

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT
INTERNATIONAL DEVELOPMENT ASSOCIATION

FIRST PROGRESS REPORT
ON THE IMPLEMENTATION OF MANAGEMENT'S ACTION PLAN IN RESPONSE TO
THE INSPECTION PANEL INVESTIGATION REPORT (INSP/93722-NP) ON THE

NEPAL
POWER DEVELOPMENT PROJECT
P043311

AUGUST 5, 2016

Nepal
Power Development Project
P043311
First Progress Report
Implementation of Management Action Plan

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Abbreviations

DoR	Department of Roads
ESSD	Environment and Social Studies Department
GRM	Grievance Redress Mechanism
KDTL	Khimti–Dhalkebar Transmission Line
NEA	Nepal Electricity Authority
NHRC	Nepal Human Rights Commission
PDP	Power Development Project
PSRSHDP	Power Sector Reform and Sustainable Hydropower Development Project
RAP	Resettlement Action Plan
RoW	Right of Way
R&R	Resettlement and Rehabilitation
VCDP	Vulnerable Community Development Plan

Executive Summary

- i. This is the first Progress Report to the Board of Executive Directors (the Board) on implementation of the Management Action Plan (MAP) in response to the Inspection Panel Investigation Report No. 93722/NP on the Nepal Power Development Project (P043311), covering the period July 15, 2015 to July 15, 2016.
- ii. The Power Development Project (PDP, or “the project”) aimed 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 promote private participation in the power sector. The project was closed on December 31, 2013.
- iii. In response to a Request for Inspection submitted by affected people in the Sindhuli district in the project area, which was registered on July 24, 2013, the Inspection Panel recommended an investigation, and this was approved by the World Bank Board of Executive Directors. The Request raised various concerns related to: consideration of transmission line alternatives, compensation, alleged human rights violations by police, Indigenous Peoples, and consultation and disclosure. The Inspection Panel submitted its Investigation Report to the Board on February 12, 2015. On March 30, 2015, Management submitted its Report and Recommendation, including a detailed MAP, developed in response to the Inspection Panel’s findings. On July 9, 2015 the Bank’s Board considered both reports and approved the MAP.
- iv. Implementation of the MAP has progressed substantially in the past 12 months. Resettlement and Rehabilitation (R&R) assistance to people affected by the transmission Right-of-way (RoW) has been disbursed to nearly 65 percent of affected households and about 63 percent of total compensation has been paid. The pace in disbursing compensation is limited by the fact that many households are absentee and cannot be reached. Funds have been deposited into Special Purpose Accounts for the outstanding compensation, and affected persons may collect their payment at any time. The grievance redress mechanism (GRM) has become operational. Implementation of the Vulnerable Community Development Plan (VCDP), which was updated for all the districts except for Sindhuli, cleared by the Bank and disclosed at the Bank’s InfoShop in March 2014, is now complete except for Sindhuli.
- v. In April 2016, the affected community in Sindhuli agreed with the Chief District Officer (CDO) that the Nepal Electricity Authority (NEA) could resume the construction work for the disputed section of the Khimti–Dhalkebar Transmission Line (KDTL). As of end July 2016, foundation works for all eight towers, which had been suspended for almost three years due to protests, have been completed; erection of the towers is underway; and stringing work for various sections of the KDTL in Sindhuli, almost 20 km long in total, is progressing.
- vi. The NEA plans to conduct the next round of consultations with an independent facilitator acceptable to the Sindhuli community to update the VCDP activities and prepare community benefit sharing programs. The consultation will be carried out as soon as a facilitator mutually agreed with the affected community is hired. The timeline for implementation of the VCDP activities will be assessed once the update is concluded.
- vii. Management was recently informed by an international NGO about alleged protests in Sindhuli. Management has obtained reports from multiple sources that despite the agreement with the CDO, some local community members protested at the construction site against the project construction, for reasons that are unclear. The protests were not peaceful and the police reportedly made arrests to maintain public order.

viii. Management has hired an international firm, the Consensus Building Institute, to draw experiences/lessons for Bank management learned from this and other infrastructure projects and to develop recommendations for conflict prevention and management for Nepal energy sector projects.

