

**LAO PEOPLE'S DEMOCRATIC REPUBLIC  
NAM THEUN 2 MULTIPURPOSE PROJECT**



**TWENTY SECOND REPORT OF THE INTERNATIONAL  
ENVIRONMENTAL AND SOCIAL PANEL OF EXPERTS**

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## CONTENTS

<b>LIST OF RECOMMENDATIONS</b>	<b>1</b>
<b>INTRODUCTION</b>	<b>6</b>
<b>1.1 The Panel’s Mandate</b>	<b>7</b>
<b>1.2 Panel Activities</b>	<b>8</b>
<b>1.3 Acknowledgments and Appreciation</b>	<b>9</b>
<b>I THE NAKAI PLATEAU: KEY POE ISSUES</b>	<b>10</b>
<b>A. The List of Measures (LOM)</b>	<b>10</b>
<b>B. The Five Livelihood Pillars</b>	<b>10</b>
<b>(1.) Fisheries</b>	<b>10</b>
<b>(2.) Agriculture</b>	<b>14</b>
<b>(3.) Livestock</b>	<b>15</b>
<b>(4.) The Village Forestry Pillar</b>	<b>17</b>
<b>(5.) The Off-farm Pillar</b>	<b>21</b>
<b>Ecotourism</b>	<b>22</b>
<b>C. GoL Funding</b>	<b>23</b>
<b>D. Monitoring</b>	<b>25</b>
<b>E. Education</b>	<b>27</b>
<b>F. Health Services</b>	<b>27</b>
<b>G. Hamlet and Village Issues</b>	<b>28</b>
<b>Village and Hamlet Committees</b>	<b>28</b>
<b>The Community Living Well Program</b>	<b>29</b>
<b>Village Credit and Savings Fund</b>	<b>30</b>
<b>H. Infrastructure, SERF and the Khon Kaen Road</b>	<b>30</b>
<b>I. Broad Social and Environmental Issues</b>	<b>32</b>

<b>(1) Resettlement Gender Strategy</b>	<b>32</b>
<b>(2) Mining near the Nakadok Village</b>	<b>33</b>
<b>(3) Illegal Timber Extraction</b>	<b>34</b>
<b>(4) Wildlife Marketing</b>	<b>35</b>
<b>II XE BANG FAI DOWNSTREAM PROGRAM</b>	<b>36</b>
<b>III WATERSHED MANAGEMENT AND PROTECTION AUTHORITY</b>	<b>39</b>
<b>Independent Fiduciary Review</b>	<b>39</b>
<b>The PAW Organizational Review of the WMPA</b>	<b>40</b>
<b>Next Steps: POE Views</b>	<b>44</b>
<b>ANNEX 1: LIST OF MEASURES (LOM) TEXT</b>	
<b>ANNEX 2: ROSEWOOD AND OTHER ILLEGAL TIMBER</b>	

**Cover photo: Fishing is the resettlers' biggest legitimate money earner but they do not reap the full benefits. Here, at an undesignated landing site near the dam, a Lak Sao fish trader pays a resettler wholesale prices for his catch and evades paying fees.**

## **LIST OF RECOMMENDATIONS**

### **NAKAI PLATEAU**

**The POE recommends:**

**1/22 That GoL (as well as the NRO) anticipate the need to provide adequate financial and staff resources during 2015 through such sources as the Khammouane Development Program to provide sufficient capacity building for the Village Fishery Association and Village Fishery Groups to enable them to compete in the future with “other people” (some of whom, better educated and more experienced than many resettlers, already are dominant participants in the fishery, fish marketing and fish processing).**

**That in regard to the CA’s aquaculture component, action be postponed until, based on expert advice, reservoir conditions allow a professional decision to be made.**

**The POE recommends:**

**2/22 That GoL and NRO explore as part of the Village Development Planning Process ways in which indigenous knowledge could be used not just in the utilization of the additional lands but also in a wider range of agricultural and other community activities.**

**The POE recommends:**

**3/22 That the WMPA finance with Nakai’s DAFO a realistic large animal vaccination program in the catchment and that GoL consider using NT2 revenue for an integrated vaccination program to cover Nakai District, the catchment, and PIZ villages in Khamkeut and Gnommalath.**

**The POE recommends:**

**4/22 That negotiations by the team appointed by the Provincial Governor be undertaken in an endeavor to recover the claimed unpaid logging and timber sale arrears from Leung Fat Hong by May 2014.**

**That the interim VFDC manager seeks the early release of tax funds authorized by order of DPM Somsavat Lengsavad in March 2013 but not yet paid over from Ministry of Finance and/or Provincial funds and organizes, from the refunds, in full or in part, the payment of dividends to the resettlers.**

**That the interim VFDC manager likewise seeks payment of claimed replanting fees paid by VFA over past years to help fund reforestation operations on village forest lands.**

**That the forest inventory required for planning purposes be undertaken as a matter of urgency once the arrears are available and paid.**

**That appropriate steps be taken by the VFDC Board (or its successor), in consultation with all stakeholders and the villagers themselves, to ensure that the CA's call for "forest management by villagers, for villagers" is given a practical and sustainable form.**

**That this include, as set out in the LOM, realistic targets and deadlines for achieving an updated strategy, with forest protection and management, marketing and reforestation elements included.**

**The POE recommends:**

**5/22 That with one year only remaining before the handing over of most programs, an intensive program of vocational, skills and managerial training be mounted as soon as the report on training needs has been absorbed. This initiative should be closely monitored by NTPC and Nakai District management since the success of the handover will rest substantially on the outcome of the training and skills development achieved in the months ahead.**

**The POE recommends:**

**6/22 That GoL agencies, including the Khammouane Provincial Department for Tourism and Culture and a restructured WMPA and with technical assistance from NTPC, work in concert with the new Provincial Tourism SOE to set up later this year or early next year a workshop of potential stakeholders to gauge the level of interest in fostering ecotourism on the Nakai Plateau and NNT NPA, looking towards the possible drawing up of a District Tourism Plan during 2015.**

**The POE recommends:**

**7/22 That NRO, DAFO and village institutions discuss how to address key environment issues of relevance to current and future Nakai District generations such as enhancing soil quality, sustaining reservoir aquatic resources, re-establishing essential forest, non-timber forest products (NTFPs), and pasture resources, and minimizing reservoir sedimentation through appropriate use of the drawdown area, islands and fields.**

**The POE recommends:**

**8/22 That in the interest of helping ensure sustainability of VCFs individually and collectively, negotiations begin as soon as is feasible on practical handover arrangements and agreements with LWU and RDPEO.**

## **WATERSHED MANAGEMENT AND PROTECTION AUTHORITY**

**The POE recommends:**

**9/22. That GOL proceed without delay along the following lines:**

- Create a very high-level Government commission to review the WMPA, its objectives and purpose as presented in the SEMFOP, and other relevant material including the Reviews discussed. It should determine what the basic functions of the WMPA should now be, given its manifest failure in its present form to carry**

out the fundamental task of protecting the watershed's biodiversity. The Commission must not be subjected to the influence of the WMPA secretariat for obvious conflict of interest reasons. Among the options to be considered by the commission is some form of partnership or other cooperation with an international environmental organization.

- The commission would propose (a) a new design for WMPA incorporating reprioritizing of functions and a new structure to implement them, (b) the steps required to establish the new design, and (3) the rationale for the proposed action.
- It would manage the transition from the current WMPA to the new one through actions including, but not limited to, the following decisions and actions:
  - GOL's Department of Energy Business (DEB) to ask NTPC to withhold the full payment for this financial year's Annual Work Plan and Budget (AWPB), which was approved in December, 2013 (the Authority has sufficient funds in hand to maintain the minimal operations specified below).
  - The BoD to reduce the WMPA staff to handle minimal essential ongoing operations, primarily land and reservoir patrols, and for core village support activities such as maintaining health and education services. The staff to be retained should be almost completely technical and those involved with patrolling and development functions. An interim manager should be appointed by the BoD from the above retained staff.
  - WMPA with appropriate expert assistance to revise the AWPB (or identify specific budget lines of the existing AWPB which are critical) for the reduced interim operations, and have the revised AWPB approved by the BoD.
  - GoL to ask NTPC (a) to transfer funds for the revised Budget to WMPA once the above is

completed, and (b) to hold the balance for subsequent years.

- This form of operation to remain in place until the transition to a “new WMPA” is approved and initiated as the results of the commission’s work.
- To re-establish the WMPA, once an option has been chosen by Ministers, to achieve the priority functions identified.
- The necessary restructuring of WMPA will require new staff positions that should be suitably advertised or announced publicly and applications should be assessed and selections made by an independent group with international representation.
- The IMA to be administratively and financially separated and independent from the WMPA Secretariat, and be provided adequate time to achieve their mission.
- A review of the salaries and 2013 inflations of the salaries of the WMPA Secretariat be undertaken by an independent agency or firm and the results be made available to the DEB, IMA, POE, NTPC and IFIs.
- An immediate inventory of confiscated goods and other WMPA assets (including vehicles, computer and office equipment, etc.) be conducted. Ideally it should be a joint inventory conducted by an appropriate GOL agency and an independent body such as Price Waterhouse.

## **1. INTRODUCTION**

This is Report 22 of the International Panel of Environmental and Social Experts (POE or the Panel) for the Nam Theun 2 (NT2) Multipurpose Project in the Lao People's Democratic Republic. The members of the Panel are D.K.McDowell (consultant, Otaki, New Zealand), T. Scudder (Professor Emeritus, California Institute of Technology, USA) and L.M.Talbot, (Professor, George Mason University, Virginia, USA).

Comments and suggestions from stakeholders on preliminary and second drafts have been taken into account in this final text though not always accepted in their entirety.

Attached to this report as Annex 1 is a List of Measures (LOM) against which to assess achievement of the Objectives and Provisions of the Resettlement Implementation Period (RIP) as set out in the Concession Agreement (CA). The List was discussed in Vientiane in consultations spread over several days with NT2 stakeholders in February 2014 and further comments of stakeholders on the revised LOM are incorporated in the Annex 1 text.

This mission had two main foci. The first was the resettlement process and progress on the Nakai Plateau to assess the progress of handing over to the Government of Laos (GoL) the responsibility for execution and completion of the resettlement component so that the requirements of the Concession Agreement (CA) for the Resettlement Implementation Period (RIP) could be assessed during the first quarter of 2015.

The second main focus was the Watershed Management and Protection Authority (WMPA). The performance of the WMPA has always been problematical, most particularly in terms of its responsibilities for conservation of the globally important biodiversity of the Nakai-Nam Theun National Protected Area (NPA). Two recent external reviews of the WMPA (a Fiduciary review and an Organizational one) have documented that the performance of the WMPA has been so lacking that a comprehensive restructuring is required.

The report itself is organized into three sections dealing with the resettlement program on the Nakai Plateau, a brief section on the Xe Bang

Fai (XBF) Downstream Program and a fuller one on the WMPA, plus two Annexes. The first Annex consists of the List of Measures (LOM) against which to assess achievement of the Objectives and Provisions of the Resettlement Implementation Period (RIP) as set out in the Concession Agreement (CA) and the second deals with the POE's views on Rosewood and Other Illegal Timbers.

It should be noted that in December 2013 it was declared by GoL that Nakai District is "out of poverty" in accordance with the Government's criteria. That is a decision for the GoL to make. The Resettlement Committee in January 2014 declared that the Resettlement Household Income Target had been achieved "in accordance with the Concession Agreement". While not suggesting that incomes have fallen below CA requirements, the POE points out below (under B. The Five Livelihood Pillars and D. Monitoring) that it is also important to realize that important problems remain with each of the five pillars at this time and with their integration to achieve a sustainable and diversified program of livelihood activities and that, as it has frequently stated, the Panel has reservations about the accuracy of some aspects of the recorded household income data.

### **1.1 The Panel's Mandate**

The Panel derives its mandate from the Concession Agreement. This is a 1,352 page legal document which assigns the POE a contractual responsibility to provide independent review of, and guidance on, the treatment of environmental and social issues associated with the Project, along with some executive functions, and towards the conclusion of the respective Implementation Periods, to review and report on whether the Resettlement Objectives and the Resettlement Provisions "have been achieved and maintained for a reasonable period of time". The POE remains a standing body for the period of the concession. The POE submits its findings to the GOL Minister of Energy and Mines and to Deputy Prime Minister Somsavat Lengsavad, addresses recommendations to the GOL, Nam Theun 2 Power Company (NTPC) and the International Financial Institutions (IFIs), and is required to "act independently of the parties and in a manner which...is in accordance with the World Bank Safeguard Policies and the ADB Safeguard Policies and best protects both the environment and the interests of those affected by the Project Impacts."

## **1.2 Panel Activities**

All three Panel members (David McDowell, Thayer Scudder and Lee Talbot) arrived in Vientiane on 1 February, 2014. That day and the next informal meetings were held with various individuals involved with the project to obtain further background information. On February 3,4 and 5 meetings and briefings were held with the Minister of Energy and Mines, Soulivong Daravong, the Department of Energy Business (DEB) of the Ministry of Energy and Mines, the NTPC, the World Bank and the other IFIs.

The afternoon of 5 February the team drove to Lak Sao and on 6 February visited the fish market, the Khamkeut Office of the WMPA, and the site of a cassava factory outside of Lak Sao. Later the team visited the valley above Nakadok Village to survey the status of previous industrial mining and current artisanal mining within the NPA, and then proceeded to the Nakai Reservoir dam site to spend the night at the NTPC quarters.

