



To: ANZ, BNP Paribas, Bank of Tokyo-Mitsubishi UFJ, Crédit Agricole CIB, ING Group, KBC, Société Générale, Standard Chartered

Re: Full operation of Nam Theun 2 Hydropower Project in Lao PDR

March 29, 2010

Dear Mr. Smith,

We are writing to share our concerns about commercial operation of the Nam Theun 2 Hydropower Project. As you may know, the Nam Theun 2 Hydropower Project was financed in 2005 by the World Bank, Asian Development Bank, European Investment Bank and other financial institutions¹, including your bank, and began commercial operation on 15 March 2010.

The Nam Theun 2 Power Company (NTPC) began operating the project despite not having fulfilled key environmental and social conditions contained in the project's Concession Agreement with the Lao government and the World Bank resettlement policy. In order to avoid its legal obligations required by the time of "Commercial Operation", the Nam Theun 2 Power Company has misleadingly defined the current dam operation as "commercial export" of electricity.

Since the project started full operation, the water level of the upper Xe Bang Fai River has increased by 3.6 meters, as noted during International Rivers' visit to the area between March 15 and 17, 2010. As a consequence:

- The power company has warned communities living along the Xe Bang Fai not to drink the river water because it is contaminated. However, replacement groundwater pumps provided to communities are not functioning or the groundwater is unsuitable

¹ Eight Equator Principles Institutions (ANZ, Bank of Tokyo Mitsubishi UFJ, BNP Paribas, Crédit Agricole CIB, ING Group, KBC, Société Générale, and Standard Chartered) and seven Thai Banks (Bankgkok Bank, Bank of Ayudhya, Kasikorn Bank, Krung Thai Bank, Siam City bank, Siam Commercial Bank, and Thai Military Bank).

for domestic consumption, leaving many villagers with little choice but to use the river water.

- The villagers living by the Xe Bang Fai River also reported to International Rivers that fish have disappeared from the river since last week.
- Riverbank vegetable gardens along the Xe Bang Fai have been flooded by the rising river, but communities have not yet received compensation, in violation of World Bank policy.
- Serious erosion has been occurring downstream along the Xe Bang Fai River as a result of the fluctuating water levels since December 2009 when NTPC began test operations. No compensation for the riverbank gardens that were washed away has been paid to the villagers.

The villagers in Boeung Xe Village, in the middle Xe Bang Fai River, said “We are seriously concerned that water released from the dam will cause more severe flooding of our rice fields and tobacco gardens which are our main occupations. In the beginning, the company said they will build the infrastructure to avoid floods. But now they said they don’t have money to protect the river banks”. They are also concerned about drinking water because “when the company checked water from groundwater pumps in the village, water from all nine pumps was contaminated with iron. The company promised to find a solution for drinking water, but there is no solution yet.”

Key violations of the Concession Agreement and the World Bank Resettlement Policy

Failure to provide clean water supply

In the Concession Agreement, NTPC committed that “[a]lternative sources of domestic water of appropriate quality will be developed prior to the Commercial Operations Date” because “[w]ater quality in the Downstream Areas [of Xe Bang Fai River] may be affected, due to the degradation of the biomass submerged in the Reservoir (especially during the first few years)” (Concession Agreement, Section 4, Part 2: 120). Before beginning last week’s full operation, the company advised the villagers that they should not use the river water because it would be contaminated. However, only two groundwater pumps out of seven were working at the Navan Tai Village (on lower Xe Bang Fai River). At Mahaxai Tai Village (on upper Xe Bang Fai River), only two groundwater pumps were functional as of last week. The water color has changed to brown; however, many villagers have little choice but to continue using the river water.

No compensation payment before land loss

The World Bank safeguard policy on resettlement requires the Bank to ensure that “displacement or restriction of access [to assets] does not occur before necessary measures for resettlement are in place. [...] In particular, taking of land and related assets may take place only after compensation has been paid” (OP4.12 paragraph 10). However, at the villages International Rivers visited last week (Mahaxai Tai, Boeung Xe, Veunsananh, and Navan Tai), we found that no villagers had been compensated yet for their riverbank vegetable gardens, which had been flooded as a result of the project’s water releases.

