

**MANAGEMENT RESPONSE TO
REQUEST FOR INSPECTION PANEL REVIEW OF THE
NEPAL: POWER DEVELOPMENT PROJECT (P043311)**

Management has reviewed the Request for Inspection of the Nepal: Power Development Project (P043311) received by the Inspection Panel on July 10, 2013 and registered on July 24, 2013 (RQ13/5). Management has prepared the following response.

September 11, 2013

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ABBREVIATIONS AND ACRONYMS

| | |
|----------------------|--|
| ARAP | Abbreviated Resettlement Action Plan |
| CDO | Chief District Officer |
| DDC | District Development Committee |
| DoED | Department of Electricity Development |
| EHS Guidelines | Environmental Health and Safety Guidelines |
| EIA | Environmental Impact Assessment |
| EMAP | Environmental Management Action Plan |
| EMF | Electric and Magnetic Field |
| ESSD | Environmental and Social Studies Department |
| GoN | Government of Nepal |
| GRM | Grievance Redress Mechanism |
| IDA | International Development Association |
| ILO | International Labour Organisation |
| INT | World Bank's Institutional Integrity Vice-Presidency |
| IPN | Inspection Panel |
| ISDS | Integrated Safeguards Data Sheet |
| KD Transmission Line | Khimti-Dhalkebar Transmission Line |
| KDTL-EMU | Khimti-Dhalkebar Environment Management Unit |
| LAHURNIP | Lawyers' Association for the Human Rights of Nepalese Indigenous Peoples |
| MOE | Ministry of Energy |
| NEA | Nepal Electricity Authority |
| NEFIN | Nepal Federation of Indigenous Nationalities |
| NGO | Nongovernmental Organization |
| OD | Operational Directive |
| OP | Operational Policy |
| PDF | Power Development Fund |
| PDP | Power Development Project |
| ROW | Right of Way |
| SIA | Social Impact Assessment |
| VCDP | Vulnerable Communities Development Plan |
| VDC | Village Development Committee |
| WHO | World Health Organization |

EXECUTIVE SUMMARY

Background

i. On July 24, 2013, the Inspection Panel registered a Request for Inspection concerning the Nepal: Power Development Project (PDP). The PDP as originally approved had three components: (i) establishment of a Power Development Fund (PDF); (ii) a Micro Hydro Village Electrification Program; and (iii) the Khimti-Dhalkebar Transmission Line, which is the subject of the Request. The PDP began in 2003, has been restructured three times and is due to close at the end of 2013. As of July 7, 2013, about 85 percent of Project funds have been disbursed.

ii. The PDP aims to build capacity to manage the development of Nepal's hydropower potential in a prudent and sustainable manner; increase access to electricity services in rural areas; and improve the supply and accountability of electricity.

iii. The PDP has been implemented during a tumultuous period of Nepal's history. Following a ten-year civil war that in 2006 replaced a centuries-old monarchy with multiparty democracy, Nepal remains at a crossroads, facing serious development challenges in a context of continuing political uncertainty. Energy continues to be a key constraint to development in Nepal for a range of reasons, including weak institutional capacity. Despite having an estimated 42,000 to 83,000 MW of potential hydropower resources, the actual energy situation in Nepal remains one of the worst in the world.

Request for Inspection

iv. The Request for Inspection was submitted by 103 indigenous and non-indigenous families in three villages of Sindhuli District supported by a coalition of civil society organizations and individuals. The Requesters' key claims are that the Bank has not complied with its policies in relation to: (i) analysis and due consideration of alternatives in the alignment of the KD Transmission Line and the corresponding potential adverse impacts associated with the alignment; (ii) compensation to land holders with properties under the right of way (ROW); (iii) alleged human rights violations during a confrontation between protesters in Sindhuli District and the police; (iv) the Project's approach to addressing Indigenous Peoples in the Project area; (v) consultations with affected peoples in Sindhuli District; and (iv) disclosure of relevant safeguard documents.

Management's Response

v. Management believes that adequate analysis of alternatives was carried out during the design of the transmission line in 2005. The EIA conducted in the design phase analyzed three alternative routes and concluded that the current alignment was the best option, considering technical and economic feasibility as well as environmental and social impacts. Following complaints from the community in 2012, the Government of Nepal constituted a Technical Committee to consult with the population and to re-assess the alignment for the disputed stretch of the ROW in Sindhuli District. The Committee recommended continuing with the existing alignment based on its findings.

vi. The key dispute regarding the Project relates to compensation of land holders in the ROW whose land is not being acquired but would be impacted by the power lines passing over their land in the Sindhuli District. Affected communities in the Sindhuli District demanded 100 percent rather than 10 percent compensation for land not acquired but impacted by the ROW. The revised compensation package proposed by the Government (compensation at 100 percent of land value, provision of a local road, and uninterrupted power supply) responds to community demands, as well as expectations recorded in the Project's Social Assessment.

vii. The Requesters claim that human rights violations took place during a demonstration at the project site. On being made aware of these allegations, Management made substantive efforts to follow up with Government, obtain clarifications on these incidents through site visits, and validate the information with other independent sources. However, Management did not find indications that would confirm the Requesters' claims. Additionally Management would like to emphasize that the Bank, within the boundaries of its mandate, is constrained as regards the actions that it can take on being alerted of human rights violations of the nature alleged by the Requesters. Such allegations are within the purview of the Nepali legal system which the Requesters have every right to invoke. In this particular circumstance, however, Management brought the allegations to the attention of the Borrower and sought to ensure that appropriate action is being taken.

viii. The Request asserts that Bank policy was not followed in that no Indigenous People's Development Plan was carried out. Management notes that Bank policy allows for the use of alternative terminology to account for country context and the varied and changing contexts in which Indigenous Peoples live. A Vulnerable Communities Development Plan was prepared in place of the Indigenous Peoples Plan to meet the requirements of Bank policy, by extending assistance to vulnerable groups living below the poverty line in the project area. Indigenous communities were identified by the social assessment in line with Bank policies and Nepali classification.

ix. Management acknowledges that the VCDP, which was the first one prepared by NEA in a context, moreover, of conflict and social unrest, nevertheless could have been stronger. In addition, the number of vulnerable indigenous households may have increased since 2005 due to continuous migration into the Project areas. These new migrants were not captured in the original VCDP. As such, NEA is currently revising the VCDP to address these issues.

x. Management asserts that meaningful consultations took place during the preparation stage of the Project, with more than 900 total attendees. Consultations were carried out for preparation of the EIA, SIA, VCDP and ARAP. Management recognizes that the disclosure of safeguard documents for the PDP has been uneven and requires significant strengthening, which has been initiated. Core project documents have been disclosed both in-country through Project or government offices, as well as on the Bank's InfoShop website. NEA is currently in the process of updating the ARAP and VCDP and will disclose the updated documents including in local language.

xi. Management's views on other issues of concern include the following:

- Cultural Resources: Management confirms that no cultural or sacred site is adversely impacted by the Project.
- Health: Management notes that the scientific consensus is that no known health impacts can be linked to the electromagnetic exposure that is expected to stem from the Project.
- Grievance Redress Mechanism. NEA is now in the process of strengthening the Project level GRM, which will complement the Government's system for grievance redress.

xii. Management notes that this Request contains many of the same claims and representations that either have been addressed already by the Prime Minister's Office, Ministry of Energy and Supreme Court of Nepal, or are currently being dealt with by the appropriate Nepali institutions. Construction in the disputed section of the transmission line in Sindhuli has been halted for almost two years while NEA has been working with affected households on the compensation packages. Moreover, the Government has been extremely proactive and innovative in responding to the community's concerns, for example: (i) it undertook an alternative route assessment study; and (ii) on an exceptional basis, it significantly enhanced the compensation to the affected families by providing 100 percent land value compensation for the ROW, uninterrupted electricity supply (in contrast to power cuts of up to 18 hours a day in Kathmandu), and improved road connectivity.

xiii. Management believes that the Request for Inspection is based on assumed harmful outcomes of Project implementation and a misplaced assertion that no actions are being taken to address relevant issues raised by the Requesters. All relevant Project related impacts referred to in the Request have been taken into account in the course of Project preparation and are being addressed through the appropriate mitigation measures. Management considers that the issues raised are not uncommon for a project of this scope and complexity being implemented in a fragile and conflict setting. As such, issues need to be identified and addressed continuously during Project implementation, which the Bank has done.

Conclusion

xiv. In Management's view, the Bank has followed the policies and procedures applicable to the matters raised in the Request in a very challenging country context. However, Management has identified some weaknesses concerning disclosure and consultations, which are currently being addressed. Moreover, the negotiations of the compensation package for land acquisition reflecting the community's preferences for compensation are still ongoing. The Bank will continue to supervise the Project to ensure adequate implementation of the environmental and social mitigation measures consistent with Bank Policy and global good practices.

I. INTRODUCTION

1. On July 24, 2013, the Inspection Panel registered a Request for Inspection, IPN Request RQ 13/5 (hereafter referred to as “the Request”), concerning the Nepal: Power Development Project (P043311), specifically the Khimti-Dhalkebar 220 kV Transmission Line (KD Transmission Line), financed by the International Development Association (the Bank).

2. **Structure of the Text.** Following this introduction, section II presents the Request; section III provides information on the project and country context; and section IV contains Management’s response. Annex 1 presents the Requesters’ claims, together with Management’s detailed responses, in table format. Additional annexes contain information on consultations and documentation, a chronology of events in Sindhuli District, and an analysis of alternative routes.

II. THE REQUEST

3. The Request for Inspection was submitted by 103 indigenous and non-indigenous families in three villages of Sindhuli District supported by a coalition of civil society organizations and individuals (“the Requesters”). The Requesters have authorized an advocate at the Lawyers’ Association for the Human Rights of Nepalese Indigenous Peoples (“LAHURNIP”) to represent them.

4. Attached to the Request are:

- (i) A copy of the email addressed to the Inspection Panel alleging violations of the Bank’s environmental and social safeguard policies under the Project; and
- (ii) Five annexes to the email:
 - (a) Power of Attorney for the Secretary of LAHURNIP to represent the community in its complaint to the Panel;
 - (b) Writ petition filed in Supreme Court of Nepal against the Project on January 2012;
 - (c) Minutes of the meeting with Bank staff held on March 15, 2013 in the Bank’s Kathmandu office;
 - (d) Memorandum to Prime Minister of Nepal on January 17, 2012 informing him about significant adverse impact of the Project; and
 - (e) Snapshot of the website of the Nepal Electricity Authority (NEA) showing documents uploaded and corresponding date.

No further materials were received by Management in support of the Request.

5. The Requesters' key claims are that the Bank has not complied with its policies in relation to: (i) analysis and due consideration of alternatives in the alignment of the KD Transmission Line and the corresponding potential adverse impacts associated with the alignment; (ii) compensation to land holders with properties under the right of way (ROW); (iii) alleged human rights violations during a confrontation between protesters in Sindhuli District and the police; (iv) the Project's approach to addressing Indigenous Peoples in the Project area; (v) consultations with affected peoples in Sindhuli District; and (iv) disclosure of relevant safeguard documents.

III. PROJECT BACKGROUND AND CONTEXT

Country Context

6. *The Power Development Project (PDP, or the Project) has been implemented during a tumultuous period of Nepal's history. Following a ten-year civil war that in 2006 replaced a centuries-old monarchy with multiparty democracy, Nepal remains at a crossroads, facing serious development challenges in a context of continuing political uncertainty.* A synopsis of key historic events is as follows:

- Since the end of World War II, Nepal has struggled to move away from a feudal past to a more open and inclusive society. This process has been made more difficult by Nepal's varied topography, ranging from the Himalayas in the north to the southern plains, with formidable connectivity challenges among the many castes, ethnicities, and linguistic groups; many communities remain isolated from the rest of the country.
- The overthrow of the autocratic Rana regime in **1950** was followed by a period of democratic politics under a constitutional monarchy, but by **1960**, the king had overthrown the government and dissolved parliament, establishing in its place an authoritarian *Panchayat* (assembly) system. Within this system, power remained concentrated in the monarchy and a handful of elite high-caste families from Kathmandu, and was used to extract resources for the benefit of the ruling elite rather than the poor.
- By **1990**, the first *Jana Andolan* (peoples' movement) had forced the king to reinstate open national elections and curtail royal power. But political parties failed to meet the high popular expectation for change, and patronage under the *Panchayat* system continued.
- In **1996**, a rebel Maoist movement took advantage of popular disenchantment, and drawing support from marginalized rural groups that remained outside the political system and were disillusioned with the state as service provider, it launched a civil war to end the monarchy and establish a socialist republic.

- By **2005**, the Maoist movement had taken control of much of Nepal's countryside, and in early **2006** the king agreed to relinquish sovereignty to a house of representatives, which soon proclaimed Nepal to be a secular federal republic, effectively bringing to an end its history as a Hindu kingdom.

7. ***Political divisions and turmoil continued in spite of the abolition of the monarchy.*** Since the end of the monarchy, Nepal has experienced five different governments. A constituent assembly tasked in 2008 with drafting Nepal's new constitution was dissolved in May 2012 without completing its work, due to irreconcilable differences among the political parties and cross-party caucuses on the electoral system, the nature of federalism, and the structure of government. Since then, Nepal has operated in a context of legal, administrative and constitutional uncertainties, exacerbated by an inability of the leading political parties to reach the consensus needed effectively to address them. The recent rise of identity politics further complicates consensus-building (see box). In March 2013, after almost a year of political stasis, the main parties agreed to form an interim government consisting exclusively of former secretaries (non-politicians, who are acting as ministers), chaired by the Chief Justice (acting as prime minister) and charged with holding elections, currently slated for November 2013, to form a new constituent assembly.

8. ***As Nepal remains a fragile post-conflict state, a key challenge continues to be the need to build public sector capacity and governance.***

In the political transition towards multiparty democracy, arguments about the exercise of economic, political, and administrative authority to manage the country's affairs will continue. Since the end of the civil war, there has been a clear positive tendency towards the use of more inclusive mechanisms, processes, and institutions to articulate the interests of (groups of) citizens, mediate their differences, define their obligations, and protect their rights. But this evolution towards greater inclusivity is far from complete. In fact, weak public sector capacity and governance are probably the greatest single obstacle preventing Nepal from escaping fragility, consolidating peace, and reaching its social and economic potential. Poor governance has also impeded commendable efforts since 2006 to address historical inequality in service delivery and human development across different regions and parts of Nepal's population. Moreover, there have not been elected local governments in Nepal for over ten years, severely affecting accountability on the local level. Even where the basic governance structures are in place, their effectiveness needs to be enhanced.

Box: Identity Politics in Nepal

The rise of ethnic movements in recent years and the domination of identity politics in the discussion of federalism have complicated the struggle to agree on a new constitution in Nepal. This struggle both epitomizes and exacerbates Nepal's highly complex ethnic, religious, geographical, caste and class divisions, as different communities have at times tried to secure special privileges under the new constitution. Lower-caste people and rural residents have been historically marginalized. Long-term structural issues related to social exclusion remain unresolved and severely affect specific larger communities in Nepal, especially the Dalits (comprising different ethnic and geographic groups), Tamang, Tharu, Magar, Muslims (jointly nearly 40 percent of the population) as well as selected Madhesi communities (residents of the Outer Terai).

9. ***Maoists continue to dominate in regions that were former hotbeds of the insurgency.*** The central government's authority remains weak, especially in such districts. Sindhuli District, the focus of the Request, was one of the five districts where the Maoist armed insurgency originated in 1996. Following the 2008 elections, an uprising of the Madhesi, Indigenous People from the Terai in the south of the country, led to internal migration to the Sindhuli area, raising land prices there. Notwithstanding those changes, there is still a Maoist presence in the Sindhuli area and the writ of the state remains weak.

10. ***Preparation of the PDP – with all its inherent challenges – took place in this particularly turbulent period of Nepal's history.*** In 2005, the Maoists dominated rural areas, leaving Government in control of main cities and towns only. Intense fighting and civil unrest continued throughout the year, until political parties reached an understanding with the Maoists to restore the stalled democratic process. This situation has translated into huge challenges both for NEA to implement the PDP and the Bank to supervise the Project, including limitations in visiting Project sites at different junctures of Project implementation.

Project Context and Status

11. ***Energy continues to be a key constraint to development in Nepal for a range of reasons including weak institutional capacity.*** Despite having an estimated 42,000 to 83,000 MW of potential hydropower resources, the actual energy situation in Nepal remains one of the worst in the world. Access rates are at 72 percent and the average energy consumption in 2010 was 93 kWh per capita in 2010, compared to 644 kWh in India and 2,942 kWh in China. The main cause of the poor performance of the energy sector has been the very weak institutional capacity within the Government and NEA.

12. ***Public sector capacity, especially in agencies such as NEA has weakened over the years, a situation worsened by the absence of top leadership for many years and frequency of staff changes in middle management.*** NEA's Board was without a permanent Managing Director for more than two years. The Board has also had a constant turnover of staff over the last twenty four months.

13. ***Large infrastructure investments have also been chronically hampered by land acquisition and right of way issues, which are more than usually magnified by the long period of political flux.*** As an example, there has been virtually no commissioning of new hydropower and transmission lines since 2003. An Asian Development Bank project that supported transmissions lines was ultimately closed with significant stranded assets as final stringing of the transmission towers could not be undertaken due to lack of resolution on right of way issues.

14. ***Project Objectives.*** The PDP aims to build capacity to manage the development of Nepal's hydropower potential in a prudent and sustainable manner; increase access to electricity services in rural areas; and improve the supply and accountability of electricity.

15. **Project Components.** The original PDP was approved on May 22, 2003 with a total amount of US\$84.2 million. It had three components: (i) establishment of a Power Development Fund (PDF), implemented by the Department of Electricity Development (DoED); (ii) a Micro Hydro Village Electrification Program, implemented by the Alternative Energy Promotion Centre; and (iii) NEA component, including the KD Transmission Line, implemented by NEA.

16. The KD Transmission Line, which is the focus of the Request, is a relatively small component of the Project (it represents 11 percent of the Project cost). The transmission line crosses four districts: Ramechhap, Sindhuli, Dhanusa and Mahottari. The transmission line is approx. 75 km long with a 30 meter wide transmission corridor or ROW. It involves the construction of 188 towers with an average span of 350 meters between towers and tower heights ranging from 42 to 49 meters. Construction began in 2007 and to date, 177 out of 188 towers have been erected, the foundation works for 3 additional towers have been completed, and stringing of conductors is ongoing in the undisputed sections of the KD Transmission Line.

17. **Project Status.** The PDP began in May 2003 and is due to close in December 2013. Over this period, the Project was stalled on different occasions due to insecurity on Project sites and has been restructured three times (2008, 2009 and 2012) to expand Project scope and provide additional financing. The first restructuring in February 2008 canceled the PDF component, which had aimed to finance development of private sector small hydropower projects but was not successful; funds were reallocated to other components.

18. Additional Financing of US\$91.7m was approved in May 2009 to address a power crisis by rehabilitating generation capacity, strengthening the transmission system by constructing new 220 kV transmission lines and expanding distribution networks. This additional financing expanded Part C of the original Project to include rehabilitation of generation capacity, but did not pertain to the original transmission line. The Project was restructured again in December 2012 with a view to addressing the ongoing dispute on the stalled Khimti-Dhalkebar line and completing the Project. At that time, the closing date was extended to December 2013 and US\$42.5m of IDA funding was cancelled for activities that could not be completed by the extended closing date. As of July 7, 2013, about 85 percent of Project funds have been disbursed. Management understands that the Project is currently under review by INT for procurement issues unrelated to concerns raised in this Request.

IV. MANAGEMENT'S RESPONSE

19. The Requesters' claims, accompanied by Management's detailed responses, are provided in Annex 1. Overall, Management's response is summarized in the following paragraphs.

20. ***In Management's view the Request for Inspection is based on assumed harmful outcomes of Project implementation and a misplaced assertion that no actions are being taken to address relevant issues raised by the Requesters.*** All relevant Project related impacts referred to in the Request have been taken into account in the course of Project preparation and are being addressed through the appropriate mitigation measures. Management considers that the issues raised are not uncommon for a project of this scope and complexity being implemented in a fragile and conflict setting. As such, issues need to be identified and addressed continuously during Project implementation, which the Bank has done. Specifically:

- (i) Management has listened to and discussed thoroughly issues raised by the Requesters and has been responsive to all correspondence and submitted inquiries. Since 2011, actions on the part of the Bank have included: (a) working closely with NEA and Ministry of Energy on finding solutions to address the concerns; (b) conducting field visits to verify facts and explore possible solutions; and (c) discussing and agreeing on time-bound action plans (as recorded in mission aide memoires) to address the ROW and other concerns.
- (ii) Upon receipt of the complaint of the local community on February 18, 2013, the Bank team:
 - (a) Notified NEA and the Chief Secretary, and requested that NEA stop Project construction until issues were properly resolved;
 - (b) Met with the affected families and their legal representatives to further understand their concerns and complaints (see Annex C for the minutes of the meeting);
 - (c) Sent a 3-member Bank team to visit Sindhuli District to listen to the local people and assess the situation on the ground;
 - (d) Engaged a local facilitator who visited the Sindhuli District and conducted two rounds of consultations in the district, and interviewed various concerned stakeholders in Kathmandu for an independent and unbiased review; and
 - (e) Sent a Bank team from HQ to visit Sindhuli District in June 2013 and develop an Action Plan for both NEA and the Bank (see Annex 1.6).

