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BANKTrack

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CC: Hans-Ulrich Doerig, Vice-Chairman of the Board of Directors and Chairman of the Credit Risk Committee
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OECD Export Credit Group
Equator Principles Financial Institutions
European Bank for Reconstruction and Development
UK Export Credit Guarantee Department
US Export-Import Bank

July 8th, 2008

Mr. Dougan,

We are alarmed that Credit Suisse is financing the environmentally and socially damaging Sakhalin II oil and gas project in Russia. According to Project Finance magazine and other sources, Credit Suisse and five other private banks will provide US$ 1.6 billion for this harmful scheme.[1] We call upon you to withdraw financing from this project.

As you are aware, we have informed Credit Suisse on many occasions over several years that your bank's involvement in Sakhalin II betrays your stated commitment to sustainable development, to environmental responsibility, and to the Equator Principles. This includes engagement in 1995 with Credit Suisse First Boston, when you were its CEO, and currently with Credit Suisse Group, where you now serve as CEO.

[1] According to Project Finance Magazine:
http://www.projectfinancemagazine.com/default.asp?Page=7&PUB=4&SID=707948&ISS=24819

The Sakhalin project violates the Equator Principles in a way that is beyond correction. In the past Credit Suisse has argued unconvincingly that its involvement in Sakhalin II was only as the project's Financial Advisor, and not as a direct financier in a Project

Finance transaction itself, and that therefore the Equator Principles, which until their last revision only pertained to Project Finance deals, should not apply.[2]

Being a financial advisor at the very least violated the *spirit* of the Equator Principles. *Credit Suisse is now reported to be directly financing the Sakhalin II Project Finance scheme. Given your posture in the past on being 'solely a advisor'* we feel that this represents a breach of trust with our organizations, and an ignoble gesture to leading banks which seek to improve the financial sector's environmental credibility worldwide.

Violations of the Equator Principles, as well as of the policies of public finance institutions and Russian law has been compiled over the course of several years by independent local, national, and international non-governmental organizations (NGOs). Moreover, these violations have also been documented by professional experts appointed by Sakhalin Energy, public and private banks, international and Russian scientific institutions, and Russian government authorities.[3] A sample of these violations are summarized in the attached memo.

Due to these findings, Sakhalin II never achieved environmental clearances from the European Bank for Reconstruction and Development, UK Export Credit Guarantee Department, and the US Export-Import Bank. The project's fundamental environmental and social shortcomings contributed to the ultimate unwillingness of these public banks to finance the project.

Given the project's many irreparable policy breaches and Sakhalin Energy's chronic unwillingness to correct repairable damage, financing by Credit Suisse, and the other EPFIs now reported to be involved, eviscerates your Bank's environmental and social credibility and damage the larger international effort to maintain ecological safeguards through the OECD Common Approaches and the Equator Principles.[4,5] In fact, the news of Credit Suisse and other EPFIs participating in the Sakhalin deal exactly when the fifth anniversary of the Equator principles is being 'celebrated' has turned our organisations deeply cynical about what the Equator Principles are worth.

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[2] The current version of the equator principles does also apply to the advisory role

[3] Professional experts that have identified violations include Royal Haskoning (2002), University of Birmingham (2005-2006), Golder Associates (2005-2007), IUCN Independent Scientific Review Panel (2005-2006), IUCN Western Gray Whale Advisory Panel (2006 to present), AEA Technology plc (2001-2007), the Russian government's State Environmental Expert Review (SEER) (July 15, 2003 (№600)), and the Far Eastern Geological Institute of the Russian Academy of Sciences (June 2007). Violations were also found by official state Russian agencies and prosecutors, who conducted inspections and issued penalties and associated directives throughout the whole construction phase of the project.

[4] Recommendation on Common Approaches on the Environment and Officially Supported Export Credits

[5] The Equator Principles are a benchmark for the private finance industry to manage environmental and social issues in project financing.

