

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

BUDHA ISMAIL JAM,

*et al.*,

Plaintiffs,

v.

INTERNATIONAL FINANCE CORPORATION,

Defendant.

Civil Action No. 15-cv-00612 (JDB)

**DECLARATION OF KATE WATTERS**

I, Kate Watters declare and state as follows:

1. I am the Co-founder & Executive Director of Crude Accountability, based in Alexandria, VA.
  - a. I have been working on environmental and human rights issues related to oil and gas exploration, extraction and transport for the past 15 years, and have worked with communities impacted by oil and gas extraction in the former Soviet Union since the 1990s. I have assisted communities impacted by IFC-financed projects in Kazakhstan and Russia, and have worked with affected individuals and communities, helping them to write six complaints to the Office of Compliance, Advisor Ombudsman at the IFC. Under my leadership, Crude Accountability has provided advice, facilitated meetings between impacted community leaders and IFC and CAO officials, and has worked with company representatives and government officials in an effort to improve social and environmental outcomes at the IFC financed projects Lukoil Overseas (at the Karachaganak Oil and Gas Condensate Field in Kazakhstan) and the

Russkiy Mir II project on the Taman Peninsula in Russia.

- b. I have worked in the environmental nonprofit sector in the former Soviet Union since the early 1990s and have cooperated with numerous environmental and social NGOs and civil society activists from countries throughout the region and around the world.
- c. In the Caspian Sea region, Crude Accountability has worked with activists who have spoken out at great personal and professional risk in their efforts to achieve justice and environmentally and socially positive outcomes of development and industrial projects in their communities. Many of these people have been physically threatened, their families have been harassed, their jobs have been threatened and several of them have suffered physical harm as a result of their environmental activism. This has not stopped them from speaking out, including about IFC-financed projects that wreak havoc on their communities, including environmental health problems, environmental degradation, violation of national law and damage to personal property.
- d. In Kazakhstan, Crude Accountability facilitated engagement by the local environmental NGO, Zhasil Dala, with the CAO in writing three complaints about the IFC investment in the Karachaganak Oil and Gas Condensate Field, which caused environmental health problems in the village of Berezovka. Independent research showed that over 50 percent of the residents of Berezovka suffered from chronic health problems. A compliance audit by the CAO indicated that the IFC had not monitored for hydrogen sulfide, the key environmental pollutant at the field, for three years—between 2003 and 2006, precisely the years in which the community suffered from serious health impacts and independent air monitoring indicated the presence of 25 toxic substances in the air. Crude Accountability, and I, personally, trained the

- villagers in Berezovka in the Bucket Brigade air monitoring technique (recognized by the EPA in the United States as a legitimate people's monitoring tool), which, over the course of a year, identified numerous toxins in the air, all of which were consistent with exposure from oil and gas production.
- e. In Russia, we worked with the residents of the village of Taman to help them write three CAO complaints (together with the Russian civil society organizations, Saving Taman! and Environmental Watch on the North Caucasus) against the IFC investment in the Russkiy Mir II project, which built an oil terminal in an environmentally precarious area, damaging fisheries, tourism in the town and also resulting in damage to homes as tractor trailer trucks drove on existing roads through the village.
- f. In each of these six instances (three complaints against Lukoil Overseas in Kazakhstan and three complaints against the Russkiy Mir II project in Russia), Crude Accountability represented the local activists with the CAO, facilitating their travel to Washington, DC to meet with the CAO, translating and interpreting for them as necessary, providing training on how best to write the complaints, and worked with other international organizations that could provide expertise and experience relevant to the particulars of their cases. The time period for this work was 2004 through 2009.
- g. I have experience training local activists to understand compliance and accountability mechanisms at the World Bank. I also have experience with the OECD mechanism for Multinational Enterprises and have engaged extensively with the EBRD, although not through its official complaint mechanism.

- h. My publications include, “One of the Great Enablers: How the EBRD Threatens the Environment and Human Rights in Kazakhstan and Turkmenistan,” *Bankwatch Mail*, May 10, 2013 and “The Fight for Community Justice against Big Oil in the Caspian Region: The Case of Berezovka, Kazakhstan,” *Environmental Justice and Sustainability in the Former Soviet Union*, edited by Julian Agyeman and Yelena Ogneva-Himmelberger, MIT Press, June 2009. I have written numerous other articles and publications on environmental issues and oil and gas in affected communities throughout the former Soviet Union.
2. I co-founded Crude Accountability in March 2003, and we are a registered 501-c-3 organization based in Alexandria, Virginia.
3. Crude Accountability is an environmental and human rights non-profit organization with staff in the Washington, DC area and in Almaty, Kazakhstan. Crude Accountability works with local communities and activists in the Caspian and Black Sea regions, which are impacted by oil and gas development.
4. The matters stated below are based on my own personal knowledge and experience, and are set forth to the best of my knowledge and understanding.
5. I have read the Complaint in the case of *Budha Ismail Jam, et al. v International Finance Corporation* and am familiar with the allegations made in it. I have also reviewed the IFC’s Motion to Dismiss and am familiar with the arguments made in it.
6. I have been asked to provide some of my experiences working with communities affected by IFC-funded projects and working with the Office of the Compliance Advisor/Ombudsman (CAO).
7. I will focus specifically on my experiences working with the communities mentioned

