

Theun-Hinboun Update: A Review of the Theun-Hinboun Power Company's Mitigation and Compensation Program

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EXECUTIVE SUMMARY

In September, 2000 the Theun-Hinboun Power Company (THPC) released its Mitigation and Compensation Program (MCP) Report.¹ The MCP was prepared as part of the company's obligations under its loan and concession agreements with the Asian Development Bank and Government of Laos (GoL) and followed almost three years of mounting evidence of serious livelihood impacts occurring to local citizens in the project area. This briefing paper was commissioned by International Rivers Network in order to provide an update on the situation at Theun-Hinboun and to review and provide some analysis of the THPC's proposed Mitigation and Compensation Program. Some references are made to the recently released findings of the World Commission on Dams and their applicability to Theun-Hinboun.

The Theun-Hinboun Hydropower Project has been plagued with controversy from its inception due to concerns over its poor decision-making process, inadequate EIA, conflicts of interest, and potential for severe environmental and socio-economic impacts. Shortly after the closure of the dam in early 1998, villagers began suffering increasingly severe impacts to their livelihoods from the project. These impacts have included the loss of fisheries, flooded vegetable gardens, loss of drinking water supply, lowered water tables, impaired boat and pedestrian access to surrounding areas, inundated agricultural lands, bank erosion, and the loss of fishing equipment. This has created great hardships for thousands of local people—reducing their food security, cash income, and overall quality of life. The THPC and the ADB initially refused to acknowledge these impacts. But by late 1998, following overwhelming evidence from both outside sources and the THPC's and ADB's own consultants, the ADB publicly acknowledged for the first time that local people were being seriously harmed by the project. The provision of timely and adequate compensation to all affected villagers was promised by the ADB.

Unfortunately, what followed was a series of delays, poor process, and apparent stalling by the THPC. A survey of the impact zone, which was to begin immediately, was delayed. When it did occur it was of such poor quality that it was of limited use. By August 1999, villagers were frustrated and angry with the project's performance and lack of progress on compensation. A November, 1999 ADB mission admitted the survey had been of little use, the THPC was failing to meet expectations regarding compensation measures, and that local people were suffering serious impacts. Finally, the THPC released its Mitigation and Compensation Program report in September, 2000.

¹ Theun-Hinboun Power Company, *The Theun-Hinboun Power Company's Mitigation and Compensation Program*, Vientiane, 2000

The MCP Report outlines a ten-year \$2.74 - \$4.65 million program, to be implemented by the restructured Environmental Management Division (EMD) of the THPC. The report outlines the environmental and social impacts—and proposed mitigation and compensation measures—for the lower Kading River area, the “Headpond” area, and the downstream Hai/Hinboun rivers. In the report the THPC acknowledges a somewhat more realistic estimate of the extent of the project’s environmental and socio-economic impacts, providing estimates of impacts to fisheries, water supply, gardens, and boat and walking access for thousands of households. Severe damage to fish migration routes and aquatic and riverbank/island habitats and wild fish populations along the Kading River (in the Nam Kading National Biodiversity Conservation Area) is also acknowledged.

While some positive measures have been initiated, there are many serious concerns with the MCP. These include:

- **Lack of Accountability to Local Citizens:** Villagers do not appear to have had sufficient opportunity to give input into proposed mitigation and compensation measures or to formally approve of the MCP plan. The MCP provides no system for affected villagers to hold the THPC accountable for its actions. No allowance is made for independent verification of whether the MCP is performing adequately to the satisfaction of local people. This is contrary to recommendations made by the WCD.
- **Failure to establish criteria for evaluating project impacts:** The ADB and THPC may still be underestimating project impacts in some areas. It is unclear why the households in the lower Nam Kading watershed are listed as only suffering “mild impairment” to their fisheries as outside reports have suggested severe impacts are occurring. The MCP fails to provide detailed information on what methodology and criteria it used for evaluating impacts.
- **Misallocation of resources to consultants and officials instead of villagers:** Approximately three quarters of the “definitive or probable” MCP budget will be spent on further studies, assessments, plans, and monitoring. Most of the remainder is for development initiatives of uncertain benefit to local people. Only \$137,500—for the purchase of water pumps for gardens—is allocated as direct compensation to villagers. The “contingent” budget may provide additional funding for direct compensation but no firm commitments are made.
- **Failure to recognize citizen’s rights to direct compensation for fishery losses:** The MCP, using a flawed rationale, fails to provide any direct financial compensation to villagers who have suffered from lost food security and cash income due to the destruction of their fisheries. The MCP proposes to make villagers wait—possibly up to ten more years—for unclear benefits to materialize from fish ponds and other development initiatives in order to make up for the harm inflicted on their livelihoods. Permanent losses require permanent solutions and direct compensation will have to be provided. Compensation must be retroactive to the time of dam closure and should continue through the life of the project unless it is proven that alternative and sustainable food production and income generating opportunities have already been successfully provided to affected villagers to their satisfaction.

