THE INSPECTION PANEL

Request for Inspection

India: NTPC Power Generation Project (Loan 3632-IN)

Report on Investigation

December 22, 1997
Table of Contents

ABBREVIATIONS USED IN THIS DOCUMENT iii

INTRODUCTION 1

SUMMARY OF FINDINGS 4

REPORT ON INVESTIGATION 7

Overview 7
Scope 8
A. Strengthening the Borrower's Environmental and Resettlement and Rehabilitation Capacity: ODs 4.30 and 4.01 11
B. Participation of Affected People: ODs 4.01 and 4.30 15
C. Involuntary Resettlement: OD 4.30 20
D. Bank Supervision of Involuntary Resettlement: ODs 4.30 and 13.05 33
E. Environmental Assessment: OD 4.01 37
F. Supervision of Environmental Aspects: ODs 4.01 and 13.05 43
G. Indigenous Peoples: OD 4.20 45

APPENDIX 1 47

APPENDIX 2 51

APPENDIX 3 55

ANNEX 1
Inspection Panel Report and Recommendation to the Executive Directors, June 24, 1997 (Without attachments)

ANNEX 2
Bank Management Updated Action Program, September 2, 1997
ABBREVIATIONS USED IN THIS DOCUMENT

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Full Form</th>
</tr>
</thead>
<tbody>
<tr>
<td>EAP</td>
<td>Environmental Action Plan</td>
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<tr>
<td>EAS</td>
<td>Environmental Assessment Summary</td>
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<td>EdF</td>
<td>Electricité de France</td>
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<td>EIA</td>
<td>Environmental Impact Assessment</td>
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<td>GOI</td>
<td>Government of India</td>
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<td>NCL</td>
<td>Northern Coal Ltd./Coal India Ltd.</td>
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<td>NDO</td>
<td>World Bank New Delhi Office</td>
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<td>NGO</td>
<td>Non-Governmental Organization</td>
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<td>NTPC</td>
<td>National Thermal Power Corporation</td>
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<td>OD</td>
<td>Operational Directive</td>
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<td>PAP(s)</td>
<td>Project Affected People</td>
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<td>PAF(s)</td>
<td>Project Affected Families</td>
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<td>Staff Appraisal Report</td>
</tr>
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<td>R&amp;R</td>
<td>Resettlement and Rehabilitation</td>
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<td>RAP(s)</td>
<td>Resettlement Action Plan</td>
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<td>ReAP(s)</td>
<td>Remedial Action Plan</td>
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<td>TOR</td>
<td>Terms of Reference</td>
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<td>VDAC</td>
<td>Village Development Advisory Council</td>
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<td>XIDAS</td>
<td>Xavier Institute of Development Action and Studies</td>
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Request for Inspection
India: NTPC Power Generation Project (Loan 3632-IN)

Inspection Panel Report on Investigation

INTRODUCTION

1. This Report responds to the World Bank ("Bank") Executive Directors' ("Board") decision on September 11, 1997 to authorize the Inspection Panel ("Panel") to conduct a limited investigation. The Board decided that "in light of the conclusions and recommendation by the Panel, bearing in mind the preliminary review already undertaken by the Panel, an investigation should be conducted at the Bank's Headquarters in Washington to further determine the extent to which the Bank adhered to its own policies and procedures under the project."

The Request for Inspection
2. On May 1, 1997 the Panel received a Request for Inspection ("Request") from a representative of people living in the project area. The claims in the Request focus on allegations of harm suffered as a result of non-compliance by the Bank with its policy on involuntary resettlement. The Chairman of the Panel registered the Request on May 2, 1997.

Management Response
3. The Management Response ("Response") to the Request was submitted to the Panel on June 3, 1997. In its Response the Management included corrective actions in the form of both a specific and broader action program.

Supplementary Submissions
4. Supplementary Information was submitted to the Panel by two concerned NGOs: on May 1, 1997 from The Berne Declaration and later on July 18, 1997 a "Statement in Support of the Panel Claim Filed on Behalf of People Singrauli" from the Delhi Forum, which reiterated the urgency of the matter.

Additional Requests
5. Subsequent to receiving the Response the Panel received several specific claims in support of allegations in the Request (May 27 and June 12, 1997). As these Requests did not raise new issues but provided rather specific examples of the claims made in the original Request, the Panel —pursuant to para. 14(d) of the Resolution— did not transmit them to Management for a formal separate Response.
Further Allegations
6. The representative of the Requesters during May 1997 claimed that PAPs were forcibly removed from the villages of Judi, Amratali, and Churchuria to allow construction of the ash dyke for Vindhyachal. These allegations were countered by reports from NTPC describing the peaceful relocation of PAPs in accordance with a recent Court order which provided for their eviction within 15 days of receiving relevant compensation and other allowances. Bank staff later visited the area and reported the conflicting views of those interviewed. In June 1997, the representative of the Requesters alleged that further, if necessary forcible, evictions from the village of Mithini—to make way for construction of the ash dyke for Rihand II—were threatened. NTPC assured that further relocation from Mithini village would be postponed. On the other hand, on June 19, 1997 NTPC sent Management affidavits from 92 PAPs stating they had relocated voluntarily.

Panel Recommendation
7. On July 24, 1997 the Panel submitted its report to the Board. The Panel found prima facie evidence of harm and believed it was possible that serious violations by the Bank of its policies and procedures may have occurred to a degree beyond those identified by Management in its Response. Therefore, the Panel recommended that the Board authorize—as a matter of urgency—an investigation into the involuntary resettlement and associated aspects of the project.

Updated Action Program
8. On September 2, 1997 the Management, in response to the Panel report and recommendation for an investigation, submitted an “Update of the Action Program”, agreed with the Government of India and NTPC. This Updated Action Program was submitted directly to the Board not only after the Panel’s “Report and Recommendation” of July 24, 1997 (“Panel’s July Report”), but also just five days prior to the Board decision on an investigation. The Panel therefore did not have the opportunity to review the “Action Program” to determine whether its proposals, if implemented, might correct the policy violations acknowledged by Management as well as meet the Requesters’ concerns.

Board Decision
9. The Board meeting to act on the Panel recommendation was initially scheduled for August 29, 1997 but postponed to September 9, 1997. At this meeting the Board did not reach a decision. A compromise solution was reached at its next meeting on September 11, 1997.

In addition, on June 12, the Panel received a submission in support of the Request from some PAPs. The submission complained that the “project authorities are now anxious to move us out with use of force without any guarantee of an alternative livelihood.” These Requesters “urge our situation to be spot checked by the Panel.” “Supportive Claim - Request Registration No. RQ/97/2” June 3, 1997 from eight PAPs from the villages of Amratali and Judi.
10. This decision—quoted in paragraph 1 above—restricts the Panel investigation to a desk study in Washington, D.C. ("Desk Study"). Preventing the Panel from undertaking a field investigation reflected the views of some Executive Directors who pointed out that it was unavoidable that the public would see it as an investigation—with all that word’s connotations of wrongdoing—of Borrower actions. The Panel, however, is not intended to investigate Borrower actions. Its role is to investigate allegations that the World Bank itself has failed to observe its own policies and procedures and whether this has resulted in the damage claimed by Requesters.

Panel Investigation

11. The Chairman of the Panel designated Panel member Mr. Ernst Günther Bröder ("the Inspector")—who had been in charge of the preliminary review—to lead the investigation. In this case the Management had acknowledged certain policy violations in its Response and the Panel’s July Report indicated that harm appeared to have occurred. The Bank undertook a Supervision Mission from September 12-28, 1997, immediately after the Board Decision on the Panel’s recommendation for an investigation. Specific plans for implementation of the Updated Action Program are contained in the October 20, 1997 Back to Office Report ("September Bank Supervision Report"). Because the corrective actions in the Updated Action Program and the subsequent more detailed proposal for its implementation contained in the Bank’s September Supervision Report both respond to the Panel’s July Report and in themselves evidence the extent of policy violations, these two documents have been reviewed by the Panel for this investigation.

Fact-Finding Assignment

12. The September Bank Supervision Report includes the Terms of Reference for a Resettlement and Rehabilitation impact assessment to be undertaken for NTPC by an “independent” development institution—the Xavier Institute of Development Action and Studies ("XIDAS"). This entity is to examine the issues raised by the Panel’s July Report and the Requester and the Terms Of Reference state that further revisions would be made of the Resettlement Action Plans and Remedial Action Plans of the Project as required.

Subsequent Developments

13. On November 24, 1997 two NGOs—the Washington-based Center for Environmental Law and the Swiss-based Berne Declaration—reported to the President of the Bank, with copy to the Panel, that affected people were being forcibly induced to move. This occurred despite an agreed moratorium.

14. This Report deals with the extent of each of the policy violations in turn and within that context (i) with the Panel’s July Report, and (ii) the Desk Study.²

² Disclosure. The Request, Management Response, and Panel’s “Report and Recommendation” to the Board can be found in a separate volume which has been available to the public since the Board’s decision on September 11, 1997. Because the Panel’s investigation basically confirms its earlier findings, for ease of reference the Panel’s July Report & Recommendation to the Board (without attachments) is attached to this
SUMMARY OF FINDINGS

15. The findings of the Panel's desk investigation confirm the preliminary conclusions reached in the Panel's July 24, 1997 "Report and Recommendation to the Executive Directors" (the "Panel's July Report") which relied heavily on the Inspector's observations in the field. Since information gathered in Washington is largely from secondary sources and not from field work on the ground, the Panel had to compare this information with its earlier findings on the spot in an attempt to ascertain the facts.

- The Terms of Reference for Xavier Institute of Development Action and Studies respond to the Panel's initial finding that the correct facts regarding Resettlement and Rehabilitation claims by Project Affected People must be established before any action program for this component could be effective.

- Since the Board decision, an alleged attempt to force PAPs to move completely out of one area, by destroying their crops, has been reported to Management. The Panel was informed by Management that the Independent Monitoring Panel, constituted recently in consultation with NGOs and consisting of three eminent Indian nationals, will investigate this allegation through a site visit from December 23-27, 1997.

16. A major new finding of this desk investigation is that the violations of policies and procedures can be attributed to pressure from Senior Regional Management to accelerate the process of loan approval and to not granting the same relevance to Resettlement and Rehabilitation and Environmental Action matters as to other project components.

- The records show clearly that Senior Regional Management pressured staff to process the loan just before the end of FY 93.

- The issue of Resettlement and Rehabilitation was not even put on the Agenda as an issue for the Regional Loan Committee Meeting in March 1993, despite specific requests from environmental/social specialists and the Legal Department.

- The NTPC was pressured by the Bank to adopt hastily a corporate Resettlement and Rehabilitation policy. The Bank failed to assure itself that the Borrower fully understood the implications of the new commitments it was undertaking.

- Senior Regional Management's request to make preparation of the Resettlement Action Plans a condition of effectiveness of the loan agreement, despite clear...
policy to the contrary, was rejected by the Legal Department. The policy requires Resettlement Action Plans to be prepared as a condition of appraisal. The Resettlement Action Plans were then prepared during a two week visit by one specialist staff member in May 1993, and signed off by Management just in time for the project to be presented to the Bank's Board of Executive Directors before the end of the 1993 Fiscal Year (June 30, 1993).

- The Borrower did not sign the Loan Agreement until December 9, 1993 and the loan was not declared effective until 6 months later on June 6, 1994. Another 8 months elapsed before the first disbursement was made in March 1995.

17. In line with its policies, the Bank introduced a project component dealing with the implementation of Resettlement and Rehabilitation and Environmental Action Plans. The Panel finds that the Bank did not assure itself that the Borrower had the necessary initial capacity to carry out these tasks. The Panel also finds that the Bank did not have the necessary capacity to support the Borrower in carrying out these tasks. This appears to be a serious violation of Bank policies on Environmental Assessment (Operational Directive 4.01) and Involuntary Resettlement (Operational Directive 4.30). This is confirmed by the Terms of Reference for the Xavier Institute for Development Action and Studies and the Independent Monitoring Panel which were established in response to the Inspection Panel's earlier Report of July 1997.

18. The preliminary findings in the Panel's July Report which indicated serious violations by the Bank of policies and procedures on participation of and consultation with affected people as required by ODs 4.01 and 4.30 are confirmed. The Bank's failure to observe policies and procedures in the design phase, however, appear more serious than previously assumed because of the Bank's admitted inexperience in applying the policy back in 1993, and its failure to follow required loan processing procedures.

19. The NTPC's Resettlement and Rehabilitation policy and the Resettlement Action Plans appear to have complied, at least on paper, with the Bank's Operational Directive (OD 4.30) and were cleared by the Bank's Legal Department and Environmental Specialists. However, the loan was processed so rapidly—with the RAPs completed immediately before the project was presented to the Bank's Board—that there was no time to ensure that essential mechanisms and preconditions, such as State Government commitment, capacity of implementing agency, etc. were in place or adequate. The resulting implementation problems can be attributed largely to the failure of the Bank to follow the process of R&R preparation as required in OD 4.30. In turn, Project Affected People expected to receive the benefits of the RAPs to be applied. The fact that these RAPs could not, or were not, implemented gave rise to dashed expectations, which, as the Panel noted in its July Report, also appear to be the root of current problems.
20. The Bank's failure to observe its policies and procedures concerning Environmental Assessment (OD 4.01) in the preparation phase appear to be even more grave than observed in the Panel's July Report.

- The investigation confirms that, contrary to Bank policy, serious alternatives for fly ash disposal were not considered during in the design phase. Coal India's rejection of disposal by backfilling or consideration of other ash disposal/utilization was accepted apparently without further discussion of alternative measures.

- The Bank failed to promote and to give support for critically needed Inter-Agency coordination. This has now been requested by Bank Management.

21. Supervision of the Resettlement and Rehabilitation component and of the measures to strengthen NTPC's capacity to monitor have effectively failed. Here again the documents reviewed indicate that the Bank's failure to observe policies and procedures as required under OD 4.30 and OD 13.05 on Bank supervision is more serious than described in the Panel's July Report. During the design phase, the Bank misjudged the Borrower's ability to implement the R&R component and the Bank's capacity to supervise it. As a result, mostly negative outcomes were inevitable.

22. The review of Bank R&R supervision (1993 - March 1997) reveals a vicious circle of negative events which led to violations of policies and procedures for Resettlement and Rehabilitation and Environmental Assessment:

- Throughout this period, the Bank did not succeed in providing the necessary support to strengthen the Borrower's environmental and resettlement and rehabilitation capacity (Para 6, OD 4.30). Reasons were a lack of staff to make a proper assessment of requirements and qualifications of a Borrower who had confirmed that it had no experience in that field.

- Throughout this period, there were few qualified Bank staff available, either at Bank Headquarters or in Delhi or Singrauli to initiate and to supervise implementation of required measures. Monitoring therefore relied basically on secondary source information. There was little meaningful direct consultation with PAPs.

- Under current Senior Regional Management a new approach has developed. The actions which they now have proposed confirm the previous shortcomings and might give affected people the hope of a better future, provided the remedial actions are implemented and monitored in an open-ended way with effective participation of affected people assured. As stated above, Inter-Agency coordination has been a big problem and appears to be a crucial prerequisite to implement any effective Singrauli area social and environmental development program. Management has now indicated that it will support any such effort.
REPORT ON INVESTIGATION

OVERVIEW

23. The NTPC Thermal Power Generation Project—supported by the Bank Loan 3240 approved in 1993—is located in the Singrauli region of India about 1000 Km southeast of Delhi. Singrauli covers some 2,200 square kilometers spread over two states—Madhya Pradesh and Uttar Pradesh. The area includes part of the reservoir created by the Rihand dam which provides for irrigation and a hydro plant generating capacity of 400MW. Thermal power plants based on major coal reserves near the reservoir have a total operating generating capacity currently at 6,360MW. Studies suggest that estimated coal reserves would be sufficient to generate 20,000MW of power for the next 130 years. In the Singrauli area, NTPC operates several thermal power plants—Singrauli (2000MW), Rihand (1000MW), Vindhyachal (1260MW). The 1993 Project was designed to increase the capacity of each of Vindhyachal and Rihand by 1000MW.

24. The objectives of the project are to “(i) help improve commercial discipline in the power system through the implementation of new commercial and investment policies; (ii) help NTPC meet its targets for capacity additions through increased mobilization of resources from internal resources, domestic and foreign capital markets as well as from the private sector through joint venture operations; (iii) upgrade environmental performance of NTPC power stations and make its new power stations environmentally more sustainable; and (iv) strengthen environmental management and resettlement and rehabilitation management capability.”

25. The project comprises: “(i) support of a five year time-slice of NTPC’s least cost investment program of new coal and gas based power; (ii) support of NTPC’s program to undertake joint venture operations; and (iii) implementation of an environmental action plan (“EAP”) which includes upgrading of existing power stations, training and technical assistance for the strengthening of NTPC environmental and Resettlement & Rehabilitation (“R&R”) management.”

26. A major problem stems from the fact that the fly ash from the coal used for operating the plants is disposed of in ash dykes. Most of the land needed for the ash dykes had already been acquired by NTPC prior to 1993. An additional 300 ha was to be acquired for new ash dykes. The sites identified entailed the involuntary resettlement of about 370 families—Project Affected People (“PAPs”). For this reason,
and to remedy the environmental situation of those already displaced by the earlier acquisitions, the project included an Environmental Action Plan ("EAP"), two Resettlement Action Plans ("RAPs") and provision for three Remedial Action Plans ("ReAps").

27. The objectives of the EAP are, inter-alia, to "address outstanding R&R issues (within the context of the new corporate R&R policy); and to upgrade NTPC's capability to prepare and execute R&R programs."

**Scope**

28. Background information on the processing of the Request is contained in the introduction to this investigation report. This report deals with the following Bank policies:

- Strengthening the Borrower's environmental and resettlement and rehabilitation capacity. (ODs 4.30 & 4.01 and Objective (d) of the project)

- Participation of and consultation with affected people in relation to Involuntary Resettlement and Environmental Assessment.

- Involuntary Resettlement (OD 4.30) which Management claims to have complied with "substantially".

- Environmental Assessment (OD 4.01) which Management claims to have complied with "partially".

- Bank Supervision (OD 13.05) which Management claims to have complied with "substantially".

- Indigenous Peoples (OD 4.20) which Management claims to have complied with "fully."

29. Within the restrictions of the Board decision, the Panel further analyzed the findings set out in its July 24, 1997 "Report and Recommendation to the Executive Directors" ("Panel's July Report"). Relevant files and subsequent information provided were reviewed and discussions were conducted with Bank staff in Washington and with others to further determine to what extent the Bank had failed to comply with policies and procedures. It should be noted here that this Desk Study had to rely on the Panel's July Report—and repeat therefrom—because the investigation as authorized by the Board demands scrutiny of the preliminary findings of that Report and an evaluation of their validity. This is of particular importance because:
(a) The Board did not have the opportunity to discuss the substance of the Panel’s findings during its meetings on September 9 and 11, 1997; and

(b) It is necessary to base the Desk Study on the Inspector’s observations in the field since some documentation in Bank files supports the findings on the spot while other information confirms the contradictions. This is not surprising because the Bank’s knowledge was largely based on secondary data, i.e. progress reports and other data provided by NTPC.

30. The Panel’s findings in its July Report were based on the information obtained during the Inspector’s visit to Delhi and the project area in addition to information contained in the Request, the Response, supplemental information furnished by NGOs, and additional information provided by the Requesters, Management, and NTPC.

31. The Panel’s July Report addressed the Request’s claims of harm suffered—allegedly as a result of Bank acts or omissions in violation of its policies and procedures— in relation to involuntary resettlement and associated environmental issues. The extent of authentic local resident participation in relation to Resettlement and Rehabilitation (“R&R”) was addressed first. Bank supervision then was reviewed, and lastly the adequacy of the remedies proposed by Management in the “Action Program” in the Management Response were discussed.

32. The Request raised the question of whether the Bank had complied with its policy (OD 4.20) on Indigenous Peoples. Management claimed full compliance in its Response. Since the Inspector received no contradictory information from local sources during his field visit, the Panel did not further address this allegation at that time.

33. The Panel’s July Report pointed out that the environmental and resettlement aspects of the project are closely tied together by the technical choice for ash disposal. To build the ash dykes, land had to be acquired and people involuntarily resettled. In addition, the dykes themselves constitute a serious potential environmental hazard to the population.

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3 As noted in the Panel’s “Report and Recommendation” of July 1997, broad questions related to OD 10.04 on Economic Evaluation of Investment Operations cannot be addressed realistically at this late date and were not be discussed, except as they related to the choice of ash disposal options. The very complex question of an alternative energy is hardly relevant in practical terms considering that decisions have already been made and the current infrastructure exists which cannot be basically removed but may be able to be upgraded to existing environmental standards. Any alternatives for the future are and must be thoroughly explored and are outside the scope of this investigation.

4 Management’s remedial actions were laid out in the Action Program attached as Annex A to the Response. There were two parts to the Action Program. One was a “broader action program” for the future; the other a Project Specific Action Program.
34. The Bank in its Response admitted "shortcomings" in application of the policies on Involuntary Resettlement, Supervision and Environmental Assessment. The Panel found:

(a) preliminary evidence of material harm; and

(b) *prima facie* evidence that such harm was a result of the Bank's admitted shortcomings in the application of Bank policies and procedures.

35. The Panel's investigation takes into account Management's Updated Action Program proposed after the Panel recommended an investigation, and the Bank's Supervision Mission Report for the mission undertaken from September 12-28, 1997, immediately after the Board Decision on the Panel's recommendation for an investigation. The Supervision Report includes the Terms of Reference ("TOR") for the Social Impact Assessment assignment being undertaken by a consultant, the Xavier Institute of Development Action and Studies ("XIDAS"). Those TOR include investigation into the R&R status of individual Project Affected People ("PAP") and Project Affected Families ("PAF"), which the Panel had already highlighted as an essential prerequisite for resolving the tense situation and conflicts on the ground and to the implementation of any remedial action plans.