During the following day the team observed illegal marketing of reservoir fish and found facilities used to transport and load illegally cut logs, both adjacent to the dam site facility. They later found and drove along a 3 km. track that allowed vehicles with illegal loads to bypass the WMPA checkpoint on the main road to Lak Sao. They visited Pakatan Village and then proceeded to Oudomsouk and the NTPC Wooden Guest House.

The following five days were spent on the Nakai Plateau. Visits were made to the Thalang Fish Landing site and to landing sites at other villages. Part of a day was spent on foot inspecting areas of recent slash and burn agriculture near the villages of Khon Kaen and Ban Done. Meetings and consultations were held with the Nakai Resettlement Office, the District Governor, District Working Groups, Resettlement Management Unit, the Village Forestry Development Company Ltd. (formerly the Village Forestry Association), Watershed Management and Protection Authority (WMPA), GOL officials and volunteers at the three Resettlement Village Centers, Reservoir Fishery Association, Village Development Committees, Village Fishery Association and Village Fishing Groups, and households involved in the 5 pillar activities in two villages in each zone. A meeting was also held with the Chairman of the NTPC Board of Directors and NTPC CEO.

On February 13 the team proceeded to Thakhek for a meeting with the Khammouane Governor, the Resettlement Management Unit, and Health

Program managers. The following day they proceeded to Vientiane and the next two days were spent report writing.

February 17 and the morning of February 18 were spent in a meeting at DEB discussing the List of Measures (LOM) with representatives of GOL, the International Financial Institutions (IFIs), NTPC and WMPA. A meeting was held with the Minister of Energy and Mines on the afternoon of the 18<sup>th</sup>.

The usual wrap-up meeting to present POE preliminary views was held on February 19. In the evening T. Scudder departed. The 20<sup>th</sup> was devoted to report writing. On February 21 D. McDowell and L Talbot met with Deputy Prime Minister Asang Laoly, had lunch with representatives of the Wildlife Conservation Society (WCS) and later met the Vice Minister of MONRE. On February 22<sup>nd</sup> David McDowell and Lee Talbot departed Laos.

### **1.3 Acknowledgements – Appreciation**

The POE expresses its appreciation to Patrick Dye of NTPC for organizing the very full, worthwhile and productive program for the POE. The Panel is particularly grateful to Deputy Prime Minister Asang Laoly for a very productive meeting, and to Minister of Energy and Mines, Soulivong Daravong, for taking the time to meet with the Panel twice. We are grateful to Khammouane Governor Khambay Damlath for his time, insights and hospitality, and likewise to Nakai District Governor Bouma Soutsadavone. The Panel is grateful for the time, information and advice from the many individuals we met, including NTPC Board Chair Jean-Christophe Philbe, NTPC CEO Michel Robino, NTPC E& S Director Ruedi Luthi, NRO Manager Xavier Bouan, World Bank Country Manager Keiko Miwa, WB NT2 Manager Ingo Wiederhofer, ADB Country Director Sandra Nicoll and ADB consultant Francois Obein, RMU Manager Sivixay Soukkarath and Deputy Manager Mme. Keoula Souliyadeth, WMPA Director Phouthone Sophathilath, interim manager of VFDC Khamsing Boualaphant, Director General of DEB Xaypaseuth Phomsoupha and Deputy Director Sychath Boutsakitirath, and many others in the DEB and other GOL units, World Bank, and NTPC. Phalim Daravong, this time as an independent consultant rather than an NTPC staff member, accompanied the Panel throughout the visit and provided essential assistance. And as always, the Panel is extremely grateful for the warmth and willing help it has received from all the Lao and others it has had the pleasure and privilege of meeting.

## **I THE NAKAI PLATEAU: KEY POE ISSUES**

### **A. The LOM**

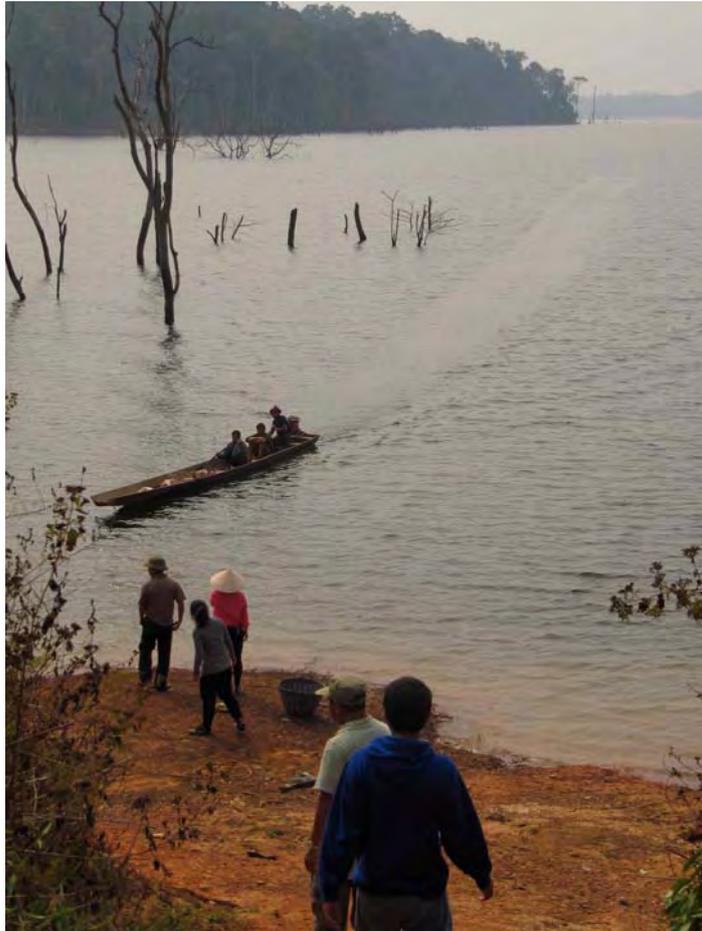
An NT2 stakeholder workshop held in Thakhek last May requested the POE to help focus the work required to achieve the aims of the Concession Agreement (CA) by drawing up a List of Measures (LOM), with indicators and targets, which sets out what still needs to be done. This draft “indicative list” was circulated in December 2013 and discussed in a free-ranging three days of meetings during the POE’s visit. The result was the beginnings of a consensus among stakeholders, including the Governor of Nakai District and the Director General and Deputy Director General of the Ministry of Energy and Mines’ Department of Energy Business, on what needs to be done before RIP closure. The revised LOM below will now serve, with the CA itself, as a reference point and guide for all parties but particularly the POE during the next two years as the Panel makes its assessment of developments and provides advice to the Resettlement Committee, with whom the final decision on closure of the Resettlement Implementation Period rests.

### **B. The Five Livelihood Pillars**

It is important to realize that important problems remain with each of the five pillars at this time and with their integration to achieve a sustainable and diversified program of livelihood activities. More attention must also be paid to marketing produce in the case of fisheries, agriculture, livestock and forestry. In the paragraphs that follow, POE will address activities that can achieve a diversified set of income generating activities.

#### **(1) Fisheries**

Introduction: The Fisheries Management Plan (FMP) is first rate but implementation will be the key to success.



Resettlers coming into an unofficial fish landing site to sell their catch to a trader.

- (a) The POE sees as essential much improved law enforcement by frequent patrols that include much closer cooperation between village fishing groups, the Watershed Management and Protection Authority (WMPA) and appropriately armed militia/police/army personnel.

In the attached LOM the WMPA, on Board approval, is required by May 1, 2014 to authorize and properly equip its Khamkeut office with water transport and staff to patrol reservoir areas within Khamkeut District and with the Oudomsouk Office authorized and equipped to patrol all Nakai-Nam Theun areas within Nakai District. The POE considers such Board approval as an essential component of fisheries law enforcement.

- (b) The POE would appreciate getting from NRO’s Fisheries Program quarterly updates during the all important Fisheries Management Plan implementation process.
- (c) The LOM recognizes that GoL’s recent ten year extension of the reservoir fishery beyond the initial 10 years stipulated in PM Degree 24 includes beside resettler hamlets “other people who used to fish in the inundation zone, and their respective descendants.” Though that requirement is an equitable one, its implementation needs further analysis and further thought as to its implications for what currently is the resettlers’ major source of income.

The necessary action is that GoL assess by the end of 2014 the approximate number of households in Khamkeut villages, Nakai Plateau host villages (Oudomsouk and PhonPanPek), Nakai-Nam Theun villages and Gnommalath villages that formerly used to fish in areas now inundated by the reservoir. If the number of households is such as to significantly increase the number of fishers, as the POE anticipates, then further action will be called for.



Fish retailer in Lak Sao prepares NT2 reservoir fish for sale.

**The POE recommends:**

**1/22 That GoL (as well as the NRO) anticipate the need to provide adequate financial and staff resources during 2015 through such sources as the Khammouane Development Program to provide sufficient capacity building for the Village Fishery Association and Village Fishery Groups to enable them to compete in the future with “other people” (some of whom, better educated and more experienced than many resettlers, already are dominant participants in the fishery, fish marketing and fish processing).**

**That in regard to the CA’s aquaculture component , action be postponed until, based on expert advice, reservoir conditions allow a professional decision to be made.**

The POE would appreciate WMPA and Nakai District reaching an agreement (that initially does not require complicated boundary alterations) clarifying the issue of resettler fishing downstream from the Thalang bridge and on the south side of the Nam Theun adjacent to Thalang villagers’ fields and the additional Nam Malou land that will be made available to first and second generation resettlers.



Khon Kaen children collecting aquatic life.

## (2) Agriculture

Introduction: In our report the POE will only address issues that it considers most important to foster sufficient activity diversification and which, where possible, makes use of current resettler knowledge.

- (a) In clearing and cultivating additional lands the POE in 2013 observed multiple households working together to prepare and plant rice. Men from multiple households did the land preparation, while women, also from multiple households, cooperated in planting rice in successive fields. In 2014 in the additional field area of another hamlet the POE realized that the communal fencing not only enclosed an area of over 20 fields but, as in the fields photographed in 2013, was of superior quality to the fencing surrounding 0.66 ha fields.

Furthermore, on their own initiative farmers during the second year were beginning the intensification of swidden cultivation on additional land. One elderly woman, for example, had planted taro and was preparing an appropriate area for paddy cultivation while resettlers from another household had planted well protected chillies.

**The POE recommends:**

**2/22 That GoL and NRO explore as part of the Village Development Planning Process ways in which indigenous knowledge could be used not just in the utilization of the additional lands but also in a wider range of agricultural and other community activities.**

As possible examples, might better use of at least some 0.66 ha fields follow if they were enclosed in communal fencing? Following the harvest in communally fenced fields could communal grazing on treated (with urea, for example) rice straw be encouraged not just as an end in itself but also as a means to encourage gradual intensification of livestock management? Are there other indigenous beliefs that could be used for hamlet upkeep and waste disposal?

- (b) Simultaneous and immediate irrigation system rehabilitation and training provided by the RMU, Nakai District, and the Social and Environmental Remediation Fund (SERF), with strong NRO support, is essential in the 50 odd projects that the resettlers want to use.
- (c) The POE wishes to reiterate the cultural importance of rice to the resettlers. Without exception when the POE asks households which was the most important year or years to date, the answer is the years when the project provided rice.

By way of example, is there sufficient emphasis, as occurred in the Xe Bang Fai Downstream Program, to improve rainfed rice varieties under Nakai Plateau conditions and to obtain short season flood tolerant and/or floating rice varieties for use in suitable drawdown areas? Is sufficient attention being paid to encourage flood tolerant native grasses which have provided important grazing in other hydro reservoirs?

- (d) There is an ongoing need for cash crop diversification and for rapid expansion of the successfully introduced agro-forestry program, involving for example the further building up of the existing tree and domesticated NTFP nurseries in each Zone. Seedling production should be coordinated with VFDC through an agreed plan, with NRO help and advice.

### **(3) Livestock**

Good progress has been made with cattle groups, cattle pens and pasture development but critical is achieving a vaccination rate as close as possible to 50% for cattle and buffalo because of the threat of disease being introduced from the catchment, Khamkeut, and Gnommalath.



Buffalo grazing and wallowing in drawdown zone of the reservoir.

Granted the historical and current importance of large animals to the resettlers and of buffalo to catchment villagers, further delay in DAFO/WMPA planning a credible vaccination program for the Nakai Plateau and adjacent NT2 Project Zones should be avoided. The POE is well aware of the complexities that planning, implementing and monitoring such a program involves at this time; not the least of which are the reorganization that the WMPA is undergoing and expected variation in animal husbandry priorities among villagers. However, the frequency with which epidemic disease has devastated large animal populations, as recently in the adjacent PIZ village of Pakatan, is a warning against further planning delays.

**The POE recommends:**

**3/22 That the WMPA finance with Nakai's DAFO a realistic large animal vaccination program in the catchment and that GoL consider using NT2 revenue for an integrated vaccination program to cover Nakai District, the catchment, and PIZ villages in Khamkeut and Gnommalath.**

#### **(4) The Village Forestry Pillar**

The only bright spot in the village forestry sector is the progress being achieved in promoting agro forestry. Nearly three hundred households took part in agro forestry activity in 2013, with NTPC providing them with thousands of largely fruit tree seedlings. A Moringa Producers' Group has been set up and has signed a contract for supply. There have been high losses of mortality of Moringa seedlings due to farmer neglect but the problem is being addressed. While conventional pasture areas are being extended there is a need, with growing herds of cattle, to develop agro pasture acreage as well but it is premature to be engaging in this latter work. The wider community participation in agro forestry is encouraging.

