p> <p>MoM maintains an open exchange with MJAM on phased exploitation and mining technologies. MoM has confirmed that the first phase of exploitation will have an impact zone whose boundaries have been used to define the Red Zone. Management understands that MJAM as part of the FS is considering mining technology options for deeper portions of the deposit; this leaves open the possibility of mitigation and protection measures to be further explored under the broader Mes Aynak Archaeological Management Plan (discussed above).</p>
5.d.	After the World Bank’s failure to organize a serious meeting consisting of independent experts (see Chapter I) ARCH convened an expert meeting on our own, the findings of which are attached (Appendix e.) This meeting	<p><b>Use of Experts</b></p> <p>Management has been well aware of the issues raised in the Request and the positions that ARCH takes on these. The Bank has repeatedly reached out to ARCH and has had the opportunity to listen to and discuss thoroughly the issues raised in the Request in its interactions</p>

<sup>7</sup> MoM released a statement (January 2013) that “...the vitally important conservation work at the Mes Aynak archaeological site will continue alongside preparations for the Copper Mine in the vicinity. The Government wants to conserve the cultural site and the pieces of historical importance ...no work will be carried out by the Copper Mining company until we have prior approval and clearance from the Ministry of Information and Culture of the Islamic Republic of Afghanistan with regards to archaeological sites of Mes Aynak, as per Afghan law.”



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	<p>surfaced a high level of concern on the part of independent experts regarding the environmental dangers facing Mes Aynak, given the nature of the ore deposit and the fact that so far, the effort lacked any transparency and did not meet minimal common standards of practice such as publication of an Environmental Impact Assessment and Environmental Impact Mitigation Plan, Mining Feasibility Studies, or a Water Master Plan. The historians and archaeologists attending were uniformly of the view that it would be highly irresponsible to continue with rescue archaeology when a prior proper exploration of the historical deposits had not yet been undertaken to determine the age, extent, value and exact location of these deposits.</p> <p>We have attempted for well over a year to work with the relevant World Bank representatives in Afghanistan and the U.S., holding many meetings, presenting many facts and reports from affected persons and from experts, both locally in Afghanistan and at headquarters in the U.S., but we must now conclude that no satisfactory response or reaction is forthcoming, and therefore we now turn our hopes to the Inspection Panel.</p> <p>What we find especially insupportable is that options and alternatives were never explored. We have implored the World Bank for well over a year now to investigate whether mining methods and technologies were available that could save the site or portions of the site. We proposed that independent experts from the fields of mining and archaeology should compare the maps of archaeological remains vs. mineral deposits to see if a lower impact mining plan might perhaps be feasible. We asked that at the very least, a proper map of the antiquities should be obtained so that one could make an informed judgment in regard to what one was proposing to destroy – this is, with current technology, possible in non-invasive ways through ground-penetrating methodologies. Our suggestions were acknowledged to be sensible but they were not implemented. Instead the Bank has continued to support hasty salvage archaeology at this site. This is a method that archae-</p>	<p>with ARCH over the past 16 months. These interactions have included correspondence, meetings and workshops; both at the task team level and at the level of Bank Management. Management has also reached out to the Requesters in the context of this Management Response, beginning January 15, 2013, and ARCH agreed to meet on February 7, 2013. While Management shares the Requesters' objectives for the Mes Aynak site and strives to cooperate to this end with all relevant stakeholders, including the Requesters, Management disagrees with a number of allegations that the Requesters have raised in this Request. (A detailed list of interactions with ARCH is attached in Annex 3.)</p> <p>Regarding ARCH's dissatisfaction with consultation of national / international experts, the GoA has responsibility for consultation on the protection of physical cultural resources. Two meetings provided input towards strengthened GoA consultations: (a) the GoA April 2012 Mes Aynak Big Tent Meeting; and (b) the ARCH Washington Workshop. Additionally, a consultative approach led by MoIC will benefit from forthcoming technical assistance by UNESCO and DAFA (as discussed in Item 5.a.).</p> <p>The Mes Aynak Big Tent Meeting In April 2012 to consult on options for Mes Aynak was hosted by GoA and supported under SDNRP-2. Ahead of the meeting, the GoA restructured the meeting format, to focus on more information dissemination across a smaller number of representatives from across MoM, MoIC, Afghan Institute of Archaeology, DAFA, international archaeology experts, ARCH and UNESCO. Meeting recommendations included: (a) establishment of an advisory committee to provide broader archaeological guidance on Mes Aynak and sector-wide mining/cultural protection issues; (b) greater attention to documentation of the Mes Aynak site; and (c) selection of the archaeological plan given the length of time allocated by the MoM for the Red Zone (reported in AM April / May 2012). This would also allow for further consultations as discussed below.</p> <p>Civil Society: ARCH has been the most visible civil society organization on Mes Aynak cultural protection, engaging with the Bank for the past 16 months. In December 2011, the Bank included ARCH as the civil society partner for a Mes Aynak Grant Proposal that would have strengthened the role of civil society on the intersection of extractive industries and cultural protection. While the grant proposal was not successful, the Bank and ARCH have continued to maintain an exchange of views.</p> <p>ARCH 2012 Washington Workshop: The Bank and MoM participated in the ARCH Workshop in May 2012. Findings included: (a) deficiencies in logistical support had impeded archaeological progress and (b) uncertainty around available time was influencing the selection of the archaeological methodology in the Red Zone.</p> <p>The ARCH Workshop recommended: (a) establishment of a Scientific Committee for input and guidance on Mes Aynak activities; and (b) a National Committee to create advocacy and ownership of the value of the cultural resource. These points were aligned with the findings of the Mes Aynak Big Tent Meeting. So too were recommendations regarding tripartite dialogue; more inclusion of local stakeholders on archaeological issues, and procurement of key specialists. After the workshop, the Bank provided comments on the ARCH draft report.</p> <p>As noted in Item 5.a., strengthening of consultation to input the opinions of a highly varied group of national / international experts will be achieved through building capacity at MoIC. This capacity building process has begun through the Mes Aynak Archaeological Project</p>

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	<p>ologists typically employ as a "last resort." It consists of hurriedly removing anything that is portable and can be relocated to a museum or storage facility. It assumes that there is no alternative to the destruction of the site itself. The typical use of salvage archaeology would not be in a context such as Mes Aynak, where one finds an isolated buried city. Rather, salvage archaeology is more often used when, in the middle of a heavily populated modern urban area, a company constructing a new subway unexpectedly finds some ancient ruins.</p> <p><b>ARCH's Meetings with World Bank Officials and Staff</b></p> <p>There were multiple meetings between ARCH and responsible World Bank officials and staff in the period from September 27, 2011 to the present. These meetings, contacts and communications took place in person, via email, by phone, via teleconference, in D.C. and in Kabul with World Bank staff based in the U.S., Germany and Afghanistan. Among other recommendations, we urged the convening of an Expert Meeting of independent geologists, archaeologists and mining engineers to objectively review the situation and attempt to develop solutions. We were assured that such a meeting would occur. Instead after multiple postponements the meeting was first downgraded from a "big tent meeting" at which the representatives of the local population and civil society were supposed to be present and able to pose questions to a small press conference (with only one press outlet included, the official government one) and then held in exclusion of the local populace and civil society. No independent experts were invited, civil society was not included, and no discussion took place. We feel that all avenues have been exhausted and we must now appeal to the Inspection Panel.</p>	<p>Progress Report (January 2013) whose aim is to safeguard environmental assets, enabling and regulating extractive industries, while avoiding impacts on archaeological resources.</p> <p>Furthermore, Management notes achievements with regard to civil society engagement. The GoA's implementation of the EITI includes multi-stakeholder groups consisting of government, industry and civil society/local NGOs. Achievements to date are the product of over four years of effort, and strong donor support of a professional Secretariat. Even so, Afghanistan has yet to achieve EITI Validation status. ARCH's frustration after sixteen months of effort underscores the challenges facing broader inclusive tripartite processes.</p> <p>The ARCH recommendation for the use of independent civil society archaeologists, geologists and mining engineers is shared by the Bank. SDNRP-2 has deployed more than fifty engineers, geologists, environmental / social specialists and archaeologists, and more will be mobilized for capacity building at MoIC. The GoA Mes Aynak archaeological efforts are currently supported by more than 20 international archaeologists (eight from Tajikistan, six from the UK, two from Poland, and others from Germany, Turkey, Syria, Lebanon, Hungary, France, Greece, and Mexico), over 40 national archaeologists and over 450 local workers in support of the fieldwork (numbers fluctuate according to individual contracts).</p> <p>The Bank has been actively discussing the issue with relevant UN agencies, and bilateral donors (US, Egypt, China, Japan) with expertise in the subject matter. Further, Management has proactively advised the GoA to involve the MJAM in this discussion of the long term sustainability of the Mes Aynak archaeological site.</p>
5.e.	<p>The "consultation with relevant non-governmental organizations" as required in Point 11 (of OP 4.11) has also not taken place. The most prominent experts on the subject of Mes Aynak, such as Professor Zemaryalai Tarzi, the internationally renowned Afghan archaeologist who worked on</p>	<p><b>Consultations/Disclosure</b></p> <p><b>Management is concerned that disclosure and/or local consultation may compromise the safety and integrity of Mes Aynak physical cultural resources, as well as the lives of the national/international archaeologists, and communities providing workers.</b> (See previous discussion in the main text entitled "<i>The Impact of the Security Situation on the Bank's Work in Afghanistan.</i>")</p>