ix. Management continues to assist the NEA to clarify the mandate of its Environment and Social Studies Department (ESSD), streamline its working procedures and strengthen its operating capacity to better manage environmental and social issues in the NEA's investment portfolio, especially transmission line projects, through the ongoing Power Sector Reform and Sustainable Hydropower Development Project (PSRSHDP). It will support the ESSD in developing guidelines and procedures, and provide training on safeguard management, such as environmental assessment for transmission lines, alternatives analysis, consultations, information disclosure, resettlement planning and GRM. The PSRSHDP became effective as of June 2016. The NEA is in the process of hiring a firm for: (a) updating the transmission right-of-way (RoW) compensation policy; and (b) building the capacity of ESSD in safeguard management.

x. The outstanding issues in the MAP are to support and supervise the NEA to: (a) update and implement the VCDP activities for Sindhuli in consultation with the affected communities; (b) complete compensation for the RoW; and (c) complete R&R assistance for the KDTL. Public notices regarding entitlements and how affected persons may claim their payment will be repeated.

xi. The next progress report will be submitted in 12 months or when the MAP is completed, whichever occurs first.

I. INTRODUCTION

1. ***The Project.*** The Power Development Project (PDP, or “the project”) aimed to (a) develop Nepal’s hydropower potential in an environmentally and socially sustainable manner so as to help meet electricity demand, (b) improve access of rural areas to electricity services, and (c) promote private participation in the power sector. One of the project’s components included the construction of the Khimti-Dhalkebar Transmission Line (KDTL), implemented by the Nepal Electricity Authority (NEA), a section of which is the subject of the Request. The transmission line crosses four districts and is approximately 75 km long, with a 30-m wide transmission corridor or right-of-way (RoW). Construction began in 2007 and nearly all 188 towers have been completed. Stringing of conductors is mostly completed in the undisputed sections of the transmission line.
2. ***Project Status.*** The PDP was approved on May 22, 2003, with a credit of SDR 36.8 million and a grant of SDR 18.4 million. During this period, it was restructured three times, in 2008, 2009, and 2012. During the third restructuring, the closing date was extended to December 31, 2013 to allow the completion of three 220 kV transmission lines (Khimti–Dhalkebar, Hetauda–Bharatpur, and Bharatpur–Bardaghat).
3. ***Request for Inspection.*** The Request for Inspection, registered by the Panel on July 24, 2013, was submitted by 103 indigenous and non-indigenous families from three villages of the Sindhuli district in Nepal, supported by a coalition of civil society organizations and individuals. The Requesters’ key claims were that the Bank had not complied with its policies in relation to (a) analysis and due consideration of alternatives in the alignment of the KDTL and the corresponding potential adverse impacts associated with the alignment; (b) compensation to land holders with properties under the ROW; (c) alleged human rights violations during a confrontation between protesters in Sindhuli District and the police; (d) the project’s approach to addressing Indigenous Peoples in the project area; (e) consultations with affected peoples in Sindhuli District; and (f) disclosure of relevant safeguard documents.
4. Management presented its Response to the Request on September 18, 2013, including several actions that were to be completed by the NEA by April 2014. A Panel team visited Nepal during September 30–October 4, 2013 and submitted its Report and Recommendation to the Executive Directors of the World Bank on October 24, 2013. The Panel recommended an investigation, but to take into account the implementation of the proposed NEA Action Plan, it recommended delaying the start of the investigation until after April 30, 2014, which was agreed to by the Executive Directors. In line with its mandate, the Panel investigation focused solely on the allegations of harms arising from instances of noncompliance by the World Bank with its operational policies and procedures. The Panel submitted its Report on February 12, 2015.
5. ***Summary of Panel Findings.*** The Panel’s investigation concluded that there was compliance with regard to Environmental Assessment – health impacts; Involuntary Resettlement – choice of instrument; Indigenous Peoples; and protection of Physical Cultural Resources. The Report found noncompliance with regard to the following:
 - (a) Environmental Assessment (OMS 2.20, OD 4.01, and OP/BP 4.01) – institutional analysis and capacity building of the project implementing agency, the NEA;
 - (b) Involuntary Resettlement (OP/BP 4.12) – lack of updating of the 2006 Abbreviated Resettlement Action Plan; delays and inadequate information about compensation payment to eligible individuals; delays and inconsistencies in the provision of resettlement, caused mainly by a two-step approach to compensation (50 percent upfront and 50 percent after houses were demolished) and rehabilitation (R&R) assistance to displaced households in the RoW (mainly

because the NEA could not reach absentee households); and lack of an appropriate and accessible grievance mechanism for KDTL; and

- (c) Consultation (OP 4.01, OP 4.10, and OP 4.12) – failure to ensure adequate, timely and meaningful consultations during project preparation and implementation.