21. ***Management notes that this Request contains many of the same claims and representations that either have been addressed already by the Prime Minister's Office, Ministry of Energy and Supreme Court of Nepal, or are currently being dealt with by the appropriate Nepali institutions.*** Construction in the disputed section of the transmission line in Sindhuli has been halted for almost two years while NEA has been working with affected households on the compensation packages. Moreover, the Government has been extremely proactive and innovative in responding to the community's concerns, for example: (i) it undertook an alternative route assessment study; and (ii) on an exceptional basis, it significantly enhanced the compensation to the affected families by providing 100 percent land value compensation for the ROW, uninterrupted electricity supply (in contrast to power cuts of up to 18 hours a day in Kathmandu), and improved road connectivity.

22. ***Adverse impacts of building essential national infrastructure, such as transmission lines that serve the entire country, have to be jointly borne by residents and may affect some more than others.*** Infrastructure components related to the generation and distribution of power in particular cannot always be placed away from residences and urban centers to accommodate individual preferences. The Requesters' proposed alternative alignments have been analyzed under the Environmental Impact Assessment (EIA) and would have had greater adverse impacts than the current alignment.

23. ***Management understands the concerns of the Requesters regarding potential environmental, health and safety impacts that might arise from the Project.*** Management is committed to ensuring that the Project complies with all relevant environmental, health and safety regulations, as well as with the Bank's operational policies and procedures, and globally accepted engineering practices on transmission line projects.

24. ***Management asserts that the Project, which took a programmatic approach, was prepared consistent with Bank policy, as approved by the Board. During implementation, the country's unstable and insecure context, low Borrower capacity, and continuous changes in Project design and scope, created challenges, including those regarding the timely disclosure of social safeguard instruments for sub-projects.*** Management recognizes that the disclosure of safeguard documents for the PDP has been uneven and requires significant strengthening, which has been initiated. Core project documents have been disclosed both in-country through Project or government offices, as well as on the Bank's InfoShop website. NEA is currently in the process of updating the ARAP and VCDP and will disclose the updated documents including in local language.

Specific Issues Raised in the Request

Transmission Line Alignment

25. ***Management believes that adequate analysis of alternatives was carried out during the design of the transmission line in 2005 and subsequent Government review of the alignment of the disputed stretch of the transmission line in 2012.*** The EIA conducted in the design phase analyzed three alternative routes and concluded that the current alignment was the best option, considering technical and economic feasibility as well

as environmental and social impacts (Table 6.1; p. 77 of the EIA). To assess alternative routes the EIA used the standard key parameters of evaluation, such as land use, number of houses that would need to be relocated from the ROW for safety reasons, forest loss, and difficulty in construction, which takes into consideration slope stability and accessibility from existing access roads.¹

26. ***Upon receiving a complaint from the community in January 2012, the Government of Nepal constituted a 5-member Technical Committee on March 15, 2012 to consult with the local population and to re-assess the alignment with a view to revisit alternative routes for the disputed stretch of the ROW in Sindhuli District.*** The review focused on the social impacts of alternative alignments based on extensive consultations and site surveys. It also identified the additional costs in time and budget (both considerable, in particular in terms of lead time for Ministry of Forests approvals) if the route were to be changed over the disputed Project area to other routings. The Committee's report also indicated that a key concern of the directly affected parties was based on suspected impacts from electromagnetic radiation. Based on the above factors, the Committee recommended continuing with the existing alignment (see Annex 1.5 for Technical Committee's Report).

Compensation

27. ***The key dispute regarding the Project relates to compensation of land holders in the ROW whose land is not being acquired but would be impacted by the power lines passing over their land in the Sindhuli District.***

28. As per the Electricity Act of 1992 and Electricity Regulation of 1993, NEA provides compensation for land that is permanently acquired for tower pads, as well as land not permanently acquired but which will be impacted by the power lines that pass over it.² As per the law NEA compensates 100 percent of the value for land that is permanently acquired. For land not permanently acquired but affected by the power lines, NEA compensates 10 percent of the land value. ***There is generally no restriction of access and movement for individuals within the ROW or to cross the ROW.***³

29. ***Affected communities in the Sindhuli District demanded 100 percent rather than 10 percent compensation for land not acquired but impacted by the ROW.*** Because the communities' request was not in line with Nepal's legal framework, NEA was

¹ Typically in a project like this, the number of alternative routes would be constrained. First of all, there are fixed end points (existing substations), and the nature of the terrain between these two fixed points will be a key issue. The locations for the transmission line towers need to allow for construction and maintenance, and hence, have a tendency to coincide with terrain where the majority of households and agricultural activity are taking place, i.e., in valley plains and on the top of ridges.

² This includes compensation for assets, including trees and crops, and structures that need to be destroyed, regardless of land acquisition.

³ Construction of any type of building and planting of trees above 6.5 meters, however, are not allowed within the ROW for security reasons. Land owners will retain the ownership and have complete access to the affected parcels; they can continue cultivation (except in the case where land will be acquired and compensated for due to the road project).

unable to meet these demands. To accommodate the communities' request and allow the project to proceed, the Government of Nepal (GoN) proposed to build a road, which would allow it to acquire the land in the ROW and thus compensate affected households at 100 percent of the land value, as well as provide them with uninterrupted electricity supply. This creative solution would have additional benefits of better road access and connectivity for the local community.

30. ***The compensation package proposed by the Government (compensation at 100 percent of land value, provision of a local road, and uninterrupted power supply) responds to community demands, as well as expectations recorded in the Project's Social Assessment.*** Since the valuation of the land in July 2013, 96 out of 159 landowners have accepted the new compensation package and received cash compensation. These include affected households that recently moved to the Project area and were not originally recorded in the Abbreviated Resettlement Action Plan (ARAP).

Confrontation with the Police

31. ***Management understands that as a result of the dispute over compensation issues in Sindhuli District and the subsequent revised compensation package, in November 2012 local community members confronted a Project road survey team, which, feeling threatened, requested police protection.*** Management was only informed of this issue on February 18, 2013, through a complaint addressed to the Bank's senior management on the confrontation.

32. Management treated the matter seriously and took the measures described in 20.ii (above). However, while Management is concerned about these reports about the confrontation in November 2012, it needs to separate issues pertaining to Bank policy compliance from those that may relate to Nepali law enforcement.

33. The Requesters claim that human rights violations took place during the November 2012 confrontation, specifically a forceful arrest by the police leading to injuries of several women protestors in Sindhuli District. On being made aware of these allegations, Management made substantive efforts to follow up with Government, obtain clarifications on these incidents through site visits, and validate the information with other independent sources. However, Management did not find indications that would confirm the Requesters' claims. Additionally Management would like to emphasize that the Bank, within the boundaries of its mandate, is constrained as regards the actions that it can take on being alerted of human rights violations of the nature alleged by the Requesters. Such allegations are within the purview of the Nepali legal system which the Requesters have every right to invoke. In this particular circumstance, however, Management formally brought the allegations to the attention of the Borrower and sought to ensure that appropriate action is being taken.

Indigenous Peoples

34. When the Project was approved in 2003 Bank projects involving Indigenous Peoples were governed by OD 4.20. When the Project was restructured in 2009 and Addi-

tional Financing was approved, the new OP 4.10 on Indigenous Peoples was triggered for the newly added activities under the Project.

35. ***The Requesters' main assertion is that Bank policy was not followed in that no Indigenous People's Development Plan was carried out.*** In this regard, Management notes that the Integrated Safeguards Data Sheet (ISDS) and the Project Appraisal Document of the Board approved Project clearly state that:

"The presence of ethnic minorities or tribal populations in the project affected area for any sub-project will require the preparation of a separate Vulnerable Communities Development Plan (VCDP) to ensure that ethnic minorities/tribals are provided with assistance in accordance with their own priorities. The VCDP will be prepared in accordance with the provisions of OD 4.20 and the EIA/SIA Policy Framework. The VCDP replaces the Indigenous Peoples Plan (IPDP) typically prepared to meet the requirements of OD 4.20 by extending assistance to vulnerable groups living below the poverty line in the project area."

36. ***Bank policy allows for the use of alternative terminology to account for country context and the varied and changing contexts in which Indigenous Peoples live.*** A longstanding concern with the application of OD 4.20 was to avoid creating inequity with other vulnerable groups. This was finally reflected in the revised OP 4.10 which states that *"When Indigenous Peoples live in the same area with non-indigenous peoples, the IPDP should attempt to avoid creating unnecessary inequities for other poor and marginal social groups."* This was the case for Nepal in general and the Sindhuli District in particular; hence the rationale for the Project using a VCDP to replace the IPDP.

37. ***Indigenous communities were identified by the social assessment in line with Bank policies and NEFIN⁴ classification.*** The socio-economic details of all vulnerable communities, including Indigenous People, were collected in the Social Impact Assessment (SIA). As the SIA indicates, local communities in Sindhuli District include a mix of ethnic and caste groups as a result of decades of migration. Hence there is no homogeneous indigenous community in the Project area. The SIA identified Indigenous Peoples of Tamang, Magar, Newar, Rai, Gurung, Tharu, Majhi, and Limbu origin living in the local communities, including 70 directly affected indigenous households.

38. ***The VCDP presents two-tiered support to affected communities, which includes Indigenous Peoples: first, it describes measures to mitigate direct adverse impact on all affected vulnerable households, including those of indigenous origin; and second, it provides community benefits, based on consultations and analysis carried out for the SIA,***

⁴ Nepal Federation of Indigenous Nationalities (NEFIN) is an autonomous and politically non-partisan, national level common organization. NEFIN currently consists of 54 indigenous member organizations widely distributed throughout the Terai, Hills and Himalayas of Nepal.

including in Sindhuli District. Types of community enhancements include infrastructure, economic support and socio-cultural support.⁵

39. ***Management acknowledges that the VCDP, which was the first one prepared by NEA in a context, moreover, of conflict and social unrest, nevertheless could have been stronger.*** For example, the VCDP could have been more rigorous in its analysis and provided more detailed action plans and benefits for different groups. In addition, the number of vulnerable indigenous households may have increased since the SIA and VCDP were prepared in 2004 and 2005 due to continuous migration into the Project areas. These new migrants were not captured in the original SIA and VCDP. As such, NEA is currently revising the VCDP to address these issues.

Consultations

40. ***Management asserts that meaningful consultations took place during the preparation stage of the Project.*** Consultations were carried out for preparation of each instrument (see Annex 1.1):

- (i) *For the EIA process:* Two public hearings were carried out and the respective notice was published in at least three widely circulated national daily newspapers indicating the date and the location of the hearings. A brochure with Project information was distributed to participants during the meeting. The EIA contains the sign in sheets of attendees and their written submissions.
- (ii) *For the SIA, VCDP and ARAP:* Focus group discussions were carried out for the preparation of the three instruments to identify community needs. Consultations were carried out with communities along the alignment, and members of Indigenous Peoples communities participated in these consultations. The outcomes of these consultations were taken into account in the Project design. In the case of the consultations on the VCDP no objections to the Project were voiced by the community. The EIA report was disclosed for public review and comment for one month through notice of the then Ministry of Environment, Science and Technology on March 25, 2005. The Operational Manual for Environment and Social Impact Assessment prepared for the Project was disclosed in all 75 districts of Nepal in local language. The EIA, SIA, ARAP and VCDP were placed at Project offices. (See Annex 1.4 for details).

Disclosure

41. ***Management recognizes that the disclosure of safeguard documents for the PDP has been uneven and requires significant strengthening, which has been initiated.*** Core project documents have been disclosed both in-country through Project or govern-

⁵ For example, school children support program, training of female health workers, restoration of temples, etc.

ment offices, as well as on the Bank's InfoShop website. The EIA, SIA, ARAP and VCDP were disclosed in 2005 and 2006 in the form of hardcopies available at local project offices, which included an executive summary of the EIA in local language. These documents were then also disclosed on NEA's website in March 2013. Subsequently some missing safeguard documents have also been added to the disclosed project documents on the Bank's InfoShop website in September 2013. NEA is currently in the process of updating the ARAP and VCDP and will disclose the updated documents including in local language and these documents will also be disclosed in the InfoShop.

Other Issues

Cultural and Sacred Sites

42. ***Management has reviewed the alignment and confirms that no cultural or sacred site is adversely impacted by the Project.*** No tower pad or power lines will impact Sindhuli Gadhi or any religious, burial, historical heritage or school site. Following the February 2013 complaint by the community, NEA offered to undertake a joint verification of the alleged proximity of such sites to the ROW. Management was advised by NEA that this offer has not been taken up by the community so far.

Health

43. ***Management has carefully reviewed the concerns about electromagnetic radiation including the studies cited by the Requesters and concluded that the scientific consensus is that no known health impacts can be linked to the electromagnetic exposure that is expected to stem from the Project.*** In Management's view the Requesters' concern is based on perceived risks, which cannot be supported by any evidence of real risks. Management refers to the very broad scientific research and the consensus that no known health impacts can be linked to the operation of high voltage lines. The transmission lines have been designed and routed to keep the minimum distance from any building and ground as per industry standards and practice.

44. ***Internationally recognized radiation protection agencies and national health agencies have reviewed the scientific literature and evidence available and have concluded that evidence is insufficient to establish a definitive causal relationship between low frequency magnetic field exposure and increased incidences of cancer and other illnesses.***⁶ The World Bank Group Environmental Health and Safety (EHS) Guidelines (Electric Power Transmission and Distribution) state that: "*Although there is public and scientific concern over the potential health effects associated with exposure to [electric and magnetic field] EMF (not only high voltage power lines and substations, but also from everyday household uses of electricity), there is no empirical data demonstrating adverse health effects from exposure to typical EMF levels from power transmissions*

⁶ Internationally recognized radiation protection agencies and national health authorities such as the International Commission on Non-Ionizing Radiation Protection, the World Health Organization (WHO), the British Health Protection Agency, Health Canada or the German Commission on Radiological Protection concluded that there is no proof of a connection between everyday life exposure to magnetic fields and an increased incidence of cancer in adults.

lines and equipment.” The Guidelines further state that “*However, while the evidence of adverse health risks is weak, it is still sufficient to warrant limited concern.*” Thus, the transmission lines have been designed and routed so as to keep the minimum distance from any building and ground as per industry standards and practice.

Project-level Grievance Redress Mechanism

45. ***Management agrees that the Project-level grievance redress mechanism (GRM) to receive and address community concerns was not as robust as it could have been.*** The Khimti-Dhalkebar Environment Management Unit (KDTL-EMU) was established before construction of the KD Transmission Line started. In addition to other responsibilities the KDTL-EMU also assumed responsibility for grievance redress, however, not as originally designed under the Project. Specifically the KDTL-EMU did not include a grievance redress committee with representation from the local community as laid out in the ARAP. When the KDTL-EMU contract expired in 2011, the Project office took over the role of receiving complaints from local communities. The Project level GRM was designed to deal with issues related to Project implementation only. Any grievance which could not be addressed at the Project level and required a higher level policy and legal response had to be addressed to NEA, the Chief District Officer (CDO), Ministry of Energy (MOE), the Prime Minister’s Office and/or the Supreme Court. In the absence of a Project-level GRM, the Government’s system to address grievances appeared to be responsive. That said, NEA is now in the process of reconstituting and strengthening the Project-level GRM, which will complement the Government’s system for grievance redress (see Annex 1.6).

Conclusion

46. ***In Management’s view, the Bank has followed the policies and procedures applicable to the matters raised in the Request in a very challenging country context.*** Management has identified some weaknesses concerning disclosure and consultations, which are currently being addressed. However, Management does not agree that the harm alleged in the Request stems from the weaknesses in the implementation of the Project. Specifically with a view to the ongoing negotiations of the compensation package for land acquisition, it is Management’s view that the Requesters’ rights or interests have not been, nor will they be, directly or adversely affected by a failure of the Bank to implement its policy and procedures.

47. ***The Bank will continue to supervise the Project to ensure adequate implementation of the environmental and social mitigation measures consistent with Bank Policy and global good practices.*** Given the key importance of the power sector to the country’s broader development strategy, Management will continue to support the Government in Project implementation. In consultations with the Government and affected communities, NEA and the Bank have developed a set of measures (see Annex 1.6) to improve Project implementation, which would address outstanding issues related to the KD Transmission Line, as well as enhance NEA’s capacity in social and environmental safeguards supervision and community outreach.

ANNEX 1

CLAIMS AND RESPONSES

| No. | Claim | Response |
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| Operational Policy 4.01 Environmental Assessment | | |
| 1. | <p>According to Operational Policy (“OP”) 4.01, the NPDP is a Category A project, meaning that “it is likely to have significant adverse environmental impacts that are sensitive, diverse, or unprecedented,” and therefore requires the highest level of environmental assessment. However, various Category A requirements have not been fulfilled, nor has the requisite information been made available to the Complainants.</p> | <p>The Nepal Power Development Project (PDP) of May 2003, including the Khimti-Dhalkebar 220 kV Transmission Line sub-project, was placed in Category A. A full EIA was carried out and disclosed as hardcopies in project offices since 2006. The EIA has now been uploaded on the Bank’s InfoShop website, as well as NEA’s website. <i>Management recognizes that the disclosure of safeguard documents for the PDP has been uneven and requires significant strengthening, which has been initiated.</i> Core project documents have been disclosed both in-country through project or government offices, as well as on the Bank’s InfoShop website. NEA is currently in the process of updating the ARAP and VCDP and will disclose the updated documents including in local language.</p> |
| 2. | <p>Public consultation. As a Category A project, the Bank was required to ensure that the borrower “consult project-affected groups and local nongovernmental organizations (NGOs) about the project’s environmental aspects and take their views into account.” Bank policy requires that the borrower initiate such consultations “as early as possible” and conduct at least two consultations with the affected groups and NGOs prior to project implementation.</p> <p>The project-affected people in Sindhuli District were never consulted about the Project. Though the GoN held consultations in Dhanusa and Ramechhap Districts, the members of Sindhuli District were not made aware of these consultations in advance, and were thus prohibited from attending and participating in the consultations at those sites. Moreover, the affected people in Sindhuli District do not have the means to travel 40-60 kilometers to consultation sites in distant districts, which were only accessible by foot at the time the consultations were held. Because the GoN failed to hold consultations in Sindhuli District, community concerns and views about the Project design were not taken into account prior to Project implementation.</p> | <p><i>Management asserts that consultations were held in Project areas, including Sindhuli District, and were announced in advance. Participants provided input, which was recorded and considered in Project preparation and implementation.</i></p> <p>NEA carried out a series of consultations in the Project areas, including Sindhuli District, during preparation and implementation.</p> <ul style="list-style-type: none"> • For the EIA process: Two public hearings were carried out one at Manthali (to cover the first transmission line stretch of 30 km, north of the Mahabharat Range) and another at Dhalkebar (to cover the remaining stretch of 45 km, south of the Mahabharat Range) and the respective notice was published in at least three widely circulated national daily newspapers indicating the date and the location of the hearings. A brochure with Project information was distributed to participants during the meeting. The EIA contains the sign in sheets of attendees and their written submissions. In the Dhalkebar public hearing, 99 people participated. Out of the 99 participants, 39 were from Sindhuli District. • During the preparation of the EIA, a total of 22 community consultations were carried out. Out of those 22 consultation sessions, 7 were held in Sindhuli District. • During the preparation of the SIA, ARAP and VCDP, 8 community consultations were carried out. Of those, 4 were carried out in Sindhuli District: (i) two in Kamalamai municipality, attended by 14 participants; (ii) one in Ranichuri Village Development Committee (VDC), attended by 10 participants; and (iii) one in Bhadrakali VDC, attended by 6 participants. • To facilitate dissemination and increase awareness among the Project affected communities, a social awareness program was conducted at Sindhuli Bazar (Sindhuli District). Altogether 37 project affected fami- |

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| | | <p>lies participated in the program from different project VDCs of Sindhuli District.</p> <ul style="list-style-type: none"> • As part of EMAP implementation, a Forest and Wildlife Conservation Awareness program was implemented. A total of 65 individuals from Sindhuli District participated in the program. • The NEA's Environmental and Social Studies Department (ESSD) carried out additional consultations with local communities, including in Sindhuli District, during the implementation stage to discuss and agree on the compensation value of structures and community assets affected by the Project. In January 2009, a meeting was held in the office of the District Forest Officer for Sindhuli District attended by 37 participants to discuss the land value of the community forest. In January 2010, two meetings were held in Sindhuli attended by 35 participants to discuss the compensation value for residential structures and cowsheds. In May 2011 another consultation was carried out to decide compensation for cowsheds. <p>Community concerns and views were taken into consideration in the final Project design. For example, the final alignment of the transmission line was chosen with a view to minimize adverse social and environmental impact. Annex 1.2 provides examples of community feedback received on the Project. Similarly, affected households were also consulted on relocation and enhancement measures under the VCDP. These measures were finalized following communities' preferences. The lists of people who participated in ARAP and VCDP consultations are annexed to the respective documents. The options of relocation were discussed in household consultations during preparation of the ARAP. The option of a group resettlement site was declined and most affected households preferred to build their new houses on their remaining lands nearby. These choices were documented in the ARAP.</p> |
| 3. | <p>According to OP 4.01, the Bank is also responsible for ensuring that "the borrower consults with [project-affected groups and local NGOs] ... throughout project implementation as necessary to address EA-related issues that affect them." The GoN has failed to consult Project-affected people of Sindhuli District throughout the implementation phase. In fact, far from consulting the Project-affected communities to address the environmental issues that affect them, the GoN has actively and forcefully worked to silence their complaints. As described above, the GoN has twice deployed armed police forces to Sindhuli District to violently ensure that opposition to the Project did not obstruct surveying and construction activities. In November 2012, state-</p> | <p>The Project conducted consultations with local communities during the preparation and implementation phases. Please see details in Items 2 and 5.</p> <p>Management understands, as also indicated by the series of engagements at all levels of government, that the Project team, along with district administration, has been engaged in consultations and negotiations with local communities to address their concerns. When an agreement could not be reached at the Project level, the NEA management, the Ministry of Energy and the Prime Minister's Office intervened to respond to local complaints:</p> <ul style="list-style-type: none"> • In March 2012, a high level team led by the State Minister of Energy conducted a site inspection in the affected area and held consultations with the concerned local community, following the memorandum sent by the community to the Prime Minister's Office to rea- |

