

Analysis of Project 41924-014: Nam Ngiep 1 Hydropower Project, Lao PDR

July 2014

Project Proponent: Nam Ngiep 1 Power Company (NN1PC), comprised of Japan's Kansai Electric Power Company (45%), Thailand's EGAT International Company (30%) and the Lao Holding State Enterprise (25%)

Expected Project Cost: 900 million USD

Financing: Loans sought from the Asian Development Bank (ADB) and Japan Bank for International Cooperation (JBIC)

Power to be Generated: 290 MW; more than 90% for export to Thailand

Project Design: Main storage dam to be 148m high, with a 67km² reservoir; regulating dam to be 20m high

Location: Nam Ngiep River in the central provinces of Bolikhamxay and Xaisomboun, 40 km upstream from a confluence of the Mekong River

Population to be Involuntarily Resettled: Over 3,000 people, the majority of whom are Hmong and Khmu

Power Purchase Agreement: Draft MOU signed with Thailand's EGAT, August 2013

Concession Term: 27 years (Build-Operate-Transfer)

Construction Timeline: August 2014 to 2017/2018, with road construction and logging to clear the reservoir zone already underway

Key Concerns and Asian Development Bank Safeguard Violations:

Lack of Meaningful Consultation and Free, Prior and Informed Consent by Affected Indigenous Communities

- According to the ADB Safeguard Policy Statement: *“Meaningful consultation is a process that begins early in the project preparation phase and is carried out on an ongoing basis throughout the project cycle, (ii) provides timely disclosure of relevant and adequate information that is understandable and readily accessible to affected people; (iii) is undertaken in an atmosphere free of intimidation or coercion; (iv) is gender inclusive and responsive and tailored to the needs of disadvantaged and vulnerable groups; (v) enables the incorporation of all relevant views of affected people and other stakeholders into decision making.”*

In the case of Indigenous Peoples, the onus is on the developer to establish a “*context specific strategy for participatory and inclusive consultation*” and “*facilitate their informed participation*”

in matters affecting them directly, including mitigation measures, sharing of benefits and opportunities and implementation arrangements.” The developer is also required to seek the consent of affected Indigenous Peoples’ communities.

- According to International Rivers’ July 2014 field research in 23 of the villages to be affected by the project:
 - All villager interviews said that during village meetings, they understood a decision was already taken by the government for the project to proceed and that they were not in a position to withhold their consent for the project or question the proposal to build it. For instance, during discussions in villages located in the planned upper reservoir zone, statements included:

“During these meetings, the government and company meet with the village together and explain their plans. They want families to move. These families do not want to move! We have been here for many years. But when the government and company offer to build a project, village people like us, the ones who are impacted, can’t disagree. We can’t talk so much. We have to be careful of the questions we ask because the project is important for the government.”

“When the project was still being discussed, everyone was told by the government it will be good for us and for the country. Can we disagree in this situation? We cannot.”
 - Villagers said they do not clearly understand the project impacts and are concerned about the pending loss of land, decreases in the fish populations, and river changes. In each of the 23 communities, requests were made for meetings to be held that are inclusive of everyone where clear, understandable information about potential and expected impacts, compensation rates, as well as procedures in cases of operational failure, should be disseminated. Since past meetings usually only include one person per household, or the headman, women feel particularly uninformed and concerned.



Photo: *Downstream of the planned Nam Ngiep 1 Dam, July 2014. Credit: International Rivers*

Inadequate Consideration of the “No-Project Alternative”

- The ADB's Safeguards on the Environment require the examination of project alternatives and options for a “no project alternative” (Section D on General Requirements) prior to project approval. This provides decision makers and investors with key information about different ways to meet the identified need. This information underpins the decision to move forward or not with a project from an investment standpoint, and also provides affected communities with critical information.
- NNIPC’s Environmental Impact Assessment (EIA) evaluates the “no-project” alternative as inconsistent with “(i) the Greater Mekong Subregion energy strategy, (ii) Lao national development priorities, (iii) GOL policies for the power sector, (iv) the MOU signed between the GOL and the Government of Thailand, and (v) the MOU signed between GOL and the developer.” It also states that the “no project alternative” is not possible because a power purchase agreement has already been drafted and an MOU signed with EGAT.