- **Reliance on Risky Development Initiatives Without Substantiating Claims of Future Benefits:** The MCP makes claims of future benefits without any substantiation or evidence that those benefits will in fact materialize. The MCP proposes aquaculture as the solution to the loss of wild fisheries even when the THPC's own fisheries consultant warns that this is a risky strategy not appropriate for the Theun-Hinboun area.
- **MCP proposes to cutoff downstream flow:** The THPC wants to renege on its commitment to allow a minimum 5 cumecs of water to flow downstream into the Nam Kading—through a conservation area and past villages already suffering from the impacts of lowered water levels. The THPC claims revenues gained will be used to fund the MCP, but no commitments to expend additional funds on compensation beyond what THPC has already committed to do are provided. Eliminating the minimum flow can be expected to further harm the ecology of the Nam Kading and would exacerbate all of the negative impacts being experienced by villages in the lower Nam Kading basin, creating the need for yet more compensation and mitigation.

There are other concerns with the MCP, including contradictory plans regarding fish pass construction, the failure to fairly assess 1996 flood damage upstream of dam, and the continued problems and misunderstandings at Ban Namsanam, the village situated next to the tailrace canal, and other villages that were forced to move as a result of the project.

While instituting a just system for compensating affected villagers is a long-overdue step for the Theun-Hinboun Hydropower Project, the flaws and inadequacies in the proposed MCP provide cause for concern. The MCP, as proposed, actually represents a step backwards in efforts to gain redress and justice for those Lao citizens now suffering impacts from the project for almost three full years. The loss of villager food security and cash income through impaired fisheries has not been remedied in any way. In effect, very poor rural villagers continue to subsidize the profits of the Theun-Hinboun Power Company. The project is in clear violation of ADB lending guidelines which state that local citizens should be left no worse off by their projects.

It is time for the donor countries to the ADB, along with the governments controlling Nordic Hydropower, to take a much stronger role. At a minimum, they should insist that:

- A comprehensive program of direct compensation to affected villagers be initiated immediately. This should include reparations for past damage, dating from the construction and opening of the project, and ongoing compensation. As recommended by the WCD, compensation should involve negotiated agreements with affected villagers and the development of systems of accountability through which villagers can hold the THPC responsible for project impacts and its performance in remedying them.
- An independent Environmental Impact Assessment be conducted to study what the impacts of the minimum flow in the Nam Kading have been up to this point. This

assessment could look at what changes could be expected by eliminating the minimum flow, as proposed by THPC, or—conversely—whether it should in fact be increased. Any future agreements regarding minimum flow should include direct negotiations with affected villagers over the management of their river systems.

- Full funding of all required mitigation and compensation measures be provided—through reorienting the existing MCP budget, from the ample profits of the THPC and/or through the ADB and Nordic agencies responsible for the promotion and approval of the project in the first place. While additional funding may be needed, this should not be at the expense of further socio-economic disruption and environmental destruction in the Theun-Hinboun region.
- A comprehensive and participatory post-project evaluation be undertaken. Such an evaluation would be timely as both the ADB and World Bank are looking at supporting new hydropower projects in Laos in the near future and it would be in accordance with new WCD recommendations.

December, 2000