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	<p>the site during the 1960's and has urgently pressed for measures to properly study and assess the site and develop a mitigation and management plan commensurate with its value, and to earnestly consider options for in situ preservation, has been ignored. The World Monuments Fund and ICOMOS were not included in any discussions of the issue; both are on public record regarding the unique importance of this site and the necessity to consider with all due earnest any possibility to avoid its destruction.</p> <p>Nor were representatives of Afghan cultural organizations consulted. Mes Aynak contains information about at least 4000 years of Afghan history. If the current plan goes forward, its lower levels will never be excavated and all the information contained therein will be lost forever. This loss affects all Afghans, which is why a number of Diaspora Afghan professionals have joined in signing this request. Arguably, it is also a loss to the history of science, since the lower levels of the site include artifacts and data about the history of early mining – copper has been mined at this location for thousands of years, but the methods and tools utilized in earlier millennia are not known.</p> <p>We have attempted for well over a year to work with the relevant World Bank representatives in Afghanistan and the U.S., holding many meetings, presenting many facts and reports from affected persons and from experts, both locally in Afghanistan but and at headquarters in the U.S., but we must now conclude that no satisfactory response or reaction is forthcoming, and therefore we now turn our hopes to the Inspection Panel.</p> <p>ARCH's Meetings with World Bank Officials and Staff</p> <p>There were multiple meetings between ARCH and responsible World Bank officials and staff in the period from September 27, 2011 to the present. These meetings, contacts and communications took place in person, via email, by phone, via teleconference, in D.C. and in Kabul with World Bank staff based in the U.S., Germany and Afghanistan. Among other recommendations, we urged the convening of an</p>	<p>The GoA has established a security ring around Aynak that has: (a) stopped looting of physical cultural resources; and (b) protected Mes Aynak archaeologists among others. <b>Management advises that further disclosure should be predicated upon an acceptable security environment. Even with the security ring, Aynak remains a relatively soft target having high media value.</b></p> <p>DAFA suggests to continue its approach of open, regular exchange with local Maliks and Elders, progressively extending their knowledge of the broader Mes Aynak site, and the opportunities that have resulted for over 450 local workers. This exchange in return is informing DAFA on local security dimensions. See Item 5.d. above on the Kabul based Mes Aynak Archaeological Project Progress Report (January 2013), the GoA Mes Aynak Big Tent Meeting and ARCH Washington Workshop.</p>

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	<p>Expert Meeting of independent geologists, archaeologists and mining engineers to objectively review the situation and attempt to develop solutions. We were assured that such a meeting would occur. Instead after multiple postponements the meeting was first downgraded from a "big tent meeting" at which the representatives of the local population and civil society were supposed to be present and able to pose questions to a small press conference (with only one press outlet included, the official government one) and then held in exclusion of the local populace and civil society. No independent experts were invited, civil society was not included, and no discussion took place. We feel that all avenues have been exhausted and we must now appeal to the Inspection Panel.</p>	
6.	<p><b>OP 4.07: Water Resources Management</b></p> <p>Loss of livelihoods as a result of water depletion, pollution, loss of agricultural lands. (see OP 7.50 "Projects on International Waterways," OP 4.07 "Water Resources Management")</p> <p>Logar is a heavily agricultural province. The population consists largely of farmers, who grow wheat, maize, potatoes, onions, alfalfa, clover, tomatoes and okra, as well as maintaining orchards of apples, apricots, almonds and grapes. Agriculture relies on an extensive, traditional irrigation system (karez system).</p> <p>The mining project will draw down aquifers, reducing the water available for drinking by humans and animals, and for farming and irrigation.</p> <p>We are also concerned about water safety. Already in 2005, a UNICEF study found arsenic contamination of well water in Logar Province, which it attributed to earlier small-scale copper mining. What will happen once huge commercial mining begins?</p> <p>We are further concerned that the apparent negligence of the World Bank in not ensuring that environmental safeguards are in place, imminently endangers the health of the population living there, the quantity and safety of their water supply and through the</p>	<p><b>OP 4.07 does not apply to the Project since the Bank's support does not comprise any water resource-related investments.</b></p> <p>Nonetheless, Management recognizes the challenges that mining can introduce to water resource quality and quantity. These potential impacts will be assessed under the ESIA with mitigation measures proposed under MJAM's EMP. (see also above Item 4 on OP 4.01).</p> <p>The Bank, under a broader programmatic approach, also provides support to the GoA on water policy and capacity building for regulatory oversight through separate technical assistance support.</p> <p><b>Similarly, OP 7.50 does not apply to the Project as it does not comprise any of the activities covered under that policy, hence the Requesters' claim of harm linked to this policy is erroneous.</b></p> <p>Management is unable to understand the relevance of the Requesters' reference to OP 7.50 in the context of loss of livelihoods as a result of water depletion, pollution, or loss of agricultural lands. The only technical assistance support to which OP 7.50 applies is set out below, and the Project does not contain any of these activities:</p> <ul style="list-style-type: none"> <li>• "detailed design and engineering studies of projects" relating to "hydroelectric, irrigation, flood control, navigation, drainage, water and sewerage, industrial, and similar projects that involve the use or potential pollution of international waterways," (OP 7.50, para 2) for which a riparian notification is required; and</li> <li>• water resource surveys and feasibility studies on or involving international waterways (OP 7.50, para 7(b)), for which no riparian notification is required.</li> </ul>

No.	Claim	Response
	<p>aquifers and the river, that of Kabul and the Kabul River with potential consequences even cross-border into Pakistan.</p> <p><b>From 2nd Request:</b></p> <p>Is it true that this project requires a great amount of water, so much so that later on the resources of water could have been exhausted for the local population. They will be unable to find drinking water or to provide water to their animals and agricultural needs? ... Would you be able to tell us that underground water resources, streams and wells would not be consequently dried out?</p>	
7.	<p><b>OP 4.12: Involuntary Resettlement</b></p> <p>Loss of their homes and farms on the part of displaced local residents due to an inadequate resettlement plan and risk of local unrest. (<i>see OP 4.12 "Involuntary Resettlement"</i>)</p> <p>WB policies on resettlement are clearly stated. Involuntary resettlement is to be avoided where possible and if it is unavoidable, a set of precautions are to be taken to safeguard the rights and the future of the affected population. This includes "informing and consulting" those affected, offering them choices and viable alternatives, providing them with housing and with replacements for infrastructure they have lost. So far this has not happened in Aynak. According to a report by the Afghan Analysts' Network, the situation violates the policies of the WB in many particulars. The residents' land was expropriated by government decree without prior consultation. The decree promised them "compensation" but did not specify what this would consist of. There have been allegations of corruption in regard to the registration of land ownership in the new location, as well as resistance by the population of the area of relocation who did not want the newcomers and disputed the availability of the land they were to be granted. There are</p>	<p><b>The RPF for the Project is currently being finalized, including undergoing consultations, and will be part of the GoA's ESMF. The issues raised in the Request will be addressed in the RPF. Therefore Management disagrees with the alleged non-compliance with the policy.</b></p> <p><b>The Project is providing support to the Government to strengthen its regulatory, licensing and monitoring capacity. The delays experienced by the Project are due to the significant operational and security related challenges in the context of a FCS.</b></p> <p>The Requesters' concern relates to the proposed commercial mining activities. Resettlement is a shared responsibility between the MoM and MJAM. The MoM takes the lead on preparation and implementation of RAPs, while the MJAM finances the cost of resettlement including monetary compensation for loss of land and assets. The project affected families (PAFs) are being provided with adequate information on compensation methodology, social mobilization and the grievance redress mechanism with support from the International Rescue Committee. The Bank is providing technical assistance as part of the Project's objective to strengthen regulatory and monitoring oversight of the MoM, including resettlement and land acquisition.</p> <p>The MoM began its engagement with the affected PAFs in Aynak at the end of 2008. In September 2010, before the SDNRP-2, the MoM relocated PAFs in Wali Killai, and paid them a partial compensation for loss of housing and rent. Upon learning of this the Bank advised the GoA of the need to employ appropriate procedures in line with national law and applicable safeguard policies. The MoM agreed and proceeded accordingly, including preparing the first RAP for the Project in January 2012.</p> <p>This RAP also addressed the gaps in the previous work done by MoM between 2008 and 2010, details the resettlement process, including compensation for the affected families, and is consistent with the RPF of the ESMF.<sup>8</sup> The RAP documents the meetings and consultations held with the stakeholders and PAFs (including the above mentioned</p>

<sup>8</sup> The RPF of the ESMF for the Bank funded Irrigation Restoration and Development Project, approved by the Afghan Land Authority and subsequently cleared by the Bank in December 2010.

No.	Claim	Response
	<p>also tribal issues bearing with them the danger of violence erupting if members of one tribal group are forced to settle in an area considered by another tribal group to be their property.</p> <p><b>Consultation.</b></p> <p>Lack of consultation with local population.</p> <p>Logar Province is an underdeveloped part of an impoverished country. People are not educated and no attempt has been made by the World Bank to properly inform them of the plans, how these affect them, or the risks. The initial resettlement efforts have been fraught with many problems and even with violent incidents. All of this, and how it relates in our opinion to violations of World Bank policies, is further detailed below.</p> <p><b>From 2nd Request:</b></p> <p>What is the deadline for this project? A number of people have already been evacuated from the surroundings of mines and are still homeless. The rest of the population in neighborhood is even unable to find space for the burial of the dead bodies of their relatives, and they are requesting others to let their dead relatives be buried on their property.</p> <p>... Even after two years have been passed, the area reserved by the government for such settlements is yet to be developed. The development process has been stopped altogether. We don't see any chance of further work on it in future. Every family is being given 400 square meters of land so that they will build their homes at their own expenses. This assumption that the families have enough resources that they can build their homes is not just right.</p> <p>... And the targeted land had been measured to be utilized only for 512 families. In fact, the number of affected people is much more than the estimated number. On the top of that, some of those refugees based in Iran and Pakistan who belong to Aynak area are not listed in it, and also those residing in other parts of Afghanistan might not be able to get listed.</p>	<p>PAFs) with respect to compensation issues (Annexures 8,14,15,18 and 24 of the RAP). The land clearance process by the Afghan Land Authority also involved extensive consultations with the PAFs to validate ownership claims to land. Since the disclosure of the RAP in February 2012, the MoM has been conducting regular meetings with the communities and with Civil Society Organizations regarding the RAP.</p> <p>Additionally, the MoM has undertaken a preliminary study of the three potential sites for tailing dams and access roads, and has disclosed the findings on MoM websites. An additional RAP will be prepared for the tailing dam site and access roads.</p> <p><b>At this juncture, the Aynak mine development impacts 62 PAFs and 55 non-resident PAFs who were displaced during the conflict in 1979-1989. All these PAFs are entitled to receive compensation and resettlement assistance.</b></p> <p>The compensation framework under the RAP comprises compensation for loss of agricultural land, loss of structures, loss of fruit trees, land-for-land compensation in lieu of claims to land without any legally recognized justification, lump sum and shifting allowance. In addition, all PAFs will receive a plot of land for houses at the resettlement site that is under preparation by MoM. Additionally, the RAP provides for rehabilitation and employment and livelihood restoration to more vulnerable families, and MJAM is obliged to offer skills training and to provide 240 days of man-days of work annually.</p> <p>RAP Implementation: MJAM has deposited the amount of compensation to be paid to the PAFs in Bank of Logar. Resident PAFs have opened individual Bank accounts while for the non-resident an escrow account has been opened.</p> <p>The PAFs in Wali Killai, relocated in September 2010 by MoM ahead of the RAP, were paid interim compensation before they moved. The remaining families are still in their houses.</p> <p>Delay in issuing compensation is a systemic problem and a result of an incomplete and outdated land registry system in Afghanistan. Pending clarification of land title issues, the payments are waiting in escrow as cases are resolved in court to determine the legal heir within a family for payment for agricultural and residential land.</p> <p>The allotment of housing plots in the resettlement site is planned for March-April 2013 (after the winter). Regarding the land-for-land compensation of 10 jeribs (2 hectares or 20,000 sq. m) of land per PAF, two sites have been identified for allotment of land, Kalai Daulat and Abba Zali in Mohammad Aga district. The process of land clearance (the Land Authority process of determining ownership) of these areas is ongoing and may take an additional three months.</p> <p>Host community acceptance. The Afghan Analyst Network Report referenced (10-03-2012) describes land disputes in the area around the resettlement site. The Ministry of Urban Development (MoUD) in February 2011 notified the MoM that the proposed resettlement site was planned as a greenbelt and cemetery for the existing Ashab-Baba town and that resettlement would not be allowed. After a series of meetings, the MoUD and MoM resolved the issue, as confirmed in a MoUD letter dated December 12, 2012 and the work to develop the resettlement site is in process.</p> <p>The GoA is developing a framework of social and environmental norms and standards, and the Bank is providing assistance as issues emerge. As an example, during one of its supervision missions for the Project in May 2012, it was brought to the Bank's attention that MOM</p>