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| | <p>sanctioned security police used violent means to quell community opposition to environmental aspects of the Project, and the affected communities fear recurrence of violence.</p> | <p>align the KD Transmission Line.</p> <ul style="list-style-type: none"> • A follow up consultation was conducted on March 9, 2012 at the Ministry of Energy with persons from all concerned parties. • A five-member Technical Committee was then constituted by the Government to assess alternative routes. The Technical Committee held consultations with the local communities, conducted a site survey and completed the assessment of the alternative routes in March 2012. <p>Management understands that as a result of the dispute over compensation issues in Sindhuli District and the subsequent revised compensation package, in November 2012 local community members confronted a Project road survey team, which, feeling threatened, requested police protection. Management was only informed of this issue on February 18, 2013 through a complaint addressed to the Bank's senior management on the confrontation.</p> <p>Management understands that the police was called in by the contractor again on April 1, 2013, who was worried about the security of his staff following the November 2012 incident. No confrontation was reported. However, as part of its due diligence, the Bank team in April 2013 raised the issue with NEA, the Sindhuli District administration and the local police.</p> <p>On April 5, 2013 the Bank team visited the location and spoke to local community members who were not aware of an incident involving the police on April 1, 2013. The Bank team also hired a local consultant to facilitate communications with the local community and liaised with the Nepali Human Rights Commission, which did not receive any notice of such an incident. Management also notes that no incidents have been reported to the Nepal Police Human Rights Grievance Cell.</p> <p>While the confrontation in November 2012 relates to law and order enforcement rather than Bank policy, Management treated the matter seriously and took the following measures: (a) promptly halting construction; (b) raising the issue with NEA and the Chief Secretary; (c) immediately consulting with community members and their representatives; (d) expediting the land valuation process of affected households in Sindhuli district; (e) hiring a local consultant to facilitate communications with the local community; (f) mobilizing a Bank team to visit the Project team and work with the community; and (g) agreeing on an action plan for both NEA and the Bank to address community concerns.</p> <p>The Requesters claim that human rights violations took place during the November 2012 confrontation, specifically a forceful arrest by the police leading to injuries of several women protestors in Sindhuli District. On being made aware of these allegations, Management made substantive</p> |

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| | | <p>efforts to follow up with Government, obtain clarifications on these incidents through site visits, and validate the information with other independent sources. However, Management did not find indications that would confirm the Requesters' claims. Additionally Management would like to emphasize that the Bank, within the boundaries of its mandate, is constrained as regards the actions that it can take on being alerted of human rights violations of the nature alleged by the Requesters. Such allegations are within the purview of the Nepali legal system which the Requesters have every right to invoke. In this particular circumstance, however, Management formally brought the allegations to the attention of the Borrower and sought to ensure that appropriate action is being taken. See also Item 39.</p> |
| 4. | <p>Despite local resistance to the current Project design and requests to the NEA for information and consultation, the Restructuring Paper claims that the Project is the only one of three remaining unfinished transmission line projects in the NPDP that "can be completed within the extended [December 31, 2013] project period." The construction of ten towers in the Project has been prevented by community opposition in Sindhuli District, but the Restructuring Paper claims that the "right-of-way difficulties ... have now been resolved," though information from the affected people on the ground indicates otherwise. Communities in Sindhuli District have had a sustained resistance to the current design of the Project. [...]</p> | <p>Management is aware of local communities' concerns over the ROW compensation in Kamalamai Municipality in Sindhuli District. Management also notes that the Government has been working with local communities to resolve this issue.</p> <p>The Project restructuring was processed in December 2012, based on the understanding that the ROW issue would be resolved. The basis for this according to the Bank's understanding was the Government's agreement to provide compensation at 100 percent of land value for land acquired in the disputed stretch of ROW in Sindhuli District.</p> <p>In May 2011, the local community in Sindhuli District had demanded 100 percent compensation for the land within the ROW, which is outside the normal practice in Nepal of 10 percent compensation in such cases. This was one of the major factors that the Bank had to consider when the Government requested extension of the Project. The Bank urged NEA to continue working with the communities and find a solution to address the issue, and agreed with NEA on a time-bound action plan to address outstanding issues, including the ROW. The Restructuring Paper was developed when the Government agreed to accommodate the local community by acquiring the land along the disputed ROW stretch to build a road, thus entitling those affected to receive the requested compensation. Based on this agreement, Management felt confident to move forward with restructuring. The statement in the Restructuring Paper reflects this understanding.</p> |
| 5. | <p>Disclosure. For meaningful consultation to take place between the GoN and Project-affected groups and local NGOs, as required under OP 4.01, the GoN was required to provide "relevant material in a timely manner prior to consultation and in a form and language that are understandable and accessible to the groups being consulted." For Category A projects, the Bank is also charged with en-</p> | <p>During Project appraisal and approval, the Policy Framework for Environmental and Social Impact Assessment was disclosed in Nepali in all 75 districts of the country, including Sindhuli District (see Annex 1.4 for the dates and places of disclosure).</p> <p>NEA disclosed Project information through the project planning and implementation phase through the following means and activities:</p> <ul style="list-style-type: none"> On April 2, 2003 NEA published a notice in <i>Gorkha-</i> |

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| | <p>surings that the borrower provides “a summary of the proposed project’s objectives, description, and potential impacts” for the initial consultation. Affected communities in Sindhuli District did not receive any of these materials.</p> <p>Since the Project’s inception, the GoN has failed to provide affected people in Sindhuli District with the required Project-related materials. The nondisclosure of such materials constitutes a violation World Bank policy.</p> | <p><i>patra</i>, a national daily newspaper, about upcoming consultations and the Terms of Reference of the EIA. The notice included a brief introduction of the Project and route alignment and sought the comments and suggestion of stakeholders. The notice was displayed in each Project VDC/municipality and <i>Muchulka</i> (agreement deeds) were collected.</p> <ul style="list-style-type: none"> • The Executive Summary of the EIA was translated into Nepali and a copy of the translated version was given to the respective VDC Secretaries. • Seven consultations were held in Sindhuli District during the preparation of the EIA. All those who participated in the public hearing were given a brochure that included salient feature of the Project, probable impacts and corresponding mitigation measures. Comments and suggestion received from the local participants during the public hearing and from affected VDCs were incorporated in the EIA in Chapters 5, 7 and 9). • The revised EIA report was disclosed for public review and comment for one month through notice of then Ministry of Population and Environment on March 25, 2005. The report was kept at District Development Committee (DDC) offices of each project affected district. • In April 2006, English hard copies of the ARAP and VCDP were disclosed in three local project offices. However, the ARAP and VCDP were not translated and disclosed in Nepali. • NEA is updating the ARAP and VCDP and will disclose the translated version locally. <p>Management recognizes that the disclosure of safeguard documents for the PDP requires significant strengthening, which has been initiated. Core Project documents have been disclosed both in-country through Project or government offices, as well as on the Bank’s InfoShop website. The EIA, SIA, ARAP and VCDP were disclosed in 2005 and 2006 in the form of hardcopies available at local Project offices, which included an executive summary of the EIA in local language. These documents were then also disclosed on NEA’s website in March 2013. Subsequently some missing safeguard documents have also been added to the disclosed Project documents on the Bank’s InfoShop website. NEA is currently in the process of updating the ARAP and VCDP and will disclose the updated documents including in local language.</p> |
| Operational Directive 4.20 Indigenous People | | |
| 6. | <p>Many people affected by the Project are from indigenous communities, and should be covered under OD 4.20. The NPDP Project Appraisal Document (April 25, 2003), Integrated Safeguards Data Sheet (May 16, 2003),</p> | <p>The ISDS and the Project Appraisal Document of the Board approved Project, clearly state that:</p> <p>“The presence of ethnic minorities.....will require the preparation of a separate Vulnerable Communities Development Plan (VCDP)...The VCDP replaces the Indig-</p> |

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| | <p>and Policy Framework for EIA (November 1999) reference OD 4.20 as an applicable policy that is triggered by this Project.</p> <p>Identification. The primary policy objective of OD 4.20 is that “indigenous people do not suffer adverse effects during the development process, particularly from Bank-financed projects, and that they receive culturally compatible social and economic benefits.” This is achieved through the identification of potentially affected indigenous peoples, and the gathering of baseline data, such as maps of areas inhabited by indigenous people, analysis of local social and economic structures, information on the resources used by indigenous people, and the relationship between indigenous groups and non-indigenous groups.</p> <p>The Bank breached the Indigenous Peoples policy by failing to ensure that Project-affected indigenous people were identified appropriately. Project documents state that though there are indigenous communities among the Project-affected people, and the indigenous groups in the affected area are recognized as indigenous nationalities under Nepali law. However, only a single plan to address “vulnerable communities,” or those groups living below the poverty line, was developed without specialized research and analysis into the issues, concerns, or preferences of indigenous people. The Vulnerable Communities Development Plan (“VCDP”) then misidentifies groups, like the Tamang, Newar, and Magar, as “ethnic minorities” and in the same category as traditional ruling classes, like Brahmin and Chhettri, rather than as indigenous people.</p> <p>Due to this misidentification, the Project was not able to take into consideration the specific needs, preferences, and rights of affected indigenous peoples, and is now expected to have significant adverse impacts on the livelihoods of local indigenous communities in Sindhuli District.</p> | <p>enous Peoples Plan (IPDP) typically prepared to meet the requirements of OD 4.20 by extending assistance to vulnerable groups living below the poverty line in the project area.”</p> <p>Bank policy allows for the use of alternative terminology to account for country context and the varied and changing contexts in which Indigenous Peoples live. It also asserts that “When Indigenous Peoples live in the same area with non-indigenous peoples, the IPDP should attempt to avoid creating unnecessary inequities for other poor and marginal social groups.” This was the case for Nepal in general and the Sindhuli District in particular; hence the rationale for the Project using a VCDP to replace the IPDP.</p> <p>Indigenous communities were identified by the social assessment in line with Bank policies and NEFIN classification. The socio-economic details of all vulnerable communities, including Indigenous People, were collected in the SIA. As the SIA indicates, local communities in Sindhuli District include a mix of ethnic and caste groups as a result of decades of migration. Hence there is no homogenous indigenous community in the Project area. The SIA identified Indigenous Peoples of Tamang, Magar, Newar, Rai, Gurung, Tharu, Majhi, and Limbu origin living in the local communities, including 70 directly affected indigenous households.</p> <p>The VCDP presents two-tiered support to affected communities, which includes Indigenous peoples: first, it describes measures to mitigate direct adverse impact on all affected vulnerable households, including those of indigenous origin; and second, it provides community benefits, based on consultations and analysis carried out for the SIA, including in Sindhuli District. Types of community enhancements include infrastructure, economic support and socio-cultural support.</p> <p><i>Management acknowledges that the VCDP, which was the first one prepared by NEA in a context, moreover, of conflict and social unrest, nevertheless could have been stronger.</i> For example, the VCDP could have been more rigorous in its analysis and provided more detailed action plans and benefits for different groups. In addition, the number of vulnerable indigenous households may have increased since the SIA and VCDP were prepared in 2004 and 2005 due to continuous migration into the Project areas. These new migrants were not captured in the original SIA and VCDP. As such, <i>NEA is currently revising the VCDP to address these issues.</i></p> |
| 7. | <p>Consultation and participation. The Bank failed to assess whether the GoN engaged in direct consultation with Project-affected indigenous people that resulted in the informed participation of such communities. This constitutes a breach of World Bank policy.</p> | <p>A series of consultations were carried out during Project preparation and implementation with Project affected communities; see Items 2 and 5 for more details.</p> <p>Local indigenous community members participated in these consultations and indigenous households who lost land, structures or other assets to the Project were consulted indi-</p> |

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| | | <p>vidually regarding their compensation package and relocation options.</p> <p>Given that communities were ethnically mixed and Indigenous Peoples were well represented within the consultations, NEA did not carry out specific or exclusive consultation sessions with Indigenous Peoples. However, NEA has agreed to identify sensitive approaches for consultations with the Indigenous Peoples communities while updating the VCDP. (See Annex 1.6 on set of ongoing actions agreed with NEA.)</p> |
| 8. | <p>According to the Indigenous Peoples policy, “the strategy for addressing the issues pertaining to indigenous peoples must be based on the informed participation of the indigenous people themselves.” As such, OD 4.20 states that, “identifying local preferences through direct consultation, incorporation of indigenous knowledge into project approaches, and appropriate early use of experienced specialists are core activities for any project that affects indigenous peoples and their rights.”</p> <p>The GoN did not engage in direct consultation with the Project affected indigenous groups in Sindhuli District, as required by the Bank’s Indigenous Peoples policy. Though the EIA Executive Summary produced by NEA references three indigenous groups located in the project area, the members of these groups that live in Sindhuli District were neither informed nor consulted about the Project at any stage of its development. While the GoN did hold consultations in Dhanusa and Rammechhap Districts, those consultations were inadequate to satisfy the requirements of the Bank’s Indigenous Peoples policy, as not all Project affected indigenous people had knowledge of the consultations or the ability to attend.</p> <p>As a result of the GoN’s failure to inform and consult the Project affected indigenous communities in Sindhuli District, these groups were denied the opportunity to participate in the decision-making processes involving the Project’s preparation and implementation. Consequently, local preferences and indigenous knowledge were not identified or incorporated into the Project’s design.</p> | <p>Please see Items 2, 5 and 7 for detailed responses on local consultation and information disclosure.</p> <p>The ARAP and VCDP were formulated with inputs, feedback, and discussions with the affected households, particularly on the consultation package and relocation options. The compensation and assistance package for affected households in Sindhuli District was developed in consultation with local affected communities.</p> |
| 9. | <p>Indigenous Peoples Development Plan</p> <p>In the Integrated Safeguards Data Sheet prepared in 2003, the GoN recognized the need to prepare an Indigenous Peoples Devel-</p> | See response to Item 6 above. |

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| | <p>opment Plan (“IPDP”) in connection with the Project; however, this plan was never prepared. [A Vulnerable Communities Development Plan was created for the Nepal Power Development project in lieu of an Indigenous Peoples Development Plan “to ensure that ethnic minorities/tribals are provided with assistance in accordance with their own priorities.” This is insufficient as the Indigenous Peoples Development Plan under OD 4.20 requires consideration of several elements unique to indigenous peoples that go beyond mere assistance to participation and consultation, legal framework and land tenure analysis, and monitoring and evaluation of implementation of the plan. See Integrated Safeguards Data Sheet, at 8; and OD 4.20 Indigenous Peoples, para 15.]</p> <p>The Project-affected indigenous people in Sindhuli District were never consulted to determine their preferred options for the Project. As such, the Project has been constructed along a route that is deeply harmful to and opposed by local indigenous communities.</p> | |
| 10. | <p>The Bank also violated OD 4.20 by failing to require the assessment and mitigation of adverse impacts on indigenous people affected by the Project. There is no indication that the GoN conducted any studies to evaluate the Project’s potential effects on indigenous groups in particular or developed the means to avoid or mitigate such effects. As designed, the Project is expected to adversely impact the productivity of land within the Project area. Because the indigenous groups within Sindhuli District have traditionally relied on their land for subsistence and income, the likelihood that the Project will disrupt agricultural activities poses a significant threat to their livelihoods and presents an adverse trend that should have been anticipated by the GoN in its IPDP.</p> | <p>The Project carried out an SIA to identify and assess adverse impacts as well as community members impacted, including affected indigenous community households. Major impacts were related to land acquisition and relocation. Based on the SIA, an ARAP and VCDP were prepared.</p> <p>The SIA provided an analysis of the Project impacts on local communities for both the construction and operational phases. It concluded that major impacts under the Project would be the acquisition of land for the power towers and the relocation of 17 structures within the ROW, 9 of them in Sindhuli District. A total of 1.06 ha of land is required for the 188 towers (only 68 towers will be erected on private land) along the 73 km line. The SIA concluded that the impacts of land loss on economic livelihoods of the affected population are modest. Approximately 714 land owners will be affected by the ROW.</p> |
| 11. | <p>Importantly, the Bank’s Indigenous Peoples policy recognizes that cases will occur where adverse impacts are unavoidable and adequate mitigation plans have not been developed. In such situations, “the Bank will not appraise projects until suitable plans are developed by the borrower and reviewed by the Bank.” The Bank’s appraisal and approval of the NPDP in the absence of a mitigation plan therefore violated OD 4.20.</p> | <p>At the time the Project was appraised and approved, the subprojects, including the transmission lines, were not known and therefore a Policy Framework for Environmental and Social Impact Assessment was prepared in compliance with OD 4.20. All required safeguard instruments would be prepared in line with the framework as and when the subprojects were identified. This framework included guidelines for preparation of an ARAP and VCDP. The SIA and VCDP were prepared following the agreed and disclosed framework.</p> |

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| 12. | <p>Finally, the Social Impact Assessment (“SIA”) shows particular insensitivity to and prejudice against indigenous communities, stating that “the interaction among different people and ethnic group may attract the rural people towards more advanced society” and “experience with other project indicates that sudden cash flow in project area and cash earning of workers is spent unproductively.” The SIA also notes that “normally high caste people are reluctant to low grade physical labor and lower caste people may take advantages of the situation.” These kinds of discriminatory generalizations about ethnic identity and caste reinforce the lack of understanding and attention to affected indigenous communities.</p> | <p>Management shares the view that some of the statements and wording used in the SIA may appear insensitive to some. These statements do not reflect the Bank’s position.</p> |
| Operational Policy/Bank Procedure 4.12 Involuntary Resettlement⁷ | | |
| 13. | <p>OP 4.12 covers direct economic and social impacts of Bank-assisted investment projects “caused by the involuntary taking of land resulting in (i) relocation or loss of shelter; (ii) lost of assets or access to assets; or (iii) loss of income sources or means of livelihood, whether or not the affected persons must move to another location.” A large number of indigenous and local people in Sindhuli District are at risk of displacement. Sixteen households have already been displaced in areas where construction of towers is completed. Many Complainants’ homes, schools, and farming lands are within the Project’s RoW, and the EIA Executive Summary acknowledges there will be devaluation of land, loss of agricultural production, withdrawal of economic opportunity, and farming hindrance in the RoW. The NEA project manager, Kanaiya Kumar Manandhar, has informed Complainants that they are not allowed to enter or undertake any activity within the RoW. OP 4.12 should therefore cover the adverse impacts suffered</p> | <p><i>The SIA meets the requirements of OP 4.12.</i> It covered impacts and affected population during both the construction and operational phases, including (i) all individuals whose land was required for the tower pads; (ii) the owners of the 714 land parcels that would be affected by the restricted use of land due to the ROW; (iii) those individuals who would be affected due to loss of house and farming structures; and (iv) those individuals who would lose livelihood due to loss of land and source of income from tenants. In Sindhuli District, the impacts are as follows,</p> <ul style="list-style-type: none"> • A total of 34 houses, including 12 permanent and 22 temporary houses belonging to 28 owners (with some owners having more than one house) will be affected. • No school is being impacted due to the project. The nearest school is Swiss Sindhuli which is approximately 40 meters away from the center line, or about 25 meters from the outer boundary of the ROW. • There is no restriction on entering the ROW. Land owners will retain their ownership and have continued access to the affected land parcels. • Cultivation activities can be continued under the ROW, but owners cannot build permanent structures or grow |

⁷ OP and BP 4.12 together replace OD 4.30, Involuntary Resettlement. This OP and BP apply to all projects for which a Project Concept Review takes place on or after January 1, 2002. The version of OP/BP 4.12 cited here is the version that existed in 2003, available in The World Bank, Involuntary Resettlement Sourcebook: Planning and Implementation in Development Projects, at 371-398 (2004), available at <http://www4.worldbank.org/afr/ssatp/Resources/HTML/Gender-RG/Source%20%20documents%5CTool%20Kits%20%20Guides%5CDesigning%20Projects/TLPRO10%20invol%20resettlementsourcebookWB.pdf> (hereinafter “Involuntary Resettlement Sourcebook”). OP 4.12 applies to all components of the project that result in involuntary resettlement, and to other activities resulting in involuntary resettlement, that are (a) directly and significantly related to the Bank assisted project, (b) necessary to achieve its objectives as set forth in the project documents; and (c) carried out, or planned to be carried out, contemporaneously with the project. OP 4.12 Involuntary Resettlement, para 4.

