

August 23, 2001

To: International Rivers Network
From: Preben Nielsen, ADB

Theun Hinboun Hydropower Project

Since my e-mail to you on 7 August 2001 with interim reply (delayed because of my home leave to Denmark) to your letter of 18 June 2001 (received by my office in ADB on 27 June 2001), I have been in contact with Theun-Hinboun Power Company (THPC) and received mixed results, mostly negative. For that reason, ADB has sent a fax to the Prime Minister's Office also dated 23 August 2001 pointing out the lack of cooperation and transparency from THPC and appealed to the Government, as the major shareholder, to take immediate action in the Board of THPC to reform the information, consultation, and monitoring process.

1. Direct Compensation

As of today, I have received information on direct compensation (4 years of lost value) to affected people who cultivated riverside vegetable gardens before the hydropower plant started to operate in 1998. The compensation has finally started, based on a consultant report from June 2001. Despite requests, we have not received that report but have asked the Government to provide it. The compensation is not an alternative to long-term development of income-generating options.

We share your views on governance and transparency in the compensation process and has emphasized to THPC and the Government that it is in their best interest, especially in the post-WCD era, to be transparent and disclose information (even giving data on failed initiatives and corrective action then taken); giving data on THPC Board members (we don't have that information on file as THPC is a private company under Lao laws) and information on contractors and consultants; releasing TOR and candidate's CVs for comments to third parties (ADB has made comments to TOR and provided a range of suitable consultants for THPC consideration; permission from THPC was not obtained to forward this to third parties). We have emphasized the efficient use of NGOs and villagers for monitoring purposes and this aspect is now being built into Lao PDR rules through a proposed loan being processed by ADB for Energy and Transport Socio-Environmental Management Program Loan.

2. Minimum Downstream Releases

As stated in Honolulu, THPC is still committed to carry out investigations/analyses of minimum downstream releases over and below the 5 cum/sec agreed with the Government of Lao PDR to observe impact on the downstream ecological system. THPC still intend to start the investigations in 2001 or early 2002 and are looking for suitable experts to undertake the studies. We would appreciate if you could refer us to similar study material which could benefit the Theun Hinboun case. We confirm that THPC has agreed to dedicate any additional income to environmental and socially beneficial causes in the project area which would result from a reduction in discharge flow below 5 cum/sec. Such additional income would be spent over and above the THPC commitment to project-related environmental and social impact mitigation.

Your requests in four bullet points in your letter of 18 June 2001 have been endorsed as early as 21 May 2001 to THPC (based on our discussions in Hawaii on 9 May 2001) and again today through fax to the Government. So far, the only concession from THPC on this matter is that they are willing to share TOR with ADB for comments and let ADB provide lists of suitable candidates for both the study and audit control phases. The audit phase would provide a report documenting whether the consultant's process proposal is in accordance with best international practice.

3. Improved Standard for Information Sharing and Provision of Inputs

THPC has committed that they will share information and impacts assessment with NGOs when their mitigation interventions are well under way in 2002 with "open house" and quarterly progress reports. I know this is far short of your request to be involved in the entire input/output process. As explained above, this message has been conveyed to the Government.

4. Establishment of Independent Monitoring Mechanism

ADB is now firmly establishing independent monitoring by third party in all future energy and transport projects in Lao PDR (see item 1 on proposed program loan to Lao PDR which will have a tranche condition on third party monitoring). Independent panels for large ADB projects is now the norm. ADB's position is that independent panels, as we now have for all large projects in Asia, are efficient in resolving problems and our experience with them are on the positive side. All panels are, however, for ongoing projects. In case of the Theun-Hinboun project, time may not be on our side in establishing and funding an independent panel. Under the circumstances, I find it more appropriate to proceed with pressure on THPC and the Government following the process in item 3 and expand that to include third party monitoring and covering your 9 bullet points under item 4 of your letter. 5. Other Matters

During our discussions in Honolulu in May 2001, you also inquired about compensation for fisheries and cash compensation to 10 out of 55 villages. The fisheries investigations are still ongoing with trial catches and consultation with villagers on cages and fishponds; I will forward information to you when I get reports on this.

The reason given by THPC on why the 10 villages preferred cash for the losses over the past four years is that they are generally the poorest. The other 45 villages prefer that the funds for compensation be invested in livelihood projects, which are being negotiated with the villagers. Some of these projects have been operating for some time.

I assure you that ADB shares your concerns on addressing the backlog of mitigation measures for Theun Hinboun Hydropower Project. At least, we do see progress, albeit slow, in implementation of the Mitigation and Compensation Program, which is still unchanged, and is slowly increasing awareness of the issues among Government officials. We thank you for raising the unresolved issues to a level where people do listen and do something. We commend you for caring for these people so far away from your shores, and we promise to consistently follow up on your valid concerns.

With best regards.

Sincerely yours,

PREBEN NIELSEN
Deputy Director
Infrastructure, Energy & Financial Sectors (West)

Copy to: H.E. Madame Khempheng Pholsena , Prime Minister's Office, Lao PDR
Mr. Viraphonh Viravong, General Manager, EdL