36. Until the completion of the XIDAS assessment there was an agreement that further forcible evictions would be suspended. Since the Board decision, an alleged attempt to force PAPs to move completely out of one area, by destroying their crops, has been reported to Management. As stated above, the Panel was informed by Management that an Independent Monitoring Panel, constituted recently in consultation with NGOs will investigate this allegation through a site visit.

37. In this report, first, the relevant text of the applicable policy or procedure is quoted; then (I) the findings of the Panel's July Report are noted; and (II) results of the Desk Study—which includes responsiveness of the September 2, 1997, Management "Update of the Action Program" ("Updated Action Program") to the Panel's July Report, and any additional information from this investigation phase—are discussed; and lastly, the Panel's findings are presented.\(^5\)

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A. STRENGTHENING THE BORROWER’S ENVIRONMENTAL AND RESETTLEMENT AND REHABILITATION CAPACITY: ODs 4.30 AND 4.01

Policies & Procedures

Strengthening of Environmental Capabilities
38. “The ultimate success of EA depends upon the capability and understanding of environmental matters of the governmental agencies concerned. Therefore, as part of the EA process, it is necessary to identify relevant environmental agencies and their capability for carrying out required EA activities...projects with potentially major impact normally require the strengthening of several environmental functions....” (OD 4.01, ¶ 12)

Involuntary Resettlement in Particular
“The organizational framework for managing resettlement must be developed during preparation... The organization responsible for resettlement should be strengthened when entities executing infrastructure or other sector-specific projects lack the experience and outlook needed to design and implement resettlement. One alternative is to create a special resettlement unit within the project entity....” (OD 4.30, ¶ 6)

“The Bank supports borrowers’ efforts through (b) financing technical assistance to strengthen the capacity of agencies responsible for resettlement....” (OD 4.30, ¶ 23)

“For countries with a series of operation requiring resettlement, efforts to improve the policy, institutional, and legal framework for resettlement should form part of the Bank’s ongoing dialogue with the government.” (OD 4.30, ¶ 26)

I. PANEL’S JULY REPORT

39. Years after starting the project, representatives of the implementing agency, NTPC, freely admitted to the Inspector that it did not have expertise in the R&R area. It maintains that it is learning and is determined to institutionalize this new approach to R&R speedily and effectively into its corporate culture.

40. The Management Response contained a Proposed Broader Action Program which acknowledged that “there must be solid capacity in place in appropriate agencies to closely monitor, to implement in a timely and coherent manner, and to ensure that the content of the plans are relevant.”

41. The Management Response also contained a Proposed Specific Action Program. That Program envisaged institutional strengthening and training in
accordance with agreed schedules. The Panel noted that there was no proposal for the Bank to evaluate the adequacy of its assistance in this area.

42. At the Board meeting, the lead Inspector stressed the Bank’s failure to assist in the strengthening of NTPC’s capacity and the importance of doing so.

II. DESK STUDY

Updated Action Program

43. The Management Updated Action Program stated that XIDAS will:

“advise NTPC on how to improve their information strategies and grievance mechanisms, and how to ensure more meaningful participation in decision making by project-affected people and other key stakeholders.” (¶ 9(e))

“...provide inputs into improving Income-Generating Schemes on the basis of which NTPC would prepare a more effective program through the assistance of local NGOs, Community-Based Organizations, especially of women and youth, and the local business communities. NTPC will explore the possibility of contracting to NGOs, a business group or consulting company, the implementation of the income-generating program. Management would assist and advise NTPC on this program.” (¶ 10)

44. Rather than “focus” on isolated reviews, the Updated Action Program envisages, inter-alia:

“strengthening of NTPC’s internal monitoring and analytical capacity related to environmental and social impacts. Consideration will be given to recruitment of specialists who can assist NTPC in building up this capacity. Management will provide technical assistance and training towards this purpose...” (¶ 13 (a))

In addition to training in this, the Bank’s Economic Development Institute will assist NTPC in development of a custom-made program for R&R staff to receive training on “social skills, including communications with project-affected people, participatory methodologies and strategies of restoration of livelihood.” (¶ 16)

45. Importantly, the Program proposes the establishment of an “independent” body to act as a monitoring panel to “systematically review and advise on implementation of the R&R program”. (¶ 13 (c)).
Additional Information

46. Objective (d) of the NTPC Project, as described in the Loan Agreement, was to strengthen the Borrower's environmental and resettlement and rehabilitation capacity.

R&R

47. The "Aide-Mémoire of the September Bank supervision mission" notes that "it was agreed that NTPC would prepare a proposal for strengthening their capacity to implement R&R, in particular the strengthening of their monitoring capacity. This proposal would be provided to the Bank for discussion by November 15, 1997." In addition, it appears to have been decided that consultants will be employed to assist NTPC in the implementation of the RAPs and ReAPs starting March 1, 1998.

48. Management has indicated to the Panel that the Independent Monitoring Panel mentioned in the Updated Action Program was established and began to function recently.

Environmental

49. The September Bank Supervision Report (Form 590) rated the Environmental management status as "Satisfactory" stating that:

"Institutional improvements have been made in the way environmental issues are being managed within NTPC. However, further improvements are necessary, including training of staff to ensure that internal environmental guidelines are respected and remedial actions are taken. Recommendations have been made for further consolidation of various environmental functions within NTPC, to help overcome some of the delays in the implementation of environmental projects. NTPC will present a proposal to the Bank by February 1998."

50. This objective is fundamental because the Borrower has responsibility under the Loan Agreement (Section 3.03) to implement the R&R component. The very fact that one of the project's four objectives was to strengthen the Borrower's capacity to perform this role acknowledges that suitable capacity was not there at the beginning of the loan's negotiations.

Findings

51. In line with its policies, the Bank introduced a project component dealing with the implementation of Resettlement and Rehabilitation and the Environmental Action Plans. The Panel finds that the Bank did not assure itself that the Borrower had the necessary initial capacity to carry out these tasks. The Panel also finds that the Bank itself did not have the necessary capacity at the Regional level to support the Borrower in carrying out these tasks. This appears to be a serious violation of Bank
policies on Environmental Assessment (Operational Directive 4.1) and Involuntary Resettlement (Operational Directive 4.30). This is confirmed by the content of the TOR for XIDAS and the Independent Monitoring Panel. In summary:

- The Bank misjudged the Borrower’s limited ability at the outset of the loan processing and the extent of strengthening required.

- The Bank back then, through 1993-1996, had no appropriate concept of how to support improving the Borrower’s capacity.

- The Borrower itself clearly acknowledged that it did not know what it needed to do and relied on the Bank’s knowledge and expertise.

- It turned out that the Region itself obviously did not have the capacity to assist the Borrower in achieving effectively this objective.

- The Panel’s July Report findings on the failure to carry out institutional strengthening to enable NTPC to carry out R&R is demonstrated by the content and scope of the Terms of Reference for both XIDAS and the Independent Monitoring Panel.

- The Panel finds that failure the Bank’s assist and supervise in institutional strengthening to meet this part of the objectives of the loan a serious violation of policy on institutional strengthening.

- Management initiated in September 1997 actions to monitor, supervise, and evaluate the Borrower’s capacity to implement current R&R problems address basic issues that hitherto hampered the project.

- Management proposals for strengthening NTPC environmental management capacity are expected in February 1998.
B. PARTICIPATION OF AFFECTED PEOPLE: ODs 4.01 and 4.30

Policies & Procedures

52. Environmental Assessments ("EA") “provide a formal mechanism...for addressing the concerns of affected groups and local nongovernmental organizations (NGOs).” (OD 4.01, ¶ 2) particularly where involuntary resettlement is to take place. This is made more explicit in OD 4.30 where paras. 7-8 require “community participation”.

Involvement of Affected Groups and NGOs

“The Bank expects the borrower to take the views of affected groups and local NGOs fully into account in project design and implementation, and in particular in the preparation of EAs. This process is important in order to understand both the nature and extent of any social or environmental impact and the acceptability of any proposed mitigatory measures, particularly to affected groups.” (OD 4.01, ¶ 19)

53. The Requesters claim that the RAPs were prepared without consultation with affected people. The Management Response considered that “meaningful consultation with PAPs took place during the preparation of the RAPs.”

I. PANEL’S JULY REPORT

54. The Panel found prima facie, that:

- Lack of local consultations and participation in both preparation and implementation of the R&R component of the project appeared to be the root cause of past and current problems and complaints, including a reluctance or resistance to relocate.

- As a March 1995 Bank field mission report rightly pointed out, the participative process, communication and sharing of information regarding NTPC policy, entitlements, and compensation was lacking. Furthermore, the reported use of petty contracts to influence ‘PAP representatives’, etc. meant it would be extremely difficult for NTPC to convince the PAPs in the ash dyke villages of Vindhyachal and Rihand to move out to be resettled and rehabilitated within NTPC policy framework. This was particularly so when some aspects of the policy, such as land-for land, are difficult to implement as the PAPs do not have sufficient funds available to pay for new land.

- During his visit in the field the Inspector himself found that NTPC did not facilitate his meetings with all local NGOs or PAPs. His request for NTPC not to be present...
was only reluctantly honored, and indeed some NTPC officials tried to silence PAPs in his presence. In one instance, one official wrote a report for NTPC of a meeting with a collection of local NGOs and PAPs which did not reflect the questions posed by the Inspector, the answers, or the discussion as simultaneously translated by the Panel's independent interpreter.

- PAPs had not received advance notice of the Inspector's visit though they had been promised by Bank officials that sufficient notice would be given to them so they could organize any community meetings necessary for a Bank visit. This failure resulted in a loss of PAPs confidence in the Bank's intensified commitment to participation/consultation.

55. The Management Response proposed a Project Specific Action Program. The Panel found that while Management recognized that there was no consultation with PAPs in the design of the EAs and RAPs, none was expressly proposed in the Action Program even though the Request and recent events suggested dissatisfaction among some PAPs with the original RAPs.

56. **Lessons Learned:** Management Response also acknowledged generally the need for robust processes and associated staff capabilities to ensure early, up-front, and meaningful participation of all project affected communities and their leaders in the design of Bank-assisted projects:

"We take very seriously the allegations of the 'adequacy' of participatory consultation in preparation and design, and the social cost of delays in the implementation of the Environmental Action Plan (EAP) and the Resettlement Action Plans (RAPs)."

57. The Management Response also proposed a Broader Action Program consisting largely of proposed studies. The Panel considered that appropriate local participation as well as intensive on-the-spot Bank supervision would contribute to its prospects of successful implementation. If the studies and reviews resulted in actions to be carried out in close cooperation with directly affected PAPs and NGOs, then they should help answer the Requesters' concerns regarding the overall past and present situation in Singrauli.

58. The Panel found generally that the activities proposed in both the specific and broader action programs did not reflect the fact that the RAPs were developed without authentic local participation and therefore may still not be acceptable to local people.

II. DESK STUDY

Updated Action Program

59. After interviews with Management and analysis of additional available information, the Panel concluded that the Updated Action Program did not include
local participation in preparation of the Program itself though the Country Director visited the field.

60. However, the Updated Action Program states that XIDAS’ tasks would be done “using participatory methodologies such as Rapid Rural Appraisal and focus group discussions” to:

“(a) assess the current status of those project-affected people or project-affected families who have not yet received full assistance under the policies in the ReAPs or RAPs;
(b) identify obstacles to successful implementation of the plans;
(c) advise NTPC and Management on corrective action required;
(d) liaise and consult with other relevant stakeholders in the area, in particular concerned NGOs, in an attempt to build consensus towards the proposed courses of action; and
(e) [as noted above] advise NTPC “…on how to ensure more meaningful participation in decision making by project affected people and other key stakeholders.” (¶ 9)

“and provide inputs into improving Income-Generating Schemes.” (¶ 10)

61. XIDAS will also conduct an Impact Assessment Study of the R&R to assess how effectively PAPs and Project Affected Families (“PAFs”) have been resettled and recommend remedial action to be considered by the Bank and “other stakeholders”. According to Management, the results of this study will be an input into the modification of the ReAPs and RAPs.

Additional Information

Project Design
62. Because Management decided that the loan had to go to the Board before the end of FY 1993, it was necessary to accelerate the entire process. The result was that the NTPC R&R policy was negotiated in Washington in about 2 weeks, and that one Senior Anthropologist went to Singrauli for approximately two weeks in May 1993 to assist in the preparation of the two RAPs. Therefore, meaningful consultations or participation by PAPs in any sense of the word were obviously impossible.

September Bank Supervision Report
63. The Aide-Mémoire of the September Bank supervision mission confirms that XIDAS would be responsible for discussing the scope of its TOR with stakeholders in the project area and indicates that time will be spent on public consultations. After six months it is expected that workshops on their final draft report will be carried out on site. According to the Aide-Mémoire, the report is expected to contain advice on corrective actions and proposals for revisions to the RAPs and ReAPs:
“XIDAS will scope out the Terms of Reference and detailed work program following discussions with affected population, concerned NGOs and other stakeholders and will be submitted to the Bank and NTPC by October 31, 1997. The first draft report will be completed by February 28, 1998, and the final report will be completed by May 15, 1998. A fortnightly progress report will be submitted to NTPC as input for making necessary revisions in the RAPs and ReAPs. The preliminary results of the studies will be shared with the various stakeholders at workshops to be held in the Singrauli region on various dates in the first weeks of March 1998.” (¶ 4,1)

64. At the time this report was prepared the final draft of the XIDAS “Inception Report” was not available to the Panel.

Findings

65. The preliminary findings in the Panel’s July Report which indicated prima facie evidence of serious violations of policies and procedures on participation and consultation of affected people as required by ODs 4.01 and 4.30 are confirmed. The Bank’s failure to observe policies and procedures in the design phase, however, appear more serious than previously assumed because of the Bank’s admitted inexperience in applying the policy back in 1993, and its failure to follow required loan processing procedures.

- The investigation indicates that, despite reluctance by staff members, Senior Regional Management decided to proceed with presenting the proposed loan for approval by the Bank’s Board by the end of FY 93 (June 30, 1993). The RAPs were then completed late May - early June 1993. The Loan Agreement was signed December 9, 1993 and became effective on June 6, 1994, the first disbursement, however, was not made until March 1995.

- In its July 1997 Report, the Panel found that the Bank’s failure to insist on participation and consultation with PAPs, as required by its policies, were at the root of current problems. There is no evidence that NTPC received appropriate assistance from the Bank to handle the participatory and consultative processes demanded by the Bank’s policies and procedures.

- It should now be obvious that no remedial Action Plans can succeed without authentic local participation.

- Given its limited mandate restricting its investigation to Washington, the Panel now cannot establish on the ground whether local NGOs or PAPs are satisfied that they are being consulted adequately on: the Updated Action Program, XIDAS’ TOR and Inception Report, the Proposed Regional Action Plan which the Bank might support with a new loan, and any revised RAPs and ReAPs.
• If the plans resulting from the TOR for XIDAS are implemented independently, then future revisions to the RAPs and ReAPs should be based on local participation with inputs coming from the ground up rather than the reverse.
C. Involuntary Resettlement: OD 4.30

Policies & Procedures

Objectives

66. "The objective of the Bank's resettlement policy is to ensure that the population displaced by a project receives benefits from it. All involuntary resettlement should be conceived and executed as development programs with resettlers provided [with] sufficient investment resources and opportunities to share in project benefits. Displaced persons should be (1) compensated for their losses at full replacement costs prior to the actual move; (ii) assisted with the move and supported during the transition period in the resettlement site; and (iii) assisted in their efforts to improve their former living standards, income earning capacity, and production level, or at least to restore them. Particular attention should be paid to the poorest groups to be resettled" (OD 4.30, ¶ 3).

"Resettlement plans should be built around a development strategy and package aimed at improving or at least restoring the economic base for those relocated. Experience suggests that cash compensation alone is normally inadequate. Preference should be given to land-based resettlement strategies for people dislocated from agricultural settings. If suitable land is not unavailable, non land-based strategies built around opportunities for employment of self-employment may be used." (OD 4.30, ¶ 13). Later the OD states that in rural settings "The Bank encourages 'land for land' approaches, [to resettlement] providing replacement land at least equivalent to the land lost." (¶ 13).

Bank Processing

"Involuntary resettlement is an integral part of project design and should be dealt with from the earliest stages of project preparation." (¶ 3). "The possibility of involuntary resettlement should be determined as early as possible and described in all project documents. The TM should (a) briefly summarize in the Initial Executive project Summary (Initial EPS) the magnitude, strategy, and timing of the resettlement..." (OD 4.30, ¶ 28)

"The Bank supports borrowers' efforts through (a) assistance in designing and assessing resettlement policy, strategies, laws, regulations, and specific plans..." (¶ 23)

"Submission of a time-bound resettlement plan and budget that conforms to Bank policy is a condition of appraisal... except for sector investment loans..." (¶ 30) or for projects causing involuntary resettlement of less than 100-200 people. (¶ 4, Footnote 8).

OD 4.30 also requires that "arrangements for monitoring implementation of resettlement and evaluating its impact would be developed by the borrower during
preparation and used during supervision. Monitoring provides both a warning system for project managers and a channel for the resettlers to make their needs known and their reactions to resettlement execution.” (¶ 22)

I. PANEL’S JULY REPORT

67. The Requesters claimed that the options for resettlement and restoration of livelihood under the RAPs and ReAPs are inadequate.6

68. Management Response stated that it complied “substantially” with this policy directive. The Response noted that land tenure rights and the R&R options to restore livelihood were in line with OD 4.30. But it agreed that design and implementation of the RAPs have not been satisfactory.

Project Design

Adoption of NTPC Corporate R&R Policy

69. After negotiations in Washington during March/April 1993, the NTPC adopted for the first time a R&R corporate policy which the Bank found basically conformed with OD 4.30. The Preamble of the policy states that “NTPC will take measures to resettle and rehabilitate Project Affected Persons (PAPs) with the objective that the PAPs will improve or at least regain their previous standard of living. Thus, NTPC’s effort is complimentary to the Government’s efforts in rural development.”

“Land for land”

70. The Panel found that as far as inclusion of “land for land” goes that:

- RAPs for the project were accepted by the Bank in 1993 as in compliance with the Bank policy.

- The Bank should have examined the actual availability of land before insisting on having this option included in the RAPs. This policy raised expectations and contributes in large part to the resistance to shifting by remaining land-owners. Moreover, it is understandable that there is resistance from PAPs who feel their

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6 In the case of this project, the situation is complex. Firstly, there are two RAPs prepared in 1993 which apply to those being involuntarily resettled to allow for construction of ash dykes to meet the expanded capacity of the Rihand and Vindhyachal thermal power plants—known as Phase II. Secondly, as noted earlier in this report, the Bank loan is supporting a time-slice of NTPC’s power expansion plans. The initial investment in the Rihand and Vindhyachal power plants, as well as the Singrauli one, were made without Bank financing. Therefore there were no RAPs. Under this project it was agreed to improve the situation of the many people displaced during this first phase, (Phase I). Thus the project required the preparation and implementation of three Remedial Action Plans (“ReAps”).
lives and livelihoods are disrupted when they have relied on these promises of receiving "land for land" and then are disappointed when told that is not possible.  

- Management explained in its Response that it "had underestimated the practicability of implementing the land for land options."

Income Generation Schemes

71. The Panel found that the current income generation schemes are inadequate and will not meet the needs of Requesters. The Requesters had agreed to relocate on the grounds that a job would be offered and sustainable income provided only to find themselves deprived of income or livelihood.

Categories of Affected People

72. PAPs living in the area deemed necessary for construction of ash dykes for Phase II of Rihand and Vindhyachal fall broadly into two categories:

- farmers with small holdings who have been in the area for generations, and
- laborers working for them.

To meet the objective of OD 4.30, the RAPs provided PAPs with the options of "land for land" or cash compensation and provision of economic livelihood; for non landowners, a plot for land for a house and employment. Such options were to be provided to each family member aged 18 and over.

73. There is an important difference in treatment between the ReAps and the Phase II RAPs: compensation and rehabilitation for pre-1993 affected people was offered on a family basis, or to Project Affected Families. Benefits under the 1993 RAPs are to be applied to all eligible family members 18 and over. The result is that:

- PAPs' expectations of what they would receive were naturally raised by the introduction of new standards which caused divisions and tensions through what appears to them arbitrary eligibility for better benefits. Furthermore, the expectations of those eligible were frustrated when promises are not met.

- Most of the land needed for future expansion of the plants was acquired and compensation partly paid in the 1980s. However, NTPC granted PAFs adverse possession—in other words, NTPC did not require the families to shift (though some did) but allowed them to remain living on and cultivating the land until such time as it was actually needed for construction.

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7 The Inspector learned from NTPC and the District Collector that no equivalent public land suitable for agriculture was available in 1993 in Madhya Pradesh for resettlement of Vindhyachal II oustees.

8 Of those displaced prior to Bank involvement through acquisition of land for construction of ash dykes for Phase I of Rihand and Vindhyachal as well as the Singrauli thermal plant, by 1993 some had relocated to other areas but most had been moved to resettlement colonies (Chilkadand for Singrauli, Punarwas I for
Those who were involuntarily resettled before 1993 only received one benefit per family despite their children having turned 18 or over. As a result, they feel shortchanged.

Those who actually chose to shift in accordance with the law at the time of acquisition (rather than remain as allowed in adverse possession) feel penalized as those who stayed now receive extra benefits.

For those who remained on the land, NTPC's intended humanitarian approach has created severe difficulties once the time came for eviction:

- Compensation money was spent.
- Availability of alternate land had diminished.
- Replacement land prices had risen.
- Family sizes have increased.
- A generation of children have come of age.

Restoration of Livelihood
74. Apart from complaints about the obvious lack of working infrastructure and maintenance in the colonies, the main individual or group complaints heard by the Inspector either orally or in writing on the resettlement and rehabilitation packages included, inter-alia:

(a) inducement to shift upon promise of working as contractors was often either ignored or honored only for a few days to a couple of months;
(b) expectation of permanent jobs with NTPC which did not materialize;
(c) inducement to shift on promise of a plot of land for a house was not honored;
(d) insufficient means to build a house; and
(e) bad living conditions in the resettlement colonies.

