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September 13, 2023

Re: Complaint concerning IFC investment KEB Hana Indonesia Rights Issue IV, Project No 42034

Dear Vice President Ferretti,

The organizations listed below are submitting this complaint to the Office of the Compliance Advisor Ombudsman (CAO) on behalf of local community members who have grave concerns about the serious risks posed by the Java 9 and 10 coal-fired power plants, sub-projects of the International Finance Corporation (IFC) through its financial intermediary investment in PT Bank KEB Hana Indonesia (Hana Bank Indonesia).

PENA Masyarakat is a community-based organization in Banten, Indonesia that is working with community members to mobilize against the continued expansion of the coal industry in the area.

Trend Asia is an Indonesian organization that, in light of the opportunities and threats posed by global climate change, is working to drive Southeast Asia's energy and development transformation away from fossil fuels and wasteful consumption and production and toward a sustainable, clean and renewable energy, people-powered future. Trend Asia has been working with local community members in Cilegon since the organization was founded in 2019.

Recourse is an independent, non-profit, non-governmental organization that campaigns for a world where people and planet are at the heart of development. Recourse holds international financial institutions to account, advocating for the protection of rights; participation and transparency; and public accountability in the operations of multilateral development banks.

Inclusive Development International (IDI) is a U.S.-based non-profit organization that works to advance social, economic, and environmental justice by supporting communities around the world to defend their human rights and environment in the face of harmful corporate activities.

We are supporting and advising local community complainants whose lives, livelihoods and overall wellbeing will be severely affected by the Java 9 and 10 power plants being constructed in Suralaya Village, Cilegon, Banten Province, Indonesia. These enormous coal plants, with a combined capacity of 2,000 megawatts (MW), are an expansion of the Suralaya power station, which is the largest coal-fired power complex in Southeast Asia with eight already-operational generating units that have a combined capacity of 4,025MW. With their health and livelihoods already suffering from the eight operational units and other power plants and heavy industry in

the area, local communities fear that adverse impacts will become even more severe once the Java 9 and 10 plants are operational. Harm to local communities, including the forced eviction of those who were living on the project site, is already occurring. Pre-construction and site clearing activities began in 2017, with the formal construction phase beginning in 2020. The project is expected to be fully operational by 2025.

The IFC is exposed to the Java 9 and 10 coal plants through its 2019 equity investment in Hana Bank Indonesia, which in turn provided a total of \$56 million in project finance in July 2020 to Java 9 and 10 developer PT Indo Raya Tenaga.

Construction of the project is already underway, despite clear and ongoing violations of the IFC Sustainability Framework. We fear that these violations will only get worse when the project becomes operational. Among other concerns:

- Construction of these mega coal plants is entirely unnecessary, given the excess capacity that already exists in the Java-Bali grid;
- Despite the existence of dozens of other coal power plants and polluting industries in the area, the brief analysis of cumulative impacts is woefully inadequate and there is no assessment of alternatives;
- The environmental and social impact assessments, which have not been fully disclosed in an accessible manner to the local community, are deficient, failing to appropriately analyze the air pollution or climate impacts of the project, providing incomplete information about hazardous waste, and largely overlooking the physical and economic displacement caused by the project; and
- Community members face intimidation and threats for raising concerns about the project.

As local and national organizations with a mission to protect the interests of local communities negatively affected by Indonesia's coal industry and global climate change, PENA Masyarakat and Trend Asia are themselves affected by the project. They are therefore both complainant organizations and, along with Recourse and IDI, support and advise the local community members who have joined this complaint.¹

Local community complainants face serious risks of reprisal for participating in this complaint and therefore request that the CAO take all necessary measures to keep their identities confidential. As described in more detail below, community members have already been subjected to threats and attacks in connection with advocacy and community organizing work related to the Java 9 and 10 project and other coal projects in the area.

Please direct all correspondence related to the complaint to:

- Trend Asia: Yuyun Indradi (yuyun@trendasia.org), Novita Indri Pratiwi (novita.pratiwi@trendasia.org), Ahmad Ashov Birry (ashov@trendasia.org), and Arip Yogiawan (arip.yogiawan@trendasia.org)

¹ See Confidential Representation and Advisor Agreement, attached as Annex 1.

- Recourse: Kate Geary (kate@re-course.org) and Daniel Willis (dan@re-course.org)
- IDI: Sarah Jaffe (sarah@inclusivedevelopment.net), Shanna Ramadhanti (shanna@inclusivedevelopment.net), Craig Bradshaw (craig@inclusivedevelopment.net) and Natalie Bugalski (natalie@inclusivedevelopment.net)

The complainants are requesting that the CAO conducts a full compliance review investigation of IFC’s investment in Hana Bank Indonesia and its support of the Java 9 and 10 coal plants. Complainants believe that this project does not comply, and likely cannot be brought into compliance, with the IFC Performance Standards. As such, it should never have been undertaken in the first place and should be stopped immediately or, if that is no longer possible, should be retired early. Complainants recognize, however, that stopping the project at this point may not be possible, in which case, the project should be upgraded and modified to come as close as possible to compliance with the IFC Performance Standards, including avoiding and mitigating harm and compensating for any future harm that cannot be fully mitigated. Additionally, after a full investigation of IFC’s policy violations, complainants seek full and fair redress for harms already suffered, an end to Hana Bank Indonesia’s financing of coal projects and systemic policy changes by IFC policy to eliminate all indirect support for coal projects.

This complaint is structured as follows:

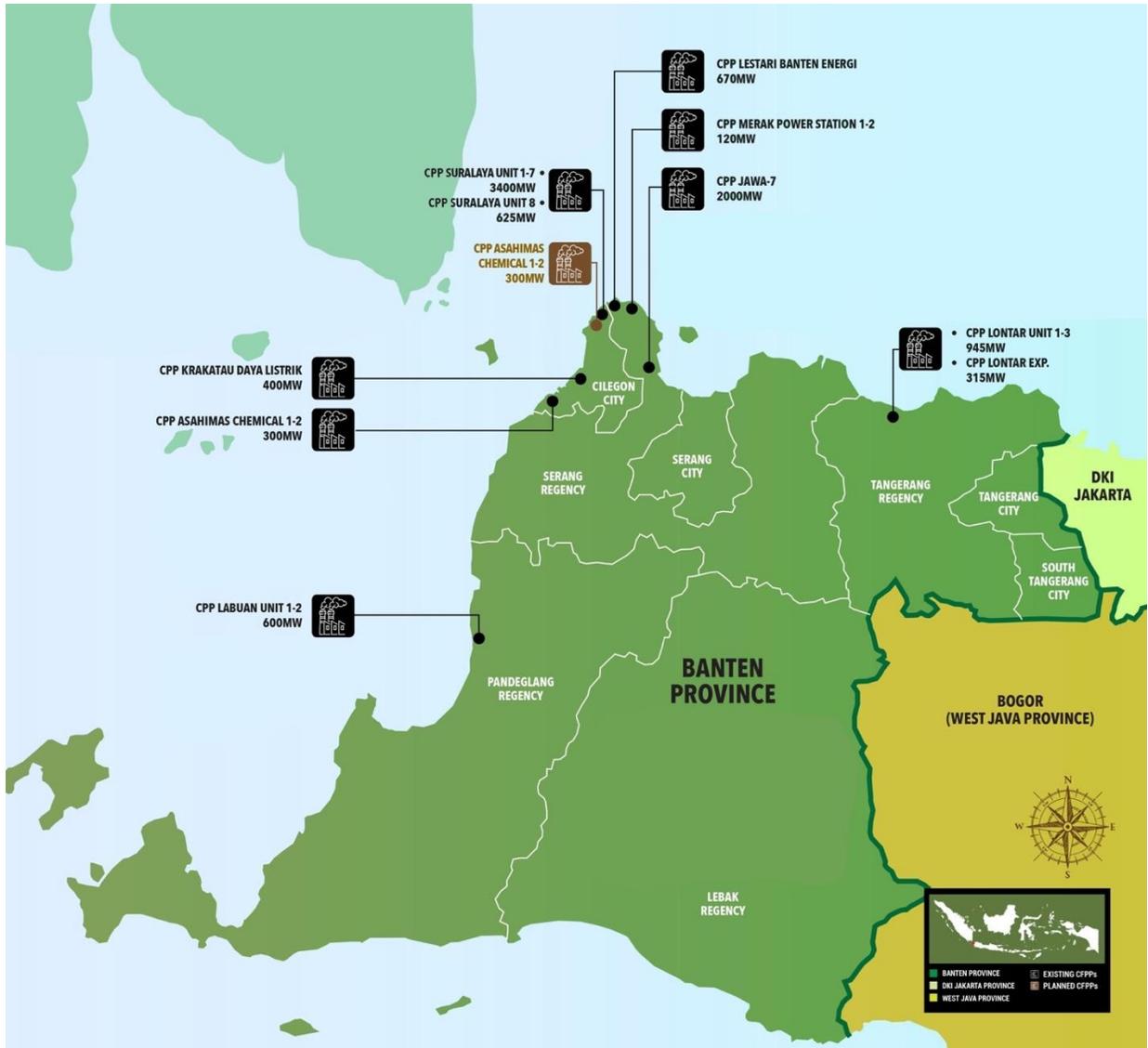
- Section I: The Java 9 and 10 expansion of the Suralaya Complex will make an already dire situation worse
- Section II: IFC’s exposure to the project and the broader context of the World Bank Group’s investments in Indonesia
- Section III: IFC’s investment in Hana Bank Indonesia violates its Sustainability Framework and undermines its Green Equity Approach
- Section IV: Efforts to raise concerns about the project
- Section V: Outcomes sought

I. The Java 9 and 10 expansion of the Suralaya Complex will make an already dire situation worse

Uninhabitable. That is how one local community member describes the current conditions in Suralaya as a result of the massive coal power complex dominating the area. In this context, adding two new 1,000 MW coal plants is almost unimaginable.

Even without these new units, the more than four million residents of Banten Province already experience serious threats to their health, livelihoods and wellbeing from the eight currently operating units of the Suralaya Complex. This complex is the largest power station in Southeast Asia with a current combined capacity of 4,025MW.² Additionally, Banten Province is home to dozens of other coal-fired power plants, which together have a capacity of more than 4,000 MW, and more than a thousand manufacturing and industrial facilities.

² Seulki Lee, *South Korea faces public scrutiny for financing coal plants in Indonesia*, Eco-Business (19 April 2021), available at: <https://www.eco-business.com/news/south-korea-faces-public-scrutiny-for-financing-coal-plants-in-indonesia/> (last accessed May 2023) [hereinafter, “Seulki Lee, Eco-Business”].



Map of Banten Province showing some of the other existing coal plants and polluting industries nearby

Air pollution is a daily problem, yet local community members say that air pollution monitoring devices near the complex have not yet been installed as required.³ A thick dust from the power plants and other local industry coats everything, including the leaves of trees. Satellite measurements show that the Suralaya Complex is the most polluting industrial complex in all of

³ Tommy Apriando (Alm.), Yuyun Indradi, Ahmad Ashov Birry, Zamzami Arlinus, Widia Primastika, Andri Prasetyo, Marina Nasution & Hilda Meutia, *Java 9-10: A Korean Forced Investment in the Midst of a Climate and Humanitarian Disaster*, Trend Asia, WALHI & PENA Masyarakat, 18 (13 September 2020), available at: <https://trendasia.org/en/java-9-10/> (last accessed May 2023) [hereinafter, “Trend Asia report”]; Adi Renaldi, *Pollution and foreign debt: Indonesia’s unhealthy addiction to coal*, China Dialogue (14 April 2021), available at: <https://chinadialogue.net/en/energy/pollution-and-foreign-debt-indonesias-unhealthy-addiction-to-coal/> (last accessed July 2022) [hereinafter, “Adi Renaldi, China Dialogue”].

