

## **Kazakhstan: Proposed Moinak Electricity Transmission Project – Land Acquisition Policy Framework**

### **Project Background**

The primary project objective is to ensure that business enterprises and households in southern Kazakhstan have improved access to reliable, cost effective and high quality supply of electricity. This objective will be achieved by increasing the capacity of the power transmission network to provide adequate supply of electricity to the rapidly growing southern part of the country, with particular focus on the Almaty region. Existing and prospective supply deficits in the region are a barrier to both economic growth and human development. By addressing these deficits, the project will help to ensure that broader societal objectives in terms of improved employment, incomes and standard of living can be achieved.

### **Project Description and Location**

Key components of the project include:

- Construction of a 220 kV Overhead Transmission Line (OHTL) from Moinak Hydropower Plant (HPP) to Shelek Substation [SS] (119.1 km)
- Construction of a 220 kV OHTL from Moinak HPP to Saryozek SS (214.7 km)
- Construction of outdoor switchyard at Moinak HPP
- Construction of cross-connection line at Saryozek SS (4.2 km) to existing 220 kV OHTL No. 2033 and No. 2043
- Reconstruction of Shelek SS
- Reconstruction and extension of Saryozek SS

The location details of the above activities are the following:

- The Moinak HPP - Shelek SS 220 kV line will start at the 300 MW Moinak HPP currently under construction on the Charyn River and pass through the Enbekshikazakhsy District of Almaty Oblast. The area is characterized as grazing and arable lands.
- The Moinak HPP - Saryozek SS 220 kV line will start at the Moinak HPP and pass through the Enbekshikazakhsy, Kerbulaksky, Raimbeksky, and Uigursky Districts of Almaty Oblast crossing the Charyn and Ili Rivers.
- Rearrangement of 220 kV OHTL No. 2033 and No. 2043 by means of installation of angle-tension towers on the existing OHTLs alignment – two U220-3 towers, with horizontal conductor arrangement.
- Modernization and extension of existing Saryozek SS requires acquisition of land (1.999 hectares or 4.33 acres).
- Modernization of existing Shelek SS will be conducted within existing fence lines.

- Construction of outdoor switchyard at Moinak HPP requires land acquisition of 4 hectares (8.68 acres).

### **Reasons for a Land Acquisition Policy Framework (LAPF)**

Civil works at existing Shelek SS will be carried out “within existing fence lines,” whereas civil works at existing Saryozek SS require land acquisition of 1.999 ha (4.33 acres). The targeted extension area for the Saryozek SS is an unoccupied land owned by the state. Construction of 220 kV outdoor switchyard at Moinak HPP requires land acquisition of 4 hectares (8.68 acres). Land will also be needed to be expropriated for the transmission towers (8.10 hectares or 17.58 acres). Furthermore, since the exact number of towers that will be built is unknown at this point in time and will follow from the detailed working designs for the power lines during the first year of implementation (after selection of the turn-key contractor), the exact scope and incidence of all land acquisition requirements cannot be precisely assessed now. Also, the exact location for the switchyard at Moinaka HPP and the extension area at the Saryozek SS will be known only after the development of detailed designs in the first year of implementation. Therefore, this Land Acquisition Policy Framework is prepared as a condition of appraisal to cover the land expropriation required for the Saryozek SS, the Moinak HPP switchyard and the transmission line towers. KEGOC confirms that no person will be displaced/relocated under the project.

### **Kazakhstan Legal Framework**

In Kazakhstan, although land is owned by the State, it can be transferred, sold or rented to individuals, generally for 49 years. Once land is in private hands, the State can reclaim it only for specific uses, including road construction, and only after compensating the owner for the asset and other losses.

Kazakhstani laws and regulations regarding land and land ownership derive from the Constitution, which states that land (surface and underground) is owned by the State, but can also be privately owned (Article 6.3). Article 26.3 also states that “*No one may be deprived of property unless stipulated by a court decision. Forcible alienation of property for public use in extraordinary cases stipulated by law may be exercised on condition of its equivalent compensation.*”

The Land Code of the Republic of Kazakhstan (CODE No. 442 of 20 June 2003) covers the *reservation* of land for State Needs, stating that *A land plot may be reserved for state needs by way of purchase or by granting an equivalent land plot with the consent of the owner or land user* (Article 84.1). There are several grounds for purchasing private land or terminating long-term leases. In the case of land under lease, the land user is compensated for the full amount of losses and may be granted an alternative plot (Article 84.4). The availability of suitable land to swap varies from one location to another, however.