75. The Panel could not verify complaints (a) - (d) without a factual field investigation, but the Inspector could confirm by observation that (e) was a serious and bone-fide complaint.

Relative Standards of Living in Resettlement Colonies
76. The Inspector observed obvious shifts in life style when confronted with conditions in the Resettlement colonies:

- Those used to rural space and security in making their livelihood from agriculture have been shifted into crowded "colonies" on small plots, many without any

Rihand and Najveevan Vihar I for Vindhyachal); and, some continued to farm the acquired land (and employ laborers) as permitted by NTPC until such time as the land was actually needed.

9 PAPs gave to the Inspector some 30 letters with over 100 signatures.
income or, at best, with short or uncertain contract jobs. One Bank mission reports a respected local NGO leader as describing the colonies as neither villages nor townships, but still transit camps. Nothing has changed.

- Farm laborers were generally better off than before, since they had been, in effect, bonded labor. No PAPs at the sites visited expressly supported or denied this general proposition. To ascertain the actual effects of the situation would require a field investigation.

- Basic infrastructure in the resettlement colonies appears to have been provided but is definitely not maintained: drains filled with garbage and mud, water pumps not working, lack of electricity and water, health center but with no medical supplies or services, unusable community center, etc. The Inspector was told that this was a State responsibility and that in fact where there has been lack of action, the NTPC has gone beyond what is required of it by, in some instances, providing such facilities.

Chilkadand, the resettlement colony for those displaced by the Singrauli power plant, appeared to be in the worst shape. It is located right beside a NCL mining operation where, in addition to the problems enumerated just above, housing appears to be deteriorating, hand pumps not working, water pipes defective, and street lighting in disrepair. Residents claimed that they would like to get out of this unbearable environment but were afraid that they would not be rehabilitated any better than the last time. It should be noted that this colony is for those displaced before Bank involvement, so land plots were given to families as opposed to each eligible adult, resulting in overcrowding.

Decisions of Indian Courts Improve on RAPs

77. A number of PAPs have taken their R&R problems to the local Courts. The Panel noted that Court ordered R&R benefits appear to go beyond those in the RAPs.

Local Views

78. In summary, the substance of R&R problems raised by the various local NGOs, activists, or community leaders with the Inspector appeared to reflect number of complex issues such as:

- differences between treatment of PAPs from Vindhyachal Stages I and II
- differences in pre-displacement standards of living, occupations, etc.

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10 In addition India has a National Human Rights Commission to which one group of PAPs—represented by Ms. Kohli—submitted a complaint over their treatment by local authorities. The Commission found those particular complaints lacking in merit.
• perhaps, most importantly, differences in expectations based on unfulfilled promises.

Underlying these problems is the fact that the 1993 RAPs contained elements, or held out promises to PAPs, that the Management Response, as already mentioned, admits that it "had underestimated the practicability of implementing the "land for land" options and difficulties in carrying out income generating schemes." This admission raises the question of whether there are in fact practical alternatives to achieving the Bank's policy objective of ensuring that the project does not leave the PAPs worse off than they were before; and if so, what are they?

79. The Management response included a Project Specific Action Program. Because the Panel found the remedial actions proposed inadequate, it considered that:

• The numerous problems raised should be mitigated or prevented now instead of waiting for retrospective identification through future reviews/studies and future mitigation activities or remedial actions (as proposed in the Broader Action Program).

• This would require identifying the factual source of current R&R problems now so that Management can propose remedial actions based on local solutions as a matter of urgency.

• Resolution of discrepancies in resettlement and other issues—both past and present—is a prerequisite to implementation of the Action Programs.

• For this reason, the Panel believed it was imperative to conduct an immediate independent investigation of the facts to see if there is further evidence of the Requesters’ allegations of harm; and, if so, to identify whether such harm stems—as the Requesters allege—from acts or omissions of the Bank in violation of ODs 4.01, 4.30, and 13.05.

80. The Management response also included a Broader Action Program. The Panel concluded that the Action Program indicated Management's serious endeavor to mitigate the overall problems in the Singrauli energy sector plus all projects with resettlement components in India in a challenging way. The proposed actions reflected Management's desire to introduce a prudent social and environmental development program for the future. The program also addressed problems going well beyond those experienced with this particular project. The Panel noted that it assumed that appropriate local participation as well as intensive on-the-spot Bank supervision would contribute to its prospects of successful implementation.
Panel Conclusion on R&R

81. Based on the Inspector’s observations in the field which confirmed earlier reports from various sources, the Panel found it apparent that there were and are very real practical complications—both in terms of understanding and acceptance of the RAPs by the PAPs/PAFs and of the process by NTPC management—in implementing Bank R&R policies introduced during a later phase of an ongoing project. As the Panel has already stated, it is *prima-facie* self-evident that many of the involuntary actual or potential displacees affected by this project have or are likely to have suffered as a result of an alleged failure by the Bank to comply with OD 4.30.

II. DESK STUDY

Updated Action Program

82. The September 2, 1997 “Update of the Action Program” responded to the above Panel findings by proposing a new Project Specific Action Program comprised of the following components which confirm the Panel’s concerns. It states:

“I.

Actions to address current R&R problems

II.

Actions relating to the environmental aspects

III.

Actions to address wider social & environmental problems of the Singrauli region

IV.

Proposed Extension of the Project (Loan 3632-IN)” (¶ 4)

83. In interviews with the Panel, Management represented that the RAPs will be modified to ensure that they would represent realistic and implementable plans.

Additional Information

Bank Loan Processing and Preparation of R&R Component

84. The records and interviews with Staff show clearly that Senior Regional Management pressured staff to accelerate processing of the loan in order to meet fiscal year 1993 lending targets. Memoranda illustrating expert staff concerns that loan processing before June 30, 1993 would not allow sufficient time to prepare the R&R component in accordance with the requirements of OD 4.30 are attached as Appendix 1 to this Report. R&R was not even put on the Agenda as an issue for the Regional Loan Committee Meeting in March 1993, despite specific requests from staff. At the time the Chief Counsel for the South Asia Region in the Legal Department wrote to the Regional Senior Operations advisor as follows:

“I remain concerned, however, about the R&R aspects. Without burdening the agenda with numerous questions which arise from my reading of the various documents submitted, can the RLC consider what would prevent us from requiring all R&R matters/plans/etc being sorted out as a condition of appraisal. Learning from the lessons of Narmada and heeding the Wappenhans ‘quality at entry’ prescriptions, would it not be appropriate to
reinforce our seriousness about R&R by asking for all the necessary R&R actions/plans documents etc. to be available at appraisal so that they can be properly appraised?

In this respect, I was especially taken by the fact that NTPC’s current R&R policy does not yet fully meet Bank guidelines. This (and other related matters) should not be left as conditions for negotiation. In my view, they are matters which form part of the appraisal process.

85. After much negotiation, in late March/early April Bank staff approved NTPC’s adoption of a corporate R&R policy as generally conforming to the Bank’s OD 4.30. This was regarded by staff as a significant achievement since India does not have a national R&R policy. However, there was no assurance that the policy could actually be implemented. For this, the Bank’s OD 4.30 clearly calls for specific Resettlement Action Plans.

86. It appears that Senior Regional Management had argued that the loan should be considered as a Sector loan and for this reason NTPC’s new R&R policy was sufficient, even though two specific sub projects had been identified and formed part of the proposed loan. This prompted them to request that preparation of RAPs for Rihand and Singrauli be made a condition of effectiveness. This was rejected by the Legal Department as clearly in violation of Bank policy which requires that the RAPs be approved by the Bank as a condition of appraisal. However, the loan had been accelerated and R&R measures which should have been accomplished before appraisal and during negotiations were only accomplished after full negotiations. At the Legal Department’s insistence, preparation of RAPs satisfactory to the Bank were to be a condition for Board presentation.

87. The RAPs were then largely prepared during a two week field visit by one staff specialist in late May early June 1993. The RAPs were found to be in compliance with OD 4.30 by the Specialist and Legal Departments and on this basis those Departments cleared the package for Board presentation a day prior to its circulation in time to be considered before the end of FY 1993. The Board meeting to approve the loan was postponed from June 24 to June 29 at the request of two Executive Directors who were concerned about reports of NTPC’s poor track record involving R&R.

88. The file study does not indicate that the Borrower gave any priority to receiving this particular loan in 1993. Subsequent actions indicate that the Borrower was in no hurry to go ahead with the project. The Borrower did not sign the Loan Agreement until December 9, 1993 and the loan was not declared effective until 6 months later on June 6, 1994. Staff indicated to the Panel that this was an unusually long period. Furthermore, another 8 months elapsed before the first disbursement was made in March 1995.
89. The Panel considers that, while in the end the RAPs were accepted as complying with OD 4.30, the Bank's processing of the loan violated the Bank policy and furthermore set the stage for the Bank continuing to violate policies during implementation.

90. Staff interviews and files reveal that regional technical experts, following the advice of the Bank's central Environment Department insisted on inclusion of "land for land" and "promise of jobs" in order to comply with the letter of OD 4.30. This inclusion was made even though, in practical terms, it was known to be unrealistic because NTPC had a policy of not buying private land; and unlike the coal industry had few jobs, other than ancillary support ones, for other than skilled workers. This raises the question of whether it is reasonable for the Bank to expect the NTPC to implement programs consistent with Bank policy.

Implementation
91. In April 1995, the staff of the New Delhi Office ("NDO") visited the Singrauli area on a fact-finding mission and reported "[t]he potential for this case to be used as a trigger for inspection is great - it could easily be argued that the Bank has failed to ensure that the conditions of the R&R policy have been complied with. [emphasis added]" (Back to Office Memorandum, NDO Office). Details from the Back to Office Memorandum are attached in Appendix 2 to this Report.

Capacity Strengthening
92. The main objective was strengthening the implementing agency's ability to deal with R&R. NTPC officials themselves readily acknowledged, staff members informed the Panel, and the files show that it should have been understood even in 1993 that NTPC did not have the necessary expertise to undertake implementation of their new R&R policy and the RAPs--designed according to the Bank's high standards. It seems unrealistic to expect NTPC, a company whose primary function is to produce power, to begin implementing the challenging social and environmental measures outlined in the program without adequate time to both gain the expertise and acquire the experienced manpower to carry out these measures which are outside its normal functions.

Compensation Problems
93. The factual basis of conflicting individual claims concerning involuntary resettlement and rehabilitation could not be dealt with by the Panel from Washington. However, as provided in the Updated Action Program, NTPC has now employed XIDAS to identify the factual source of the current problems as well as remedial actions. It is understood that this basic urgent task will be completed no later than May 15, 1998.

September 1997 Bank Supervision Report
94. Fact Finding. The Terms of Reference for XIDAS confirm the findings in the Panel's July Report and reflect proposals of the Updated Action Program.
“1. Fact-finding to sort out contradictory claims for PAPs who remain to be resettled or rehabilitated; and for PAFs who have not yet received the assistance or facilities identified under ReAP will be undertaken. Immediately an initial assessment will be made of the status and problems, facilitation of dialogue with stakeholders and recommendation of corrective actions for all the persons who remain to be resettled or rehabilitated under the Resettlement and Rehabilitation Plan for Mithini ash dyke at Rihand and V-II ash dyke at Vindhyachal (Stage II estimated at 119 persons) together with an assessment of the status and problems of all the families affected by earlier projects at all three plant sites who have not yet received the assistance or facilities identified under ReAP Stage I (Stage I estimated at 155 families). (¶ 2.5)

2. Contradictory claims of those already moved. An impact assessment covering the PAPs affected Mithini ash dyke at the Rihand and V-II ash dyke and at Vindhyachal to determine the current status of the process of implementation of the RAPs for these two sites. This will determine for each individual PAP whether entitlement packages and compensation amounts have been given and received. The base line social economic data already available, land records and -other relevant documents on which the RAPs were constructed will be used as a basis for this impact assessment, together with the quarterly progress reports produced by NTPC. Any conflicting accounts as to eligibility and receipt of entitlement, will be assessed through consultations with the various stakeholders involved (NTPC, local NGOs and CBOs, PAPs, local leaders, the District Collectors Office and relevant documents). (¶ 2.6)"

95. Most importantly, the TOR point out that the Bank project is “covered by a policy with the objective of restoring standard of living”—meaning PHASE II PAPs are included in the RAPs. For those covered by ReAPs for all three of NTPC's Singrauli plants, the objective is “to improve conditions for those affected by earlier investments in power generation”. To determine whether the resettlement standard has been met for those involuntarily resettled due to construction of ash dykes for Rihand and Vindhyachal Phase II, XIDAS' TOR state that:

"An Impact Assessment will be undertaken to determine the changes in the living standard of PAPs affected by Mithini ash dyke at Rihand and V-2 ash dyke at Vindhyachal. Such an impact assessment will, inter alia, determine the extent of changes, both positive and negative, that have accompanied their resettlement, the sustainability of the rehabilitation measures extended to or adopted by them independently and will ascertain the extent to which standards of living have improved or declined. This includes an assessment

11 Source: Terms of Reference for XIDAS.
of impact on the social structure of the villages, and of the changing fortunes of particular groups within the villages. In addition to the production of a rigorous assessment of impact, the consultants should support their finding with a representative sample of detailed case studies which provide individual histories of family changes that have occurred. Information collected will provide a basis for determining whether the PAPs displaced by NTPC’s activities have been provided with the means to restore their former living standards, earning capacity and production levels, thereby providing an understanding of whether vulnerability has increased or decreased and whether the degree of sustainability has improved or not.” (¶ 2.8)

To determine whether the objective of improving the standard of living of those resettled earlier has been met, XIDAS’ TOR state that:

“A study shall be prepared of the adequacy, implementation and outcome of the ReAPs (covering “Stage 1”) in the resettlement colonies and the clusters in pursuit of the provisions of the Remedial Action Plans. These plans focus on:

i) development and enhancing community facilities for benefits of said PAFs;

ii) training and other facilities to upgrade skills and improve opportunities; and

iii) assist PAPs’ access to Government Development Programs.

This study will be done focusing on those identified by NTPC as beneficiaries under the ReAPs.” (¶2.7)

Findings

96. The NTPC’s Resettlement and Rehabilitation policy and the Resettlement Action Plans appear to have complied, at least on paper, with the Bank’s Operational Directive (OD 4.30) and were cleared by the Bank’s Legal Department and Environmental Specialists. However, the loan was processed so rapidly—with the RAPs completed immediately before the project was presented to the Bank’s Board—that there was no time to ensure that essential mechanisms and preconditions, such as State Government commitment, capacity of implementing agency, etc. were in place or adequate. The resulting implementation problems can be attributed largely to the failure of the Bank to follow the process of R&R preparation as required in OD 4.30. In turn, Project Affected People expected the benefits of the RAPs to be applied. The fact that these RAPs could not, or were not, implemented gave rise to dashed expectations, which, as the Panel noted in its July Report, appear to be the root of current problems.
97. The Inspector, during his July visit, was invited to visit villages of unaffected people so as to compare conditions in the colonies with them. As stated in the Panel's July Report:

"There are certainly conditions far worse in India and elsewhere in the world than those in the colonies and there is no doubt that there are villages in the area where people are worse off, but it has to be remembered that the one and only yardstick the Panel is asked to use is whether people involuntarily displaced appear to have been restored, at least, to their previous standard of living."

The Panel's impression was that this had not happened, and so it asked to investigate.

98. It must also be pointed out that, in terms of the Bank's OD, resettlement in this area had a long and sad history, creating a set of very complex social problems. It was hoped that Bank involvement could at least improve the situation. However, since it was not an isolated project in the region, the introduction of Bank standards created discrimination between past and future displacees.

99. In this case, the files and interviews with Management show that the Bank appears, within a short time-frame, to have demanded of the Borrower commitments to a general policy and to specific RAPs without proper knowledge of the intricacies of the local situation. In addition, this appears to have been done without appropriate analysis or planning of the future availability of expert Bank staff resources necessary to give technical advice and to supervise implementation by the Borrower.

100. The recent Bank September Bank Supervision Report rated implementation of the RAPs as "Unsatisfactory". It claimed that implementation "of the RAPs for Vindhyachal II and for Rihand II remain stalled because of the pending Inspection Panel limited investigation approved by the Board on September 12, 1997. A specific action program with a set of agreed remedial actions is now under implementation."

101. Also rated as "Unsatisfactory" was the implementation of Retrofit Rehabilitation Action Plans (ReAPs). The "Aide-Mémoire" stemming from the Bank's September supervision mission noted that ReAPs have now been prepared for all NTPC sites except in Vindhyachal where the RAP covers the PAPs of Vindhyachal I as well.

102. In accordance with Bank policy, the RAPs contained provisions for income generating schemes to enable PAPs who were dislocated from their traditional agricultural jobs to earn a living. The Panel finds that:

- These schemes have failed.
• Bank staff have acknowledged that it has little expertise and experience with advising on income restoration schemes.

• Failure to address the situation has resulted in some PAPs becoming victims rather than beneficiaries of the project.

Evictions
103. It had been agreed that there will be no further evictions pending the outcome of XIDAS' findings (which are due May 1998). According to reports sent to Bank Management, this agreement was allegedly violated on November 24, 1997 when the President of the Bank received letters claiming that some affected people were being induced to move because bulldozers were sent in to destroy their crops. It is alleged that when the PAPs tried to block this action, their resistance was met with physical force. This incident increases concern that actions initiated have not yet had any remedial effect and highlights the difficulty of Bank supervision from outside Singrauli.

Evidence of Harm
104. Nothing in the Desk Study was found to contradict the preliminary findings of the Panel's July Report restated below:

• Harm has occurred because many PAPs have not been, and may not expect, to be restored to at least their previous standard of living whereas OD 4.30 (¶ 4) in fact calls for "a package aimed at improving... the economic base for those relocated."

• Most of the displaced population does not appear to be receiving benefits from the project (for example, electricity) despite this being the express objective of the Bank's resettlement policy. (OD 4.30, ¶ 3)

• The reluctance to move by those who have not yet relocated can be well understood given the experience and dashed expectations they see of many who have already shifted. The Panel notes that these PAPs are subject to eviction.

• In relation to this it is worth stressing again that both the July Report and this investigation restrict themselves solely to actions or omissions taken by Bank Management. The single and only question for the Panel in this context is whether the PAPs who have shifted appear to have the equivalent or better standard of living as required by the Bank R&R policy, and whether those who have not yet moved are likely to have the same.

• The Panel's July Report considered that: "To ascertain the facts of the diverse case specific complaints received by the Panel would require an investigation." Subsequent conflicting reports of alleged attempts at eviction on the ground appear to reinforce the necessity for an assessment by an independent body reporting directly to the Board. Management informed the Panel in the Updated
Action Program that an independent assessment of the facts is indeed being undertaken by XIDAS. However this entity will submit a draft report to both the Bank and NTPC before finalization. This welcome initiative, though, does not appear to have arrested continuing conflicting reports of activities on the ground.
D. BANK SUPERVISION OF INVOLUNTARY RESETTLEMENT: ODs 4.30 AND 13.05

Policies & Procedures

105. Paragraph 31 of OD 4.30 states that:

"Resettlement components should be supervised throughout implementation. Supervision that is sporadic or left until late in implementation invariably jeopardizes the success of resettlement. Bank supervision missions should be staffed with the requisite social, economic, and technical expertise...."

106. The first part of this provision refers to activities under OD 13.05 on Project Supervision, particularly paras. 44-47 which deal with the preparation and discussion of a supervision plan with the Borrower during project appraisal and advises, among other things, that it should include "aspects of the project that require special bank attention during supervision, (e.g. environmental concerns, impact on the poor); and the borrower's contribution to supervision." (¶ 44). "Supervision planning and the preparation and updating of the Plan must be based on the factors determining the requirements for each project... The level of institutional strength, especially inter-agency co-ordination" (¶ 46(e)).

107. Paragraph 48 of OD 13.05 on Mission Planning states that "Projects under implementation should be visited at least once a year, up to three or four times a year for those with special problems, or where other factors demand greater supervision effort."

108. In addition, OD 4.30 requires that "arrangements for monitoring implementation of resettlement and evaluating its impact should be developed by the borrower during project preparation and used during supervision. Monitoring provides both a warning system for project managers and a channel for the resettlers to make their needs known and their reactions to resettlement execution... Monitoring and evaluation units should be adequately funded and staffed by specialists in resettlement. In-house monitoring by the implementing agency may need to be supplemented by independent monitors to ensure complete and objective information." (¶ 22)

I. PANEL’S JULY REPORT

109. The Panel found that:

- Recommendations of the March 1995 NDO staff field visit report referred to in the Panel’s July Report which recommended a number of specific actions did not appear to have been acted on by Bank Management. The Inspector’s impression
was that the situation on the ground had not changed much from the quite bleak picture of events painted in this report and in the subsequent Berne Declaration report, the June 1997 Bank field report, and submission by the Delhi Forum. (All three documents were attached to the Panel's July Report).

- PAPs in the Vindhyachal area had to resort to the local Courts to obtain an order restraining NTPC from evicting villagers before R&R benefits were provided. The Panel found no evidence of any Bank actions to ensure that required RAP measures were implemented prior to shifting people.

- Management recognized problems with the effectiveness of its project supervision, as reflected in difficulties in having appropriate remedial action taken to overcome project implementation problems. Had the supervision been effective, some of the harm suffered in the project area may have been avoided.

110. The Panel considered that intensive on-the-spot Bank supervision would contribute to the prospects of successful implementation of any remedial action plan.

111. The proposed Project Specific Action Program noted that "since 1995, most of the supervision responsibility for R&R under the project was delegated to the Social Development Unit (SDU) in the Resident Mission in Delhi. Notwithstanding these adjustments on the part of the Bank, supervision has not been fully effective in resolving the difficulties in implementation."