Southeast Asia.⁴ One local community member describes black rainwater and says that if she doesn't sweep for just one day, several centimeters of dust can accumulate.⁵

Atmospheric modeling carried out by Greenpeace in 2017 estimated that the highest levels of air pollution are occurring at the locations where the coal power plants operate, namely in Cilegon and its surroundings, with air pollution spreading as far as Jakarta and beyond.⁶ In fact, air pollution from coal-fired power plants (the Suralaya Complex and others) is responsible for an estimated 2,500 deaths and a host of other negative health impacts in the Greater Jakarta area every year.⁷

In addition to the constant, daily air pollution from the power stations and local industry, Suralaya residents also face toxic dust storms when the winds blow large quantities of poorly managed toxic waste into residential areas.⁸ The Indonesian Waste Management Association in Banten has identified hundreds of companies in the province with serious waste management problems, concluding that Banten is in an industrial waste emergency.⁹

The health of local residents is suffering as a result of the air pollution and toxic waste emergency in the region. Air pollution in Banten has resulted in some of the highest rates of acute respiratory infections in the country.¹⁰ Respiratory problems account for more than 30% of the local disease burden, according to the project's own Environmental Impact Analysis Framework (EIA Framework).¹¹ In 2017 (the most recent year for which data is publicly available), the most common disease suffered by the population of Cilegon was acute respiratory infection.¹² Children are particularly vulnerable.¹³

Air pollution from power plants and industry is not the only threat being experienced by local residents. Transport of coal to Cilegon also poses serious risks: on at least four separate

⁴ Lauri Myllyvirta, Isabella Suarez, Erika Uusivuori & Hubert Thieriot, *Transboundary Air Pollution in the Jakarta, Banten, and West Java provinces*, Centre for Research on Energy and Clean Air, 21 (11 August 2020), available at: <https://energyandcleanair.org/publication/transboundary-air-pollution-in-the-jakarta-banten-and-west-java-provinces/> (last accessed May 2023) [hereinafter, "CREA report"].

⁵ See confidential video from local community members.

⁶ Greenpeace Southeast Asia, *Jakarta's Silent Killer: How the city's dangerous levels of air pollution are about to get even worse*, 6-10 (24 October 2017), available at:

<https://www.greenpeace.org/southeastasia/publication/575/jakartas-silent-killer/> (last accessed May 2023)

[hereinafter, "Greenpeace report"]; see also CREA report at 4, 18-19 (noting that air pollution in Jakarta is three times worse than the concentrations recommended by the World Health Organization, and that emissions of PM_{2.5}, SO₂ and NO_x in Banten are much higher (double or even quadruple) than in Jakarta).

⁷ CREA report at 23.

⁸ Trend Asia report at 7.

⁹ *Id.*

¹⁰ Adi Renaldi, China Dialogue.

¹¹ PT Indonesia Power, *Environmental Impact Analysis Framework: Construction Plan of Coal Power Plant of Suralaya Units 9-10 (2 x 1000 MW) and its Supporting Facilities*, § 2.2.1.5(A)(1) Morbidity (2016) [hereinafter, "EIA Framework"].

¹² Trend Asia report at 8. Health impacts from the Banten coal power plants are widespread, extending far beyond Cilegon. For example, in 2017, existing coal plants caused an estimated 5,260 premature deaths and 1,690 babies born with low birth rates annually in Greater Jakarta. Greenpeace report at 10.

¹³ See Adi Renaldi, China Dialogue; see also confidential video from local community members.

occasions between 2012 and 2019, coal barges caught on fire.¹⁴ On at least two separate occasions, significant amounts of coal were spilled into the surrounding sea; the incident in 2018 turned a local beach black due to coal contamination.¹⁵ There are also reports that water contaminated with coal dust is dumped into the sea after coal barges have unloaded their shipments.¹⁶

Before construction of the Suralaya Complex began back in 1984, the majority of local community members were farmers and fisherfolk. The power plants have decimated those traditional livelihoods. Farmers struggle to grow crops, and traditional fishing techniques are becoming increasingly unviable. One local community member has reported that banana trees and peanuts no longer thrive because of the pollution, including the thick dust that covers the plants.¹⁷ While fisherfolk used to catch fish in shallow waters near the beach, many can no longer make a living that way.¹⁸ Even fisherfolk with boats have felt the impacts, because they have to travel further out to sea to find fish, increasing their costs.¹⁹

A. The project

Against this backdrop, and without any compelling need, given the huge over-supply of electricity in the Java-Bali grid,²⁰ Indonesian state-owned electricity company Perusahaan Listrik Negara (PLN) announced plans to build Java 9 and 10 in Suralaya Village, Cilegon, Banten Province in October 2016. The project is considered a National Strategic Project, which enables it to be fast-tracked and to avoid certain regulations.²¹

PT Indo Raya Tenaga was established as a special purpose vehicle to manage the project through a consortium agreement between PT Indonesia Power²² and PT Barito Pacific Tbk, who were later joined by Korean state-run Korea Electric Power Corporation (KEPCO). On October 5, 2017, President Joko Widodo laid the first stone, officially announcing construction of the

¹⁴ Trend Asia report at 16.

¹⁵ Trend Asia report at 20.

¹⁶ Seulki Lee, Eco-Business.

¹⁷ See confidential video from local community members.

¹⁸ Confidential complainant interviews. See also Adi Renaldi, China Dialogue; Seulki Lee, Eco-Business.

¹⁹ Confidential complainant interviews. See also Adi Renaldi, China Dialogue.

²⁰ There is already excess capacity in the Java-Bali network, meaning that the project cannot be justified on the basis of electricity needs. In fact, demand for electricity consumption has been significantly lower than originally estimated by Indonesia's state-owned electricity company PLN. Trend Asia report at 11. See also, Della Syahni, In *Indonesia, a village held hostage by coal pleads for change*, Mongabay (4 February 2021), available at: <https://news.mongabay.com/2021/02/in-indonesia-a-village-held-hostage-by-coal-pleads-for-change/> (last accessed May 2023) [hereinafter, "Della Syahni, Mongabay"].

²¹ See Government of the Republic of Indonesia, Government Regulation No. 42 of 2021 concerning Making National Strategic Projects Easier ("GR 42/2021"), available at: https://jdih.setkab.go.id/PUUdoc/176348/PP_Nomor_42_Tahun_2021.pdf (last accessed July 2023); see also Hendra Ong, Dinda Triwijanarko and Peniel Alexander Pardomuan, *Job Creation Act Legal Insight: Investing and Land Procurement in Indonesian National Strategic Projects Made Easier*, Dentons HPRP (2021), available at: <https://dentons.hprplawyers.com/en/insights/alerts/2021/may/19/-/media/dc849da6e6194265bcff621537ea6157.ashx> (last accessed July 2023).

²² PT Indonesia Power is a subsidiary of PLN. It has a 51% share of PT Indo Raya Tenaga. PT Indo Raya Tenaga website: Shareholder: <https://www.irt.co.id/shareholder/> (last accessed July 2023).

project, and in September 2018, South Korean company Doosan Heavy Industries and Construction along with PT Hutama Karya were selected to build the project.

In 2020, despite a pre-feasibility study by the Korean Development Institute that concluded the project would not be profitable, the project secured around \$1.9 billion in public financing from South Korea, including funding from KEPCO, the Export-Import Bank of Korea (KEXIM), the Korea Trade Insurance Corporation (K-Sure) and the Korea Development Bank.²³ The project also secured an additional \$2.59 billion in financing from a consortium of commercial and public banks, including Hana Bank Indonesia.²⁴

According to the project's EIA, operation of Java 9 and 10, which will use ultra-supercritical technology, will require 1,100 tons of coal per hour, which amounts to more than 9.5 million tons of coal annually.²⁵ The project as originally conceived included construction of two 1,000 MW generating units and their supporting facilities, requiring 76 hectares of land in total.²⁶ According to the 2017 EIA, the new units would use the existing Suralaya Complex jetty and stockyard, thereby avoiding new construction to support the transport and storage of coal, and would use 15 hectares of land adjacent to already existing ash disposal area for waste.²⁷ Analysis in the EIA, which identified significant traffic at the existing jetty²⁸ and acknowledged that the ash disposal area would only be sufficient for approximately 1.5 years of operation,²⁹ calls into question the feasibility of this plan to avoid construction of additional, harmful infrastructure. It is therefore unsurprising that only one year later in 2018, project proponents published an EIA Addendum, which covers construction of a new jetty and coal stockyard and construction of a new ash disposal area at an as-yet unidentified location.³⁰ The Addendum also updated the named project developer to PT Indo Raya Tenaga.³¹

While the project's due diligence documents downplay and leave largely unaddressed the question of land acquisition, the original EIA and the EIA Addendum both acknowledge that the project includes land acquisition. The EIA identified the land use prior to the project as including housing, public facilities, green open space and a protected area.³² The EIA Addendum notes that land needed for the new ash disposal area will be acquired from private

²³ See Seulki Lee, Eco-Business; Shin Dong-yoon and Kim Ji-yoon, *S. Korean Government Continues Investing in Overseas Coal Project*, KCIJ Newstapa (13 July 2021), available at: <https://newstapa.org/article/Xi1j-?lang=eng> (last accessed May 2023).

²⁴ Thomson Reuters, *PT Indo Raya Tenaga Prices US\$700M Term Loan*, attached as Annex 2.

²⁵ PT Indonesia Power, *Environmental Impact Analysis: Plan to Build the Suralaya Power Plant Unit 9-10 (2 x 1000 MW) and its Supporting Facilities*, § 1.1.3.3(2)(A)(1)(a) Coal (2017) [hereinafter, "EIA"].

²⁶ *Id.* at § 1.1 Summary Description of Business Plan and/or Activities and Table 1.1 Breakdown of Land Use.

²⁷ See *id.* at §§ 1.1.3.3(2)(A)(1)(a) Coal and 1.1.3.3(2)(E)(c) Ash Disposal Area.

²⁸ *Id.* at § 1.1.3.3(2)(A)(1)(a) Coal.

²⁹ *Id.* at § 1.1.3.3(2)(E)(c) Ash Disposal Area.

³⁰ PT Indo Raya Tenaga, *Addendum to the Environmental Impact Analysis and Environmental Management and Monitoring Plans: Land Preparation and Construction of the Suralaya Power Plant Unit 9-10 (2 x 1000 MW)*, § 1.2 Consideration of Proposed Changes to Environmental Permits and Table 1.1 Description of Business and/or Activities Changes Summary (2018) [hereinafter, "EIA Addendum"].

³¹ *Id.*

³² EIA at §§ 1.1.2 Conformity of the Location of the Business Plan and/or Activity with the Spatial Plan and 1.1.3.1(2) Land Acquisition; see also EIA Framework at §§ 2.1.1 Status of the AMDAL Study and 2.1.2 Suitability of Business and/or Activity Plan Location with Spatial Planning.

owners, but does not include any analysis of current land use for any of the four alternative plots of land mentioned in the document.³³

B. Project impacts

Java 9 and 10 will exacerbate a situation that is already dire for local residents. The project is being constructed in close proximity to a residential area housing around 6,500 families. They will bear the brunt of the local impacts, while the toxic air pollution will impact the health of residents throughout Banten Province and beyond. Modeling by Greenpeace suggests that the new units will cause between 2,400 and 7,300 premature deaths over a 30-year lifespan.³⁴ More than two thirds of these fatalities will be the result of diseases caused by PM_{2.5} air pollution.³⁵

Land acquisitions for the project began before many residents had concrete information about the project.³⁶ Complainants and other local community members describe finding out that locals would be evicted through informal channels, such as social media, rather than through formal consultations.³⁷ The project has already displaced residents of a company housing complex, without appropriate information or notice being provided.³⁸ One complainant lived with his parents in that complex, which was built close to the power station so that employees who operated the plant could be on standby when needed. His family had purchased the house from the company in installments and lived there for many years. While he first heard about possible evictions in early 2016, the information was unclear. When the decision was finally communicated clearly, the company was uncompromising, and many residents felt they had to agree to the terms because they feared losing their jobs. Compensation received by those who have been evicted is not sufficient to purchase equivalent homes in the area.³⁹

The project's negative impact on local livelihoods and wellbeing is already being felt. Construction, which is already 70-80% completed, entirely destroyed Kelapa Tujuh beach, affecting the livelihoods of residents who used to earn a living selling food and services to beachgoers and eliminating an important recreation site for the community.⁴⁰ The EIA Framework noted that mosques, clinics and an integrated healthcare center in Kelapa Tujuh beach would also be leveled as a result of the project.⁴¹

Fisherfolk who used to fish from the beach have also been negatively affected by the land acquisition and construction of the project, which took the only remaining area from which they

³³ See EIA Addendum at § 2.1.4.1(I) Land acquisition.