II. MANAGEMENT ACTION PLAN

6. Management's Action Plan (MAP) aims to address the findings of the Panel. Many of the actions proposed in the MAP built upon the earlier action plan prepared by the NEA to address shortcomings that Management and the NEA identified in response to the Request for Inspection. The NEA action plan was updated twice, first in June 2014 and again in January 2015.

7. The MAP emphasized the following:

- (a) Building institutional capacity of the NEA, especially its Environment and Social Studies Department (ESSD);
- (b) NEA implementation of the Resettlement Action Plan (RAP); delivery of outstanding compensation; completion of R&R assistance; and maintenance of a functional project grievance redress mechanism (GRM) until completion of RAP implementation;
- (c) NEA implementation of the Vulnerable Community Development Plan (VCDP), updated in March 2014; and
- (d) Dissemination by the NEA, with support from the Bank, of project implementation information among affected communities, and support for their consultative and participatory engagement in implementation of the RAP and updated VCDP.

8. Even though the PDP is now officially closed, the Bank is implementing the MAP aimed at addressing the findings of the Inspection Panel.

III. PROGRESS OF MANAGEMENT ACTION PLAN IMPLEMENTATION

9. ***MAP Implementation to Date.*** Over the last 12 months, substantial progress has been made, as summarized below:

- (a) For the disputed section (3.85 km) of the KDTL in Sindhuli, the Department of Roads (DoR) has acquired land to build a feeder road, compensating owners at 100 percent of the land value. Compensation amounting to NPR 164.2 million (72.6 percent) has been paid. The NEA has deposited funds into a Special Purpose Account at Sindhuli District for the outstanding compensation, and affected persons may collect their payment at any time.
- (b) For the KDTL outside Sindhuli, compensation for land acquisition and RoW amounting to NPR 27.8 million (62.6 percent) has been paid to affected families losing land and structures, according to the RAP updated in March 2014. While the NEA continues to make efforts to reach those affected, many are absent. This represents an increase of NPR 0.6 million since last February. The NEA has deposited funds into Special Purpose Accounts at each of the affected districts for the outstanding compensation, and affected persons may collect their payment at any time.

- (c) For the KDTL, R&R assistance has been disbursed to 64.7 percent of households displaced physically due to land acquisition. While the NEA continues to make efforts to reach those affected, many are absentee; in July 2016, The NEA deposited funds into Special Purpose Accounts at each of the affected districts for the outstanding R&R cash assistance, according to the updated RAP, and affected persons may collect their payment at any time.
- (d) A communication officer and a liaison officer have been appointed. Both were selected from within the community in Sindhuli. The officers have maintained engagement with the local communities.
- (e) The VCDP was updated and disclosed at the Bank's InfoShop in March 2014, but specific activities for Sindhuli could not be consulted upon and agreed with the affected communities because of their opposition to the construction of the KDTL and resulting refusal to engage on consultations. VCDP implementation for all districts except for Sindhuli is now completed.
- (f) Since the Sindhuli community agreed to engage with the NEA, the NEA initiated consultations to update the VCDP activities for the community. The NEA conducted a first round of group consultations on March 21, 2016. The community proposed a list of VCDP activities. The NEA is planning, together with the affected communities and their supporters, the format and timing to conduct the next round of consultations with an independent facilitator acceptable to the Sindhuli community, to discuss and conclude the VCDP activities. Consultations will likely be held in the last quarter of 2016.
- (g) In April 2016, the affected community in Sindhuli agreed with the Chief District Officer (CDO) that construction work could resume for the disputed section of the KDTL. As of end July 2016, foundation works for all eight towers, which had been suspended for a year due to protests, have been completed; erection of the towers is underway; and stringing work for various sections of the KDTL in Sindhuli, almost 20 km long in total, is progressing.
- (h) Discussions between the affected people in Sindhuli and the communication and liaison officers, and the NEA project team are held on a regular basis, and the GRM is in place and functioning.
- (i) Management has hired an international consulting firm, the Consensus Building Institute, to draw lessons for Bank management learned from the conflicts raised in infrastructure projects, in particular transmission and hydropower projects. The consulting firm will develop a final report, by August 31, 2016, with recommendations for conflict prevention and management in Nepal energy sector projects.
- (j) Management continues to assist the NEA to clarify ESSD's mandate, streamline its working procedures and strengthen its operating capacity to better manage environmental and social issues in NEA's investment portfolio, especially transmission line projects, through the ongoing Power Sector Reform and Sustainable Hydropower Development Project (PSRSHDP). It will support ESSD in developing guidelines and procedures, and provide training on safeguard management, such as environmental assessment for transmission lines, alternatives analysis, consultations, information disclosure, resettlement planning and GRM. The PSRSHDP has become effective as of June 2016. The NEA is in the process of hiring a firm for: (a) updating the transmission RoW compensation policy; and (b) building the capacity of ESSD in safeguard management.