II. DESK STUDY

Updated Action Program

112. In response to the Panel's July Report, the Updated Action Program included the following actions:

113. "Improving the Bank's Supervision. Supervision will be done on the basis of key indicators and benchmarks agreed upon. Consideration will also be given to focused external evaluations on key issues;" (¶13 (b))

114. "Establishment of an independent body to act as monitoring panel, consisting of eminent persons in India, representatives of NGOs, supreme court advocates, retired justices, and individuals with professional backgrounds in R&R. Their role would be to systematically and regularly review and advise on implementation of the R&R program. They will be fully independent, with the right to investigate any elements of the R&R action plans they deem appropriate." (¶13 (c))

115. Strengthening of the Bank's Delhi Office Management states that it has already initiated action to further strengthen the capacity of the SDU and its role in the supervision of the R&R and other environmental components of the project (¶ 14).
“As part of the South Asia Regional Renewal Program, the Country Director for India has been located in Delhi, effective July 1, 1997. In addition, the NDO’s SDU will be strengthened by the assignment of an experienced R&R specialist to head of the SDU effective September 15, 1997, and the recruitment of additional Indian specialists. The Head of SDU will have full authority in assessing implementation of the R&R, as well as the other environmental components of the project and advising Management on actions that may be necessary in light of the implementation of this component.” (¶14-15)

Additional Information

NDO Staff Supervision
116. In some 1995 reports—which were available to the Panel—of visits to the field by NDO expert staff, the complex problems associated with implementation of the R&R component for these two projects were observed and reported. In one instance, the staff, noting the lack of any progress, suggested that if some specific progress was not forthcoming then “serious consideration should be given to sanctions by the Bank for non-compliance with the conditions of the loan.” (See Appendix 2).

NTPC Independent Monitoring Panel
117. The NTPC “Independent Monitoring Panel” has been established in consultation with local and international NGOs and its TOR are attached as Appendix 3. Their first assignment will be a field visit (December 21-23) to investigate an alleged attempt to forcibly induce PAPs to move from one area.

Institutional Capacity of NTPC to Monitor
118. The September 1997 Aide-Mémoire announced that, in addition to the actions in the Project Specific Action Plan, “it was agreed that NTPC would prepare a proposal for strengthening their capacity to implement R&R, in particular the strengthening of their monitoring capacity.” (¶9) This proposal was due by November 15th for discussion with the Bank.

Findings
119. Supervision of the Resettlement & Rehabilitation component and of the measures to strengthen NTPC’s capacity to monitor have effectively failed.

120. Here again the documents reviewed indicate that the Bank’s failure to observe policies and procedures as required under OD 4.30 and OD 13.05 on Bank supervision is more serious than described in the Panel’s July Report. During the design phase, the Bank misjudged the Borrower’s ability to implement the R&R

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12 These NGOs, listed in the September Aide-Mémoire, Annex 2, are MYRADA, Action Aid, INTACH, WWF, SPARC, Development Alternatives, Berne Declaration, CIEL, Institute for Policy Studies, PRIA, CSE, PIRG, Banwasi Sewa Ashram, and the Ford Foundation.
component and the Bank’s capacity to supervise it. As a result, mostly negative outcomes were inevitable.

121. The files show that on the ground site “missions” by Bank experts to supervise R&R implementation amounted to a few days each year and were sporadic and insufficient.

- As a result, the Bank relied heavily on NTPC staff—who might obviously have conflicts of interest—for information it required for supervision when NTPC itself admits that this was a new area in which it had no expertise.

- NTPC hired sociologists but whether and the extent to which Bank experts provided guidance and supervision cannot be established.

- The Bank’s Regional staff, who were neither sociologists nor environmental experts, were not provided with the support needed to supervise effectively the implementation of this component.

- The establishment of the new “Independent Monitoring Panel” which will function for at minimum one year from November 1997 may—for as long as it is in existence—be a useful tool to support the Bank’s future supervision efforts.
E. ENVIRONMENTAL ASSESSMENT: OD 4.01

Policies & Procedures

122. "EAs provide a formal mechanism for interagency coordination on environmental issues and for addressing the concerns of affected groups and local nongovernmental organizations (NGOs)." (¶ 2)

"Project specific EAs should normally cover (a) existing baseline conditions; (b) potential environmental impacts; direct and indirect, including opportunities for environmental enhancement, and (c) systematic environmental comparisons of alternative investments, sites, technologies, and designs; (d) preventive, mitigatory, and compensatory measures, generally in the form of an environmental mitigation or management plan; (e) environmental management and training; and (f) environmental monitoring." (¶ 4)

"Because environmental issues generally involve national, provincial and local government agencies and cover a broad range of responsibilities...coordination among governmental agencies is crucial. Coordination is best achieved through interagency meetings convened by the proponent agency at key points, i.e. once the decision has been reached to carry out a full EA, and once the draft EA report has been completed. The meetings provide an opportunity to identify the issues, types of analysis to be required, sources of relevant expertise, responsibilities and schedule for the EA, mitigatory measures to be considered, and other recommendations." (¶ 18)

OD 4.30 (¶ 3(a)) states that: "Involuntary resettlement should be avoided or minimized where feasible, exploring all viable alternative project designs...."

I. PANEL’S JULY REPORT

Ash Disposal

123. The Requesters question the choice of ash disposal methods. They allege that involuntary resettlement in Vindhyachal and Rihand could have been partly avoided through upgrading of existing ash dykes and backfilling of ash in existing mines. The Management Response (pg. 2) stated that backfilling of ash in existing open cast mines in the Singrauli were not found to be feasible by Northern Coalfields Ltd. (NCL). It is not stated if the option was technically or economically non-viable or if the social costs associated with the chosen option were properly accounted for. It should be noted that this decision was recommended by Management without the benefit of full analysis of alternatives in the Environmental Assessment. The decision to adopt more dykes as an acceptable ash disposal technology, however, was approved by Management and this decision did create the need for a large resettlement program with considerable management problems and environmental risks. Under the circumstances it is clear that there was a lack of adequate
interagency coordination, i.e. between NTPC and NCL, as required by Paragraph 18 of OD 4.01.

124. The Panel doubted that all possible or feasible ash disposal technologies were considered seriously until recently. The Management Response reported that upgrading of “existing ash dykes has been considered and new ash dyke management techniques have been introduced.” However, a full analysis of alternatives, as required, does not appear to have been carried out and the issue was not addressed in the Staff Appraisal Report.

Ash Dykes Site Selection
125. As far as site selection for both the thermal power plants and ash dykes are concerned, the Requesters claim that the “inhabitation” and agricultural use of sites was not a criterion. The Management Response states that it is unaware of the criteria used and could not influence site selection for Rihand I and Vindhyachal I since these decisions were made in the early 1980’s long before the Bank was involved. Expansion of these existing power stations—for Phase II which is supported by Bank-financing—required selection of additional sites for the construction of further ash dykes. Noting that acquisition of additional land could not be entirely avoided, Management states it was satisfied with the site selection criteria. According to the Response, the decision to change the location of the Rihand II ash dyke to Mithini site was an attempt to further minimize resettlement and the impact on agricultural land. (pg. 10) The Panel was unable to comment on this aspect.

Health
126. The ash dykes can create health hazards to the population because of airborne or aqueous emissions of hazardous substances, including trace metals. To assess these risks, it is necessary to conduct studies both of trace metal contaminants as well as of the health impacts on the population at risk. However, there is no health database for the population that could be potentially at risk, which made it impossible to estimate whether the risks are high or damage has taken place.

II. DESK STUDY

Updated Action Program

Ash Disposal
127. In response to the Panel’s July Report on the need to reduce or even eliminate the necessity for land acquisition through back filling and improved ash disposal, the Updated Action Program states: “Backfilling of ash in existing open cast mines in the Singrauli area was not found feasible by Northern Coalfields Ltd. A study sponsored by USAID (1996) on proposed development and demonstration projects to enhance large volume uses of coal combustion by-products as a structural fill in India, concluded that most of the mines in this region are relatively young with limited reclamation activities, and swell factor for overburden requires space beyond what is
currently available. Management, however, plans to continue to pursue the backfilling option with an Northern Coalfields Limited and Coal India Limited. Therefore, a study to identify potential mines for backfilling and develop environmentally acceptable and sustainable options for ash disposal will be carried out in the context of the ongoing Bank-assisted Coal Sector Environmental and Social Mitigation Project." (¶20)

Ash Dykes: Health Hazard
128. In response to the Panel's concerns on health hazards caused by ash dykes, the Updated Action Program states that:

"Contamination of soil and crops from frequent leakages of ash slurry and protests from local farmers were reported in Vindhyachal. Site visits confirm that leakages are either due to mechanical failure of couplings or deliberate breakage of couplings by farmers for irrigation purposes. NTPC is addressing this issue through a series of measures which include: (i) routine inspection of pipelines, replacement of couplings with welded joints where necessary, and replacement of pipes at regular intervals; (ii) a recently started four year project at Vindhyachal costing about $10 million to reroute its pipes. The new route is shorter by 1.5 km, is mostly within NTPC premises, and is away from the agricultural fields; (iii) installation of ash slurry recycling plants for new ash ponds. For Vindhyachal II and Rihand II they were planned to be built as part of the EAP, but implementation has been delayed because of the R&R problems; and (iv) proposed establishment of regular communication with the farmers to disseminate information on long term adverse impacts of using ash slurry for irrigation and seek their participation in timely detection and repair of leaks." (¶19)

Inter-Agency Co-ordination
129. As noted in the Panel's July Report, there was a clear lack of inter-agency coordination which is required by OD 4.01. The Updated Action Program addresses this concern in the context of its section on "Actions to Address Broader Social and Environmental Problems of the Singrauli Region". Inter-agency co-ordination appears finally to have begun at the initiative of the Cabinet Secretary. The Updated Action Program reports that a committee to enable integrated management of development of the entire Singrauli region has already met. The committee consists of high-level representatives of the States of Uttar Pradesh and Madhya Pradesh governments, Ministries of Coal, Power, and Environment and Forest, NTPC, Coal India and the Bank. The two State Governments would be responsible for drawing up specific proposals which it was expected would draw on the Singrauli Development and Environmental Strategy. The Bank Management stated that it has agreed to consider the GOI request for IDA financing of such a program. (¶25-29)
Additional Information

September Bank Supervision Report

130. Supervision reports throughout the years noted lack of progress in many areas of implementation of the EAP for the Singrauli area. They also noted that shortcomings in NTPC’s environmental performance were due to institutional difficulties. In relation to the implementation of the EAP, the Bank September 1997 supervision report (Form 590) rated it as only partially satisfactory: a “number of environmental projects are being implemented as part of the Environmental Action plan but there are some substantial delays on the implementation of some of the agreed environmental projects. A program to complete the balance of activities of the EAP was agreed in September 1997.”

131. More specifically, the September report also noted that in “spite of delays in the implementation of the EAP, the mission sees a positive trend in NTPC. ...At Singrauli and Vindhyachal the current ash disposal areas are inadequate due to delays amounting to years in construction of new areas; discharge of ash pond effluent continues to violate MOEF standards; at Rihand ash is being dumped in ‘low lying areas’, without an evaluation of the long term environmental consequences or requirements for clearances for such activity.” (Aide-Mémoire ¶ 13)

132. “Mercury concentration in coal was analyzed as part of the EAP and again in each of the hydrogeologic studies of the ashponds. The results obtained in those reports differ markedly from previous data reported by NTPC Corporate, and results of analysis conducted at some of the NTPC power stations, and examined by previous missions. The EAP mercury analysis in coal reported levels of 0.11 ppm and 0.14 ppm in Singrauli and Vindhyachal respectively; while the hydrogeologic studies report levels of 1.8 to 6.5 ppm. NTPC should conduct a quality control-quality assurance investigation and verify the accuracy of the mercury concentration measured in coal supplies.” (Ibid. ¶ 13)

Inter-Agency Coordination

133. The September supervision mission “requested NTPC to develop a dialogue at the top management levels between Coal India and NTPC concerning the issue [of ash backfill]. The Bank has requested NTPC to provide meeting schedules, contacts, agendas, and conclusions. A report on the first meeting will be forwarded to the Bank in January, 1998.” (Aide-Mémoire, Annex 3, ID 318)

Findings

134. The Bank’s failure to observe its policies and procedures concerning Environmental Assessment (OD 4.01) in the preparation phase appear to be even more grave than observed in the Panel’s July Report.
• The investigation confirms that, contrary to Bank policy, serious alternatives for fly ash disposal were not considered during the design phase. Coal India's rejection of disposal by backfilling or consideration of other ash disposal/utilization was accepted apparently without further discussion of alternative measures.

• Information available to the Panel indicates that one option, i.e. backfilling of ashes, is now being considered by Coal India. If adopted, this option would considerably reduce future involuntary resettlement.

• As noted in the Panel's July Report, Bank support for close cooperation between NTPC and Coal India is indispensable. Such cooperation could facilitate measures which might lead to avoiding further resettlement, to improving schemes for job creation and sustainable income, and to reducing further health risks. Under its own policies, the Bank is required to foster and support this cooperation.

• The Panel notes that although measurements of mercury levels in the coal have been reported, there is no information regarding other trace metals. In addition, the relevant points to analyze trace metal levels are the ash, the slurry, and the groundwaters because these are the likely points of contact with the population and surrounding environment. There is no information available to the Panel regarding the fate and the transport of trace metals other than mercury.
F. Supervision of Environmental Aspects: ODs 4.01 and 13.05

Policies & Procedures

135. OD 4.01, Annex D on “EA Procedures: Internal” states that “EA recommendations provide the basis for supervising the environmental aspects of the project during implementation. Compliance with environmental measures, and the findings of monitoring programs are part of borrower reporting requirements and project supervision. When major issues arise, special supervision missions with adequate environmental expertise are programmed and budgeted in advance, where possible.” (¶ 13)

OD 13.05 on Compliance with Legal Covenants: “One of the major tasks of supervision is to monitor compliance with the legal agreements and, where conditions are not being fulfilled, to determine the causes and the best means for remedying the situation. Since supervision staff follow a project closely, they are in a position to recognize problem areas before they result in default. In case of default, the Bank seeks to exhaust all methods of persuasion before exercising contractual remedies.” (¶ 30)

I. PANEL’S JULY REPORT

136. To address the Requesters’ specific concerns regarding the current project, Management states in its Response that with respect to “supervision strategy” in the next twelve months the main Bank and NTPC activities are to focus on:

- implementation of the EAP, with improvements in implementation of some of the environmental projects which have fallen behind schedule; (¶2 (b))

- implementation of the ongoing institutional strengthening, training, and resettlement and rehabilitation programs in accordance with agreed schedules. (¶2 (c))

II. DESK STUDY

Updated Action Program

137. In response to the Panel’s July Report, the Management proposed that in “order to reinforce field-based supervision of the environmental aspects of the project, a team of environmental specialists was assembled in the NDO of the Bank. After initial discussions with NTPC commencing on August 6, the Team was deployed to the field to prepare a comprehensive Update of the Environmental Action Plan (EAP).” (¶ 17). The Vindhyachal, Singrauli and Rihand NTPC power stations were visited first
(August 6-22) and it was noted that based on this (and visits later to other power stations) the "Bank team will seek agreement with NTPC on a specific set of time bound actions arising from recommendations of the field reports."

138. Full authority for assessing the implementation of environmental components and advising Bank management on actions that may be necessary in light of the implementation of this component will now shift to the Head of the Social Development Unit in the NDO. (¶ 15)

Additional Information

139. A review of supervision reports for this component confirms the approach reported in the Management Response about the treatment of non-compliance with the agreed covenants under the loan on timely implementation of the EAP. Bank staff pointed out delays in implementation and recommended remedial actions. In the Management response it was noted that the Bank had chosen to exhaust all possible methods of persuasion before resorting to suspension of disbursements. Several warnings that the Bank might exercise its available remedies were issued through a number of Bank Supervision Aides-Mémoire.

140. The Aide-Mémoire of the September supervision mission repeats the comments of all earlier supervision missions, i.e. that there are shortcomings in NTPC’s environmental performance due to organizational difficulties.

141. The same Aide-Mémoire lists as key actions to be implemented by the Bank:

- "Monitor agreed plan for the balance of activities of the EAP on a monthly basis with NTPC’s corporate staff in Delhi.
- When necessary carry out field visits to selected power stations.
- Carry out a full supervision of the status of implementation of the EAP in February/March to determine extension of loan closing date beyond March 31, 1998." (¶ 15)

Findings

- Bank staff supervision missions appear to have been conducted in compliance with its polices and procedures and repeatedly pointed out the shortcomings in implementation of environmental projects.

- Management recognized non-compliance with loan covenants and decided not to exercise the formal remedy of suspending disbursements but to work with the Borrower towards a resolution and remedy. As the Management Response suggested, the approach perhaps has not been effective.

44
G. INDIGENOUS PEOPLES: OD 4.20

OD 4.20 states that "the center of this directive is to ensure that indigenous peoples do not suffer adverse effects during the development process, particularly from Bank-financed projects and that they receive culturally compatible social and economic benefits." (¶ 6)

A description of the Bank’s role includes the following: "Issues related to indigenous people are commonly identified through environmental assessment or social impact assessment processes and appropriate measures should be taken under environmental mitigation actions." (¶ 10)

I. PANEL’S JULY REPORT

142. The Request raised the question of whether the Bank had complied with its policy (OD 4.20) on Indigenous Peoples, alleging that no special consideration was given to tribal and ethnic groups in the Singrauli area. The Management Response considers that it has complied with the policy "because the socio-economic surveys carried out before appraisal found that no indigenous people were affected by the new investments in the ash dykes of Rihand II and Vindhyachal II." (pg. 11). The Response further points out that, since some NGOs questioned this result at the time, further follow up socio-economic surveys were carried out. According to Management, "some of the confusion arose, because about 10% of the PAPs of Vindhyachal I, which is not a Bank financed project, are classified as indigenous people", i.e. tribals. (Response, footnote 25) The Inspector raised the question in the field and in discussions with GOI representatives. The responses received confirmed the information provided in the Management Response.

Since the Inspector received no contradictory information during his field visit, the Panel did not further address this allegation.

II. DESK STUDY

Findings

143. OD 4.20 demands that special attention and procedures have to be applied for indigenous people. Given the considerable area of the project and the number of ethnic groups encompassed in that area, a number of staff considered it likely that the expansion of a power plant of this magnitude must impact the indigenous people.

144. The Management Response merely denies that there were any indigenous people identified in the specific area giving rise to involuntary resettlement due to the new investments in the ash dykes for Stage II of Rihand and Vindhyachal.
Further investigation of files and interviews of those who were concerned with the appraisal and processing of the loan revealed no further information. The Management Response claimed “full” compliance with this policy, so no corrective actions were then or have subsequently been proposed.
APPENDIX 1

Processing of Loan 3632: R&R Component

146. As noted in para 92 of the Investigation report, and in paragraph 93, project files indicate that ASTHR and legal staff were concerned about the fast project processing and approval without sufficient time to allow for RAP preparation in accordance with OD 4.30. The following memoranda record staff experts concerns at the time. A note of a then Senior Anthropologist in ASTHR to his Manager and Regional Managers tells the story. On March 1, 1993, he responded to a request from the Region for comments:

"...you asked for my comments on the resettlement action plans (RAP) as outlined in the Environmental Impact Assessments and Resettlement Socio Economic Studies for Rihand and Vindhyachal Thermal Power Projects in the Singrauli area and for advice on what to do next, as there may not be any further site visits before project approval. You also mentioned that it may be two to three years before any people are evicted and will need to be resettled. I have three sets of concerns on the RAP. These are:

**NTPC Policy.** This is fine in the earlier parts which describe categories of affected people (PAPs) and their eligibility. However, those who are considered to be eligible are not entitled to receive anything more than the oustees of the earlier NTPC Bank-financed projects in the locality of these two power stations, e.g., Singrauli Power and Dudhichua Coal. Apart from vague references to the possibility of revenue land, or land further acquired being made available, and the possibility of shop-keeping there is no definitive description of how oustees will replace their present income earning nor what provisions will be made by NTPC or SADA to achieve this end. Mention of poultry keeping and cattle raising is frequently made by project entities dispossessing people from their productive assets in India and cannot be taken as a serious R&R solution. The NTPC Resettlement Policy in itself provides no assurance that the Bank's own guidelines would be followed. (I believe that both ...(ASTHR) and ...(LEGOP) have already expressed their concerns over the NTPC R&R policy.)

**Resettlement Plan.** Full RAPs set out in a timetable and listing the actions to be taken by various agencies to both relocate people and restore their incomes could have made up for a weak policy. But, in the case of Rihand Power Station, there is no commitment to provide replacement (farm) land or
jobs requested by affected people, and only a promise of a plan for
Vindhyachal in June 1993.

**Coal Mines** supplying the two power plants also cause resettlement, i.e.,
Amlohri, financed by ODA for Rihand and Nigahi (financed by ?) for
Vindhyachal, but there is no mention of any policies or plans for resettlement
by Northern Coalfields Ltd. (NCL).”

And lastly the Senior Anthropologist expressed his general concern for the approach
being taken:

“I appreciate your concern to proceed with processing this project, but bearing
in mind the current interest in, and concern for, resettlement both inside and
outside the Bank, and bearing in mind there is nothing in the documents you
gave me which give assurance that R&R will be any better than in the past I
can only advise that NTPC be requested to come up with a more adequate
policy and a full RAP. I suggest the NTPC R&R policy should state clearly
what the R&R provisions **will be**, not what they **could or might be** for each
category of PAP, and that these provisions should be of substance and
include such items as replacement land acquired through Land Purchase
committees. The RAPs should set out exactly what will be done by whom and
when. The first project the Bank financed in the Singrauli area caused so
much aggravation and pain, that I do not think we should fall into the same
trap again. I also think you would be advised to request to see the RAPs
and/or a progress report from the two coal mines supplying coal. [Emphasis
added]

(I could not find the section on consultation with affected groups for
Vindhyachal Power Station in the EIA Report.)

I suggest that NTPC be requested to prepare full Resettlement Action
Plans in respect of the two thermal power plants which incorporate the
concerns expressed above and bring them up to Bank standard before the
project is appraised.”