For the sake of the integrity of the Equator Principles, and your own credibility as a sustainable bank, we **call on you to withdraw participating in financing the US$ 1.6 billion loan package for Sakhalin II.**

We look forward to your immediate response. To contact the signatories below, please contact Andreas Missbach, Berne Declaration, 044 277 70 07, amissbach@evb.ch, or Doug Norlen, Pacific Environment, +1 415.399.8850 #305, dnorlen@pacificenvironment.org

Sincerely,

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Sakhalin II Violations of the Equator Principles, Public Bank Policies and Russian Law

Violations associated with the Sakhalin II project are summarized below:

- Failed River Crossings and Other Pipeline Impacts;
- Oil Spill Threats;
- Threats to Trans-boundary Endangered Species (Steller's Sea Eagle, Western Gray Whale)
- Additional Biodiversity Impacts;
- Social Impacts;
- Indigenous Peoples Impacts; and
- Failed Environmental Assessment Process.

Failed River Crossings and Other Pipeline Impacts: Sakhalin II's approach to pipeline crossing of rivers is widely regarded as a failure. As early as 2002 the environmental consultancy hired by SEIC, Royal Haskoning, raised concerns about the adequacy of the project's river crossing baseline data and monitoring plan. Unfortunately, many of these and subsequently identified concerns were never resolved, and instead manifested into serious environmental damage. After pictures were published of pipelines trenched across hundreds of wild salmon spawning rivers and tributaries, and failed erosion control led to mass erosion, SEIC committed in 2005 to a revised River Crossing Strategy, which it immediately violated. This was demonstrated by Golder Associates, an environmental consultancy that SEIC hired to monitor compliance with the River Crossing Strategy. An NGO analysis of the Golder Associates' Sakhalin II *River Crossing Monitoring Checklists* provided as of April, 2006 revealed[6]:

- *Turbidity measured correctly on only 36% of crossings;*
- *Total suspended solids measured on only 51% of crossings;*
- *Temporary erosion control installed on only 55% of crossings;*
- *Sufficient clean gravel present on only 67% of crossings;*
- *Spoil handling problems on 41% of crossings.*

A seperate NGO analysis of Golder Associates records during the summer of 2006 added to these findings, documenting that non-compliance on erosion control measures occurred on 45% of rivers where they were required; channel and bank disturbance occurred on 23% of river crossings; and long periods of channel dewatering occurred on 14% of river crossings. River and stream channel dewatering occurred as a result of improper construction methods and causes severe impact to aquatic life immediately downstream.[7]

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[6] See September 7, 2006 letter from the Wild Salmon Center to European Bank for Reconstruction and Development President Jean Lemierre, available at: http://www.pacificenvironment.org/downloads/EBRD%20september%202006%20final.pdf

[7] July 26, 2006 letter from fifteen NGOs to European Bank for Reconstruction and Development President Jean Lemierre.

A 2007 AEA Technology plc Report (hereafter AEA Report) documented that much of Sakhalin Energy's River Crossing Strategy approaches were irrelevant because a large number of pipeline crossings had already occurred by the time the Strategy was developed. Moreover, the AEA Report documents that many new violations occurred despite Golder Associates notification of Sakhalin Energy of River Crossing Strategy violations in 2005-2006[8]:

> *"Deficiencies in spoil management were identified at a significant proportion of the 2006/07 winter river crossing by both the Golders' observers (40 out of 86 crossings at which the observers were present) and AEA's continuous monitors (15 out of 26 rivers visited during actual crossing construction)."*
>
> *"[T]here are still limitations in the baseline data relating to the spatial extent of the site-specific surveys and identification of wintering grounds for certain species (such as the Sakhalin taimen, which is red data book listed)"*
>
> *"Implementation of the river-basin analysis was not completed until mid-2006. 55 tributaries were identified for 'upgrade' to sensitive status, but all of these tributaries had already been crossed by at least one pipeline while they were still treated as Group 1 rivers."*
>
> *"[T]he RemAP [Remediation Action Plan] was not developed prior to the winter 2006/07 river crossing season, as was originally intended…"*
>
> *"Approximately half of the Group 2/3 rivers crossed by the pipeline have been exposed to the potential of significantly higher impact levels than would have been the case had these crossings been undertaken in full compliance with the HSESAP and international best practice."*
>
> *"Erosion control measures throughout the construction period have fallen short of the HSESAP requirements standards and this has resulted in environmental impacts, principally through the release of sediments into rivers and wetlands."*
>
> *"Following a site visit in May 2006, significant deficiencies were identified in all aspects of erosion control, including material breaches of several HSESAP commitments."*
>
> *"[S]tabilization has generally not been undertaken even though approximately 800km of RoW have now been opened up and around 1,500km of pipeline has been laid and backfilled (representing 94% of the overall scope)."*
>
> *"Efforts to segregate topsoil on the Project have generally been inadequate to meet the requirements of HSESAP commitment 60….The main onshore pipeline*

[8] See AEA Technology plc, Independent Environmental Consultant Final Report – Agency Lenders, Sakhalin II Phase 2 Project Health, Safety, Environmental and Social Review (2007), available at http://www.sakhalinenergy.com/en/documents/iec_ddr2007.pdf

construction contractor estimates that topsoil has been preserved in just 212ha of RoW, out of a total of 3,000ha cleared to date. This represents a material breach of commitment 60."