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| | by Complainants. | <p>trees beyond a certain height in order to maintain the ground clearance between the live wire and structures. The normal ground clearance required for 220 kV transmission lines is about 6.5 meters.</p> <p>The ARAP and VCDP were developed to address these impacts in compliance with OP 4.12. The ARAP and VCDP provide compensation, relocation assistance, and training for restoration of income.</p> |
| 14. | <p>[...] The Project has breached all three policy objectives of OP 4.12.</p> <p>Consideration of viable alternatives to involuntary resettlement</p> <p>Under OP 4.12, the GoN was required to prepare a resettlement plan or an abbreviated resettlement plan, which included at minimum, “consultations with displaced people about acceptable alternatives,” among other requirements. A satisfactory draft resettlement plan or an abbreviated resettlement plan is a condition of appraisal and Bank financing for all operations and subprojects that entail involuntary resettlement. The GoN’s commitment to, and capacity for, undertaking successful resettlement should have been a key determinant of Bank involvement in the Project.</p> | <p><i>Management asserts that the Project was prepared and approved in compliance with OP4.12.</i> Please see Item 11 for more information.</p> |
| 15. | <p>The GoN was required to inform all potentially displaced persons at an early stage about the resettlement aspects of the project and take their views into account in Project design. The Bank task team and GoN staff were required to “explore all viable alternative project designs,” such as realignment, “to avoid, where feasible, or minimize displacement.” According to the Bank’s Involuntary Resettlement Sourcebook, “OP 4.12 requires the least possible displacement of people,” and early screening can make it possible to shift the location of the proposed transmission line to reduce negative impacts. “The consultative screening process can provide valuable information on (...) whether to shift the corridor, from marginal adjustments to a choice of alternative routes.”</p> <p>An abbreviated resettlement action plan (“ARAP”), dated 2006, and an SIA with no date, were uploaded to the NEA website in March 2013. While the EIA Executive Summary includes a two-paragraph analysis of alternatives, the SIA and the ARAP do not include this analysis, or any discussion at all of alternative project designs or routes.</p> | <p><i>Management asserts that the Bank complied with its policies in terms of identifying alternative project designs to minimize displacement.</i></p> <p>During preparation of the EIA, the analysis of alternatives took into consideration all relevant aspects, including social impacts, such as involuntary land acquisition; loss of livelihood; displacement and impact on vulnerable communities. This is consistent with Bank practice. It should be noted that the SIA and ARAP do not typically include this type of analysis. The English version of the EIA as well as the executive summary translated into Nepali were disclosed at district Project offices since 2005 and were uploaded to the NEA website in 2013. Hardcopies of the SIA and ARAP were disclosed in 2006 in district Project offices.</p> |

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| 16. | <p>Complainants have repeatedly requested that the transmission line go along an alternative route, and have offered potential alternative routes. They believe that the transmission line was originally routed to go to the east along the banks of Tamile River passing through forests and barren lands, where there is no human settlement, and that the design was later changed, without their knowledge or consent. Another alternative would be through Sola Bhanjyang and Panichuri VDC, adjoining Chure forests where there is no human settlement.</p> | <p><i>The KD Transmission Line Project has been implemented as per the original alignment; the design was not changed.</i></p> <p>During Project preparation, an analysis of alternatives was carried out as part of the EIA (refer to chapter 6 of EIA). Three alternatives were considered and the existing alignment was determined to be the best possible route with minimum adverse environmental and social impacts.</p> <p>Upon receiving a complaint from the community in January 2012, the Government of Nepal constituted a 5-member Technical Committee on March 15, 2012 to consult with the local population and to re-assess the alignment with a view to revisit alternative routes for the disputed stretch of the ROW in Sindhuli District. The review focused on the social impacts of alternative alignments based on extensive consultations and site surveys. It also identified the additional costs in time and budget (both considerable) if the route were to be changed over the disputed Project area to other routings. The Committee's report also indicated that a key concern of the directly affected parties was based on suspected impacts from electromagnetic radiation. Based on the above factors, the Committee recommended continuing with the existing alignment (see Annex 1.5 for the Technical Committee's Report).</p> |
| 17. | <p>The GoN formed an expert commission in February 2012 to investigate alternatives, but their final report was never made public. According to the media, the expert commission reported that changing the route would not be appropriate for technical and economic reasons.</p> <p>For projects that are "highly risky or contentious, or that involve significant and complex resettlement activities," OP 4.12 suggests the engagement of "an advisory panel of independent, internationally recognized resettlement specialists to advise on all aspects of the project relevant to the resettlement activities."</p> | <p>Bank policy does not require public disclosure of technical reports. However, the Technical Committee report is not confidential. It is available at MOE, NEA and has also been made available to the CDO. (See Annex 1.5 for the Technical Committee's Report).</p> <p>Although there are some adverse social impacts locally due to acquisition of 1.06 ha of land over a 73 km stretch, the impacts are not considered complex, as indicated in the SIA. Therefore such an advisory panel is not required or recommended for this type of project under the policy.</p> |
| 18. | <p>Consultation</p> <p>The GoN was required to provide displaced persons and their communities timely and relevant information, not only on project design and location, but also on resettlement options, and to offer them opportunities to participate in planning, implementing, and monitoring resettlement. As a condition of appraisal of the Project, the GoN was required to make the resettlement plan "available at a place accessi-</p> | <p><i>Management recognizes that the disclosure of safeguard documents for the PDP requires significant strengthening, which has been initiated.</i> Core project documents have been disclosed both in-country through Project or government offices, as well as on the Bank's InfoShop website. The EIA, SIA, ARAP and VCDP were disclosed in 2005 and 2006 in the form of hardcopies available at local project offices, which included an executive summary of the EIA in local language. These documents were then also disclosed on NEA's website⁸ in March 2013. Subsequently some missing safeguard documents have also been</p> |

⁸ <http://www.nea.org.np/publications.html>

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| | <p>ble to displaced persons and local NGOs, in a form, manner, and language that are understandable to them.”</p> <p>English versions of an ARAP, dated from 2006, and an SIA with no date, were only uploaded to the NEA website in March 2013. These documents are not available on the World Bank website, and have not been provided to affected communities though they were requested by Complainants and their representative.</p> <p>These documents have never been available in local languages.</p> | <p>added to the disclosed project documents on the Bank’s InfoShop website. NEA is currently in the process of updating the ARAP and VCDP and will disclose the updated documents including in local language.</p> |
| 19. | <p>The GoN was also required to establish “appropriate and accessible grievance mechanisms.” The ARAP notes that a Grievance Redress Committee, a grievance mechanism at the project level where anyone can file a complaint, will be created. The grievance committee, which includes a “representative of local affected persons nominated by themselves,” was required to adopt an “internal working procedure” and hold meetings “at regular intervals.” The filing of complaints and proceedings of meetings were required to be “well recorded” and “transparent.”</p> <p>However, none of the Complainants have ever heard of a grievance committee. Complainants have had to take their complaints to the NHRC and the Supreme Court. The ARAP also mentions a Khimti-Dalkebar Environmental Management Unit (“KDTLEMU”), whose tasks include conducting meetings with displaced communities, maintaining records of all meetings and discussions, and preparing quarterly and annual reports during constructions. The KDTL-EMU has never been active in Sindhuli, or communicated with Complainants in Sindhuli.</p> | <p>A Project-level grievance redress mechanism (GRM) did exist until 2011 and is now being revived. The Khimti-Dhalkebar Environment Management Unit (KDTL-EMU), was established before construction of the KD Transmission Line started. In addition to other responsibilities the KDTL-EMU also functioned as the Project’s the grievance redress unit, however, without the inclusion of a separate grievance redress committee with representatives from the local community as laid out in the ARAP. The KDTL-EMU then was discontinued in 2011 and the Project office took over the role of receiving complaints from local communities. Although the GRM existed until 2011, the local communities relied more on the government system to addressing grievances, which included addressing concerns to NEA, the CDO, MOE, the Prime Minister’s Office and the Supreme Court. NEA is now in the process of reviving the Project level GRM, which will complement the government’s system for grievance redress.</p> |
| 20. | <p>Particular attention should have been paid to vulnerable groups, especially indigenous peoples in the Project design and the ARAP. Because “resettlement of indigenous peoples with traditional land-based modes of production is particularly complex and may have significant adverse impacts on their identity and cultural survival,” the GoN should have explored “all viable alternative project designs to avoid physical displacement of these groups.” Although the vast majority of affected community members are indigenous, the ARAP does not mention indigenous peoples at</p> | <p>Given its linear nature, the Project is not displacing a large number of people and there is no physical displacement of groups or communities of Indigenous Peoples. Indigenous communities were identified by the social assessment in line with Bank policies and NEFIN classification. The socio-economic details of all vulnerable communities, including Indigenous People, were collected in the SIA. As the SIA indicates, local communities in Sindhuli District include a mix of ethnic and caste groups as a result of decades of migration. Hence there is no homogenous indigenous community in the Project area. The SIA identified Indigenous Peoples of Tamang, Magar, Newar, Rai, Gurung, Tharu, Majhi, and Limbu origin living in the local</p> |

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| | all. Its “vulnerable groups” section only refers to two dalit households and one female-headed household. | <p>communities, including 70 directly affected indigenous households.</p> <p>The SIA and ARAP note that the Project would require relocation of only 17 structures belonging to 17 families, including 9 in Sindhuli District. They are scattered along the 73 km transmission line, not in one group settlement.</p> <p>Increased migration to the Project area since its inception has led to an increase in the affected population as well as a different demographic profile. As such, NEA is currently revising the VCDP to address these issues.</p> |
| 21. | <p>Because it may only be possible to identify impacts of high-voltage transmission lines through consultations, and because “the populations displaced along the line may be culturally heterogeneous,” the Bank’s Involuntary Resettlement Sourcebook stresses that “Task Team Leaders need to ensure that displaced persons along the entire length of the project are consulted” and “case-by-case solutions may be required.” The figures cited in both the ARAP and SIA show that Sindhuli has a much higher number of “seriously project affected people” than Ramechap and Dhanusha Districts, yet neither mention a consultation ever being held in Sindhuli. Testimonies of Complainants confirm that no consultation was ever held there. Holding two consultations in Ramechap and Dhanusha, locations that take a day and a half to reach from Sindhuli, without informing Sindhuli residents, was not sufficient to meet the requirements of OP 4.12. A separate consultation should have been held in Sindhuli District and the views of Sindhuli residents taken into account in the project design.</p> | <p>Management confirms that separate consultations took place in Sindhuli District. Please see responses to Items 2 and 5.</p> |
| 22. | <p>Compensation</p> <p>Before taking affected communities’ land and related assets, the GoN was and is required to compensate and provide resettlement sites and moving allowances, in order to “ensure that displacement or restriction of access does not occur before necessary measures for resettlement are in place.” Minimal compensation was only offered in a few cases, only after a 60-meter tower was built directly on Complainants’ land, without prior notice or compensation.</p> | <p><i>Management asserts that compensation was carried out according to Bank policy.</i> Compensation payments were agreed with the affected households prior to construction and payments were delivered before taking possession of the land parcels for the tower pads. No tower pads have been constructed under the Project without first paying compensation to the land owners. The District Administration published the notice in the national daily newspaper (Gorkhapatra) on behalf of the Project on July 27, 2007 for the acquisition of land for the tower pads. The notice contains the affected land parcel numbers and owners’ name.</p> <p>For the disputed section of the ROW in Sindhuli District, the Government agreed to 100 percent compensation of the land value (by constructing a road, as noted above); 96 out of the 159 owners of affected parcels have already accepted and received the compensation. Construction work on the towers and stringing of the line will start only after all the</p> |

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| | | land parcels have been fully acquired and compensated. |
| 23. | <p>It is not clear what the effects of the RoW will be or what restrictions will be imposed. The local Project manager told Complainants that no activity is allowed in the RoW and that they are prohibited from entering the RoW. According to the SIA, no houses can be built within the RoW for safety reasons. The ARAP mentions that the houses and schools located in the RoW need to be relocated, however the SIA notes that “resettlement is not applicable for this project because the number of houses to be affected by the project is low and scattered in 9 VDCs of 3 districts.” According to the SIA, “farming hindrance is unavoidable” and “private land (68.44 ha) within the RoW will be compensated at current market price as per standard practice of HMG/N. Such amount will be paid 10% of the total amount of land value,” yet “the land within RoW will be utilized as usual by the respective landholders.” Complainants request clear information about the restrictions imposed in the RoW.</p> | <p>Ownership of land within the ROW, which is a 30 meter band (15 meters from the center of the tower pad on either side), remains unaffected. Access to and cultivation can continue as usual within the ROW, with the restriction as noted above on building structures or planting tall trees. As such, loss of income from agricultural practices is not expected. This was communicated to local communities and graphic displays are being provided currently for easier reference as part of the communications and outreach actions (see Annex 1.6).</p> |
| 24. | <p>Bank policy is directed at improving incomes and living standards, rather than merely compensating people for their expropriated assets. Preference should be given to land-based resettlement strategies for displaced persons whose livelihoods are land-based, ensuring that they are provided with land for which “a combination of productive potential, locational advantages, and other factors is at least equivalent to the advantages of the land taken.” However, the ARAP uses a different approach to compensation, noting that, “houses are evaluated at replacement value considering construction materials used” rather than productive potential and locational advantages. According to OP 4.12, payment of cash compensation for lost assets may be appropriate in certain limited circumstances. The ARAP claims that, “76 percent of the relocates prefer cash compensation considering that such mode of payment will be easy in handling.” However, Complainants have never mentioned cash compensation in their testimonies; they requested instead that the route be realigned or that they be offered substitute land. While the ARAP notes that, “the records of these meetings are given in Annex 4,” no annex is provided in the document.</p> | <p><i>Management asserts that the Project complied with OP4.12 in terms of estimation and payment of compensation at replacement cost without depreciation.</i> The compensation rate was determined by the Compensation Fixation Committee, with community representation.</p> <p>While land for land is a preferred option, it was not feasible, because land was unavailable and loss of parcels at the individual household was too small (tower pad footprint is only 15 by 15 meters to 21 by 21 meters).</p> <p>Discussions were held with relocating households regarding their options and preferences for relocation. Almost all expressed willingness to build their houses on their own remaining land a few meters away by using the same construction material. Apart from compensation, the Project is paying relocation and rental allowances, which should assist the owners in constructing the new houses. Over 75 percent of those affected requested cash compensation and self-relocation.</p> <p>In addition to compensation, the Project includes the following ongoing activities to assist the affected households in livelihood improvements:</p> <ul style="list-style-type: none"> • Advanced farming and marketing training. This training has been completed. • Occupational training in five trades has been identified. NEA is in the process of hiring a master trainer. • Weaving and plumbing have been identified as trades under income generation training. NEA is in the process of hiring a master trainer. • Livestock management training and distribution of live- |

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| | | <p>stock has already been provided to selected beneficiaries.</p> <ul style="list-style-type: none"> • Cash crop training (vegetables) has also been provided to beneficiaries. |
| 25. | <p>The ARAP states that the average cost per family is estimated to be NRS 2,611,567, excluding benefits from community support program, and it also notes that on average “each household will receive NRS 264,700 excluding benefits from the community support program.” One Complainant received much less than the stated amount when a tower was built directly on her land. [Interview with Laxmi Devi Budhathoki Magar, noting that she received NRS 28, 216 in compensation for a 60-meter high tower built on her land within 15 meters of her house, affecting her entire property.] Most Complainants have not been offered any compensation.</p> | <p>The amount mentioned in the ARAP is <u>average</u> compensation. Individual compensation varies depending on actual land loss and may therefore be different from the average compensation per household, which explains why the complainant received less than average. Finally, the process of delivering compensation is ongoing; all individual eligible households will receive compensation.</p> |
| Environmental, Health, and Safety Guidelines for Electric Power Transmission and Distribution | | |
| 26. | <p>The EHS Guidelines acknowledge that though there is conflicting and limited evidence of the impacts of the electric and magnetic fields (“EMF”) created by power transmission lines, “it is still sufficient to warrant limited concern.” The EHS Guidelines go on to make various recommendations for the management of EMF exposure, including that the siting of new facilities should “avoid or minimize exposure to the public,” and that “installation of transmission lines or other high voltage equipment above or adjacent to residential properties or other locations intended for highly frequent human occupancy, (e.g. schools or offices), should be avoided.”</p> <p>Additionally, there are a number of recommended mitigation measures in cases where EMF levels are higher than the recommended exposure limits. In this case, there has to be a study of the levels of EMF exposure for those living near the Project route and an investigation of alternative routes away from areas of frequent human occupancy, and only then should these mitigation measures be considered.</p> <p>No documentation of either of these studies has been provided to Complainants in Sindhuli District.</p> | <p><i>Management has carefully reviewed the concerns about electromagnetic radiation, including the cited studies, and concluded that the scientific consensus is that no known health impacts can be linked to the electromagnetic exposure that is expected to stem from the Project.</i></p> <p>In Management’s view the Requesters’ concern is based on perceived risks which cannot be supported by any evidence of real risks.</p> <p>Management refers to the very broad scientific research and the consensus that no known health impacts can be linked to the operation of high voltage lines.</p> <p>Internationally recognized radiation protection agencies and national health agencies have reviewed the scientific literature and evidence available and have concluded that evidence is insufficient to establish a definitive causal relationship between low frequency magnetic field exposure and increased incidences of cancer and other illnesses.</p> <p>The WBG EHS Guidelines (Electric Power Transmission and Distribution) state that: “Although there is public and scientific concern over the potential health effects associated with exposure to [electric and magnetic field] EMF (not only high voltage power lines and substations, but also from everyday household uses of electricity), there is no empirical data demonstrating adverse health effects from exposure to typical EMF levels from power transmissions lines and equipment.” The Guidelines further state that “However, while the evidence of adverse health risks is weak, it is still sufficient to warrant limited concern.”</p> <p>Thus, the transmission lines have been designed and routed so as to keep the minimum distance from any building and ground as per industry standards and practice.</p> |

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| Operational Policy Note 11.03, Management of Cultural Property | | |
| 27. | <p>The NPDP was not designed to prevent significant damage to cultural property. To the contrary, the Project was sited near various monasteries, temples, cremation sites, and historical landmarks. One example of a historically significant site that is vulnerable to significant damage by the Project is Sindhuli Gadhi, the battleground of the historic 1767 defeat of the British Army by Nepalese forces. Currently, one of the Project towers is planned for construction inside the Sindhuli Gadhi site. Because the Project is likely to result in significant damage to cultural property, the Bank breached its Cultural Property policy by financing the Project.</p> | <p><i>Management has reviewed the alignment and confirms that no cultural or sacred site is adversely impacted in the disputed stretch by the KD Transmission Line.</i></p> <p>Both the EIA and the monitoring reports of the ESSD state that no religious sites, burial sites or historical heritage are affected by the construction and operation of the transmission line. No tower pad or power lines will affect Sindhuli Gadhi, which is located on another hillock approximately 500 meters outside the ROW.</p> <p>After receipt of the complaint by the community in February 2013, NEA offered to conduct a joint field verification with the community to confirm the location of such sites in relation to the alignment.</p> <p>Map 3 shows the location of key cultural sites vis-à-vis the Project activities.</p> |
| 28. | <p>The Bank has failed to assist in the protection and enhancement of cultural property in the Sindhuli District, as required by OPN 11.03. First, the Project did not include the “training and strengthening of institutions entrusted with safeguarding Nepal’s cultural patrimony.”</p> <p>Additionally, realignment of the Project was not adequately considered, despite the fact that alternative routes for the project exist, many of which would avoid damage to cultural property in Sindhuli District. Though an expert commission was formed to investigate various alternative routes, its analysis was never made public, and the GoN has since refused to consider alternative designs for the Project. As such, the Project’s route has not changed, and Project towers have not been relocated to ensure the protection and preservation of cultural property.</p> | <p>OP 4.11 was not triggered in the Project as the EIA indicated that the impact of the ROW on cultural sites is insignificant.</p> <p>Management has revisited the issue and confirms that no cultural or sacred sites are adversely affected in the disputed stretch of the KD Transmission Line.</p> <p>See also Item 17 regarding the Technical Commission Report on alternative routes. (Also attached in Annex 1.5).</p> |
| 29. | <p>Impacts on community life and the local economy</p> <p>The EIA Executive Summary does not, however, discuss the potential impacts on community structure and relations. Additionally, Complainants are concerned by how the Project will impact various historical, cultural, religious and sacred sites. The planned route approaches various monasteries, temples, cremation sites, and other sites of cultural significance. The transmission line will also disturb community rituals. Towers have already been built near a Bhimsen shrine and close to the Kamalamai Temple, a major shrine in the region, over which the transmission line is pro-</p> | <p>The potential social impacts of the Project and the resulting mitigation measures are described in the SIA for the transmission line and not the EIA. Additional discussion of social impacts and related mitigation are addressed through the ARAP and the VCDP.</p> <p>No tower pad has been or will be built close to Bhimesen shrine. Kamalamai temple is at least 100 meters away from the alignment. Regarding the issue of cultural and sacred sites, see also Items 27 and 28.</p> <p>See Item 26 regarding the issues of electro-magnetic radiation.</p> |

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| | <p>jected to pass. Worshippers, fearing the effects of the tower and transmission line, cannot practice their rituals in peace. Other shrines, including shrines of Bhadrakali, Siddhababa, Devasthan, and Durga, will also be affected.</p> | |
| Prior Attempts to Resolve the Problems with the World Bank | | |
| 30. | <p>On at least two occasions, the Complainants have raised their Project-related issues and concerns with the World Bank.</p> <p>On February 18, 2013, LAHURNIP and NEFIN submitted a letter to the World Bank staff on behalf of the Complainants, requesting that the World Bank consider alternatives for the NPDP in Sindhuli District. The letter emphasized the Project's failure to inform and consult local communities, the inaccurate estimates of affected people within the SIA and EIA, and violations of the rights of indigenous peoples. The Complainants' letter also referenced incidents of state-sanctioned violence against project opponents, citing personal safety as a major concern for local people.</p> <p>On February 27, 2013, the World Bank responded to the Complainants' February 18 letter. Jie Tang, the new Task Team Leader for the NPDP, assured the Complainants that he took the concerns and complaints raised in their letter very seriously, and proposed a meeting between World Bank staff and the affected communities, to help the World Bank better understand the details of the Complainants' concerns and to assess the situation in the field.</p> <p>The meeting between the Complainants and the World Bank took place on March 15, 2013, and was attended by three World Bank representatives, members of Sindhuli District, an independent indigenous rights expert and three representatives from LAHURNIP. Several concerns were raised by the Complainants at this meeting, namely: the lack of information disclosure by the World Bank and the local government with respect to the Project's purpose and impacts; the failure to consult with the local community and indigenous peoples; the destruction of human settlements and sacred sites; the potential health impacts on households and schools located under the transmission line; and the use of excessive violence against local people by state-sanctioned security police. The Complainants also clearly requested that the Project be con-</p> | <p><i>Management has been attentive to the concerns of the affected households since these came to light two years ago.</i> Since 2011, actions on the part of the Bank have included: (i) fielding a mission in September 2011, which confirmed that the army had not been deployed to secure Project construction sites, contrary to information received in July 2011; (ii) working closely with NEA and the Ministry of Energy on finding solutions to address the concerns; (iii) conducting field visits to explore possible solutions; and (iv) discussing and agreeing on measures to avoid the use of army or security forces on the Project site (as was the case in other hydropower projects) and on time-bound action plans (as recorded in mission aide memoires) to address the ROW and other issues related to the implementation of the social programs.</p> <p>Upon receipt of the complaint of the local community on February 18, 2013, the Bank team: (i) met with the affected families and their legal representatives to further understand the concerns and complaints; (ii) requested NEA to stop project construction until the issues are properly resolved, and discussed joint efforts to find solutions; and (iii) sent three local staff to visit Sindhuli District to listen to the local people and assess the situation on the ground.</p> <p>In April 2013, the Bank team engaged a consultant/facilitator/Kathmandu-based NGO activist who visited Sindhuli District and conducted two rounds of consultations, and who interviewed various concerned stakeholders, with a view to preparing an independent evaluation. A Bank team from Washington visited Sindhuli District in June 2013 and proposed an Action Plan for both NEA and the Bank, based on (i) Bank staff consultation with the local community in April, 2013; (ii) the independent consultant's evaluation; (iii) consultations with the CDO and NEA. The Action Plan intends to address the outstanding issues of the KD Transmission Line as well as to enhance NEA's capacity to address social safeguards issues and communications in a systematic manner.</p> |