147. On March 16, 1993 the Senior Anthropologist reported to his Manager and to
the Region on his discussions in Washington with Senior NTPC officials:

“As you are aware I have been in discussions with ... of NTPC over the past
few days. Our discussions have covered the general NTPC R&R policy and
the specific R&R plans (RAPs) for Rihand and Vindhyachal SSTPs, the first to
be funded under the above project. I have been advising and reviewing
documents concerning R&R under the project for the past year and feel
uneasy that we may be asked to sign off on RAPs which have actually been
drafted while the NTPC team is here in DC. Whatever ... produce during their
visit can only be treated as possibilities until the PAPs are consulted about the options that will be offered to them; until the State Governments of MP and UP have agreed to the proposals; the offer of "land for land" to those that want it is made; the administrative, organizational and financial arrangements are made clear; and, a timetable for implementation is developed and presented.

Last April I drew up an outline of what would need to be included in an RAP prepared in respect of the thermal power plants to be financed under the project. I attach a further copy of my outline which was sent to NTPC in May 1992, entitled ANNEX 1 INDIA - NTPC TIME SLICE POWER PROJECT. I do not think I wish to change anything in the outline which therefore still stands. I also do not see much point in being asked to agree to piecemeal efforts of the NTPC staff visiting the Bank at present as I would wish to see a complete plan as agreed to by all parties. We cannot properly appraise a list of intentions which is not agreed to and enforced by those who will benefit and those who will implement it.

On the general policy of NTPC, I earlier gave my views, the lawyers have given their views, and ... has given his views, and still the policy does not come up to Bank standards. The policy is weak on what will be done to ensure that PAPs restore or improve income levels, and is particularly weak on the issue of providing "land for land" to those that want it. In discussions I have mentioned to ... the need to purchase land for PAPs on a willing-seller/willing-buyer basis, possibly by means of a land purchase committee, but they are reluctant to pursue this matter as general NTPC policy, even if it is agreed to for Bank-financed projects. Yesterday you mentioned that you would like to see the NTPC policy adopt the best features of the Narmada SSP policy, i.e., provision of land, and I fully agree, although I suggest that in addition some other income earning activities such as are being proposed by NTPC are further developed. I have also already suggested that it would be advisable for NTPC to propose a policy compatible with that of the Bank before project approval and I still hold that view. I certainly feel very uneasy pursuing the current incremental development of R&R plans and policies from two standpoints, a) NTPC have had a year to prepare a proper plan, and b) I want to see the commitment in writing of what they will do for the PAPs as part of a package and not in the form of notes.
Finally on March 30, in response to an invitation to attend the Regional Loan Committee Meeting on the proposed project and to provide comments and suggestions in advance, the Senior Anthropologist wrote as follows to the Senior Operations Advisor (...):

"1. I acknowledge receipt of your invitation to a meeting to discuss the above on Thursday, April 1, 1993 and will be in attendance. As requested in your EM, I have some comments and suggestions to make.

2. Your EM did not highlight involuntary resettlement as an issue connected with this project, presumably because the matter was not drawn to your attention. There are two resettlement issues, the question of NTPC's resettlement policy which would apply to resettlement under all power plants, and, the specific resettlement plans for people displaced under the first two power plants to receive Bank assistance under the new loan. For the past 12 months ... and myself have been reviewing policies and plans proposed by NTPC and have gone to considerable lengths to advise NTPC through the task manager on what would be acceptable and in line with the Bank’s OD 4.30. A Bank lawyer has reviewed the NTPC resettlement policy and found it to be needing considerable improvement to become compatible with the Bank’s OD. At the time of the return of NTPC employees to New Delhi last week, neither the policy nor the resettlement action plans were considered to be acceptable on technical grounds.

3. The underlying issue is that a resettlement plan (or policy) which does not genuinely offer the "land for land" option will, in all likelihood, result in resettlement of affected families in a similar manner to those resettled under the Bank-financed Singrauli Project and which drew heavy criticism and complaint from both Project Affected Persons (PAPs) and NGOs. The other implication is that whatever plan the Bank accepts for the first two power plants (Rihand and Vindhyachal) will be used as the standard for the other nine plants to be financed under the loan.

4. I am attaching some of the memoranda and electronic messages sent over the past year in connection with resettlement under this project which illustrate the gap between NTPC’s position and conformity with the Bank’s OD 4.30. I suggest that the meeting decide on what further action be requested of NTPC in respect of resettlement, before proceeding further with project processing."
APPENDIX 2

Implementation of RAPs: Problems Identified by Staff in 1995

149. As noted in paragraph 94 of this report, in April 1995, the staff of NDO office visited the Singrauli area on a fact-finding mission and warned that implementation of the R&R component was headed for the Inspection Panel. Details from that Back to Office Memorandum is as follows:

"Purpose of visit: To gain more detailed and immediate information on the progress of R&R activities and on the status of the PAPs.

Places visited: Singrauli resettlement colony, Chalkadand; Vindhyachal resettlement colony, Navjivan Vihar; Rihand resettlement colonies, Punarvas 1 & 2; Sirosoti affected village, Rihand; NCL resettlement colony, Ambedkarnagar; Shapur village, Vindhyachal Stage 1 ash pond; Mithini village, Rihand Stage 2 ash pond.

1. There are three sets of issues in R&R that need to be addressed simultaneously, with different tools and at different levels. The first set of issues is the most immediate and threatening to the progress of R&R in the three power plants in the Singrauli belt. These three sets of issues are:

(a) the immediate and urgent need to deal with the situation of some of those affected by NTPC's work in Shapur (Stage I ash pond) and "dharkar basti" (harijan settlement) in Sector 4 of Navjivan Vihar in Vindhyachal STPP and Mithini in Rihand STPP. This needs to be combined with the equally urgent need to definitively produce ReAPs for all three plants and revised RAPs for phase 2 in Vindhyachal and Rihand;

(b) the need to restructure NTPC's response to dealing with R&R issues, and the need to develop a set of benchmarks which can serve to indicate whether NTPC is making progress in the achievement of the ReAPs and RAPs to which it is committed; and

(c) the longer term need to link into wider ongoing development initiatives in the region, as well as creating opportunities for building sustainable strategies for livelihood maintenance.
2. This memorandum concentrates on the first two sets of issues. It is purposefully brief, to provide a set of points for discussion and action. The third set of issues needs to be dealt with in parallel with the other sets, but, while of considerable importance in underpinning a sustainable strategy and providing a backdrop against which a more comprehensive strategy might be developed, is not immediate.

3. The immediate problems which need resolution are:

(a) **Vindhyachal - Ash Ponds, Stage 1.** The most urgent problem is to be found in Shapur village, where a number of villagers face the imminent submergence of their plots. There is a compelling need to find a solution before the onset of this year's monsoon (i.e., before the end of June this year). The situation by the Stage 1 ash pond is extremely volatile - people are angry and tired of what they see as NTPC's endless prevarication. The threat of a breakdown in law and order is very real. The large numbers of contractors' vehicles already in place, but on hold, exacerbates the tension, as villagers maintain that monies paid to keep these idle could well be used to solve their problems. *The potential for this case to be used as a trigger for inspection is great - it could easily be argued that the Bank has failed to ensure that the conditions of the R&R policy have been complied with.* NTPC has not been able to find a solution and the living conditions of PAPs have quite obviously deteriorated. Any solution needs to be combined with a solution for the four villages affected by Stage 2. Compensation has been paid some years ago to both sets of villagers. People are demanding land-for-land, or land-for-jobs options before they will move. It is suggested that flexible means be developed to deal with the issue of previous compensation (soft loans over an extended period of time?), and that NTPC immediately and vigorously pursue the land-for-land option.

(b) Over 100 people, PAPs as well as NGOs, attended a meeting organized by NTPC for the Bank team, to further discuss problems in Vindhyachal area. One demand by a number of PAPs present was for *clear and definitive statistics about number of affected persons, numbers resettled and rehabilitated and amounts of compensation to be given.* The pre-eminent demand, of course, was for naukari (jobs), to replace the security being lost through the acquisition of their land.

(c) **Rihand - Ash Ponds, Phase 2.** Work on Phase 2 has continued. According to the concerned engineer, the threat of flooding due to construction work has been eliminated for this current season. The villagers are not convinced. The production of a participatory action plan is imminent. ... from Banwasi Seva Ashram has been invited to work with the PAPs to produce such a plan. This is to be strongly encouraged and is likely to be the only way in which a plan which is acceptable to PAPs can be produced.

(d) **Vindhyachal - Navjivan Vihar, Sector 4.** The pressing need to ensure sustainable livelihoods to the occupants of "Dharkar Basti" in Sector 4 is obvious. Their infrastructural needs are in the process of being dealt with. The PAPs' demands
for naukari (jobs) cannot be met, but there is, nevertheless, a significant need to find alternative employment opportunities. This is not easy, given their educational levels and severely restricted income generating opportunities. A number of suggestions have been made (direct contracting of laborers by the plant thereby avoiding exploitative middlemen, NTPC providing materials for the women to pursue their basket work). It is suggested that ..., and his NGO (Srijan Lokhit Samiti) be asked to develop a program of community development work, together with interested others in Navjivan Vihar, and that the NGO be given resources to intervene with immediate impact, as a prelude to longer term sustained commitment.

ORGANIZATIONAL PROBLEMS THAT NEED TO BE ADDRESSED
4. Restructuring NTPC’s R&R initiative. The face that NTPC presents to the villagers is, with a few significant exceptions, not a very favorable one. This is derived from a number of historical circumstances. All need to be addressed with some urgency.

   (a) There is firstly the corporate culture, which is dominated, quite naturally, by the views and opinions of (male) engineers, who address social problems in the same ways they would address road construction.

   (b) Like many organizations in India NTPC is hierarchical and status-oriented. While this may promote efficiency and effectiveness in dealing with physical infrastructural investments, it is not the most efficient or effective in dealing with the people affected by these investments - the most trivial decisions need to be made by the General Manager rather than by those involved in R&R work.

   (c) The traditional management culture has dealt with PAPs in an ad hoc and individualistic manner. This has varied from General Manager to General Manager and from person to person. Patronage networks, together with promises which have ensured short-term allegiances, have predominated. The accumulated costs of pursuing such individual initiatives are now beginning to emerge as PAPs call into account the past promises made to obtain access to land, as old promises of jobs and other benefits are resurrected.

   (d) Policies pursued have been interpreted in different ways by different managers. This has meant that overarching solutions to the problems of PAPs have not been forthcoming, because they have not been prioritized systematically.

   (e) R&R is perceived as primarily a public relations activity. The main aim appears to be to keep the demands of PAPs to a minimum, rather than seeing the RAPs and ReAPs as development opportunities, and to resist external intervention because it diverts attention from the main business.
5. These circumstances are not unique to NTPC. They are however problems that need to be vigorously addressed, and action on all five issues needs to be taken. Recommendations are thus to:

(a) significantly alter the skill mix of people dealing with R&R issues and delegate real authority for decisions to those involved with R&R issues at corporate and at plant levels (An important aspect of this would be the identification of who is actually responsible for R&R and giving him the necessary administrative and financial authority.);

(b) develop a more participatory management culture within the corporation;

(c) pursue, with the PAPs and interested NGOs, a much more participatory approach to the development of Action Plans to which all major stakeholders can agree;

(d) avoid the pursuit of individually prescribed solutions which have not involved collective decision-making processes; and

(e) ensure that R&R is distanced from PR in the thinking and in the designs of management, preferably by distancing the R&R activities from the purview of the general management of the plant.

CONCLUSION
6. The impression of deliberate obfuscation combined with a lack of importance attached to R&R issues, is difficult to avoid. It is evident in the "imminent" nature of much that remains to be done, the inability to convincingly delineate the boundaries of the problems, and the failure to produce revisions of ReAPs and RAPs. Significant progress in the production of identifiable and measurable indicators of achievement needs to be forthcoming within a reasonable time period (say three months). And, this would also include NTPC’s response with specific action plan on issues raised by ... in his BTOR and ... letter of April 17, 1995. If such progress is not forthcoming, then serious consideration should be given to sanctions by the Bank for non-compliance with the conditions of the loan."
APPENDIX 3

NTPC Independent Monitoring Panel

150. The Aide Mémoire of the September Bank supervision mission states that:

"The Project-Specific Action Plan also included the establishment of an Independent Monitoring Panel (IMP) by the end of September. This panel was to consist of eminent persons in India, representatives of NGOs, supreme court advocates, retired justices and individuals with professional backgrounds in R&R. Their role would be to systematically and regularly review and advise on implementation of the R&R program. They would be fully independent, with the right to investigate any elements of the R&R action plans they deem appropriate."

151. Annex 2 of the Aide-Mémoire of the September Bank supervision mission provides important details of this innovative monitoring approach:

"The objective of the independent monitoring panel is to systematically and regularly review and advise on implementation of the R&R program for the NTPC Power Generation Project funded by the World Bank.

NTPC is currently implementing these RAPs and ReAPs - RAPs for Vindhyachal (V-2 ash dyke) and Rihand (Mithini ash dyke) and ReAPs for Vindhyachal-I, Rihand-I and Singrauli. The RAPs cover what NTPC refers to as "Stage 2" PAPs, who are eligible for the benefits described in the new policy, and the ReAPs cover what NTPC refers to as "Stage 1" PAFs who are not eligible for the benefits covered by the provisions of the new policy, but who do have some entitlements under the provisions of the R&R policy. The unit of entitlement for Stage 1 persons affected by the project is the family (hence PAF) whereas the unit of entitlement for persons affected by Stage 2 persons in the adult individual (hence PAP).

PROPOSED SCOPE OF WORK: The Panel's scope of work would include:

- decide on implementation mechanisms in order to achieve the objectives of the Panel
- provide systematically and regularly review and advise on implementation of the 1993 R&R policy and implementation of agreed RAPs and ReAPs
- review and advise on monitoring and supervision of the project
• assess the functioning of grievance mechanisms and public consultation procedures for the project
• facilitate resolution of conflicts and divergent views between NTPC and project affected population and other stakeholders
• advise NTPC and the Bank on any other areas which the Panel considers appropriate in the context of the project’s resettlement program within the agreed policy framework.

MECHANISMS. The Panel will be fully independent, with the right to investigate any element of the R&R action plans they deem appropriate. They will have full access to any documentation relevant to the R&R programme. They will be expected to visit the project sites and interact with stakeholders as they deem necessary.

TIME FRAME. The Panel is expected to function from November 1997 for a minimum period of one year. The Panel will meet at least quarterly, unless specific situation require more frequent review. At the end of that period, an assessment will be made of the Panel’s role and functions, and a decision will be taken on whether to extend and/or change the Panel’s mandate. Any revisions will be mutually agreed by the NTPC, MOP, DEA, and the Bank.

MEMBERSHIP. The Panel will consist of three Indian nationals:

1. a Supreme Court/High Court advocate or retired justice, to function as Chair of the Panel and maintain a Secretariat:
2. a representative of a NGO with a national reputation of competence and integrity, which has not been working actively in the Singrauli area: and
3. a development expert with background in R&R issues in India.

CONSULTATION PROCESS ON PANEL ESTABLISHMENT: Selected stakeholders including a selected list of national and international NGOs will be invited to comment on the scope of work of the Panel, and to propose members. Organizations involved in the consultation process will not themselves be considered eligible for Panel membership. The final decision on Panel work program and membership will be taken by NTPC, MOP, DEA and the World Bank.

NGOs participated in the consultation process related to NGOs proposed for review and consultation in establishing the Panel.\(^{13}\)

\(^{13}\) Please see Footnote 17 above.
FROM: Vice President and Secretary

For consideration on
Friday, August 29, 1997

INSP/R97-9

July 25, 1997

INTEGRATION PANEL

Request for Inspection

India: NTPC Power Generation Project (Loan 3632-IN)

Panel Report and Recommendation

Attached is a memorandum from the Acting Executive Secretary of the Inspection Panel dated July 24, 1997, transmitting a memorandum to the Executive Directors from the Chairman of the Inspection Panel entitled "Request for Inspection - India: NTPC Power Generation Project (Loan 3632-IN) - Panel Report and Recommendation (Annexes 1, 2, 3 and 4)".

Distribution:

Executive Directors and Alternates
President's Executive Committee
Senior Management, Bank, IFC and MIGA
Inspection Panel

This document has a restricted distribution and may be used by recipients only in the performance of their official duties. Its contents may not otherwise be disclosed without World Bank authorization.
TO: Mr. Zhang Shengman, Vice President and Secretary, SECVP
FROM: Antonia M. Macedo, Acting Executive Secretary

SUBJECT: Request for Inspection
India: NTPC Power Generation Project (Loan 3632-IN)
Panel Report and Recommendation


Attachment
MEMORANDUM TO THE EXECUTIVE DIRECTORS AND ALTERNATES

SUBJECT: Request for Inspection
India: NTPC Power Generation Project (Loan 3632-IN)
Panel Report and Recommendation to the Executive Directors of the
International Bank for Reconstruction and Development

In accordance with paragraph 19 of IBRD Resolution 93-10 establishing the Inspection Panel please find attached the Report and Recommendation of the Inspection Panel concerning the above-referenced Request for Inspection.

Attachments
THE INSPECTION PANEL

REPORT AND RECOMMENDATION

on
Request for Inspection

INDIA: NTPC POWER generation PROJECT
(Loan 3632-N)

July 24, 1997
### ABBREVIATIONS USED IN THIS DOCUMENT

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Definition</th>
</tr>
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<tbody>
<tr>
<td>EAP</td>
<td>Environmental Action Plan</td>
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<td>EAS</td>
<td>Environmental Assessment Summary</td>
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<td>Electricité de France</td>
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<td>EIA</td>
<td>Environmental Impact Assessment</td>
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<td>GOI</td>
<td>Government of India</td>
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<td>World Bank New Delhi Office</td>
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<td>NGO</td>
<td>Non-Governmental Organization</td>
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<td>National Thermal Power Corporation</td>
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<td>OD</td>
<td>Operational Directive</td>
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<td>Project Affected People</td>
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<td>PAF(s)</td>
<td>Project Affected Families</td>
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<tr>
<td>SAR</td>
<td>Staff Appraisal Report</td>
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<tr>
<td>R&amp;R</td>
<td>Resettlement and Rehabilitation</td>
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REPORT AND RECOMMENDATION
OF THE INSPECTION PANEL

Request for Inspection
INDIA: NTPC POWER GENERATION PROJECT
(Loan 3632-IN)

Below is (1) Background information, (2) Discussion, and (3) Recommendation of the Inspection Panel ("Panel") on whether or not there should be an investigation ("Recommendation") into allegations made in the above-referenced Request for Inspection ("Request"). Annex 1 contains the Request. Annex 2 contains Supplementary Information submitted by The Berne Declaration and the Delhi Forum. The Management Response ("Response") to the Request is provided in Annex 3. A recent Staff Field Report is in Annex 4.

**Background**

1. On May 1, 1997 the Panel received a Request dated April 25 which alleged violations by Management of policies and procedures of the International Bank for Reconstruction and Development ("Bank") in relation to the National Thermal Power Corporation ("NTPC") Power Generation Project in Singrauli, India, financed by Loan 3632-IN (the "Project"). On May 2, 1997 the Panel notified the Executive Directors and Bank President of receipt of the Request (meaning "Registration" under the Panel’s Operating Procedures). On June 3, 1997 the Panel received the Management Response to the Request.

2. A loan supporting the Project was approved by the Bank's Board of Executive Directors in 1993 for an amount of US$400 million equivalent. The Loan was declared effective in June 1994. The Project was designed to take account of lessons learned from earlier NTPC operations in this area.

3. The Project is located in the Singrauli region of India about 1000 Km southeast of Delhi. Singrauli covers some 2,200 square kilometers spread over two states—Madhya Pradesh and Uttar Pradesh. The area includes part of the reservoir created by the Rihand dam— which provides for irrigation and a hydro plant generating capacity of 400MW. Thermal power plants based on major coal reserves near the reservoir have a total operating generating

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1 See The Inspection Panel, Operating Procedures (August 1994) at para. 17.

2 For a list of earlier NTPC operations see Response pg. 4, footnote 1.
capacity currently at 6,360MW. Studies suggest that estimated coal reserves would be sufficient to generate 20,000 MW of power for the next 130 years.

4. In the Singrauli area NTPC operates several thermal power plants--Singrauli (2000MW), Rihand (1000MW), Vindhyachal (1260MW). The 1993 Project was designed to increase the capacity of each of Vindhyachal and Rihand by 1000MW. The fly ash from the coal used for operating the plants is disposed of in ash dykes. Most of the land needed for the ash dykes had already been acquired by NTPC prior to 1993. An additional 300 ha was to be acquired for new ash dykes. The sites identified entailed the involuntary resettlement of about 370 families--project affected people ("PAPs"). For this reason, and to remedy the environmental situation of those already displaced by the earlier acquisitions, the Project included an Environmental Action Plan (EAP), two Resettlement Action Plans (RAPs) and provision for three Remedial Action Plans (ReAps).