Beyond the agro forestry sector, however, it must be said that village forestry is unquestionably the least successful of the five pillar livelihood ventures. It was originally planned to provide a third of the resettlers' income but has not succeeded in coming close to that goal, though a number of dividends have been paid to the villagers over the years. It now faces considerable constraints with the resource depleted to a presently unquantified degree by poor management, illegal cutting by a variety of predators, a reallocation of lands originally assigned to the former VFA (now the VFDC, Village Forestry Development Company Limited) having been reassigned to provide additional agricultural land to resettlers and second generation families, substantial unpaid arrears owed by the logging sales contractor and – an old problem – unreasonably heavy taxation of a venture which was set up to provide compensatory income for the dislocated resettlers. Government approval at a very high level has been given to a tax reduction, with back dating, but it has yet to register in VFDC's bank account. There is also a return owed to VFDC for a replantation fee/tax it has been paying but has received no money back for the replanting.



Relocated VFA lands being burned off for hill rice cultivation.

The sustainability sought in the CA is a remote prospect. Attaining a degree of sustainability will depend on firm action by the responsible GoL agencies and the resettlers themselves to protect the remaining resource and the required new plantings and a willingness on the latter's part to forego at least a proportion of immediate returns from a declining resource in the medium term interest of protecting, managing and rebuilding the forest reserves to the point where they are once again sustainably productive.

There has been a managerial vacuum over the past two to three years but a new interim manager who knows both the project and the forestry business has been appointed and is moving to correct the situation he faces, not least the absence of a sense of ownership over the resource by the villagers. He will need strong support from the Provincial and District governors and from the new Board and cooperation from rejuvenated Village Forestry Committees to make progress including on the payment of arrears by the contractor and the authorized but not paid refund of the high taxes.

Sorting out the problem of failures to meet payments owed to VFDC is an immediate priority. As noted above the Company is owed substantial sums by the logging and marketing contractor and there is confusion over two tax issues, one at least of which should result in the payment of a large backdated refund. Not unreasonably the World Bank, which has indicated a willingness to provide further support on village forestry issues on the Nakai Plateau in principle, qualifies this offer by making it subject to a GoL request and satisfactory resolution of the contractor payment, contract and taxation issues. NTPC, which has already contributed generously to the forestry work, is also willing to consider provision of additional support subject to IFI involvement and the satisfactory resolution of the outstanding contractual and taxation issues by the GoL and the VFDC. The ADB considers that the project should at this point stand on its own feet and that “achieving resettlement targets as per CA requirements is and should be the responsibility of the project implementing agencies, namely the GoL and the NTPC.”

Once the arrears issue has been settled the next step will be to provide a basis for planning by undertaking a forest inventory survey on the ground. As set out in the LOM several further steps follow the completion of the inventory. With so many unknowns the precise sequence of actions to be taken is speculative only at this point. The necessary technical expertise to undertake the forest inventory survey can be found. It is critically important that this task be undertaken well and at an early date.

NTPC has said it will contribute to strengthening the forestry pillar if one of the IFIs steps forward. NTPC has contributed substantially over the years to the endeavor to turn the village forest resources into a productive and sustainable income source in an often confused GoL administrative context. That effort is fully acknowledged by the POE. At the same time it must be said that a reading of the CA suggests that there are important elements of the company’s obligations which were not able to be achieved within the “limited by cost” expenditure cap. An example is the requirement to oversee implementation of the 2005 sustainable forest plan and review it as appropriate and adjust it “in order to achieve the objectives of the Community Forestry Program”. It would be unfair to assign sole responsibility for the failure thus far to implement the plan to NTPC, the RMU and/or the VFA management – the difficulties in working in the forestry sector in Laos are well

known. But it illustrates that there remains work to be done before RIP closure. The POE therefore warmly welcomes the NTPC's willingness to continue to be involved subject to IFI involvement as well.

To lift the performance of this sector over the next two years to the stage where it could be regarded as back on its feet and beginning to operate effectively may well call for close attention not only by the Provincial and District Governors but at senior Ministerial level also. Without such support and direction sustainability would indeed be a remote prospect for what was seen as one of the main pillars of the livelihood program.

**The POE recommends:**

**4/22 That negotiations by the team appointed by the Provincial Governor be undertaken in an endeavor to recover the claimed unpaid logging and timber sale arrears from Leung Fat Hong by May 2014.**

**That the interim VFDC manager seeks the early release of tax funds authorized by order of DPM Somsavat Lengsavad in March 2013 but not yet paid over from Ministry of Finance and/or Provincial funds and organizes, from the refunds, in full or in part, the payment of dividends to the resettlers.**

**That the interim VFDC manager likewise seeks payment of claimed replanting fees paid by VFA over past years to help fund reforestation operations on village forest lands.**

**That the forest inventory required for planning purposes be undertaken as a matter of urgency once the arrears are available and paid.**

**That appropriate steps be taken by the VFDC Board (or its successor), in consultation with all stakeholders and the villagers themselves, to ensure that the CA's call for "forest management by villagers, for villagers" is given a practical and sustainable form.**

**That this include, as set out in the LOM, realistic targets and deadlines for achieving an updated strategy, with forest protection and management, marketing and reforestation elements included.**

In summary, fostering forestry sector sustainability requires effective forest protection, active forest management and the earmarking of a substantial percentage of earnings in future budgets both for short term planting of quick producing crop trees and domesticated NTFPs, and to get long term forest regeneration and restoration, and propagation and planting, underway by 2015.

### **(5) The Off-Farm Pillar**

The CA sets out an ambitious program for skills training for off-farm employment covering many sectors. (Sched.4,Pt.1, para.10.4.1). The object was to stimulate new businesses and service opportunities to generate alternative income sources beyond farming, forestry and fishing. The proliferation of off-farm activities has happened only slowly, with resettlers more inclined to engage in pursuits they are familiar with or in more immediately remunerative activities like rosewood gathering and selling.

It has to be said that until recently there has been a lack of dynamism in the area of capacity building in general. It is a propitious time – given that easily accessible rosewood stocks are now virtually exhausted and total incomes could well be falling – for NRO/RMU, working closely with the VDCs and drawing on the Village Development Plans, to put together a list of preferred vocational and skills training proposals and to implement them. The AIP records an intention during 2014 to engage external facilitators to ensure “the continuous and sustainable development of Nakai District and identify any necessary further training needs”. Workshops on capacity building issues are also planned, with plans for putting in place a systematic program of formal and informal upgrading courses and, where required, recruitment of additional staff. That is all reassuring; but time is short to allay fears of continuing inadequate capacity at the District and village/hamlet levels in nearly all sectors. Action on this front is vital. The POE has seen a draft of the pending report on vocational and training needs, which usefully pulls together a range of ideas on the employment potential of

several sectors, including the VFDC operations and tourism, and proposes a detailed skills assessment and a Nakai area skills development project.

**The POE recommends:**

**5/22 That with one year only remaining before the handing over of most programs, an intensive program of vocational, skills and managerial training be mounted as soon as the report on training needs has been absorbed. This initiative should be closely monitored by NTPC and Nakai District management since the success of the handover will rest substantially on the outcome of the training and skills development achieved in the months ahead.**

**Ecotourism**

As the consultants' report concludes, one promising sector for job creation may be the promotion of a modest tourism industry, focusing on ecotourism in the watershed and on the Plateau as well. There is a slowly growing awareness of the potential of the area as adjacent regions develop their tourist potential. Already there are parties of young people, attracted by the remoteness of the region and some of its spectacular features, motor biking across the plateau. The sealing of the Lak Sao to Thalang road during 2015 can be expected to swell the numbers coming through with regional traffic coming in from Vietnam and China and going on to Thailand and Myanmar. The District should probably be starting soon to prepare to handle and hopefully profit from this expected influx.

The Khammouane Province Department for Tourism and Culture has produced a Tourism Master Plan for the Province and has experience of ecotourism beyond the Nakai Nam Theun area. The Provincial Governor has also established very recently a state owned enterprise (SOE) tasked with developing tourism in the Province in a "strategic and integrated" manner. These developments provide a basis for moving forward and possibly for some funding in the NNT area. A next step may be to set up a meeting of potential stakeholders to assess the level of interest and resources to initiate action in the Nakai area.

Subject to a positive response - including a readiness on the part of a restructured WMPA to play a full part in the process - the drawing up of a District Tourism Plan might follow.

There are several imponderables here. The next initiatives must come from agencies and firms with interests in the area and the World Bank's PAW project will doubtless also address the matter of where tourism fits into the NNT Management Plan. Based on the success of ecotourism ventures, whether community based or joint ventures with the private sector, elsewhere in Laos the POE sees considerable potential in well-planned and low-key ecotourism ventures for the District. There may well be a role here for the District and Provincial Governors, working with the new SOE and a restructured WMPA, to stimulate planning and action among potential stakeholders.

**The POE recommends:**

**6/22 That GoL agencies, including the Khammouane Provincial Department for Tourism and Culture and a restructured WMPA and with technical assistance from NTPC, work in concert with the new Provincial Tourism SOE to set up later this year or early next year a workshop of potential stakeholders to gauge the level of interest in fostering ecotourism on the Nakai Plateau and NNT NPA, looking towards the possible drawing up of a District Tourism Plan during 2015.**

**C. GoL funding**

**The issue of GoL funding is dealt with in detail in the attached LOM as reproduced here:**

“Issues: Where the CA requires the setting up of institutions like the RMU, adequate funding to carry out their RIP responsibilities is essential (See para.3.1(b) of Schedule 4, Part 1 of the CA). Similarly, whereas GoL and the IFIs have agreed that NT2 revenue can be used on the NT2 project, such funds should be accessible for stipulated and emergency purposes during the RIP. The mechanisms for managing such funding need clarification.

## Measures and Targets:

1. The appropriate GoL agencies make available the GoL-approved RMU budget for the October 1, 2013 - September 30, 2014 fiscal year no later than May 15, 2014 [GoL].
2. Provided the RMU submit an appropriate budget on time, GoL approve and provide for fiscal year October 1, 2014 – September 30, 2015 an appropriate budget at the required intervals after September 30, 2014 [GoL].
3. GoL agree to make available NT2 revenue, as agreed upon with the IFIs, no later than September 30, 2014 for emergency and other critical situations than may arise during the RIP process.”

While Measures and Targets 1 and 2 are obvious CA requirements, some background to 3. follows:

- (1) A major issue discussed with senior GOL officials during our visit was the possibility of accessing GoL NT2 revenue to deal with especially critical NT2 issues. (As indicated in the Aide Memoire of the IFI management mission of November 2013). One such issue, dealt with in the first two LOM requirements, is the need for RMU funding for 2014 and 2015 to complement NTPC funding and for implementing ongoing and other important RMU responsibilities in connection with the XBF Downstream Program. RMU funding has been formally approved for the 2013 – 2014 fiscal year but the claim is made that no GoL funds are readily available; hence the need for accessing NT2 revenue if other options continue to be unavailable.
- (2) The increasing international experience and emphasis on benefit sharing for project affected people based on finance from hydro-power revenue (see, for example, Chaogang Wang, “A Guide for Local Benefit Sharing in Hydropower Projects”, Social Development Working Paper No. 128, The World Bank, June 2012) and other sources throughout the concession period or project life is especially applicable to Laos because of its many dams with significant impacts on the environment and Lao citizens. Encouragingly, the World Bank has been discussing issues including

benefit sharing with GoL agencies under the Hydropower and Mining Technical Assistance Project.

- (3) Such funding, as well as technical assistance that NTPC (a socially responsible institution) has informed the POE that the Company is willing to consider, also is apt to be especially important for ensuring the sustainability of the numerous hydropower facilities in Laos because of limited regular staff capacity and budgets at district level.

#### **D. Monitoring**

The quality of NTPC's environmental monitoring is superior to its socio-economic monitoring of resettler hamlets, households and individuals. A major problem with all LSMS reports is that ethnicity is based on language spoken with over 50 percent of resettlers classified as Lao, while Chamberlain's pre-resettlement 1995 data has ethnic minorities being a large majority of the resettler population. Furthermore the LSMS Surveys, unlike the QSEM surveys, were not designed to look at inter-village differences, let alone intra-village differences.

Both LSMS and QSEM surveys exclude "natural growth" second generation families since both data sets "only reflects the experiences of the original resettler households." (page 7 of NTPC's Draft Quarterly Socio-Economic Survey. Third Quarter 2013. Version 1). There is, however, a partial exception to that statement mentioned on page 7 which states that "second generation households ... were included in an extended QSEM survey (Round 5) undertaken in the fourth quarter of 2012. These data are being analyzed separately." Since Round 5 is referred to as a census it remains to be seen what type of data were collected on "natural growth" families; hence the importance of future NTPC monitoring including additional "natural growth" family data. While the POE is pleased, as stated in March 20, 2014 stakeholder comments on the first draft of POE 22, "that natural growth households would receive support via access to education, health services , other social services, community land with land use certificates, micro-finance (VCF) and irrigation during RIP," further definition of required services is necessary.