Landowners and users will be notified of the decision to purchase a year in advance, unless the owner or user agrees to release the land more quickly (Article 85.2). If part of a land plot is reserved and the remainder of the plot can not be used as before, then the whole plot should be purchased (Article 86 para 2).

The price of a land plot purchased for state needs is *determined by agreement with the owner or land user* (Article 87.1). The payment price includes *the market value of a land plot or rights to it and of real estate situated on it, as well as all losses caused to the owner or land user due to loss of a land plot, including losses that they incur in connection with the premature termination of obligations to third parties* (Article 87.2). If the owner or land user agrees, another plot of equal value can be substituted instead of cash compensation (Article 87.3).

If an owner disagrees with the decision to purchase (reserve) or disagrees with the price offer or other conditions of the purchase, the authority that issued the decision to purchase can file a lawsuit to ask the court to purchase the plot (Article 88 para 1) after the year of notification has passed (Article 88 para 2). In disputed cases, the land cannot be accessed until the court adjudicates a settlement that specifies levels of compensation and losses (Article 166.7). Compensation must be paid to the owner or user before the reservation is processed by the District (Oblast) Land Resources Management Office and registered at the Registration Service Committee, then allow work to begin on the land.

When residences are affected, the Law on Housing Relations also applies. If a house is demolished for State Need, the owners can choose either to receive a new residence or receive compensation to the market value of the house. An owner who chooses the replacement option can select a home from a list of available homes. If the value of the selected house is higher than the market value of the building to be demolished, the exchange is completed; if the cost of the selected building is lower than the market value of the one to be demolished, the owner is compensated in cash for the difference. Disagreements over the evaluation are settled in court.

Although the legal framework for reserving land and compensating owners is clear, procedures are not fully defined. The process was once regulated by Government Resolution No 403, On the Approval of Provisions for Procedures to Withdraw and to Buy Out Land Areas for State Needs (8 April, 1996). The resolution expired in February, 2005, however, and has not been replaced. The calculation of “market value,” in particular, is subject to interpretation in the absence of standardized procedures, and officials are thought to set values below actual transaction values. Final design teams frequently commission professional assessors to prepare land acquisition estimates, but there is some question regarding the extent to which their estimates are based on site-specific information. Consequently, challenges are not uncommon. Since the calculation of “market value” in particular, is subject to interpretation in the absence of standardized procedures, and officials are thought to set values below actual transaction values, the final design team under the Project will commission professional assessors to prepare land acquisition estimates, such that there are no questions regarding the extent to which their estimates are based on site-specific information.

## **Land Acquisition Practices**

The feasibility study for an investment includes a proposed alignment and estimates of the amount of land to be acquired permanently; the amount of land needed temporarily for staging, construction sites and borrow pits; and the number of buildings that would be demolished; and estimated cost of acquisition, rental and restoration of affected lands.

The design organization engaged in alignment and obtaining approval for routes and substations sites shall be employed for these purposes. The design is prepared based in an interactive manner, involving intensive field work and ongoing consultations with local officials, particularly on the raion level. The design process generally starts with a meeting of all relevant officials in the oblast—agriculture, land resources, registration, utilities, public works, and others. The final design includes detailed maps of individual landholdings to be affected, complete ownership data from the cadastre, and estimated compensation for acquisition and losses. The design company subcontracts specialized services for the preparation of the final design including, for the first time in 2008, the services of licensed property assessors.

The certificates of alignment and approval of the routes and substation sites shall be agreed upon with the land owners, local (oblast and raion) executive bodies, land resources management administration, oblast and country organizations and other institutions affected by construction. The oblast administration requests land resources management administration to suspend all land transactions in the areas with expected acquisition to prevent speculation. Next the certificates of alignment and approval of the routes shall be approved by the resolutions of the local executive bodies according to their area of responsibility.

