

Mr. Hyo Sik Jang, CEO
Xe Pian-Xe Namnoy Power Company (PNPC)
6th Floor, Capital Tower, 23 Singha Road
Vientiane, Lao PDR

22nd July 2020

Re: Communities Displaced by the Xe Pian-Xe Namnoy Hydropower Project and Affected by the Project's Structural Failure on July 23rd 2018

Dear Mr. Hyo Sik Jang,

We are writing to follow up on a letter sent to the four shareholders of Xe Pian-Xe Namnoy Power Company on 11th June, 2020 with the enclosed questions on steps they are taking (separately and/or jointly) to fulfill the rights to remedy that are still due to people displaced by PNPC's hydropower project in Lao PDR, particularly those who lost their homes, livelihoods, belongings and friends or family following the collapse of Saddle Dam 'D' in July 2018.¹ As we have yet to receive a response from them, we are sending the questions to you directly, as the responsible CEO of PNPC, to request your clarifications on these matters.

As civil society organizations that remain attentive to the situation around the project and to the concerns of people in the surrounding communities, we have reviewed your company's correspondence and report responding to questions on the current human rights implications for affected populations expressed by a group of several UN experts.² Accordingly, we remain confident that the enclosed questions are yet to be addressed and as such, would like to receive clarifications from your company as per below:

1. What structural changes and processes have been put in place to provide assurances that further similar incidents will not happen in the future? In this regard, please provide the details:
 - (i) When and where will PNPC publicly disclose clear and detailed information in Lao, English and Korean languages on the causes of the collapse and the reinforcement measures for the project structure to ensure the long-term stability of each saddle dam (supported by evidence-based information regarding the integrity of the entire complex)?
 - (ii) What specific and timely communication systems are in place for alerting communities, not only in Lao PDR but also on the Cambodian side of the border, in case of any future structural failures?

¹ The original letter sent in June 2020 to PNPC shareholders was written as a follow-up to previous correspondence that Inclusive Development International, International Rivers and Mekong Watch sent in September 2019 calling for remedial actions to be taken, for which we are yet to receive a reply.

² UN OHCHR, "Lao dam disaster: UN rights experts call for justice two years on" (29 April 2020): www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25839&LangID=E.

2. What specific steps will be taken to ensure all project-affected people, both on the Bolaven Plateau, and downstream in Attapeu, are supported in resolving the lack of locally and culturally acceptable livelihood options as well as standards of living (housing, sanitation and other basic infrastructure) over the long term? In this regard, please explain in detail:
 - (i) The expected timeline for offering such support?
 - (ii) If and how PNPC will engage in an independently audited negotiation process through which the affected communities are actively consulted and engaged in developing durable plans for adequate land allocation?
3. Is your company willing to engage in a claims process for families who were affected by the breaching of Saddle Dam 'D' to allow them to recuperate the full worth of reported losses free of the threat of reprisals, in line with the right to remedy as outlined in the UNGPs and other international conventions? If so, please provide details on how PNPC will publicly and explicitly indicate its willingness to participate in such a process in good faith, in Lao, English and Korean languages.
4. We are aware that a liability insurance payment amounting to approximately \$50 million US has been made and is in the process of being disbursed. Is your company willing to disclose how PNPC is specifically taking responsibility to remedy the situation in line with international standards by publishing the amount of funds allocated and planned for dissemination to each affected village for: immediate relief support, resolving the temporary as well as permanent housing, infrastructure and food supply problems, and compensation offered to recuperate other household assets (including land) and lost livelihoods? In this regard, please provide detailed information about:
 - (i) Any mechanism(s) through which you are ascertaining that the funds are being dispensed appropriately and according to needs outlined above?
 - (ii) Whether, when and where we can expect to see an accessible, transparent database with the specific, itemized amounts of funds earmarked for the support, recovery and rehabilitation efforts as above, results achieved to date, and how remaining funds are expected to be allocated?
5. Are any further investments in infrastructure for the project's designated resettlement area in the Paksong District of Champasak Province ("Ban Chat San") expected, given the shortage of functioning latrines and water access points as well as homes lacking connections to the main electricity grid? If so, please provide any details about the plans, allocated funds and timeline expected.
6. Can we expect a public commitment from PNPC for engaging an independent third-party negotiation team of community facilitators with proven knowledge of local languages and cultural competence to address the concerns of the group of families whose subsistence relies on the land above the reservoir in Paksong District, Champasak Province? In this regard, please provide details on:
 - (i) When and where will a statement expressing this commitment be posted?

(ii) How such a plan will be executed in line with IFC Performance Standards³ so that the resolution will, at a minimum, ensure community access to land and resources in the surrounding area, while recognizing their customary rights – as indigenous peoples – over sacred areas of forest and burial grounds?

7. Please clarify whether downstream communities in Cambodia can expect any redress from PNPC for the losses incurred and their grievances resulting from the saddle dam collapse along with specific details and corresponding timelines for such plans.
8. Will a functioning and effective operational-level grievance mechanism that is accessible to – and trusted by – project affected people, consistent with the UNGPs and the IFC Performance Standards (to which PNPC has committed), be put in place? Please provide *timebound plans* regarding:
 - (i) How communities in both Champasak and Attapeu will be made fully aware of the ways in which they can access it?
 - (ii) If and how PNPC plans to:
 - (a) make anonymized records of all complaints (received and addressed) publicly accessible and subject to bi-annual public reporting, and
 - (b) engage a third-party independent monitoring team – in consultation with concerned civil society groups and the community's own selected representatives – to periodically verify the functionality, accessibility and use of this process?

We look forward to hearing a timely response. Thank you for the consideration. All follow up correspondence can be sent to: info@mekongwatch.org.

Sincerely,

Mekong Watch

International Rivers

Inclusive Development International

Korean Civil Society Task Force Team for the Xe-Pian Xe-Namnoy Dam Collapse

Extraterritorial Obligation Watch Coalition (Thailand)

Fair Finance Thailand

Laos Dam Investment Monitor

³ See: [IFC Performance Standard 7](#) on Indigenous Peoples (January 2012). We note PNPC's "Resettlement and Ethnic Peoples Plan" (Sept 2013) specifically references adherence to IFC performance standards: www.pnpc Laos.com/images/PDF/EnvSocialDoc/REPDP/Chapter1/REPDP_Chapter_1_Introduction_Final_Sept_13.pdf.