No.	Claim	Response
	<p>The declared land for 512 families is in the As-haab Baba city. It is an area for cultivation. The land allotted to these 512 families is also claimed by the Stanakzai tribe. They have warned the residents of Aynak area not to enter their land or else they will face the consequences. This is the reason why the people of Aynak will not wish to settle there even if they are forced to do so.</p>	<p>had forcibly evicted the unlicensed miners in Bamiyan Province from the Ishpushta coal mining site covered under the MJAM contract for fuel supply. Coal has been commercially mined by the Afghan state in Ishpushta at least since the late 1940s, but years of conflict have led to disintegration of the state-run mining operation and encroachment by unlicensed miners. As part of its proactive approach, the Bank advised the Government on global good practices on this issue and recommended that an independent Social Assessment be undertaken of the impacts in order to prepare a detailed mitigation plan for the restoration of livelihoods of all the affected people. The MoM has responded that the evicted miners will be employed in coal mines of the area either by MJAM or the GoA. The MoM has sent an internal mission to carry out impact assessment of the livelihood impact of the eviction in order to develop further action towards livelihood restoration. The MoM assessment report has not yet been received.</p>
8.	<p><b>OP 4.10 “Indigenous People,” OP 7.60 “Projects in Disputed Areas”</b></p> <p>Special risk to a vulnerable indigenous minority population, the Kuchis (a nomadic group designated as a vulnerable population by UNAMA.) (see OP 4.10 “Indigenous People,” OP 7.60 “Projects in Disputed Areas”)</p> <p>One of the affected groups is a vulnerable minority, the Kuchis (a nomadic group). The Kuchis have been designated by UNAMA, the United Nations Assistance Mission in Afghanistan, as one of the principal vulnerable populations in the country.</p> <p>All of this has led to fear and reluctance on the part of those to be relocated, some of whom have fled to unknown destinations rather than put themselves at risk in their designated new location, while others returned home but were forcefully removed by the police. Information to those affected has been lacking, adding to the uncertainty and fear. There has been no authoritative statement on how many villages and which ones are to be relocated during which phase of the process.</p>	<p><b>In Management’s view OP 4.10 does not apply for the reasons discussed below.</b></p> <p><b>Management agrees with UNAMA’s designation of the Kuchis as “one of the principal vulnerable populations in the country.” However, Management disagrees with Requesters’ characterization of the Kuchis as “an indigenous minority population” based on the above designation. OP 4.10 (para 4) defines Indigenous Peoples based on four distinct socio-cultural criteria, none of which include economic vulnerability.</b></p> <p>Pashtun pastoral nomads are referred to as “Kuchis.” Kuchis speak Pashto, one of the two official national languages. Many tribal sub-groups have over centuries gradually moved from pastoral nomadism to settled agriculture as their livelihood. Among the Pashtuns and other ethnic groups in Afghanistan, there is no clear-cut socio-cultural distinction between settled and migrating groups. This resonates with contemporary anthropological studies conducted in Afghanistan which conclude that collective and individual self-identification are not permanent qualities but are changing over time.<sup>9</sup></p> <p>During the consultations conducted for the preparation of the above-mentioned RAP, no indication was found of the presence of pastoral nomads (Kuchis) among the resident PAFs.</p> <p>The concern regarding host population issues is addressed under OP 4.12 above.</p> <p><b>OP 7.60 is not applicable to the Project. This policy applies to a territorial dispute between two member states.</b></p>

<sup>9</sup> Erwin Orywal, *Die Ethnischen Gruppen Afghanistans* (Wiesbaden: Ludwig Reichert, 1986), pp. 18-19. See also Pierre Centlivres, “La nouvelle carte ethnique de l’Afghanistan,” *Les Nouvelles d’Afghanistan* 47 (1990), pp. 4-11. See Pierre Centlivres, “Les groupes ethniques et les ‘nationalités’ dans la crise afghane,” in Riccardo Bocco and Mohammad-Reza Djalili, eds., *Moyen-Orient: migrations, démocratisation, médiations* (Geneva and Paris: PUF, 1994), pp. 161-170; and “Tribus, ethnies et nation en Afghanistan,” in Hosham Dawod, ed., *Tribus et pouvoirs en terre d’islam* (Paris: Armand Colin, 2004), pp. 115-143. Pierre Centlivres and Micheline Centlivres-Demont, “State, National Awareness and Levels of Identity in Afghanistan from Monarchy to Islamic State,” *Central Asian Survey*, Vol. 19, Nos. 3-4 (2000), pp. 419-428. ; Canfield: Faction & Conversion in a plural society: Religious alignments in the Hindu Kush, Ann Arbor 1973; “Tribe and Community among the Ghilzai Pashtun” from *Anthropos* Vol 70, 1975.

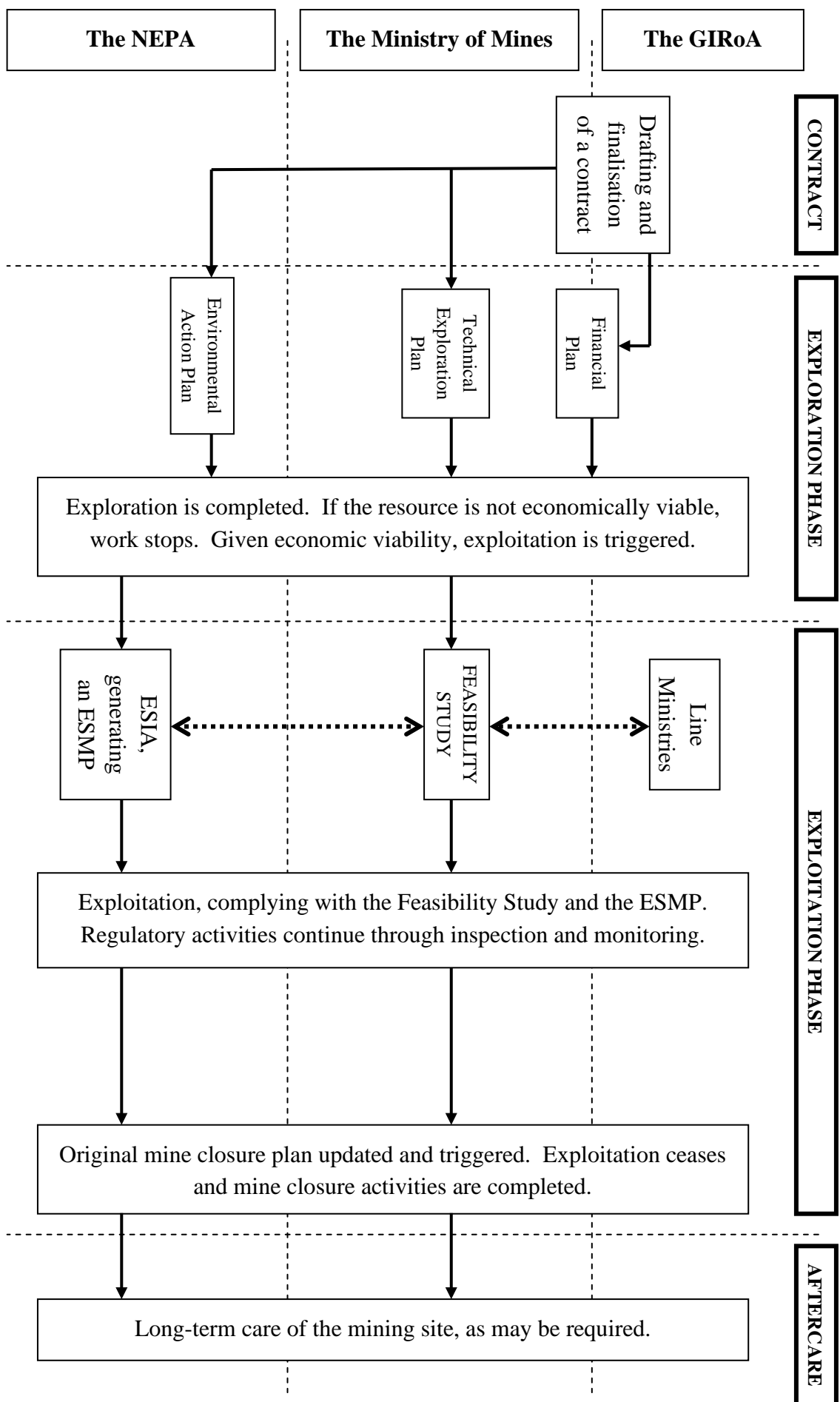
No.	Claim	Response
9.	<p>The current Afghan Minerals Law and associated Regulations contain a number of provisions relating to environmental protection, protection of cultural heritage, and protection of infrastructure, notably Chapter 7, Chapter 8, Chapter 9 and Chapter 15, and Articles 78, 81, 86, 87 and 90. These state among other things, that the initial bid for a minerals contract must contain an Environmental Screening Report/Environmental Impact Assessment, an Environmental Management Plan, a Mine Closure Plan.</p> <p>Monitoring Program. The Environmental Management Plan is termed to be the “main condition” for the intended activity. These documents do not, so far as we can determine, exist. This would mean that the World Bank is in violation of Afghan national law, by proceeding with a project that does not meet the initial criteria of said law.</p>	<p><b>Compliance with Afghan Law</b></p> <p>This issue is not relevant to whether the Bank is in compliance with its policies and procedures. The Requesters' concern focuses on the GoA's actions under its laws. In Management's judgment, the appropriate process for determining the issues raised by the Requesters may be through the Afghan legal system.</p> <p>Nonetheless, the documentation provided by the GoA is consistent with what Management understands to be the applicable legal process for mining operations. Management understands that the Afghan Minerals Law and the Environment Law, cited in the ARCH submission, govern transaction-related activities of investors.</p> <p>As noted above, the ESIA, EMP, and FS are currently being prepared. Hence, it is premature at this stage to speculate about potential impacts of the nature stated in the Request.</p> <p>Also as noted above, MJAM has the contractual obligation to comply with Afghan Law regarding the EA (ESIA) Scoping Report, EA (ESIA), EMP, and FS. Mine development cannot be authorized ahead of the submission, review and approval of these documents.</p>



## **ANNEX 2.**

### **SCHEMATIC OF REGULATORY REVIEW PROCESS**





**Figure 1.** The general process and responsibilities involved in triggering extractives industry operations in Afghanistan.