Based on the approved corridors (routes) of the final plan, the procedure shall start for service procurement in land use planning institutions (“NPCzem” State Enterprise Almaty Oblast) to execute the title documents for the land plots. The design team obtains cadastral maps and ownership records and asks the Akimat of the raion to call owners together to discuss the land acquisition process. The data is then given to the licensed assessors who are responsible for determining the market value of the property to be acquired and negotiating compensation with owners. Although there is established precedent for assessing urban property values, rural property assessment is rather new, and transactions are not common in many areas. To determine rural property values, the assessor takes into consideration soil quality, productivity, trees, and other production characteristics, in addition to recent land transactions, if there are examples available. The assessors negotiate with each owner and sign an agreement, if possible. If they cannot come to terms, “NPCzem” State Enterprise (Research and Development Center for Land Resources) of Almaty Oblast can initiate a court appeal after the one-year notification period ends. Once the akimat approves the final design, the acquisition or expropriation process can proceed. If NPCzem of Almaty Oblast or the owner appeals to the court, the court renders a decision that includes the amount of compensation to be given to the owner. Compensation determined by the court will comply with the provisions of OP 4.12 since national laws provide that compensation for lost assets be

based on market price. Land cannot be accessed until compensation is completed and the title is transferred. The previous practice was for the raion akimat to establish a valuation commission that included officials and landowners, without specialized inputs. The use of licensed assessors is expected to reduce claims and result in a smoother acquisition process. After settling the issues of land transfer, the contract between KEGOC and the owner shall be signed.

Civil works contracts will require the contractors to be responsible for the temporary acquisition and reinstatement of all land required for such purposes. The contractors will select the land parcels they require and they will be responsible for negotiating agreements with land owners to use the land and extract materials. If a contractor fails to obtain an agreement with a landowner, the contractor must select an alternative site and negotiate a new agreement. No land can be occupied involuntarily for temporary construction purposes. Contractors are assumed to prefer to rent State land, rather than private property, but the choice is theirs. In either case, the arrangements must be subject to a written agreement between the contractor and the owner and lands are required to be returned to their original state after work is concluded.

Initially for the period of the line construction the title documents shall be executed for temporary acquisition of the land including the certificate for right of temporary paid land use. The acquired land area shall be a strip 28 m wide with the length equal to the length of the constructed line. For construction of substation, the land shall be acquired permanently. The local executive bodies based on the executed title documents for the land plots shall issue resolutions that shall provide grounds for the allocation of the corresponded land plots for construction. The resolutions shall also stipulate the amounts of agricultural losses that shall be evaluated by the assessment committees. If the land is acquired permanently, then the payment amount shall be stated for the right of private ownership, as well as the details required for remittance of these amounts. After all amounts specified in the resolutions are performed, the title documents shall be registered in appropriate bodies. The issue of resolutions for allocation of the land plots is obligatory. These above resolutions are required for obtaining the permit for performance of construction and erection works in the Construction Committee (Ministry of Industry and Trade). Upon completion of construction and execution of takeover certificate by the state acceptance committee with regard to the line, the title documents for the land shall be executed again, but this time on permanent basis and not for entire line route, but for area under specific towers.

### **Anticipated Impacts**

According to the Feasibility Study of the proposed Moinak Electricity Transmission Project, the extension of Saryozek SS requires land acquisition of 1.999 hectares. KEGOC confirms that this land is not occupied, even illegally. KEGOC also confirms that the land is unencumbered. Modernization of Shelek SS will be carried out within existing fence lines. Construction of outdoor switchyard at Moinak HPP requires land acquisition of 4 hectares.