POE meeting with Nakai District Governor Bouma Soutsadavone and Senior District officials

Therefore as stated in the attached LOM it is especially important for NTPC and GOL to share “relevant monitoring accumulated to date on the Nakai Plateau resettler population” and that “NTPC intensify analysis of QSEM data to analyze primary drivers of poverty and vulnerability” and acquire the necessary analytical capacity for timely data accumulation and analysis.

A further problem is that the household income data in LSMS 7 is inflated by compensation paid to resettler households and by very substantial illegal income from rosewood and other forest products (the POE’s analysis of this issue is elaborated in Annex 2 of this report); hence the POE’s belief that income has been dropping since 2012. While that conclusion is not to suggest that income has fallen below CA requirements, it does emphasize two important conclusions:

First, the importance of correcting previous livelihood weaknesses in the five pillars.

Second, a need to increase the staffing of the NTPC monitoring unit to expand the unit’s ability to analyze further in the critically

important 2014 QSEM reports the nature and causes of inter- and intra-village differences.

## **E. Education**

NTPC has handed over an excellent preschool, primary and secondary school program to the GoL which has initiated a program whereby 50 secondary school graduates have received government scholarships for further study. GoL responsibilities during the rest of the RIP are dealt with in the attached LOM.

The NT2 project, as resettlers have frequently mentioned during monitoring, has significantly reduced available arable land, grazing and NTFPs. One way to deal with such environmental restrictions is for NRO to work with DAFO and the Village Development Committees and other village institutions on how best to discuss, for example, during Youth, Lao Women's Union and Elder meetings, and perhaps in after-school settings, key environmental issues that must be addressed if CA livelihood sustainability is to be achieved.

### **The POE recommends:**

**7/22 That NRO, DAFO and village institutions discuss how to address key environment issues of relevance to current and future Nakai District generations such as enhancing soil quality, sustaining reservoir aquatic resources, re-establishing essential forest, non-timber forest products (NTFPs), and pasture resources, and minimizing reservoir sedimentation through appropriate use of the drawdown area, islands and fields.**

As previously mentioned under the Off-Farm Pillar, the major weakness of the system of education is lack of a broad and integrated program of vocational training to provides the range of careers and expertise that resettlers require to maintain their livelihood and other equipment, their houses, and their communities and community supplies.

## **F. Health Services**

There remain some actions relating to sustainability of this admirable program which call for a brief mention. NTPC has undertaken to provide this

year not only additional staff but to hand over data bases and software and to consider support for publishing works describing the health system pioneered by the NT2 Program managers. The latter measures would help replicate the system in other Provinces of Laos and possibly elsewhere. It merits support.

## **G. Hamlet and Village Issues**

### **Village and Hamlet Committees**

- (1) The POE supports NTPC's intention to contract an outside firm to address and review "all basic services to the communities of the District, whether resettlers or not." The focus of the review on communities is crucial especially in resettler villages and hamlets where the number and interrelationship of multiple committees is confusing even to the POE. A two step approach with the consultant firm concentrating initially on the District level issues and then, with advice from Village Development Committees (VDCs), considering intra-village level coherence seems appropriate.
- (2) The POE had a lengthy meeting with key members of the administratively consolidated Donjaleun VDC and much shorter sessions with the PhonsaOn and Hueymalay VDCs in the Southern and Central Zones. Though belatedly established during the second half of 2013, progress to date is impressive. The POE was especially impressed that the relevant Village Extension Worker was present in each case and that the Donjaleun VDC had given equal representation to the smaller and poorer of the village's two hamlets. In all cases, however, women were seriously under represented and in the other two cases POE interviews in the two poorer villages indicated that hamlet concern existed as to whether their interests were being fairly represented. Their women were also said to be embarrassed to attend meetings due to being less well dressed, educated and sophisticated.



Donjaleun Village Development Committee meeting with POE.

### **The Community Living Well Program (CLWP)**

This is an excellent program which was piloted in three villages in 2013. The objective now is to extend it to all 16 hamlets in 2014/2015, a plan which the POE believes is fully justified by the results thus far. There may be a need to foster a stronger feeling of ownership of the Program in the communities. NRO and the CLWP consultant are aware of this. The POE does believe that an emphasis on three separate groups (mother and child and hygiene, youth development and Social Issues for the Elderly) courts the risk of under-emphasizing key cross-cutting issues that need to be addressed such as those mentioned under Education and Village and Hamlet Committees above as well as alcohol abuse which is a serious problem, for example in Sop Phene. NTPC comments that the CLWP “will expand its target groups” and that more cross-cutting issues will be covered where relevant.

## **Village Credit and Savings Fund**

On the basis of an external consultant's advice the Village Credit Fund (VCF) has been converted into a Village Credit and Savings Fund. The Fund practices have also been changed to make it easier for "natural growth" resettlers to have access to micro credit and there are step-by-step moves to allow vulnerable households to withdraw the "converted entitlement" segment of their shares from the VCFs so as to ensure that the vulnerable can access the compensation to which they have an entitlement. The POE supports this move, which is supported by the IFIs, so long as it does not undermine the sustainability of the Funds as such.

The viability of the Fund is vital to underpinning the livelihood pillars. Interestingly, loans to small businesses (38%) now supercedes fishing (30%) as the largest recipient by volume of monies disbursed though more fishers than business people received loans. Small livestock and cultivation also featured, but provision of loans to cover medical emergencies was still the third largest disbursement recipient.

Long term sustainability of the Fund remains a preoccupation of NTPC, Rural Development and Poverty Eradication Office (RDPEO), Lao Women's Union (LWU) and the District authorities. Upgrading of accounting practices is ongoing and further capacity building at hamlet and village levels is called for. The POE encourages NRO and the District to work towards drawing up practical handover agreements with LWU and RDPEO.

### **The POE recommends:**

**8/22 That in the interest of helping ensure sustainability of VCFs individually and collectively negotiations begin as soon as is feasible on practical handover arrangements and agreements with LWU and RDPEO.**

## **H . Infrastructure, SERF and the Khon Kaen Road**

Most of the many and often complex infrastructure requirements in the CA have been more than adequately met. This is a plus which is greatly valued by the resettlers themselves. As can be expected in a higher

altitude tropical environment a number of maintenance issues have arisen with the passage of time. Several of these (roads, water supply, housing) are addressed in the LOM. The only debatable question is to know exactly to which purposes the SERF, a very valuable and imaginative ongoing initiative, should be put. On the POE's reading of the CA the primary emphasis in the use of the SERF is on maintenance, and in limited cases operation, of community assets. There has been a small number of cases where this emphasis seems to have been set aside, with funds spent on the Khon Kaen Road maintenance beyond the agreed guidelines, for example. Some projects have involved capital expenditure which might more appropriately be financed from other sources. NRO is well aware of the issues and has sensibly engaged an outside consultant to review fund use, assess accountability and management capacity and contribute to capacity building in financial management. The POE supports this approach, which should lead to a removal of present ambiguities in use of these valuable funds. The LOM lists a number of useful measures designed to ensure the long term effectiveness of the program.



Roads and electricity pylons – parts of the project's infrastructure improvements.

## **I. Broad Social Issues and Environmental Issues**

### **(1) Resettlement gender strategy**

The CA devotes three pages to setting out a positive program for promoting gender equity and providing opportunities, for example, for women to have access to positions of authority and decision-making and for girls to have enhanced opportunities for higher education. It includes gender-balanced targets in each project activity, the setting of a target number of women as staff in project institutions, identification of gender divisions of labor within each village and ethnic group to foster gender sensitive development and participatory village planning.

In the initial stages of the project there was a flurry of activity and a specialist was brought in during early 2008 to talk to women's groups and then draw up a comprehensive list of seven gender strategies designed to mainstream gender considerations in the project's activities.

It is fair to say that some impetus appears to have been lost in recent years. In the POE's own observations of the VDP planning process, for example, there was good participation of women – sometimes outnumbering the men – at the consultative phase, but this is much less apparent now that the process has moved on to the resource allocation and action plan phases. As for membership of VDCs, women are seldom above 20% in number, if that, in most Committees.

A review of the attainment of the CA's requirements and possible more vigorous action is timely. The LOM proposes that the specialist recruited in 2008 be brought back to assess implementation of gender plans and attainment of targets and to suggest further action if so required. NTPC has agreed to this. The POE awaits the outcome of such a review and any follow up with interest.

## (2) Mining near the Nakadok village



Artisanal gold panners.

As noted above, POE visited the valley above the old Nakadok village and saw no indication of recent mechanical mining anywhere in the valley, inside or outside the NPA. We understand that the district authorities directed that the mining machinery used by the “artisanal mining” be removed from the valley and the only artisanal mining we saw was a group of seven Vietic women with gold pans.

The Phonesack mining left their administrative and maintenance buildings in the valley outside the NPA boundary when they ceased illegal mining in the NPA. These buildings remain, apparently unoccupied except for caretakers, and the more recently installed electric lines remain in place. We remain concerned that the Phonesack mining company may be poised to restart its mining operations in the NPA at a future time, so WMPA (Khamkeut) must continue to monitor the situation.

### **(3) Illegal timber extraction**

The POE wishes to alert the stakeholders that significant illegal timber extraction (apparently from the Corridor area) is ongoing close to the NT2 dam with logs being removed close to the entrance to the former residence area, that fish traders are evading landing fees by setting up their own landing places close to the designated one near the dam and that a 3 km track easily used by fish and timber traders by-passes the WMPA check point at the road junction to Lak Sao by starting at Ponsa-art and rejoining the main road a kilometer beyond the checkpoint.

Close to the dam logs are cut from the west side of the river just downstream of the dam. They are brought across the river and hauled up to waiting trucks. There is a poachers' camp at the river landing site and a well developed skid track up the steep hill. It appears that a portable winch is set at the top and it snakes the logs up to the truck landing spot – which is just across the dam road from the NTPC helicopter pad, and about 200 meters from the NTPC guard post at the gate to the dam.



Chute for extracting illegal logs from Corridor area.

#### **(4) Wildlife marketing**

In its first report the POE noted the abundance of wildlife for sale in the Lak Sao market and along the Thakhek to Vientiane road. Subsequent action by the authorities led to great diminution of wildlife in the markets but now there seems to be a resurgence. On a brief visit to the Lak Sao market the POE found live jungle fowl, dead and live bamboo rats, other small rodents, squirrels, porcupines, mouse deer and a large flying squirrel, and in a market on the road to Thakhek we saw civets, squirrels, porcupines, small rodents and serow horns. We recommend that the authorities crack down again on this wildlife trade.



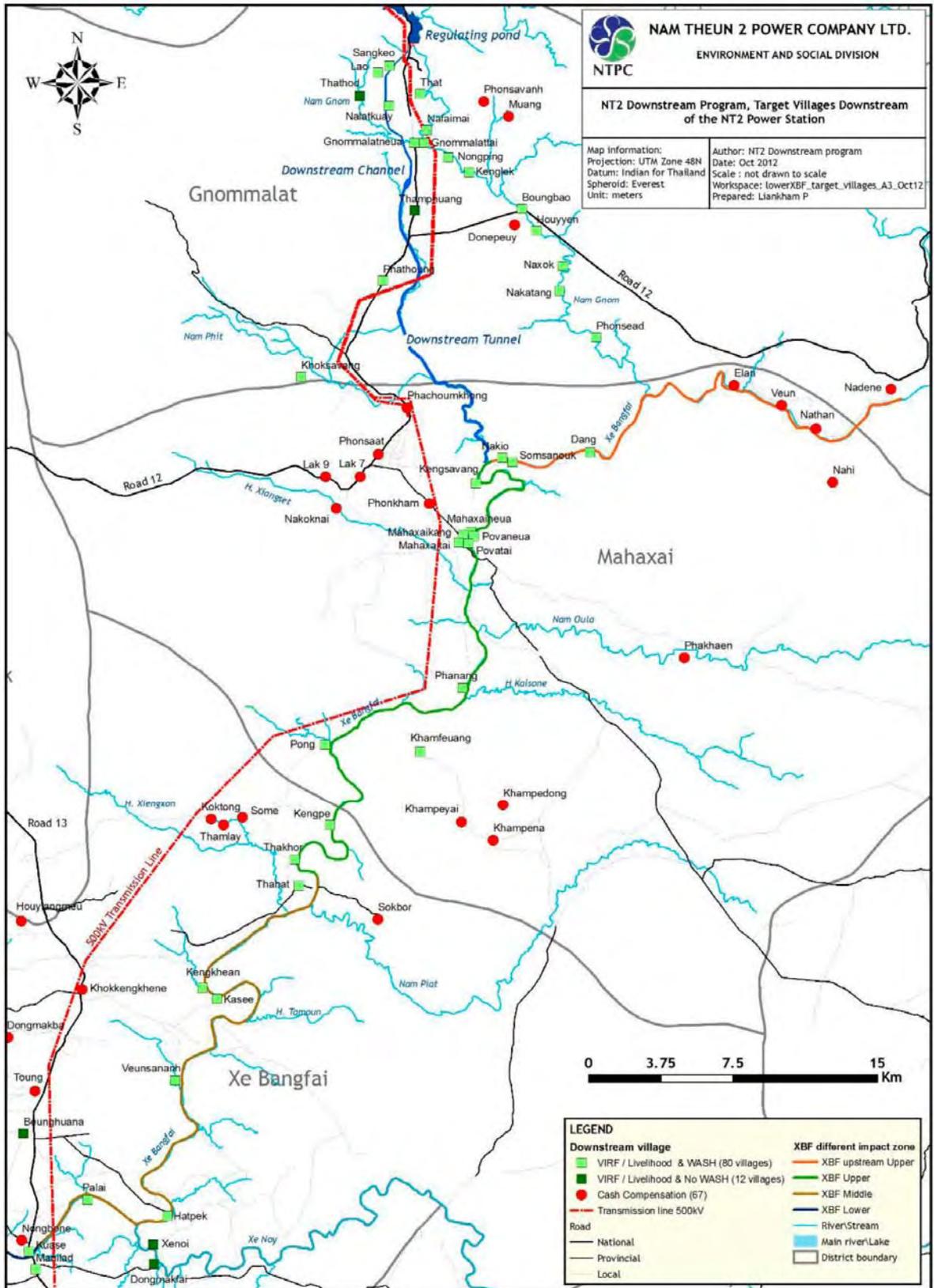
Civet cat and porcupine on sale along Thakhek/Vientiane road.