5. The objectives of the Project are to "(i) help improve commercial discipline in the power system through the implementation of new commercial and investment policies; (ii) help NTPC meet its targets for capacity additions through increased mobilization of resources from internal resources, domestic and foreign capital markets as well as from the private sector through joint venture operations; (iii) upgrade environmental performance of NTPC power stations and make its new power stations environmentally more sustainable; and (iv) strengthen environmental management and resettlement and rehabilitation management capability." (¶3, pg. 4 Response)

6. The Project comprises: "(i) support of a five year time-slice of NTPC's least cost investment program of new coal and gas based power; (ii) support of NTPC's program to undertake joint venture operations; and (iii) implementation of an environmental action plan ("EAP") which includes upgrading of existing power stations, training and technical assistance for the strengthening of NTPC environmental and Resettlement & Rehabilitation ("R&R") management." The objectives of the EAP are, inter-alia, to "address outstanding R&R issues (within the context of the new corporate R&R policy); and to upgrade NTPC's capability to prepare and execute R&R programs." (¶3 pg. 4 Response)

THE REQUEST FOR INSPECTION

7. The Request was filed by Ms. Madhu Kohli for thirty-three signatories who live in the Project area (the "Requesters"). The Request claims that the people living in the project area have been, and may potentially be, directly, materially and adversely harmed as a result of the execution of the Project and the Bank's omissions and failures in the preparation and implementation of the project. The Requesters complain specifically that they are being compelled to move from their present rural location without any alternative livelihood like jobs or land or adequate housing.³

8. The Requesters believe that such acts and omissions violate various provisions of Bank

³ Subsequent to receiving the Response the Panel received several specific claims in support of the Request (May 27 and June 12, 1997). As these Requests do not raise new issues but provide rather specific examples of the claims made in the Request, the Panel--pursuant to para. 14 (d) of the Resolution did not transmit them to Management for a formal separate Response since the issues were already covered in the original Request. On July 18, 1997 the Panel received a "Statement in Support of the Panel Claim Filed on Behalf of People Singrauli" from the Delhi Forum, which reiterates the urgency of the matter. (Copy in Annex 2)
policies and procedures included in, inter alia, the following:

- Economic Evaluation of Investment Operations (OD 10.04)
- Environmental Assessment (OD 4.01)
- Involuntary Resettlement (OD 4.30)
- Indigenous Peoples (OD 4.20)
- Bank Project Supervision (OD 13.05)

**Confidentiality**

9. Ms. Kohli submitted original authorization of representation signed by the Requesters, who have requested that their names be made available only to the Panel members, but otherwise remain confidential.

**Allegations**

10. In short, the Requesters ask for an investigation into their claims in order to resolve the problems of people of Singrauli affected by the Project. They believe that the "actions of the borrower and omissions of the WB" were contrary to its policies and procedures. They also seek the Panel's "intervention for advising the Bank on remedies" to compensate the people affected by the Project for the adverse impacts they have suffered and will suffer due to alleged inadequate social and environmental mitigation measures. The Requesters summarize the main actions they seek as follows:

- The most critical issue to be remedied is the provision of alternative livelihoods acceptable to the people of past and present NTPC projects.
- Another priority is the provision and upgrade of basic infrastructure in existing resettlement sites with involvement and participation of the affected people.
- The Panel is asked to "further advise the Bank on provision of adequate financial and institutional arrangements to enable the borrower to carry out its commitments in conformity with WB guidelines."
- The Panel should "pressurize the Bank" to make resolution of existing social and environmental impacts a condition for continuing disbursements under the Project.

11. The Panel will not deal with some of the Requesters' demands. The Resolution establishing the Panel does not allow it to:

- review actions of the borrower: as expressly stipulated in the Resolution only those of the Bank in violation of its policies and procedures are the subject of this review;
- give "advise" on remedies: this is the role of Management.
- "pressurize" the Bank to take actions or decisions.

**Supplementary Information**

12. A submission entitled "The Singrauli Experience: A Report of an International NGO Fact-Finding Tour to the World Bank Projects of Singrauli/India" was delivered to the Panel on May 1, 1997. The report looks at social and

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4 Remedial actions for the social and environmental effects of earlier projects are in fact part of the NTPC 1993 Project.

5 In accordance with paras. 50 and 51 of the Panel's Operating Procedures, "any member of the public may provide the Inspector(s), either directly or through the Executive Secretary, with supplemental information that they believe is relevant to evaluating the Request".

The Berne Declaration, an NGO based in Switzerland, submitted to the Panel (copied to the Executive Directors) the report attached as Annex 2 which the Panel forwarded to Bank Management for their information prior to preparing their Response to the Request.
environmental impacts of the inter-linked coal and thermal power operations in the Singrauli region. Offered as a background document to the Request, the authors state that during their 1996 visit they \(^6\) "encountered disturbing evidence of lacking compensation and economic livelihood, missing participation, lacking infrastructure services, unchecked environmental degradation, and a pervasive atmosphere of intimidation and repression." It concludes that the social and environmental measures of the Project are not being implemented. (Annex 2 of this Report).

**MANAGEMENT RESPONSE**

13. Management (Annex 3 of this Report) considers that it:

(a) has *complied fully* with OD 10.04 on Economic Evaluation of Investment Operations and with OD 4.20 on Indigenous Peoples;

(b) has *complied substantially* with OD 4.30 on Involuntary Resettlement and with OD 13.05 on Bank Supervision;

(c) has *complied partially* with OD 4.01 on Environmental Assessment; and

(d) will implement an Action Program (attached to the Response as Annex A) which is intended to improve substantially the implementation of the Project and consequent results on the ground and so bring the Bank into full compliance with ODs 4.30, 13.05 and 4.01. (See also parts of the text quoted in ¶62 of this Report).

**RECENT ALLEGATIONS**

14. After the Management Response was received the representative of the Requesters claimed that PAPs were forcibly removed from the villages of Judi, Amratali and Churchuria to allow construction of the ash dyke for Vindhyachal. These allegations were countered by reports from NTPC describing the peaceful relocation of PAPs in accordance with a recent Court order which provided for their eviction within 15 days of receiving relevant compensation and other allowances. Bank staff later visited the area and reported the conflicting views of those interviewed. (Annex 4 of this Report)

15. More correspondence from the representative of the Requesters alleged that further, if necessary forcible, evictions from the village of Mithini—to make way for construction of the ash dike for Rihand II—were planned for June 20, 1997.\(^7\) The Panel informed Management of the allegations. Just prior to June 20 the Bank was informed by NTPC that further relocation from Mithini village would be postponed. The Chairman of NTPC visited the area on June 20, 1997. He informed Bank Management and gave assurances that the situation was calm; that people will not be given a deadline; that shifting will be voluntary and that he has informed the State authorities that police will not be needed in the area.

16. On June 19, NTPC sent Management written declarations from 92 PAPs who shifted

\(^6\) Peter Bossard of The Berne Declaration and Dana Clark of the Center for International Environmental Law, Washington, D.C.

\(^7\) In addition, on June 12, the Panel received a submission in support of the Request from some PAPs. The submission complained that the "project authorities are now anxious to move us out with use of force without any guarantee of an alternative livelihood." These Requesters "urge our situation to be spot checked by the Panel." "Supportive Claim - Request Registration No. RQ/97/2" June 3, 1997 from eight PAPs from the villages of Amratali and Judi.
from the ash dike area of Vindhyachal II (villages of Judi, Uska, Amratali, Churchura) after May 25, 1997. The translation states that the signatories declare that they “have received the necessary grant/assistance and that they have shifted voluntarily without any pressure whatsoever.”

**Discussion**

**Basis**

17. The discussion below is based on the Request, the Response, supplemental information furnished by NGOs, and additional information provided by the Requesters, Management and NTPC.

18. In addition, the Panel considered information obtained during Mr. Ernst-Günther Bröder’s (“Inspector”) visit to New Delhi and the Project area during July 6-13, 1997. Prior to this the Inspector consulted with the Executive Director representing the Government of India (“GOI”). During his visit the Inspector consulted in New Delhi with officials of the GOI—including Cabinet Secretary, the Additional Secretary of the Ministry of Finance, Joint Secretary of the Ministry of Power, and the Chairman & Managing Director of NTPC. In the Project area the Inspector met with Executive Directors, Senior Management and officials of NTPC; the representative of the Requesters; and—through an independent Hindi language interpreter hired in Delhi—with numerous PAPs in the Project area and local NGO representatives, activists and community leaders. After his visit the Inspector consulted again with the Bank Executive Director representing India.  

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8 The Panel wishes to thank the Executive Director and his office for comments and guidance and for arranging the Inspector’s meetings with officials of the GOI; assistance provided by the Task Manager, Mr. Tjaarda Storm Van Leeuwen, staff of the Bank Delhi office for logistical support in Delhi; the management and staff of NTPC for providing logistical support for his trip to and during his visit to the project area as well as for providing further background information; project affected people or their representatives for their cooperation and openness; and the many individual PAPs who gave the Inspector written statements.

**Scope**

19. The Request raises the question of whether the Bank has complied with its policy (OD 4.20) on Indigenous Peoples, alleging that no special consideration was given to tribal and ethnic groups in the Singrauli area. The Management Response considers that it has complied with the policy “because the socio-economic surveys carried out before appraisal found that no indigenous people were affected by the new investments in the ash dykes of Rihand II and Vindhyachal II.” (pg. 11). The Response further points out that since some NGOs questioned this result at the time, further follow up socio-economic surveys were carried out. According to Management “some of the confusion arose, because about 10% of the PAPs of Vindhyachal I, which is not a Bank financed project, are classified as indigenous people”, i.e. tribals. (Response, footnote 25) The Inspector raised the question in the field and in discussions with GOI representatives. They confirmed the information provided in the Management Response. Since the Inspector received no contradictory information during his field visit, the Panel will therefore not further address this allegation.

20. Regarding the other claims, there are contradictory allegations between the Request, Response and other information provided to the Panel, as well as observations in the field. This report will address the claims of harm suffered—allegedly as a result of Bank acts or omissions in violation of its policies and procedures—
relation to involuntary resettlement and associated environmental issues. Broad questions related to OD 10.04 on Economic Evaluation of Investment Operations cannot be addressed realistically at this late date and will not be discussed, except as they relate to the choice of ash disposal options.

21. The environmental and resettlement aspects of the Project are closely tied together by the technical choice for ash disposal. To build the ash dykes land had to be acquired and people involuntarily resettled. In addition the dykes themselves constitute a potential environmental hazard to the population.

22. The extent of authentic local resident participation in relation to resettlement and rehabilitation (R&R) will be addressed first. In addition, the question of Bank supervision will be reviewed. Finally the adequacy of the remedies proposed by Management in the “Action Program” will be discussed.

Preliminary Evidence of Material Harm and Application of Bank Policies

23. Since the Bank has admitted “shortcomings” in application of the policies on Involuntary Resettlement, Supervision and Environmental Assessment the questions that remain are:

(a) is there preliminary evidence of alleged material harm? and

(b) if so, is such harm prima facie a result of the Bank’s admitted shortcomings in the application of Bank polices and procedures?

Participation.

24. Environmental Assessments (“EA”) “provide a formal mechanism...for addressing

the concerns of affected groups and local nongovernmental organizations (NGOs).” (OD 4.01 ¶ 2) particularly where involuntary resettlement is to take place. This is made more explicit in OD 4.30 where paras. 7-8 require “community participation”. The Requesters claim that the RAPs were prepared without consultation with affected people. The Management Response considers that “meaningful consultation with PAPs took place during the preparation of the RAPs.” This issue is of key importance because:

(i) Lack of local consultations and participation in both preparation and implementation of the R&R component of the Project appears, prima facie, to be the root cause of past and current problems and complaints, including a reluctance or resistance to relocation.

(ii) The Inspector found the question of what constitutes “local” representation be an important issue on the ground.

25. As far as the preparation phase is concerned, the Response speaks for itself. As for the implementation phase, the Panel considers that a Bank R&R mission report best describes the situation in 1995. The mission—asked inter-alia to report on why PAPs were unwilling to avail themselves of various options available under the R&R policy—warned that as far as “consultation and participation are concerned, they are very much an NTPC controlled-process... and not representative of the affected community”. Suggesting that the communication and credibility between NTPC and the community would improve if meetings were organized in affected villages and resettlement sites with adequate public notice, the report noted that:

“Lack of participative process, communication, sharing of information regarding NTPC policy, entitlements, compensation, the
use of petty contracts to influence ‘PAP representatives’ etc. would mean that it is going to be extremely difficult for NTPC to convince the PAPs in the ash dyke villages of Vindhyachal and Rihand to move out to be resettled and rehabilitated within NTPC policy framework. This is particularly so when some aspects of the policy such as land-for land are difficult to implement, as the PAPs do not have funds to pay for the land.” (¶20)

Meetings with Local NGOs, Activists, Community Leaders

26. All local representatives/activists with whom the Inspector had the opportunity to consult complained that the R&R process was not a participative one. The Inspector’s experience was that little had changed since the 1995 observations quoted above. The NTPC organized, in advance of his visit, meetings with local NGOs/activists in Rihand and Vindhyachal. The Panel is concerned that invitees to these meetings were limited to a few local NGOs/activists who appeared to be closely linked to NTPC and that—despite express requests to the contrary—an NTPC official was present.9

27. In addition to the above meetings, the Inspector was invited by the representative of the Requesters to a meeting with local NGO representatives/activists in the Singrauli resettlement colony of Chilkadand.

28. At the Vindhyachal meeting several present informed the Inspector they had not been forewarned of his visit; this meant they did not have the chance to organize community meetings with PAPs.10 In their view this indicated that the Bank was not serious about its policy on local participation.

29. Another perception voiced by several NGOs or activists reflected, as stated in the 1995 R&R mission report, “a very strong feeling among the NGOs... that the NTPC is not serious about R&R and that it acts only when it is under pressure from the Bank as a reaction to pressure on it from international NGOs.” They still feel that their role as local leaders, representatives or activists is not effective because they do not have international NGO support or direct contact with the Bank, as does the representative of the Requesters. While not in disagreement with the substance of the Request they appeared to resent the fact that the representative was not from Singrauli. The Inspector explained who could file a Request drawing their attention to the Panel documentation he had distributed. He pointed out that there were bound to be different groups, differently affected, in different locations, with different interests in any given project area; and that any such group of people may choose to appoint any individual/s or organization to represent them. The Panel observes that there has clearly been a great deal of local tension, misinformation and misunderstanding surrounding the filing of this Request.

30. Despite reduced trust in the application of the Bank’s policy on local participation those present at the Vindhyachal meeting were hopeful that this would change. This underlines the

9 The Inspector took the liberty of inviting to such meetings other NGOs/activists whom he encountered. In Rihand invitees included representatives of 5 local NGOs. The Inspector invited Ms. Kohli to attend. Invitees at the meeting in Vindhyachal included 3 representatives of local area NGOs and/or activists. The Inspector invited 11 others encountered earlier in the day as he was driving to villages in the ash dyke area. In addition, the Inspector met privately in Vindhyachal with NGO representatives at their request.

10 They claimed that despite assurances from the Bank New Delhi Office (“NDO”) they had not been informed in advance of recent World Bank field visits. Staff of the NDO office later informed the Inspector that they rely on NTPC to inform local NGOs of missions to the area.
importance they place on continued Bank involvement and the expectations they have of the Bank’s intensified commitment to local consultation and participation. NTPC freely admitted that it does not have expertise in this area, that it is learning and is as determined as the Bank to institutionalize this new approach to R&R speedily and effectively into its corporate culture. To illustrate this, in Rihand NTPC invited the Inspector to a presentation by Village Development and Advisory Committee (“VDAC”) representatives. The VDACs were formed in an effort to enable “meaningful and effective communication with the affected population and also to involve them in the decisions affecting them.” (NTPC documentation)

OD 4.30 on Involuntary Resettlement
OD 4.01 on Environmental Assessment

31. The fundamental objective of OD 4.30 is to ensure that those to be involuntarily resettled are restored at least to their former standard of living or their living standard improved. (¶ 3 (b)) To achieve this the borrower is required to prepare a resettlement action plan acceptable to the Bank (RAP). In the case of this Project, the situation is complex. Firstly, there are two RAPs prepared in 1993 which apply to those being involuntarily resettled to allow for construction of ash dykes to meet the expanded capacity of the Rihand and Vindhyachal thermal power plants—known as Phase II. Secondly, as noted earlier in this report, the Bank loan is supporting a time-slice of NTPC’s power expansion plans. The initial investment in the Rihand and Vindhyachal power plants, as well as the Singrauli one, were made without Bank financing. Therefore there were no RAPs. Under this Project it was agreed to improve the situation of the many people displaced during this first phase. (Phase I). Thus the Project required the preparation and implementation of three Remedial Action Plans (“ReAps”).

32. The Requesters claim that the options for resettlement and restoration of livelihood under the RAPs and ReAPs are inadequate.

33. RAPs for the Project were accepted by the Bank in 1993 as “broadly” in compliance with the Bank policy.

34. Management Response agrees that design and implementation of the RAPs have not been satisfactory explaining that it “had underestimated the practicability of implementing the land for land options and difficulties in carrying out income generating schemes. Accordingly, in the implementation of these RAPs by NTPC significant problems and delays have arisen, reflecting certain shortcomings in design.” However, the Response notes that land tenure rights and the R&R options to restore livelihood are in line with OD 4.30.

35. As far as the status of relocation goes, the Response notes that “more than 60% of the PAPs of Vindhyachal II and Rihand II have been resettled and received their compensation packages” (pg. 16). At the time the Response was written that left 40% who have not been resettled some of whom were apparently resisting resettlement.

36. PAPs living in the area deemed necessary for construction of ash dykes for Phase II of Rihand and Vindhyachal fall broadly into two categories: farmers with small holdings who have been in the area for generations and laborers working for them. To meet the objective of OD 4.30, the RAPs provided PAPs with the options of land for land or cash compensation and provision of economic livelihood; for non landowners, a plot for land for a house and employment. Such options were to be provided to each family member aged 18 and over.

37. Of those displaced prior to Bank involvement through acquisition of land for
construction of ash dykes for Phase I of Rihand and Vindhyachal as well as the Singrauli thermal plant by 1993 some had relocated to other areas, most had been moved to resettlement colonies (Chilkadand for Singrauli, Punarwas I for Rihand and Najveevan Vihar I for Vindhyachal); and, some continued to farm the acquired land (and employ laborers) as permitted by NTPC until such time as the land was actually needed. There is an important difference between the ReAps and the Phase II RAPs: compensation and rehabilitation for pre-1993 affected people was offered on a family basis, or to Project Affected Families ("PAFs").

38. While in the field the Inspector observed the very real practical complications—both in terms of understanding and acceptance by PAPs and management of the process—of implementing Bank R&R policies introduced during a later phase of an ongoing project. The substance of R&R issues raised by the various local NGOs, activists, or community leaders appeared to reflect the difference between treatment of PAPs from Vindhyachal Stages I and II, differences in pre displacement standards of living, occupations, etc.—but perhaps, most importantly differences in expectations based on alleged promises.

- As stated above most of the land needed for future expansion of the plants was acquired and compensation paid in the 1980s, NTPC granted PAFs adverse possession—in other words did not require the families to shift (though some did) but allowed them to remain living on and cultivating the land until such time as it was actually needed for construction. The result is NTPC's intended humanitarian approach has created several difficulties once the time came for eviction:
  - Compensation money was spent.
  - Availability of alternate land had diminished.
  - Replacement land prices had risen.
  - Family size has increased.
  - A generation of children have come of age.
  - Those who actually shifted in accordance with the law at the time of acquisition feel penalized when those who stayed now receive extra benefits.
  - Benefits under the RAPs are to be applied to all eligible family members 18 and over. Those who were involuntarily resettled before 1993 who just got one benefit per family and whose children in the meantime are 18 and over feel shortchanged.
  - PAPs' expectations of what they would receive were naturally raised by the introduction of new standards causing divisions and tensions through what appears to them arbitrary eligibility for better benefits, and frustrated expectations by those eligible when promises are not met.

39. Underlying these problems is the fact that the 1993 RAPs contained elements, or held out promises to PAPs, that Management admits were unrealistic.

**Land for Land**

40. The Bank "encourages 'land for land' approaches, [to resettlement] providing replacement land at least equivalent to the land lost. (OD 4.30 ¶13). Management states that "in practice, NTPC has not been able to implement the land for land option in the Singrauli area and the main groups of PAPs still resisting resettlement are landowners." (pg. 16). It is understandable that there is resistance from PAPs who feel their lives and livelihoods are disrupted when they have relied on promises of receiving land for land and then told that is not possible.
41. The Inspector learned from NTPC and the District Collector that no equivalent public land suitable for agriculture was available in 1993 in Madhya Pradesh for resettlement of Vindhyachal II oustees. If this was so, the Panel believes the Bank should have examined the availability of land before insisting on having this option included in the RAPs. This raised expectations and contributes in large part to the resistance to shifting by remaining land-owners.

Resettlement and Rehabilitation Conditions

Resettlement Colonies
42. The Inspector visited two of the remaining households in the Rihand ash dyke area, and what is left of the four remaining villages in the Vindhyachal ash dyke area. To compare conditions he visited the Chilkadand, Punarwas I and II, and Najveevan Vihar resettlement colonies. The contrast is dramatic. Those used to rural space and security in making their livelihood from agriculture are shifted into crowded “colonies” on small plots, many without any income and others, at best, short or uncertain contract jobs. One Bank mission reports a respected local NGO leader as describing the colonies as neither villages nor townships, but still transit camps. Nothing has changed. The Inspector was told that farm laborers were generally better off than before, since they had been, in effect, bonded labor. No PAPs at the sites visited expressly supported or denied this general proposition. To ascertain this would require an investigation.

43. Basic infrastructure in the resettlement colonies appears to have been provided but not maintained. The Inspector was told that this was a State responsibility and that in fact where there has been lack of action, the NTPC has gone beyond what is required of it by providing such facilities in some instances. In the meantime the Inspector noticed that drains are filled with garbage and mud, water pumps not working, etc. Residents complained of a lack of electricity and water. The health center at Najveevan Vihar sports a sign of services offered in English only! There was no evidence of medical supplies, and a temporary doctor was appointed just two months ago. The community center is filled with what looks like construction junk and occupied by an old crippled woman and her son who have not received a plot/house yet. Residents said that the communal facilities had been cleaned just prior to the Inspector’s visit and some facilities freshly painted.

44. Chilkadand, the resettlement colony for those displaced by the Singrauli power plant, appeared to be in the worst shape. It is located right beside an NCL mining operation and transportation facilities. Housing appears to be already deteriorating primarily through blasting in the NCL mine; some of the hand pumps did not work and some are surrounded by blocked drains; water pipes are defective; most of the open drains are filled, as are some streets, with garbage, mud or other debris; street lighting was in need of repair. In this colony land plots were given to families as opposed to each eligible adult, resulting in overcrowding. Residents claimed that they would like to get out of this unbearable environment but were afraid that they would not be rehabilitated any better than the last time.