Furthermore, land will be needed to be expropriated for the transmission towers (8.1 hectares). The primary impacts of the project thus are expected to be loss of agricultural land, pastures, above-ground structures, thereby potentially resulting in land loss and adversely affecting the incomes and well-being of the people who own or use the land, resources and facilities. There are no houses or residential structures involved. The Feasibility Study has passed all required expert assessments including state and environmental ones, and at a later time the Construction Committee will issue a permission for performance of construction works, which indicates that the selected routes and rights of way for the transmission lines will not cross any environmentally sensitive or culturally important sites, or areas of proven mineral reserves.<sup>1</sup> The routes *will* cross land along these routes that are used for grazing or agricultural production, and loss of income with respect to such land will be compensated. Some losses may be temporary, related to staging and carrying out the construction. Others will be permanent. Land will be acquired by KEGOC through a special government fund with compensation to be provided to the affected private owners. Only that land, which is under the Saryozek SS (state-owned), the Moinak HPP switchyard and transmission lines will be affected. The remaining land will be used for its original purpose (grazing, etc.) with no impact from the project.

### **Involuntary Land Acquisition/Resettlement Principles**

The Government of Kazakhstan agrees to apply the following principles in the acquisition of private land under the Project that reflect the principles incorporated in the World Bank Operational Policy on Involuntary Resettlement (OP 4.12). The principles apply in case of temporary or permanent impacts on households resulting from loss of land, structures or other fixed assets; changes in land use or business; restrictions on the use of land, housing or businesses. The principles apply to “affected persons” who experience impacts as the result of the implementation of the project..

The policies have a number of principles that must be adhered to in designing and implementing the investments:

- Avoid or minimize land acquisition and resettlement. KEGOC confirms that no person(s) will be displaced/relocated under the project.
- Affected persons are entitled to be compensated at full replacement cost for their lost assets, incomes and businesses, including temporary losses or impacts, without adjustments for depreciation.
- Compensation will enable affected persons to restore their pre-project incomes and standard of living following the implementation of the RPF.
- Affected persons will be consulted.
- Affected persons will be fully informed of their compensation options.
- Land-for-land swap is the preferred compensation for lost agricultural land, if it is available, unless the affected person chooses cash compensation.

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<sup>1</sup> This was confirmed in the Project Feasibility Study (2006) which was approved by the Ministry of Environment in a resolution (No. 03-647) dated March 26, 2007.

- Costs of transfer of property—purchase or swap—are waived or borne by the investor, including taxes, fees, documentation and court appeals.
- Compensation will be made giving equal consideration to women and men.
- Lack of formal title or use agreement does not bar affected persons from entitlements or assistance required to achieve the objectives of the policy. If people have not registered their property but in fact do own the land, KEGOC will help the owners complete the registration process so that they can receive their due compensation. If people are occupying/ using the land illegally, then under the Project they will receive cash compensation equal to market value of lost income. If during project implementation such facts are reported, then according to the Land Code these persons will be compensated and the compensation amount will be determined by the court.
- Special attention will be given to households headed by women and other vulnerable persons and appropriate assistance provided to assure that their living standards are maintained or improved.
- Land acquisition is executed as part of the project and fully funded.
- Compensation will be fully provided before land can be entered for civil works or demolition.

### **Additional Measures**

First, final designs for the transmission lines will indicate the number and location of informal structures and land in use, and affected persons will be called to the akimat to discuss procedures and entitlements. When the encroachment consists of cropping on informally occupied land, the users will be allowed to harvest standing crops and offered the opportunity to rent alternative land. These provisions, or other appropriate ones, will be incorporated in the Abbreviated Land Acquisition/ Resettlement Plan [ARP].

Second, affected persons will be informed in detail about the entire process clarifying rights and responsibilities, compensation rates, payment schedules and grievance redress options. This will be targeted to people who lose land and other assets permanently for State Needs, and contractors.

Third, the Land Code offers owners the option to swap land or buildings in lieu of compensation. In some areas, alternative lands may not be readily available. Nonetheless, all affected persons will be informed of the option. Where land is available for swap, officials involved in the land acquisition process will offer affected persons the option to swap land and buildings for compensation instead of cash, if they choose.

### **Entitlements and Compensation**

Compensation and entitlements must assure that affected persons maintain or improve their standard of living after the implementation of the RPF. The following table shows losses and valuation and compensation measures that will be implemented.