The rationalization for the project is therefore based on reasoning that the project is already moving forward (prior to completion or approval of the EIA and resettlement action plan, and prior to fully informing or seeking the consent of affected indigenous people), and that it fits within national and regional development plans. The proponents fail to provide a credible analysis of different options available to provide approximately 4% of the 7,000 MW proposed for export to Thailand by 2020, or to meaningfully contribute to meeting national development priorities, including, for example, standards outlined in the Millennium Development Goals.

Inadequate Measures for Compensation

- According to the ADB’s Safeguard Policy Statement, compensation for acquired housing, land and other assets will be calculated at full replacement costs.
- According to villagers interviewed by International Rivers:
 - Compensation is being set at a rate villagers testify is lower than market standards. In the majority of interviews conducted, villagers said they have refused the initial offer of compensation. During a conversation with villagers who will have to resettle to make way for the project, the following was explained:

“We have lived in this place for more than thirty years; we have worked on the land, we don’t want to leave the land now. There is no way the compensation offered to us by the company can replace the livelihood we have.”
 - Land compensation will be evaluated based on whether the land has been cultivated for one or two years. Villagers do not understand the reasoning because they have cultivated the land for decades. An independent market survey of the land does not yet appear to have been done by NNIPC to fully evaluate project-induced asset losses.
 - In at least one village affected by road construction, land has been cleared by Obayashi, the company contracted by NNIPC’s, without the permission of the village and without compensation being provided. To date, neither Obayashi nor NNIPC have agreed to provide compensation.

Lack of Precautionary Approach

- Although NNIPC promotes the project as the most “environmentally-friendly” option for development in Laos, there is no factual evidence for their claim. Based on other examples of large dams in the region, experience shows that these projects can take a serious toll on the environment at the site of the reservoir (e.g., greenhouse gas emissions), as well as upstream, downstream and in the surrounding area (roads provide access for logging and wildlife hunting, critical habitats for fish and other aquatic organisms are destroyed, water quality becomes degraded, local aquifers dry up and productive riverbank areas are lost from erosion).
- Rather than taking a precautionary approach, NNIPC has taken the position that there will be minimal/no impacts downstream and upstream. As a result, villagers living upstream and downstream have evidently been told by company representatives that there will be no problems for them. However, they remain concerned that they do not have any information about possible pending impacts on the fish population, water levels, water quality or riverbank erosion and possible dangers of flooding if an engineering failure were to occur in the future.
- The dismissal of impacts on people living in either the downstream or upstream zones during construction, reservoir impoundment and operational stages, and the company’s resulting decision to not fully inform people or fund full mitigation measures are not backed by credible evidence. NNIPC’s plans do not reflect accepted industry best practices (World Bank Operational Policy 4.37; World Commission on Dams Guidelines (10, 12, 13, 15, 16, 17, 19)).
- The lack of precautionary approach in this case is further concerning because impacts may be exacerbated by other ongoing projects operating in the area, such as mining and industrial plantations.

Recommendations

All preparatory construction, road construction, reservoir clearance and resettlement should be halted until:

- Villager information sessions are held in each affected village both upstream and downstream of the project, without the presence of district, provincial or national government officials. Independent third party monitors should be invited as observers. Villagers should be informed with advance notice and specifically assured that the meeting is for everyone to join. During these meetings, clear, understandable information will be disseminated about the potential and expected impacts of the project during its lifetime, construction schedule, committed compensation rates (based on updated market studies), how compensation will be disseminated and commitments to livelihood and mitigation measures and respective timelines for the above. Commitments with regards to compensation, mitigation and livelihood support should be put in writing, and copies should be provided to each headman and village clan leaders. Information sessions should be extended until all villagers’ questions have been addressed.
- Thorough environmental and social baseline studies, including an updated examination of cumulative impacts in light of current upstream mining, and an independent market survey of the assets to be lost should be completed.