10. *Outstanding Issues*

- (a) Consultations with the affected community in Sindhuli to update and implement the VCDP activities for Sindhuli are continuing. The NEA plans to conduct the next round of consultations with an independent facilitator to discuss and conclude the VCDP activities. The consultation

will be carried out as soon as a facilitator mutually agreed with the affected community is hired. The timeline for implementation of the VCDP activities will be assessed once the update is concluded.

- (b) Disbursement of compensation is still ongoing for land owners in Sindhuli who have not received compensation for the land acquired by the Department of Roads (DoR) for the feeder road RoW. To expedite the process, the NEA/DoR plans to issue another public notice in September 2016 informing all affected persons about entitlements and how to collect payment.
- (c) Disbursement of outstanding compensation and R&R assistance for the KDTL is still ongoing. As noted above, in July 2016, the NEA deposited R&R assistance funding into Special Purpose Accounts in all affected districts except Sindhuli, to ensure that affected persons who have not yet collected the cash assistance may collect the amount to which they are entitled under the updated RAP at any time. In the case of Sindhuli district, a full budget has been made available and the payment of compensation and R&R assistance is ongoing.

11. Detailed information on the MAP is provided in Table 1 below.

12. ***Complaint to the Nepal Human Rights Commission.*** The affected community filed a complaint of human rights violations to the Nepal Human Rights Commission (NHRC) on February 7, 2014. The NHRC reviewed this case and stated on April 6, 2016 that it found no human rights violations and recommended the Government to go ahead with the KDTL construction.

13. ***Recent reports of unrest in Sindhuli.*** Management was recently informed by an international NGO about alleged protests in Sindhuli. Management has obtained reports from multiple sources that, despite the agreement with the CDO, some local community members protested at the construction site against the project construction works for reasons that are unclear. The protests were not peaceful and the police reportedly made arrests to maintain public order. The NEA plans to conduct the next round of consultations with an independent facilitator acceptable to the Sindhuli community to update the VCDP activities and prepare community benefit sharing programs.

IV. NEXT STEPS

14. ***VCDP finalization.*** With regard to the additional VCDP activities requested by the affected people during the consultation in March 2016, the NEA will continue to engage with the community in Sindhuli with a view to mutually agreeing on eligible actions. The NEA will implement the updated VCDP activities for Sindhuli immediately after they are finalized.

15. The Bank will continue to monitor the consultation process for the update and implementation of the VCDP activities for Sindhuli.

16. ***Next Progress Report to the Board.*** The next progress report will be submitted in 12 months or when the MAP is completed, whichever occurs first.

Table 1: Implementation of Management Action Plan

Issue	Action	Status
<p>OP/BP 4.01 Institutional Capacity</p>	<p>The Bank will continue to assist NEA to clarify ESSD’s mandate, streamline its working procedures and strengthen its operating capacity to better manage environmental and social issues in NEA’s investment portfolio, especially transmission line projects, through the proposed Power Sector Reform and Sustainable Hydropower Development Project (PSRSHDP, P150066). The assistance will specifically support ESSD in developing procedures and guidelines; and providing training on safeguard management, such as Environment Assessment for transmission lines, alternatives analysis, consultations, information disclosure, resettlement planning and GRM.</p>	<p><i>In progress</i></p> <ul style="list-style-type: none"> • The PSRSHDP has become effective as of June 2016; • NEA is in the process of hiring a firm for: (a) updating the transmission RoW compensation policy; and (b) capacity building of ESSD in safeguard management; • Management has hired an international consulting firm, “Consensus Building Institute,” to draw lessons learned from the conflicts raised in infrastructure projects, in particular transmission and hydropower projects. The consultant will develop a final report in 2016, with recommendations for conflict prevention and management in Nepal energy sector projects.
<p>OP/BP 4.12 Resettlement documentation</p>	<p>NEA will continue the implementation of the updated RAP. The Bank will closely monitor the implementation of the updated RAP until it is completed.</p>	<p><i>In progress</i></p> <ul style="list-style-type: none"> • Implementation of the RAP updated in March 2014 has been ongoing. The NEA has disbursed compensation to as many affected persons as it can reach (many are absentee), and sufficient funding for outstanding compensation has been deposited into Special Purpose Accounts in the three districts, including Sindhuli; • The Bank will closely monitor and document the implementation of resettlement works, including all compensation and other assistance in line with the updated RAP.
<p>OP/BP 4.12 Land Acquisition and Compensation</p>	<p>NEA will continue to deliver the outstanding compensation payments as set out in the updated RAP, with funds deposited in the Special Purpose Accounts at the DAO in each of the three affected Districts. The Bank will continue to advise and monitor the delivery of the remaining compensation payments.</p>	<p><i>In progress</i></p> <ul style="list-style-type: none"> • Compensation amounting to NPR 27.8 million (62.6 percent) has been paid to the affected persons losing land and structures, and the remaining payments are on-going; sufficient funds have been deposited to Special Purpose Accounts so that affected persons may collect their payment at any time; • For the feeder road of the 3.85 km section in Sindhuli, the DoR is compensating owners at 100 percent of the land value. As of June 2016, a total of NPR 164.2 million (72.6 percent) has been paid. Sufficient funding for outstanding compensations for land acquisition have been deposited into the Special Purpose Accounts in all districts. Disbursement of compensation is still on-going.

