

January 24, 2006

Mr. Rajat Nag
Director General, Mekong Department
Asian Development Bank
PO Box 789
0980 Manila, PHILIPPINES

By email and US mail

Dear Mr. Nag:

We are writing to highlight outstanding issues surrounding three ADB-supported dam projects in Laos – Nam Leuk, Nam Song and Theun-Hinboun – and to urge the ADB to take long-delayed action to resolve these issues. Many of the problems affected communities are experiencing have persisted for several years, while promises to resolve them have gone unfulfilled. This lack of progress also fuels ongoing concerns about the ADB's and the Lao Government's commitment to address social and environmental impacts resulting from the Nam Theun 2 dam.

At Nam Leuk and Nam Song, affected villagers still do not have adequate water supply and have not received compensation for lost fisheries. For several years, the ADB and Electricité du Laos (EdL) have issued empty promises of additional funds and action plans to resolve these issues. Given that Nam Song was completed more than a decade ago and Nam Leuk was completed seven years ago, we are writing to urge the ADB to allocate technical assistance grant funding for the necessary mitigation and compensation measures and ensure that all outstanding issues are resolved. More detailed information regarding Nam Leuk and Nam Song is presented below.

While many aspects of the Theun-Hinboun Power Company's Mitigation and Compensation Plan appear to be proceeding as well as can be expected, villagers have still not been compensated for lost fisheries eight years after the project was completed. Our concerns and suggestions for how to resolve outstanding issues at Theun-Hinboun are outlined below.

Nam Leuk Hydropower Project

The ADB's 2004 Nam Leuk Project Performance Audit Report (PPAR) recommended a series of follow-up actions to address the outstanding social and environmental problems at Nam Leuk. The PPAR recommended that these actions be taken by December 2004, but many of them have still not been implemented. IRN and Environmental Defense learned of the following outstanding issues at Nam Leuk after arranging a field visit to the project area in June 2005 and through discussions with ADB and EdL staff in November 2005.

(a) Action Plan

ADB Management in its response to the PPAR, and in subsequent communications with IRN, said that the Lao Government will "prepare an action plan, which will be reviewed and followed up by

MKRD”.¹ However, the Lao Government has still not produced an action plan for resolving the issues at Nam Leuk. Furthermore, the lack of transparency and participation in the process means that villagers do not have information about what type of compensation or mitigation measures are being promised to address which impacts.

(b) Fisheries

The PPAR recommended that “EdL monitor fishery resources, and that mitigation be carried out by December 2004 in the affected villages. A systematic, participatory, and equitable approach should be used to find sustainable activities to substitute for lost fishing opportunities. Implementation should be monitored for at least the first 5 years.”

EdL claimed that Nam Leuk fisheries monitoring has not occurred since 2001, yet the ADB said that the aquatic resource center under the National Agriculture and Forestry Resource Institute is conducting some monitoring. In any event, no monitoring reports have been issued and no fisheries substitution activities have been implemented.

Villagers from Ban Thaheua have reported continued difficulties with fishing in the Nam Xan River, largely because of sudden releases from the Nam Leuk dam which have swept away boats and fishing gear, and pose a danger to villagers. Villagers in Ban Thaheua would like assistance in switching from fishing to other agricultural or livestock activities as they are finding it difficult to survive on the income they generate from fishing.

Villagers living downstream of the Nam Leuk also report decreased fish catch in the Nam Leuk River and would like compensation for lost fisheries in the form of fish ponds or other livelihood activities. EdL and ADB staff deny that Nam Leuk fisheries have been affected by the project.

The issue of what fisheries losses have been sustained by villagers and how best to compensate for these losses has still not been resolved, despite the recommendations in the PPAR. Villagers are not responsible for the lack of fisheries baseline data and there should be a presumption in their favor when determining appropriate levels of compensation. ADB should immediately implement the PPAR recommendations through a technical assistance grant.

