



June 18, 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,

I am writing to follow up on discussions held during our meeting on May 9 in Honolulu regarding the Theun-Hinboun Hydropower Project. My colleagues and I appreciate the ADB's acknowledgement of our concerns and the apparent commitment to major changes in the Bank's approach to environmental and social issues relating to this project. Clearly, the Bank, as a major broker and funder of this project, has a responsibility to resolve problems caused by Theun-Hinboun in a complete and expeditious manner. This letter outlines several steps to help achieve this goal.

### **1. Direct Compensation**

One of the most critical issues is the ADB's responsibility to provide direct compensation for people affected by Theun-Hinboun. We are pleased that the Bank has agreed to this principle. Steps should be taken immediately to ensure that villagers receive full direct compensation for all of their livelihood losses, including loss of fisheries, other aquatic resources and agricultural land. Compensation must be retroactive, dating from the start of the project when villagers first started suffering impacts from the project and must be provided on an ongoing basis until the benefits from longer-term development initiatives have fully materialized. Further, this compensation must be provided in addition to – not as an alternative to – longer-term development initiatives.

- We call on the Bank to carry out the process of distributing compensation in an open and transparent manner, with full disclosure of reports, findings and names of consultants.
- Please provide us with a copy of the assessment and findings of the contractor charged with visiting villages and determining cash compensation needs.

### **2. Minimum Downstream Releases**

We are pleased to see that there is some agreement with the ADB regarding the minimum downstream release for Theun-Hinboun. During our meeting, you conceded that the study on the minimum downstream release should investigate the possibility of increasing minimum downstream releases as well as decreasing flows. You also clarified that should there be a reduction in minimum downstream release, the additional earnings of THPC will be applied to

environmental mitigation measures above and beyond the existing commitments made by THPC. We expect these commitments to be adhered to.

We would like to reiterate the following points made at our meeting:

- The Terms of Reference (TOR) for this study should be open for comment before it is finalized. We would appreciate a copy of the TOR as soon as it is completed.
- Could you please provide details as to how you intend to select a consultant for the study? As stated during our meeting, it is important that the consultant be truly independent. There should be a prohibition on hiring any person or company with a real or perceived conflict of interest.
- In line with the WCD findings, impacted villagers should be fully involved and provide their informed consent to any changes in the minimum flow.
- All reports and findings should be open for public comment and review in advance of any change in flow rate.

### **3. Improved standards for Information Sharing and Provision of Input**

The ADB and the Theun-Hinboun Power Company must commit to a vastly improved process of information sharing and transparency regarding this project and to developing mechanisms for input from local people and concerned citizen groups within and outside of the country. Specific aspects of this include:

- Developing systems for regular information sharing about the project.
- Allowing for public input regarding TORs and drafts of mitigation and compensation related documents.
- A commitment to full transparency regarding the timely release of documents and reports regarding the project.

### **4. Establishment of Independent Monitoring Mechanism**

Lastly, we urge the Bank to follow up on our suggestion to create an independent panel of experts to monitor the mitigation and compensation program. Given the ongoing and still unresolved issues facing people affected by the Theun-Hinboun Dam, it is essential that the ADB commit to an improved process of information sharing, transparency and participation, starting with the establishment of a truly independent panel. As you mentioned, the success of the compensation program must be fairly and independently assessed. We urge the ADB to consider the following recommendations regarding the panel.

- The TOR for the panel should be open for public comment.
- Public comments should be incorporated into the final Terms of Reference.
- The panel should be selected from a list of nominations, submitted by both the ADB and the general public.
- Representatives on the panel should be independent and credible.
- The panel should include a mixture of Lao and international people.
- Representatives on the panel should not have vested interests in the project. Therefore, the panel should exclude individuals and companies who have worked as consultants on Theun-Hinboun or have had connections to the hydropower industry in the region.
- The panel should have access to all information and should have access to sufficient funds to visit project sites and talk to people in absence of project representatives.

- Panel reports should not be reviewed by THPC or ADB, and should be available for public review.
- Panel reports should be published in Lao and English and should be circulated to village headmen as well as nationally and internationally.

We would appreciate information from you as to what the process and timeline will be for establishing this panel.

We acknowledge the ADB's commitment to resolving the problems caused by the Theun-Hinboun Dam and realize the constraints faced in working with the Lao government and THPC. Still, it is critical that the ADB take immediate steps outlined in this letter to ensure that the people affected by the Theun-Hinboun Dam for the past three years do not continue to suffer.

We look forward to your response and to discussing some of the issues raised in this letter.

Sincerely,

Susanne Wong  
Southeast Asia Campaigner

cc: ADB Executive Directors