³⁴ Andreas Anhäuser, Minwoo Son, Aidan Farrow & Lauri Myllyvirta, *Health Impacts of Units 9-10 of the Jawa Coal-fired Power Plant in Banten, Indonesia*, Seoul: Greenpeace Southeast Asia, 7 (22 October 2019), available at: <https://www.greenpeace.to/greenpeace/?p=3262> (last accessed May 2023) [hereinafter, "Greenpeace Health Impacts report"].

³⁵ *Id.* at 11.

³⁶ Confidential complainant interviews. See also Adi Renaldi, China Dialogue.

³⁷ Confidential complainant interviews. See also confidential video from local community members.

³⁸ Confidential complainant interviews.

³⁹ *Id.*

⁴⁰ *Id.* See also confidential video from local community members; Della Syahni, Mongabay; Seulki Lee, Eco-Business.

⁴¹ EIA Framework at § 2.1.3.2(3) Land Preparation.

could fish from the shore.⁴² Although a small harbor has been built adjacent to the project site, apparently to mitigate this impact,⁴³ fisherfolk are now forced to use boats to catch fish far from the shore, which creates additional expenses, and they fear that the project will also negatively impact their already dwindling catch.⁴⁴



Before start of Java 9 and 10 construction (June 2016).



Initial construction of Java 9 and 10 (August 2017).

⁴² Confidential complainant interview.

⁴³ See EIA Addendum at § 4.2.1.9(E) Management that has been done.

⁴⁴ Confidential complainant interview.



Partial construction of Java 9 and 10 (July 2023).

Construction has included partially leveling Kahal Hill, which is an old, sacred site, where the graves of ancestors of the original inhabitants of the area are located, and a local legend says that destroying the hill would cause a curse. Local residents no longer have any access to the site because of the project.

The company used explosives to level Kahal Hill and prepare the land for construction, resulting in noise and dust for nearby residents.⁴⁵ The homes of some local community members have been damaged by the blasting, but the company has done nothing to address or compensate for the damage.

⁴⁵ Adi Renaldi, China Dialogue; *see also* Trend Asia report at 17.



Blasting damage that occurred in 2017 at the start of Java 9 and 10 construction (2021).

Affected community members lack important information about the full scope of the impacts to come.⁴⁶ For example, at a community meeting with the company in 2019, a year after publication of the EIA Addendum which was meant, in part, to address the need to build a separate ash disposal area, a local resident asked for more information about plans to dispose of waste in his neighborhood, but was told that no decision had been made about waste disposal.⁴⁷ Community members were not consulted during the planning process for the project.⁴⁸

Many community members are concerned about the negative impacts of Java 9 and 10. As one local resident said: “There is so much less fish around the power plant and there is a long line at the hospital because people have skin and respiratory diseases. We really need to stop these new power plants.”⁴⁹ However, local residents who oppose the project face serious retaliation risks if they speak out. It is common practice in the area for companies to send “thugs” to intimidate those who speak out, and violence or threats of serious violence – such as threats to burn down an individual’s home – are common. It is impossible to trace these threats to the company, but it is widely believed they are behind this type of intimidation. Locals also fear that there are many

⁴⁶ Confidential complainant interviews.

⁴⁷ Della Syahni, Mongabay.

⁴⁸ Confidential complainant interviews. *See also* Seulki Lee, Eco-Business.

⁴⁹ Kate Geary, Liane Schalatek & Ryan Brightwell, *Putting People and Planet at the Heart of Green Equity*, Recourse, Heinrich Böll Stiftung Washington, DC, Banktrack, Centre for Financial Accountability & Trend Asia, 23 (14 October 2021, updated April 2022), available at: <https://www.re-course.org/old/reports/putting-people-and-planet-at-the-heart-of-green-equity/> (last accessed May 2023).

spies working for the company and security forces, and it is hard to know who to trust. Special military units or local police come into communities and ask questions, and workers experience retaliation for raising complaints. Many community members either work for the coal company or have family members who do, and fears that they will lose their jobs or be demoted are widespread.

C. Opposition to the project

Despite these risks, many local residents have spoken out about the project in the media⁵⁰ and campaigns against the project have attracted significant attention. For example, more than 17,000 people signed Clean Indonesia's online petition, written in Bahasa and describing the impacts on local residents in Banten.⁵¹ Additionally, in early 2020, concerned local residents organized to form the People's Forum for the Environment (Formapel) and stage protests against the project. In October 2020, despite police attempts to prevent demonstrations, reportedly due to the pandemic, a small demonstration against construction of Java 9 and 10 took place, with participants from three affected villages calling for the project to be stopped.⁵² Local residents have also participated in various protests targeting Korean financing for the project.



Environmental organizations, students and residents of Cilegon staged a sympathetic action condemning South Korean President Moon Jae-In, Cilegon, Banten (July 2020).

⁵⁰ See Seulki Lee, Eco-Business; Della Syahni, Mongabay; Adi Renaldi, China Dialogue.

⁵¹ Change.org petition: *Tolak Pembangunan PLTU 9 & 10, Selamatkan Banten dari Ancaman Debu Beracun*, available at:

<https://www.change.org/p/jokowi-tolak-pembangunan-pltu-9-10-biarkanbantenbernapas?redirect=false> (last accessed May 2023).

⁵² Della Syahni, Mongabay.

In addition to local protests, the project has also faced significant legal resistance in both Indonesia and South Korea. In August 2019, three local Banten residents petitioned the South Korean Prime Minister and the Chairman of the Korean National Climate and Clean Air Council to cancel South Korean financial support for the project. The same residents, along with South Korean organization Solutions for our Climate, also filed a lawsuit in the Central Korean court seeking a preliminary injunction against South Korean public financial institutions.⁵³

Separately, in November 2020, Friends of the Earth Indonesia (WALHI) and other Indonesian civil society organizations filed a lawsuit in Indonesia, based on the project's March 2017 environmental permit, regarding the environmental and public health impacts of the project, as well as its lack of compliance with Indonesia's 2019 emission standards.⁵⁴ Prior to filing the lawsuit, WALHI had already submitted an objection letter regarding the environmental permit to the Governor of Banten and submitted an administrative appeal to the President. Neither official ever responded.

In the course of the lawsuit, WALHI eventually learned that a new environmental permit had been issued in October 2018, but the Banten governor refused to disclose the latest permit in court and the judge did not require disclosure, even though the court had the authority to do so. Attempts to access the latest permit through a public information request to the Indonesian Investment Coordinating Board (BKPM RI) was also unsuccessful. These circumstances eventually forced WALHI to withdraw the lawsuit in February 2021.⁵⁵

In February 2022, complainant organization PENA Masyarakat, along with local residents, made a second attempt to obtain the updated permit through a public information request to BKPM RI, but they have not received a response. To date, neither complainants nor other Indonesian civil society organizations have access to the project's latest environmental permit.

II. IFC's exposure to the project and the broader context of the World Bank Group's investments in Indonesia

A. Description of IFC's exposure to the project through Hana Bank Indonesia

In September 2020, the IFC published its new *Approach to Greening Equity Investments in Financial Institutions*, which it had begun piloting in 2019.⁵⁶ First announced in 2018, the IFC's green equity approach was meant to help its financial intermediary clients increase climate-related lending and eliminate coal exposure – or reduce it to near zero – by 2030. The IFC's

⁵³ Seulki Lee, Eco-Business.

⁵⁴ Trend Asia, *Threatening Environment and Public Health WALHI Sues Java 9 & 10 Environmental Permit* (4 November 2020), available at: <https://trendasia.org/en/threatening-environment-and-public-health-walhi-sues-java-9-10-environmental-permit/> (last accessed May 2023).

⁵⁵ Trend Asia, *Banten Governor Hides Revision of Environmental Permit, WALHI Withdraws Lawsuit Against PLTU Jawa 9 and 10* (24 February 2021), available at: <https://trendasia.org/en/banten-governor-hides-revision-of-environmental-permit-walhi-withdraws-lawsuit-against-pltu-jawa-9-and10/> (last accessed May 2023).

⁵⁶ IFC Financial Institutions Group, *IFC's Approach to Greening Equity Investments in Financial Institutions* (September 2020), available at: <https://www.ifc.org/wps/wcm/connect/05541643-0001-467d-883c-5d7a127ffd57/IFC+Greening+Report+Sept+2020.pdf?MOD=AJPERES&CVID=nisvaOC&ContentCache=NONE&CACHE=NONE> (last accessed May 2023) [hereinafter, "IFC GEA"].

commitment to end equity investments in financial institutions that did not have a plan to phase out coal and coal-related investments was welcomed by civil society organizations around the world.⁵⁷ It was therefore particularly disappointing to learn that Hana Bank Indonesia, provided project finance for the Java 9 and 10 coal project *after* becoming IFC’s first client to pilot the Green Equity Approach.

IFC has a longstanding relationship with Hana Bank Indonesia, having provided \$5 million in equity in 2007 to help Hana Bank Korea set up Hana Bank Indonesia.⁵⁸ IFC then provided loans to Hana Bank Indonesia in 2009 and 2013,⁵⁹ before making a second equity investment in May 2019.⁶⁰ IFC selected this \$15.36 million equity investment to pilot its green equity approach, an important choice given that Indonesia has rapidly rising coal-related emissions, while also being highly vulnerable to climate change.

In July 2020, Hana Bank Indonesia joined a consortium of other banks, including Hana Bank Korea, in providing project finance to PT Indo Raya Tenaga for development of Java 9 and 10.⁶¹ Hana Bank Indonesia participated in two tranches: \$6 million for Tranche 3 and \$50 million for Tranche 5.⁶² The loan term extends until 2035.⁶³ Despite the fact that Hana Bank Indonesia had been piloting the IFC’s green equity approach for more than a year before investing in Java 9 and 10, we believe that IFC was not aware of this deal at the time, and in fact only learned of it a few months later when civil society organizations brought it to IFC’s attention.

B. The broader context of the World Bank Group’s energy investments in Indonesia

At the same time as Java 9 and 10 are being constructed with financing from an IFC client, other World Bank Group loans to decommission Indonesian coal plans are in the pipeline. As part of a new Energy Transition Mechanism (ETM) to support Indonesia’s transition away from coal, the Asian Development Bank (ADB) has proposed to loan \$300 million to Indonesia’s state energy company PLN to pilot the retirement of coal power plants.⁶⁴ Project documents suggest that the

⁵⁷ See Inclusive Development International, *Saying no to coal: IFC’s new Green Equity Approach Unveiled* (17 September 2020), available at: <https://www.inclusivedevelopment.net/ifc-campaigns/saying-no-to-coal-ifcs-new-green-equity-approach-unveiled/> (last accessed May 2023).

⁵⁸ IFC also has a long history with Hana Financial Group dating back to 1971, and was instrumental in Hana’s expansion into Indonesia. See Kate Geary & Ceren Temizyürek, *Coming clean: Can the IFC help end coal finance?*, Recourse, Trend Asia, Philippine Movement for Climate Justice & Korea Sustainability Investing Forum, 7-8 (7 October 2020), available at: https://re-course.org/old/wp-content/uploads/2020/10/Coming-clean-Can-the-IFC-help-end-coal-finance_FINAL-compressed.pdf (last accessed May 2023) [hereinafter, “*Coming clean*”]. We also understand that IFC’s relationship with Hana Korea has been important in Hana Korea’s decision to exit coal financing.