**Table 1: Entitlement and Compensation Framework**

<b>Asset</b>	<b>Specifications</b>	<b>Affected People</b>	<b>Compensation Entitlements</b>	
<b>Permanent Loss</b>				
Arable Land	All Land Losses irrespective of severity of impact	Owner	<ul style="list-style-type: none"> <li>Land for land compensation with plots of equal value and productivity to the plots lost; or</li> <li>Cash compensation for affected land at replacement cost (market value) with no deductions for taxes, transaction, registration or transfer costs</li> <li>If the residual portion of a plots is too small to use, the whole plot is purchased and compensated or exchanged</li> <li>Crop compensation in cash at full market rate for one year gross harvest</li> </ul>	
		Leaseholder	<ul style="list-style-type: none"> <li>Cash compensation, market value of gross yield (3-year average); renewed lease in alternative plot</li> </ul>	
		Sharecropper	<ul style="list-style-type: none"> <li>Cash compensation , market value of share of lost harvest</li> <li>Provision for livelihood restoration, either alternative land for sharecropping or alternative employment</li> </ul>	
		Agricultural worker	<ul style="list-style-type: none"> <li>Cash compensation equal to salary in cash and kind for rest of agricultural year</li> </ul>	
		Encroachers/squatters	<ul style="list-style-type: none"> <li>Cash compensation equal to market value of lost harvest</li> <li>Provision for livelihood restoration, e.g. alternative employment</li> </ul>	
	Severe Impact—more than 10% of land loss	Owner, Leaseholder	<ul style="list-style-type: none"> <li>Land for land compensation with plots of equal value and productivity to the plots lost; or</li> <li>Cash compensation for affected land at replacement cost (market value) with no deductions for taxes, transaction, registration or transfer costs</li> <li>If the residual portion of a plots is too small to use, the whole plot is purchased and compensated or exchanged</li> <li>Cash compensation equal to market value of two crop years</li> </ul>	
		Sharecropper	<ul style="list-style-type: none"> <li>Cash compensation equal to twice market value of share of lost harvest</li> </ul>	
	Residential and Commercial Land		Owner	<ul style="list-style-type: none"> <li>Land for land compensation, plot comparable in value to lost plot, or</li> <li>Cash compensation for affected land at full replacement cost free of taxes, registration and transfer costs</li> </ul>
			Renter, Leaseholder	<ul style="list-style-type: none"> <li>1-3 months allowance</li> </ul>
			Squatter	<ul style="list-style-type: none"> <li>Free or leased plot on State land</li> </ul>
Grazing land		Herders	<ul style="list-style-type: none"> <li>Acceptable alternative land for grazing</li> </ul>	
Buildings and Structures		Owners of permanent structures	<ul style="list-style-type: none"> <li>House for house swap; if replacement is lower value, cash compensation for the</li> </ul>	

			<ul style="list-style-type: none"> <li>• difference, or</li> <li>• Cash compensation at replacement rates for affected structure and other fixed assets, based on material cost, construction and labor costs free of salvageable materials, depreciation and transaction costs. Cost of lost water and utility connections included in compensation</li> </ul>
		Owners of temporary, structures (kiosks, stalls)	<ul style="list-style-type: none"> <li>• Approved site to re-locate</li> </ul>
Crops	Crops affected	All affected persons, including squatters	<ul style="list-style-type: none"> <li>• Crop compensation in cash at full market rate for one year gross harvest—paid to owners and tenants based on their specific sharecropping agreement</li> </ul>
Trees	Trees affected	All affected persons, including squatters	<ul style="list-style-type: none"> <li>• Cash compensation reflecting income replacement. Economic trees value based on age category and valued at gross market value of one year income times the number of years to grow a tree to similar productivity, plus purchase price of seedlings and starting materials</li> </ul>
Business	Temporary or permanent loss of business	Business owner	<ul style="list-style-type: none"> <li>• If permanent, cash compensation equal to one year income; if temporary, cash compensation for the period of loss. Compensation based on tax declaration or official minimum salary</li> </ul>
Employment earnings from a business	Temporary or permanent loss of employment	All affected persons, including squatters	<ul style="list-style-type: none"> <li>• If permanent, cash compensation equal 1 year income</li> <li>• If temporary, allowance for lost wages during interruption, up to 3 months</li> </ul>
<b>Temporary Loss</b>			
Land used for construction activities	Subject to negotiation between owner and contractor	Owner (private or public)	<ul style="list-style-type: none"> <li>• Contractor pays cash compensation at local commercial rental rates for duration of use</li> <li>• Land restored to original status at end of rental</li> <li>• Environmental safeguard requirements apply</li> </ul>