"Under HSESAP Table 2.5 commitment 113 final grading, topsoil replacement and installation of permanent erosion control structures should be completed within 20 days of backfilling the pipeline trench. Pipeline construction activities commenced in 2004 and by May 2007 over 90% of the pipeline had been installed and backfilled. However, with the exception of a few limited locations, no final reinstatement has been completed on the RoW….the lack of progress made to date represents a material and ongoing breach of commitment 113."

In 2007, the Federation Council, Far Eastern Geological Institute, Far Eastern Department, Russian Academy of Sciences, carried out field studies of mudflows in the Makarov District of Sakhalin Region, which intersected with the Sakhalin II pipeline, and found, *inter alia:*

Measures taken by SEIC "in order to avert the development of hazardous exogenous processes and protect the oil and gas pipeline are not having a positive result…"

This Academy of Sciences report also documents a number of examples, *including* the failure of anti erosion measures and active erosion and landslide processes, the lack of account for seasonal floods, man-made massifs that will lead to a sharp increase in mudflow discharge and river-bed silt formation, and mud flows that have already begun, leading to the uncovering of the buried pipeline.[9]

Subsequent NGO, government and Academy of Sciences fact-finding missions consistently document that many of these violations continue. For example, just this month, representatives of Sakhalin Environment Watch, Friends of the Earth Japan and Pacific Environment completed a fact-finding mission on the Sakhalin II oil and gas project pipeline route. Following several previous fact-finding missions, these groups documented ongoing evidence of serious violations of public and private bank policies, internationally accepted practice and Russian law. A fact-finding mission photo report provides timely and graphic evidence of these violations (see below under Sakhalin Environment Watch Reports).

The fact-finding mission documented that Sakhalin Energy's claims that the pipeline route is being successfully restored after construction are in many cases false. The fact-finding mission found extensive examples of missing and failed erosion measure measures, extensive erosion and mud slides on mountainsides and river areas, and unsuccessful and non-existent recultivation measures. The fact-finding mission also found that many "completed" segments of the pipeline are now actually being dug up by

[9] July 13, 2007 letter from N.A. Kazakov, Federation Council, Far Eastern Geological Institute, Far Eastern Department, Russian Academy of Sciences, to D.V. Goncharenko, Chairman of the Committee on Natural Resources and the Environment of Sakhalin Region.

contractors due to apparent, yet unpublicized flaws in construction and pipeline integrity. Reconstruction of these pipeline segments is replicating damage previously done in the construction process, and is leading to further delays in completion of the project.

Examples of Reports Documenting Environmental Damage and Policy Violations: The reports below from NGO, government and Academy of Sciences sources consistently document examples of Sakhalin II environmental damage and policy violations:

Sakhalin Environment Watch Reports:

2008

Sakhalin II Project Oil and Gas Pipeline Project Dolinsky, Makarovsky and Nogliksky Districts of Sakhalin Region, Photo Report from a Fact-Finding Mission, May 30 – June 1, 2008
http://www.foejapan.org/aid/jbic02/sakhalin/pdf/20080611.pdf

Photo Report of pipeline Public Monitoring on Dolinsk district 3, April 2008, available at http://bankwatch.org/documents/photo_report_pipeline_Public_Monitoring_Dolinsk_district.pdf

2007

- The remaking of pipelines 25.12.07
http://bankwatch.org/documents/sakhalin_remake_pipelines.pdf

- Sakhalin II pipeline public monitoring report October 13, 2007 (With fresh examples of the geological hazards on Sakhalin II pipeline: land slide ncovers oil pipe, erosion)
http://bankwatch.org/files/Sakhalin_II_pipeline_public_monitrg_report_October2007.pdf