⁵⁹ *Id.* at 7.

⁶⁰ IFC Summary of Investment Information: KEB Hana Indonesia Rights Issue IV, available at: <https://disclosures.ifc.org/project-detail/SII/42034/keb-hana-indonesia-rights-issue-iv> (last accessed May 2023) [hereinafter, “IFC SII: Hana Indonesia”].

⁶¹ See Annex 2 Term Loan.

⁶² *Id.*

⁶³ *Id.*

⁶⁴ Asian Development Bank, Project Data Sheet: Indonesia: Accelerating Indonesia’s Clean Energy Transition Program – Phase 1, Sovereign Project 56140-001, available at: <https://www.adb.org/projects/56140-001/main#project-pds> (last accessed May 2023).

World Bank and ADB are both expected to provide future loans in support of the ETM, while further financing for the operationalization of the plan will come from the Climate Investment Funds (involving support from the World Bank, IFC and ADB).⁶⁵

Two of the coal power plants that have been identified as top priorities for decommissioning are Suralaya units 1 and 2. Units 5, 6 and 7 have also been identified as potential targets for decommissioning by 2030 in the ETM, albeit at a lower priority than units 1 and 2. Notably, all of these coal power plants were originally financed by the World Bank between 1979 and 1992.⁶⁶ Indeed, the World Bank, alongside the ADB, provided substantial support for nearly all of the existing units of the Suralaya Complex, resulting in devastating harm to the local community for decades to come and which continues today.

III. IFC's investment in Hana Bank Indonesia violates its Sustainability Framework and undermines its Green Equity Approach

IFC's 2019 equity investment in Hana Bank Indonesia is subject to the 2012 IFC Sustainability Framework, including the Policy on Environmental and Social Sustainability (IFC Sustainability Policy) and the Performance Standards (IFC PS), as well as other relevant policies and standards, such as the Environmental, Health and Safety (EHS) Guidelines for Thermal Power Plants.

These policies require both IFC and Hana Bank Indonesia to take steps to avoid, mitigate and manage the social and environmental risks posed by high-risk projects such as Java 9 and 10. Moreover, if IFC and its client cannot assure themselves that an investment in a high-risk project such as Java 9 and 10 will meet the requirements of the IFC PS within a reasonable period of time, they should not make that investment.⁶⁷

⁶⁵ See Fiscal Policy Agency, Ministry of Finance, Republic of Indonesia, *CIF Accelerating Coal Transition (ACT): Indonesia Country Investment Plan (IP): Draft for Public Consultation* (3 October 2022), available at: https://fiskal.kemenkeu.go.id/docs/CIF-INDONESIA_ACT_IP-Proposal.pdf (last accessed May 2023); Climate Investment Funds, *Intersessional Meeting of the CTF Trust Fund Committee* (25-26 October 2022), available at: https://cif.org/sites/cif_enc/files/meeting-documents/CTF_TFC_IS_3_04_Indonesia_ACT_IP.pdf (last accessed May 2023).

⁶⁶ The World Bank loaned PLN \$175 million for the construction of Suralaya 1 in 1979; \$253 million for Suralaya 2 in 1980; \$210 million in 1984 for the construction of Suralaya units 3 and 4; and \$423.6 million in 1992 for the construction of units 5, 6 and 7. ADB also provided a loan of \$139 million for the construction of extra high voltage lines to connect to the Suralaya Complex. See respectively: The World Bank, *Report and Recommendation of the President of the International Bank for Reconstruction and Development to the Executive Directors on a Proposed Loan to the Republic of Indonesia for an Eight Power Project* (14 May 1979), available at: <https://documents1.worldbank.org/curated/en/867711468285888487/pdf/multi-page.pdf> (last accessed May 2023); The World Bank, *Report and Recommendation of the President of the International Bank for Reconstruction and Development to the Executive Directors on a Proposed Loan to the Republic of Indonesia for a Ninth Power Project* (23 May 1980), available at: <https://documents1.worldbank.org/curated/en/381801468269093471/pdf/multi-page.pdf> (last accessed May 2023); The World Bank, *Report and Recommendation of the President of the International Bank for Reconstruction and Development to the Executive Directors on a Proposed Loan in an Amount Equivalent to US\$210.0 Million to the Republic of Indonesia for the Fourteenth Power Project* (25 May 1984), available at: <https://documents1.worldbank.org/curated/en/833141468253775659/pdf/multi-page.pdf> (last accessed May 2023).

⁶⁷ See IFC, International Finance Corporation's Policy on Environmental and Social Sustainability, ¶ 22 (1 January 2012), available at: https://www.ifc.org/wps/wcm/connect/7141585d-c6fa-490b-a812-2ba87245115b/SP_English_2012.pdf?MOD=AJPERES&CVID=kiIrw0g (last accessed May 2023) [hereinafter, "IFC Sustainability Policy"].

Additionally, as explained above, IFC also chose this investment to pilot its new Green Equity Approach. As a Green Equity Approach client, Hana Bank Indonesia should have a plan to phase out coal investments, reducing its coal exposure by 50% by 2025 and eliminating coal exposure – or reducing it to near zero – by 2030.⁶⁸ Taken collectively, this framework is difficult, if not impossible, to reconcile with any new investment in a mega coal plant such as Java 9 and 10, given the project loan term will run to 2035.⁶⁹

A. IFC’s favorable public disclosures and lack of knowledge of Hana Bank Indonesia’s investment in Java 9 and 10 call into question its due diligence and supervision

IFC categorized its 2019 investment in Hana Bank Indonesia as FI-2 or “medium risk,”⁷⁰ which includes clients with “a very limited number of business activities with potential significant adverse environmental or social risks or impacts that are diverse, irreversible, or unprecedented.”⁷¹ At the time of IFC’s 2019 investment, Hana Bank Indonesia was an existing IFC client with what IFC called “a satisfactory environmental and social management system (ESMS)” in place.⁷² Yet this unqualified, positive assessment of Hana Bank Indonesia’s ESMS is at odds with the bank’s own self-assessment two years later, in its 2021 Sustainability Report, which notes challenges related to both its debtors and its staff in fully implementing the ESMS.⁷³

⁶⁸ IFC GEA at 5.

⁶⁹ We also note, in this regard, that IFC’s investment in Hana Bank Indonesia presents some of the same tensions between IFC’s environmental and social requirements and the bank’s business model that the CAO described in its compliance report regarding IFC’s investments in Rizal Commercial Banking Corporation, namely that Hana Bank Indonesia participates in syndicated lending with other lenders who may not apply similar environmental and social requirements, and Hana Bank Indonesia is operating in a market that may be resistant to and unfamiliar with the IFC PS. See CAO, *Compliance Investigation Report: IFC Investments in Rizal Commercial Banking Corporation (RCBC), The Philippines*, 42 (19 November 2021), available at: https://www.cao-ombudsman.org/sites/default/files/downloads/CAO%20Compliance%20Investigation_RCBC-01_Philippines_Nov%202021.pdf (last accessed July 2023) [hereinafter, “RCBC Compliance Report”]. See also Annex 2 Term Loan; Hana Bank, *Responsible Financing Leading to Sustainability*, 2021 Sustainability Report, 18 (2021) (noting that the bank faces “objections from debtors regarding the implementation of ESMS and low comprehension of Bank personnel who are responsible for conduct[ing] the due diligence assessment”), available at: https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwjzgaK4tZL_AhWsgv0HHRDrBAQQFnoECCMQAQ&url=https%3A%2F%2Fwww.hanabank.co.id%2Fdownload%2F3803&usg=AOvVaw1z2_uFWq65QWi8cjrvmMgI (last accessed May 2023) [hereinafter, “2021 Sustainability Report”]. That being said, even if it lacked leverage, Hana Bank Indonesia should have screened the project against the Performance Standards and chosen not to invest, given the project’s clear lack of compliance. See IFC Environment, Social and Governance Department, *Environmental and Social Review Procedures Manual 7 Financial Intermediary Investments: Early Review and Appraisal*, Version 5, § 3.2.2 PSs Application (11 July 2014), available at: https://www.ifc.org/wps/wcm/connect/6f3c3893-c196-43b4-aa16-f0b4c82c326e/ESRP_Oct2016.pdf?MOD=AJPERES&CVID=IRwoQFr (last accessed May 2023) [hereinafter, “IFC ESRP 7”].

⁷⁰ IFC SII: Hana Indonesia.

⁷¹ IFC Sustainability Policy at ¶ 40.

⁷² IFC SII: Hana Indonesia.

⁷³ See 2021 Sustainability Report at 18.

This contradiction calls into question whether IFC properly evaluated Hana Bank Indonesia's staff capacity in the first place.⁷⁴

IFC's disclosures with regard to Hana Bank Indonesia's exposure to high-risk projects were also problematic. According to IFC's public disclosures for the project, the bank's key sectors were construction and real estate, trade, rubber and plastic manufacturing and transportation, and its portfolio at the time had only four projects subject to the IFC PS, none of which exposed the IFC to significant environmental and social risks.⁷⁵ Moreover, IFC predicted that the "possibility for exposures to such projects is very limited," given the bank's focus on small and medium enterprises.⁷⁶ On that basis, IFC determined that no environmental and social action plan (ESAP) was required and did not publish any specific mitigation measures related to its investment. IFC's public disclosures for its 2019 investment in Hana Bank Indonesia recognize the bank's total, portfolio-wide exposure to coal-related projects⁷⁷ – in line with the commitments set out in IFC's Green Equity Approach – but do not otherwise indicate anything about the environmental and social risks and impacts related to these investments. The overall impression given by IFC's public disclosures is that Hana Bank Indonesia has minimal coal-related investments and no investments that cause any significant environmental and social risks.

Yet IFC's statements about the environmental and social risks posed by Hana Bank Indonesia are misleading at best. For example, one of the bank's investees at the time of IFC's 2019 investment was PT Toba Bara Sejahtera,⁷⁸ which operates three vast coal mines and is involved in construction of two coal plants, all projects that seem likely to expose both Hana Bank Indonesia and IFC to significant environmental and social risk.⁷⁹ On top of which, Toba Bara has also faced accusations of corruption and illegal mining practices.⁸⁰ Hana Bank Indonesia also has a longstanding banking relationship with PT Samindo Resources, an Indonesian coal mining and services company that, at the time of IFC's 2019 investment in Hana Bank Indonesia, was pursuing a coal mining acquisition plan,⁸¹ potentially increasing Hana Bank Indonesia and IFC's exposure to high-risk projects.

⁷⁴ See IFC ESRP 7 at § 3.4.3 Evaluation of the Client's E&S Risk Management Practices including its ESMS as well as Staff Capacity and Commitment against the Requirements of PS1 and § 3.4.4 Identification of E&S Risk Management and Staff Capacity Gaps (requiring IFC to fully evaluate an FI client's capacity and commitment to implementing its ESMS, identifying gaps and creating a plan and timeline to address such gaps).

⁷⁵ IFC SII: Hana Indonesia.

⁷⁶ *Id.*

⁷⁷ Specifically, within the Environmental & Social Management System section, IFC writes: "Update: The exposure to coal-related projects as reported by the client as of March 31, 2019 was 2.78% of its total portfolio; in 2019 (as of December 31, 2019) was 1.61% of its total portfolio; in 2020 (as of December 31, 2020) was 2.02% of its total portfolio, as of 31 December 2021 was 1.36% of its total portfolio; and in 2022 (as of 31 December 2022) was 2.06% of its total portfolio." *Id.*

⁷⁸ In November 2018, Hana Bank Indonesia participated in a syndicated loan of \$120 million to PT Toba Bara Sejahtera Tbk. Dustin Roasa, *Digging Deeper: Can the IFC's Green Equity Strategy Help End Indonesia's Dirty Coal Mines?*, Inclusive Development International, Bank Information Center Europe & Jaringan Advokasi Tambang (JATAM), 18 (April 2019), available at: <https://www.inclusivedevelopment.net/wp-content/uploads/2020/01/digging-deeper.pdf> (last accessed May 2023) [hereinafter, "*Digging Deeper*"].