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| | <p>structed along an alternative route. The Complainants identified possible alternatives and reiterated that they would not oppose the Project if it avoided human settlement.</p> <p>In response to the Complainants' concerns and requests, the World Bank affirmed its interest in working with the Complainants to resolve their issues with the Project. The World Bank representatives agreed to share all information as required by the World Bank disclosure policy, and offered to discuss allegations of noncompliance with disclosure and consultation policies in the course of Project implementation with the NEA. In addition, the World Bank representatives said they would visit Project affected areas. The World Bank informed the Complainants that it would contact them after speaking with the NEA in order to discuss how to move forward.</p> <p>Despite the Complainants' various efforts to raise their concerns with the World Bank, no change has been made to the Project plans and the requested information has not been disclosed. World Bank officials reportedly visited the community in March 2013, but community members reported not being able to communicate with them because of language barriers. On June 24 and 25, 2013, a World Bank team visited the Project site, but did not meet with Project-affected people.</p> | |
| Requested Next Steps | | |
| 31. | <p>The World Bank must immediately stop disbursement on the NPDP loan and all construction activity on the Khimti-Dhalkebar 220 kV Transmission Line Project, until such time that affected communities have been fully informed and consulted about the Project details, impacts, rehabilitation and mitigation measures, and an independent analysis of alternative designs, in which the rights and needs of people affected by the Project construction are made the priority. The first step in such a process would be the release of all relevant documents from the World Bank or the Government of Nepal, including the full EIA in English and Nepali, reports and minutes of meetings of the Grievance Committee and KDTL-EMU mentioned in the ARAP, and clear information about the restrictions imposed in the RoW. In addition, the Project must be carried out in full compliance with Nepali law, international law, and the</p> | <p><i>Management has formally requested NEA to halt any civil works until the issues related to compensation for ROW land parcels in Sindhuli are resolved.</i> The Action Plan noted in Item 30 above will address issues of concern to the Requesters, including:</p> <ul style="list-style-type: none"> • Complete disbursement of all compensation and assistance programs; • Strengthening of the Project GRM • Updating of the ARAP and VCDP. • Disclosing the EIA, EMAP, SIA, ARAP and VCDP in local language in all affected VDCs / municipalities. • Hiring a communication specialist to develop a communication strategy and to assist in information dissemination and implementation of a communication plan; and • Engaging with the community through community consultations. |

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| | social and environmental safeguard standards of the World Bank. | |
| 32. | We request that the Project follow an alternative route in Sindhuli District that will not cause such detrimental impact to our lives, the lives of our children and future generations, our environment, and our livelihoods. This may be achieved through the appointment of an independent expert panel to assess viable alternatives that do not affect our homes and lands. We, as affected people, should be allowed to participate in the analysis and decision making process for possible alternatives. | <i>Management asserts that all viable alternative alignments have been identified and reviewed.</i> See above Item 16 regarding the assessment of alternative alignments. |
| 33. | Those who have already been affected by Project construction and loss of land use should be retroactively compensated for lost agricultural produce. For land that has already been acquired, comparable substitute land should be provided, or fair and adequate compensation should be paid. | Compensation for towers built under the Project has been provided. Compensation for the ROW is in progress following the ARAP, including 100% compensation for damages to any lost agricultural produce. While land for land is a preferred option, it was not feasible, because land was unavailable and individual household parcels are too small (tower pad footprint is only 15 by 15 meters to 21 by 21 meters). Land owners whose land was already acquired have already agreed to and accepted cash compensation. |
| 34. | Finally, if these steps are taken, we request that all baseline studies and future monitoring reports be done with full transparency and participation of affected communities, and the results made public. | <i>Management recognizes that the disclosure of safeguard documents for the PDP requires significant strengthening, which has been initiated.</i> NEA is currently in the process of updating the ARAP and VCDP and will disclose the updated documents including in local language. |
| | Violations of International Law | |
| 35. | Implementation of the Project violates Nepal's international obligations. This is particularly true as the presence of indigenous peoples in Sindhuli District triggers several international legal requirements; namely, the requirement to consult with indigenous peoples. UNDRIP in Article 29 embodies the indigenous right to free, prior and informed consent ("FPIC") in relation to development projects undertaken on their lands; while not a veto right, FPIC does require that indigenous peoples who are affected by a development project are consulted in good faith, before the project is undertaken, and that they are provided with full information on the proposed project so that they can make a free choice to provide or withhold their consent. According to community members in Sindhuli District, no information was provided about the project until its implementation phase was underway and therefore the communities were deprived of the opportunity to consent or not to the project. | The Bank cannot be said to be in violation of obligations that lie within the remit of State parties to these international legal instruments. Bank support to various projects and programs takes into account relevant social and environmental factors. The Bank's responsibilities in this regard must be in accordance with the mandate vested in the Bank by its shareholders through the Articles of Agreement. As has been recognized by the International Court of Justice, international organizations such as the Bank are fundamentally "unlike states" in that they "do not possess a general competence" to ensure compliance with international legal obligations, but are established by the agreement of member states for the specific purposes set out in their constitutive instruments. As such, their powers and responsibilities must be assessed primarily against the provisions of their respective constitutive instruments, and in the case of the Bank, its Articles of Agreement. |

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| 36. | Article 6 of ILO 169 also requires that indigenous peoples be consulted in relation to any decision which will affect their rights; even more pertinently, if a project will require forced relocation of community members, a higher standard for consultation is triggered under Article 16(2). This higher standard mirrors the requirements of UNDRIP insofar as it requires that consultations with indigenous peoples be “free and informed.” Since certain members of the indigenous groups in Sindhuli District will have to relocate because their houses fall within the thirty meter right of way corridor of the Project, the higher standard for consultation applies in this case. | Nepal ratified ILO 169 on September 14, 2007 and the Project was appraised in 2003. The Government of Nepal does not yet have an action plan to guide implementation of ILO 169. |
| 37. | Under both UNDRIP and ILO 169, indigenous peoples have the explicit right to determine their own development priorities and to make unhindered and informed choices about the use of their lands. In the case of the Project under discussion, indigenous peoples have repeatedly stated that they do not want the Project to be continued on its current route. This statement should be respected as an expression of the will of the people and their desires and proposals for the Project’s course should be considered. | See response in Item 36. |
| | Violations of Nepali Law | |
| 38. | <p>The Project ignores the existence of indigenous peoples even though it is located in traditional homelands of indigenous peoples. In Nepal, the rights of indigenous peoples are recognized constitutionally and under Nepali laws. Indigenous peoples were recognized under the Interim Constitution of Nepal, 2007. The 2007 Interim Constitution guarantees indigenous peoples and other excluded groups the fundamental right to participation. In contrast, indigenous and other local peoples of Sindhuli District have not been included at any stage of the Project cycle.</p> <p>The Local Self-Governance Act of 2055 (1998 A.D.), Sections 134, 135, 138, 197, 198, 200, and 201, stipulates that the process of development must include the participation of indigenous and local people in project identification, formulation, planning, and implementation through local councils. The Project has not been included in any development plan of the Sindhuli District municipalities or village development committees, showing that it is not a priority of the local people who have had</p> | <p><i>Management is not in a position to opine on matters concerning compliance with Nepali law.</i></p> <p>In Management’s view, the appropriate process for determining these issues is through the Nepali judicial system. Management notes that the concerns expressed in the Request have been submitted to a national legal process and are currently under consideration. Given the history of the dispute between the Requesters and NEA and the complexity of the ongoing national legal process, it would not be appropriate for Management to comment on this process or anticipated outcomes.</p> |

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| | <p>no say in its planning and implementation.</p> <p>The Interim Constitution also states that local people have priority in access to and benefit from natural resources. Indigenous people are entitled to special measures for protection, empowerment, and advancement for development in accordance with the Article 13 of the Interim Constitution. The World Bank and GoN have not prioritized indigenous peoples in the design or implementation of the Project.</p> <p>The Project violates the fundamental right of right to information, guaranteed under Article 27 of the Interim Constitution, Section 3 of the Right to Information Act of 2064 (2007 A.D.), and mandatory provisions under the Environmental Protection Act of 2053 (1997 A.D.), as no public hearing was conducted in Sindhuli District and Complainants were not provided with Project information upon their request.</p> <p>The Constitution also guarantees the right to healthy environment, right to culture, and right to property. The Project not only threatens the health of local communities, it also encroaches on cultural, historical, and religious sites.</p> <p>Based on a notice from the District Administration Officer (“CDO”), the ownership of lands in Project areas is under lien, and local residents cannot sell or mortgage their lands. The decision of the CDO contradicts Section 5, Subsection 5 of Local Administration Act of 2028 (1971 A.D.), which says the mandate of the CDO is limited to maintaining peace and security. In accordance with the Collateral Directives of Commercial Bank of 2007, Section 7.1, the Bank will not accept as collateral any land or house in the 15 meter right of way on both sides of the Project transmission line. Given the economic hardship that this has caused small landowners living under and near the proposed transmission lines, the Project cannot be qualified as an act of public interest, which is required to acquire private lands. The Interim Constitution guarantees the right to property and the Project has violated these fundamental rights without due process.</p> <p>Regulation No. 50 of the Electricity Regulation of 2052 (1993 A.D.) prohibits constructing houses and planting trees under high tension power lines, which has immense effect on peoples’ ability to use their land. Furthermore, the Project violates Regulation No. 52 of the</p> | |

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| | Electricity Regulation of 2052 (1993 A.D.), which prohibits the passage of all electricity lines above houses, is clearly violated by the Project. | |
| 39. | <p>Violent repression of peaceful protests</p> <p>Affected communities have been protesting the Project since learning that high voltage power lines would be passing over or near their homes and schools, demanding that the transmission line be realigned along an alternative route.</p> <p>When community members obtained more information about the Project and its planned route in 2010, they formed a Protest Committee. Protest activities involved attempting to block construction work by lying down in front of building sites and covering pits that had been dug for the towers. The Government responded by accusing the Protest Committee of extortion. On March 31, 2011, one of the founding members was arrested for leading protests in the village and was released after a few hours. Ten days later, another villager protesting against the project was arrested and tortured for two days while in custody, and sustained severe injuries.</p> <p>Following the brutal police response to the protests, the Protest Committee tried to negotiate with the NEA project manager and the Chief District Officer on at least three occasions to change the Project. They also held press conferences against the Project at the local level.</p> <p>On January 17, 2012, the Protest Committee submitted a memorandum to the Ministry of Energy and the Prime Minister's Office expressing their concerns about the impact of the transmission line on historical, religious, and cultural sites and demanding the realignment of the transmission line. A former parliamentarian representing the constituency, CP Gajurel, has been promoting the realignment of the Project along an alternative route. A delegation, which included CP Gajurel, presented their demands to the Ministry of Energy and the Prime Minister's Office.</p> <p>In response to the Protest Committee's memorandum, the Prime Minister assured them that 95 percent of their demands would be met. The GoN subsequently formed an expert commission in February 2012 to investigate alternative routes. The commission assured the</p> | <p><i>Management understands that as a result of the dispute over compensation issues in Sindhuli District and the subsequent revised compensation package, in November 2012 local community members confronted a Project road survey team, which, feeling threatened, requested police protection.</i> Management was only informed of this issue on February 18, 2013, through a complaint addressed to the Bank's senior management on the confrontation.</p> <p>While the confrontation in November 2012 relates to law enforcement rather than Bank policy, Management treated the matter seriously and took the following measures: (a) promptly halting construction; (b) raising the issue with NEA and the Chief Secretary; (c) immediately consulting with community members and their representatives; (d) expediting the land valuation process of affected households in Sindhuli District; (e) hiring a local consultant to facilitate communications with the local community; (f) mobilizing a Bank team to visit the Project team and work with the community; and (g) agreeing on an action plan for both NEA and the Bank to address community concerns.</p> <p>The Requesters claim that human rights violations took place during the November 2012 confrontation. However, Management did not find indications that would confirm the Requesters' claims. Additionally Management would like to emphasize that the Bank, within the boundaries of its mandate, is constrained as regards the actions that it can take on being alerted of human rights violations of the nature alleged by the Requesters. Such allegations are within the purview of the Nepali legal system which the Requesters have every right to invoke. In this particular circumstance, however, Management formally brought the allegations to the attention of the Borrower and sought to ensure that appropriate action is being taken.</p> |

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| | <p>Protest Committee that their requests would be fulfilled, but the commission's report and the criteria for selection of the current location of towers and transmission lines were never made public. The commission did report, however, that changing the route would lead to additional costs. According to media reports, the expert commission reported that changing the route would not be appropriate for technical and economic reasons.</p> <p>The Protest Committee announced a new round of protests, including sit-ins and restricting access to their land for Project personnel. On March 12, 2012, the Ministry of the Interior sent a letter via the District Administration Office to the Protest Committee, promising to fulfill their demands and requesting that they cease protests. However, in April 2012, the Ministry of Energy submitted recommendations to Prime Minister Baburam Bhattarai to acquire the lands for a road and to build the transmission line alongside the road. The Prime Minister accepted those recommendations.</p> <p>On October 7, 2012, a ministerial decision announced the acquisition of lands for the construction of roads – without mention of the transmission line – in Sindhuli District. Complainants believed the road project is a cover up for continuing the construction of the transmission line and continued to restrict access to the construction sites.</p> <p>On November 11, 2012, around 250 armed police officers and 5-6 Project personnel came to begin surveying the area in Kamalamai village in Sindhuli District. Affected communities began to peacefully protest, preventing them from carrying out the survey and demanding that the transmission lines be relocated away from their homes and schools. The next day, on November 12, 2012 at around 4:00 am, while people were still sleeping, the surveyors came back, accompanied this time by approximately 500 police officers armed with rifles and batons, circling Project personnel and the survey area to prevent the villagers from blocking their work.⁹⁶ No one was allowed to enter the area.</p> <p>Around 100-200 unarmed protestors gathered near the restricted area. Several women tried to enter the area, believing that they would not be harmed and knowing that under Nepali law, only female police officers can arrest women.</p> | |

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| | <p>Police officers violently beat and injured the women with their sticks, boots, and fists, making the women's faces and chests bleed. Ambulances were not allowed to transport the injured. Journalists and media personnel were also prohibited from entering the area. 100 Ten women were severely injured and had to be taken to the hospital in Kathmandu. One was under treatment for two months. The following day, the protesters met with the Chief District Officer and the NEA project manager, who orally promised them that they would be compensated for medical treatment for those who were injured. No compensation was ever paid. Community members raised funds to cover medical expenses.</p> <p>On April 11, 2013, police and Project personnel visited the communities again, this time with batons but no firearms. The communities chased them away. The police have not come back since, but Complainants live in fear of renewed violence. In order to avoid further violent responses from the police, Complainants filed a complaint with the Nepal Human Rights Commission and a writ petition at the Supreme Court. The Supreme Court writ petition was denied, based on false information given by the Nepal Electricity Authority that 95 percent of the land acquisition process had been completed, even though the acquisition of land for construction of local roads was only published after the Supreme Court decision.</p> | |

Other Annexes

- Annex 1.1: Consultations carried out during the Preparation of Environmental and Social Safeguard Documents (including EIA, SIA, ARAP/ VCDP)
- Annex 1.2: Notices of Public Hearings and Communities' Feedback during Consultations
- Annex 1.3: Chronology of the Events around the Clashes between Local People and the Police in Sindhuli District
- Annex 1.4: Disclosed Documents
- Annex 1.5: Government of Nepal's Technical Committee Report on Analysis of Alternative Routes
- Annex 1.6: NEA Action Plan

NAMES OF PARTICIPANTS IN CONSULTATIONS HAVE BEEN PROVIDED TO THE INSPECTION PANEL BUT HAVE BEEN REMOVED FROM THE PUBLICLY DISCLOSED VERSION OF THIS REPORT FOR PURPOSES OF PRIVACY PROTECTION.

Annex 1.1
Consultations carried out during the Preparation of Environmental and Social Safeguard Documents (including EIA, SIA, ARAP/ VCDP)

| | Type of Consultations/ Information dissemination | Date of Consultation / Notice Publication | Location of the Meeting/ Published Paper | Attendees | Issues discussed at the Meeting | Remarks |
|--------------------|--|---|--|---|---|--|
| Environment | EIA preparation | | | | | |
| | | September 13, 2004 | DDC, Ramechhap | 116 | Project description, impacts and possible mitigation measures | |
| | EIA implementation | September 24, 2004 | Health post, Dhalkebar, Dhanusha | 99 | | 39 of the participants were from Sindhuli District |
| | | January 9, 2009 | DFO, Sindhuli | 37 | land acquisition process and other impacts were also discussed | |
| | | April 27, 2009 | Jamunibas, Begadar VDCs, Dhanusha | 25 | land acquisition process and issues was also discussed | |
| Social | SIA preparation | June 10, 2009 | Ilaka Forest office, Manthali, Ramechhap | 28 | land acquisition process and issues was also discussed | |
| | | January 11-17, 2010 | Two meetings held in Sindhuli | 15 (at first meeting); 20 (at second meeting) | Meeting regarding the compensation of the residential structures and cowsheds, the main agenda of the meeting were information dissemination, criteria for valuation of the structure, existing rules and regulation of the Gov. etc. | Chief District Officer chaired the meeting |
| | | May 29, 2011 | CFC meeting held at CDO office, Sindhulimadi | - | Meeting regarding the compensation of the cowsheds | |
| | | | | | | |
| | | April-June, 2004 | 16 VDCs, 5 DDCs and municipality | - | | One to one consultation with 210 households, 22 |

| Type of Consultations/ Information dissemination | Date of Consultation / Notice Publication | Location of the Meeting/ Published Paper | Attendees | Issues discussed at the Meeting | Remarks |
|--|---|---|-----------|--|--|
| | | | | | group meetings, and again one to one with 32 households for checklist survey |
| Forest Conservation/Social Awareness | May 10, 2004 | Kamalmai Municipality-10, Karkare, Sindhuli | 7 | Local employment, compensation, plantation of site specific species, nursery establishment and CFUGs involvement for RoW clearance | |
| Forest Conservation/Social Awareness | May 11, 2004 | Kamalmai Municipality-10, Karkare, Sindhuli | 7 | Local employment, compensation, implementation of NTFP program, nursery establishment, assistance to FUGs for the transfer of government forest to community forest and involvement for RoW clearance | |
| Forest Conservation | May 13, 2004 | Kamalmai Municipality-10, Basantapur, Sindhuli | 4 | Implementation of NTFP program, job opportunity nursery establishment, and involvement of CFUGs for RoW clearance | |
| Forest Conservation | May 14, 2004 | Kamalmai Municipality-10, Panne-si, Sindhuli | | Implementation of NTFP program, job opportunity nursery establishment, and involvement of CFUGs for RoW clearance | |
| Forest Conservation/Social Awareness | May 16, 2004 | Kamalmai Municipality-10, Dhun-grebas, Sindhuli | | Priority for local employment, proper compensation for land under the RoW, implementation of NTFP program and involvement of CFUGs for RoW clearance | |
| Forest Conservation/Social Awareness | May 17, 2004 | Ratanchur VDC, Bijaya Chhap, Sindhuli | | Priority for local employment, implementation of NTFP program, proper compensation for land and houses, plantation of site specific species, nursery establishment, assistance to FUGs for the transfer of government forest to community forest and involvement for RoW clearance | |