- Sakhalin Environment Watch and Pacific Environment Sakhalin II Photo Report – October—December, 2007
http://bankwatch.org/files/Sakhalin_II_Photo_Report_Oct-Dec07.pdf

- Indicative Examples on the Sakhalin II Pipeline: Two Certain Places During the Last Four Months (results of public monitoring conducted by Sakhalin Environment Watch)
http://bankwatch.org/documents/Diet_meeting_Tokyo_Oct_2007_SEW_final.pdf

- Presentation to EBRD on River Crossings, winter-spring 2007
http://bankwatch.org/files/EBRD_presentation_river_crossing_winter-spring_2007.pdf

- Photographic Report of the Travyanaya River and Pipeline Crossings for the Sakhalin II Project
http://bankwatch.org/files/River_crossing_winter_2007.pdf

- Photo Report of the Lazovaya River and Tributaries, Sakhalin Island
http://bankwatch.org/files/Photo_report_october_2007_part2.pdf

- Sakhalin II Ongoing Mudflow and Land Slide Processes May 2007
http://bankwatch.org/documents/Sakhalin_ongoing_mudflow_landslides_processes_May 2007.pdf

- Photo Report: Sakhalin II Pipeline (Photo Report in accordance with findings of the public ecological inspection of pipelines constructions (under Sakhalin II Project, July, 2007)
http://bankwatch.org/documents/July_2007_Photoreport_pipeline_Sakh_II_ENGL.pdf

- Photo Report: Sakhalin II Pipeline (Photo Report on Results of Public Monitoring of Pipeline Constructions under *Sakhalin II* Project, August 31 – September 1, 2007)
http://bankwatch.org/files/Aug-Sept_2007_photoreport_pipeline_SakhalinII.pdf

Government Reports (just one example):
2007
Photo-supplement attached to Act 0122-LK of RPN 26.07.07
(Photo-supplement attached to Act 01/22-LK: Scheduled review of the fulfillment of legislation requirements by LLC "Starstroi" during the construction of the main pipelines for "Sakhalin II" project in the Makarov District of Sakhalin Region, July 26, 2007) available at
http://bankwatch.org/files/Photo-supplement_**Act0122**-LK_RPN.pdf

Academy of Science Reports:
Sakhalin Branch, Far Eastern Geological Institute, Far Eastern Department, Russian Academy of Sciences,
Technogenic landslide, mudflow and erosion processes on the onshore oil and gas pipeline route for "Sakhalin II" in the Makarov Region. June 2, 2007. available at
http://bankwatch.org/documents/Presentation_Technogenic_landslide_mudflow_erosion.pdf

Summary of Findings from Diverse Sources: Russian state agencies, Academy of Sciences, NGOs and independent experts have been concurrently revealing violations of Russian law and bank policy during the whole pipeline construction from 2004 to the present. These violations include:

- *Disposal of excavated ground from the pipeline corridor on sensitive areas and without permits;*
- *Construction of parallel gas and oil lines at different times (sometimes in different years), a violation that results in renewed excavation impacts;*
- *Changes to river bed morphology and hydrological regime, river banks and river channels;*
- *Incorrect storage and consequent loss of top soil removed from the pipeline corridor (with consequent failed restoration efforts);*
- *Absence of culverts on many steams in the pipeline corridor;*

- *Dewatering of rivers' channels during construction of river crossings due to the construction of dams and by other bad practices;*
- *Earth (ground, soil) deposits in the river channels;*
- *Vehicle crossings directly through river channels without bridges, and machinery operations in the river channels;*
- *Systematic use of road metal and crushed stone instead of required pebbles for restoration of destroyed spawning grounds;*
- *Constriction of rivers channels and of obstacles to river flows by incorrectly constructed bridges;*
- *Mound soil (ground) bridges on the river ice (which enters rivers when ice melts);*
- *In contradiction of Sakhalin Energy commitments and obligations, 46 salmon spawning rivers were crossed 57 times (by two pipelines) during salmon spawning season;*
- *Massive erosion and contamination of salmon rivers by suspended solids and sediments;*
- *Ongoing land slides and mud flow processes and a serious threat of such processes happening at a much greater scale in the nearest future;*
- *Leaks of toxic materials (motor oil, diesel fuel, ethylene glycol);*
- *Exceeding of permitted Right-of-Way and extra cut (illegal logging along the pipeline route);*
- *Absence of top soil return on the pipeline corridor after construction is complete and very poor vegetation restoration as a result.*

Oil Spill Threats: Sakhalin II continues to pose unacceptable oil spill risks to the environment and fishing communities in Russia and Japan. After years of promises of adequate oil spill plans, Sakhalin Energy has not secured Russian government approval for four of the six required oil spill response plans, including plans for project elements that pose some of the highest risk for catastrophic off-shore oil spills from platforms and oil tanker export facilities. What's more, it especially troubling that the oil industry, including SEIC, has no proven technology and experience to adequately respond to oil spills in treacherous sea ice conditions that characterize much of the Sakhalin II off-shore environment.

