

To: Andrea Repetto Vargas, MICI Director
From: Sergio I. Campos G., Water and Sanitation Division Chief (INE/WSA)
cc: Executive Vice President, Vice President for Countries, Vice President for Sectors and Knowledge, Infrastructure and Energy Sector Manager, Climate Change and Sustainable Development Sector Manager, Southern Cone Manager, Representative in Argentina, Environmental and Social Safeguards Unit Chief, and Chief of the Sovereign Guaranteed Operations Division of the Legal Department
Re: Management's Response to the Notice of Request Registration and Request for Management Response, MICI-BID-AR-2021-0168, in reference to the Water and Sanitation for Small Communities Program - Tranche II (PROAS II) – (AR-L1289)

I. Introduction

1. This memorandum presents the Response of the Management ("Management") of the Inter-American Development Bank ("the Bank") to the Notice of Request Registration and Request for Management Response in reference to Request MICI-BID-AR-2021-0168 ("the Request") sent by the Bank's Independent Consultation and Investigation Mechanism ("MICI") to Management via email on 22 June 2021, concerning the Water and Sanitation for Small Communities Program - Tranche II (PROAS II) – (AR-L1289) ("the program").
2. Under the MICI Policy, document MI-47-6 ("the MICI Policy"), we are responding with Management's perspective regarding the Request at its current notice of registration stage, without yet considering the merits of the case in terms of compliance with the Bank's policies, which is a matter for a later stage.

II. Program and project background

3. The loan proposal for the program was approved by the Bank's Board of Executive Directors through Resolution 42/21 of 9 June 2021, constituting the second operation under the Conditional Credit Line for Investment Projects (CCLIP) AR-X1005. The borrower is the Republic of Argentina. The executing agency is the Ministry of Public Works (MOP) through the National Water and Sanitation Works Agency (ENOHSA). The cost of the program is US\$ 250 million (US\$ 200 million from the loan with the Bank).

The general objective of the program is to help to improve the quality of life for residents of localities with populations of less than 50,000 throughout the country by providing them with water and sanitation services. As of this writing, the loan contract to finance the program has not been signed between the borrower and the Bank and, therefore, has not yet entered into force.

4. The program was designed as a multiple works operation since it will finance physically similar but independent projects that the Bank would not be able to finance individually. At the program preparation stage, the project team analyzed a representative sample of projects in terms of typologies, geographic distribution, and size of localities, representing slightly over 30% of the total value of the program. Including a project in the sample during the preparation phase of a multiple works operation does not automatically make the project eligible for financing under the program. The sample allows the Bank to assess the program's technical, financial, and social and environmental feasibility and to develop the instruments that will be applied during its implementation to determine the eligibility of specific projects to be financed. During the execution phase, under the Bank rules governing multiple works programs (Operations Processing Manual PR-202), each specific project—including the projects that were part of the sample, must be submitted by the executing agency for the Bank's no objection—before its execution and financing with program resources is authorized.
5. The ESIA's and the environmental and social management plans of each of the sample projects, including the reports on the public consultations carried out, were also analyzed during the preparation of the program to review compliance with the Bank's Operational Policy on Environment and Safeguards Compliance (Policy OP-703). Based on this analysis, the program was classified under category B, given that it could cause temporary, local, and short-term negative social or environmental risks and impacts.
6. Because this is a multiple works program, the preparation stage included: (i) establishing the eligibility and prioritization criteria for the projects to be financed by the program; (ii) defining the four stages of the project cycle (identification, preparation and eligibility, execution, and transfer and operation); and (iii) preparing Operating Regulations to govern the program's execution, including an Environmental and Social Management Framework (ESMF) that contains the guidelines for the environmental and social management of the interventions to be financed under the program.
7. The project for the "Construction of the sewerage system for the town of Dina Huapi, Rio Negro," which is the subject of the Requesters' complaint, is among the sample projects analyzed during the program preparation stage. This project includes the following works components: (i) a 57 km sewage network system, with 3,800 household connections, in an area covering 760 ha; (ii) two pumping stations; (iii) 3.6 km of drive lines; and (iv) a treatment plant for secondary and tertiary treatment that discharges to the Ñirihuau River. The cost of the project is approximately US\$ 15.9 million, which is

part of the “Master Plan for the Provision of Drinking Water and Sewerage Services to the City of San Carlos de Bariloche and Dina Huapi.”