⁷⁹ See *Coming clean* at 8.

⁸⁰ See *Digging Deeper* at 8-9.

⁸¹ *Id.* at 18.

We do not have access to the agreement between IFC and Hana Bank Indonesia, so we do not know if its terms and conditions were consistent with IFC policy. However, the 2012 Sustainability Policy, along with the IFC PS, impose detailed environmental and social risk mitigation obligations on both IFC and Hana Bank Indonesia. These include a requirement to apply the IFC PS to high-risk projects⁸² and provisions regarding environmental and social reporting, including notification of any material changes impacting on environmental and social risks.⁸³

Even if IFC's original public disclosures about the environmental and social risks posed by Hana Bank Indonesia were adequate, which we believe they were not, it should be clear that the 2,000 MW Java 9 and 10 coal plants pose extreme environmental and social risks, with inevitable and likely irreversible negative impacts. It is hard to imagine how this type of investment by Hana Bank Indonesia would not constitute a material change in its environmental and social risk profile, as compared to what IFC described in its public disclosures. We therefore would have expected IFC to upgrade its risk categorization of Hana Bank Indonesia to FI-1, as well as step up its supervision of Hana Bank Indonesia and its high-risk sub-projects.⁸⁴

Instead, we have reason to believe that Hana Bank Indonesia failed to notify IFC about this investment and that IFC's supervision failed to identify the bank's new exposure despite this being a project of the highest possible risk. When asked about its exposure to the Java 9 and 10 coal plants in September 2020, two months after Hana Bank Indonesia provided project financing, IFC was seemingly unaware that its client had made the investment. We also have ongoing concerns about the level of supervision IFC is exercising with regard to this incredibly risky sub-project. For example, at a recent meeting with IFC in April 2023 about the project, it was unclear whether IFC had reviewed the Java 9 and 10 EIA. The IFC's lack of knowledge about Hana Bank Indonesia's decision to provide project finance for Java 9 and 10 and its ongoing failure to assess the sub-project's compliance with the Performance Standards calls into serious question IFC's supervision of its client, as well as its client's adherence with requirements set forth in the Sustainability Policy.

B. There is no evidence that Hana Bank Indonesia effectively applied the IFC PS to its investment in Java 9 and 10

While we do not have access to the financing agreement between Hana Bank Indonesia and PT Indo Raya Tenaga, we have not seen any evidence that Hana Bank Indonesia required application of the IFC PS to the Java 9 and 10 coal plants.⁸⁵ In fact, as described in detail below, the situation on the ground is woefully short of compliance with a host of IFC PS requirements.

⁸² IFC Sustainability Policy at ¶ 35.

⁸³ *Id.* at ¶ 25.

⁸⁴ This is pertinent not only with regard to Java 9 and 10, but also for other projects such as the Obi Island nickel smelter, also supported by Hana Bank Indonesia, which requires the construction of a captive coal plant to power the smelter. *See, e.g.,* Ian Morse, *Coal-powered industrial parks test Indonesia's climate pledges – and China's too*, China Dialogue (30 March 2022), available at: <https://chinadialogue.net/en/energy/coal-powered-industrial-parks-test-indonesias-climate-pledges-and-chinas-too/> (last accessed July 2023).

⁸⁵ We note, in this regard, that IFC does not have a good track record of ensuring that its FI clients take appropriate steps to ensure that high-risk sub-projects are required to comply with the Performance Standards. *See, e.g., RCBC*

We acknowledge that Hana Bank Indonesia invested in the project in July 2020 as a relatively small participant in a large, syndicated loan, which may mean that its leverage was relatively limited. However, to the extent that it may have been unable, under those circumstances, to effectively ensure application of the IFC PS, it should have screened the project against the PS and declined to participate in the loan in the first place.⁸⁶

None of the project’s available due diligence documents – the 2016 EIA Framework, 2017 EIA and Environmental Management and Monitoring Plans, or the 2018 EIA Addendum – make any mention of the IFC PS. They are instead largely limited to an assessment of the project against Indonesian standards and regulations, many of which are far less rigorous than the requirements of the IFC PS and EHS Guidelines.⁸⁷

PT Indo Raya Tenaga’s English-language-only website makes some brief references to compliance with the IFC PS and EHS Guidelines, but offers no real assurance of these claims. For example, the page entitled Emission Control includes a chart favorably comparing the “expected emissions” of the Java 9 and 10 plant with the IFC EHS Thermal Power (2008) Standard.⁸⁸ However, the chart fails to capture the complexity and nuance of the IFC’s standard, nor does it provide any analysis to support the assertion that Java 9 and 10’s emissions will be well below the standard. Moreover, the EHS guidance specifically notes that “emissions levels for the design and operation of each project should be established through the [Environmental Assessment (EA)] process on the basis of country legislation *and the recommendations provided in this guidance document*, as applied to local conditions” and that the EIA needs to justify the emissions levels selection.⁸⁹ The Project’s EIAs, however, fail to reference the EHS recommendations in any way.

Compliance Report at 6-7 (finding that IFC had not verified that RCBC was applying the Performance Standards as required). We fear that the same situation may be the case with Hana Bank Indonesia.

⁸⁶ See IFC ESRP 7 at § 3.2.2 PSs Application (“In cases where the FI’s leverage is limited (e.g., secondary market transactions or syndicated loans where the FI’s participation is below 25% of the total loan value), the FI will be required to screen such transactions against key objectives of the PSs and make a go or no go decision based on the results of this screening.”).

⁸⁷ In such cases, the Performance Standards requires projects to achieve whichever requirements are more stringent; any exception requires a detailed, site-specific justification. IFC, Overview of Performance Standards on Environmental and Social Sustainability, ¶ 7 (1 January 2012), *available at*: https://www.ifc.org/wps/wcm/connect/8804e6fb-bd51-4822-92cf-3dfd8221be28/PS1_English_2012.pdf?MOD=AJPERES&CVID=jiVQIfc (last accessed May 2023) [hereinafter, “IFC PS Overview”]. Indonesia updated its emissions standards in 2019, although they are still less strict than many international standards. CREA report at 22. Moreover, we do not believe that the project is being held to these new standards. *See id.*

⁸⁸ PT Indo Raya Tenaga website: Emission Control: <https://www.irt.co.id/emission-control-2/> (last accessed July 2023).

⁸⁹ IFC, Environmental, Health, and Safety Guidelines for Thermal Power Plants, 18 (19 December 2008) (emphasis added), *available at*: https://www.ifc.org/wps/wcm/connect/f82a5f06-f3f7-4033-8ea6-b767523cda8e/FINAL_Thermal%2BPower.pdf?MOD=AJPERES&CVID=nPtjHMZ&id=1323162579734 (last accessed May 2023) [hereinafter, “IFC EHS Guidelines for Thermal Power Plants”].

C. The available EIA documents suffer from serious deficiencies

The available due diligence documents also fail to meet many of the basic requirements of a robust environmental and social impact assessment. The overall objective of IFC PS 1 is to improve the environmental and social performance of projects by identifying and evaluating environmental and social risks and impacts and then adopting a mitigation hierarchy that anticipates and avoids as many harmful impacts as possible, while minimizing, compensating for and/or offsetting those that remain.⁹⁰ The EIA documents for Java 9 and 10 do not meet this objective. The project information is scattered across several documents, the analysis of the environmental and social risks and impacts frequently lacks rigor and, despite the over-supply of electricity in the Java-Bali grid,⁹¹ there is no alternatives analysis whatsoever.⁹²

Considering the well-documented serious impacts of large coal-fired power plants such as Java 9 and 10, it is disturbing how little attention the EIA documents devote to risk analysis and mitigation. To give just one example, in stark contrast to the terrible air quality described and experienced by local community members and complainants, the 2017 EIA claims that the baseline air quality conditions are good and that the atmosphere is able to self-purify even as emissions increase, showing the “success” of the Suralaya Complex’s environmental management to date.⁹³ The EIA later makes reference to Greenpeace’s estimated premature mortality rate due to coal-fired power plants in Indonesia,⁹⁴ without any attempt to reconcile the contradictions between Greenpeace’s analysis and the EIA’s own conclusions about the successful management of emissions. In the next chapter’s assessment of potentially significant impacts, the EIA reaches the conclusion that all emissions will be within regulatory limits⁹⁵ and suggests an impact area of these emissions that entirely ignores the previously referenced Greenpeace modeling suggesting that such emissions will affect the health of residents as far away as Jakarta.⁹⁶ The analysis of related public health impacts that follows makes no attempt to quantify or even describe in detail what the impacts will be.⁹⁷ The Environmental Management Plan defines successful management of the public health impacts as ensuring that the morbidity rate for environmentally-related diseases should not double over any review period⁹⁸ – a definition that would still categorize a fairly significant uptick of respiratory or related diseases over time as a ‘success’.

⁹⁰ See IFC, Performance Standard 1: Assessment and Management of Environmental and Social Risks and Impacts, Objectives (1 January 2012), available at: https://www.ifc.org/wps/wcm/connect/8804e6fb-bd51-4822-92cf-3dfd8221be28/PS1_English_2012.pdf?MOD=AJPERES&CVID=jiVQIfe (last accessed May 2023) [hereinafter, “IFC PS 1”].

⁹¹ See Trend Asia report at 11. See also, Della Syahni, Mongabay.

⁹² See IFC PS 1 at ¶ 11 and n.11 (explaining circumstances that require an alternatives analysis).

⁹³ EIA at § 2.1.2(D)(1) Ambient Air Quality.

⁹⁴ EIA at § 2.1.5(B)(2) Health Impacts Caused by PLTU Activities.

⁹⁵ EIA at § 3.2.1 Air Quality Decline.

⁹⁶ See, generally, Greenpeace report. See also CREA report.

⁹⁷ EIA at § 3.2.6 Public Health Disorders.

⁹⁸ PT Indonesia Power, *Environmental Management Plan & Environmental Monitoring Plan: Plan to Build the Suralaya Power Plant Unit 9-10 (2 x 1,000 MW) and its Supporting Facilities*, Table 2.1 Environmental Management Plan Matrix, Operation Stage, No. 6 Public Health Disorders (2017) [hereinafter, “Environmental Management and Monitoring Plans”].

Taken as a whole, the available EIA documents fail to achieve the overarching objectives of the Performance Standards. As described below, the company never shared these EIA documents with community complainants,⁹⁹ but even if they had, the documents would not have allowed complainants to fully understand the risks posed by the project being developed or provided adequate assurance the impacts would be appropriately managed.

D. Assessment of cumulative impacts is woefully inadequate

As described in detail above, complainants are already living in a tremendously hazardous environment due to the eight existing units of the Suralaya Complex, as well as dozens of other nearby coal plants and polluting industries. Adding a new, and entirely unnecessary, 2,000 MW coal project to the mix should require, at minimum, a comprehensive analysis of the cumulative impacts of the project on the already-stressed local environment and population. IFC PS 1 requires an assessment of a project's cumulative impacts, and the Guidance Note specifically flags that "in situations where multiple projects occur in...the same geographic area, it may also be appropriate for the client to conduct a Cumulative Impact Assessment (CIA) as part of the risks and impacts identification process."¹⁰⁰

The Java 9 and 10 EIA's assessment of cumulative impacts is limited at best. It notes that the project will cause impacts on air quality, seawater quality and hazardous waste that are cumulative of the other units in the Suralaya Complex,¹⁰¹ but makes no attempt to truly assess those impacts. The analysis is largely limited to a description of how the other units in the Suralaya Complex operate, along with a statement that their environmental controls largely meet regulatory requirements.¹⁰² Cumulative public health or livelihood impacts are not mentioned at all. There is no question that the EIA fails to comply with the IFC PS in this regard.