Meanwhile, under Phase 1 of Sakhalin II (which was financed by the Export-Import Bank of Japan) SEIC required the owners of tankers taking oil from the project to carry $700 million in insurance. Under Phase 2 of the project the requirement for insurance is absent in publicly available project material, and instead SEIC refers to the International Convention on Civil Liability for Oil Pollution, which assigns responsibility to owners of vessels to obtain insurance that does not need to exceed $105 million, and to the potential for other financial guarantees that in all may not total more than $327.6 million. Thus, at the current time the tankers that are carrying Sakhalin II oil are obligated to have insurance in an amount no greater than $105 million (for a tanker in the 100 thousand ton class), which is almost seven times less than what Sakhalin Energy demanded of its vessel owners in the first phase of the project. Credit Suisse financing of Sakhalin II under such conditions exposes both Russia and Japan to dramatically higher environmental and financial risks.

Threats to transboundary endangered species (Steller Sea Eagle, Western Gray Whale): Sakhalin II off-shore oil structures and operations continue to threaten the critically endangered Western Gray Whale with extinction. As you are aware, in 2004 SEIC commissioned the International Union for the Conservation of Nature to assemble a panel of experts, called the Independent Scientific Review Panel (ISRP), to review Sakhalin II impacts on the critically endangered Western Gray Whale. The ISRP immediately concluded that:

> *[E]xisting and planned large-scale offshore oil and gas activities pose potentially catastrophic threats to the population.*
>
> *The most precautionary approach would be to suspend present operations and delay further development of the oil and gas reserves in the vicinity of the gray whale feeding grounds off Sakhalin, and especially the critical nearshore feeding ground that is used preferentially by mothers and calves.*

We remind you that adherence to the ISRP (subsequently reconstituted as the Western Gray Whale Advisory Panel (WGWAP)) recommendations is a commitment in the Sakhalin II Health, Safety, Environment and Social Action Plan and a stated condition of financing by Credit Suisse and other banks. Yet, Sakhalin Energy has subverted the ISRP and WGWAP process by withholding critical information from these experts and ignoring many of their key recommendations, an aberration that is documented in these panel's reports. For example, the latest WGWAP report reveals that:

> *"[T]he overall effectiveness [of the required Marine Mammal Observer program] was probably quite low;"*
>
> *"Suitable tests of the behaviour of Vityaz crude oil have **not** been performed in the marine environment, and the Panel considers the absence of such tests to be a significant shortcoming in preparations for oil spill response;"*
>
> *"SEIC has chosen to interpret the evidence [concerning behavioral response of whales to noise and population-level effects of industrial activities] in a decidedly non-precautionary manner;"*
>
> *"Data provided by SEIC indicate that the Panel's recommended criteria for continuous noise (WGWAP-2) were breached by construction activities during the summer of 2007. At least one part of the feeding area was ensonified above 120 dB for >4 hours," and "the dose-exposure criteria recommended by the Panel(WGWAP 2/INF.15) were violated by the noise levels recorded at least at three monitoring stations;"*
>
> *The Panel was unable to conclude its analysis of the negative impacts "from the 'noisy' events of 2007" because of the"absence of systematic data" provided by SEIC; hence the company subverted the Panel process by failing to present the data that scientists needed to perform their required function.*

The AEA Report also notes material and harmful violations in regards to construction activities in close proximity to endangered Steller's Sea Eagles. The AEA Report states that construction activities took place in close proximity to a Steller's Sea Eagle nest site, "contrary to a commitment in the HSESAP (Table 2.3, row 20) that requires 'Establishment of a buffer zone within which no construction activity shall be permitted during the nesting season (SEIC has ordered that the pipeline contractor maintain a buffer distance of 500m from any active Steller's Sea-eagle nests)." The AEA Report indicates that the eagles did not raise any chicks, and notes that "it is possible that construction-related activities, in excess of that allowed in the nest specific mitigation measures, contributed to, or were directly responsible for, the failure to breed."