8. The project cited in the complaint conducted a public consultation process, which began on 17 February 2021 with the publication of the initial version of the Environmental and Social Impact Assessment (ESIA) on ENOHSA’s and the Bank’s websites. It also included the public release of the ESIA through digital media and social networks on 27 March 2021, an announcement to convene stakeholder groups on 31 March, and a virtual meeting presenting the scope of the ESIA to the stakeholders on 12 April 2021.
9. A group of residents of the town of Dina Huapi submitted a complaint to MICI on 18 April 2021, with a copy to Management (see Annex I), in reference to Loan 2343/OC-AR.¹ They questioned compliance with the Bank’s safeguards policies regarding: (i) the quality of the public consultation carried out (OP-102 and OP-703. B.6); (ii) compliance with country laws and regulations (OP-703. B.2); (iii) the quality of the ESIA (OP-703. B.5); and (vi) other risk factors, including the potential pollution of Lake Nahuel Huapi, a protected area (OP-703. B.9 and B.11). In response to this communication, Management sent a note to the residents (see Annex II) informing them that the agency responsible for the project’s execution was ENOHSA and recommending that they contact ENOHSA. Management also offered to hold a virtual meeting with the residents to understand their concerns and better ascertain the nature and scope of their claims.
10. On 12 May 2021, MICI sent a communication to Management (see Annex III) to inform it of the complaint received and to put Management in contact with the residents. In the same communication, MICI stated that the Request received on 18 April 2021 would be declared “Not Registered” in order to allow initial contact between the residents and Management. Management responded formally in a note to the residents, once again extending an invitation to a meeting (see Annex IV). The meeting was held on 19 May 2021, at which time Management listened to the reasons for the complaints and the parties discussed project-related details and alternatives.

III. Request to MICI

11. On 22 June 2021, the Director of MICI sent Management the Notice of Request Registration and Request for Management Response (“notice”) in reference to Request MICI-BID-AR-2021-0168 (“Request”) concerning the program.
12. MICI’s notice to Management stated that the group of Requesters had asked for their identities to be kept confidential, which is why an Annex summarizing the scope of the Request was attached to the notice. Subsequently, at Management’s request, MICI

¹ Water and Sanitation Program for Urban and Suburban Centers (AR-L1084).

reported that the project referred to in the Request is the “Construction of the sewerage system for the town of Dina Huapi, Rio Negro.”

13. The Request describes potential environmental harm to the community, as well as to the Requesters’ property and health, from the future construction and operation of the sewage collection and treatment system included in the project. They claim that this system would cause significant environmental damage to the different bodies of water (rivers and lakes), riverbanks, and beaches in the area, which they allege would be polluted by raw sewage. The Request notes that these bodies of water and beaches are used by both residents and tourists for recreational activities, as well as for the supply of drinking water, so any disturbance could lead to significant adverse health effects. It is alleged that the ESIA is incomplete because it failed to correctly identify the project-affected area and the project’s environmental implications for protected areas and vulnerable ecosystems, and because it does not offer viable alternatives for its implementation. The Requesters also allege that they have not received complete information about the project, nor have they been properly consulted about it. Finally, they cite potential property damage, since several of the works envisaged, such as pumping stations and pipelines, would be located on private property rather than on public land.

IV. Management’s comments on the Request

14. Below are some aspects of the Request that Management wishes to highlight regarding the allegations presented.

A. Confidentiality

15. The Request asked for the Requesters’ identities to be kept confidential. Management affirms its commitment to protecting the confidentiality of the Requesters’ identities from third parties (including the executing agency and the borrower’s authorities).

B. Considerations regarding the Request

16. For each allegation in the Request, we describe below the actions and considerations that Management took into account during the program preparation phase to assess the project’s viability:
 - i. Quality of public consultation (OP-102 and OP-703. B.6). The first version of the ESIA was published on the Bank’s website on 17 February 2021. ENOHSA developed and submitted the Public Consultation Plan to the Bank in March 2021. It included information on the works in Dina Huapi. The respective documentation was disclosed via digital media and social networks on 27 March, the announcement to convene stakeholder groups was issued on 31 March, and an initial virtual meeting to present the scope of the ESIA to the stakeholders was scheduled and held on 12

April 2021. The updated version of the ESIA, which included the results of the public consultation, was published on both the Bank's and ENOHSA's websites on 4 May 2021.

