



September 11, 2006

Mr. Xaypaseuth Phomsoupha
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By email: xaypaseuth@laopdr.com

Dear Mr. Xaypaseuth:

Thank you for taking the time to meet with Ms. Aviva Imhof and myself on June 1, 2006. We enjoyed our discussions with you, Mr. Viraphonh Viravong and Dr. Somboun Manolom during our visit to Vientiane.

I am writing to inquire about the Government of Lao PDR's (GoL) implementation of the National Policy on Environmental and Social Sustainability of the Hydropower Sector, and about various hydropower projects currently under development in Lao PDR. In addition, I wanted to bring to your attention some outstanding issues facing communities affected by the Houay Ho Hydropower Project and the Nam Mang 3 Hydropower Project. Many of these issues arose from our trip to Laos in May-June 2006.

1. Implementation of the National Hydropower Policy

IRN commends the GoL for adopting the National Hydropower Policy. The Policy contains many worthy principles that are in the best interests of the government and people of Lao PDR. We would like to learn more about the Government's plans for implementation of the National Hydropower Policy and therefore would appreciate answers to the following questions:

- What is the process for the implementation of the National Hydropower policy? Which government agencies are responsible?
- What Ministry or Agency within the GoL is responsible for ensuring that existing hydropower projects comply with the National Hydropower Policy?
- What Ministry or Agency within the GoL is responsible for ensuring that future hydropower projects comply with the Policy?
- What penalties will be issued to project developers that are not in compliance with the Policy?

- What system will be set up to ensure that all relevant documents are disclosed in accordance with the Policy? Who will be responsible for ensuring documents are released in a timely manner and available to the public?
- The Policy states that additional guidelines on consultations will be issued. Have these guidelines been issued, and if so, could we have a copy?
- Has a procedure for Third Party Monitoring of all hydropower projects been set up as recommended in the Policy? Can you give us details of this procedure?
- When will the first annual Status of the Environment and Social Compliance Report be issued by the LNCE?
- When do you expect the detailed procedures and supporting decrees for implementing the Policy to be issued, as specified in Section 9 of the Policy?

2. Release of Environmental Impact Assessments and Social Development Plans & Consultation:

Section 1 of the Policy on Environmental Assessment states:

All large hydropower projects as stipulated above must produce a full Environmental Impact Assessment (EIA) report and Environmental Management Plan (EMP) according to the Environmental Protection Law of 1999, and Environmental Assessment Regulations 1770 of 2000 or successor Decree.

Section 5 on Disclosure states:

Project consultation reports, impact assessments, mitigation plans and monitoring reports, will be publicly disclosed.

It is our understanding that the GoL and/or project developers are required to produce a full EIA, EMP and Resettlement/Social Development Plan for all large hydropower projects. In addition, these documents must be disclosed publicly, and consultations must be conducted with all project-affected communities.

However, during IRN's last visit to the Lao PDR, we met with you, and separately with the Asian Development Bank and the World Bank to discuss various hydropower projects and to request certain documents for hydropower projects currently under development. We were referred to STEA for these documents, yet when IRN contacted STEA, they were not able to provide us with the requested documents. Other people have also reported not being able to access requested studies about dams in Laos.

According to media reports and to what you told us during our last meeting, development is moving forward on a number of projects, yet the required documents have not been disclosed. IRN is seeking the EIA, EMP, SDP and other reports for Nam Ngum 2, Nam Ngum 3, Xe Kaman 3 and Nam Theun 1 hydropower projects.

- a. Nam Ngum 2: During our meeting you informed us that the Power Purchase Agreement (PPA) had been signed with the Electricity Generating Authority of Thailand (EGAT), and that construction was likely to start later this year. You also informed us that the EIA, SDP and all other plans have been finalized. IRN would like to request the EIA, EMP and SDP for this project.
- b. Nam Ngum 3: You informed us during our meeting that the Environmental Assessment and Management Plan (EAMP) has been finalized for this project. We understand that the Concession Agreement has not been signed yet, and that JBIC and the ADB have been approached for financing. IRN would like to obtain a copy of the EAMP and any other documents produced for this project.
- c. Xe Kaman 3: You informed us that the Government has signed a Concession Agreement with the Viet-Lao Power Investment and Development Joint Stock Company and a PPA with Electricity of Vietnam. According to the *Vientiane Times*, 20 March 2006, a construction contract for the project was signed in January 2006; and according to *HydroWorld Alert*, 17 April 2006, construction has already begun. You informed us that construction will start after the rainy season, but preparation work has already begun, such as clearing the area, building camps and roads. You also informed us that the EIA has been finalized. IRN would like to obtain copy of the EIA, EMP and other relevant documents for this project.
- d. Nam Theun 1: According to recent press reports, Gamuda intends to start preliminary construction activities this October, and to finalize a Concession Agreement and PPA by early next year. In our meeting you informed us that an EIA has been completed for the project. IRN would like to request a copy of the EIA.