(c) Buffalo and cattle losses

Villagers living downstream of the dam along the Nam Xan River lost cows and buffalo in 1999 after the livestock drank the bad quality water that was released by the dam. In Ban Thamdin, people lost an unknown number of livestock. Villagers in Ban Donehom reported losing 29 cows and buffaloes and villagers in Ban Thaheua reported that 60 cows and buffaloes died. The only compensation these people received from EdL were a few cans of fish. The ADB’s technical assistance grant should include a survey to document the number of livestock lost by villagers living along the Nam Xan River as a result of releases from Nam Leuk, and should allocate funds for just compensation to be paid to villagers.

(d) Water Quality

The PPAR recommended a “technical assessment of the Nam Leuk water quality within the next 6 months, including assessment of the impacts present and future.” We were informed by EdL that the water quality report would be finalized by December 2005. We requested a copy of the water

¹ Management Response on the Project Performance Audit Report (PPAR) on the Nam Leuk Hydropower Project in the Lao People’s Democratic Republic (Loan 1456-Lao[Sf])

quality report but have not yet received it. Affected villagers interviewed in June 2005 were aware of the water quality testing and reported that they would like to be informed of the results. As many villagers continue to be afraid of the quality of the water in the Nam Leuk and the Nam Xan, the ADB should work with the Lao Government to communicate the results of the water quality report to the villagers in the next three months. The ADB should also ensure that the water quality report is released to the international community.

(e) Water Supply

The PPAR recommended that “EdL should within the next 3 months evaluate the water supply conditions of the affected villages and ensure that adequate supply of potable water is available.” This has not occurred. Villagers at Ban Thaheua and Ban Thamdin report having inadequate fresh water supplies, particularly during the dry season. Some of the problems are due to leaking systems which – despite villagers’ requests – EdL has not fixed. The village of Ban Phongngam has insufficient water available and two pumps at Ban Houay Leuk are not working.

EdL claims that it is no longer responsible for fixing the water systems. However, while it may be impractical for EdL’s responsibility for fixing the water systems to continue indefinitely, EdL and the ADB should urgently solve the existing water supply problems and then negotiate a long-term solution with villagers, as recommended by the PPAR.

(f) Phou Khao Khouay National Park

Nam Leuk is located within the Phou Khao Khouay (PKK) National Park and was built with the stipulation that one percent of dam revenues be used for PKK Park management. In an April 2003 letter to IRN, EdL admitted that these revenues had not been fully disbursed due to inadequate institutional capacities in managing the funds and implementing the proposed management plan.

The PPAR recommended an investigation “to evaluate the impact of EdL funds and PKK activities on the Park in the last 4 years” and called on ADB to work with EdL and PKK authorities to establish a suitable mechanism for administering the 1% of Nam Leuk revenues. The PPAR also recommended that ADB “establish a multi-party committee to approve activities related to PKK Park improvement” in consultation with villagers. ADB should immediately conduct and disclose an assessment of the mechanisms for administering the Nam Leuk revenues for the PKK Park and the activities funded to date.

Nam Song Diversion Dam

The main outstanding issues at Nam Song concern water supply and fisheries compensation for villagers living along the Nam Song downstream of the dam. Eight downstream villages were affected by the project as a result of lowered water levels along the Nam Song River. They have received virtually no compensation for their losses. In early 2005, the ADB and EdL discussed the installation of permanent water supplies for dry season agriculture and fish ponds with these villages, as compensation for fisheries losses and water supply problems. The villagers were apparently quite excited about this prospect.

However, only household water supply systems for Ban Vangkhi and Ban Pongxong have been constructed which do not provide sufficient water for fish ponds or agriculture. The other villages have wells with hand pumps which provide barely enough water for household use.

We have also received reports from Ban Pongxong that their forest and grazing land has been taken over by a company to establish an industrial tree plantation of Agar wood trees. The villagers

have not received compensation, nor are they being given employment on the tree plantation. This village and others in the area have been doubly affected — first by fisheries and river bank agriculture losses from the Nam Song dam and second by industrial tree plantations that have taken over their land. While the tree plantation is obviously not the responsibility of the ADB, Nam Song's impacts have increased villagers' vulnerability and compounded the difficulties posed by the tree plantation.

The villages living downstream are still waiting for the promised agricultural water supply systems to be installed, and for help in constructing or rehabilitating fish ponds. ADB should prepare a technical assistance grant to install water supply systems in all downstream villages and to assist villagers in repairing and constructing fish ponds.