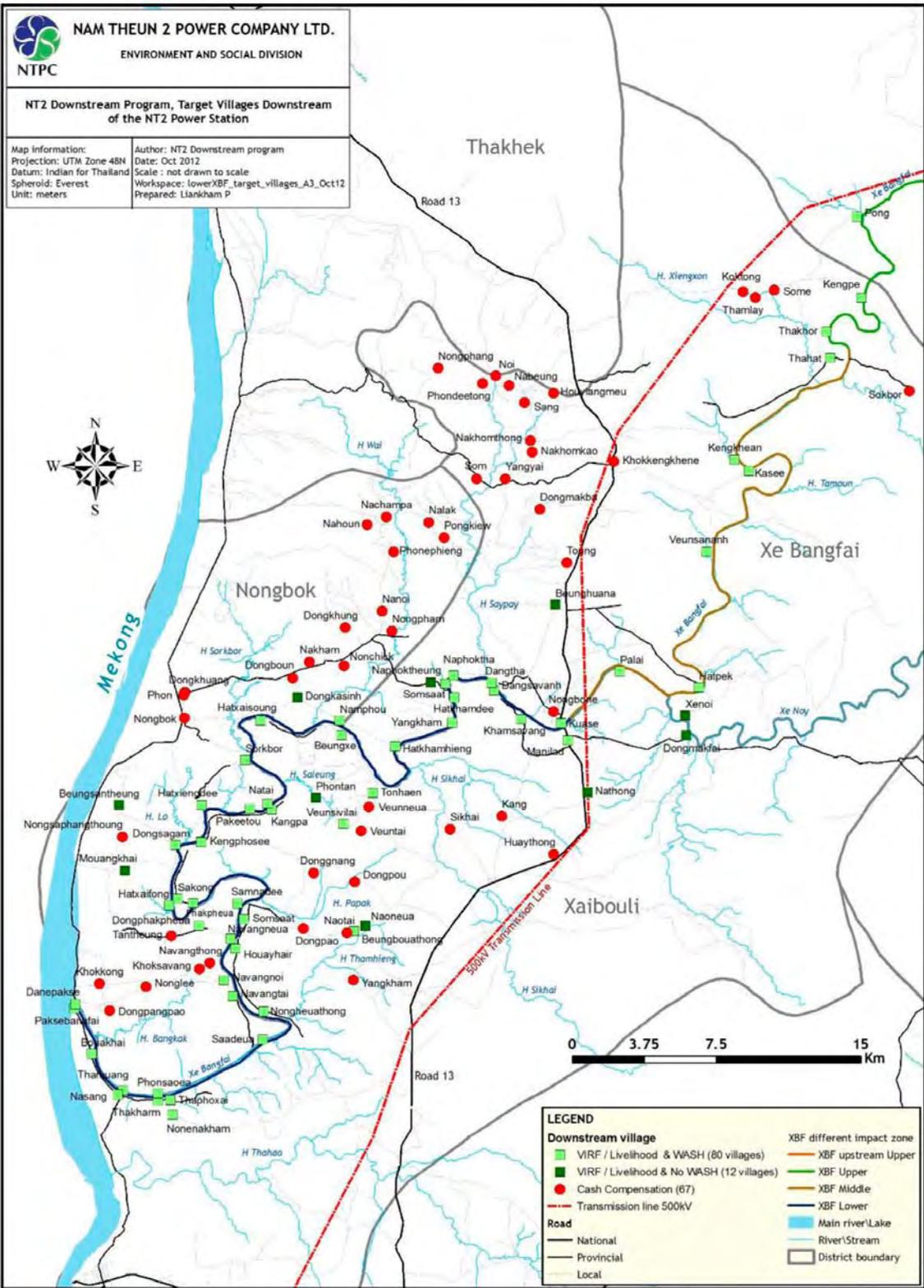
## **II XE BANG FAI DOWNSTREAM PROGRAM**

The NT2 Downstream Program is an innovative feature of the project, being among the very few such Programs worldwide which specifically addresses the problems faced by those downstream of a dam powerhouse. As such it has created a precedent which is beginning to be followed by other dam builders including some in Laos. The Program is commendable for this reason and because it includes elements, such as support of promising research on flood-resistant rice and farmer-to-farmer programs, which are themselves innovative. It should be maintained.

The Program was handed over (prematurely in the POE's view) to the GoL on 1 January 2013 at a time when 67 (see maps below) of the 159 project affected villages received only US\$100 cash compensation per household. Unfortunately this was the year of a national fiscal crunch so although GoL approval has been given to the allocation of the budget funds needed to maintain the Program they have not been forthcoming. Although the Government's Khammouane Development Project (KDP), financed by a grant from the World Bank, has expanded in a welcome endeavor to keep up the momentum, the ADB's useful smallholder project is not being continued. Without adequate funds the village-level work of the RMU has wound down to a low level and will decline further if no further funds are forthcoming.

This is regrettable. The CA provides for livelihood restoration of Downstream PAPs "on a sustainable basis" and seeks "a self-sustained livelihood". So sustainability is a prime objective here as on the Plateau. But there has been no GoL budget for DSP activities through the RMU since April 2013. The question is how does the GoL meet its CA obligations to finance ongoing activities in the DS zone in a time of financial stringency? The POE has addressed this broad issue in Section C GoL Funding.





### **III WATERSHED MANAGEMENT AND PROTECTION AUTHORITY (WMPA)**

From the POE's first Report in 1997 we have emphasized that effective conservation and management of the Nakai-Nam Theun National Protected Area (NPA), and the Watershed, were crucial to the success of the NT2 project. The POE previously has described the importance of the watershed and its globally significant biological and cultural diversity, along with the threats it faces, so that will not be reiterated here.

The Watershed Management and Protection Authority (WMPA) was created in accordance with the Concession Agreement (CA) under the Prime Minister's Decree No. 25 of 2001, updated by PM No. 39 in 2005 and PM No. 471 in 2010. GOL mandated WMPA to work with local people and other stakeholders to ensure sustainability of both biological diversity and living conditions and welfare of watershed inhabitants. The overall goal of management for the watershed is to restore, maintain and enhance the biodiversity, habitats, and conservation values, as well as the cultural values, of the NPA and guarantee sufficient volume of water with low sediment loads flowing into the NT2 Reservoir. The WMPA's management mandate and activities are detailed in the Social and Environmental Management Framework and Operational Plan (SEMPOP). To accomplish this the NTPC made a remarkable commitment to provide US\$ one million a year (indexed for inflation) for the duration of the concession to provide funding for the Operational Plan activities. Among other things this had the effect of making the NNT-NPA a protected area with one of the highest and longest guaranteed funding of any such area in the world. Consequently the WMPA was launched with great optimism - which regrettably was short lived.

In virtually every Report since 2001 the POE has emphasized problems with the WMPA's performance in carrying out its mandates. For example, in our last report (Report 21A, in 2013) we stated that "at least until recently, the WMPA has been totally ineffective in protecting the watershed's biodiversity." The situation has now become critical as indicated by two current outside reviews of WMPA.

#### Independent Fiduciary Review

In 2009 a Mid Term Review of the WMPA's program was carried out by International Financial Institutions (IFIs), and the same year POE also

reviewed progress in the Watershed. Both the IFIs and POE recommended that the fiduciary systems of the WMPA be reviewed in order to improve their effectiveness and efficiency. The WMPA recently requested assistance from the World Bank to help it assess its fiduciary systems, as well as recommend how they might be strengthened over time.

Consequently the World Bank had an Independent Fiduciary Review of the WMPA conducted with the final report published in December, 2013. The review found that the WMPA's yearly financial statements are not compatible with international reporting standards. All of the three core components of the fiduciary framework - financial management, procurement and disbursement – have to be rated as representing high fiduciary risks. Their findings were extremely critical of the WMPA, concluding “that none of the internal and external controls on WMPA are effective”. The Review notes that “the annual work plan 2013-2014 raises considerable concern when looking at the ratio between salaries and operating and related costs on one hand, and activities that can be directly linked to the WMPA mission objectives on the other hand” It concluded that there is a gross imbalance between the headquarters salaries and associated costs on the one hand, and the on ground conservation and development improvements that the WMPA was created to accomplish on the other. And the Review emphasizes that “Especially inflations in the salary scale should be analyzed critically, as this is by definition WMPA's most manageable cost.”

The review emphasized the need to correct these problems rapidly “in order to provide reasonable assurance to all the stakeholders that the annual contribution WMPA receives from the NTPC is managed well and serves the objectives of the SEMFOP only.”

The POE strongly supports the findings and recommendations of the review.

#### The PAW Organizational Review of the WMPA

The World Bank/GOL Protected Areas and Wildlife Program (PAW) addresses protected areas and wildlife management and conservation in Laos, and a key component involves an expanded Organizational Review of the WMPA conducted in late 2013. This review was mandated by the Department of Planning and Cooperation of the Ministry of Natural Resources and the Environment (MONRE). While the original mandate was for organizational

review, the reviewer quickly found that the problems and malfunctions of WMPA were more than organizational alone and were “primarily linked to institutional aspects” and it concluded that “it would be insufficient and rather irresponsible to restrict the recommendations to organizational arrangements, as if applying a bandage to a wound without addressing the cause of illness.”

The POE considers the review with its assessments and recommendations to be remarkably insightful and consistent with our own observations and recommendations over the years. The review was extremely critical of the WMPA and it detailed a number of issues. Some of these issues relate to practices that have been allowed to develop over the years and some relate to the design of WMPA itself. Among the findings of particular concern to – and agreement by -- the POE are the following:

1. Internal/Management Issues:

- “Lack of internal and external information and communication.” This includes communication within the headquarters, between the headquarters and the clusters, and within the clusters.
- “Need to revise the wage policy.” When WMPA was created the salary levels were set high with the objective of attracting the most qualified individuals with backgrounds and training that related to the WMPA mandates. For the most part this objective has not been met at all and staff selection appears to have been based more on personal relationships within the agencies, mostly MAF, and political considerations, than any considerations of suitable expertise and ability. On top of that, early in 2013 when the financial problems of the GOL led to impacts on Lao public servants’ salaries, the WMPA increased its salaries, at least those in the headquarters, by a reported 30%.
- “Inadequate hiring and operations of staff.” SEMFOP II emphasized the low technical, financial and management capacities of the staff, and summarized the very severe negative impacts of the low capacities on the operation of WMPA, a key point often emphasized by POE. Of particular significance, the Review recommends that staff be selected by an independent firm – not by personal consultation with the home ministry or agency -- and that high level international expertise is also required.
- “Unsatisfactory management procedures and controls.” The review emphasized deficiencies or dysfunctions including the roles of managers being too political and the lack of focus on technical/managerial skills, the absence of linkages between budgets

- and activities, the absence of monitoring of achievements from one year to the next and the lack of control of the use of funds. They noted “The management system is prone to favoritism/nepotism.”
- “Lack of surveillance efficiency”. While very significant problems remain, this is one area where important improvements have been made during the past year thanks to WMPA’s Lao Consultant, Dr. Chanthavy, and WMPA’s head of law enforcement, Phoukuakham.
  - “Very limited opening to partnerships.” While the WMPA leadership states that it is open to partnerships, partnerships in the form of MOUs and collaborative agreements between WMPA and partner services in districts and provinces, universities, NGOs, researchers and research centers are almost non-existent. The situation with regard to joint action to curtail fish poaching, including road check points and reservoir patrolling by WMPA and village or reservoir authorities is illustrative. All the district and village officials and others consulted by POE emphasized that in spite of repeated requests and offers, the WMPA had refused or had provided very minimal effort and many emphasized that WMPA consistently worked against co-management agreements and efforts.
  - “Unbalanced organizational chart not focusing enough on conservation and field activities”.
  - The Review also discusses other internal WMPA issues along with a series of external factors that affect the WMPA including growing pressures on the NPA and national GOL approaches and priorities to management of natural resources including protected areas.
  - Allocation of funding should be based on specified results. The POE has repeatedly emphasized, and we do so here again, that funding should be based on achievement of specified targets and goals.