Additional Biodiversity Impacts: The AEA Report confirms that many of the same problems that affect SEIC's performance on other key issues also affect the company's performance in relation to biodiversity conservation. For example, the report notes that the planned Biodiversity Action Plan (BAP) has not been produced in a timely manner: "The HSESAP [Health, Safety, Environment and Social Action Plan] (released December 2005) anticipated completion of the BAP by the end 2005 and therefore SEIC has not met this timeline." The AEA Report goes on to state: "The one element of the BAP likely to suffer from a delay relates to taimen [endangered fish] because of the unknown distribution of taimen in Project affected rivers, and the potential for impact during pipeline crossings of taimen supporting rivers." AEA also notes that although the BAP will draw upon an expert panel, "the recommendations provided by the panel will be non-binding and therefore, unlike the WGW advisory panel, there is no formal requirement to accept all reasonable comments." Given SEIC's failure to comply even with the supposedly binding recommendations from the WGWAP, it is even less likely that the Biodiversity panel will have any influence on the project.

The AEA Report particularly criticizes construction activities in Chaivo Bay for violations of HSESAP commitments and impacts to Aleutian tern and Sakhalin dunlin. The AEA Report notes that activities related to pipeline construction continued at Chaivo Spit "for a number of weeks [after May 1] thereby overlapping with the most sensitive bird nesting period." The AEA Report also notes that financial lenders had not been informed of these activities ahead of time, and writes that it "considered it a breach of the agreement not to work outside of the winter period as defined in the December 2005 HSESAP." The Report goes on to say that "[i]n AEA's opinion, the most precautionary approach would be to avoid all summer construction activity."

The AEA Report notes that SEIC revised HSESAP language regarding wetlands to make it possible to conduct some construction activities. Nonetheless, the AEA Report points out that even with these changes, HSESAP conditions were not met. The AEA Report indicates that "[surveys] were not undertaken and therefore in AEA's opinion this represents a breach of the refined HSESAP (Table 2.3, row 34) commitment." The Report continues: "In failing to apply the precautionary principle the approach did not represent best practice and the approach was also a breach of the HSESAP."

Social impacts: According to the AEA Report, "AEA considers it important to highlight SEIC's history of delays in responding to social issues and in meeting compliance and best practice requirements." Some of these delays and compliance failures resulted from inadequate planning and project design. The Report notes: "In 2005 information about some [project affected people] was missing from the baseline characterization provided in the SIA [Social Impact Assessment] and the RAP [Resettlement Action Plan], including non-IP fisherfolk in the north of the island, commercial fishing companies and their ancillary enterprises who will be economically displaced both in the north and south of the island and dacha residents near to the LNG site." The Report points out that SEIC's lack of response to social issues is chronic: "Historically, SEIC has not been able to respond quickly to problems with aspects of its social management system that have been identified through the due diligence process." In fact, SEIC started to prepare a Resettlement Action Plan only after large protests by local people and affected communities, and not before the construction started, as required.

Even in cases where SEIC identified social impacts, there was lack of willingness to comply with the preventative measures such as the case that people nearby the Right of Way who had not been resettled during the construction and had to live under tremendous project impacts and threats for many years (eg., in the Firsovo village). This is a clear violation of SEIC's commitment to its Resettlement Action Plan, which states that "SEIC will ensure that no civil work commences until there is full payment of compensation, as required by the World Bank guidelines." This also represents a violation of the *Common Approaches* and the *Equator Principles.*

Poor project planning also resulted in inadequate housing for the thousands of construction workers who came to Sakhalin to work on the project, and who were forced to move into surrounding communities, overwhelming community health and public services. Community groups say the project has led to high inflation in housing costs, increased crime and violence and the spread of sexually transmitted diseases. These predictable impacts on local people should have been addressed, prevented and mitigated by Sakhalin Energy, and failure to do so constitutes a grave breach of internationally accepted standards, the *Common Approaches,* and the *Equator Principles.*.