## Land Acquisition Planning and Implementation

Once the final design is completed and, accepted by the raion and oblast, and the scope of land acquisition is determined, KEGOC will prepare the specific Land Acquisition/Resettlement Plan [RAP] and submit it to the World Bank for approval before proceeding with construction. The RAP will include the following:

- Census of affected persons and an inventory of assets to ascertain their current standard of living and assess expected impacts
- Description of compensation and other assistance to be provided
- Description of the local consultations to engage affected persons in design of the Plan

- Local publication of the plan for comment (appropriate medium, location and language)
- Institutional responsibility for implementation and procedures for grievance redress
- Arrangement for monitoring and implementation
- Time-table and budget

### **Implementation of the Land Acquisition Process**

KEGOC will be responsible for application of the Land Acquisition Policy Framework, including commissioning and overseeing the census of affected persons and inventorying of assets, preparing the abbreviated specific Land Acquisition Plan in collaboration with local officials and with the participation of affected persons. Monitoring of implementation of the Plans, and assessing impacts shall be completed no later than four months prior to the planned date for commencement of civil works, and shall be submitted to the Bank for review no later than three months before the planned start of civil works.- Implementation of the specific Land Acquisition Plan will only begin after approval by the Bank if found acceptable by the Bank. The Abbreviated Resettlement Plan will cover the following:

1. Description of the specific activities the project that require land.
2. A census of persons affected/displaced by involuntary land acquisition including an inventory of lost assets and valuation of these, and socio-economic data
3. Description of the compensation and other resettlement assistance to be provided
4. Description of the consultations with affected/displaced persons about acceptable alternatives
5. Institutional responsibility for implementation and procedures for grievance redress
6. Arrangements for monitoring and implementation
7. A time-bound implementation plan and budget.

The Plan will be implemented by raion/oblast level officials, for the most part, with support of the oblast administration, civil works contractors and officials of local self-government. Evaluation and compensation will be managed by raion/oblast level Commission established for the purpose. This Commission will include representatives from raion/oblast administration and officials representing different relevant offices, such as agriculture, forestry, roads, land resource management and registration. For purposes of eligibility, the cut off date in any location is the adoption of the final detailed design. Persons who occupy affected areas after that date are not entitled to compensation provisions.

### **Grievance Redress Mechanisms**

Effective grievance procedures can significantly reduce the anxiety people generally experience when they involuntarily lose assets. During the land acquisition process,

complaints regarding valuation, payment, support and follow-up are inevitable. All project related complaints will follow the existing pattern and will be described in the project's information brochures and posted in local offices:

- Affected persons take their complaints to the head of local self-government, who registers the complaint and attempts to resolve it. If the complaint is not resolved in one week, it is passed to the raion/oblast level
- A designated person in the raion/oblast administration receives the complaint, registers it and attempts to resolve it. If there is no resolution in two weeks, it is passed to the oblast level.
- A designated person in the oblast administration receives the complaint and attempts to resolve it.

Reports and grievance resolution will be subject to follow-up by the external monitoring and evaluation team, as well as by KEGOC. Alternatively, persons who feel that their grievances are not given adequate attention can contact KEGOC. Contact details will be announced to local population at the time of consultation meetings

### **Monitoring and Evaluation**

Land Acquisition activities are subject to internal and external monitoring. Implementation monitoring will be carried out by the raion/oblast administration who will report to KEGOC. KEGOC will hire an external monitoring agency, potentially the entity hired to conduct the census and social assessment, which will carry out an independent assessment of the land acquisition process to discuss with project management, and prepare an annual monitoring and evaluation report to the World Bank. Specific monitoring indicators include:

- Information campaign and consultation with affected persons
- Status of land acquisition and payments for compensation
- Selection and distribution of replacement land areas
- Compensation for affected structures and other assets
- Payments for loss of income

The cost of administrative oversight and monitoring and evaluation activities will be included in KEGOC's budget and reflected in the budget of the Land Acquisition Plan.