## 2. Structural and Contextual Issues:

- “Approaches not adapted to the current situation.” The design appeared appropriate originally but conditions in Laos have changed. Also, as noted above, it was assumed that high salaries and good equipment would attract high quality recruits and thus lift overall staff capacities. This has proved wrong and has led to significant discrepancies between salaries and other conditions of the WMPA and those of the other services that are expected now to carry out many of the conservation and development activities. At national level, the review

noted two additional key issues. One is the risks of decentralization, especially in natural resource conservation and environmental protection, when introduced before either the central government or the local one have the necessary capacities. The other issue is the flawed national classification system of protected areas (conservation forests and protection forests) and the poor level of protection of natural sites throughout the country

- “Inconsistency between the regulations of WMPA on one hand, and the initial design and the new provisions on conservation at the national level on the other hand.” Under the CA the WMPA is a special authority of the GOL with responsibility for the management, development and protection of the NT2 Watershed area. But PM Decree 471 shifts the WMPA mission towards coordination and supervision. In effect, WMPA now has the mandate to achieve results without being able to control decision-making and implementation. Further, there are insufficient capacities of the district services that are supposed to implement conservation and development. And another inconsistency between the CA and the Decree comes from the new Ministry of Natural Resources and the Environment (MONRE’s) mandate that has the clear mission of managing the NPAs.
- “Lack of conservation vision of the WMPA Board of Directors (BoD) and the International Monitoring Agency (IMA), and of control/supervision of the WMPA.” The review noted that the practice of one BoD meeting a year is insufficient to give the BoD sufficient control on WMPA. The review also observes “the fact that the BoD shows the most interest for development activities” that might be explained by the lack of required experience in management of protected areas available to the BoD. The IMA is hired by the WMPA which clearly limits the independence of the IMA “and even constitutes an organizational dysfunction.” Further, the time allotted to the IMA is insufficient to achieve its objectives.
- “A new player (MONRE) with limited means of intervention and cumbersome administrative structure.” The Ministry is a recent creation with an enormous scope of responsibilities, among which is protected areas. However, responsibility for protected areas is low down in the ministries’ organizational structure and “is associated with lack of capacities in protected area conservation.”
- “Services in the districts do not have the resources to achieve their new mission.” The capacities and equipment, etc., in the districts are not

commensurate with their missions under the PM Decree 471, most particularly in protected area management.

In view of the weaknesses and failures of the WMPA in its present form and with its present staffing, the Review presents four management options:

- 1. “Dissolution of the WMPA.” This option, although possibly fully justified by the performance of WMPA to date, would require that operational activities be carried out by the districts and provinces and funding be provided from some other source. The Review does not recommend this option.
- 2. “Enforcement of the provisions of PM Decree 471.” This option abandons the initial plan of establishing an efficient management structure for a protected area and the WMPA becomes an advisory/coordination/funding body. The Review concludes that since WMPA is unable to play this role for its own activities, this option is not relevant enough.
- 3. “A second chance for WMPA: refocus its mission so that it could become an actual protected area management entity.” This option would maintain the Board of Directors (but modified to become a real and independent management body) and the IMA. The WMPA would focus on conservation and PAFO/DAFO would handle the development components and would receive funding from the NTPC, with management control outsourced to a private agency.
- 4. “The MONRE services will be in charge of conservation. The WMPA would become a foundation with the mission of ensuring long term funding of conservation actions and livelihood improvements in the Watershed.” WMPA would have fundraising functions and the mission of establishing a trust fund and providing funds generated by financial investments. As in option 3, PAFO/DAFO would deal with the development objectives, with management outsourced.

#### Next Steps: POE Views

We do not feel that a single workshop to determine the future of the WMPA is likely to achieve the desired results. One approach is to have an appropriately high authority, preferably at the Deputy Prime Minister level, to appoint a small commission (or task force) of highly competent and committed Lao nationals with some relevant international expertise. Members should be individuals who are especially knowledgeable about conservation

and development. They should be able to rise above organizational issues and should focus on how best to achieve the objectives and goals of the SEMFOP. They should not include the WMPA Secretariat, although representatives from the Secretariat could provide information and advice as requested by the commission. Their mandate would be to review these reports, review all background documents, interview stakeholders, organize a workshop if they see it as beneficial, and then propose to Government an option which sets out their rethinking of the WMPA's basic functions and a structure which is designed to achieve these functions and which fits the Lao-specific and the NNT-NPA-specific situation. All this while maintaining the contractual engagement of the country vis a vis its partners such as NTPC. Once an option has been chosen the WMPA must be restructured to achieve the functions that are involved.

The process outlined above may identify options other than those in the Organizational Review. However, if the WMPA is to be an effective organization it will require comprehensive restructuring of the Secretariat to accomplish the specified functions, and will require selection of appropriate staff and refocusing of an independently appointed IMA.

The new staff positions that are required should be suitably advertised or announced, and the applications should be assessed and selections made by an independent group with some members from international organizations like IUCN and/or WCS. The selection organization must have expertise and experience with conservation, development, and organizational management and must involve Lao-speakers as full members. IUCN and WCS are examples of potentially suitable organizations to nominate participants.

If an option is chosen that involves payment by NTPC to implementing agencies, as in option 3 of the Organizational Review (above), the Review notes that management control should be outsourced to an independent agency. Such payment should be reviewed by IMA and POE as required by Article 35 in Decree 471.

We also agree with the Review that high level international expertise is also required in the process of determining the future of WMPA and implementing the needed actions. When a suitable option is chosen a new Prime Minister's Decree will be required.

As emphasized by the Review, to maintain control over the WMPA Secretariat, the BoD needs to be more closely involved with its activities and to have access to independent expertise in conservation as well as development. At present, and with one meeting a year only, the BoD must rely almost entirely on information and advice from the director of the Secretariat.

An IMA is required, but to be effective it must be appointed and hired independently from the WMPA Secretariat, and must have adequate time and resources to carry out its functions. Under the present arrangements, even with very competent personnel it is hard for the IMA to do much more than rubber stamp what the Secretariat wants and tells them.

The POE notes that the NTPC has not yet provided the full funding for this year for the WMPA because it has been waiting for the required audit, although it has provided limited interim funding as required by the CA. We recommend that the full amount be withheld until a new WMPA structure and function are decided upon. The full funding can then be applied to the transition to the new structure and functions, and future years as necessary. We understand that this procedure may require an early letter from DEB to NTPC.

**The POE recommends:**

**9/22. That GOL proceed without delay along the following lines:**

- **Create a very high-level Government commission to review the WMPA, its objectives and purpose as presented in the SEMFOP, and other relevant material including the Reviews discussed above. It should determine what the basic functions of the WMPA should now be, given manifest failure in its present form to carry out the fundamental task of protecting the watershed's biodiversity. The Commission must not be subjected to the influence of the WMPA secretariat for obvious conflict of interest reasons. Among the options to be considered by the commission is some form of partnership or other cooperation with an international environmental organization.**

- **The commission would propose (a) a new design for WMPA incorporating reprioritizing of functions and a new structure to implement them, (b) the steps required to establish the new design, and (3) the rationale for the proposed action.**
- **Manage the transition from the current WMPA to the new one through actions including, but not limited to, the following decisions and actions:**
  - **GOL’s Department of Energy Business (DEB) to ask NTPC to withhold the full payment for this financial year’s Annual Work Plan and Budget (AWPB), which was approved in December, 2013 (the Authority has sufficient funds in hand to maintain the minimal operations specified below).**
  - **The BoD to reduce the WMPA staff to handle minimal essential ongoing operations, primarily land and reservoir patrols, and for core village support activities such as maintaining health and education services. The staff to be retained should be almost completely technical and those involved with patrolling and development functions. An interim manager should be appointed by the BoD from the above retained staff.**
  - **WMPA with appropriate expert assistance to revise the AWPB (or identify specific budget lines of the existing AWPB which are critical) for the reduced interim operations, and have the revised AWPB approved by the BoD.**
  - **GoL to ask NTPC (a) to transfer funds for the revised Budget to WMPA once the above is completed, and (b) to hold the balance for subsequent years.**
  - **This form of operation to remain in place until the transition to a “new WMPA” is approved and**

**initiated as the results of the commission's work.**

- **To re-establish the WMPA, once an option has been chosen by Ministers, to achieve the priority functions identified.**
- **The necessary restructuring of WMPA will require new staff positions that should be suitably advertised or announced and applications should be assessed and selections made by an independent group with international representation.**
- **The IMA to be administratively and financially separated and independent from the WMPA Secretariat, and be provided adequate time to achieve their mission.**
- **A review of the salaries and 2013 inflations of the salaries of the WMPA Secretariat be undertaken by an independent agency or firm and that the results be made available to the DEB, IMA, POE, NTPC and IFIs.**
- **An immediate inventory of confiscated goods and other WMPA assets (including vehicles, computer and office equipment, etc.) be conducted. Ideally it should be a joint inventory conducted by an appropriate GOL agency and an independent body such as Price Waterhouse.**

## **ANNEX 1**

### **NAKAI RESETTLEMENT IMPLEMENTATION**

#### **LIST OF MEASURES TO GUIDE THE ASSESSMENT OF THE ACHIEVEMENT OF THE RESETTLEMENT OBJECTIVES OF THE CA**

##### **Table of Contents**

#### **I ACCELERATE AND FURTHER DIVERSIFY LIVELIHOOD DEVELOPMENT ON A SUSTAINABLE BASIS**

<b>Introduction</b>	<b>3</b>
<b>1. The Fisheries Pillar</b>	<b>3</b>
<b>2. The Village Forestry Pillar</b>	<b>5</b>
<b>3. The Agricultural Pillar</b>	<b>6</b>
<b>4. The Livestock Pillar</b>	<b>7</b>
<b>5. The Off-farm Pillar</b>	<b>8</b>
<b>6. Marketing</b>	<b>9</b>
<b>7. Prioritizing the Poorer Hamlets</b>	<b>9</b>
<b>8. Strengthening the Village Savings and Credit Fund</b>	<b>10</b>
<b>9. Law Enforcement Matters</b>	<b>10</b>

#### **II GOL FUNDING, AND RESETTLEMENT MONITORING**

<b>10. GoL Funding</b>	<b>11</b>
<b>11. Monitoring</b>	<b>12</b>

#### **III SUSTAINABLE COMMUNITY AND SOCIAL SERVICES**

<b>12. Sustainable Community Development</b>	<b>12</b>
<b>13. Upgrading Educational Opportunities</b>	<b>13</b>
<b>14. A functional Community Living Well Program (CLWP) in each Hamlet</b>	<b>13</b>
<b>15. Social Safety Net</b>	<b>14</b>
<b>16. Resettlement village and hamlet gender strategy</b>	<b>14</b>

<b>IV HANDING OVER PREPARATIONS</b>	<b>14</b>
<b>17. Capacity Building</b>	<b>14</b>
<b>18. NT2 Parties' Budgetting, Staffing and Handing Over Preparations</b>	<b>15</b>
<b>19. Achieving Institutional and Programmatic Coherence at all Levels</b>	<b>15</b>
<b>V SUSTAINING RESETTLEMENT INFRASTRUCTURE</b>	<b>16</b>
<b>20. Infrastructure Maintenance</b>	<b>16</b>

## Introduction

The NT2 Concession Agreement (CA) requires the POE to review activities performed during the Resettlement Implementation Period (RIP), analyze whether the Resettlement Objectives and Provisions have been met and provide advice accordingly to the Resettlement Committee before the latter makes a decision on the ending (or otherwise) of the Period.

The POE, following close consultation with GoL, NTPC and the IFIs, has produced below a revised list of measures to guide assessment of the achievement of the resettlement objectives and provisions specified in the CA.

## **I - ACCELERATE AND FURTHER DIVERSIFY LIVELIHOOD DEVELOPMENT ON A SUSTAINABLE BASIS**

To achieve the requirements, including village income targets, set out in the Concession Agreement, an accelerated program is required in the case of all five livelihood pillars. The POE assesses the livelihood sectors for priority action relative to their inherent importance to achievement of sustainability and/or the urgency for attention as follows.

### **1. The Fisheries Pillar**

#### **Issues:**

Currently the reservoir fishery is the most important income earning activity and the main source of protein for Nakai communities but needs more effective protection from illegal encroachment by outsiders plus enhanced sustainability through extension of exclusive rights to resettlers, and other Nakai and Khamkeut residents who used to fish in the inundation zone, and their respective descendants, and an effective system of fisheries planning and management and capacity building in community fisheries organizations.

#### **Measures to be taken:**

1. Resettler protection, control and management of the reservoir fishery, fish processing and fish trading established and respected for a twenty year period.
2. Though the LOM requirement that the 10 year further extension of the reservoir fishery include, beside the resettlers, other people who used to fish the inundation zones is an equitable one, its implementation needs further analysis and further thought as to its implications for what is currently the resettlers' major source of income.
3. Reservoir restocking/aquaculture considered in 2015 or beyond.