45. The Inspector was invited to visit villages of unaffected people so as to compare conditions in the colonies with them. There are certainly conditions far worse in India and elsewhere in the world than those in the colonies and there is no doubt that there are villages in the area where people are worse off. However, the yardstick the Panel is asked to use is whether people involuntarily displaced appear at first instance, and without further investigation, to be adversely affected, or harmed by the Project as measured
by the standards of the Bank’s resettlement policy.

Restoration of Livelihood

46. Apart from complaints about the obvious lack of working infrastructure and maintenance in the colonies, the main individual or group complaints heard by the Inspector either orally or in writing11 on the resettlement and rehabilitation packages included, inter-alia:

- inducement to shift upon promise of work contracts was either not honored or honored for a few days to a couple of months; and
- expectation of permanent jobs with NTPC which did not materialize;
- inducement to shift on promise of a plot of land for a house was not honored; and
- lack of money to build a house.

Income Generation Schemes

47. Management admits it “underestimated the difficulties in carrying out income generating schemes and recognizes that initial design and implementation record needs further evaluation.” (pg. 16). In the absence of jobs or a viable land-for-land choice this was the only approach considered. The Inspector observed that existing schemes did not appear to form a basis for successful future income generation. The Panel agrees that further evaluation is needed, but is concerned that this will still not meet the needs of Requesters who have agreed to relocate on the grounds that a job would be offered and sustainable income provided only to find themselves deprived of income or livelihood.

Preliminary Evidence of Harm

48. The preliminary impression is that harm has occurred because many PAPs have not been, and may not expect to be restored to at least their previous standard of living whereas OD 4.30 (¶ 4) in fact calls for “a package aimed at improving...the economic base for those relocated.” In addition, most of the displaced population does not appear to be receiving benefits from the Project (for example, electricity) despite this being the express objective of the Bank’s resettlement policy. (OD 4.30, ¶ 3) As for those who have not yet shifted, given the experience and dashed expectations they see of many who have already shifted, their reluctance to move, can be well understood. The Panel notes that these PAPs are subject to eviction Court ordered R&R benefits (which appear to go beyond those in the RAPs) are provided. In relation to this it is worth stressing again that this review is restricted to actions or omissions taken by Bank Management. The single and only question for the Panel in this context is whether the PAPs who have shifted appear to have the equivalent standard of living, or better as required by the Bank R&R policy and whether those who have not yet moved are likely to have the same. To ascertain the facts of the diverse case specific complaints received by the Panel would require an investigation.

Local Remedies

49. A number of PAPs have taken their R&R problems to the local Courts. Local dispute resolution is a purely sovereign matter beyond the scrutiny of an international mechanism such as the Panel. India’s democratic system with its respected independent judiciary allows PAPs to question their R&R treatment.12

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11 PAPs gave to the Inspector some 30 letters with over 100 signatures.

12 In addition India has a National Human Rights Commission to which one group of PAPs—represented by Ms. Kohli—submitted a complaint over their treatment by local authorities. The Commission found those particular complaints lacking in merit.
Supervision of R&R

50. OD 4.30 requires that “arrangements for monitoring implementation of resettlement and evaluating its impact would be developed by the borrower during preparation and used during supervision. Monitoring provides both a warning system for project managers and a channel for the resettlers to make their needs known and their reactions to resettlement execution... In-house-monitoring by the implementing agency may need to be supplemented by independent monitors to ensure complete and objective information.” (¶22) The Inspector’s observations and other information available provided preliminary evidence of that in supervising the Project, the Bank has:

- Relied on NTPC for information when the implementing agency itself admits that it is a new area for the Corporation and that it is in the process of learning.
- Conducted an insufficient number (every 6 months) of rather brief R&R field visits.
- Relied during field missions on NTPC staff—who might obviously have a conflict of interest—for interpretation from Hindi into English.
- Not set up independent monitors.

51. The recommendations of the 1995 R&R mission report already referred to above do not appear to have been acted on by Bank Management. The Inspector’s impression is that the situation on the ground has not changed much from the quite bleak picture of events painted in this report and in the subsequent Berne Declaration report, the June 1997 Bank field report and submission by the Delhi Forum.

52. It may be noted that PAPs in the Vindhyachal area had to resort to the local Courts to obtain an order restraining NTPC from evicting villagers before R&R benefits were provided. The Panel found no evidence of any Bank actions to ensure that required RAP measures were implemented prior to shifting people.

53. Management recognizes problems with the effectiveness of its project supervision, as reflected in difficulties in having appropriate remedial action taken to overcome project implementation problems. Had the supervision been effective some of the harm alleged to be suffered by the Requesters may have been avoided.

Conclusion on R&R

54. Involuntary resettlement is inherently painful under the best of circumstances. In this instance, the Panel believes it is prima-facie self evident that many of the involuntary displaces affected by this Project have or are likely to have suffered as a result of an alleged failure by the Bank to comply with OD 4.30.

Ash Disposal

55. OD 4.30 (¶3(a)) states that: “Involuntary resettlement should be avoided or minimized where feasible, exploring all viable alternative project designs....” The Requesters question the choice of ash disposal methods: they allege that involuntary resettlement in Vindhyachal and Rihand could have been avoided through upgrading of existing ask dykes and backfilling of ash in existing mines. The Response (pg. 2) states that backfilling of ash in existing open cast mines in the Singrauli were not found to be feasible by Northern Coalfields Ltd. (NCL). It is not stated if the option was technically or economically non-viable, and if the social costs associated with the chosen option were properly accounted for. The decision however to adopt more dykes as an acceptable ash disposal technology was approved by the Bank and this decision did create the need for a large resettlement program with considerable management problems and environmental risks.
Under the circumstances it is not quite clear whether there was interagency coordination—i.e. between NTPC and NCL—as provided for by OD 4.01 (¶ 18)

56. Based on an initial overview of documents, the Panel has reason to doubt that all possible or feasible ash disposal technologies were considered seriously until recently. The Management Response reports that upgrading of “existing ash dikes has been considered and new ash dike management techniques have been introduced.” However, a full analysis of alternatives, as required does not appear to have been carried out and the issue is not addressed in the SAR.

Ash Dykes Site Selection

57. As far as site selection for both the thermal power plants and ash dykes are concerned, the Requesters claim that the “inhabitation” and agricultural use of sites was not a criterion. Management states that it is unaware of the criteria used and could not influence site selection for Rihand I and Vindhyachal I since these decisions were made in the early 1980’s long before the Bank was involved. Expansion of these existing power stations—for Phase II which is supported by Bank-financing—required selection of additional sites for the construction of further ash dykes: Noting that acquisition of additional land could not be entirely avoided, Management states it was satisfied with the site selection criteria. According to the Response, the decision to change the location of the Rihand II ash dyke to Mithini site was an attempt to further minimize resettlement and the impact on agricultural land. (pg. 10) The Panel is unable to comment on this aspect at this point.

Health

58. The ash dykes can create health hazards to the population because of airborne or aqueous emissions of hazardous substances, including trace metals. To assess these risks it is necessary to conduct both studies of trace metal contaminants as well as health impacts on the population at risk. However, there is no health data base for the population that could be potentially at risk, which makes it impossible to estimate whether the risks are high or damage has taken place.

Supervision of Environmental Aspects

59. The Requesters claim that the Bank has failed to supervise the implementation of the EAP approved in 1993. The Response recognizes that implementation needs to be improved for “some of the environmental projects which have fallen behind schedule.” Examples of important environmental impacts that have not been studied, or analyzed only recently, include the fate of heavy metals (other then mercury) such as chromium, arsenic and selenium and others which could be considered potential ecological or health hazards.

60. In addition, the Requesters claim poor management of disposal systems which include unattended ash pipe leakages which contaminate drinking water wells, soils and crops. The Response does not deal specifically with any of these issues but in the specific Action Program proposes to reinforce field-based supervision to expedite implementation of the EAP. An update of the status of NTPC’s environmental actions, commitments and conditions carried out by the field-based supervision team is expected by the end of July 1997. It is important that the issues raised by the Requesters be considered during this exercise, in particular those that have serious delays.

Remedial Actions

61. Management’s remedial actions are laid out in the Action Program attached as Annex A to the Response. There are two parts to the
Action Program. One is a "broader action program" for the future; the other is a Project Specific Action Program.

**Broader Action Program**

62. In the cover memorandum to the Response Management outlines some lessons learned (pp. 1-3) which are quoted here in full:

- "Management shares many of the project specific and more general concerns raised in the Request and has learned several valuable lessons as a result of the intensive reflection undertaken in responding to the Request. Foremost among these lessons is a fuller appreciation of the need for robust processes and associated staff capabilities to ensure early, up-front and meaningful participation of all project affected communities and their leaders in the design of Bank-assisted projects. Our experience with the Project reinforces the concept that "ownership" at the earliest stage, is a prerequisite for successful implementation, and that it must emanate from all stakeholders including the government, executing agency, and the beneficiaries."\(^{13}\)

- "Second, Management is committed to the principle that it is the results on the ground which ultimately count. Project preparation and implementation plans are a means to that end, and not the end itself. **We take very seriously the allegations of the "adequacy" of participatory consultation in preparation and design, and the social cost of delays in the implementation of the Environmental Action Plan (EAP) and the Resettlement Action Plans (RAPs).** Our problematic experience under the Project with income-generation schemes as a core element of a strategy for the restoration of incomes, especially when land for land and permanent jobs with executing agencies are not practicable, has been instructive. We now understand better that several conditions must be satisfied for these plans to be successful. There must be meaningful consultations with beneficiaries and social mobilization of communities; there must be a thorough appreciation of the historical and cultural context in which the plans are to be executed; and **there must be solid capacity in place in appropriate agencies to closely monitor in a timely and coherent manner, and to ensure that the content of the plans are relevant.** Therefore, a central feature of the Supervision Strategy for the Project under the Action Program\(^{14}\) is to bring the Bank into full compliance with the relevant ODs."

- "Third, while not diminishing the import of the shortcoming identified in the design and implementation of the Project, in preparing this Response, Management has renewed its conviction that the broader relationship with NTPC must be kept in the fore. The Project is a time-slice operation; NTPC agreed to a retrofit perspective for environmental and social impacts. In the Request, as well as implementation record for the Project, many of the issues which have surfaced relate to broader business and corporate standards of NTPC. Accordingly, our interaction with NTPC, as with other major corporate partners, has to be managed more with a corporation-wide relationship in view. Given the depth and length of our relationship with NTPC, we should be more active in dialogue with NTPC on issues across the board; the long-term business strategy and plan in a changing fiscal and financial environment for power generation, notable the entry of private sponsors; the long-term prospects

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\(^{13}\) The Action Program in the Response at Annex A, paras. 3(c)(d) and 4(c) are intended to deal with this.

\(^{14}\) Ibid. paras 3(a) and (b).
for thermal and alternative technologies; and the environmental and social capabilities which a modern corporation needs to manage effectively in a national and even global context."

The proposed Action Program includes a series of activities which will ensure that we fully comply with O.D. 4.01 as well as activity involve a range of stakeholders in finding solutions to the nexus of issues related to the environment and power generation, mining technologies, hazardous waste generation, and the development of institutional management capacity. (Emphases added)

The Cover Memorandum (¶17 pg. 3) adds General Lessons which are also quoted below:

- "...we have been concerned for some time about the human cost in terms of social dislocation and environmental degradation of rapid and somewhat uncontrolled development of the Singrauli area where three major NTPC power stations are located, i.e. Singrauli, Rihand and Vindhyachal. Singrauli is a region which is the responsibility of the governments of the States of Madhya Pradesh and Uttar Pradesh, and therefore above and beyond the jurisdiction of NTPC. While previous attempts to engage the Government of India and the two state governments in developing a comprehensive approach to development of the area has not met with success, we intend to restart the dialogue with all stakeholders in the Singrauli area to identify 'win-win' strategies and programs as part of the Action Program [in Annex A, para. 4(a) of Response]" (¶16, pg. of Cover memorandum)

- "In the area of environmental management, we know that India, like many countries, has not addressed the environmental consequences of rapid growth and development. Mitigating the environmental impacts of coal-based thermal power generation in Singrauli and other areas in India is a long-term proposition which will require both resources for technological improvements as well as sustained institutional commitment and capacities to implement required policies and programs.

63. The Action Program indicates Management’s serious endeavor to mitigate the overall problems in the Singrauli energy sector plus all projects with resettlement components in India in a challenging way. The proposed actions reflect Management’s desire to introduce a prudent social and environmental development Program for the future. The Program addresses problems going well beyond those experienced with this particular Project. The Panel assumes that appropriate local participation as well as intensive on-the-spot Bank supervision will contribute to its prospects of successful implementation.

64. The broader Action Program proposes a review of all environmental assessments and all resettlement components in the India portfolio. (See Response Annex A ¶4 (a) -(g)) It consists of studies and reviews, some with deadlines, others without. The Panel understands that the past studies to be revisited might also be updated and translated into practical measures.

65. In conclusion, the broader Action Program for the future is a comprehensive approach to rectify very complex and difficult problems. In general, if the studies and reviews result in actions to be carried out in close cooperation with directly affected PAPs and NGOs they should help answer the Requesters’ concerns regarding the overall past and present situation in Singrauli.

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15 Ibid. para. 3(a).
Project Specific Action Program

66. To address the Requesters' specific concerns regarding the current Project, Management states that with respect to "supervision strategy" within the next twelve months the main Bank and NTPC activities are to be, inter-alia:

- implementation of the EAP, with improvements in implementation of some of the environmental projects which have fallen behind schedule; (¶2 (b))
- implementation of the ongoing institutional strengthening, training, and resettlement and rehabilitation programs in accordance with agreed schedules; (¶2 (c))

67. The above activities do not reflect the fact that the RAPs were developed without authentic local participation and therefore may still not be acceptable to local people. They also envisage compliance with agreed schedules; lack provision for review or does not propose initiating actions to alleviate the situation of those PAPs who find they do not have the land for land option or have been induced to shift and find there is no job at the other end.

68. Management recognized that there was no consultation with PAPs in the design of the EAs and RAPs and none is expressly proposed here. The Request and current events suggest dissatisfaction among some PAPs with the original RAP. Some, it appears, are resisting attempts to be relocated. It is apparent they have never been consulted and still are not participating in decisions about their future.

69. The next set of proposals envisages the use of Bank resources for an across-the-board review of NTPC corporate operations and business plan, including to "effectively re-appraise" NTPC implementation of the current Project. More specifically, such review is designed to, inter-alia:

- determine whether Management would agree to an extension of the Closing Date--September 30, 1997--of the current loan (¶3 (i)); and
- pursue a framework for remedial actions with particular reference to social and environmental issues as a basis for future operations (emphasis added)

70. The first proposal is time-bound and while not specifically stated would presumably measure performance of the current Project related obligations to bring the operations into full compliance with R&R and environmental policies. The second proposal appears to envisage remedial actions in future operations only.

71. To summarize, the project specific Action Program does not address the fundamental question of whether there are current serious problems in the R&R and environmental operations--as alleged by the Requesters and supported by others during the Inspector's field visit.

Conclusions on Proposed Remedial Actions

72. The Response and Action Programs fail to address current problems on the ground. None of the conflicting reports on the situation deny outright the allegations of the Requesters. The numerous problems raised should be mitigated or prevented now instead of waiting for retrospective identification through future reviews/studies and future mitigation activities or remedial actions. This would require identifying the factual source of current R&R problems now so that Management can propose remedial actions based on local solutions as a matter of urgency. The Panel considers that resolution of discrepancies in resettlement and other issues--both past and present--is a prerequisite to implementation of the Action Programs. For this
reason the Panel believes it is imperative to conduct an immediate independent investigation of the facts. This is necessary in order to see if there is evidence of the Requesters' allegations of harm; and if so, to identify whether such harm stems—from acts or omissions of the Bank in violation of, ODs 4.30, 13.05 and 4.01.

73. Any actions need to be taken in the context of the current and inevitable development of large scale open pit coal mining to fuel thermal power plants and consequent ash processing in this area: they are at present vital for India's fight to alleviate poverty and future development. In light of the objectives of OD 4.30 and 4.01, this calls also for close cooperation between NTPC and coal mining activities in the Singrauli area to avoid involuntary resettlement and where this is not possible, to achieve a harmonized resettlement and rehabilitation strategy including practical job opportunities. As emphasized by the President of the Bank, the poor and disadvantaged everywhere do not want charity; they want opportunity. They want partnership. As one local PAP representative privately told the Inspector, he felt very worried about rumors that some NGOs were determined to stop not only Bank involvement, but the Project itself. According to him, and it was the Inspector's impression, local NGOs/activists and PAPs supported continuation of the Project and considered Bank involvement essential. The representative of the Requesters likewise informed the Inspector that Bank support was necessary. The GOI has expressed its desire to support any measures the Bank might propose to achieve better immediate results for those adversely affected in the Singrauli area. The NTPC told the Inspector it hopes to improve R&R for the Singrauli area and make it a model for the country.

Recommendation

74. The Panel rejects some of the Requesters' demands, noted in paragraph 11 of this report, as outside its mandate. In addition, there would appear to be no grounds for an investigation into the allegation of failure to observe OD 4.20 on Indigenous Peoples. However, the Panel believes there is prima facie evidence of harm. It is possible that serious violations by the Bank of its policies and procedures may have occurred to a degree beyond those identified by Management in its Response. Therefore the Panel recommends that the Executive Directors authorize—as a matter of urgency—an investigation into the involuntary resettlement and associated aspects of the Project.
Annex 2
INDIA

NTPC POWER GENERATION PROJECT
(Loan 3632-IN)

MANAGEMENT RESPONSE TO THE INSPECTION PANEL:
UPDATE OF THE ACTION PROGRAM

September 2, 1997

INDIA COUNTRY TEAM
SOUTH ASIA REGION OFFICE
ABBREVIATIONS AND ACRONYMS

ADB = Asian Development Bank
CBO = Community-Based Organizations
CPCB = Central Pollution control Board
DEA = Department of Economic Affairs, Ministry of Finance, Government of India
DFID = British Department for International Development
DRDA = District Rural Development Agency
EAP = Environmental Action Plan
EDI = Economic Development Institute
ESP = Electrostatic Precipitators
FINNIDA = Finish International Development Agency
GOI = Government of India
LNG = Liquefied Natural Gas
MOEF = Ministry of Environment and Forests
NTPC = National Thermal Power Corporation
OD = Operational Directive
R&R = Resettlement and Rehabilitation
RAPs = Resettlement Action Plan
ReAPs = Remedial Action Plan
VDAC = Village Development Advisory Council
SPCB = State Pollution Control Board
XIDAS = Xavier Institute of Development Action and Studies

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INDIA

NTPC POWER GENERATION PROJECT
(Loan 3632-IN)

MANAGEMENT RESPONSE TO THE INSPECTION PANEL:
UPDATE OF THE ACTION PROGRAM

TABLE OF CONTENTS

Page No.

INTRODUCTION ............................................................................................................. 1

PROJECT-SPECIFIC ACTION PROGRAM ................................................................. 1

ANNEX 1: BROADER ACTION PROGRAM .................................................................. 9
INTRODUCTION

1. On June 3, 1997, Management submitted to the Inspection Panel, a Response to the Request for Inspection on the India: NTPC Power Generation Project (Loan 3632-IN). The Response included an Action Program which is designed to respond to the project-specific issues raised in the Request for Inspection, as well as to a number of broader environmental and social issues which necessarily would impact and affect the efficacy of project-specific solutions in the Singrauli area. The purpose of this Memorandum is to provide the Executive Directors with the detailed Project-Specific Action Program. An update on the implementation of the Broader Action Program is included as Annex 1.

2. Between June and August, a number of Bank missions visited the Singrauli area, including a mission led by the Country Director for India, now based in Delhi. For continuity, the mission included members of the 1995 Resettlement and Rehabilitation (R&R) mission whose report was referred to in the Panel's Report. Extensive consultation was also initiated with concerned corporations, government agencies, Non-Governmental Organizations (NGOs), and project-affected people and communities regarding the Panel Report and Recommendation. These discussions included the Cabinet Secretary of the Government of India (GOI) during his visit to Washington, and senior officials of the Ministry of Finance, Ministry of Environment and Forestry, Ministry of Coal, Ministry of Power, Governments of the states of Uttar Pradesh and Mahdya Pradesh, Local Authorities of the Singrauli region, Coal India Limited, NTPC officials at corporate headquarters, and plant managers in the Singrauli region and their R&R staff.

3. These field visits and consultations have enabled Management to further detail the Project-Specific Action Program outlined in the Management Response of June 3, 1997. These visits and consultations were not feasible within the limited time available to Management to prepare its initial response.

PROJECT-SPECIFIC ACTION PROGRAM

4. This Project-Specific Action Program comprises the following components:

I. Actions to address current R&R problems

II. Actions relating to the environmental aspects of the project

III. Actions to address social and environmental problems of the Singrauli region

IV. Proposed Extension of the Project (Loan 3632-IN)
5. The identification of the factual source of the current problem as well as remedial actions must be led by NTPC, which is responsible for the implementation of the project, and without whose full commitment and ownership no remedial actions can succeed. In this regard, understandings have been reached with the senior most management of NTPC, as well as the local NTPC officials in the Singrauli region, that NTPC would undertake and support the actions described below:

A. Consultation and Impact Assessment

6. An independent development institute, with experience in social research and rural extension work will provide assistance related to two tasks:

   (a) Assess the status and problems of persons who are covered in R&R programs of the Project, and families who have been identified as not yet resettled and rehabilitated. In the Project financed by the Bank loan covered by Rehabilitation Action Plans (RAPs), an estimated 119 people remain to be resettled, rehabilitated or both. In projects not financed by the Bank loan, where Remedial Action Plans (ReAPs) apply, this number is estimated at 155 families.

   (b) Undertake an impact assessment of the implementation of the R&R programs which formed part of the project, identify problem areas, and advise on solutions.