E. Community consultations have been incomplete and undermined by transparency failures and intimidation

Alongside identifying and mitigating environmental and social risks, the other overarching objective of IFC PS 1 is to ensure effective and ongoing engagement with affected communities and other stakeholders. This includes disclosure and dissemination of relevant environmental and social information about a project, as well as appropriately managing grievances.¹⁰³ Given the very serious impacts associated with a mega coal project such as Java 9 and 10, IFC PS 1 requires an Informed Consultation and Participation process, involving:

[...] a more in-depth exchange of views and information, and an organized and iterative consultation, leading to the client's incorporating into their decision-making process the view of the Affected Communities on matters that affect them directly, such as the

⁹⁹ Confidential complainant interviews.

¹⁰⁰ IFC Guidance Note 1: Assessment and Management of Environmental and Social Risks and Impacts, ¶ GN38 (1 January 2012, updated 14 June 2021), *available at*: https://www.ifc.org/wps/wcm/connect/6df1de8f-2a00-4d11-a07c-c09b038f947b/GN1_English_06142021_FINAL.pdf?MOD=AJPERES&CVID=nXqn5Ts (last accessed May 2023).

¹⁰¹ See EIA at § 2.2 Business and/or Activities that Exist Around the Location of the Business and/or Activity Plan.

¹⁰² See *id.*

¹⁰³ IFC PS 1, Objectives.

proposed mitigation measures, the sharing of development benefits and opportunities, and implementation issues [...] ¹⁰⁴

It also requires the establishment of a grievance mechanism to resolve communities' concerns without retribution, ¹⁰⁵ and ongoing reporting to affected communities about impacts, mitigation measures and/or grievances. ¹⁰⁶ IFC PS 2 similarly requires an accessible and non-retaliatory grievance mechanism for workers, ¹⁰⁷ and IFC PS 5 includes additional consultation and grievance mechanism requirements in the context of economic and physical displacement. ¹⁰⁸

In stark contrast to these requirements, complainants and other affected community members, including those who work in the Suralaya Complex, lack information about the environmental and social impacts of the project and face serious intimidation for raising concerns. ¹⁰⁹ Community complainants report that “the company doesn’t communicate with the community,” and that they have little to no formal information about the project’s risks or any of the company’s plans to mitigate or compensate for harm. ¹¹⁰

The EIA Framework describes only two public consultations about the project, held on October 6-7, 2016. ¹¹¹ The brief summary of public comments suggests that those who attended expressed concerns about use of local labor, economic displacement and health impacts, ¹¹² yet the Environmental Management Plan does little to specifically address these concerns. Moreover, even several years after publication of the EIA, local residents are unable to get complete information about the project when they attend meetings with the company. ¹¹³

PT Indo Raya Tenaga’s website claims that the company has been carrying out “socialization” of the project since 2017, to ensure that affected people have an in-depth understanding of the project. ¹¹⁴ Community complainants’ lived experience, however, contradicts these assertions. Several community complainants report that they were unaware of any public consultation meetings about the project, and one complainant reports that attendance at the consultation meeting was limited to the neighborhood leaders, who did not communicate the results to the rest of the community. ¹¹⁵

¹⁰⁴ *Id.* at ¶ 31.

¹⁰⁵ *Id.* at ¶ 35.

¹⁰⁶ *Id.* at ¶ 36.

¹⁰⁷ See IFC, Performance Standard 2: Labor and Working Conditions, ¶ 13 (1 January 2012), *available at*: <https://www.ifc.org/content/dam/ifc/doc/2010/2012-ifc-performance-standard-2-en.pdf> (last accessed September 2023) [hereinafter, “IFC PS 2”].

¹⁰⁸ See IFC, Performance Standard 5: Land Acquisition and Involuntary Resettlement, ¶¶ 10 & n.16, 11 (1 January 2012), *available at*: <https://www.ifc.org/content/dam/ifc/doc/2010/2012-ifc-performance-standard-5-en.pdf> (last accessed September 2023) [hereinafter, “IFC PS 5”].

¹⁰⁹ Confidential complainant interviews.

¹¹⁰ Confidential complainant interviews.

¹¹¹ EIA Framework at § 2.2 Results of Community Engagement.

¹¹² *Id.*; *see also id.* at § 2.2.1.4(D) Public Perception.

¹¹³ Confidential complainant interviews. *See also* Della Syahni, Mongabay.

¹¹⁴ PT Indo Raya Tenaga website: Stakeholders Management Plan: <https://www.irt.co.id/stakeholders-engagement/> (last accessed September 2023).

¹¹⁵ Confidential complainant interviews.

There are also no appropriate mechanisms to raise concerns about the project. Community complainants report that even people who have suffered direct harm from construction activities, such as cracks in their homes due to blasting, do not know where to complain and have not received any compensation or other remedy.¹¹⁶ PT Indo Raya Tenaga’s website, which is only available in English, has an online grievance form, but it requires a person to disclose their full name, identification number, gender, phone number, email address and location.¹¹⁷ While a complainant can tick a box indicating that they want to raise a grievance anonymously and/or request that their identity be kept confidential, there is no information about how this information will be safeguarded and selecting these options does not remove the requirement that a complainant disclose all the above-listed information. Community complainants have requested confidentiality in the CAO process precisely because they fear retaliation against themselves and/or their family members for filing this complaint. Workers report that they are also unable to raise complaints about working conditions for fear of being fired. Similarly, as described below, many families who received eviction notices experienced intimidation. Under these circumstances, even if complainants or other community members knew about and could access the company’s English-only grievance form, they would likely not feel comfortable doing so.

In this context, it is impossible to determine that the project benefits from the type of Broad Community Support required by the IFC’s Sustainability Policy,¹¹⁸ despite assertions in the EIA documents and on the company’s website that the public is overwhelmingly in favor of the project. Nor is there any evidence that IFC, or Hana Bank Indonesia, took steps to investigate and ensure themselves that PT Indo Raya Tenaga had undertaken an Informed Consultation and Participation process compliant with the Sustainability Policy requirements.

F. Failures to Fully Assess and Mitigate Environmental and Health Hazards, including Climate Impacts

Taken together, IFC PS 3 (Resource efficiency and pollution prevention), PS 4 (Community health, safety and security) and PS 6 (Biodiversity, conservation and sustainable management of living natural resources) require clients to avoid and reduce harm to the natural environment and associated impacts on community health and livelihoods. Clients must use the best resource efficiency and pollution prevention techniques feasible for the project,¹¹⁹ including with regard to GHG emissions,¹²⁰ and must follow good international industry practice to avoid or minimize impacts on community health and safety.¹²¹ Additionally, project impacts on priority ecosystem

¹¹⁶ Confidential complainant interviews.

¹¹⁷ PT Indo Raya Tenaga website: Grievance Form: <https://www.irt.co.id/2019/10/grievance/> (last accessed September 2023).

¹¹⁸ See IFC Sustainability Policy at ¶ 30.

¹¹⁹ IFC, Performance Standard 3: Resource Efficiency and Pollution Prevention, ¶¶ 4-5 (1 January 2012), available at: <https://www.ifc.org/content/dam/ifc/doc/2010/2012-ifc-performance-standard-3-en.pdf> (last accessed September 2023) [hereinafter, “IFC PS 3”].

¹²⁰ *Id.* at ¶ 7.

¹²¹ IFC, Performance Standard 4: Community Health, Safety, and Security, ¶ 5 (1 January 2012), available at: <https://www.ifc.org/content/dam/ifc/doc/2010/2012-ifc-performance-standard-4-en.pdf> (last accessed September 2023) [hereinafter, “IFC PS 4”].

services used by affected community members should be avoided or mitigated in a way that maintains the value and functionality for communities.¹²²

The publicly available EIA documents provide little assurance that the Java 9 and 10 project is compliant with any of these requirements. The following examples describe some of our most pressing concerns in this regard, although they do not capture all of the project's deficiencies.

a. Air pollution

Before Indonesia adopted new emissions standards in 2019, its air pollutant standards allowed 10-20 times more air pollution than many international standards.¹²³ Even the updated 2019 standards, which are a significant improvement over the old standards, are less stringent than standards for thermal power plants in China, India or the European Union, and Indonesia does not even require monitoring for mercury, despite its known dangers to public health.¹²⁴ The implications of these weak standards for human health are devastating. One recent study found that air pollution from already operational coal-fired power plants in Indonesia is responsible for an estimated 2,500 deaths each year in the greater Jakarta area alone, which does not include Cilegon City or other areas located in closer proximity to the plants.¹²⁵ Modeling by Greenpeace suggests that the new Java 9 and 10 units will cause between 2,400 and 7,300 premature deaths over a 30-year lifespan.¹²⁶

Yet, the EIA's assessment of the project's NO_x, SO₂ and PM emissions is limited to an analysis of their compliance with Indonesia's old emissions requirement, and it fails to analyze mercury emissions at all, because these are not regulated in Indonesia. As mentioned above, the assessment of emissions-related health impacts lacks any depth and makes no attempt to quantify the impacts. Moreover, the EIA's air quality baseline data, apparently taken from monitoring reports for existing Suralaya units,¹²⁷ lacks credibility, considering reports that the company's air quality monitoring is nonexistent.¹²⁸ Further, even if the monitoring locations are in place and fully operational, the EIA does not provide any detailed information about how or when or over what timeframe results were collected.¹²⁹ Finally, the conclusion that the existing air quality conditions are good and that the atmosphere is still able to "self-purify" is entirely at odds with the lived experience of complainants and other community members. In other words, the assessment of air pollution and its public health impacts is seriously deficient.

¹²² IFC, Performance Standard 6: Biodiversity Conservation and Sustainable Management of Living Natural Resources, ¶¶ 24-25 (1 January 2012), available at: <https://www.ifc.org/content/dam/ifc/doc/2010/2012-ifc-performance-standard-6-en.pdf> (last accessed September 2023) [hereinafter, "IFC PS 6"].

¹²³ CREA report at 21.

¹²⁴ *Id.* at 22.

¹²⁵ *Id.* at 23.

¹²⁶ Greenpeace Health Impacts report at 7.

¹²⁷ See EIA at § 2.1.2(D)(1) Ambient Air Quality.

¹²⁸ See Adi Renaldi, China Dialogue (noting that investigation of one claimed monitoring device on a nearby hill "revealed it to be a barrel of water and a sheet of cloth"); see also Trend Asia report at 18 (noting the absence of air quality monitoring at specific air pollution-prone points identified by the Cilegon City Department of Environment).

¹²⁹ See EIA at § 2.1.2(D)(1) Ambient Air Quality.

The air pollution mitigation measures described in the Environmental Management Plan include planting trees, doing routine maintenance and using technology such as an electrostatic precipitator and a seawater flue gas desulfurization (FGD) system.¹³⁰ There is no analysis, however, of the expected efficacy of the proposed mitigation measures, no discussion of other available mitigation technologies that are not being used, and no mention of potential risks of the identified mitigation measures. For instance, while FGD technology does significantly reduce SO₂ emissions, it can lead to other impacts not accounted for in the EIA, such as the discharge of mercury into the marine environment and the atmosphere.¹³¹ EHS Guidelines for power plants note that impacts on the marine environment of seawater FGD systems “need to be carefully examined.”¹³² Yet, despite the fact that community consultations revealed concerns about the project’s impact on the livelihoods of local fisherfolk,¹³³ the EIA does not so much as mention that the FGD system could have negative impacts on the marine environment. In fact, the EIA Framework claims that “the addition of these substances into seawater still has no effect on the balance of seawater.”¹³⁴

The complainants, who already live next to the most polluting industrial complex in all of Southeast Asia,¹³⁵ are left with no concrete idea what the air pollution impacts of the Java 9 and 10 project will be, and there is a significant risk that one of the main mitigation measures will exacerbate the project’s negative impacts on ecosystem services and related local livelihoods.

b. Toxic waste management and ash disposal

As mentioned above, local residents have already suffered from toxic dust storms, when wind blows large quantities of poorly managed toxic waste into residential areas.¹³⁶ Complainants are therefore concerned about the lack of information in the EIA regarding waste management, especially management of the ash disposal area. According to the EIA Framework and the 2017 EIA, the 15-hectare ash disposal area proposed for Java 9 and 10 would be at capacity in less than 2 years,¹³⁷ yet the EIA does not provide any details about how ash disposal will be managed after that point. The 2018 EIA Addendum identifies the need to construct a new ash disposal area on a separate site, referencing four possible locations,¹³⁸ but it fails to provide any in-depth analysis of any of the alternative sites. Moreover, neither the EIA nor the EIA Addendum provides any details about how the disposal area will be maintained or how fugitive emissions will be controlled. Overall, there is a significant lack of clarity regarding where the project’s toxic ash will be stored and how the surrounding environment and community will be protected from harm. In fact, one newspaper article reported that when a local resident sought more

¹³⁰ Environmental Management and Monitoring Plans, Table 2.1 Environmental Management Plan Matrix, Operation Stage, No. 1 Decline Air Quality.