**ANNEX 3.**

**NEPA ESIA PID**



## BACKGROUND INFORMATION DOCUMENT ON THE ENVIRONMENTAL AND SOCIAL IMPACT ASSESSMENT OF THE AYNAC COPPER PROJECT

### Introduction

The Aynak Copper Project (the 'Project') involves the development of a copper mine in the Logar Province of Afghanistan and the transportation of refined copper to Torkham, on the border with Pakistan, for export. The project proponent is MCC-JCL Aynak Minerals Company Ltd. (MJAM). MJAM is a company founded through joint capital contribution by China Metallurgical Group Corp and Jiangxi Copper Company Limited in a share ratio of 75% and 25%, respectively. MJAM holds 100% of the Aynak exploration license.

The Project is currently the subject of a feasibility study, which will evaluate the technical, environmental and socioeconomic factors influencing and arising from the Project. In parallel with the feasibility study, MJAM has initiated an Environmental and Social Impact Assessment (ESIA) for the Project. The impact assessment will be documented in the form of an ESIA report. MJAM has hired specialist consultants to undertake the ESIA and produce the report. The consultants are Hagler Bailly Pakistan (Pvt.) Ltd (HBP) and SRK Consulting (Australasia) Ltd (SRK).

As part of the ESIA process, consultations will be undertaken with potentially affected communities and other stakeholders. During the consultations, background information on the Project and the ESIA process will be made available to the

stakeholders in the form of the Background Information Document (BID). The BID is subject to changes as further information on some aspects of the Project becomes available during the course of the ESIA.

### Project License Area

According to the mining contract signed between MJAM and the Government of Afghanistan, the Aynak copper deposit license area consists of an exploitation license over an area of 28 km<sup>2</sup> that includes the Central Deposit and the West Deposit of the Aynak copper mine.

### Project Setting

The Aynak mine area is located in the north of Logar Province close to the Logar-Kabul provincial boundary. The mine area is to the southeast of the centre of Kabul city, at a distance of approximately 30 km. The elevation of the mine area is between 2,275 m and 2,675 m and it falls close to piedmont alluvial plain of Logar River. The mine site is surrounded on three sides by hills and mountains (**Figure 1**).

The western side of the mine site opens in the Logar River valley. The proposed source of water for the Project is the Logar River basin, which is located about 15 km from the mine area. The river flows in a south-to-north direction. The elevation of the riverbank in the Project area is about 1,840 m.

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**Figure 1: Aynak Mine Area**



**Views of the Aynak mine site**



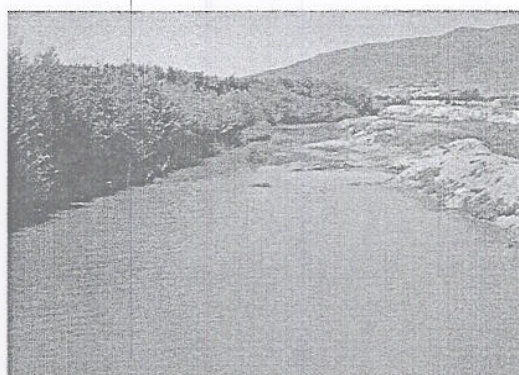
**View of the access road to the mine site**



**View of typical village in Project area**



**View of agricultural fields in the Project area**



**Logar River**

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## **Project Outline**

Project facilities will be developed for extraction of copper ore, its processing to produce copper metal, and for the transportation of the product. Current project planning contemplates development of an open-pit and an underground mine, concentrator facility, a smelter, a heavy-oil fired power plant, a maintenance workshop, utility area, a water source site and other ancillary infrastructure (includes access roads). Mine operations will start with open-pit mining in the Central Deposit. Upon the 16<sup>th</sup> year, the production in Central Deposit will be shifted from open-pit mining to underground mining with a service life of 17 years. Underground mining in the West Deposit will be started about three years after the start-up of production in the Central Deposit, with a service life of 25 years.

The major components of the Project are described briefly in **Table 1**. **Figure 2** shows the geographic location of the Project.

A framework management and monitoring program to mitigate potential negative

impacts, optimize positive impacts and assess ongoing performance will be developed by MJAM. The management and monitoring will be an ongoing activity that will continue throughout construction, operation and beyond closure of the Project.

## **Approach to the ESIA**

Afghanistan Environment Law 2007 makes it obligatory on the state to adopt necessary measures for safeguarding proper exploitation of natural resources, and improvement of ecological conditions. In the absence of detailed environmental standards and regulations in Afghanistan, MJAM is contractually bound to follow the World Bank Environmental and Social Policies to the extent possible, in implementing the Project.

The ESIA for the Aynak Project will be undertaken in a phased manner. The ESIA process is outlined in **Table 2**. List of specialist investigations that will be undertaken as a part of the ESIA are presented in **Table 3**.

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**Table 1: Principal Components of the Aynak Project**

<p><b>Mine</b></p> <p><i>Open-pit mining</i> shall be adopted for the Central Deposit. The surface dimension of the open-pit mine is likely to be 2,170 m × 1,840 m. The maximum depth (from the top of the pit to the pit floor) is expected to be 660 m. The volume of ore and rock within the pit is estimated to be 1,305.5 million tonnes (Mt). Waste rock is expected to be 1,156.54 Mt. In order to improve the extracted ore grade and reduce the stripping ratio (ratio of total excavation to the ore), mining in different phases of pit shall be adopted as per the pit and ore conditions.</p> <p><i>Underground mining</i> shall be adopted for the West Deposit and all ore bodies outside the open-pit limit of Central Deposit. Main development works in West Deposit will include main shaft, personnel and materials shaft, ore pass and crushing system, air intake and return shafts, ramp, loading level, undercut level, haulage level, and chambers.</p>
<p><b>Water supply</b></p> <p>The proposed source of water is the Logar River basin, about 15 km distant from the deposit area. The total water consumption of the Project is estimated to be 584,000 m<sup>3</sup> per day during the first 16 years and 573,000 m<sup>3</sup> per day thereafter. The reuse rate of water for the beneficiation plant will be 77%, and for smelter about 96%. Thus, the total water requirement will be of the order of 69,000 m<sup>3</sup> per day and 64,000 m<sup>3</sup> per day, during the first 16 years and thereafter, respectively.</p>
<p><b>Tailings Storage and Disposal</b></p> <p>Dam of permeable rock and gravel-fill construction will be built with total storage capacity of about 400 million cubic meters, sufficient to store all tailings produced from the concentrator during the life of the mine. Geotextile liner will be provided on the inner side of the dam. Dry block stone will be laid at inner and outer slopes of the dam for slope protection. In order to prevent the dam shoulder at two banks from being washed away by rain water, a cut-off drain will be provided at dam shoulder for draining water from mountain slopes.</p> <p>About 250 m downstream of the main dam, a concrete dam will be constructed to avoid water seepage from the tailings pond, prevent contamination of groundwater, and increase the rate of water reclamation from the tailings pond.</p> <p>The site of the tailings pond is yet to be decided. .</p>
<p><b>Smelter</b></p> <p>The copper smelter will be designed to produce 200,000 tonnes of electrolytic copper from primary ore annually. The main equipment includes rotary steam drier, flash smelting furnace, slag cleaning furnace, Kaldor converters, and rotary anode furnaces. The process for acid making from smelting gas will have a gas cleaning efficiency of 98%, conversion efficiency of 99.8%, absorption rate of 99.95%, and sulphur recovery and utilization rate of 97.76%.</p>
<p><b>Power supply</b></p> <p>The main source of power for the mining activities will be a coal-fired power plant at an off-site location. The total installed generation capacity of the coalmine power plant will be 405 MW, with three 135 MW units. Until the development of the coalmines, which can take several years, the Project will generate power from a heavy oil-fired power station, which will be constructed at the Project site. The heavy oil-fired power station will have ten 8 MW power generators, of which 9 will be in operation and one will remain on standby. The total installed capacity will be 62 MW.</p> <p>The coal-fired power plant will be subject of a separate ESIA.</p>
<p><b>Transportation</b></p> <p>All external transportation will take place utilizing the existing highway system of Afghanistan. Local logistics subcontractors will transport copper concentrate and equipment spare parts and consumables. For transportation of prime ore and waste rock from the open-pit, 218 tonnes electric wheel self-dumping trucks will be used.</p> <p>An access road will connect the deposit and the external transit system. Over 31 km of roads of different classes will be built as part of the project.</p>