#### **Indicators, targets and action agencies:**

1. The Nakai District Governor has signed into law the ten year extension of the resettlers' and other people who used to fish in the inundation zone, and their respective descendants, exclusive control over the NT2 fishery. [Reservoir Management Secretariat (RMS)/Governor's Office]. [ Now that the above ten year extension has been

approved no further changes in PM Decree No. 24 are acceptable without explicit approval from the Prime Minister's office.]<sup>1</sup>

2. Subject to WMPA Board approval,
  - a. the WMPA is instructed that patrolling and enforcement in the reservoir areas under its jurisdiction are the WMPA's responsibility [WMPA Board] and
  - b. is required to put in place by 1 May 2014 an effective mobile patrolling and enforcement system whereby the Khamkeut office is authorized and properly equipped with water transport to patrol reservoir areas within Khamkeut District and the Oudomsouk Office is authorized to patrol reservoir areas within Nakai District [WMPA Board].<sup>2</sup>
4. Similarly, subject to GoL approval,
  - a. it is made clear by 1 May 2014 that Village Fishery Groups have responsibility for patrolling and enforcement of regulations within the reservoir boundaries of their hamlet [District Governor/RMC], and that
  - b. patrolling and enforcement are effective by 1 June 2014. [GoL/District Governor/RMS/RFA/VFG]
5. The Fisheries Management Plan is put in place and the consequential institutional and operational changes including the transfer of responsibilities from GoL to community-level organisations (the Reservoir Fisheries Association and the Village Fishing Groups) are achieved during 2014 according to the Plan's schedule. [District Governor/RMC/RFA/NRO]
6. In the interest of stopping illegal fishing
  - a. an effective and cooperative patrolling regime on the reservoir is put in place by 1 June 2014,
  - b. (i) fishing licensing and (ii) boat registration schemes are made operational by mid-2014,
  - c. a fisheries conflict resolution plan is developed and endorsed by the District Governor by 1 August 2014 and
  - d. fish trading and processing rules and regulations are modified, as envisaged in the Fisheries Management Plan, by 1 August 2014. [NRO/RFA/VFGs/District Governor]
7. Village Fishing Groups and the Village Fishing Association are empowered and trained by the first quarter of 2015 so that they are capable, among other functions, of restricting fishing to those listed in PMD 24 of February 2005.[NRO/RFA/VFGs]

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<sup>1</sup> The POE's intention is that the resettlers, who were intended to be the main beneficiaries of the "fishery, fish processing and fish trading" under PM Decree 24 of 13 February 2008, must be encouraged and trained to be partners and eventual owners of fish processing ventures and that the Village Fishery Association be encouraged and trained to develop a cooperative trading organization in competition with other traders.

<sup>2</sup> Measure further explained in POE Report 22

8. NRO focuses on capacity building of Village Fishery Groups and the Village Fishery Association through a strengthened Fishery Co-management Program through 2015.[NRO/RFA/VFGs]
9. The still unresolved issue of resettler fishing downstream of the Thalang Bridge be resolved by 1 June 2014 [Nakai District/WMPA/ VFGs/RFA/RMS].

## **2. The Village Forestry Pillar**

### **Issues:**

Forestry is currently underperforming and failing to meet expectations and calls for immediate and decisive action by GOL and the Village Forestry Development Company Ltd. (VFDC)<sup>3</sup> interim manager and the shortly to be elected Board.

**Measures to be taken:** There are so many variables and unknowns in this sector that the following is a possible scenario only at this point. GOL agencies, the interim manager and Board, in collaboration with the resettlers themselves and on the basis of the recent remote sensing assessment and a new forest inventory to be conducted, rethink by mid-2014 the future of the resettlement village forestry pillar and restructure the program to help ensure short term returns and employment for the villagers and prepare during the first quarter of 2015 a strategy to ensure the sustainability of the resource, long term returns through regeneration and reforestation programs, and local employment.

### **Indicators, targets and action agencies:**

1. MAF-DoF, PAFO, DAFO and the ADB and/or the World Bank – undertake, at the start of the dry season 2014-2015, a ground-based forest inventory of the village forest resources. [MAF-DoF, PAFO, DAFO/VFDC Board/ADB/World Bank].
2. An updated strategy for the community forests on the Nakai Plateau is endorsed by GoL within 3 months of the completion of the inventory. [MAF/Provincial and District Governors /PAFO/DAFO/VFDC Board (if remaining in place)/VFCs].
3. A New Plan/Program/Budget is operating within 3 months of the completion of the strategy.[VFDC Board].Ministry of Agriculture and Forestry gives renewed consideration to integrating VFDC into its Forest Investment Program as soon as is feasible. [MAF/PAFO]
4. Regulations on the use of new agricultural lands and on encroachment for cropping on VFDC lands by resettlers are clarified, disseminated and enforced by 1 June 2014. [District Governor/DAFO/DONRE/VDCs/VFDC]

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<sup>3</sup> Formerly VFA.

### **3. The Agriculture Pillar**

#### **(i) Issue: Lifting agricultural productivity**

##### **Measures to be taken:**

1. Lift agricultural productivity through soil fertility improvement, rotational cropping, green manuring, composting, and community involvement.
2. Adhere to land use plans drawn up during PLUP exercise. (See also irrigation measures below).

##### **Targets and Indicators:**

1. Increased income, food security, and community involvement for resettlers through an increasing use of the 0.66 ha plots, and other additional identified agricultural lands through PLUP, utilized for productive purposes (including fallows, pasture, agro-forestry, soil fertility restoration, etc), with realistic targets for increasing percentages used in the rainy season 2014 and in the rainy season 2015 [NRO/RMU/VDCs/DWG]. This will be achieved through continued efforts to intensify agricultural production in new additional agricultural lands, to extend agro-forestry and pasture development [NRO/RMU/VDCs/DWG].
2. Extension services will be strengthened, with a particular focus on uplifting poorer hamlets, through a better identification of expected outcomes, planning of activities, allocation and augmentation where necessary of appropriate technical and community development staff [DAFO/VDCs]
3. Further use of community involvement and indigenous knowledge as when multiple households were observed in recent years working together in preparing and planting rice in newly fenced additional agricultural lands [VDC/DWG/RMU/NRO].<sup>4</sup>

#### **(ii) Irrigation use**

##### **Issue:**

The irrigation system set up by NTPC is under-utilized and insufficient numbers of low-tech systems like gully dams exist.

**Measures to be taken:** (i) Prompt setting up of a NTPC/RMU/DAFO irrigation team (ii) for planning, strategizing and (iii) implementing by mid 2014 a broadly defined irrigation program which integrates NRO irrigation schemes with gully dams that can eventually be handed over to Village Development Committees in close cooperation with DAFO, and that (iv) intensifies throughout 2014 the simultaneous training of functional Water User Associations in each Hamlet.

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<sup>4</sup> Measure further explained in POE Report 22

**Targets and indicators:**

1. DAFO establishes an irrigation team with the support of RMU and NRO with an aim to design an irrigation program (by 1 May 2014) and implement a capacity building program of Water User Associations (from 1 June 2014) for those irrigation schemes that resettlers wish to be rehabilitated and for village gully dams in each Hamlet through the first quarter of 2015. [DAFO/RMU/NRO/WUAs].
2. Simultaneously and by 1 June 2014 where possible and otherwise before the commencement of the 2015 rainy season, NTPC completes additional gully dam construction with emphasis on poorer villages such as Phonsavang [NTPC].
3. SERF committee ensures timely funding for the maintenance of viable small scale existing irrigation projects and gully dams, for which resettlers have expressed their interest.

**(iii) Agro-pastoral-forestry****Measures to be taken:**

Working closely with those restructuring and re-planning the forestry sector as a whole, NRO rapidly expands the agro-forestry Program in 2014/2015 and brings an expanding number of the resettlers into the Program.

An agro-pastoral component will necessarily be delayed for several years, but should be taken into consideration during the planning of the agro-forestry activities and the plantation and regeneration activities under the VFDC.

**Targets and Indicators:**

1. Budget provisions for expansion of agro-forestry in 2014/2015 reflect the high priority to be given (1 April 2014) [NTPC/NRO].
2. Existing tree and domesticated NTFP nurseries in each Zone, and individual nurseries operated by villagers, are expanded, by 1 April 2014, to provide seedlings for the agro-forestry program in all categories of village land including degraded forest lands formerly designated as VFDC land.

**4. The Livestock Pillar****Issue:**

Livestock mortality figures are high in Gnommalath and Khamkeut Districts (and also in the adjacent NPA – see main report) essentially because of low rates of vaccination of both large and small animals. Correspondingly, the contribution of this sector to resettler household incomes is continually at risk.

**Measures to be taken:**

DAFO and resettlers, supported by NTPC, achieve substantially improved vaccination rates for cattle and buffalo in each Hamlet during 2014/2015, with households with large livestock joining livestock production groups, completing their cattle yards and participating in the NTPC Agro-forestry and Pasture Development Program.

**Indicators and targets:**

1. A vaccination rate for all large livestock including buffalo that can be handled are lifted to 50% by the beginning of 2015 or to whatever rate Lao vets consider to be sustainable under Lao conditions. [NRO/DAFO/VDCs].
2. A program to stimulate the vaccination of small livestock and poultry is initiated no later than 1 June 2014 by NTPC, DAFO and VDCs.

**5. The Off-farm Pillar****Issues:**

While a number of small stores and repair workshops have been set up in the resettlement villages over the years – in part stimulated by the availability of micro credit through the VCSF - there has not been the flowering of off-farm activities envisaged in the CA and the original SDP. Skills training in a range of trades were envisaged but have only recently begun. The new activity with potential for creating jobs both on the Plateau (and in the WMPA) may be the fostering of an ecotourism industry along the lines of those established with some success elsewhere in the country.

**Measures to be taken:**

**1. Vocational training:** NRO/RMU have commissioned a consultant's review of vocational and skills training needs.(Now to hand – see main body of POE Report 22). They will assess, in consultation with VDCs, by 1 June 2014, how to proceed in the light of the consultant's report.

**Targets and indicators:**

Funds are provided to meet this CA undertaking, with appropriate courses held during 2014/2015 [NTPC/RMU/NRO/VDCs].

**2. Promotion of ecotourism:** GOL agencies, including the Provincial Department of Tourism and Culture and a restructured WMPA, with technical assistance from NTPC where appropriate, work in concert with the newly created Provincial Tourism SOE to set up a workshop of potential stakeholders to gauge the level of interest in fostering tourism on the Nakai Plateau and the NPA.

**Targets and indicators:**

1. A workshop is convened later this year or early next year to gauge interest in tourism.

2. Should there be a positive response from workshop participants a District plan (including an overall strategy and framework) for the initial stages of establishing a modest venture is drawn up by a designated agency/firm in consultation with interested parties.

**Sustainability of tourism activities:** Sources of funding will be identified during the preparation of the plan mentioned in point 2 above.

## **6. Marketing**

### **Issues:**

Rethinking is called for on (1) how best to market the opportunities and productivity of the five pillars in terms of improved and improving access to markets in South East Asia and elsewhere, (2) capacity building within resettler hamlets and villages, and (3) how to take advantage of such opportunities as contract-farming (cassava and moringa, for example), and increased national and international demand for fish, meat and forest products as well as possibilities that “sell” to discerning tourists in the NT2 Project zones from the Mekong to the Vietnam border.

### **Measures to be taken:**

GOL, NTPC, and VDCs/ Village Fishery Association consider other marketing opportunities provided in the NT2 area.

### **Targets and indicators:**

1. Nakai District, DWG and NRO commence discussion of marketing issues, including development of production groups and value added products , with Village and Hamlet Development Committees (in particular for agricultural, livestock, forestry and other products) and the Village Fishery Association for fish marketing and the marketing of fish products (second quarter of 2014).
2. DAFO and NRO inform and sensitize farmers to the pro and cons in relation to existing contract farming options (second quarter of 2014).

## **7. Prioritizing the poorer hamlets**

### **Issues:**

To address the risk of vulnerable hamlets emerging, GOL and NTPC need to pay more attention to identifying who the village elites are, the characteristics of elite status and the implications of elite status in terms of village development plans, their implementation and monitoring for the majority within each hamlet so as to reduce the risk of vulnerable hamlets emerging in addition to vulnerable households (including second generation households affiliated with those households) and individuals.

There is also a need to analyze the significance of village size, ethnicity and gender to the extent possible in LSMS 7 and to systematically target the role of village size (and previous

isolation), ethnicity, gender and education in future QSEM (Quarterly Socioeconomic Monitoring) reports.

**Targets and indicators:**

- (1) Identify primary drivers of poverty in future QSEM reports (from report #8), including possible relationships between poverty in relationship to ethnicity, village size and previous isolation, gender, labor resources and education [NRO, DWG].
- (2) Based on existing studies, DWG, with the support of NRO, identifies the poorer hamlets by 1 June 2014.
- (3) NRO and the District Working Group develop approaches to address the drivers of poverty within poorer hamlets (throughout 2014 and 2015).

**8. Strengthening the Village Savings and Credit Fund**

**Issues:**

Having flexible, viable and sustainable VSCFs in each village and hamlet is fundamental to strengthening all five livelihood pillars, and should be a high priority.

**Measures:**

NRO/District/LWU/RDPEO work together to build VCFs individually and collectively, make their resources even more accessible to all resettlers and all sectors, and ensure long term sustainability of the Fund. Technical assistance from the World Bank , as in the case of VIRF, would help in this endeavor.

**Targets and indicators:**

- (1) Procedures and accounting practices continue to be upgraded through technical assistance and capacity building programs at hamlet and village levels (through 2014). [NRO/LWU/RDPEO/District]
- (2) Procedures are revised to ensure resources are made more accessible to all including not only the second generation, but the poor and the vulnerable as well (by 1 May 2014) [Agencies as in (1)]
- (3) NRO and District take the lead in negotiating post-handover support agreements with LWU and RDPEO (by 1 December 2014).<sup>5</sup>

**9. Law enforcement matters**

**Issues:**

An effective, uniform and consistent rule of law is essential to the well-being of the resettlers, the resettlement process and to the sustainability of the resettlers' livelihoods.