above: 1) the village of Berezovka in Western Kazakhstan, and 2) Taman, Russia. The documents related to these cases are available on the CAO website.

8. Experience with Karachaganak: With our support, three complaints were filed with the CAO with regard to the Lukoil Overseas project at the Karachaganak Oil and Gas Condensate Field. The IFC provided \$150 million in financing in 2002 to Lukoil, one of the members of the Karachaganak Petroleum Operating BV consortium, which, at the time of the loan, also included the companies BG and ENI (co-operators of the field) and Chevron. Following the repayment of the loan, Kazmunaigaz, the Kazakhstani state run oil company, also joined the consortium. The complaints related concerns about the sanitary protection zone around the Karachaganak Field and environmental health issues in the village of Berezovka, which is located on the edge of the field and the SPZ. The first complaint went to the ombudsman's office, which recommended mediation between the company, KPO and the community organization, Zhasil Dala, which represented the community in the complaint. Mediation failed when the CAO allowed KPO to demand that the local activists participate in negotiation without legal representation (Green Salvation) or international NGO partners (Crude Accountability) present. The CAO advised Svetlana Anosova, the head of Zhasil Dala, the community environmental group in Berezovka, to accept these terms, saying that if she did not, they would be unable to participate any further in the ombudsman's capacity. Svetlana refused to accept these terms; she and the community were shocked that the CAO failed to understand the inherent disparity in strength and authority between the two parties, and walked away from the negotiation. The complaint went to compliance where, in 2008, the IFC was found out of compliance with its own monitoring standards. It was discovered that the IFC had failed to report on hydrogen sulfide levels from the field from 2003 to 2006, the very period during which the community had complained about

elevated levels of toxins and health problems in the community. The Karachaganak Petroleum Operating B.V. consortium paid back its \$150 million loan from the IFC early, likely to get away from IFC monitoring. With this complaint, although one of the non-compliances was addressed by the IFC following the CAO findings and the emissions levels at the field were lowered by improvements on the stacks, which should have been there from the outset of the project, three critical findings remained unaddressed at the time that the IFC loan was paid back by the client. These related to the IFC's internal due diligence, the IFC's assurance process, and the underlying causes for noncompliance by the IFC. These structural issues remained unaddressed at the close of the process by the CAO.

9. The second complaint about the Karachaganak Field submitted to the CAO was rejected. A third complaint was submitted by Crude Accountability and Green Salvation in 2009, addressing the issue of the sanitary protection zone and relocation of the community of Berezovka, which is located on the edge of the sanitary protection zone around the Karachaganak Field. The complaint stated that the IFC should have relocated the village as part of its relocation policy at the time the loan was disbursed because people were living in dangerous proximity to the field. Part of the village is located inside the zone, which is a minimum zone, and which had been illegally reduced from five to three kilometers during the period that the IFC was financing the Lukoil Overseas project at Karachaganak. Clear violations of Kazakhstani law with regard to the sanitary protection zone, which were determined by the Kazakhstani court, did not impact the decision of the CAO with regard to the sanitary protection zone. The CAO made repeated recommendations to the community that it engage in discussion with the company about monitoring, not about the issues that were key to the community—relocation and exposure to toxins.

10. Following the decision of the CAO to close the third complaint, our Kazakhstani partners were convinced that working with the CAO was not in the interest of the community and that it did not have an intent to hear the community's concerns, which were repeatedly ignored. Since the beginning of the campaign for the relocation of Berezovka, the community has had one demand: relocation. Along with that demand, it has asked for compensation for damaged health, loss of property value and environmental degradation caused by the activities at the Karachaganak Field.

11. As a footnote to the Berezovka case, although the third CAO complaint was closed in 2009, the same year that Lukoil pre-paid its loan to the IFC, Zhasil Dala, Green Salvation and Crude Accountability have continued to campaign for the relocation of the village. Sinkholes began to appear in the village, including in people's yards and on the edges of their homes, and on the Karachaganak Field in 2012, and in November 2014, dozens of school children in the Berezovka village school simultaneously fell ill as a result of toxic exposure from the Karachaganak Field. Since then, there have been repeated incidents of children suffering from seizures, convulsions and fainting, and there have been extensive investigations into the cause of illness. Although it has not been officially determined that the children's illness is connected to toxic emissions from the field, in June of 2015, the Kazakhstani government officially announced that the village of Berezovka would be relocated and that KPO would pay for the relocation.