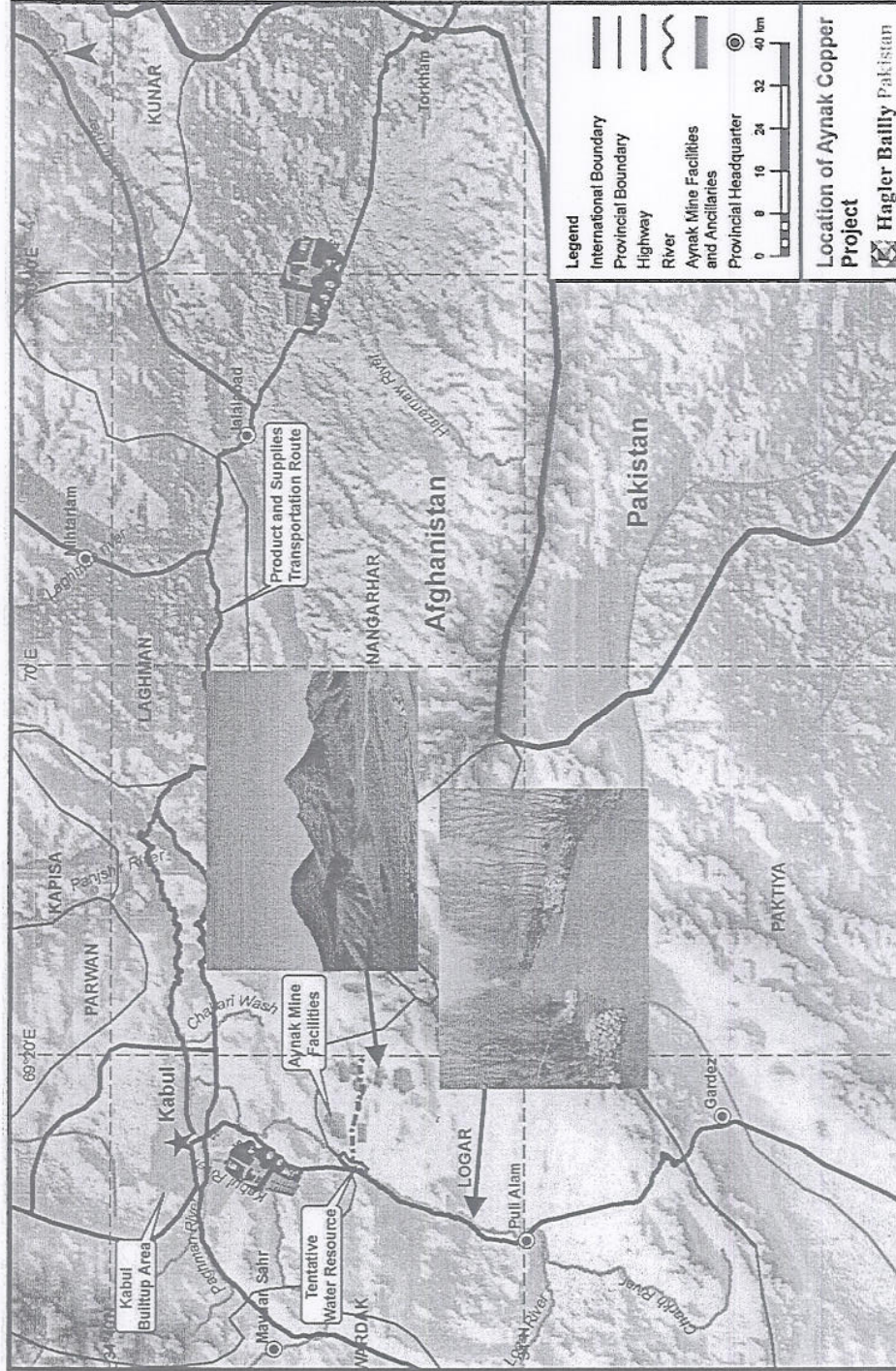
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Figure 2: Location of the Aynak Project



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**Table 2: ESIA Process and Corresponding Consultation**

<i>ESIA process</i>		<i>Corresponding Stakeholder<sup>1</sup> Consultation Steps</i>	<i>Associated Documents</i>
<i>Phases</i>	<i>Main Purpose</i>		
<b>Scoping</b>	Identify the issues that require attention during the ESIA.	<p><b>Scoping</b> Identify government and non-government stakeholders.</p> <p>Notify stakeholders of the ESIA process and give them information to facilitate their input.</p> <p>Engage stakeholders – listen to them and record issues raised (concerns, comments and questions).</p>	<ul style="list-style-type: none"> <li>Public consultation and disclosure plan and a stakeholder database</li> <li>Modification of Terms of Reference for the ESIA, if required</li> <li>Background information document (BID) for stakeholders</li> <li>Records of stakeholder consultation</li> </ul>
<b>Baseline investigations</b>	Collect background information on the environmental and social setting of the Project by means of literature review and field investigations	<p><b>Follow up consultation</b> Discuss specific procedural and/or substantive matters that become apparent during scoping as required.</p>	
<b>Impact assessment, management planning and report compilation</b>	<p>Investigate specific issues raised (by stakeholders, specialists and the ESIA team).</p> <p>Define the potential impacts of the Project and identify measures for the management of the impacts.</p> <p>Determine the significance of the potential impacts with and without management measures.</p> <p>Evaluate the overall acceptability of the Project (from environmental and social perspectives).</p> <p>Develop an environmental and social management system framework for the Project.</p>	<p><b>Feedback where required</b> Provide relevant stakeholders with an update on progress with Project planning, expected impacts and proposed mitigation.</p> <p>Acknowledge issues raised by stakeholders and tell them how MJAM proposes to address these.</p> <p>Where there is insufficient feedback or where there are substantial changes in the project, engage stakeholders – listen to them and record additional issues raised.</p>	<ul style="list-style-type: none"> <li>Reports by specialists</li> <li>Records of stakeholder consultation</li> <li>ESIA report</li> </ul>
<b>ESIA report review by regulatory authorities and decision making</b>	Review of ESIA report by regulatory authorities and other interested stakeholders. The review will inform the Government's decision on the acceptability of the Project (from environmental and social perspectives) and the conditions of approval of the development.	<p><b>Public hearing</b> The Government will use the public hearings to check whether there are any outstanding stakeholder concerns that need to be addressed before it takes a decision.</p>	<ul style="list-style-type: none"> <li>Government record of decision and conditions of approval</li> </ul>

<sup>1</sup> Relevant stakeholders to the ESIA process include: government and regulatory authorities; non-governmental organisations; communities that could be affected by the project; representatives of tribes occurring in the project area; industry; goods transporters; and communications media

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**Table 3: Preliminary List of Issues to be Addressed During the ESIA and Specialist Investigations**

Subject		Detail
<p><b>Issues that attention will need to be focused on during the ESIA</b></p> <p>These issues will be further defined during the stakeholder consultation process for the ESIA.</p> <p>Additional issues could also be raised</p>	Potential issues where positive impacts need to be enhanced	<ul style="list-style-type: none"> <li>• Provision of employment to people.</li> <li>• Capital investment and revenue generation.</li> <li>• Money paid out locally in the form of the company payroll.</li> <li>• Payments to the government in the form of local, regional and national taxes and levies.</li> <li>• Creation of service-sector jobs, procurement of consumables and the outsourcing to local service providers.</li> </ul>
	Potential issues where negative impacts need to be avoided or at least reduced to acceptable levels	<ul style="list-style-type: none"> <li>• Transformation of landscape</li> <li>• Decline in water quality and availability</li> <li>• Contamination of soil</li> <li>• Impacts on biodiversity and/or ecological function</li> <li>• Releases to air causing decline in air quality</li> <li>• Disturbances due to noise and vibrations</li> <li>• Disturbance of sites of archaeological, historic or cultural interest</li> <li>• Increase in traffic due to Project related transportation</li> <li>• Pressure on existing infrastructure as a result of influx of job seekers</li> <li>• Changes to existing social and cultural norms</li> <li>• Physical displacement resulting in disruption of existing socioeconomic setup</li> </ul>
<p><b>Specialist investigations to be undertaken during the ESIA</b></p> <p>The need for additional specialist investigations may become apparent as a result of stakeholder consultation.</p>	Baseline investigations	<ul style="list-style-type: none"> <li>• Ecology</li> <li>• Climate, meteorology and air quality</li> <li>• Soils</li> <li>• Resource economics</li> <li>• Noise</li> <li>• Socio-economics</li> <li>• Traffic</li> <li>• Archaeology and cultural resources</li> </ul>
	Predictive modelling for the impact assessment	<ul style="list-style-type: none"> <li>• Dust and emissions</li> <li>• Noise</li> <li>• Traffic</li> <li>• Geochemistry in the mine area</li> <li>• Drawdown of groundwater near water supply areas</li> </ul>

**For more information on the ESIA contact**

<p>Hidayat Hasan Hagler Bailly Pakistan Pakistan Office Tel: +92 51 261 0200 Fax: +92 51 261 0208 Email: <a href="mailto:hhasan@haglerbailly.com.pk">hhasan@haglerbailly.com.pk</a></p>	<p>Noor Kamal Khan Hagler Bailly Pakistan Pakistan Office Tel: +92 51 261 0200 Fax: +92 51 261 0208 Email: <a href="mailto:nkamal@haglerbailly.com.pk">nkamal@haglerbailly.com.pk</a></p>
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**ANNEX 4.**

**JANUARY 2013 MES AYNAK ADVISORY PANEL PROGRESS REPORT**





# Islamic Republic of Afghanistan

Ministry of Mines

Sustainable Development of Natural Resources Project

Project Management Unit

## Mes Aynak Archaeological Project

Progress Report

January 2013

By Farhad Yavazi  
Director of MAAP



Mes Aynak Archaeological Project - MAAP

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## **Introduction**

This report provides general information on Mes Aynak, Mes Aynak Archaeological Project including progress up to January 2013, nature of support by The World Bank and DAFA, National Support Staff, International Archaeologists and support staff, procurement and others.

## **About Mes Aynak**

Mes Aynak is a site 40 km southeast of Kabul, located in a barren region of Logar Province. The site contains the world's second largest copper deposit which looms as major revenue source for Afghanistan.

The Aynak is also a vast complex of over twenty ruin locations, including numerous 5<sup>th</sup>-6<sup>th</sup> century Buddhist monasteries, as fortress and evidence of even older Bronze Age settlements buried beneath the rubble of ancient copper mines.

In 2008 MJAM-MCC a Chinese company was awarded a contract to recover the copper resources for the government of Afghanistan. It is a major project for Afghanistan in terms of employment, training, revenue and infrastructure development.

## **Mes Aynak Archaeology**

Mes Aynak Archaeological site covers an area of 450,000 square meters, encompassing several separate monasteries and commercial area. It appears that Buddhists who began settling the area almost two millennia ago were drawn by the availability of copper.

Archaeologists believe that Mes Aynak is a major historical heritage site. It has been called "one of the most important points along the Silk Road" by French archaeologist Philippe Marquis. In addition to the Buddhist monasteries and other structures from the Buddhist era that have already been identified, Mes Aynak also holds the remains of prior civilizations likely going back as far as the 3<sup>rd</sup> century BC. Historians are particularly excited by the prospect of learning more about the early science of metallurgy and mining by exploring this site. It is known to contain coins, glass, and the tools for making these, going back thousands of years. Archaeologists have already unearthed manuscripts that may provide evidence regarding the presence of Alexander the Great's troops.

The initial archaeological assessment of DAFA in 2011 is the starting point for references to the activities of the Mes Aynak Archaeology Project.

The work plan submitted by MCC is the basis for organizing a strategy and schedule for the archaeological operations at Mes Aynak. According to these their enabling works would be carried out in 3 staggered phases.