| | Type of Consultations/ Information dissemination | Date of Consultation / Notice Publication | Location of the Meeting/ Published Paper | Attendees | Issues discussed at the Meeting | Remarks |
|--|--|---|---|-----------|---|--|
| | Forest Conservation/Social Awareness | May 19, 2004 | Bhadrakali VDC, Chiyabari, Sindhuli | | Priority for local employment, proper compensation for land under the RoW, implementation of NTFP program and involvement of CFUGs for RoW clearance | |
| | Forest Conservation | May 20, 2004 | Gauribas VDC, Rajabas, Mahottari | | Assistance to FUGs for the transfer of government forest to community forest, alternative for income generation, training and observation tour, provision of three phase line for the Rajabash village. | |
| | Forest Conservation/Social Awareness | May 21, 2004 | Bengadavar VDC, Lalgadh, Dhanusha | | Priority for local employment, proper compensation for land under the RoW, implementation of NTFP program and involvement of CFUGs for RoW clearance | |
| | Forest Conservation/Social Awareness | May 23, 2004 | Tulasi Bahumara VDC, Bahumara, Dhanusha | | Priority for local employment, and implementation of NTFP program and involvement of CFUGs for RoW clearance | |
| | Related with coordination between DFO | May 24, 2004 | DFO, Sindhuli | | Proper coordination between the DFO and CFUGs and the Project for RoW clearance, promotion of NTFP program in the CFUG. Involvement of CFUGs and DFO in RoW clearance, nursery establishment and plantation of 25 trees for the loss of 1 tree etc. | |
| | Related with coordination between DFO | May 25, 2004 | DFO, Mahottari | 4 | Proper coordination between the DFO and CFUGs and the Project for RoW clearance, promotion of NTFP program in the CFUG. Involvement of CFUGs and DFO in RoW clearance, nursery establishment and plantation of 25 trees for the loss of 1 tree etc. | Meeting conducted with DFO and other staff |
| | Related with coordination between DFO | May 25, 2004 | DFO, Dhanusha | 3 | Proper coordination between the DFO and CFUGs and the Project for RoW | Meeting conducted with DFO and other |

| | Type of Consultations/ Information dissemination | Date of Consultation / Notice Publication | Location of the Meeting/ Published Paper | Attendees | Issues discussed at the Meeting | Remarks |
|--|--|---|---|-----------|--|---------|
| | | | | | clearance, promotion of NTFP program in the CFUG. Involvement of CFUGs and DFO in RoW clearance, nursery establishment and plantation of 25 trees for the loss of 1 tree etc. | staff |
| | Forest Conservation/Social Awareness | June 1, 2004 | Gelu-1, Ramechhap | 9 | Rural electrification in Gelu VDC especially in T/L alignment, priority for local employment, proper compensation for land and houses, implementation of NTFP program and involvement of CFUG for RoW clearance | |
| | Concerning location of School building | June 3, 2004 | Tamakoshi Jana Jagriti HSS, Khimti | 27 | Proper compensation for the SPAF, complete acquisition of land of those families seriously affected by the project particularly at Khimti Besi, translocation of school building. Priority for the electrification in project affected VDCs. | |
| | Forest conservation/Social Awareness | June 4, 2004 | Tilpung, Ramechhap | 12 | Rural electrification in Tilpung VDC especially in T/L alignment, priority for local employment, proper compensation for land and houses, appropriate compensation for the loss of crop and land falling in RoW. Compensatory plantation, Implementation of CFUGs for RoW clearance and distribution of seedlings of fruit plant | |
| | Forest conservation/Social Awareness | June 5, 2004 | Kathjor, Ramechhap | 13 | Rural electrification in Kathajore VDC, especially in T/L alignment area, priority for local employment, proper compensation for land and houses, implementation of NTFP program and involvement of CFUG for the RoW clearance | |
| | Forest conservation/Social Awareness | June 6, 2004 | Bhaluwajor, Ramechhap | 9 | Rural electrification in Kathajore VDC, especially in T/L alignment area | |

| | Type of Consultations/ Information dissemination | Date of Consultation / Notice Publication | Location of the Meeting/ Published Paper | Attendees | Issues discussed at the Meeting | Remarks |
|---------------|--|---|---|------------------------------|---|--|
| | | | | | ea, priority for local employment, proper compensation for land and houses, implementation of NTFP program and involvement of CFUG for the RoW clearance | |
| | Meeting with School Staff | June 6, 2004 | Kalika Lower Secondary School, Bhaluwajor, Ramechhap | 6 | Electrification of Bhaluwajor area before the project construction, priority for local employment, implementation of mitigation measures in coordination with local level organisations | |
| | Meeting with Civil Aviation Authority | June 8, 2004 | NAC, Manthali Branch, Ramechhap | 1 | Information about flight of aircraft, clearance required for flight, rerouting of the alignment and clearance from the Civil Aviation Department | Discussions with staff of NAC |
| | Meeting with DFO/ other staffs | June 8, 2004 | DFO, Ramechhap | 4 | Proper coordination between the DFO and CFUGs and the Project for RoW clearance, promotion of NTFP program in the CFUG. Involvement of CFUGs and DFO in RoW clearance, nursery establishment and plantation of 25 trees for the loss of 1 tree etc. | |
| VCDP and ARAP | Consultation with vulnerable community | April and May 2005 | Kamalmai Municipality, Ranichuri, Bhadrakali, Bhaluwajor, Khimti and Tulsei | 6-12 people at each location | | 8 FGDs conducted with vulnerable groups |
| | | April and May 2005 | All affected VDCs of five Districts | 200 people | | One to one consultation with 32 households |

Annex 1.2
Notices of Public Hearings and Communities' Feedback during Consultations

(Translated from Nepali)

**Public Hearing Program Relating to
Environmental Impact Assessment of
Khimti-Dhalkebar 220 kV Transmission Line Project**

Date: September 24, 2004, Friday
Venue: Dhalkebar Heath Post building, Dhanusa
Time: 11:00 am

Attendance Book

| S.N. | Name/Surname | Occupation | Office/Address | Signature | Remarks |
|------|--------------|-------------|---|-----------|---------|
| 1. | Participant | Agriculture | Kamalamai-11 | | |
| 2. | Participant | Agriculture | Bengdabar VDC | | |
| 3. | Participant | Agriculture | Gauribas- 6 | | |
| 4. | Participant | Agriculture | Gauribas- 7 | | |
| 5. | Participant | Agriculture | Gauribas- 7 | | |
| 6. | Participant | Agriculture | Bhimeshwor | | |
| 7. | Participant | Agriculture | CFUG Bhiman Palesi | | |
| 8. | Participant | Agriculture | CFUG Bhiman Palesi | | |
| 9. | Participant | Agriculture | CFUG Bhiman Palesi | | |
| 10. | Participant | Agriculture | Sidhdheshwor- 7 | | |
| 11. | Participant | Agriculture | Ramchuri- 1 | | |
| 12. | Participant | Agriculture | Tulasi- 6 | | |
| 13. | Participant | Agriculture | Rani VDC- 1 | | |
| 14. | Participant | Employee | Khimti-Dhalkebar 220 kV Transmission Line Project | | |
| 15. | Participant | Employee | Ministry of Population and Environment | | |
| 16. | Participant | Employee | Bhimeshwor VDC | | |
| 17. | Participant | Employee | Bhimeshwor Sub Health Post | | |
| 18. | Participant | Employee | Ranichuri VDC | | |
| 19. | Participant | Agriculture | Ranichuri | | |
| 20. | Participant | Employee | Bhimeshwor VDC | | |
| 21. | Participant | Employee | Kamalamai- 6 | | |
| 22. | Participant | Agriculture | Bhadrakali- 2 | | |
| 23. | Participant | Agriculture | Ranichuri | | |
| 24. | Participant | Agriculture | Ratanchura | | |
| 25. | Participant | Agriculture | Ranichuri- 1 | | |

| S.N. | Name/Surname | Occupation | Office/Address | Signature | Remarks |
|------|--------------|------------------------------|--|-----------|---------|
| 26. | Participant | Driving | Ranichuri-1 | | |
| 27. | Participant | Employee | | | |
| 28. | Participant | Civil Servant | NEA | | |
| 29. | Participant | Civil Servant | NEA, Sindhuli | | |
| 30. | Participant | Employee | Bengadabar VDC | | |
| 31. | Participant | Agriculture | Jamunabas- 4 | | |
| 32. | Participant | Teaching | CFUG Karkare | | |
| 33. | Participant | Teaching | CFUG Karkare | | |
| 34. | Participant | Agriculture | Kamalamai CFUG, Maisthan | | |
| 35. | Participant | Agriculture | Janamukhi CFUG, Kamalamai- 12, Bhiman | | |
| 36. | Participant | Agriculture | Kamalamai- 9 | | |
| 37. | Participant | Agriculture | Kamalamai- 4, Karkare | | |
| 38. | Participant | Agriculture | Kamalamai | | |
| 39. | Participant | Agriculture | Kamalamai- 10 | | |
| 40. | Participant | Agriculture | Kamalamai- 10 | | |
| 41. | Participant | Agriculture | Ratanchura VDC | | |
| 42. | Participant | Employee | NEA | | |
| 43. | Participant | Employee | NEA | | |
| 44. | Participant | Agriculture | Bengadabar | | |
| 45. | Participant | Engineer | NEA | | |
| 46. | Participant | Assistant Envi- ronmental | NEA | | |
| 47. | Participant | Agriculture | Jamunibas- 4 | | |
| 48. | Participant | VDC Secretary | Ratanpura VDC | | |
| 49. | Participant | VDC Secretary | Jalkanya VDC | | |
| 50. | Participant | Employee | Kamalamai Municipal- ity Office | | |
| 51. | Participant | Employee | Office of DDC | | |
| 52. | Participant | Employee | Bhadrakali- 1 | | |
| 53. | Participant | Agriculture | Bhadrakali- 3 | | |
| 54. | Participant | Agriculture | Bhadrakali- 2 | | |
| 55. | Participant | VDC Secretary | Bhadrakali | | |
| 56. | Participant | Bhimeshwor VDC Office | Bhimeshwor, Khurkot | | |
| 57. | Participant | Teaching | Ratanchura | | |
| 58. | Participant | Employee | Ministry of Forests and Soil Conservation | | |
| 59. | Participant | Employee | NEA | | |
| 60. | Participant | Employee | Survey Section | | |
| 61. | Participant | Employee | NEA, Sindhuli Section | | |
| 62. | Participant | Agriculture | Jamunibas- 4 | | |

| S.N. | Name/Surname | Occupation | Office/Address | Signature | Remarks |
|------|--------------|-------------------------|--|-----------|---------|
| 63. | Participant | Agriculture | Jamunibas- 4 | | |
| 64. | Participant | Agriculture | Bengadabar | | |
| 65. | Participant | Agriculture | Dhalkebar | | |
| 66. | Participant | Agriculture | Jamunibas- 4 | | |
| 67. | Participant | Health Post In-charge | Dhalkebar Health Post, Dhanusa | | |
| 68. | Participant | Agriculture | Lalgadh | | |
| 69. | Participant | Agriculture | Tulasi | | |
| 70. | Participant | Agriculture | Tulasi- 2 | | |
| 71. | Participant | Agriculture | Tulasi- 2 | | |
| 72. | Participant | Agriculture | Dhalkebar- 2 | | |
| 73. | Participant | Ranger | District Soil Conservation Office, Dhanusa | | |
| 74. | Participant | Agriculture | Dhalkebar- 2 | | |
| 75. | Participant | ----- | Dhalkebar- 2 | | |
| 76. | Participant | Employee | NEA, Janakpur | | |
| 77. | Participant | Employee | NEA, Janakpur | | |
| 78. | Participant | Agriculture | Lalgadh CFUG | | |
| 79. | Participant | Employee | Mahendra Nagar Sub-Branch | | |
| 80. | Participant | VDC Secretary | Tulasi | | |
| 81. | Participant | Police Inspector | District Police Office, Dhanusa | | |
| 82. | Participant | Police Inspector | District Police Office, Dhanusa | | |
| 83. | Participant | Student | Dhalkebar | | |
| 84. | Participant | Social Service | Dhalkebar | | |
| 85. | Participant | Employee | NEA, Dhalkebar | | |
| 86. | Participant | Swabalamban Bikash Bank | Dhalkebar | | |
| 87. | Participant | Agriculture | Dhalkebar | | |
| 88. | Participant | Journalism | Himalaya Times | | |
| 89. | Participant | Journalism | Sandhyakalin Daily | | |
| 90. | Participant | Journalism | NTV | | |
| 91. | Participant | Journalism | Mithila Express | | |
| 92. | Participant | Journalism | Nava Bichar | | |
| 93. | Participant | Editor | Khojbin Weekly | | |
| 94. | Participant | VDC Secretary | Dhalkebar | | |
| 95. | Participant | Employee | ESSD, NEA | | |
| 96. | Participant | Employee | District Forest Office, Sindhuli | | |
| 97. | Participant | Teaching | Shree S.P.S., Dhanauji | | |
| 98. | Participant | Employee | Dhalkebar | | |

Questions submitted by the Consultation Participants

Name: *Participant*

Address: Jamunibas VDC, Bengadabar

Question:

1. How much money will you provide for construction of new house if my house is to be demolished?
2. How much money will you compensate if the cable of transmission line is located in the land?
3. How much money will you provide if the cable of tower passes through the land?

Name: *Participant*

Address: Ranichuri VDC

Question:

1. Is there any provision to provide compensation of 30 meter *dhur* land on each side of tower to a person whose house and land is located in ROW of electricity transmission line?
2. There seems to be loss of human and livestock due to electrocution on the ground. In what ways can we reduce such loss?

Name: *Participant*

Address: Tulasi- 6, Bahunmara, Kalikhola CFUG

Question:

1. Collection of timber and non-timber forest products and tree plantation should be got done by local people.
2. Since only tree plantation is not sufficient while felling trees of the forest which have been protected since 1998, it is necessary to call the meeting of all concerned and take their opinions regarding the issue.

Name: *Participant*

Address: Ratanchura VDC

Question:

All people whose land is located in transmission land should extend cooperation and they should be provided with employment opportunity.

Name: *Participant*

Address: Kamalamai Municipality- 11, Bhiman Palesi CFUG Bhiman

Question: It is very considerable to carry out tree plantation in the same place again after felling trees of community forest area, but we think the five-year rearing period of re-planted trees is very insufficient. We suggest the project to extend the rearing period of trees.

Name: *Participant*

Address: Kamalamai Municipality, Sindhuli

Question: What are the direct effects likely to be faced by the people due to Khimti-Dhalkebar 220 kV Transmission Line and deforestation and what mitigation measures have been adopted?

Name: *Participant*

Address: Bhimeshwor, Khurkot- 4

Question:

I would like to welcome and extend my heartfelt gratitude to all participants and officials for raising genuine issues.

Name: *Participant*

Address: Sindhuli, Bhimeshwor, Khurkot- 3

Question:

All what we want is the concerned officials provide reasonable compensation of the house and land acquired for Khimti-Dhalkebar 220 kV transmission Line on par with the valuation. It is a major issue.

Name: *Participant*

Address: Bhadrakali VDC- 1, Sindhuli

Question:

It is natural that destruction is followed by development. I would like to suggest that development should outdo destruction. As it is not allowed to construct house within the transmission line and is required relocate the already built house, reasonable compensation is desirable.

Name: *Participant*

Address: Kamalamai Municipality- 10

Question:

We came to know that it shall be required to plant trees in the ratio of 1:25 out of the number of trees to be removed. What species of trees should be planted in place of removed trees? I think it is not allowed to plant *Sal* trees. Will the plantation of trees of *Pothra* species help prevent landslides?

Name: *Participant*

Address: Kamalamai Municipality- 10, Basantapur CFUG

Question:

It will be more appropriate to take the Khimti-Dhalkebar 220 kV Transmission line the bank of the Kamalamai River via Khanikhola or the highway of Chure as the deforestation and soil piled up from the digging of tunnel are likely to cause adverse effects to environment and landslides.

Name: *Participant*

Address: Kamalamai CFUG, Kamalamai- 10, Maisthan

Question:

Of the 14 community forests in Sindhuli districts, seven community forests under the Bhiman Range Post will witness maximum felling of trees and it is likely to trigger floods and landslides and render the people homeless. It is also expected to deprive CFUGs of collecting fodders and firewood. Therefore, it is better to take the transmission line from only one side like that of Khurkot, Sindhuli.

Name: *Participant*

Address: Gauribas- 6, Mahottari

Question:

It seems community forest of Gauribas will suffer more loss. We also understand that tree plantation will be carried out in place of trees to be felled to compensate the loss. We believe that the process of tree plantation through bio-engineering will further help prevent the loss and environmental degradation on the bank of Ratu River. What are the provisions of the project regarding this issue?

Name: *Participant*

Address: Bengadabar- 9

Question:

How do you address the aspiration of people and CFUG in the affected areas?

Name: *Participant*

Address: Kamalami Municipality- 12, Sindhuli

Question:

This report has now been reached the implementation phase. But, it is not a wise decision to implement the project without providing information about the area of land requisition, loss of forest estate and forest products, number and location of towers to be erected in our community forest which have been protected for the past 12 years. The project should make it clear before proceeding with necessary action.

Name: *Participant*

Address: Dhalkebar VDC- 2

Question:

1. Will the project provide compensation of the overhead cable in the land even if the tower is not located in such land?
2. Will the 220 kV transmission line cause adverse effects to the environment? If yes then what are the effects?

Name: *Participant*

Address: Kamalamai Municipality- 10, Sinduretar CFUG

Question:

1. What will the project do to address the effects of landslides in the human settlements due to felling of trees in the community forest?
2. Was not it feasible to take this transmission line through the previous electricity line?

Name: *Participant*

Address: Kamalamai Municipality, Sindhuli

Question:

Will the government revise the electricity tariff after the construction of this transmission line?

Name: *Participant*

Address: Tulasi- 2, Ram Chandra Tole

Question:

If we lose our house and land all what we had to the transmission line, in what ways do the project pay compensation in such case?

Nepal

Name: *Participant*

Address: Tulasi- 2, Ram Chandra Tole

Question:

What should be the distance between the tower and construction of new house?

Civil Aviation Authority of Nepal
Head Office, Babar Mahal, Kathmandu, Nepal.

Letter No.: 059/060

June 27, 2003

Nepal Electricity Authority
Environmental and Social Studies Department
Regd No.: 447
Date of Registration: June 27, 2003

Nepal Electricity Authority,
Engineering Service,
Environmental and Social Studies Department,
Kathmandu.

Fax: 4225248
Telephone: 4226730

Subject: **Regarding the route of Khimti-Dhalkebar 220 kV Transmission Line near Manthali Airport.**

With regard to the above subject; as different alternates of the transmission line have been submitted in the course of conducting Environmental Impact Assessment (EIA) of that transmission line while proceeding with action as per your letter dated June 20, 2003 (Letter No. 059/60, Dispatch No. 242) regarding the route of Khimti-Dhalkebar 220 kV Transmission Line which will pass through the area near Manthali Airport and as the opinion has been given by this Authority on June 2, 2003 concerning the effects thereof and the opinion has been submitted again on June 26, 2003 by amending the route of transmission line according to the given suggestions, it is hereby informed that a decision taken on June 27, 2003 has stated in the mentioned Alternate that it will not cause any effects to that airport in the case of diverting APZ 5 to APZ 12 .

CC:
Civil Engineering Directorate
Head Office

(Mukunda Juwalananda Rajopadhyay)
Deputy Director
Airport Management and Development Directorate

Nepal

Civil Aviation Authority of Nepal
Ramechhap Civil Aviation Office
Manthali, Ramechhap

Letter No.: 059/060
Dispatch No.: 137

April 10, 2003

Subject: **Regarding opinion.**

Civil Aviation Authority of Nepal
Head Office,
Babar Mahal, Kathmandu.

With regard to the above subject; as the letter dated April 2, 2003 (Dispatch No. 171) of Environmental and Social Studies Department stated that it is doing groundwork to take Khimti (Ramechhap)-Dhalkebar 220 kV Transmission Line through nearby this airport and has sought opinion to ascertain if it will cause any adverse effect to the Civil Aviation Office, you are hereby requested to send necessary opinion as soon as possible and are informed that a photocopy of that letter has been sent herewith.

CC:
Environmental and Social Studies Department,
Kathmandu.

Kedar Prasad Satyal
Office In-Charge

Office of Village Development Committee
Shahare, Dolakha

Letter No.: 059/060

Dispatch No.: 51

June 4, 2003

Subject: **Regarding information about pasting of notice**

With regard to the above subject, it is hereby informed that this information, accompanied by opinion/suggestion, has been sent after the pasting of notice on the Notice Board of the VDC in the presence of various persons upon the receipt of a copy of public notice and a letter sent from that office regarding the environmental impact to be caused by the extension of Khimti-Dhalkebar 220 kV Transmission Line.

Undermentioned:

- | | |
|--|---|
| 1. <i>Witness</i> , 38, a resident of Shahare VDC Ward No. 5:- | 1 |
| 2. <i>Witness</i> , 25, a resident of Shahare VDC Ward No 6:- | 1 |
| 3. <i>Witness</i> , 35, a resident of Shahare VDC Ward No 6:- | 1 |
| 4. <i>Witness</i> , 30, a resident of Shahare VDC Ward No 5:- | 1 |
| 5. <i>Witness</i> , a resident of Shahare VDC Ward No 6:- | 1 |
| 6. <i>Witness</i> , 22, a resident of Shahare VDC Ward No 7:- | 1 |

(Mukti Nath Ghimire)
Chairperson

We, the under mentioned, have pasted a copy of public notice regarding the scoping for the preparation of Environmental Impact Assessment (EIA) report of Nepal Electricity Authority, Khimti-Dhalkebar 220 kV Transmission Line on the Notice Board of this Ratanchura VDC as per the notification published in Gorkhapatra National daily on April 2, 2003 and hereby put seal and signature on the deed of the public enquiry (Muchulka) in the presence ours.