3. Existing Projects

Section 8 of the NHP on Existing Hydropower Projects states:

From the start of 2007, all existing hydropower projects will be subject to a third-party monitoring and assessment of their compliance with respect to the environment and social guidelines set forth in this Policy Statement as well as in the National Third Party Monitoring Guidelines for the Energy and Transport Sectors, and with pertinent legislation at the national, provincial and district levels, including the contractual agreements (e.g. concession agreements) under which these hydropower plants were approved by the Government. Costed plans and timelines to bring each project into full compliance will be developed by December 31, 2007.

Section 2 on Project-Affected People states:

The right of all project-affected people to sustainable livelihood options and services at least at the level previously enjoyed will be recognized, and achieved through a Resettlement/Social Development Plan.

IRN visited two existing hydropower projects in May and June 2006 - Houay Ho in Champassak Province and Nam Mang 3 in Vientiane Province - and found that affected people have not had their livelihoods restored since the projects were constructed. For many villagers, the GoL and Company have not ensured that they have sustainable sources of livelihood, or even basic necessities such as fresh water. The situation is particularly serious at Houay Ho.

IRN is concerned about the ongoing problems being faced by these communities, and the lack of monitoring and evaluation by the Government after the projects' completion. Details of these concerns are outlined below.

a. Houay Ho Hydropower Project

Even though construction on Houay Ho was completed in 1998, the resettled villagers still lack sufficient arable land and fresh water. IRN visited one of the villages in the resettlement area known as "Ban Chat San" in Lao. The resettlement area, which includes many villages, originally consisted of 1752 people and 475 households of mostly ethnic Heuny or Nya Heun people that were displaced by the Houay Ho Dam.

One major problem for the people in the resettlement area is the shortage of cultivable land. As a result, many disputes over land have erupted between the host communities who lived in the area before the dam was built, and the displaced people who were moved there to make way for the project. Villagers were promised three years supply of rice, but received only one year's supply. IRN learnt that in order for villagers to survive, approximately 60-70% of them have moved back to near their old villages, areas that have enough land and forest for rice cultivation, animal grazing and non timber forest product collection. However, people are constantly pressured by district officials to remain in the resettlement area, making their lives very difficult. They have not yet been officially allowed to return to near their former villages, even though that is their desire.

Villagers in the 'Ban Chat San' area also do not have sufficient fresh water supplies. Villagers used to receive water from gravitational feed systems and wells, but now all are in need of repair except for a couple of wells. Other issues include a lack of supplies and furniture for the local school, and the absence of medicine and health care providers in the village clinic. Villagers need to travel a great distance to get medical services.

Villagers request that the GoL and the Houay Ho Power Company provide them with the following:

- the chance for people to move back to their old areas;
- the opportunity for those who want to move back to reestablish official villages on the site of their old villages;
- Compensation for the people who want to stay in the resettlement area;
- Sufficient and functioning fresh water supplies in the resettlement area;

- Sufficient land for cultivation, and agricultural extension work to teach them how to farm paddy fields, care for livestock and raise fish;
- Electricity installation;
- Tables and benches for the elementary school;
- Medicine and staff for the local clinic; and
- More regular visits and help to solve their problems.

IRN asks the following questions:

- How is the GoL planning to comply with the National Hydropower Policy to ensure that the problems facing villagers at Ban Chat San will be resolved?
- Will the GoL allow villagers to return to their former lands and reestablish their villages there?
- What role will the LHSE, STEA, GoL and the Company play in resolving these problems?

b. Nam Mang 3

IRN found that villagers at the new Ban Phou Khao Kouay resettlement site are suffering from shortages of fresh water and cultivatable land. Even though they were provided with compensation to purchase new land, people could not find any available land in the lowlands to buy. They now survive by renting land, working for other people, or traveling back up to their former village to practice swidden agriculture.

Villagers living along the Nam Nyam - which is affected due to higher water levels as a result of the dam - informed IRN that they have experienced more frequent flooding than usual during the rainy season and that in some areas the river has eroded the riverbanks, resulting in people losing land. In addition, in the previous year, villagers who used water from the regulating pond for dry season rice irrigation lost their crop, apparently due to a leak in the regulating pond. Even though the irrigation system was a supposed benefit of the project, no compensation was given to villagers for any of their losses.

Villagers are requesting that the GoL:

- Compensate for their crop losses as a result of flooding and the failure of the irrigation scheme;
- Compensate for their crop losses and land erosion as a result of higher water levels in the Nam Nyam;
- Install a sustainable fresh water supply in the new Ban Phou Khao Kouay; and
- For villagers living in the new Ban Phou Khao Kouay, assistance in finding lowland fields to cultivate.

IRN would like to ask the following questions:

- How will the Government of Lao PDR handle the problems of Nam Mang 3 affected people?

- Is there any system in place to monitor the affected people's progress?
- What grievance procedures are in place for the affected people?

Thank you again for meeting with us in June, and we look forward to your response.

Sincerely,



Vinya Sysamouth, Ph.D.
China/Lao Campaigner
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