The first phase of works at Mes Aynak covers an area of approximately 230 000 m<sup>2</sup> (The 'Red Zone'). Within this 8 blocks of extensive archaeological remains have been identified covering 150 000 m<sup>2</sup>.

As stated above the first phase of archaeological operations are centred on 8 separate zones covering 150 000 m<sup>2</sup>. After some initial excavations it is possible to elaborate on the nature of these remains and the site can be divided into 3 archaeological zones from a functional perspective. The first two of these archaeological zones are contained within one the eight zones mentioned above. The remaining 6 are more peripheral to this central core. These three zones are:

- **Aynak Mountain**

A series of sites along the crest of Aynak Mountain, which generally speaking appear to be defensive in nature, focused on two complexes of building at a northern and a southerly flank of the mountain. The mid slope is dominated by terrace walls and probable mining galleries. This zone also includes a large area on the lower slopes of the mountain which are dominated by the slag heaps resulting from the copper production

- **Lower Town**

At the base of Aynak Mountain are found a distinct cluster of sites located on the tops of the tepe features in the area. These sites all consist of domestic mud brick architecture and can be generally classed as the settlement area of the site. A high density of coin finds and fragments of manuscripts found in this area may point to an administrative function for some buildings. Some examples of small scale metal working, or other elements of craft workshops at a domestic scale, are also found in this area. Smaller stupas are attached to some of these complexes.

- **Peripheral Monastic Sites**

This is a dispersed group of 6 sites that appear to be peripheral to the cluster of predominantly domestic sites of the Lower Town. These sites appear to generally either occupy higher very visible ground, or the lower ground to the north of Mes Aynak. Their function appears to be largely religious or monastic in nature. They form an arc from the north of Aynak Mountain (003 Kafiriat Tepe) through to Site 013 to Shah Tepe (006 – a possible fire temple) and Shahmar Tepe (007) and are separated by a distance of approximately 300m from each other.

One smaller site, 042 is included in this group as although it is smaller in scale and located in the vicinity of Baba Wali it fulfils the criterion of being intended for a religious or monastic use, and may indeed have served as a 'gateway' to the religious complex at Site 013 located on the hilltop above Site 042.

## **The Project**

Mes Aynak Archaeological Project is financed by The World Bank IDA-financed Second Sustainable Natural Resources Project (SDNRP2) and supported by the Delegation Archeologique Francaise en Afghanistan (DAFA) in coordination with Archaeology Directorate of Ministry of Information and Culture.

**The DAFA** is working on MAAP since April 2009 at the request of the MoIC and providing a constant technical support to the project. DAFA is intended to continue supporting MAAP in following areas

- Monitoring
- Restoration, conservation and Museum Project
- Scientific research and publications

**The World Bank** through IDA-finance Second Sustainable Natural Resources Project (May 2011) supports the implementation of the Archaeological Recovery and preservation plan of the Aynak antiques for the recovery and preservation of the cultural resources of the Aynak with emphasis on integration of the artifact recovery plan with the Aynak mining plan, and ensuring recovery in high-priority areas.

## **National Support Staff**

The national support staff is a team consists of 23 people led by the Director of MAAP under direct supervision of the Executive Director of PMU.

***(Annex 1: National Support Staff)***

## **International Staff (Archaeologist, Logistics/ Security Advisor and Documentarians)**

The Archaeological Team of MAAP consists of 25 International Archaeologist led by Archaeological Coordinator under the supervision of the Director of MAAP. The Logistics/ Security Advisor and Documentarians are also part of the International Team.

***(Annex 2: International Staff)***

### **MAAP Coordination Advisory Panel**

The Advisory Panel is composed of members from different stakeholders whom shall meet once every month in Mom/PMU or Mes Aynak International Camp.

The aim of the panel is to facilitate MoM implementing its legislative role in safeguarding Afghanistan's environment and the nation's environmental assets and encouraging, enabling and regulating extractive industries and associated infrastructure, while avoiding impacts on the archaeological resource.

***(Annex 3: MAAP Coordination Panel Term of Reference)***

### **Rescue Excavations and Resources at Mes Aynak**

Initial rescue excavations led by DAFA at Mes Aynak began in 2009 with the excavation of the monastic site at Gol Amid. In 2010 a second monastic site was excavated at Kafiriat Tepe.

Archaeological excavations increased in scale and intensity in 2011, when teams from the Institute of Archaeology and the Academy of Sciences were joined by a team of International Archaeologists. After 3 months stood down from site work (January – March 2012), excavation resumed towards the end of April 2012. At this point DAFA in cooperation with the international team were asked by the Ministry of Mines and the World Bank to supply a series of work plans detailing the projected results from a 9, 14, and 21 month excavation programme. The 9 month work plan was issued in conjunction with a proposal document detailing the resources needed to complete this schedule.

From May 2012 the workforce at the site has consisted of:

- 25 archaeologists from the Institute of Archaeology
- 26 international archaeologists including 7 experts from Tajikistan, a Geomatics Officer and Assistant
- 20 recent archaeology and social science graduates from the University of Kabul
- Approximately up to 450 labors.

Typically the individual excavations are carried out under the supervision of an archaeologist, assisted by a recent graduate with up to 25 workmen. Hand digging is carried out by the workmen under the supervision of an archaeologist.

### Status - January 2013

Mes Aynak Archaeological Project is a large scale rescue project started in 2009. In 2010 an archaeological assessment of the site had been done and based on it a working plan had been proposed. Looking at the results of the excavation it is apparent that in terms of extent of the excavation we have more than completed the target set out in the work plan proposal in April 2012.

According to DAFA's recent explanation, "more than half of the red zone can be now considered as of very low archaeological value. It is mainly the periphery of the zone.

On the remaining half, two/third may be considered as poorly built during antiquity and deserve mainly a stratigraphical exploration which had been already done for part where the deposits are important.

The remaining part is the more densely occupied and heavily built we may consider that half of it had been already excavated and documented. The areas 6-13-45 had been already almost completely excavated and may start the removal of the elements worth to be removed. The more critical areas are the portion which is located on the slope of the mountain and the core zone the site."

During the last season the focus has been on excavation and recording of the archaeological remains. This has produced a vast quantity of data in the form of photographs, drawings, survey data and written records. Also an extremely considerable quantity of artifacts has been recovered. The majority of the artifacts recovered consist of pottery, but also a very significant number of coins and objects.

Below is the summary

- A high percentage of sites in the Lower Town area (**annex 4: Mes Aynak Lower Town Image**) are now nearing completion, from this area large amounts of data are being collected in the form of drawn plans and elevations, and photographs. *Archiving of this data is ongoing*
- A comprehensive digital plan of all the archaeological remains in the Red Zone has been carried out and is up to date (**annex 5: Mes Aynak Master Image**). This will form the basis for a Geographic Information System (GIS) where all digitized archaeological information will be presented.
- The digitization of individual site plans has begun. These will be used alongside site photography to illustrate the interim site reports which are in the process of being produced.
- Provision of protective roofing over rooms with fragile relics such as stupas, wall paintings and statuary has been completed.
- With a change in the weather work on site has mostly focused on removal of snow from the excavated areas of the site. This will help prevent any damage this might cause to the archaeological remains.



- A source of conservation chemical, tools and other items has been identified by a team composed of people from MoIC and MAAP traveled to India and the procurement process is underway.
- Experienced conservators identified, terms and conditions negotiated and will be soon on boarded. This will allow for the successful conservation and removal of the structural relics on the site.
- Work plan for each archaeological site and each individual archaeologist prepared which will be the base for checking the progress.

The winter months are an ideal opportunity to: quantify, organize, interpret and report on the archaeological discoveries to date.



## Future Plans

Each member of the team will produce interim site and finds reports for the 16 sites currently active. Other aims include the production of a database for each of the sites, Organising and editing of each of the sites written, drawn and photographic archives. The quantification, recording and research of the ceramics, coins and other objects will be carried out. The geomatics team will produce a master plan and a digital archive of site records.

The above work represents an essential part the archaeological process, especially considering the different recording methods used during the early history of the excavations.

The best way to indicate the scale of Mes Aynak is with the archaeological term, “context”. A context is a defined archaeological unit, such as a wall or floor, each with drawings, photographs and written descriptions. I would estimate that upward of 10,000 contexts have been recorded so far. The surveyors estimate that around 15,000 points have been taken to map the site. A typical site produces around 4/500 unique contexts, 500 photographs and 100 drawings.

To complete the excavation process and clearing the Red Zone to the satisfactory point may need more work until July 2013, this involves:

- An extension of excavation areas to find the architectural limits of certain sites already begun.
- The excavation of 3 areas on the mid slopes of the mountain side where architectural remains are known to exist – not yet started due to the danger of material falling from excavations higher up the mountain.
- Some limited trenching between the individual excavations in the Lower Town to understand the inter-relationships between these sites.
- An investigation of the caves and galleries already encountered on the site

According to DAFA’s recent work plan, heavy equipments specifically, excavators, trucks, loaders and bulldozer should be used more frequently on the site. Specially if we consider the enormous quantity of dumps which had to be removed.

DAFA proposes a strategy which indicates work to be determined in two phases

1. Phase I- from Med January 2013 up to end of March 2013
2. Phase II- from the end of March to July 2013

## Phase I

During this phase the team should focus on the mechanical removal of the dumps which are scattered on the site. As long as the weather is cold enough it will be possible to remove a substantial part of these dumps. As soon as it will be cooler these kinds of work had to be stopped as it’s going to create a lot of mud.

During this period it is possible to clear a good part of the slag deposits in order to check what is left underneath. This also should be done with excavators. Excavation can go in the central area of the site and again it is suggested to connect the different area by trenches in order to have a good preview of what may be expected in those areas.

Removal of stupas is also possible as the use of chemical for this process is lower than for the clay status and the wall paintings.

## **Phase II**

Clearing of the unexcavated areas, documenting of the finds and removal of the left artifacts should take place during this period. By the end of May DAFA is planning an additional aerial survey to get the more precise topography of the site and of the remains.

During this period a team of conservationist should be permanently on the site in order to undertake the removal of the statues and the wall paintings.