Signatories in the presence:

1. *Signatory*, 40, a resident of Sindhuli district, Ratanchura VDC Ward No. 2
2. *Signatory*, 30, a resident of Sindhuli district, Ratanchura VDC Ward No. 1
3. *Signatory*, 75, a resident of Sindhuli district, Ratanchura VDC Ward No. 1
4. *Signatory*, 25, a resident of Sindhuli district, Ratanchura VDC Ward No. 1
5. *Signatory*, a resident of Sindhuli district, Ratanchura VDC Ward No. 5
6. *Signatory*, a resident of Sindhuli district, Ratanchura VDC Ward No. 2
7. *Signatory*, a resident of Sindhuli district, Ratanchura VDC Ward No. 3
8. *Signatory*, a resident of Sindhuli district, Ratanchura VDC Ward No. 3

Work executed by:

Secretary, Ratanchura VDC
Narayan Bahadur Thapa
April 12, 2003

We, the undermentioned, have pasted a copy of public notice regarding the scoping for the preparation of Environmental Impact Assessment (EIA) report of Nepal Electricity Authority, Khimti-Dhalkebar 220 kV Transmission Line on the Notice Board of this Bhadrakali VDC as per the notification published in Gorkhapatra National daily on April 2, 2003 and hereby put seal and signature on the deed of the public enquiry (Muchulka) in the presence ours.

Signatories in the presence:

1. *Signatory*, 51, a resident of Sindhuli district, Bhadrakali VDC
Ward No. 3:- 1
2. *Signatory*, 32, a resident of Sindhuli district, Bhadrakali VDC
Ward No. 1:- 1
3. *Signatory*, 22, a resident of Sindhuli district, Bhadrakali VDC
Ward No. 1:- 1
4. Yagya Kumar Basnet, 25, a resident of Sindhuli district, Bhadrakali VDC
Ward No. 3:- 1
5. Arjun Thada, 24, a resident of Sindhuli district, Bhadrakali VDC
Ward No. 3:- 1
6. Ganga Bahadur Thapa, 26, a resident of Sindhuli district, Bhadrakali VDC
Ward No. 3:- 1
7. Netra Hari Gautam, 41, a resident of Sindhuli district, Bhadrakali VDC
Ward No. 8:- 1
8. Tek Bahadur Ram, 19, a resident of Sindhuli district, Bhadrakali VDC
Ward No. 2:- 1

Work executed by:

Secretary, Bhadrakali VDC
Gopi Narayan Shrestha
April 12, 2003, Saturday

Office of Kamalamai Municipality
Sindhuli

Letter No.: 059/060

Dispatch No.: 1309

April 13, 2003

Subject: **Regarding pasting of notice.**

Nepal Electricity Authority
Environmental and Social Studies Department

It is hereby informed that the public notice relating to scoping of Environmental Impact Assessment (EIA) study of Khimti-Dhalkebar 220 kV Transmission Line Project has been pasted on Notice Board of this Office, accompanied by the letter dated April 2, 2003 (Dispatch No. 171) of that Department.

(Binod Babu Khakural)
Act. Executive Officer

Attendees of the training program relating to **Forest Conservation Awareness** organized by Environmental Management Unit under Nepal Electricity Authority, Khimti-Dhalkebar 220 kV Transmission Line Project in meeting hall of District Forest Office, Sindhuli on January 7, 2009:

| S.N. | Name/Surname | Address | Signature |
|------|--------------|------------------------------------|-----------|
| 1 | Attendee | Thanapati CFUG | |
| 2 | Attendee | Indrawati CFUG, Kamalamai- 10 | |
| 3 | Attendee | Ratmata, Sindhuli | |
| 4 | Attendee | Khimti-Dhalkebar 220 kV T. L. | |
| 5 | Attendee | Jaldevi CFUG | |
| 6 | Attendee | Basantapur | |
| 7 | Attendee | Basantapur | |
| 8 | Attendee | Jaldevi | |
| 9 | Attendee | Kamalamai- 10, Baghmara | |
| 10 | Attendee | Kamalamai- 10, Baghmara | |
| 11 | Attendee | Shree Mainali Thakur CFUG | |
| 12 | Attendee | Siddhasthan CFUG | |
| 13 | Attendee | Shree Mainali THaku CFUG | |
| 14 | Attendee | Shree Janakalyan CFUG | |
| 15 | Attendee | Shree Janamukhi CFUG | |
| 16 | Attendee | Shree Janamukhi CFUG | |
| 17 | Attendee | Shree La Devi CFUG | |
| 18 | Attendee | Salghari CFUG | |
| 19 | Attendee | Shree La Devi CFUG | |
| 20 | Attendee | Chandramukhi CFUG | |
| 21 | Attendee | Kamalamai Municipality- 11, Bhiman | |
| 22 | Attendee | Siddha CFUG, Ramjhadi | |
| 23 | Attendee | Siddha CFUG, Ramjhadi | |
| 24 | Attendee | Siddha CFUG, Ramjhadi | |
| 25 | Attendee | Ranichuri- 1, Sindhuli | |
| 26 | Attendee | Sinduretar CFUG | |
| 27 | Attendee | Palesi CFUG, Bhiman | |
| 28 | Attendee | Sinduretar CFUG | |
| 29 | Attendee | Masinali Thakur CFUG | |
| 30 | Attendee | Kamalamai CFUG | |
| 31 | Attendee | Chandramukhi CFUG | |
| 32 | Attendee | Chyaukot CFUG | |
| 33 | Attendee | Chyaukot CFUG | |
| 34 | Attendee | Kamalamai CFUG | |

Attendees of the training program relating to **Social Awareness** organized by Environmental Management Unit under Nepal Electricity Authority, Khimti-Dhalkebar 220 kV Transmission Line Project in meeting hall of District Forest Office, Sindhuli on January 9, 2009:

| S.N. | Name/Surname | Address | Signature |
|------|--------------|-------------------------|-----------|
| 1 | Attendee | Bhimeshwor- 9, Khurkot | |
| 2 | Attendee | Bhimeshwor- 9, Khurkot | |
| 3 | Attendee | Kamalamai- 7, Belgachhi | |
| 4 | Attendee | Ranichuri- 1 | |
| 5 | Attendee | Ranichuri- 1 | |
| 6 | Attendee | Ranichuri- 1 | |
| 7 | Attendee | Ranichuri- 1 | |
| 8 | Attendee | Ratanchura- 2 | |
| 9 | Attendee | Bhadrakali- 1 | |
| 10 | Attendee | Kamalamai- 7 | |
| 11 | Attendee | Kamalamai- 7 | |
| 12 | Attendee | Bhimeshwor- 3, Khurkot | |
| 13 | Attendee | Bhimeshwor- 3, Khurkot | |
| 14 | Attendee | Bhadrakali- 1 | |
| 15 | Attendee | Kamalamai- 7 | |
| 16 | Attendee | Kamalamai- 7 | |
| 17 | Attendee | Kamalamai- 7 | |
| 18 | Attendee | Kamalamai- 7 | |
| 19 | Attendee | Kamalamai- 7 | |
| 20 | Attendee | Kamalamai- 7 | |
| 21 | Attendee | Bhimeshwor- 3, Khurkot | |
| 22 | Attendee | Bhimeshwor- 3, Khurkot | |
| 23 | Attendee | Ratanchura- 1 | |
| 24 | Attendee | Ratanchura- 1 | |
| 25 | Attendee | Kamalamai- 7 | |
| 26 | Attendee | Bhimeshwor- 2, Khurkot | |
| 27 | Attendee | Bhimeshwor- 2, Khurkot | |
| 28 | Attendee | Kamalamai- 7 | |
| 29 | Attendee | Kamalamai- 7 | |
| 30 | Attendee | Kamalamai- 7 | |
| 31 | Attendee | Bhadrakali- 1 | |
| 32 | Attendee | Bhadrakali | |
| 33 | Attendee | Bhadrakali | |
| 34 | Attendee | Bhadrakali | |
| 35 | Attendee | Kamalamai Municipality | |

Recompense

Inventory details of goats distributed to affected persons selected by Sindhuli-based project jointly organized by office of Environmental Management Unit, Sindhuli and Information Cooperation Centre and receipt/inventory relating to thereof.

| S.N. | Name/Surname | Address | Signature |
|-------------|---------------------|---------------------------------|------------------|
| 1 | Person | Kamalamai Municipality- 10 | |
| 2 | Person | Ranichuri- 1 | |
| 3 | Person | Ranichuri- 1 | |
| 4 | Person | Ranichuri- 1 | |
| 5 | Person | Ranichuri- 1 | |
| 6 | Person | Ranichuri- 1 | |
| 7 | Person | Ranichuri- 1 | |
| 8 | Person | Bhadrakali- 1, Dhubga Bhanjyang | |
| 9 | Person | Bhadrakali- 2 | |
| 10 | Person | Bhadrakali- 3, Pipal Bhanjyang | |
| 11 | Person | Bhadrakali- 1 | |
| 12 | Person | Bhadrakali- 1 | |
| 13 | Person | Bhadrakali- 1 | |
| 14 | Person | Bhadrakali- 1 | |
| 15 | Person | Ratanchura- 1 | |
| 16 | Person | Ratanchura- 2 | |
| 17 | Person | Ratanchura- 2 | |
| 18 | Person | Ratanchura- 2 | |
| 19 | Person | Ratanchura- 2 | |
| 20 | Person | Ratanchura- 2 | |
| 21 | Person | Bhimeshwor- 4 | |
| 22 | Person | Bhimeshwor- 5 | |
| 23 | Person | Bhimeshwor- 2 | |
| 24 | Person | Bhimeshwor- 9 | |
| 25 | Person | Bhimeshwor- 3 | |
| 26 | Person | Bhimeshwor- 4 | |
| 27 | Person | Bhimeshwor- 4 | |
| 28 | Person | Bhimeshwor- 4 | |
| 29 | Person | Bhimeshwor- 4 | |

Annex 1.3

Chronology of the Events around the Confrontations between Local People and the Police in Sindhuli District

| Date | Activities |
|-----------------------|--|
| July 27, 2011 | In a request for construction contract extension (ICB-KD-2005/6-1), NEA informed the Bank of local resistance and difficulties contractor faced as one reason for construction delay and justification for contract extension. In the same request, NEA informed that “the government has taken a decision to carry out the construction works with the deployment of army for the security of workers and project personnel.” |
| August-September 2011 | The Bank team – being concerned about the potential deployment of the army to protect the construction sites—held meetings with NEA management and project managers. The Bank task team also visited the construction site, had interactions with local communities and administration officials. The team verified that the army had not been mobilized for the security of the workers and project personnel. |
| September 10, 2011 | The Bank gave No Objection to the contract extension with caution against deployment of army and request for NEA to meet social safeguard requirements, as well as fortnightly reporting on the progress. |
| September 19-27, 2011 | A Bank supervision mission was fielded. Safeguard issues were discussed and a set of actions were agreed with NEA and the Ministry of Energy. |
| January 17, 2012 | Local communities submitted a memorandum to the Prime Minister over the re-alignment of the transmission line and filed a writ-petition at the Supreme Court requesting issuance of an interim order to suspend project construction activities. |
| January 27, 2012 | The Supreme Court in its interim ruling decided that there was no need to issue an interim decision to suspend the project construction activities. The final court decision is still outstanding. |
| Early March 2012 | A high level team led by the Minister of Energy and comprising the Energy Secretary, members of the NEA Board, and the NEA Executive Director visited the project site to consult with the affected people. They agreed on follow-up consultations by March 9. |
| March 9, 2012 | A consultation meeting was held at the Ministry of Energy, which included all parties/persons concerned. Following the consultation meeting, the Ministry of Energy and the Ministry decided to constitute a five-member technical committee with a mandate to continue on-site consultations and commission a study on an alternative route for the transmission line as requested by the affected people. |
| March 15-18, 2012 | The committee conducted its field consultations and carried out a route survey. It delivered its study of alternative routes on March 25, 2012. |
| April 19, 2012 | To accommodate the compensation of the affected people for the ROW at 100% land value, Government announced a new compensation package consisting of : (i) construction of a road to benefit the local community along the affected stretch of the ROW; (ii) electricity supply without any load-shedding to Kamalamai Municipality (covering all the 6 disputed towers). |
| November 12, 2012 | The survey team to carry-out the survey of the proposed road (as part of the compensation package) along the affected stretch of the ROW was fielded. Protesters from the affected local community in Sindhuli District tried to stop the survey team from carrying out the survey. The local police was called to protect the survey team, which resulted in a clash between local police and the protesters. |
| February 18, 2013 | Bank management received a complaint from the affected families in Sindhuli District and their representatives, expressing their concerns regarding: (i) insufficient information disclosure and consultation; and (ii) the clash with police in November 12, 2012. In addition, they asked the Bank to explore an alternative route for the transmission line. |
| March 15, 2013 | The Bank team held consultations at the Bank’s office in Kathmandu with: (i) affected families from Sindhuli District; (ii) the Chairman of the Struggle Committee; and (iii) the legal representative of the affected people (Dr. Shankar Limbu) and an International Indigenous People’s Advisor (Amanda Cats-Baril) working with the affected families. |

| | |
|-----------------|---|
| | Following these consultations, the Bank team had a series of meetings with NEA and agreed with NEA to: (i) stop any construction activities in the disputed areas until the issues are resolved; (ii) expedite the preparation work on the new compensation packages (land value evaluation); (iii) take action; and (iv) collect information and prepare a response to the complaints raised by the affected people. |
| March 24, 2013 | The Government announced in a local newspaper: (i) the list of the 159 land parcels affected by the transmission line construction in Sindhuli District; (ii) the names of the owners of the 159 land parcels that would receive a new compensation and development package to address the impacts. The new compensation and development package included: (i) Building a village road along the ROW; (ii) Acquiring the land of the entire RoW for the purpose of the road construction, including with a 100% compensation of the land value; and (iii) electricity supply without any load-shedding to Kamalamai Municipality. |
| April 1, 2013 | The Bank received a communication from the representatives of the affected families for an "early warning" that NEA and Government were using the security forces again, this time for the construction of a tower. |
| April 2, 2013 | The Bank wrote to NEA, recalling the agreement of stopping project activities in Sindhuli District until the disputes had been resolved. It also reminded NEA again of the agreement on September 10, 2011 to refrain against the use of security forces, including the police. |
| April 3, 2013 | NEA reported to the Bank that: <ul style="list-style-type: none"> (i) On April 1 NEA was trying to build one tower on land already acquired by NEA and for which the land owner had already accepted compensation; (ii) NEA and contractor laborers, about 10 people in total, went to the site at around 10 am; about 50-70 local people started to surround them gradually with knives and swords; (iii) NEA staff and the contractors felt threatened and called local security forces for protection; (iv) Security forces arrived at around 11:30 am, but, according to NEA, did not clash with the protesters; (v) NEA held discussions with local people regarding their concerns on the site; (vi) NEA and the contractor laborers left the project site at around 4 pm. |
| April 4-6, 2013 | <p>A team of three Nepali Bank staff visited Sindhuli District to listen to the local people and assess the situation on the ground.</p> <p>The team verified that the clash between protesters and the police on November 12, 2012 took place. According to the Chief District Officer (CDO), a few of the protesters were detained during the day for a maximum of six hours, but released in the evening. According to the CDO any injuries sustained by the protestors were accidental. The team could not locate anyone who claimed to have been injured during the clash.</p> <p>The team also inquired about the use of security forces on April 1, 2013. The team made the following observations after visiting the site and interacting with the local people:</p> <ul style="list-style-type: none"> (i) On April 1, 2013, the project/contractor mobilized the manpower for laying the tower foundation at tower no. 31/2 at Bukadanda, Ward- 7 of Kamalamai Municipality. Although the piece of land for the tower pad had previously been acquired by the Project, protestors from the local community did not allow for the construction work to begin. (ii) Given the tense environment and likely confrontations with the protestors, the Project staff called the police to provide security to the Project staff and workers. The presence of the police further agitated the protestors. (iii) According to the locals that the Bank team spoke to, no force was used against the protestors on April 1, 2013. |
| April 16, 2013 | A second case was filed in court against the proposed road construction that had been announced as part of the compensation package on March 24, 2013. |
| April 17, 2013 | The court issued an interim decision stating that there is no reason to stop the road construction. |
| April 17, 2013 | The Bank hired a Nepali consultant to facilitate communications between NEA and the local people. |
| April 2013 | The consultant met individually with all the parties concerned and made a field visit to Sindhuli District to meet with the affected people. He also submitted on May 29, 2013 an independent re- |

| | |
|------------------|---|
| | view consisting of: (i) a status assessment; (ii) a suggested way forward. |
| June 25-27, 2013 | A Bank team visited again Sindhuli District to meet with the Chief District Officer (CDO). The CDO stated the following regarding the clashes on November 12, 2012: (i) Police were sent in to protect contractor survey workers; (ii) Any physical harm sustained by protestors was accidental; (iii) A few people were detained for up to 6 hours but that they were all let go. |
| June 28, 2013 | The World Bank team met Shankar Limbu (Lawyer), Pravindar Shakya and Surendeswor Moktan (Complainants) in the Bank office. |
| June 2013 | Based on the Bank Team's visits and findings the Bank Team proposed and agreed with NEA on: (i) an Action Plan for NEA to resolve the issues in Sindhuli District; and (ii) an Action Plan for the Bank to address NEA's capacity to handle safeguards in a systematic manner. |

Annex 1.4 Disclosed Documents

| Date | Document Disclosed | Remarks |
|--------------------|--|---|
| June 1, 1997 | Policy Framework for the Environment and Social Impact Assessment (EIA Policy Framework) | In-country Disclosure |
| June 23, 1997 | EIA Policy Framework | Disclosed at the Bank's InfoShop |
| September 11, 2002 | Translated (into Nepali) Version of the EIA Policy Framework | The public disclosure process commenced on September 11, 2002 and continued for a period of 21 days. During this time, he translated EIA Policy Framework was disclosed in all 75 districts of the country. |
| April 2, 2003 | Notice published in <i>Gorkhapatra</i> (a national daily newspaper) | The purpose of the notice was the scoping and Terms of Reference of the EIA. The notice was also displayed in public places. |
| September 10, 2004 | Notice for public hearing on draft EIA report in <i>Gorkhapatra</i> | Following the notices, public hearings were held on September 13, 2004 in Manthali Ramechhap and on September 24, 2004 in Dalkebar, Dhanusha. At these hearings, the draft EIA report was shared with local stakeholders. The draft EIA report was updated based on the public hearings, and the updated EIA Report was submitted to the Ministry of Population and Environment (through DoED, and then Ministry of Water Resources). |
| September 13, 2004 | Notice for public hearing on draft EIA report in local weekly newspaper | |
| March 25, 2005 | Disclosure of revised EIA report Notice of disclosure published by the Ministry of Population and Environment in <i>Gorkhapatra</i> | The revised EIA report was disclosed for one month by the Ministry of Population and Environment to solicit further comments/ feedbacks. The report was made available in number of places including: Library of Ministry of Population and Environment, Central Library of Tribhuvan University, DoED, DDC (Ramechhap), DDC (Dolakha), DDC (Sindhuli), DDC (Dhanusha), and DDC (Mahottari). The report was then updated/finalized incorporating the comments/feedbacks received. |
| April 2006 | SIA, ARAP and VCDP | English version of hard copies placed in Project office |
| March 2013 | SIA, ARAP and VCDP | English version of these reports uploaded in NEA website |

Annex 1.5

Government of Nepal's Technical Committee Report on Analysis of Alternative Routes

Khimti-Dhalkebar 220 kV Transmission Line Project

Report of Technical Team

Table of Contents

1. Background
2. Details/Descriptions of Problem
3. Objectives of the Technical Team
4. Initiatives Taken to Redress the Problem
5. Acquired Information with Analysis
6. Conclusion

1. Background

The construction work of Khimti-Dhalkebar 220 kV Transmission Line Project funded by The World Bank was started in 2007 under Nepal Electricity Authority. It is expected to enhance the capacity of transmission system as well as regularize the electricity supply, reduce transmission leakage and improve voltage in the Eastern Region with the construction of this transmission line. According to the Detailed Survey carried out in the fiscal year 2001/02, this transmission line starts from Kirnetar of Shahare VDC of Dolakha district and its alignment traverses through Ramechhap district, Khurkot, Sindhuligadhi and eastern part of Kamalamai Municipality of Sindhuli district, Mahottari district and finally connects to Dhalkebar Substation of Dhanusa district. (*Map has been attached herewith*).

Around 90 percent of construction work of the 75-km transmission line has been completed while the work of Bay Station has already been performed on the part of the construction of the substation. (*Updated progress report of the project has been attached herewith*).

2. Details/Descriptions of Problem

Local residents living under the transmission line stretching from Andheri through to Panityanki, Gadyula and Phiting of Kamalamai Municipality Ward No. 5 of Sindhuli district and a section of landowners whose land has already been acquired in Tower Pad have obstructed the construction work of the project to prevent the extension of transmission from these areas during the construction of the transmission line alleging that it will cause total damage to them. Therefore, such obstruction has brought the construction work in these areas to a complete halt at the present time.

The case of failure to resume the construction work of the transmission line has been established by the parties related to the project and others, as well, despite repeated rounds of talks and discussions with persons/groups concerning thereof as well as representatives of the struggle committee in District Administration Office after they continued to show their differences. Bearing in mind that the local residents have submitted a memorandum to the Rt. Hon. Prime Minister and Hon. Minister for Energy, as well, in regard to their grievances and complaints, a high-level team led by Hon. State Minister for Energy and comprising Energy Secretary, members of the Board of Directors of Nepal Electricity Authority, Executive Director of NEA and General Manager of Grid Development Business Group of NEA conducted on-site inspections in the affected areas and held consultation with the concerned local people to take the initiative to solve the problems from the Ministry of Energy in that context.

As per the schedule fixed in the same discussion, a talks and consultation was held at the Ministry of Energy on March 9, 2012 in the presence all-party/all-side persons.