- ii. Country laws and regulations (OP-703. B.2). The ESIAs for the works in the representative sample include an analysis of the environmental and social requirements (e.g., permits, licenses, certificates, etc.) that must be met under local regulations governing both the construction and operation of the works, including those for the Dina Huapi treatment plant. This analysis identifies licensing and permitting requirements, including those required by the National Park Administration. The Bank has also asked ENOHSA to verify the legal ownership of the properties where the works are to be built, the easements, and other rights necessary to implement the project.
 - iii. Quality of the ESIA (OP-703. B.5). In 2020, the Bank requested adjustments to a previous version of the ESIA to ensure consistency with the safeguards policy, including compliance with local laws and regulations. The ESIA follows a social and environmental impact assessment methodology appropriate to the designed infrastructure, including secondary information on the biophysical and socioeconomic components of the area of direct and indirect influence, including Lake Nahuel Huapi. In addition, two alternatives are proposed for the construction and siting of the wastewater treatment plant, the most appropriate alternative being the one that can cause the least social and environmental impact.
 - iv. Nature and location of the project considering its proximity to a protected area (OP-703. B.11 and B.9). The project seeks to clean up the watersheds and improve the quality of the ecosystem. The sewerage system does not provide for the discharge of untreated wastewater during normal operation, nor for the discharge of treated water into surface water bodies. The proposed system includes primary treatment, secondary treatment, and nutrient removal through tertiary treatment. The quality of the discharge will meet the standards defined by the applicable law. The risk of discharges into Lake Nahuel Huapi is associated with a low probability of failure of Pumping Station 2 of the sewerage network. To mitigate this risk, the ESMP includes measures related to prevention (such as equipment maintenance, energy redundancy, and monitoring of water levels in the pumping well) and management (communication and emergency preparedness and response plans). In addition, any extraordinary discharge into the lake must be previously authorized by the National Parks Administration under the applicable regulations and a contingency plan that was included as a result of the public consultation process and is part of the ESMP, the final version of which is published on both the executing agency's and the Bank's websites.
17. During the program's preparation, the project has been considered viable for financing under the program; however, the project has not yet been declared eligible by the Bank.

In fact, for the Bank to issue a no objection and declare the project eligible, ENOHSA must send the Bank a formal request for its no objection to the project, which the Bank will evaluate at the appropriate time during the execution of the program. As of the date of this memorandum, ENHOHSA has not yet submitted a formal request for the Bank's no objection.

C. Actions taken by Management

18. After meeting with the residents, Management started a dialogue with ENOHSA to define an action plan to address the expected complaints, which includes: (a) review and expansion of the study of proposed project alternatives, identifying, among other issues, the advantages and disadvantages of each alternative (e.g., lower environmental impact but higher operating cost); (b) verification of the legal ownership of the properties on which the works are to be built, as well as easements and other rights necessary for their construction and utilization; (c) strengthening the mapping of the project's key stakeholders; and (d) carrying out an ongoing communication and engagement strategy with stakeholders, beneficiaries, and affected parties, including additional public consultation processes on the expanded alternatives study to either confirm the initially selected alternative or justify the selection of a new alternative. ENOHSA is expected to conclude the supplemental studies by the end of August 2021, and then undertake additional public consultation processes. These actions were officially communicated to the residents on 18 June 2021 (see Annex V).

D. Conclusions

19. The loan contract for the program has not yet been signed by the borrower's and the Bank's authorities, and the project cited in the complaint has not yet been declared eligible for financing with program resources. Furthermore, Management and ENOHSA have agreed that the formal request to declare the project eligible should be sent to the Bank after the activities specified in the action plan have been carried out, and provided that a technically, legally, economically, financially, and environmentally feasible alternative is agreed upon, and is broadly accepted by the community of Dina Huapi. In that case, ENOHSA's notice to the Bank should contain the project's updated technical documents and ESIA, including the results of the additional public consultations agreed to in the action plan. It should also contain all the environmental authorizations, including the approval of the contingency plan for discharges into Lake Nahuel Huapi, which requires additional dialogue between the environmental authorities and the communities in the area of influence. Based on such documentation, the Bank will decide on the eligibility of the project in a timely manner.
20. Finally, considering that this operation is a multiple works program, if ENOHSA cannot design a viable alternative that enjoys broad social acceptance, it may replace this project with another that is eligible under the eligibility and prioritization criteria, following the procedures established in the program Operating Regulations and the

ESMF. In that case, Management will ask ENOHSA to communicate this decision (including the considerations that the institution has taken into account to reach such decision) to all the parties involved in the process.

Annex I - Note from the Residents of Dina Huapi, dated 18 April 2021

Annex II – CSC-/CAR 1267/2021

Annex III – MICI Email of 12 May 2021 - Forwarding of Complaint (MICI-BID-AR-2021-0166)

Annex IV - CSC/CAR 1527/2021

Annex V - CAC/CAR 2017/2021