Annex 1: National Staff

<b>Ministry of Mines</b> <b>Program Management Unit/Mes Aynak Archaeological Project</b> <b>Contract Management</b> <b>National Staff</b>					
<b>No</b>	<b>Name</b>	<b>Position</b>	<b>Permanent Address</b>	<b>Starting date of Contract</b>	<b>Ending dat of Contract</b>
1	Mr. Farhad Yavazi	Director	Nangarhar	1-Dec-12	30-Nov-13
2	Mr.Mohammad Iqbal Zurmati	Project Manager	Paktia	17-Jun-12	16-Jun-13
3	Mr.Aimal Hakami	Logistics Manager	Nangarhar	19-Aug-12	18-Aug-13
4	Mr.Mohammad Rahman Fazli	Finance Manager	Panjshir	20-Aug-11	18-Aug-13
5	Mr.Habibullah Naseri	HR Manager	Kunduz	19-Aug-12	31-Mar-13
6	Mr. Abdullah	Logistics Assistant	Badakhshan	6-Oct-12	5-Oct-13
	<b>National Support Staff (Field Staff)</b>				
1	Mr. Sayed Sikandar Sadat	Field Officer	Baghlan	1-Jun-12	30-Jun-13
2	Mr. Timor Shah	Field Assistant	Logar	13-Aug-12	12-Aug-13
3	Mr. Hanzala Mujaddidi	Storekeeper	Nangarhar	12-Aug-12	11-Aug-13
4	Mr.Khan Mohammad	Heavey Vehicles Mechanic	Maidan Wardak	22-Dec-11	21-Dec-12
5	Mr.Taj Mohammad	Excavator Operator	Paktia	22-Dec-12	21-Dec-12
6	Mr.Najibullah	Driver	Logar	22-Dec-12	21-Dec-12
7	Mr.Rahimullah	Truck Driver	Logar	22-Dec-12	21-Dec-12
8	Mr.Herat Gul	Driver	Paktia	22-Dec-12	21-Dec-12
9	Mr.Mohammad Shapoor	Driver	Logar	22-Dec-12	21-Dec-12
10	Mr.Fazil Rahman	Driver	Maidan Wardak	22-Dec-12	21-Dec-12
11	Mr.Mohammad Gul	Project Attendant	Logar	22-Dec-12	21-Dec-12
12	Mr. Abdul Qader	Armor Vehicle Driver	Kabul	13-Sep-12	12-Sep-13

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13	Mr. Yaqin Ali	Chef	Kabul	1-Jan-12	31-Dec-13
14	Mr.Faiz Ali	Cook	Kabul	1-Jun-12	31-May-13
15	Mr.Fahim	Cook	Logar	22-Dec-12	21-Dec-13
16	Mr. Nazar Mohammad	Cook	Logar	22-Oct-12	21-Oct-13
17	Mr. Sadam	Cleaner	Logar	14-Aug-12	13-Aug-13
18	Mr. Rohullah	Cleaner	Logar	1-Aug-12	31-Jul-13

## Annex 2: International Staff

<b>Ministry of Mines</b> <b>Program Management Unit/Mes Aynak Archaeological Project</b> <b>Contract Management</b> <b>International Archaeologists</b>				
<b>N o</b>	<b>Name</b>	<b>Position</b>	<b>Starting date of Contract</b>	<b>Ending dat of Contract</b>
1	Mr.Guy Cockin	Archaeological Coordinator	10-Apr-12	13-Apr-13
2	Marek Lemiesz	Senior Archaeologist	20-Sep-12	19-Sep-13
3	Mr. Paul Murray	Senior Archaeologist	25-Oct-12	24-Oct-13
4	Ms.Eva Nadia Haupt	Junior Archaeologist	7-Sep-12	6-Sep-13
5	Mr. Emre Hakan Demiraslan	Junior Archaeologist	5-Dec-12	4-Dec-13
6	Mr. Saad Ismail	Junior Archaeologist	8-Jan-12	7-Jan-13
7	Mr. Reham Jamil	Junior Archaeologist	14-Nov-11	13-Nov-12
8	Ms. Agnieszka Dolatowska	Junior Archaeologist	2-Oct-12	1-Oct-13
9	Mr. Tibor Paluch	Junior Archaeologist	4-May-12	3-May-13
10	Mr. Damian Podlinski	Junior Archaeologist	27-Jun-12	26-Jun-13
11	Ms. Roberta Marziani	Junior Archaeologist	17-Jul-12	16-Jul-13
12	Mr. Andrew Ginns	Junior Archaeologist	17-Jul-12	16-Jul-13
13	Ms. Vydhegi Brice	Junior Archaeologist	21-Jul-12	20-Jul-13
14	Mr. Richard Humphrey	Junior Archaeologist	21-Jul-12	20-Jan-13
15	Mr. Thomas Eley	Junior Archaeologist	22-Jul-12	23-Jul-13
16	Ms. Kostantina Romantzi	Junior Archaeologist	5-Aug-12	4-Feb-13
17	Mr. Rafael A. Seueira Garza	Junior Archaeologist	16-Aug-12	15-Aug-12
18	Mr. Dovutov Davlatkhoja	Junior Archaeologist	18-May-12	17-May-13
19	Mr. Safoev Farrukh	Junior Archaeologist	18-May-12	17-May-13
20	Mr. Eshonqulov Usmon	Junior Archaeologist	18-May-12	17-May-13

21	Mr. Saydaliev Jomkhan	Junior Archaeologist	18-May-12	17-May-13
22	Ms. Firuza Abdul Vokhidova	Junior Archaeologist	28-Jun-12	27-Jun-13
23	Mr. Rahmatjon Salomov	Junior Archaeologist	26-Jul-12	27-Jul-13
24	Mr. Rahmatsho Mohammadshoev	Junior Archaeologist	26-Jul-12	27-Jul-13
25	Mr. Yusufsho Yakubov	Junior Archaeologist	26-Jul-12	27-Jul-13
<b>International Archaeologists not employed anymore</b>				
1	Mr. David Fallon	Junior Archaeologist	7-May-12	6-May-13
2	Ms. Anne Mortimer	Junior Archaeologist	24-Jul-12	23-Jul-13
3	Mr. Dr. Hans	Archaeological Coordinator	15-Aug-11	14-Aug-12
4	Ms. Barbara Faticoni	Senior Archaeologist	1-Sep-11	31-Aug-12
5	Ms. Samara	Junior Archaeologist	15-Aug-11	14-Aug-12
6	Mr. Damon Ashley	Junior Archaeologist	1-Sep-11	31-Aug-12
7	Mr. Salam Raad	Junior Archaeologist	14-Nov-11	13-Nov-12
8	Mr. Li Tao	Junior Archaeologist	17-Aug-11	16-Aug-12
9	Rakotozonia	Junior Archaeologist	11-Sep-11	10-Sep-12
10	Mr. Jiri Unger	Junior Archaeologist	8-Sep-11	7-Sep-12
.	<b>International Staff ( Consultants Daily wage)</b>			
1	Ms. Sohpie Barry	Filming & Photography expert	12-Jul-12	11-Jan-13
2	Ms. Ellisa Bogos	Filming & Photography expert	daily wage based on need	
3	Mr. Donald Huw Butts	Logistics and Security Coordinator	17-Nov-12	7-Feb-13

## Annex 3: MAAP Coordination Advisory Panel

<p style="text-align: center;"><b>Mes Aynak Archaeological Project</b> <b>(MAAP)</b> <b>COORDINATION ADVISORY PANEL</b></p>
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### **Background**

The Mes Aynak Archeological Project is a project directed by Ministry of Information and Culture and Ministry of Mines of the Islamic Republic of Afghanistan.

The World Bank supports the project with the IDA-financed Sustainable Development of Mineral Resources Program. Other sponsors have contributed technical and financial support.

The company who acquired the lease for the exploitation of the mine at Mes Aynak is the MCC-Jiangxi Copper MJAM consortium. On site the MAAP coordinates closely with the consortium.

The archeological assessment of DAFA in 2011 is the starting point for references to the activities of the Mes Aynak Archeology Project

### **Goals of the Panel**

- 2: To facilitate MoM implementing its legislative role in safeguarding Afghanistan's environment and the nation's environmental<sup>1</sup> assets.
- 3: To facilitate MoM implementing its legislative role in encouraging, enabling and regulating extractive industries and associated infrastructure, while avoiding impacts on the archaeological resource – but when that is not possible then to minimize and mitigate the unavoidable impacts.

### **Mandate of the Panel**

- 4: The mandate of the Panel is purely advisory, and the power will derive solely from the quality of its advice and its relevance to the needs of MAAP and MoM.

### **Structure of the Panel**

Chairman – Senior official MoM (HE Minister or HE Deputy Minister)

Secretariat – MoM-based SDNRP- PMU

General Members – standing invitations by the Panel Secretariat to the following:

- (i) PMU Executive Director or Director of Operation
- (ii) MoM representative (Mes Aynak Unit)
- (iii) MoM archaeological Advisor (DAFA representative)
- (iv) MCC representative
- (v) WB representative
- (vi) USAID representative

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<sup>1</sup>Including social, archeological and paleontological assets in the strict context of the EIA/SEIA regulations.

- (vii) MoM archaeological Adviser (MAAP International Team)
- (viii) Institute of Archaeology Team Leader
- (ix) UNESCO Representative (Kabul Office)
- (x) Team Leader, Aynak Mine Compliance Monitoring Project
- (xi) Archaeological Adviser, World Bank Country Office
- (xii) Up to 2 additional member on the initiative of the MCC
- (i) Up to 2 additional member on the initiative of the MoM
- (ii) Observers may also be invited with the prior permission of the Chairman

Quorum – the Panel shall be considered quorate if 5 or more members attend

### **Panel Meetings and Duration**

- 1: Panel meetings shall be held In Mom/PMU or Mes Aynac International Camp every 1 month on (TBA), ending promptly at 4pm.
- 2: The Panel Secretariat shall ensure that a schedule for 6 consecutive meetings is maintained and circulated as routine attached to 'Reminder of Meeting / Call for Agenda Items' 'Circulation of Agenda' and 'Circulation of Minutes'.

### **Specialist Advisory Groups**

The Panel shall establish a number of Specialist Advisory Groups to consider selected topics in more detail on behalf of the Panel. These groups are expected to include:

- 'MAAP Scientific Advisory Committee', which will contribute to issues such as a research agenda and conservation strategy for the Project and the procurement and use of specialist technologies such as 3D scanning.
- 'Mes Aynak Museum Committee', in order to begin to address the
- 'MAAP Health and Safety Group' covering issues of security (on site and in the International camp), demining, workers compensation/insurance.
- 'MAAP Logistics Group', to coordinate and facilitate the procurement and provision of equipment, logistical needs and human resources promptly as required.

Membership of each Group shall be decided upon by the Panel Chairman in consultation with the Secretariat.

Each Group shall meet as often as its member so decide, at a venue agreed with the Secretariat (e.g. MoM/ PMU, DAFA etc).