No irrigation system

According to the Concession Agreement, NTPC must provide by 2008 “0.66 ha of cleared and irrigated land per [resettled] household [in the reservoir area], of which at least 0.16 ha is developed and can be used for paddy rice production” (Concession Agreement, Section 4, Part 2: 77). In addition, the World Bank and the Asian Development Bank’s letter to International Rivers dated October 22, 2009 confirms that irrigation facilities in the Nakai Plateau “need to be accomplished before the commercial operation date.” However, we are aware that the northern resettled households have not yet been provided with an irrigation system on their land.

The World Bank claims that the reservoir needs to be draw down in order to complete installation of the irrigation systems on the Nakai Plateau. The failure to complete irrigation systems before the reservoir was filled points to a fundamental problem with implementation of Nam Theun 2: that social and environmental programs have been given a lower priority than dam construction. If it is the case that the reservoir now needs to be drawn down to complete the irrigation systems, there should be a publicly available plan with a clear timetable for when all the irrigation systems will be complete, and villagers should continue to be given rice and food supports until such time as the irrigation systems are complete and it can be proven that the land can be cultivated to generate sustainable sources of income or food.

We believe that these are all serious violations of the Concession Agreement of the project and violations of the World Bank’s resettlement policy (OP 4.12). **The project is violating people’s human rights by preventing access to clean water and by destroying critical food sources without providing compensation.** As funders of Nam Theun 2, the Equator Principles Financial Institutions have an obligation to ensure that their requirements are upheld and that promises to Lao villagers are kept.

We call on the Asian Development Bank, the World Bank, the European Investment Bank and the Equator Principles Financial Institutions to take the following immediate urgent actions:

1. Suspend dam operation immediately until the commitments made under the Concession Agreement and the World Bank resettlement policy requirements are


proven to be fully met. An independent, rapid, transparent and accountable review process should be immediately initiated to determine whether the Nam Theun 2 Dam has complied fully with the requirements to be met before commercial operation commences, as committed to by NTPC, the Asian Development Bank, the World Bank, the European Investment Bank and the Equator Principles Financial Institutions. Such review must include not only the Concession Agreement, but also relevant the World Bank policy requirements in its scope.

2. Ensure that mitigation measures in the downstream Xe Bang Fai River are strengthened, including full compensation measures for riverbank gardens, water supply systems that function and alternative protein sources for lost fisheries, as well as flood prevention mechanisms and improvement of irrigation systems.
3. Ensure full and immediate public disclosure of water quality monitoring data currently collected by NTPC in the reservoir, downstream channel, Xe Bang Fai River, and Mekong River. An independent, regular, transparent, and accountable water quality monitoring in the reservoir, downstream channel, the Xe Bang Fai River, and the Mekong River should be initiated.

The Nam Theun 2 Dam is a controversial project as whilst the dam claims to contribute towards poverty reduction in Lao PDR, it has displaced more than 6,200 ethnic minority villagers around the reservoir area and will affect the livelihoods of over 120,000 people (more than 180 villages) living along a 155-km stretch of the Xe Bang Fai River from the dam's downstream channel to the river's confluence with the Mekong River. Most of the dam-affected population still heavily relies on natural resources for their livelihoods and, it remains a significant challenge to restore the livelihoods of these dam-affected people who may well be left worse off now the project is operating. Please also take a look at a short video program on NT2 (9 min.) on our website (<http://www.internationalrivers.org/en/risky-business>).

Thank you for your attention. We hope we can count on a response to this letter by April 9, 2010. Please reply to Sonja Willems at BankTrack.

Sincerely,



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For more information:

- Nine-minute video about Nam Theun 2: "Risky Business"
http://www.banktrack.org/show/dodgydeals/nam_theun_2
- Key issues to be addressed before Nam Theun 2 commercial operation (September 2009)
http://www.internationalrivers.org/files/NT2letter_090809.pdf
- BankTrack's webpage on the Nam Theun 2 Hydropower Project
http://www.banktrack.org/show/dodgydeals/nam_theun_2
- International Rivers website on Nam Theun 2 Hydropower Project
<http://www.internationalrivers.org/en/southeast-asia/laos/nam-theun-2>