12. Thus, the issues for which the CAO and the IFC refused to take responsibility between 2004, when the first complaint was filed by Zhasil Dala, and 2009, when the third complaint was closed, are, in the end, the key issues related to relocation and justice for the community. The IFC's and the CAO's failure to take responsibility for them is a colossal failure of the social and

environmental performance standards and the mechanisms within the institution that are designed to hold the IFC and its clients to global standards. As a result of the IFC's failure to adequately respond to consistent and well-documented failures of their client to uphold environmental and social standards, an entire generation of Berezovka youth has grown up in the shadow of Karachaganak, rather than being relocated to a safe and healthy location years ago.

13. In addition, the failure of the CAO and IFC to address the key environmental and social issues that impact the village of Berezovka, have created a perception of the World Bank Group and the IFC as institutions that have no interest in supporting or protecting ordinary citizens. The perception of the CAO is that it is, at best, an ineffectual institution that wastes public money, and, at worst, a blatant apologist for the IFC, whose interests it is set up to protect. In a country like Kazakhstan, where corruption is rampant, where bureaucracy and administrative officials are cynical and entitled, and where ordinary people fear violence, threats and harm from the authorities if they speak out, the fact that an international institution whose mandate is to alleviate world poverty and provide the highest international social and environmental standards was completely ineffectual, and seemingly uninterested in justice, leaves ordinary residents of Berezovka feeling more on their own, more isolated, and more powerless than they did before they took the risk to engage the institutions they thought would have the power to speak up against injustice and corruption in their own government and with the corporations that do business with them. The interaction with the CAO on the part of Zhasil Dala and Green Salvation is one that they have no interest in repeating.

14. In the case of the Russkiy Mir II project, the CAO failed to address the key issues in the first complaint filed by Saving Taman! and Environmental Watch on the North Caucasus, local environmental organizations representing citizens impacted by the project. Crude Accountability

was involved in the development of this complaint from the beginning. The main concern in this complaint was that the Russkiy Mir II project had been incorrectly categorized as a Category B project when it should have been a Category A. A project is considered to be Category A when a project is expected to have significant adverse or social and/or environmental impacts that are diverse, irreversible or unprecedented. A Category B project is one that is expected to have limited adverse social and/or environmental impacts that can be readily addressed through mitigation measures. The Russkiy Mir project, particularly because of the oil transport from the terminal should have been categorized A according to the local activists because of the potential for serious environmental and social problems associated with the project and because the terminal transports oil and gas. The CAO found in its assessment that the IFC had “assured itself” that it had complied with relevant law, even though the Russian NGOs that filed the complaint had provided documentation the planned terminal construction and IFC engagement was in violation of Russian environmental law. The second complaint was filed by a local farmer who, in consultation with Saving Taman! understood that an oil pipeline to the Taman terminal was closer to his property (750 meters) than was allowable by Russian law. The CAO came to Taman and measured the distance from the home to the pipeline and found it to be 750 meters from his home rather than 1000 meters, which is in direct violation of the sanitary protection zone law in Russia. However, in its report, the CAO claims that the local NGOs never filed with them the distance of the home from the pipeline with GPS coordinates and that the farmer withdrew his complaint from the CAO. What they fail to mention is that the farmer was threatened by the local authorities following the submission of his complaint. He connected the complaint submission with the threats he received, which included possible imprisonment. The third complaint filed with the CAO by local activists resulted in the formation of a public

consultation group to determine how social investment by the company, Tamanneftegas, would be spent. This was done outside of the official, former CAO process, and resulted in benefit to the local community. Thus, the CAO was effective in responding to complaints that did not challenge the basic premise of a project, but, rather, sought benefit to the community as a result of the project. This “softer” approach seemed to be more effective than a challenge to the overall premise of a loan.

15. In our experience, the community at Berezovka and the community on the Taman Peninsula are unlikely to work with the CAO again, based on the results of their work with them related to the complaints summarized above. The CAO has such a narrow mandate that it is unable to effectively address critical community concerns, and in our cases, it was not particularly competent in addressing the mandate that it does have. Thus communities are unlikely to willingly host the IFC because by inviting the IFC into a community, the community is effectively giving up its right to resort to mechanisms for effective problems solving or recourse in the event the project fails to meet internationally accepted environmental and social standards.

16. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Signed in Alexandria, VA on September 8, 2015

By:



Kate Watters