Indigenous Peoples Impacts: The AEA Report states that Sakhalin Energy's approach "did not meet all the criteria outlined for an IPDP [Indigenous Peoples Development Plan] in [World Bank] OD 4.20." What's more, OD 4.20 states: "Successful planning for indigenous peoples frequently requires long lead times…." Yet, the Sakhalin Indigenous Minorities Development Plan (SIMDP) was developed only after the project was well into the construction phase and had already caused significant impacts in northeast Sakhalin, where most indigenous peoples live. This delay obviates the usefulness of the SIMDP, violates the World Bank's policy, and means that the SIMDP is little more than a document to spell out the terms of compensation, rather than a means to avoid negative impacts. Moreover, Sakhalin Energy only agreed to develop the SIMDP after its contractors destroyed a sacred indigenous peoples' site, and indigenous peoples conducted two highly publicized blockades of a road leading to a Sakhalin II project site in January and June 2005. The AEA Report does note that "[d]elays [in undertaking a full

plan for indigenous peoples] had a negative impact on SEIC's relationship with IP and IP leadership." Furthermore, the SIMDP is only valid for five years and there is no agreement or existing commitment by Sakhalin Energy to continue the plan. It must also be noted that indigenous peoples' primary request—that SEIC conduct an independent Cultural Impact Assessment, or "ethnological expertiza"—has been rejected by SEIC and has not been conducted. Without this Cultural Impact Assessment, the SIMDP cannot be seen as a development plan or as one that provides appropriate compensation to Sakhalin's indigenous peoples for damages caused to their subsistence lifestyles, traditional economic activities, cultural heritage, and natural resources as a result of the Sakhalin II project.

Failed Environmental Assessment Process: The Sakhalin II environmental assessment process is widely regarded as a failure. Potential lenders' consultants and independent experts have confirmed that environmental assessments were not fit for public consultation until the project was already deep into the construction phase. Sakhalin Energy also failed to: collect sufficient baseline data, develop adequate preventative measures, disclose information required to conduct a timely review, follow many recommendations of empanelled whale experts, and violated many other lenders' policies and the project's required Health, Safety, Environmental & Social Action Plan.

NGO analysis of the AEA Report reveals non-compliances in at least 41% of the total set of compliance issue areas identified by the consultancy during its multi-year review, even after several years of proactive engagement by lenders, NGOs, and international panels of experts. The AEA report also reveals an additional subset of violations which, if not corrected, raises the level of total identified instances of non-compliance to 70%. Also, the AEA Report states:

> *"This report makes clear that, as of July 2007, there were a number of historic and existing non-compliances with the Project's Health, Safety, Environment and Social Action Plan."*
>
> *"In addition to historical issues some material ongoing non-compliances with HSESAP commitments exist that are unlikely to be fully resolved prior to financial closure."*
>
> *"Actions to ensure full recovery to prescribed reinstatement standards may be particularly difficult to achieve."*
>
> *"Failure to fully action such plans could compromise the Project's ability to meet Lender requirements."*

Meanwhile, we are aware that some other banks have tried to reduce Sakhalin II project damage in some limited areas, but we are not aware of such steps by Credit Suisse. Meanwhile, NGO, bank, company government and scientific institution experts confirm that, on the whole, these small measures have occurred in the context of a project that is characterized by much more fundamental and widespread environmental and social harm and policy violations. Sakhalin Environment Watch and other environmental groups'

regular pipeline monitoring trips, which have occurred as recently as May-June, 2008, have documented that performance is continuously poor and that extensive violations of best practice are chronic and continue to occur.

Conclusion: The history of Sakhalin II, through the present moment, is littered with severe, irreversible design and implementation failures, as well as countless examples of Sakhalin Energy's perpetual withholding of public interest information and unwillingness to correct repairable damage. These fundamental violations of internationally accepted practice have been identified by NGOs, the appointed experts of banks and Sakhalin Energy, government authorities, Russian and international scientific institutions. These chronic violations contributed significantly to the decisions by EBRD, ECGD and Ex-Im Bank to not finance the project. In contrast to these other banks, Credit Suisse has shown a shocking disregard for the significance of these breaches and a willingness to proceed under the false rationalization that these violations can be overlooked because the Bank's support will marginally improve the project. Such an approach dishonors Credit Suisse' commitment to its own environmental policies and betrays its commitment to uphold the spirit of the Equator Principles. Such an ignoble approach undercuts the efforts of public and private banks worldwide, which seek to maintain environmental standards for finance institutions in their global operations.