

December 15, 2007

To
President and Executive Directors
Asian Development Bank
Manila, Phillipines

Dear Mr. President,

We are writing to you on behalf of the people of Phulbari, Birampur, Nababganj and Parbatipur *upazillas* (subdistricts), Bangladesh to request Asian Development Bank (ADB) to remove its support of investment and political risk guarantee for the Phulbari Coal Mine Project. The ADB offers loans in the name of reducing poverty, but if realized, we believe that this project will increase the poverty of the local population as well as cause environmental disaster. The ADB will be helping Asia Energy, a private subsidiary of a UK owned corporation, in violating ADBs own policies regarding public disclosure and subsequently its environmental and social safeguards, Bangladesh laws and condoning internationally recognized human rights violations associated with this project. We have also learned that the planned project violates ADB's own energy policy.

We address each of our concerns in turn and request that you take them with utmost seriousness.

1) Misrepresentation of Community Support in ADB document

Realizing that “good governance”, “transparency” and “accountability” are major tenets of your organisation, you should know that Asia Energy documents approved by you misrepresent facts as we have experienced them. For instance, the SEIA misrepresents the nature of public consultations held around this project and claims for “broad support” for the project. This is done not only through what the document claims but also by what it omits.

For the record, the vast majority of the Phulbari area communities were open to consultation up to January and February 2005 when little was revealed by Asia Energy about the technicalities and impacts of the mine—the fact that it would be an open pit mine. Up to that point, only promises were made about the benefits of the mine to the people. No negative impact of such technology was mentioned.

Once we educated ourselves on the fact that Asia Energy planned to have an open pit mine in the area that would impact large number of hectares, lead to de-watering, destruction of farming and other long term and short term consequences of the project, there has been clear and widespread opposition to the mine.

Land compensation and resettlement for the vast majority of the people in the area will not result in people being better off or even the same as before the project. The costs

of destroying the land, our environment and thus our livelihoods are far greater than what a compensation package could give us.

While it is true that a handful of people have been in favor of the project, any attempt to state that the project has support from the citizens of the four upazillas has no factual basis. On August 26, 2006, this opposition was expressed by a peaceful march of close to 100,000 people from Phulbari and its adjacent areas demanding that Asia Energy leave Phulbari. Sadly, this march ended with the Bangladesh Rifles (BDR) shooting into the crowd, with the instigation from Asia Energy and its brokers (*dalals*) of killing three people and injuring more than 200. Several articles and upcoming documentaries on this incident can be shared with you.

Some specific examples of the misrepresentation of facts in the ADB approved SEIA:

- The SEIA highlights two consultations (22 March and 7 Sept 2005) that supposedly represented local opinions; however, it fails to note that in July-August 2005, Phulbari Municipal Chairperson Shahjahan Ali Sarkar, on behalf of the municipality council, withdrew the “no objection” letter to the mine.
- The SEIA says that the information center has “an average of 20 people” visiting per day and that 80% of them have written “in support of the project.” The fact is that anyone entering the visitor’s center had to sign the book and this fact did not indicate support of the project. Secondly, many of those people listed as “supporting” the project were not from the area and some do not even exist! The ADB should not take these claims by Asia Energy as *prima facie* without verifying the truth on the ground.
- We know from certain NGO representatives that they have been associated with such consultations by Asia Energy claims, though in reality, they were never present. We are happy to discuss this with you in detail and provide contacts of these individuals. You should also know that several people of the communities have been either bribed or intimidated into attending these meetings.

2) EIA-related Documents did not exist in Appropriate Form or Language

- Potential project affected people have been given minimal information in Bengali about environmental and social impacts associated with the mine. Project information mainly consists of propaganda by the company in the form of brochures. We learned that only recently have they opened up a website in Bengali.
- We are unaware of any EIA having been translated or even summarized in the local language. This is in spite of the fact that about 60% of the population is illiterate in the area, and the majority of the literate population do not have internet access or adequate knowledge of English to process such information.
- We have been informed that information and a consultation should have been provided to us, as project affected people, when the EIA fieldwork began and when

the draft was completed, in the appropriate local language and form. However, the majority of people in the area have no idea whether such consultations took place and who was present and whether documentation/information was provided in a manner that would enable input. The SEIA also does not provide this information.

- We believe that these issues are in direct violation of both your public communications policy and your policy on environmental safeguards.

3) Involuntary Resettlement Plans and Indigenous People's Plan

- Given Asia Energy's misrepresentations about consultations and opinions about the mine, the mistrust that has been generated by the company with the people of the area, it is highly unlikely that the company's draft plans on these issues will be accepted by affected communities. There has never been any translation and availability of such material in an appropriate form or language, though we came to learn that such plans have been available on the Asia Energy website for months.
- There are serious issues of contention about whom we consider "affected" people. We do not accept that approximately 50,000 people would be affected by the project. Based on our census of number of families in each neighborhood, we believe that this number will range somewhere from 200,000 to 500,000.
- The population density in the area (4,245 people/sq. km) is extremely high combined with immense value of the land given that it is extremely rich in arable land, livestock, fisheries and forestry.
- Moreover, the communal harmony between the indigenous people and the Bengalis as well as different religious groups that has long existed in the area was threatened by the dubious activities of the company. On August 26, 2006, however, people from various religious and ethnic groups came together against such conspiracies.