To ensure consistency and communication, the Secretariat (or his nominee) shall attend each meeting of each Group, and report verbally on progress to the next Panel meeting.

Each Group shall report back to the Panel at a special Panel Meeting every 2 months, at which all Groups shall make 10-minute presentations.



### **Panel Secretariat Responsibilities**

- 1: Circulate notification of meeting, one week in advance of each meeting, requesting attendance and items for Agenda.
- 2: Prepare and circulate Agenda 2 days in advance of each meeting.
- 3: Prepare and circulate Minutes (+ Action List) day after each meeting.

### **Minutes, Agenda and Attached Reports**

- 1: Minutes and Agenda shall be so written that they do not contain any information that is confidential, in the opinion of either the Chairman or the MoM/PMU.
- 2: Confidential material will often need to be circulated with the Minutes, Agenda or Attached Reports, and the Panel Secretariat will only do so in PDF, and the PDF shall be password protected, and each page shall be highlighted as CONFIDENTIAL in RED.

### **Appropriate Organizations**

The following entities shall be deemed “appropriate organisations” for considering inviting representatives to Panel or Group Meetings by the Chairman in consultation with the Secretariat, and additional organisations may be considered from time-to-time:

#### National Environmental Protection Agency (NEPA)

Government organisation, supreme in all environmental matters, and approval of EIA before which mining projects cannot commence, and compliance with environmental monitoring, environmental management and mine closure.

#### Afghanistan National Standards Authority (ANSA)

Government organisation, supreme in preparing national standards on environment, health, safety etc.

#### Ministry of Mines (MoM)

Ministry responsible for mineral resources (including oil/gas and industrial minerals), and for encouraging investment in mining and associated infrastructure.

#### Afghanistan Geological Survey (AGS)

MoM Agency responsible for geological surveying of all types.

#### Institute of Archeology (IOA) of the Ministry of Information and Culture

Government organisation, supreme in all cultural heritage issues, including ‘chance finds’ and archaeological screening of mining and infrastructure sites.

#### Archeological Delegation of France (DAFA)

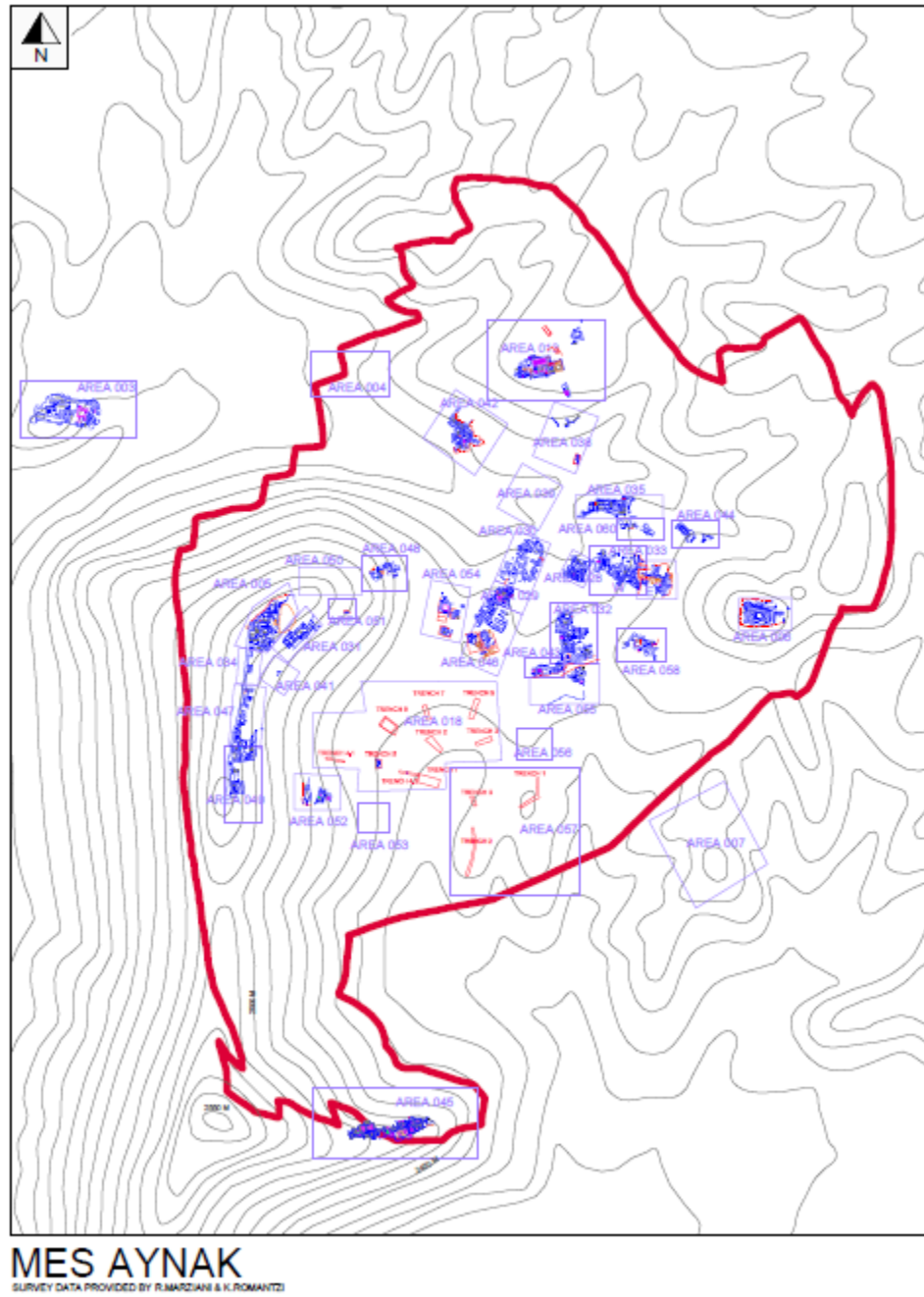
Donor expertise support for Government regarding cultural heritage over the last 90 years.

Annex 3: Mes Aynak Lower Town Image



MES AYNAK LOWER TOWN

#### Annex 4: Mes Aynak Master Image



## Annex 5: Summary of Procurement by MAAP

**A. Summary for Logistics Section:**

<b>Description</b>	<b>Total Amount in USD</b>
Field Equipments	164,310
It Equipments	34,115
Diesel Fuel	28,389
Shelter and containers	133,089
<b>Total</b>	<b>360,903</b>

**B. Summary for Procurement Section:**

Total Transportation Costs	205,340
Total Containers/Accommodation Costs	140,880
Total Rental Heavy Machineries and Trucks Costs	189,256
Field Works (Electricity, Plumbing and proper placement of containers)	30,409
Plywood and Timbers for conservation and removal of Architics	49,626
<b>Total</b>	<b>615,511</b>

**Grand Total Amount A + B = USD 976,414**

## Annex 6: Summary of Procurement by DAFA

### Rapport 2010

Shipment of equipment	€ 131.35
Restoration equipment	€ 8,839.90
Plane ticket Conservationist	€ 1,524.61
Equipments	€ 658.64
Salary conservationist 3 months	€ 18,044.00
Fuel for the cars	€ 2,044.00
Drivers per diem	€ 809.99
Salary Topographer 1month	€ 2,500.00
Visas fees	€ 170.00
Food for the experts	€ 944.24
Afghan archeologist per diem	€ 2,390.00
Plane ticket pottery specialist	€ 1,013.00
Plane ticket topographer	€ 832.00
Plane ticket Topographer 2	€ 832.00
Plane ticket conservationist 2	€ 1,069.00
Plane ticket conservanionist 3	€ 1,069.00
Car rental	€ 2,520.00
Salary pottery specialist	€ 1,320.00
Excavator rental	€ 413.00
<b>Total depenses a Mes Aynak en 2010</b>	<b>€ 47,124.73</b>

	Conservation
	Aerial picture and topography
	Scientific works
	Monitoring
	Misc

<b>Rapport 2011</b>	
Chemicals	€ 5,337.00
Conservationist 1	€ 5,420.00
Conservationist 2	€ 5,420.00
Aerial Photographer 1	€ 8,360.00
Aerial Photographer 2	€ 8,360.00
Drivers per diem	€ 597.00
Equipment	€ 1,206.00
Computer	€ 1,496.95
Camera	€ 533.00
Little equipment	€ 592.00
Food	€ 375.00
Fuel	€ 3,406.00
car rental	€ 3,600.00
Plane ticket Aerial photographer 1-2	€ 2,280.00
Plane ticket Aerial conservationist 1-2	€ 2,565.00
Eid gift to INA	€ 1,890.00
Security for the heavy equipment given by DAFA to MoM	€ 6,485.00
Conservationist 3	€ 6,479.00
Plane ticket conservationist 3	€ 1,051.00
Misc	€ 1,532.00
<b>Total depense Mes aynak en 2011</b>	<b>€ 66,984.95</b>

<b>Rapport 2013</b>	
Chemicals	€ 9,794.73
Construction	€ 1,405.31
Main d'oeuvres pour Mes aynak (Prime Eid + Mullah Mira Jan)	€ 2,707.80
aerial photographer 1	€ 23,625.00
aerial photographer 2	€ 23,625.00
Drivers per diem	€ 594.20
Conservationist 1	€ 6,071.57
Conservationist 2	€ 5,967.00
Equipment	€ 17.80
Food	€ 598.31
fuel	€ 1,082.40
car rental	€ 1,345.40
Plane ticket aerial photographer 1-2	€ 2,644.20
Plane ticket conservationist 1-2	€ 2,800.20
<b>Total depense Mes aynak en 2013</b>	<b>€ 82,278.92</b>

<b>Total 2010, 2011 et 2012 a MES AYNAK</b>	<b>€ 196,388.60</b>
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## **ANNEX 5.      OVERVIEW OF SUPERVISION MISSIONS AND FIELD VISITS**



### Summary of Bank Missions 2009 - 2012

SDNRP-AF and SDNRP2

TTL / Team Supervision Missions			# Days In Afghanistan
1	2009	Dec	7
2	2010	Jan	15
3	2010	April	11
4	2010	May	11
5	2010	Sept	19
6	2010	Oct	12
7	2011	Jan	13
8	2011	Mar	13
9	2011	May	9
10	2011	July	11
11	2011	Oct	9
12	2011	Nov	7
13	2012	Jan	10
14	2012	March	1
15	2012	March	7
16	2012	April	9
17	2012	June	13
18	2012	Sept	9
19	2012	Dec	5
			<hr/> 191

Additonal Supervision Missions by Team

2012 April	7
2012 October	5
2012 December	6