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<sup>5</sup> This measure targets the sustainability of the VCFs.

Law enforcement for domestic and social issues in the resettlement villages appears adequate at present. However, this is not the case with law enforcement focused on fisheries, forest trees, wildlife and other natural resources of value to the resettlement process.

Reportedly a high percentage of the total reservoir fish catch is illegal with much of it in the northern end of the reservoir being taken to Lak Sao market. People from the resettlement villages cross the reservoir and fish, hunt, collect NTFPs and cut rosewood and other valuable trees in the supposedly protected NPA. The resources involved are finite and the supplies are already greatly depleted, so this illegal activity does not constitute a sustainable livelihood option. In addition to depleting the biodiversity of the NPA, the illegally collected resources, and especially the valuable woods, distorts the income and livelihood data for the resettlers and delays their transition to sustainable livelihoods.

**Measures to be taken, targets, indicators, action agencies:**

1. Law enforcement for domestic and social issues in the resettlement villages should be monitored and analysed in case problems arise. [Nakai District Administration/ Village Authorities]
2. GoL (Central, Provinces, Districts) make a concerted effort to stop the illegal cutting and traffic in rosewood and other commercial woods happening in the project area, particularly in the VFDC land (by 1 December 2014).

## **II - GOL FUNDING, AND RESETTLEMENT MONITORING**

### **10. GOL Funding**

**Issues:**

Where the CA requires the setting up of institutions like the RMU, adequate funding to carry out their RIP responsibilities is essential (see para.3.1(b) of Schedule 4, Part 1 of the CA). Similarly, where GOL and the IFIs have agreed that NT2 revenue can be used on the NT2 project, such funds should be accessible for stipulated and emergency purposes during the RIP.<sup>6</sup> The mechanisms for managing such funding need clarification.

**Measures and Targets:**

1. The appropriate GoL agencies make available the GoL approved RMU budget for the October 1, 2013 – September 30, 2014 fiscal year no later than May 15, 2014 [GoL].
2. Provided the RMU submit an appropriate budget on time, GoL approves and provides for fiscal year October 1, 2014 – September 30, 2015 an appropriate budget at the required intervals after September 30, 2014 [GoL].

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<sup>6</sup> POE Report 22 will recommend, following an explanatory section, that this procedure should be extended throughout the Concession Period and the life of the NT2 project thereafter.

3 GoL agree to make available NT2 revenue, as agreed upon with the IFIs, no later than September 30, 2014 for emergency and other critical situations than may arise during the RIP process

## **11. Monitoring**

### **Issues:**

The monitoring process should begin as an important component of options assessment and, following project identification and implementation, should facilitate, as its major function, an effective adaptive management process. Satisfying that function requires not just prompt reporting of essential monitoring results but capacity to alter monitoring and project priorities as project implementation proceeds.

At this time in the resettlement process the quarterly QSEM surveys provide the best possibility for monitoring livelihood development progress.

### **Measures to be taken:**

1. GoL and NTPC to share relevant monitoring data accumulated to date on the Nakai Plateau resettler population, including data on 'natural growth' households.
2. Starting with the first 2014 QSEM, NTPC intensify analysis of QSEM data to analyse the primary drivers of poverty and vulnerability. Key parameters to be considered may include ethnicity, gender, age, language, geographic location and hamlet size, labor resources and marital status.
3. NTPC to acquire by 1 August 2014 the necessary analytical capacity for timely monitoring data accumulation and analysis.

## **III - SUSTAINABLE COMMUNITY AND SOCIAL SERVICES**

### **12. Sustainable Community Development**

#### **Issues:**

Though Extension Workers are expected to have both technical expertise relating to the five pillars as well as more general community development expertise, the risk exists that necessary emphasis on overall development of viable resettler hamlets and villages will be lost. Reasons are several. First, the number of Extension Workers has been reduced from sixteen to ten; a number that both the POE and LTA monitors consider inadequate. Second, when extension worker backgrounds were last checked by the POE, the majority were volunteers rather than permanent government staff. Third, it was the POE's impression that their expertise dealt mainly with specific technical topics as opposed to community development planning and implementation.

**Measures and targets:**

1. NRO, DWG and RMU assess by 1 July 2014, the capacity of their joint staffs to implement the CA required community development plan (Schedule 4, Part 1.11.4) with special emphasis now on the necessity to raise the awareness of hamlet members and members of new hamlet committees of the need to work together for the benefit of each community as a whole.
2. DWG, with NRO enhancement of assisting staff where relevant, fills identified staff inadequacies no later than 1 October 2014.

**13. Upgrading educational opportunities****Measures and Targets**

1. Every student who graduates from primary school and wishes to continue her/his education is able to find a place during 2014 and 2015 in a secondary school on the Nakai Plateau [Nakai District].
2. No recent primary school graduates who apply to a Nakai secondary school are rejected because of lack of space / teachers / teaching materials in 2014 and 2015. [Nakai District]
3. Nakai Plateau secondary schools in terms of space / teachers / teaching materials are able to absorb an increasing number of primary school graduates in 2014 and 2015. [Nakai District]

**14. A functional Community Living Well Program in each Hamlet****Issues:**

This recently developed Program meets a set of important needs around generational, gender and well being concerns and should be broadened and consolidated.

**Measures to be taken:** NRO, in cooperation with resettlers, the Lao Women's Union and other partners and the consultant, further designs, and implements during 2014 and 2015, a broadened and more integrated Community Living Well Program, extended to all 16 Hamlets.

**Targets and indicators:**

1. NTPC, GOL and the VDCs design and implement a more integrated and broadened Program no later than the first quarter of 2015 to continue during the remainder of 2015 and as long thereafter as necessary to achieve the objectives of the community living well program.
2. The Program be extended during 2014 to all 16 Hamlets.

## **15. Social Safety Net**

### **Measures to be taken, targets and indicators:**

1. Profiles of vulnerable persons, households (including married second generation couples), and hamlets are prepared and endorsed by the District by 1 October 2014 [NRO, DSW].
2. A safety net program, within existing GOL programs or a stand alone one, is set up by 1 October 2014 to take care of ongoing needs, to foster self-reliance and to improve the socio-economic status of the vulnerable persons, households, and hamlets. [DSW-Nakai District, NRO].

## **16. Resettlement village and hamlet gender strategy**

### **Issues:**

During the RIP there has been only limited professional assessment of the implementation on the ground of the CA's comprehensive gender policy provisions.

### **Measures to be taken:**

Implementation of the resettlement gender strategy and of specific gender strategy plans are assessed, as now agreed, by a NTPC appointed gender specialist, with targets set out in CI.9.1.5 of the CA as a reference point.

### **Targets and indicators:**

The specialist's assessment, funded by NTPC, is available to all NT2 stakeholders by the end of 2014, with suggestions for further action if so required. [NTPC].

## **IV - HANDING OVER PREPARATIONS**

### **Overall measures:**

1. Adequate ongoing funds and trained staff are allocated by GOL and NTPC to livelihood, institution and capacity building programs to ensure their viability into 2015 and throughout handover periods and beyond.
2. A coherent institutional basis is strengthened by 1 January 2015 to ensure a coordinated approach to livelihood.
3. Community development and capacity building at all levels is well planned and funded, from 1 January 2015.

### **17. Capacity building.**

This is a key element in ensuring sustainability of all resettlement programs including livelihood development but has not been addressed systematically across all sectors. It will be a vital factor in assessing readiness to take over programs across the project and to ending the RIP.

**Measures to be taken, targets and indicators:**

1. NTPC/GOL conducted a workshop in early March and plans a follow-up workshop in May 2014 on capacity building issues. Reports to be circulated.
2. NTPC/GOL: where deficiencies are identified by the workshops, plan and put in place a systematic program of formal and informal upgrading courses and, where required, recruitment of additional staff, during the balance of 2014 and into 2015.

**18. NT2 Stakeholders' Budgeting, Staffing, and Handing Over Preparations****Issues:**

The handing over processes in the social sector requires further collaborative planning, preparation, budgeting, staffing, capacity and institution building, and monitoring.

**Measures to be taken, targets and indicators**

1. NTPC to provide in timely fashion its portion of RMU funding at least through 2015.
2. GOL to provide sufficient budget and staff for the District Working Group to complement NRO budgeting and staff throughout 2014 and 2015 and following handing over.
3. NTPC to continue to adapt its budgeting, staffing and handing over policies in accordance with the resettlement program needs and timetable throughout 2014 and 2015.
4. SERF: review as planned early in 2014 the use of the funds provided through SERF to ensure that they are being used to maximum advantage in accordance with SERF regulations and the intent of the CA provisions.
5. IFIs to continue their monitoring and Aides Memoires through 2015/2016 followed by a final Evaluation and Implementation Completion Report in 2017 [World Bank].

**19. Achieving institutional and programmatic coherence at all levels, especially in the 10 villages and 16 hamlets****Issues:**

There is a need to strengthen institutional and programmatic coherence and to enhance participatory practices at the grass roots level.

**Measures to be taken:**

NTPC has engaged consultants to address at both the District and village/hamlet levels a rationalization of the multiplicity of bodies now involved in both District-level and village planning and development. VDCs will be closely consulted over changes proposed in village/hamlet arrangements.

### **Possible outcomes, targets**

1. **RMU/NRO:** build capacity in all hamlets so that they are able to undertake regular local development activities, with relevant Provincial and District authorities at the end of the RIP. (ongoing until end of 2015).
2. **VDPs:** the content, funding and implementation of Village Development Plans are assessed for effectiveness and progress towards their intended outcomes by 1 August 2014. [NRO/RMU/DWG].
3. **VDCs'** guidelines require the participation of the hamlet and actively encourage and support the participation of women, ethnic groups, etc. [RMU/DWG/VDCs].

## **V - SUSTAINING RESETTLEMENT INFRASTRUCTURE**

### **20. Infrastructure maintenance**

#### **Issues:**

Maintenance of access, village systems and housing is important. As indicated above, judicious use of the SERF funds is a crucial element to ensure the maintenance of village level public infrastructure.

#### **Measures to be taken, targets and indicators:**

1. Roads within villages, and roads, where needed, to village fish landing sites are well maintained, with particular attention paid to degraded conditions during the wet seasons. [SERF/DPWT].
2. Access road from Phonphanpek to Khon Kaen is well maintained, with particular attention paid to degraded conditions during the wet seasons. [DPWT].
3. Village and Household electricity supply are established, monitored and maintained on a reliable basis. [EDL/Households].
4. Monitoring of an acceptable and reliable Village Water Supply is assured. Regular monitoring of water quality is assured by NTPC through continued periodic testing of water from all village supplies. Maintenance of an acceptable and reliable Village Water Supply is assured. Adequate training for water supply maintenance is set up and lines of responsibility to check on the status of water supplies and to undertake maintenance are established. [SERF, Namsaat]
5. A planned solid waste collection system is established in each village by 1 July 2014 [NTPC/DONRE/SERF].

6. In accord with District regulations<sup>7</sup>, water-sealed toilets are built by 1 October 2014 by the 225 resettlement villager households who do not have them, the families involved to provide materials and labor while NTPC provides technical assistance and advice to VDCs in the form of drawings and specifications. [DWG/MOH/NTPC].
  
7. Drainage channels within all hamlets are extended and upgraded to ensure their effective operation on an ongoing basis and, before the next wet season [SERF/DONRE]

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<sup>7</sup> It is required by the district, under penalty, that owners of all new houses built after mid-2014 have water sealed toilets,



## ANNEX TWO

### ROSEWOOD AND OTHER ILLEGAL TIMBERS

The trend of the POE's qualitative data on resettler profiting from procuring Rosewood and other valuable timbers that are illegal to cut suggests that such timbers were the major source of income for many resettlers through or well into 2012. During 2013 informants claimed that scarcity of Rosewood and Maidou led to increasing utilization of Rosewood roots and cut branches with the supply largely exhausted by the end of 2013. This trend was also mentioned by a Rosewood trader interviewed by the POE in May 2013 who speculated that soon there would be no Rosewood left between the reservoir and the Middle Hills. A trader's van inspected in February 2014 contained only low quality Rosewood that he had been buying from villagers for 3,000 to 5,000 kip per kilo.



Senior WMPA manager from Lak Sao office beside a pile of confiscated rose wood – the last of the big accessible trees?

This trend is supported by one headman and others who, when asked, said that he had had no income from Rosewood for two years so his last major

purchase was a TV purchased some three years earlier. A similar trend was reported by women in three families who said that during recent years they had made no major purchases, that the fridge of one family had been repossessed and the motor cycle of another was now dysfunctional.

The example of Sop Phene is especially relevant. A draft village module given the POE by NTPC showed that Sop Phene was the poorest of the resettler hamlets in 2010. Yet by 2012 it was one of the richest according to LSMS 7 data, with the highest value in household savings. Early maps show that Sop Phene was an isolated village before resettlement on the far side of the Nam Theun in a productive portion of the NNT-NPA. Presumably their rapid increase in wealth was fueled by illegal cutting of valuable timbers from the area they know well and illegal fishing in the adjacent fish conservation area.

With the depletion of the more accessible rosewood around the reservoir and into the watershed, at least to the middle hills, rosewood poaching organized by middlemen with high level connections now appears to focus on the upper parts of the watershed. POE has brought this situation to the attention of the GOL authorities previously, and we again emphasize the importance and urgency of high level GOL attention to the organized poaching problems.