3. Objectives of the Technical Team

The meeting held at the Ministry of Energy on March 9, 2012 decided to constitute a five-member technical team consisting of Joint-Secretary of the Ministry of Energy Anup Kumar Upadhyay, Director of NEA Dr. Krishna Prasad Dulal, head of Department of Electrical Engineering at the Institute of Engineering, Pulchowk, a representative from Nepal Engineers' Association and General Manager of NEA Grid Development Business Board to find way-out of the problems and mandated the team to conduct

on-site inspection and consultation from March 15, 2012–March 18, 2012 to carry out study on alternative arrangement of the transmission line by organizing an all-side meeting in the local level. *(A duplicate copy of the decision has been attached herewith).*

As per the decision, the technical team comprising the concerned officials reached the concerned construction site on March 15, 2012 and inspected the construction work of the project as well as held consultation and conducted a joint on-site visit with the local stakeholders and the same team also carried out study on alternative arrangement of the transmission line as a part of finding ways to address the concerns and grievances of the local stakeholders as soon as possible.

4. Initiatives Taken to Redress the Problem

4.1 Interaction with Local Persons

The technical team reached Sindhuli on March 15, 2012, inspected the construction work of the project and held direct consultation with the stakeholders of the affected areas. The team while encouraging the local people to air their grievances and complaints and suggest the ways to redress thereof during the discussion, most of the people stressed on the need to change the route of the transmission line stating that the move to pass the transmission line through the cultivated land was found to be causing adverse effects to human health by that line and taking the line from above the house and land was likely to render them homeless. During the consultation, the team entertained the anger, mixed concerns and grievances expressed by the local stakeholders in natural and cordial manner and tried to convince them clarifying that a RoW (Right of Way) of total 30 meters with 15 meters each from the centerline of the transmission line was maintained and that even though it is not feasible to plant trees and construct house under the transmission line, it will not prevent the local people to carry out any other work including cultivation. In addition to this, it was also informed that the construction work of the transmission line will have nominal effects on the physical environment and human health and that the effect of the Electro Magnetic Field is remarkably lower than that of the standard prescribed by the World Health Organization (WHO). As per the demand of the local people, the team conducted on-site inspection and informed that it would carry out study on alternative routes as well. *(Minute of the meeting held with the concerned people has been attached herewith).*

4.2 Survey of Alternative Route

According to the decision taken to carry out study on the arrangement of alternative route, as well, of the stretch of the transmission line passing through the disputed area of the under construction Khimti-Dhalkebar 220 kV Transmission Line, the team conducted walkover survey from unhabitated forest area in the eastern part of the present line alignment by using GPS equipment. While selecting an alternative route, the transmission line will start from nearby the present Tower No. 28/2 and take to Aanpchaaur VDC by crossing the area near the suspension bridge above the Gandyula Khola and traverses through Kopchapani, Khairenitar, Lungelitar, near the vicinity of Nepali Army Barrack situated in Thulitar before reaching nearby the present Tower No. 31/1 of the transmission line. It seems, the Angle Point (AP) as well as the number of towers is also likely to increase due to the curved route the new alignment

takes, geographical diversity and undulating terrain. Since it will be curvier while selecting the alternative route, the length of new alignment will be 4.82 km compared to the usual straight alignment.

5. Acquired Information with Analysis

As set forth in Chapter-4.2 above; if the transmission line is traversed through the forest area of the eastern part by curving it without taking it to the fixed route as visualized in the map, it seems to cause the following effects to the Scope of Work of the project due to the re-routing:

5.1 Increase in Length of the Transmission Line

If the distance between the starting point of the transmission to be re-routed and its usual ending point is calculated, the project will have to bear additional construction burden of 1.27 km while adopting re-routed new transmission route as it will cause to increase in length of new route to 4.82 km from its usual route of 3.55 km.

In addition to the increase in length of new transmission route, it also seems that it will require additional number of towers, as well, due to undulating terrain and curvy route the transmission line traverses through. At the same time, it will also be obligatory to manufacture 'DC' and 'DD' type of towers to be mostly used in deflection angle.

Cost per km of the transmission line will be up by 1.9 times compared to that of normal condition due to the additional length, increased number of towers and towers of heavy type. The cost of the transmission line to be constructed in usual route is 30.93 million rupees while it will cost 100.43 million rupees for the new proposed alternative route. Therefore, the additional cost difference between these two routes is 60.5 million rupees. (*Analysis of additional cost has been attached herewith*)

5.2 Obligation to Sacrifice Constructed Work

It will cause additional financial burden of around 10 million rupees, one-fourth of the total construction cost, including the early construction cost while demolishing five towers and three foundations already constructed in the usual route. Similarly, at a time when 10 out of 17 persons, whose private land of that area was acquired for the pad of Tower No. 6, have already received compensation of the land and the ownership of the land has come to the ownership of Nepal Electricity Authority, the pieces of land so acquired in the pad will remain in useless condition for NEA in the case of passing the transmission line through the alternative route.

As the new proposed alternative route mostly passes through the forest area, it will be necessary to take decision from the Council of Ministers via Department of Forest on occupancy right of the forest besides preparing inventory of trees/plants within the certain distance from the centerline of the to-be-established transmission line by the detailed survey before felling trees in the vicinity of RoW of the transmission line. Subsequently, an agreement will be reached with the Department of Forest after the concerned district issues order to fell trees and tree felling will start. Long time elapses from the request made by the project for inventory to the agreement between the project and the Department of Forest for felling trees while adopting all procedures under the existing law.

For instance, two years in Khimti-Dhalkebar 220 kV Transmission Line project, one year and one month in Singati-Lamosanghu 132 kV Transmission Line project, four years in Hetauda-Bharatpur 220 kV Transmission Line project until the agreement is reached and the team has received a statistics that eight months (prior to reaching an agreement) has already passed in Bharatpur-Bardghat 220 kV Transmission Line project.

5.3 Requirement for Conducting Environmental Impact Assessment

It is required to conduct Initial Environmental Examination/Environmental Impact Assessment (IEE/EIA) of new transmission stretch pursuant to the existing Environment Protection Act/Rules while re-routing the fixed/approved transmission line. At the same time, IEE/IEA report is also considered an integral part of the process for obtaining approval for felling trees.

Experience of experts has it that it takes at least nine months from the process of necessary discussion on the report prepared in regard to environmental effects caused to the area within route of the transmission line and affected area and the consultation with various agencies upon the completion of the detailed study to the approval. It also seems to be necessary to pay heed towards the additional financial burden, as well, to be caused while carrying out tree plantation for the trees felled in ratio of 1:25 and looking after and protecting the same for five years.

5.4 Obligation to Face Difficulties in Contract Management and Supply of Materials

It will simply cause adverse effects to the present contract agreement when any ongoing work is halted and again resumed with new functions in hiatus of a certain period of time. In addition to the problems of providing compensation to the contractor, there will be additional burden of maintaining and managing the construction materials due to the halt of ongoing contract agreement and subsequent termination of the same. As the electrical construction materials such as tower, insulator, cable, etc are supplied only on the basis of the necessity, it will be required to make a separate demand of additional materials for new alternative route and it seems it will take extra time in the supply procedures thereof.

5.5 Loan Floated by The World Bank to be Obstructed

Since the loan assistance being floated to this World Bank-funded project will be effective till December 2012 only and will come to its close thereafter, an obligation of restarting the construction work of the project in the hiatus of certain period of time instead of completing the work as per the schedule will result in problems to make an arrangement of financial source for remaining work of the project and it will create a situation of non-compliance with loan agreement reached with The World Bank while keeping the construction work incomplete in the midway. In case of the failure to comply with the financial assistance agreement entered into by the Government of Nepal with the donor agency, it is likely to send the wrong message to the donor community and put the trust, as well, at risk of being lost.

5.6 Failure to Complete on Time to Obstruct the Transmission Lines of the Country

This, being Nepal's first 220 kV Transmission Line project, its success/failure is associated with the overall future of the development of country's transmission lines. Nepal has still a long way to go to construct transmission lines of high voltage.

6. Conclusion

The following conclusions have been drawn from discussions and interactions with the above-mentioned local stakeholders and on-site observations:

- (a) Most essential route alignment for the construction of the transmission line was found to have identified by adopting the existing rules, law and procedures.
- (b) As the public grievances relating to the alleged undervaluation of the land belonging to the affected people and their displacement along the stretch of the transmission line cannot be called illegitimate on the practical ground, the government needs to take the initiative to make arrangement of justifiable compensation.
- (c) It seems while carrying out the alignment survey of an alternative route feasible to pass through the forest area instead of urban-oriented land and analysis thereof; it will cause additional financial burden due to unnecessary increase in the length of the transmission line, necessity to demolish the already constructed infrastructures, become the land acquired through acquisition procedures useless, massive tree felling and take at least 18 months of time to fulfill the legal procedures relating to thereof, consume extra time to conduct Environmental Impact Assessment, face difficulties in contract management and prolong the period for supplying additional materials and eventually contribute to stop the flow of The World Bank loan and send the wrong message to the donor community.

Therefore, keeping the above-mentioned points in mind, it seems to be obligatory to complete the remaining construction work of the project as soon as possible in terms of the technical, financial, administrative, legal and national interest, as well, by using the usual transmission route.

Technical Team

- | | |
|-----------------------------|--|
| 1) Anup Kumar Upadhyay | Joint-Secretary, Ministry of Energy |
| 2) Dr. Krishna Prasad Dulal | Member, Board of Directors, NEA |
| 3) Mohammed Badruddoja | Head of Department, Department of Electrical Engineering, Institute of Engineering, Pulchowk |
| 4) Anuradha Sharma Adhikari | Secretary General, Nepal Engineers' Association |
| 5) Ganesh Prasad Raj | General Manager, Grid Development, NEA |
| 6) Dr. Netra Gyawali | Associate Professor, Institute of Engineering, Pulchowk (Invited) |

Date: March 25, 2012

Annex 1.6
NEA and World Bank Action Plan

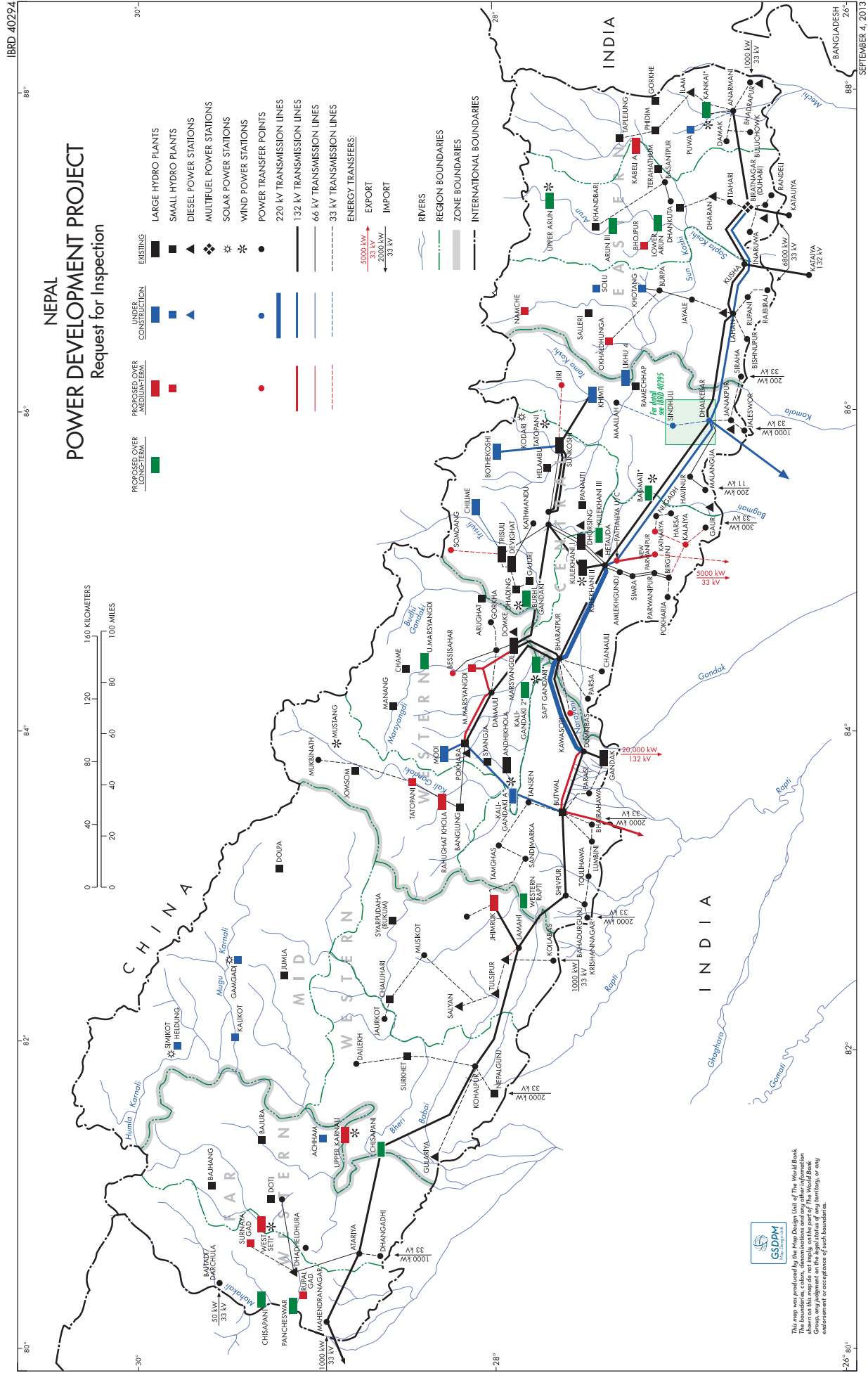
1) NEA Action Plan

| Action | Detail | Date (Updated) | Status as of October 17, 2013 |
|--|---|-----------------------|---|
| Complete outstanding compensation disbursements + Resettlement & Rehabilitation assistance | Compensation paid for land and ROW for 8 unfinished pads in Sindhuli District as well as the rest of the length (incl. road). | End November 2013 | <p>Dhanusa District: 50% compensation of ROW is paid; Payment for the remaining compensation was delayed as land owners were not available at the site.</p> <p>Ramechhap District: Land cadastral survey is completed to identify the affected land parcel and owners under the ROW. Valuation of land is not yet completed.</p> <p>Sindhuli District: Land cadastral survey not started yet to identify the affected land under ROW. This is due to focus on paying compensation for 8 disputed towers, who will receive 100% compensation. So far owners of 96 land parcels out of the 157 parcels affected have received compensation. Remaining compensation could not be paid due to delays in budget approval. The project budget to pay the remaining compensation has been approved by National Planning Commission and Ministry of Finance. Allocated budget will be transferred to CDO office in the week 21 October 2013.</p> <p>If some land owners do not voluntarily accept the compensation offered, then the land will be acquired through the process of eminent domain, in accordance with the Land Acquisition Act of 1977.</p> |
| Hire communication/social specialist | Social Specialist to be hired to coordinate the PDP communication strategy. | End October 2013 | NEA Management has approved hiring of a communication specialist on a single source basis. |
| Appoint community liaison officers for key communities | The disputed stretch of the KD Line, in addition to other ongoing lines, will be assigned a dedicated | Mid November 2013 | Not started yet. |

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|---|--|---|---|--|
| | community liaison officer to act as focal point for complaints, information dissemination, consultations. Ideally this will be a member of the affected communities. | | | |
| Update VCDP and ARAP | VCDP/ARAP updated to reflect changes in the Project affected areas and country; translate into local language; disclose the documents as necessary. | End December 2013 | TOR to update the VCDP/ARAP is finalized. Work order is not given to Environment and Social Services Department of NEA yet [<i>an NEA internal process for the ESSD to start work</i>]. | |
| Complete implementation of updated VCDP and ARAP | | April 2014 | It will need 3-4 months for implementation after the VCDP and ARAP are updated. | |
| Strengthen the current Project GRM | Reconstitute a formal Project GRM that will include community representatives, recording requirements, structured review, deliberation and disclosure mechanism. | December 2013 | Not started yet as the NEA focus is mainly on disputed tower locations where grievances are being handled by local district office through government GNMR system. | |
| Continuing consultations and inter-action with affected communities to reach conclusion on the ROW of the disputed stretch. | Part of strengthening communications will involve increased outreach to affected communities. | Continuous activity in the remaining period of Project implementation | CDO is mainly responsible for outreach with affected families in disputed tower locations. | |
| Develop and disseminate new communications materials at 3 sites (Khimti, Dhalkebar & Sindhuli) | With the support of the Bank, new communications materials will be created & actively disseminated. Among these materials are: FAQ/Informational Pamphlet, Project Info Posters/Billboards with Contacts, Updated VCDP and ARAP, information on the reconstituted GRM. | November 2013 | FAQ is drafted by the Bank team. | |
| Completion of physical works | Remaining physical works must be completed to finish Project. Physical works not to recommence without updated VCDPs, ARAP & communication efforts in place. | March - April 2014 | If dispute in Sindhuli can be resolved by December 2013. | |

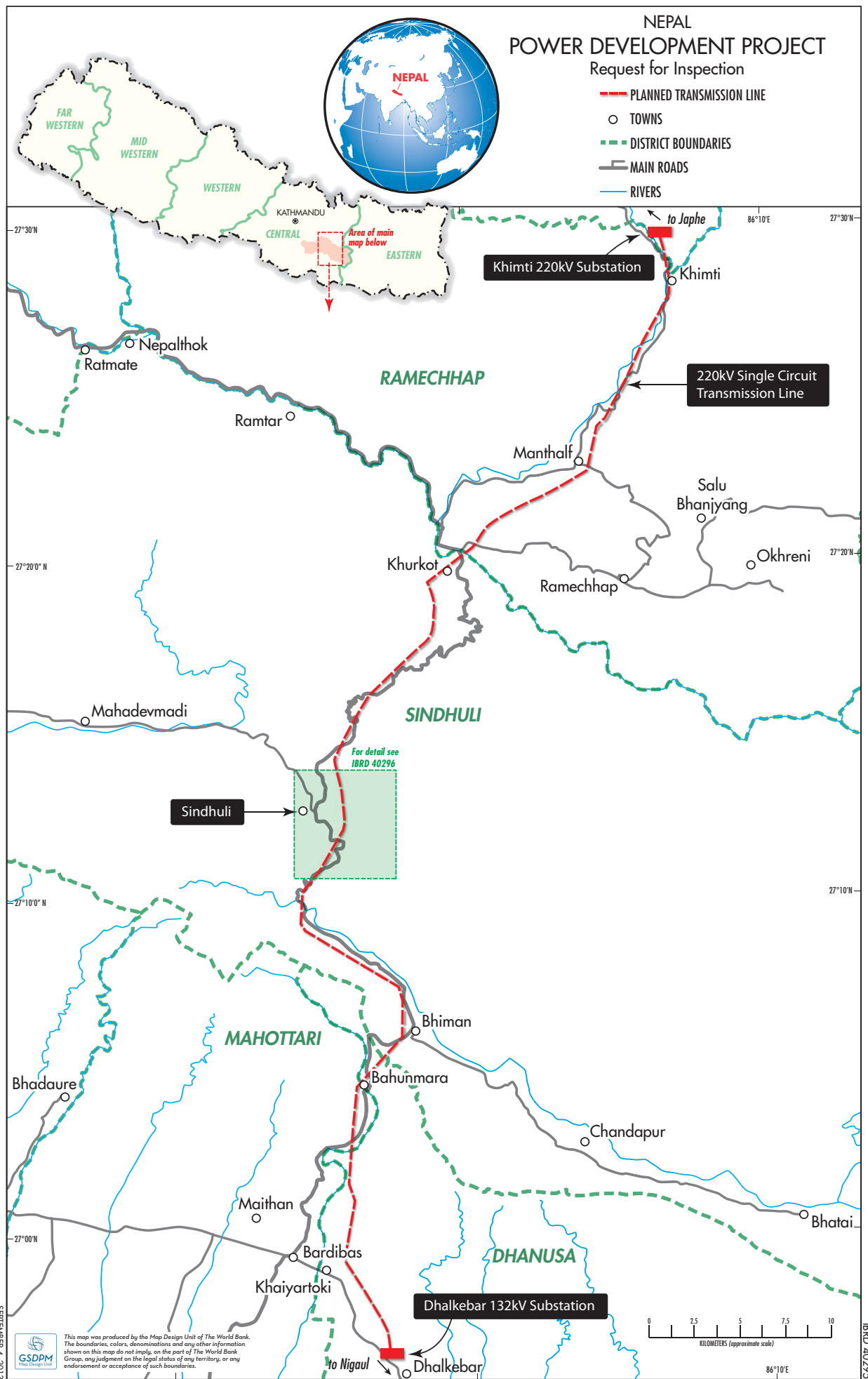
2) *World Bank Action Plan*

| Action | Detail | Date (Updated) | Status |
|---|--|-----------------------|--|
| Develop Project FAQ/Information pamphlet, and support NEA in developing other communication materials | Short communications material to be translated, graphically designed and disseminated to Project affected people. | Mid-October 2013 | FAQ developed |
| Support NEA in strengthening the current Project GRM | Support NEA to reconstitute a formal Project GRM that will include community representatives, recording requirements, structured review, deliberation and disclosure mechanism. | End November 2013 | Delayed |
| Support creation of a roster of mediators | UNDP's mediator roster may be of use to the PDP and other transmission projects if and when problems arise in the future. | End November 2013 | On going |
| Disclose safeguard documents at InfoShop | Disclose updated VCDP and ARAP documents according to Bank policies. | End December 2013 | Updated documents will be available only by December 2013. |
| Continue the safeguard capacity building of NEA | (1) Continue supervision and support to NEA for implementation of the updated VCDP and ARAP; (2) Prepare case study on Khimti-Dhalkebar Transmission Line as a tool for applying a conflict sensitive approach throughout the power sector in Nepal. | Continuous engagement | Planned training program in November 2013 to address conflict during project implementation. |



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NEPAL POWER DEVELOPMENT PROJECT Request for Inspection