Theun-Hinboun Hydropower Project

In November 2005, IRN and Environmental Defense visited the Theun-Hinboun Hydropower Project and met with Theun-Hinboun Power Company (THPC) staff. Many of the livelihood programs seem to be progressing satisfactorily, especially the livestock program and the vegetable gardens in the headpond. The main outstanding issues concern compensation for fisheries losses and the dry season agriculture program. In addition, one village is still waiting for THPC to construct a bridge across the Hinboun River to facilitate their children's access to school.

(a) Fisheries

The 2004 Third Party review of the Mitigation and Compensation Program emphasized that many villagers are still "heavily reliant on living aquatic resources for their livelihoods and diets" and urged THPC to implement an aquatic resources management program. It also recommended providing one-off *non-cash* compensation payments to affected villagers and widening the recognized impact area. Without these measures, the report warned that the poorest villagers may slip through the safety net provided by THPC and intra-village wealth disparities may widen.

THPC is still experimenting with aquaculture as a way of compensating villagers for lost fisheries, and is apparently taking steps to implement an aquatic resources management program, although almost two years after the review, the program has still not been developed. However, eight years after the project was completed, THPC has still not provided compensation payments to affected villagers for the significant fisheries losses. The ADB should immediately work with THPC to rectify this situation, in accordance with the recommendations of the Third Party review.

(b) Dry Season Agriculture Program

In 2004, the dry season rice crops failed, posing a significant hardship for the villagers. While it appears that the 2005 crop was more successful, the sustainability of this program is still under question. The ADB should monitor the dry season agriculture program to ensure that it is profitable and sustainable for the villagers.

(c) Bridge at Ban Vang Dao

Ban Vang Dao is situated at the confluence of the Nam Hinboun and the Nam Hai where water released from the dam enters the Nam Hinboun. Consequently, the water flows very fast in this area and there is a significant backwater effect. Children from the village need to paddle their boats across the river to go to school, which is dangerous because of the fast-flowing waters. Each day village children risk drowning on their way to school. For several years, villagers have requested

that THPC construct a footbridge across the river. ADB should press THPC to construct a footbridge immediately.

(d) Third Party Review

THPC promised to conduct bi-annual third party reviews of its mitigation and compensation program. It is now almost two years since the last review. These reviews are extremely important to assess progress in helping villagers restore their livelihoods. Reviews of the THPC program will also provide important lessons for Nam Theun 2 implementation. ADB should encourage THPC to conduct another third party review in 2006.

Conclusion

The lack of progress in addressing the impacts of ADB-funded dams in Laos sets a poor precedent for the Nam Theun 2 project. ADB should take urgent action to resolve the outstanding issues with Nam Leuk, Nam Song and Theun-Hinboun as recommended by internal and external project reviews. In summary, we urge the ADB to take the following immediate steps:

- Develop technical assistance grants to resolve all outstanding issues at Nam Leuk and Nam Song.
- Press THPC to provide direct compensation for fisheries losses, construct a bridge at Ban Vang Dao, and to develop and implement a living aquatic resource management program.
- Encourage THPC to conduct a second Third Party Review of its mitigation and compensation program this year.
- Assign a team to conduct bi-annual monitoring missions to Nam Leuk, Nam Song and Theun-Hinboun projects to monitor progress on mitigation and compensation measures. Aide Memoires and Back to Office Reports from these visits should be publicly released.

We await your response to the issues raised in this letter.

Sincerely



Shannon Lawrence
International Policy Analyst
Environmental Defense
shlawrence@environmentaldefense.org



Aviva Imhof
Campaigns Director
International Rivers Network
aviva@irn.org

Cc: ADB Executive Directors
Mr. Thongphet Douangneune, Manager, Environmental Office, Electricite du Laos
Mr. Viraphonh Viravong, General Manager, Electricite du Laos
Dr. Somboune Manolom, General Manager, Lao State Holding Enterprise
Mr. Xaypaseuth Phomsoupha, Chief of Bureau of the Secretariat, Lao National Committee for Energy
Mr. Soukata Vichit, Director General, Science Technology and Environment Agency
Mr. Bobby Allen, General Manager, THPC