



October 8, 2001

Mr. Preben Nielsen
Deputy Director, Infrastructure, Energy
and Financial Sectors Department (West)
Asian Development Bank
PO Box 789
0980 Manila
Philippines

Dear Mr. Nielsen,

Thank you for your fax dated August 23 regarding the Theun-Hinboun Hydropower Project. Since our meeting in Hawaii in May, my colleagues and I have been pleased with the ADB's apparent change in attitude regarding direct compensation for affected people, minimum downstream releases and improved information disclosure. However, we are concerned with statements in your letter indicating that compensation will not be carried out in an open and participatory manner. We strongly feel that an independent panel to monitor mitigation and compensation for Theun-Hinboun is necessary to ensure the successful implementation of these measures.

1. Direct Compensation

As stated in your letter, we are in agreement that people affected by Theun-Hinboun are entitled to both compensation for impacts suffered and long-term livelihood restoration projects to replace lost livelihoods. We are concerned, however, with your statement that direct compensation has so far been given only to those "who cultivated riverside vegetable gardens." Can you please clarify this? Compensation for all losses, including vegetable gardens, fisheries, transportation difficulties and other material losses, must be provided to affected people. We thought that we were in agreement on this point. Can you please inform us of the process for assessing and distributing compensation to affected people for these losses (other than vegetable gardens)?

We understand the difficulties that you have encountered with THPC, nevertheless we would like to reiterate our request that the ADB make publicly available a copy of the assessment and findings of the contractor charged with visiting villages and determining cash compensation needs. The ADB should also make public the June 2001 consultant's review of this report. Please also inform us of the names of these consultants.

In your letter dated April 25, 2001, you stated that a "6-month field survey of the previous and current fish catching practices has been completed on the donor and

recipient rivers.” You also mentioned that this work would be reviewed by a consultant and fisheries staff member “to develop management action for compensation and mitigation measures affecting the fishery.” Who is the consultant and staff member working on this project? Has this report been completed? We would like a copy of both the field survey and consultant’s report. In addition, the process for determining fisheries compensation should be developed in an open, participatory manner with the full participation of affected people and NGOs. What is the plan for carrying this out?

We would also like more information regarding efforts made by the ADB to ensure that compensation is in compliance with ADB policy guidelines. Can you please tell us which ADB project manager is working on this, as mentioned in your April 25 letter? Can you also provide us with more detail on THPC’s review of compensation methods and procedures, which you said “includes the concerns of IRN related to a proper consultation with the target beneficiaries.”

2. Minimum Downstream Releases

We appreciate your comments restating THPC’s commitment to investigate the downstream impacts of both raising and lowering the minimum downstream releases. We also acknowledge your efforts in persuading THPC to agree to dedicate any additional income generated through a possible reduction in flow below 5 cum/sec to mitigation and compensation programs “over and above the THPC commitment.”

We understand that your efforts to persuade THPC to open up the TOR process for public comment have been met with “mixed results.” Still we believe that the process for carrying out the minimum downstream release study must be open, transparent and participatory. We urge the ADB to publicize the TOR for the study and seek suggestions from the public regarding suitable candidates for the study and audit control phases. Since lowering or raising the minimum downstream release may have significant impacts on downstream communities, these studies must be carried out with the full and informed participation of affected people and NGOs.

3. Establishment of Independent Monitoring Mechanism

The problems outlined above illustrate the urgent need to establish an independent monitoring panel. We believe this is the only way to break the current impasse. An independent panel will help ensure that outstanding problems associated with Theun-Hinboun are addressed in a comprehensive and timely fashion.

We are concerned with your statement that the mitigation and compensation plan has remained “still unchanged.” Given the ADB’s new commitments regarding direct compensation, minimum downstream release and information disclosure, the mitigation and compensation plan should be revised to reflect these changes. Can you please clarify this?

We find it difficult to believe that the ADB cannot exert pressure on THPC to comply with basic standards of transparency. The ADB is one of the Lao government's largest donors, and the Lao government is, in turn, a 60 percent shareholder of THPC. It is time for the ADB to assume its responsibility for the ongoing and continued problems with implementation with Theun-Hinboun and take immediate steps to establish an independent panel. The 25,000 villagers who have suffered for far too long deserve no less.

Thank you for your time. We look forward to your reply.

Sincerely,

Susanne Wong
Southeast Asia Campaigner

cc: ADB Executive Directors