4) Violation of Bangladesh Laws¹

Asia Energy's contract with Bangladesh violates laws of the country. If ADB endorses this project, it will essentially endorse these violations of national law. For instance,

- Mines and Minerals Rules (MMR) of 1968 (amended in 1987 and 1989) stipulates 20% royalty on coal and other minerals; however Asia Energy negotiated a 6% royalty deal.
- The government did not officially endorse the original BHP contract in 1998 through a "gazette notification" and thus the contract transfer to Asia Energy also remains illegal
- According to the MMR 1968, Asia Energy was required to deposit three percent of the total value of investment as a Bank Guarantee, but failed to do so.

¹ "Report of Expert Committee on Feasibility Study report and scheme of development of Phulbari Coal Project". It was submitted by Asia Energy Corporation (Bangladesh) Pvt. Ltd. September 2006.

- Similarly, clause 41 of MMR 1968 allows only 400 hectares for open-pit mining, but the Asia Energy project is for 5,900 acres.
- Clause 43 of the Rules allows for ten year leases with extension based on review. However, Asia Energy has been allowed a 35 year mining lease.
- Thus as it stands, Asia Energy has no legal basis as a project sponsor in Bangladesh on Phulbari. Finally, while ADB supports “competitive bidding” in contracts, this private sector project has not been a result of competitive bidding but a simple takeover from BHP.

5) ADB’s violation of its Energy Policy

We have also been informed that the ADB is not allowed to fund coal projects that are not specifically for power plants. Phulbari is far from a power generation project even though a 500 MW power plant is planned. Eighty percent of Phulbari coal will go towards exports to international markets and India. Some of the coal would be used for steel. Thus, it appears that the ADB is also violating its own Energy Policy in supporting this project.

Conclusion

The long struggle of the people of Phulbari and the sacrifices made for this cause firmly state that open pit coal mining in a densely populated region like Bangladesh will not be accepted by the local people. Coal extracted from this country should only be used for the benefit of this country. No percentage of the coal will be exported. Therefore, we, the people of this potential mining area, request the ADB to remove its financial support and political risk guarantee from the Phulbari project. In doing so, the ADB will avoid violating its own policies as well as take a firm stance on behalf of the people. Otherwise, it would be obvious that the ADB is taking a position against national interest, the environment and the people of Bangladesh by prioritizing the business interests of a company like Asia Energy.

Sincerely,

On behalf of the people of Phulbari, Birampur, Nababganj and Parbatipur *upazillas* :

Liyakat Ali, Commander
Freedom Fighter’s Sangsad Phulbari Command Council

Komolchandra Saha
Phulbari Dokan Karmachari Union (Shop Employees’ Union)

Sayema Begum
Women Representative, Shibnagar, Phulbari

M A Quayum
Phulbari Byabshai samity (Trader's Samiti)

Ramai Soren
Jatiya Adivasi Samiti (Indigenous Association)

Habibur Rahman
Kuli Sramik Union (Day Lolorers' Union)

Md. Alauddin
Nirman Sramik Union (Construction Workers' Union)

Matiur Rahman, Secretary
Rickshaw-Van Union

Srimoti Murmu
Bangladesh Adivasi Union (Indigenous Union)

Pradeep Sarker
Bullet injured, Shahbazpur

Professor Shah Md. Iiyasur Rahman
College Teachers' Samiti

Abdul Majid
Jatiya Krishak Kshet Majur Samiti (National Peasant and Farmig Laborer's Union)

Jainal
Krishak Samiti (Peasants' Union)

Shafiqul Islam Sikdar
Jatiya Krishak Samiti (National Peasants' Union)

Nur Islam
Boropukuria Coal Mine Sramik Adhikar Andolon, Parbatipur

Md Jahidul Islam
Boropukuria Coal Mine Sramik Adhikar Andolon, Parbatipur

Md. Sher Ali
General Secretary, Majar Parichalna Committee (Shrine Committee)

Naebuddin
Community leader Dodolia

Dr. Mohammad Solaiman, Secretary
Phulbari Homeopathy Welfare Association

Shibnagar Gupta, General Secretary
Kalibari Mandir (Temple) Committee, Phulbari

Md Ajmal Hossain, Secretary
Nimtala Jame Masjid (Mosque committee)

Motiur Rahman, President
Jatiyo Imam Samity (Imam association), Dinajpur

Sompa Chisty
Women representative, Nimnogor, Balubari

Abu Taher
Community Leader, Khayerbari Union

Yakub Ali
Community Leader, Khanpur Union

Parimal Roy
Community Leader, Shibnagar

Aminul Islam Bablu
Community Leader, Phulbari

Rafiqul Islam Sarkar
Community Leader, Birampur

Shahjahan Ali
Community Leader, Nababganj

Lutfar
Community Leader, Shahbajpur

Nasir member
Community Leader, Shahbajpur

Mahmud Hasan Babu
Community Leader, Phulbari

Shahriar Kabir Sunny
Community Leader, Phulbari

Hafizar

Community Leader, Madhyapara Granite Mine

Jai Prakash Gupta
Community Leader, Phulbari

Mojammel Huq
Community Leader, Parbatipur

Biplob Das
Community Leader, Phulbari

Jobirul Islam
Community Leader, Ratanpur

Abdul Majid Chowdhury
Community Leader, Phulbari

Najar Ahmed
Community Leader, Phulbari

Saiful Islam Jewel
Convenor, National Committee to Protect Oil Gas Mineral Resources Port and Power,
Phulbari Chapter

S M Nuruzzaman
Member Secretary, National Committee to Protect Oil Gas Mineral Resources Port and
Power, Phulbari Chapter