¹³¹ See, e.g., Lumin Sun, Shanshan Lin, Lifeng Geng, Shuyuan Huang and Dongxing Yuan, *The distribution and sea-air transfer of volatile mercury in waste post-desulfurization seawater discharged from a coal-fired power plant*, Environmental Science and Pollution Research 20, 6191-6200 (2013).

¹³² IFC EHS Guidelines for Thermal Power Plants at 4.

¹³³ See EIA Framework at § 2.2.1.4(D) Public Perception and § 2.2 Results of Community Engagement.

¹³⁴ *Id.* at § 2.1.3.3(2)(F)(d) Waste Gas Emissions; see also *id.* at § 2.1.3.3(2)(F)(a) Wastewater.

¹³⁵ CREA report at 21.

¹³⁶ See Trend Asia report at 7.

¹³⁷ EIA Framework at § 2.1.3.3(2)(E)(c) Ash Disposal Area; EIA at § 1.1.3.3(2)(E)(c) Ash Disposal Area.

¹³⁸ See, e.g., EIA Addendum at § 1.2 Consideration of Proposed Changes to Environmental Permits and § 2.1.4.2(3) Construction of Supporting Infrastructure for Power Plant.

information about waste disposal at a company meeting in 2019, he was told that decisions about waste disposal had not yet been made.¹³⁹

Ash disposal areas carry major environmental and community health risks, yet the EIA documents provide no information about the standards that will be used for the disposal area. Moreover, given that the location of the project is in an area with both earthquake and tsunami risks, the due diligence documents should have assessed the risks associated with a breach of the disposal area, which could be catastrophic. Yet, while the EIA notes that the project is in an Earthquake Hazard Area with related tsunami risks, it makes no attempt to analyze any risks associated with earthquakes and claims that the specific project location is outside the tsunami risk zone.¹⁴⁰ There is no publicly available information to suggest that the project has appropriately assessed and mitigated against risks associated with day-to-day management of ash and other toxic waste, not to mention the risks associated with potential natural disasters.

c. Seawater quality and marine life

Impacts on the marine environment from the Suralaya Complex and other industry in the area are already taking a serious toll. In fact, all of the EIA documents note that the coral reefs in the area, which are tourist attractions and support fishing activities, are declining in quality and face numerous threats, including threats related to seawater pollution and the temperature of waste water being discharged into the sea from existing power plants.¹⁴¹ Complainants and other community members note that traditional fishing livelihoods have already been negatively affected by this situation, and they fear that these impacts will worsen with the operation of Java 9 and 10. Yet, although the EIA documents paint a fairly bleak picture of the environmental degradation already present in the marine surroundings, they nonetheless fail to rigorously assess the impacts of Java 9 and 10 on seawater quality, marine life or fishing livelihoods.

For instance, although the EIA identifies seawater temperature increase as a significant negative impact of the project, it claims, without any rigorous analysis, that the 5-7 degree Celsius difference in temperature between the natural seawater and the water discharged is still “within the tolerance level of aquatic life.”¹⁴² The EIA does not include any assessment of different discharge options or alternative cooling systems. Given that even slightly increased temperatures can cause significant impacts on complex aquatic systems, the EIA’s mere assertion that aquatic life will be able to tolerate the temperature difference falls far short of complying with IFC Performance Standards nor the EHS Guidelines for Thermal Power Plants.¹⁴³

Relatedly, the EIA also fails to account for numerous potential negative impacts on seawater quality and marine life associated with coal transport. Coal for Java 9 and 10 will be transported

¹³⁹ Adi Renaldi, China Dialogue.

¹⁴⁰ See, e.g., EIA at § 1.1.3.3(2)(H) Disaster Emergency Response System and § 2.1.2(B) Geology.

¹⁴¹ See EIA Framework at § 2.2.1.3(b)(3) Coral Reefs; EIA at § 2.1.3(B)(4) Coral Reefs; EIA Addendum at § 3.1.4.3(1) Aquatic Biota.

¹⁴² See EIA at § 3.2.3 Disturbance of Aquatic Biota.

¹⁴³ See IFC EHS Guidelines for Thermal Power Plants at 10 (explicitly requiring thermal discharge systems to be designed to present negative impacts and avoid endangering sensitive areas or significantly impacting breeding and feeding habits of local organisms).

from Sumatra and/or Kalimantan by ship or barge¹⁴⁴ and unloaded at the project's new jetty.¹⁴⁵ As mentioned above, there is a history in the area of coal barges causing serious negative impacts, including catching on fire and spilling coal and coal dust in the sea.¹⁴⁶ Complainants fear that pollution caused by coal barges contributes to the declining fisheries in the area, with subsequent impacts on local livelihoods. Yet, neither the EIA or EIA Addendum (which assesses impacts related to construction of the new jetty for coal transport) include any analysis of the risks or impacts associated with coal transport for the project, nor do they propose any mitigation measures.¹⁴⁷

Finally, the EIA Addendum's assessment of impacts related to construction of the new jetty leaves many questions unanswered. For instance, there is no detailed description of what construction of the jetty will entail, including whether dredging will be necessary and what the impacts of any dredging would be. The management plan for addressing damage to coastal ecosystems references "specialized studies" that still need to be performed and makes no attempt to assess the feasibility of "replacing" damaged ecosystems, which is one of its main mitigation measures.¹⁴⁸ Moreover, the document makes no attempt whatsoever to assess how damage to the coral reefs, seagrass and other marine life will impact fisheries and fishing livelihoods.

d. Elimination of green space and community recreation areas

The EIA Framework specifically acknowledges that the project will eliminate a green open space and a protected area, without providing details about the size or significance of either.¹⁴⁹ In fact, the EIA notes that the land use designation of the area has to be changed to accommodate the project.¹⁵⁰ The EIA Framework proposes to replace the lost green area of the hill being leveled by the project with a 4-hectare area in front of the already operational units of the Suralaya complex, but does not provide any further detail.¹⁵¹ Similarly, the EIA Framework acknowledges that the project will destroy public and social facilities at Kelapa Tujuh beach (although it fails to clarify that the project will, in fact, destroy the entire beach), without any explanation of how these impacts will be mitigated.¹⁵² The EIA itself does not analyze these impacts at all.

The EIA Framework's summary of the results of the two public consultations demonstrate that community members asked the project proponent to offset the project's impacts with green open space, but it is not clear from the document how the company responded to this concern.¹⁵³ Community complainants are surrounded by industrial development, and they are concerned

¹⁴⁴ EIA Framework at § 2.1.3.3(2)(A)(1)(a) Coal.

¹⁴⁵ EIA Addendum at § 2.1.4.2(3) Construction of Supporting Infrastructure for Power Plant.

¹⁴⁶ Trend Asia report at 16, 20; Seulki Lee, Eco-Business.

¹⁴⁷ The absence of any risk analysis associated with coal transport is particularly striking given that the EIA *does* mention in its brief section on cumulative impacts that an environmental risk associated with Unit 8 was spillage of coal during the transfer from ship to the coal stockpile. EIA at § 2.2(II) PLTU I Suralaya Unit 8.

¹⁴⁸ EIA Addendum at Table VI.1 Matrix of Environmental Management Plan, II(B)(B.1) No. 4 Coastal Ecosystem Disturbance.

¹⁴⁹ EIA Framework at § 2.1.2 Suitability of Business and/or Activity Plan Location with Spatial Planning.

¹⁵⁰ EIA at § 1.1.2 Conformity of the Location of the Business Plan and/or Activity with the Spatial Plan.

¹⁵¹ EIA Framework at § 2.1.3.2(3) Land Preparation.

¹⁵² *Id.*

¹⁵³ *See* EIA Framework at § 2.2 Results of Community Engagement.

about the project's destruction of the already extremely limited green space and recreational areas, including the loss of Kelapa Tujuh beach, which was the only remaining accessible coastal area in their community, and the lack of access to the sacred Kahal Hill.

e. Climate impacts

IFC PS 3 specifically requires clients to consider alternatives and implement feasible options to reduce project-related GHG emissions.¹⁵⁴ Moreover, major GHG-emitting projects must quantify the GHG emissions annually.¹⁵⁵ The EIA includes calculations of the project's CO₂ emissions and an analysis of offsetting at least some CO₂ emissions through planting various types of vegetation.¹⁵⁶ It does not, however, include any alternatives analysis, nor does it attempt to assess the project's CO₂ emissions in the context of the global climate crisis. This is of grave concern, considering the particular vulnerability of Indonesia, a nation of over 17,000 islands, which is already suffering from extreme weather events such as floods, cyclones, fires and landslides. Climate change will only worsen the frequency, intensity and consequences of these events.¹⁵⁷ Jakarta is among the major cities in the world facing "unprecedented" climate shifts.¹⁵⁸

In the context of the excess capacity of the Java-Bali network, which makes the Java 9 and 10 project unnecessary in the first place, the failure of project proponents to conduct an alternatives analysis is particularly egregious. While the project will use ultra-supercritical technology, it will still produce significant GHG emissions, and feasible alternatives should have been considered. Complainants are vulnerable to the local repercussions of climate disasters, to which Java 9 and 10 will be contributing, as well as the national and global impacts.

G. Physical and economic displacement has been overlooked

In addition to the serious environmental and health consequences of Java 9 and 10, local residents have been physically displaced by the project without adequate information or compensation, and small-scale vendors and fisherfolk face economic displacement with no plan for how to restore their livelihoods. Moreover, further land acquisition will be necessary to construct the new ash disposal area, but there is no information regarding the current use of the potential alternative sites.

In recognition of the serious consequences of both physical and economic displacement, IFC PS 5 mandates that involuntary resettlement should be avoided whenever possible, and where it is unavoidable, it should be minimized and appropriately mitigated through careful planning and

¹⁵⁴ IFC PS 3 at ¶ 7.

¹⁵⁵ *Id.* at ¶ 8.

¹⁵⁶ See EIA at § 3.2.1 Air Quality Decline.

¹⁵⁷ The severity of these disasters is, in fact, already increasing. Data from Indonesia's disaster mitigation agency shows that the frequency of disasters such as floods and droughts have increased from 1,967 cases in 2014, to 3,721 cases in 2019. See Hans Nicholas Jong, *Indonesia won't 'sacrifice economy' for more ambitious emissions cuts*, Mongabay (14 April 2020), available at: <https://news.mongabay.com/2020/04/indonesia-emissions-reduction-climate-carbon-economy-growth/> (last accessed September 2023).