Issue	Action	Status
OP/BP 4.12 R&R Assistance	NEA will continue to complete delivery of R&R assistance in line with the updated RAP. The Bank will continue to advise NEA and monitor the delivery of R&R assistance until the RAP implementation is fully completed.	<p><i>In progress</i></p> <ul style="list-style-type: none"> R&R assistance has been disbursed to 64.7 percent of households displaced physically due to land acquisition, amounting to NPR 364,000. Payment of cash assistance for the remaining affected persons is in process. In July 2016, sufficient funding was deposited by the NEA into the Special Purpose Accounts in all districts except Sindhuli and affected persons have been notified. In the case of Sindhuli district, a full budget has been made available and the payment for compensation and R&R assistance is ongoing. The Bank will closely monitor the deposition of remaining R&R cash assistance into the Special Purpose Account, notification to the affected persons, and progress of payments.
OP/BP 4.12 Grievance Redress	NEA will keep the GRM functional throughout the implementation of the updated RAP. The Bank will continue to monitor the implementation of the GRM through regular missions.	<p><i>In progress</i></p> <ul style="list-style-type: none"> The NEA has maintained operation of the project GRM in the field. The project GRM has recorded all grievances filed by affected persons and has kept records of the minutes of meetings with affected persons and decisions from the meetings.
OP/BP 4.10 Implementation of VCDP	NEA will continue implementation of the updated VCDP and the Bank will closely monitor the implementation through regular missions and engagement with NEA.	<p><i>Completed</i></p> <ul style="list-style-type: none"> The updated VCDP (March 2014) has been fully completed for all the project affected districts, except for Sindhuli. <p><i>In progress</i></p> <ul style="list-style-type: none"> In April 2016, the affected community in Sindhuli agreed with the CDO that the NEA could resume the construction work for the disputed section of the KDTL. One round of consultations has been held on updating the VCDP activities for Sindhuli and the NEA is planning to undertake the next round of consultations with an independent facilitator. The VCDP activities will be updated to reflect the conclusions of these consultations and the timeline for their implementation will be assessed once the update is concluded.
Access to Information Disclosure and Consultations	NEA, with support from the Bank, will continue dissemination of project implementation information among the affected communities and engage them in a consultative and participatory manner in the implementation of the RAP and VCDP. The consultation process will continue until the RAP and VCDP are implemented ¹ . The Bank will support and monitor the	<p><i>In progress</i></p> <ul style="list-style-type: none"> Consultation to update VCDP activities for Sindhuli is ongoing. The NEA will continue to engage with the community with a view to mutually agreeing on eligible actions among the VCDP activities raised by the community so that the VCDP activities for Sindhuli can be finalized and implemented. The NEA is preparing the next round of consultations in Sindhuli with an independent facilitator. NEA staff, along with the field-based Communication and Liaison Officers, meet regularly with the affected community members.

¹ RAP implementation will be considered fully implemented when all outstanding compensations and R&R assistance are paid to eligible project affected persons or enough fund for the outstanding compensations and R&R assistance is deposited in the Special Purpose Accounts allowing the absentee affected persons to come and collect their payment at a later date. The VCDP will be considered fully implemented when actions for Sindhuli communities are consulted upon and the VCDP is updated and implemented accordingly.

Issue	Action	Status
	process of information disclosure and consultations.	