¹⁵⁸ *Id.*

implementation that includes the meaningful consultation and participation of those affected.¹⁵⁹ All such displacement should be identified as part of a project's environmental and social impact assessment, and mitigation measures must be recorded and published in a Resettlement Action Plan or a Livelihood Restoration Plan.¹⁶⁰

In stark contrast to these requirements, the Java 9 and 10 EIA documents barely mention the physical and economic displacement associated with the project and fail to include any information whatsoever about the scope of the impacts or planned mitigation measures. The documents acknowledge that the area in which the project is being constructed included company housing and that around five hectares of the land was owned by a combination of company employees who owned their housing and other third parties.¹⁶¹ The EIA Framework notes that the project proponent would acquire the land using a "persuasive approach...so as not to cause concern,"¹⁶² and the EIA repeats this assertion, adding that the land acquisition impact has been "managed" because land was owned by employees of the company and land acquisition could therefore be "carried out in a family manner."¹⁶³ This is entirely at odds with the data reported in a separate section of the EIA, noting that 20% of people surveyed were not willing to have their land acquired for the project.¹⁶⁴ Neither document provides any further details about the physical displacement of company employees, many of whom had lived there for decades. In fact, the EIA notes that potential for negative public health impacts caused by the demolition of employees' homes,¹⁶⁵ yet entirely fails to mention the impact of being forcibly evicted. To complainants' knowledge, there is no Resettlement Action Plan for the project.

One complainant reports that his family lacked concrete information about the company's plans to evict them up until the time the final decision was communicated, at which point residents felt they had to agree to the terms presented.¹⁶⁶ Residents feared retaliation if they fought the eviction or sought better terms. The compensation received was insufficient to purchase equivalent housing in the area.

The approach to land acquisition described in the EIA Addendum is simply to reference Indonesian laws on land acquisition for public interest.¹⁶⁷ The document also suggests that because people will be paid for their land, the impact of land acquisition will be positive.¹⁶⁸ In clear violation of the requirements of IFC PS 5, there is no other analysis of this land acquisition and no known Resettlement Action Plan.

The EIA documents are similarly dismissive of the economic displacement caused by the project in complete contravention of the IFC PS 5 requirements that projects must anticipate, avoid and minimize economic displacement, provide appropriate compensation and improve, or at least

¹⁵⁹ IFC PS 5 at ¶ 2.

¹⁶⁰ *Id.* at ¶¶ 4, 14.

¹⁶¹ EIA Framework at § 2.1.3.1(2) Land Acquisition; EIA at § 1.1.3.1(2) Land Acquisition.

¹⁶² EIA Framework at § 2.1.3.1(2) Land Acquisition.

¹⁶³ *See* EIA at § 1.1.3.1(2) Land Acquisition and § 1.2.2 Evaluation of Potential Impacts.

¹⁶⁴ EIA at § 2.1.4(D) Community Perception.

¹⁶⁵ *See* EIA at § 3.1.8.2 Due to Land Preparation.

¹⁶⁶ Confidential complainant interview.

¹⁶⁷ *See* EIA Addendum at § 2.1.3.1(1) Land Acquisition.

¹⁶⁸ *See* EIA Addendum at § 4.3.2 Evaluation of Potential Impact.

restore, the livelihoods of those who have been economically displacement.¹⁶⁹ The EIA Framework acknowledges in passing that commercial buildings and public and social facilities, including mosques and health clinics, will be destroyed by the project,¹⁷⁰ but fails to provide any analysis whatsoever of the related impacts for local residents and their livelihoods. It also notes that there is some small-scale farming in the area,¹⁷¹ again without analysis of whether the project will affect these activities. Without an accurate and detailed analysis of the baseline for affected communities' livelihoods, adequate implementation of IFC PS 5 in relation to restoration of livelihoods is impossible.

Brief descriptions of public comments about the project demonstrate that community members raised several specific concerns about economic displacement related to the project. In particular, among other livelihood related ideas, they urged the project proponent to ensure that fisherfolk still had access to the areas they used for fishing and traders from Kelapa Tujuh beach be provided an alternative location that would still be attractive to tourists.¹⁷² Yet, nowhere does the EIA Framework clarify whether or how the project proponent plans to take these recommendations onboard. The document's livelihood-related content is limited to a statement that PT Indonesia Power requires contractors to prioritize local workers during construction,¹⁷³ and a brief description of the company's past corporate social responsibility (CSR) programs.¹⁷⁴ Hiring local construction workers and continuing the company's CSR programs do not come close to a Livelihood Restoration Plan.

The EIA does no better. It notes, for instance, that the local community has been allowed to plant seasonal crops and do small-scale farming of livestock on the land to be developed for the project, and that there are trees of economic value for the community,¹⁷⁵ yet at no point does it acknowledge the impacts on farmers and other community members of eliminating their access to this land. The Environmental Management Plan includes a brief reference to providing fisherfolk with access to the sea,¹⁷⁶ but without any acknowledgment of the fact that their prior access, via Kelapa Tujuh beach, is being destroyed by the project. Instead, this is mentioned as a mitigation measure aimed at helping to ensure a positive community perception of the project.¹⁷⁷ The only other references to economic or livelihood impacts from the project are positive, in terms of employment and creation of new business opportunities.

PT Indo Raya Tenaga's website pays lip service to IFC PS 5, but does nothing to actually correct the deficiencies in the project's due diligence documents. Specifically, a section of the website describing site visits by lenders says:

¹⁶⁹ See IFC PS 5 Objectives and ¶¶ 25-29.

¹⁷⁰ EIA Framework at § 2.1.3.2(3) Land Preparation.

¹⁷¹ EIA Framework at § 2.2.1.3(A) Land Biota.

¹⁷² See EIA Framework at § 2.2.1.4(D) Public Perception; see also *id.* at § 2.2 Results of Community Engagement.

¹⁷³ EIA Framework at § 2.1.3.2(1) Mobilization of Construction Workforce.

¹⁷⁴ EIA Framework at § 2.1.3.3(2)(I) Corporate Social Responsibility (CSR).

¹⁷⁵ EIA at § 2.1.3(A) Land Biota.

¹⁷⁶ Environmental Management and Monitoring Plans, Table 2.1 Environmental Management Plan Matrix, Construction Stage, No. 9 Changes in Community Perception and Operation Stage, No. 7 Changes in Community Perception.

¹⁷⁷ *Id.*

IRT, as the owner of [t]he Coal Fired Steam Power Plant (CFSP) Jawa 9 & 10, is ultimately accountable for the management and supervision of all Project activities as part of the lender process. This responsibility includes all activities to ensure environmental and social performance objectives achievement as accordance to the International Finance Corporation (IFC) PS 5 protocol.

Several visits conducted by lender reviewers have been doing in the area to see the steps taken in compliance to the IFC standards. These includes visiting community, fishermen, land owners, and land users altogether seeing the development progress in the area of Suralaya and Lebakgede.¹⁷⁸

However, there is no further information about how the project will achieve the IFC PS 5 requirements. At the bottom of the page is a link to download the project's Stakeholder Management Plan, but there is no mention of a Livelihood Restoration Plan or a Resettlement Action Plan. Moreover, the site does not actually provide access to the Stakeholder Management Plan unless a form is filled out that requires the user to input their full name, identification number, gender, phone number and email address. As mentioned above, in the context of community complainants' significant retaliation concerns, these requirements essentially make the document inaccessible, as attempting to access it would fully expose the identity of the requester.

IV. Efforts to raise concerns about the project

As described above, and despite the risk of retaliation, complainants and other concerned community members have attended local meetings and participated in local protests in an attempt to raise concerns about the significant risks posed by the project, as well as the overall lack of transparency regarding the project's impacts. The response has been dismissive at best. At times, community members have faced intimidation and retaliation as a result of raising concerns, and many fear to speak out.

Complainants and other local community members have also worked with national and international civil society organizations in an attempt to raise awareness among financiers of the project about serious flaws in the project's environmental and social assessments and the project's contribution to the climate crisis. Attempts include: the August 2019 petition from three local residents to the Korean Prime Minister and the Chairman of the Korean Climate and Clean Air Council urging them to cancel funding for the project; the related lawsuit filed in the Central Korean court against Korean public financial institutions; and a series of protests in both Banten and in Jakarta at the Korean embassy.

¹⁷⁸ PT Indo Raya Tenaga website: Stakeholders Management Plan: <https://www.irt.co.id/stakeholders-engagement/> (last accessed September 2023).



Dhemas Reviyanto/Trend Asia



Dhemas Reviyanto/Trend Asia

Residents from Banten along with activists from WALHI Jakarta, PENA Masyarakat, Greenpeace Indonesia and Trend Asia in front of the South Korean Embassy, Jakarta (June 2020)

International efforts also include numerous attempts to engage the IFC about the project. This began in Fall 2020 when communications with IFC, in the lead up to publication of a report regarding implementation of the IFC’s Green Equity Approach, revealed that IFC was apparently unaware of Hana Bank Indonesia’s July 2020 investment in Java 9 and 10. After that exchange, Trend Asia and various international civil society organizations sent IFC management a formal letter raising concerns about the project¹⁷⁹ and have also held a number of meetings with IFC. Additionally, Trend Asia and other organizations have continued to alert IFC and other stakeholders about Java 9 and 10 through various reports, panel events, letters and meetings. These efforts have ultimately been unsuccessful, given that the project has continued moving forward despite numerous, blatant compliance violations.

V. Outcomes sought

The Complainants believe that, given the excess electrical capacity in the network and the truly unlivable conditions already being caused by dozens of nearby power plants and other polluting industries, the project should be stopped immediately or, if that is no longer possible, should be retired as early as possible. They believe that there is no possibility that the Java 9 and 10 project could ever be brought into compliance the IFC’s Sustainability Policy or its Performance Standards. Nonetheless, they request that the CAO conduct a full investigation into the policy violations and make recommendations to:

- Fully redress the harm that has already been suffered as a result of the project; and
- Redesign the project to fully mitigate and compensate for harm, to bring the project as close to full compliance with the IFC PS as possible.

Moreover, if the CAO’s investigation and recommendations, along with a corresponding Management Action Plan, are ultimately unsuccessful in bringing the project as close as possible to full compliance with the IFC PS, IFC should take whatever steps are necessary to ensure that it is no longer exposed to the project, including by divesting from Hana Bank Indonesia.

More broadly, and as clarified in the CAO 2021 Policy, the CAO’s purpose includes enhancing the environmental and social performance of IFC. Moreover, IFC also has an integral role to play in terms of accountability, resolution of complaints and ensuring environmental and social compliance and performance. In that context, complainants believe that this complaint offers an important opportunity to reflect on IFC’s Green Equity Approach and lending policies and practices more widely.

Complainants want to ensure that any remaining loopholes that would allow IFC to indirectly finance a new coal project via financial intermediary clients in the future are closed. While the IFC’s 2023 update to the Green Equity Approach – which will prevent clients investing in new coal – is welcome, this approach is not mandatory, as it is not a policy. Furthermore, it does not

¹⁷⁹ See 15 January 2021 letter from Kate Geary, Recourse; Yuyun Indradi, Trend Asia; and Sejong Youn, Solutions for Our Climate to Peter Cashion, Global Head Climate Finance, IFC, attached as Annex 3. The IFC’s response focused on implementation of the Green Equity Approach and did not address the concerns raised about Java 9 and 10. See 29 January 2021 email from Peter Cashion to Kate Geary, attached as Annex 4.

cover instances of captive coal power, nor does it prevent clients underwriting bonds for new coal projects. Finally, it is unclear how IFC will apply this approach to existing clients, with whom it has no new business, who are still investing in new coal.

The complainants also request that, in addition to developing a robust Management Action Plan in response to the CAO's compliance investigation, IFC also update its approach and policy framework to ensure it aligns with the Paris Agreement's goal of limiting global warming to 1.5 degrees Celsius – which necessitates no more public finance for fossil fuels. IFC must use its leverage with Hana Bank Indonesia (and indeed with all of its clients) to ensure no more financing of coal projects, and it must revise its Green Equity Approach and Paris alignment methodology accordingly. Moreover, it must increase transparency requirements so that both IFC and affected communities are aware, in advance, if an IFC client is considering providing support for fossil fuel projects.

[Signatures attached separately]