7. It has been agreed that the Xavier Institute of Development Action and Studies (XIDAS) of Jabalpur, Madhya Pradesh, will carry out these tasks. The Team for this work will be headed by Fr. (Dr.) M.vd Bogaert who has more than 30 years working experience in the tribal and rural areas of India. Fr. Bogaert has undertaken similar work with the Bank previously, and is highly respected in the country. Terms of reference for work of XIDAS would be prepared by NTPC and Management by end-September in consultation with XIDAS. For its part, XIDAS will scope out the terms of reference and detailed work program following discussions with the affected population, concerned NGOs, and other stakeholders.

8. The two tasks will be carried out in parallel, with urgent attention to finding practical solutions to immediate problems facing those who have not yet received their full entitlements under RAPs or ReAPs of the Project. The findings from this work will be used as inputs into modification of the existing RAPs and ReAPs. The two tasks are detailed in the following paragraphs.

9. Task 1: Using participatory methodologies such as Rapid Rural Appraisal and focus group discussions, XIDAS would undertake the following:

   (a) assess the current status of those project-affected people or project-affected families who have not yet received full assistance under the policies in the ReAPs or RAPs;

   (b) identify obstacles to successful implementation of the plans;

   (c) advise NTPC and Management on corrective action required;
(d) liaise and consult with other relevant stakeholders in the area, in particular concerned NGOs, in an attempt to build consensus towards the proposed courses of action; and

(e) advise NTPC on how to improve their information strategies and grievance mechanisms, and on how to ensure more meaningful participation in decision making by project-affected people and other key stakeholders.

10. XIDAS will provide inputs into improving Income-Generating Schemes on the basis of which NTPC would prepare a more effective program through the assistance of local NGOs, Community-Based Organizations, especially of women and youth, and the local business communities. NTPC will explore the possibility of contracting to NGOs, a business group or consulting company, the implementation of the income-generating program. Management would assist and advise NTPC on this program.

11. **Task 2**: XIDAS will also carry out an Impact Assessment Study of the R&R which formed part of the Project. The objective of this impact assessment will be to assess the extent to which the project has been successful in resettling and rehabilitating project-affected people/project-affected families. The study will recommend remedial action in accordance with the R&R policy to be considered by NTPC in consultation with the Bank and other stakeholders, and will be an input into the modification of the ReAPs and RAPs.

12. On the basis of these consultations, the findings of the Impact Assessment Study, as well as the judgment of the High Court of Jabalpur regarding the petition of certain villagers in Vindhyachal delivered on April 11, 1996 (and upheld by the Supreme Court of India on January 31, 1997), NTPC will undertake to modify the RAPs and the ReAPs to ensure that they represent realistic and implementable plans.

B. **Monitoring, Supervision and Evaluation**

13. In order to move the focus from isolated reviews, studies and remedial action on an ad-hoc basis, to a more systematic approach of ongoing feedback and adjustment as a learning process, an approach based on three levels of monitoring is envisaged:

   (a) strengthening of NTPC's internal monitoring and analytical capacity related to environmental and social impacts. Consideration will be given to recruitment of specialists who can assist NTPC in building up this capacity. Management will provide technical assistance and training towards this purpose (see Section III below);

   (b) improving the Bank's Supervision. Supervision will be done on the basis of key indicators and benchmarks agreed upon. Consideration will also be given to focused external evaluations on key issues;

   (c) establishment of an independent body to act as monitoring panel, consisting of eminent persons in India, representatives of NGOs, supreme court advocates, retired justices, and individuals with professional backgrounds in R&R. Their role would be to systematically and regularly review and advise on implementation of the R&R program. They will be fully independent, with the right to investigate any elements of the R&R action plans they deem appropriate.
C. Strengthening of the Bank’s Delhi Office

14. In the Management Response of June 3, 1997 (para. 20), Management noted that “since 1995, most of the supervision responsibility for R&R under the project was delegated to the Social Development Unit (SDU) in the Resident Mission in Delhi. Notwithstanding these adjustments on the part of the Bank, supervision has not been fully effective in resolving the difficulties in implementation”. Management has already initiated action to further strengthen the capacity of the SDU and its role in the supervision of the R&R and other environmental components of the Project.

15. As part of the South Asia Regional Renewal Program, the Country Director for India has been located in Delhi, effective July 1, 1997. In addition, the SDU of the Delhi office will be strengthened by the assignment of an experienced R&R specialist to head of the SDU effective September 15, 1997, and the recruitment of additional Indian specialists. The Head of SDU will have full authority in assessing implementation of the R&R, as well as the other environmental components of the Project and advising Management on actions that may be necessary in light of the implementation of this component.

D. Training of NTPC Staff

16. The need for an enhanced program of R&R training for staff is recognized by NTPC. A particular priority will be the strengthening of NTPC’s monitoring and analytical capacity. In addition, training programs for R&R staff on social skills, including communications with project-affected people, participatory methodologies and strategies for restoration of livelihood would also be undertaken. EDI is prepared to assist in the development of a custom-made program for NTPC to include:

(a) inviting a few, selected senior NTPC managers to a February 1998 Workshop on Economic Liberalization, Private Sector Land Acquisition and Resettlement and Rehabilitation, which is being co-sponsored by EDI and the Confederation of Indian Industry;

(b) structured study tours including visits to business organizations with successful experience in working closely with affected communities, developing community outreach programs, and establishing and maintaining high standards in relationships with local community organizations and people;

(c) a continuation of EDI Policy, Practitioner and Computer Workshops; and

(d) workshops on Corporate Responsibility and Change Management with the involvement of the Prince of Wales Charitable Trust that has already developed the relevant training materials.

II. Action to Address Environmental Aspects

17. In order to reinforce field-based supervision of the environmental aspects of the project, a team of environmental specialists was assembled in the New Delhi Office of the Bank. After initial discussions with NTPC commencing on August 6, the Team was deployed to the field to prepare a comprehensive Update of the Environmental Action Plan (EAP). The Update has three phases:
(a) Phase I (August 6 - 22) has been completed. This involved the visit of a team to the Singrauli area to review the implementation of EAP programs and other environmental issues at the Vindhyachal, Singrauli and Rihand NTPC power stations.

(b) Phase II began on August 19 and will conclude on August 30. Field-based consultants will visit Korba, Ramagundam and Farakka power stations and will prepare a comprehensive report; and

(c) Phase III will start in September. Headquarters and field-based staff will visit a number of the other NTPC stations and complete the comprehensive review of the EAP. The Bank team will seek agreement with NTPC on a specific set of time bound actions arising from the recommendations of the above field reports on the power stations covered under the EAP.

18. With regard to the ash disposal issue, the mission in July-August reviewed the situation and concluded as follows: all three stations (Vindhyachal, Singrauli, and Rihand) together currently produce a total of about 5.2 million tones of ash per year. Except for a small quantity of ash which is reused (the average ash utilization in India is not more than 2 to 3 percent, the situation in the Singrauli area is similar), most of the ash in the form of slurry is conveyed by long pipelines running into several kms for final disposal in large ponds. Two issues have been raised: (i) contamination of soil and crops and (ii) reducing or even eliminating the need for land acquisition through back filling and improved ash management.

19. Contamination of soil and crops from frequent leakages of ash slurry and protests from local farmers were reported in Vindhyachal. Site visits confirm that leakages are either due to mechanical failure of couplings or deliberate breakage of couplings by farmers for irrigation purposes. NTPC is addressing this issue through a series of measures which include: (i) routine inspection of pipelines, replacement of couplings with welded joints where necessary, and replacement of pipes at regular intervals; (ii) a recently started four year project at Vindhyachal costing about $10 million to reroute its pipes. The new route is shorter by 1.5 km, and is mostly within NTPC premises and is away from the agricultural fields; (iii) installation of ash slurry recycling plants for new ashponds. For Vindhyachal II and Rihand II they were planned to be built as part of the EAP, but implementation has been delayed because of the R&R problems; and (iv) proposed establishment of regular communication with the farmers to disseminate information on long term adverse impacts of using ash slurry for irrigation and seek their participation in timely detection and repair of leaks.

20. Backfilling of ash in existing open cast mines in the Singrauli area was not found feasible by Northern Coalfields Ltd. A study sponsored by USAID (1996) on proposed development and demonstration projects to enhance large volume uses of coal combustion by-products as a structural fill in India, concluded that most of the mines in this region are relatively young with limited reclamation activities, and swell factor for overburden requires space beyond what is currently available. Management plans, however, to continue to pursue the backfilling option with an Northern Coalfields Limited and Coal India Limited. Therefore, a study to identify potential mines for backfilling and develop environmentally acceptable and sustainable options for ash disposal will be carried out in the context of the ongoing Bank-assisted Coal Sector Environmental and Social Mitigation Project.

21. Other possibilities for ash utilization have been explored. In 1996, Rihand used about 73 percent of ash generated for filling up low lying areas, ash dyke raising, road construction, supply to cement/asbestos industries. This is however a one time event. NTPC and Regional Research Laboratory, Bhopal have successfully carried out experiments to use ash for enhancing crop yields at Rihand. A
A study on possible long term impacts on soil productivity and heavy metal contamination is underway, but the potential for ash utilization in agriculture is expected to be rather limited. Ash is also being used in limited quantities for house construction material. In addition, the forthcoming Bank mission in September will seek agreement with NTPC on the implementation of the recommendations of the recently concluded Bank-sponsored study on "Ash Management Disposal and Utilization" containing guidelines for ash management, evaluation criteria and analysis of ash management alternatives (Annex 1, para. 12(a)).

III. Actions to Address Broader Social and Environmental Problems of the Singrauli Region

22. Until 1960, Singrauli was an isolated and economically backward rural area on the borders of the states of Uttar Pradesh and Madhya Pradesh. In 1960, the process of transformation of the area into a power, coal mining and heavy industrial base began with the construction of the Rihand Reservoir. Along with this transformation, a veritable industry of "resettlement" has developed. (see Appendix 4 of the Management Response).

23. Today the Region suffers from the results of decades of uncoordinated and poorly managed heavy industrial developments, creating serious environmental problems and a large population of displaced people. There has been involuntary resettlement of about 100,000 people in the past three decades, some of whom have moved more than once as initial relocation sites have been taken over for further industrial development, township schemes, or waste disposal.

24. The total population of about 800,000 people today comprises: (a) a small group of skilled and semiskilled workers from outside the region attracted by the new industries and enjoying wage employment and a comparatively higher standard of living; (b) the large group of displaced people and their families who have received different levels of compensation and assistance towards rehabilitation, the latest being the project-affected people of the Bank-project; and (c) the large majority of the local population who remain in the rural communities. A recent study indicates that the last group represents the lowest income group and that nearly half of the local population is currently below the poverty line. Because of the sharp income differentials, social tensions exist not only among these three groups, but particularly among the different generations of displaced people who have received different levels of rehabilitation support. At the same time, the capacities of the local authorities and community remain limited, and in any event, they considered the displaced population a low priority as they do not regard this group as the neediest in the community.

25. The need for addressing the complex problems of the Singrauli region has been recognized for some time. Since 1990, a number of studies by international and Indian consultants have been completed, financed by NTPC, the Bank and other donors, the most recent being "Singrauli Development and Environmental Strategy" by GHK/MRM International Consultants in association with Hunting Technical Services Limited, and TATA Economic Consultancy Sciences, TATA Consulting Engineers, and TATA Institute of Social Sciences.

26. Over the past months as part of our Action Program (para. 4(a) of Action Program in Management Response), Management has initiated a dialogue with the Government of India and the Governments of Uttar Pradesh and Madhya Pradesh, with the object of starting work on a regional program of sustainable development for the Sidhi District of Madhya Pradesh and Sonebhadra District of the Uttar Pradesh which comprise the Singrauli region. Such a program would address the wider economic, social and environmental problems of the region.
27. Following discussions with Management in Washington, a decision was made by the Union Cabinet Secretary in January 1997 to study the possibilities for such action. To this end, a committee was set up to enable integrated management of development efforts in the entire Singrauli region. This committee is chaired by the Chief Secretary, Madhya Pradesh, with representatives of Uttar Pradesh, NTPC and Coal India Limited. Subsequently, a meeting chaired by the Additional Secretary, Department of Economic Affairs, Ministry of Finance was held with high level representatives of the Uttar Pradesh and Madhya Pradesh governments, Ministries of Coal, Power, and Environment and Forest, NTPC, Coal India and the Bank. During this meeting it was agreed that specific proposals would be drawn up by both state governments.

28. These proposals are expected to be presented to the Bank before the end of September. It is not possible, therefore, to be precise about their content at this time. However, the proposals expected from Uttar Pradesh and Madhya Pradesh in September will draw heavily on the recommendations of the Singrauli Development and Environmental Strategy. The priority action program outlined in this strategy includes investment in: roads and bridges; stormwater drainage; solid waste management; water supply and sanitation; slum upgrading (housing); transportation facilities; market development; small industrial sites; resettlement colony development; rural electrification; and institutional support. Active consultation and community participation will be essential to the successful design and implementation of these programs.

29. Management has agreed to GOI's request that IDA consider financing such a program, but the timing depends heavily on the quality of the preparation and the commitment of the state and local authorities, and participation of stakeholders. The immediate challenges in preparing such a project are: (a) defining a suitable management structure for a project spanning two states; (b) defining how to strengthen local institutions; and (c) agreeing on how to improve the local revenue base to help ensure sustainability. If these challenges can be met, the project would most likely take the form of demand-driven fund, in which investment grants and loans would be extended to public institutions, NGOs and community groups, on an agreed formula of matching financial contributions, and allowing for extensive participation in planning and execution by local NGOs and beneficiary groups. Given the complex socioeconomic situations in the Region and the weak capacities of the local authorities and institutions, the proposed project would undoubtedly be of high risks but seems the appropriate response to the most critical problems of the Singrauli region.

IV. Proposed Extension of Project (Loan 3632-IN)

30. The NTPC Power Generation Project (Loan 3632-IN) was the first of a series of loans envisaged to finance time slices of NTPC investment needs, and it is scheduled to close on September 30, 1997. At that time, total disbursement is expected to be about US$170 million, with an undisbursed balance of US$230 million. The Government of India and NTPC have requested an extension of this loan for eighteen months, i.e., to March 31, 1999.

31. In considering this request, and to address further the concerns raised in the Panel Report and Recommendation, Management will carry out a comprehensive review of the Project and of NTPC's corporate-wide operations and business plan (para. 3 of Management Response: Action Plan). For this review:
(a) A R&R team will: (i) prepare the Terms of Reference for the impact assessment together with NTPC (para. 7 above); (ii) agree with NTPC to establish an Independent Monitoring Panel which would begin functioning by the end of September, 1997 (para. 13(c); (iii) reach agreement with NTPC on a monitorable, time-bound action program over the following six months to address R&R problems, as summarized in Section I above.

(b) A environmental team will complete the in-depth review of the Environmental Action Plan (EAP). The team will seek agreement with NTPC on a time-bound series of actions, to be derived from the recommendations of the field reports on the power stations covered under the EAP (para. 17).

(c) A technical and financial team will review the implementation of the other components of the project as well as NTPC’s overall financial performance and business development.

32. In addition, the state governments of Uttar Pradesh and Madhya Pradesh are expected to submit their proposals for a Singrauli Regional Development project to the Bank by the end of September. Management will hold further discussions with the relevant ministries of the Union government, with the two state governments concerned, with relevant public and private corporations, and with NGOs and community groups to agree on the objectives and concepts of the proposed project.

33. Subject to satisfactory completion of all the above, Management plans to extend the Project for a period of six months, i.e. until March 31, 1998. At that time, further extension of the Project, will be determined. Management’s decision in this regard will depend, inter alia, on: satisfactory implementation of the R&R Action Program described in Section I; satisfactory progress on the Environmental Action Program to be agreed in September 1997; and progress in preparing the proposed Singrauli Regional Development Project.
1. The Broader Action Program which was outlined in Management's Response to the Inspection Panel dated June 3, 1997, includes seven specific activities. These activities encompass a number of ongoing and planned studies, as well as components in projects under implementation. Together, these constitute a body of work and experience which will be directly relevant to the project-specific solutions being developed under the Action Program. Progress-to-date in implementing these is outlined below:

1. Complete by end August 1997, a review of the quality and implementation performance of Environmental Assessments for all environment Category "A" and "B" rated projects in the India portfolio.

2. This study which focuses on the quality and effectiveness of Environmental Assessments of Category "A" and "B" projects and Environmental Management Plans (EMPs) was initiated in November 1996, and carried out by the environmental specialist staff in the New Delhi Office with assistance from respective Task Managers and local consultants. It was completed in early August and the draft report has been circulated. The main recommendations are as follows:

- Sectorial and Regional Environmental Assessments should be employed more frequently;
- the analysis of alternatives and public participation and consultation, although a standard of OD 4.01 should be emphasized in the terms of reference of the consultants who will carry out requirement of the Environmental Assessments;
- standard Environmental Assessment Review criteria (as utilized by ADB and FINNIDA) should be developed in the Bank and shared with government and consultants to promote consistency, accuracy and quality;
- environmental performance indicators should be included in legal agreements more often and more explicitly; and
- the capacity of the field office should be strengthened in order to increase and improve field-based supervision and monitoring.

3. The Environment Department considered the analysis, findings, and recommendations of this study to be sufficiently significant not only for India but Bank-wide and has recommended wider dissemination. A Workshop is scheduled in the Bank in mid-September.
4. Preparation of the review was initiated in June 1997. An anthropologist with wide experience in the South Asia Region has been selected as the Task Manager. More specific terms of reference and the approach for conducting the review have been prepared. The initial mission to India is scheduled for late September and will involve discussions with government, project agencies, project-affected people, NGOs, academic and research institutions, and community-based organizations.

5. Three problem areas have been identified for closer attention during this review i.e. challenges of re-establishing livelihoods; options for income restoration when land-for-land and permanent jobs are unavailable; and the legal framework of entitlements for encroachers and squatters. A background study "The Current Legal Status of Squatters and Encroachers as Determined by The Courts and Government Pronouncements in India" prepared by two advocates of the Supreme Court of India was completed at the end of July 1997. The study was constructed around the issue of fundamental human rights, as defined by the Indian Constitution, with relevance to three particular Acts and a number of legal pronouncements under their provisions. The three Acts are: The Slum Areas (Improvement and Clearance) Act, 1956; the Urban Land (Ceiling and Regulation) Act, 1976; and the Public Premises (Eviction of Unauthorized Occupancy Act, 1971). The study found that the main principles which emerge from pronounced judgments are:

- the right to life includes the right to clothing, a decent environment and reasonable accommodations to live in, and the right to residence and settlement is inseparable from a meaningful right to life;

- the right to shelter includes adequate living space, a safe and decent structure, clean and decent surroundings, sufficient light, pure air and water, electricity, sanitation, and other civic amenities such as roads;

- fundamental rules of natural justice, such as the right to a hearing should be followed prior to the eviction of an unauthorized occupant, and the eviction of slum or pavement dwellers will lead to deprivation of their livelihood and consequently to deprivation of life;

- a Court may not, as a rule, direct that encroachers be provided with alternative accommodation from ejectment, but each case has to be dealt with separately. The State is under constitutional obligation to provide means for settlement and residence for the poor; and to provide adequate means of livelihood to all citizens by distributing the material resources of the community for the common welfare.

6. These findings are important to the R&R situation in Singrauli. While they reflect the same principles embodied in OD 4.30: Involuntary Resettlement, it provides an even more acceptable basis for the managers of the ReAPs and RAPs under the NTPC Power Generation project. The findings of the study will be disseminated to the R&R Cells.
7. This study, partially financed by a US$2.0 million contribution from the British Department for International Development (DFID), has three sets of outputs: seven Special Studies; Case Studies of the States of Bihar and Andhra Pradesh; and the National Synthesis. The key output of the study is the development of a decision-making tool which will enable government officials and institutions in India to evaluate alternative options for power development by taking explicit account of the environmental impacts as well as financial and economic implications.

8. The current status of implementation of the Study is as follows:

Special Studies


* **Inter-Fuel Substitution**: Completed June 1997 by Tata Energy Research Institute.


* **Ash Management Disposal and Utilization**: Completed October 1996 by Water and Earth Sciences Association Limited, Canada (para. 12(a)).


* **Market-Based Instruments**: Completed June 1997 by Dr. S. K Gupta, Delhi School of Economics.

9. Bank staff have conducted national and state level workshops on the State and Special studies in May and August 1997. The Andhra Pradesh and Bihar case studies are expected to be completed in November 1997 and the National Synthesis by March 1998. Preliminary conclusions of the case studies are that:

- without a carbon tax, domestic coal will remain the mainstay of power generation in Andhra Pradesh and Bihar for the next decade. This emerges even after: (i) considering a wide range of alternatives, including Demand Side Management (DSM), renewables, imported gas and LNG; (ii) making fuel choices on the basis of economic costs; and (iii) allowing for the effect of economic pricing on the demand for power;

- the dependence on coal is likely to be substantially affected only with a very high carbon tax, perhaps amounting to at least US$ 25 per ton of CO$_2$. The global benefits of reducing CO$_2$ are
accompanied by clear local benefits, due to a drop in emissions of $\text{SO}_2$, $\text{NO}_x$, particulates, and ash;

- the implementation of DSM measures in Andhra Pradesh, although not substantially reducing coal use, cut of emissions of $\text{CO}_2$, $\text{SO}_2$, $\text{NO}_x$, particulates, and ash by about 10 percent. DSM also reduces the economic cost of supply and is a “win-win” resource. For Bihar, the results of DSM are still not clear;

- there substantial environmental benefits of straightforward measures to rehabilitate power plant and the transmission and distribution system, because of the reductions in emissions which follow improvements in heat rates and lower transmission and distribution losses; and

- the incremental costs of meeting the more stringent environmental guidelines prepared by the World Bank may be less than 5 percent. In the case of particulates, the standards can be met with modest investments in ESPs and improvements in their operation. Given the low sulfur content of Indian coals, $\text{SO}_2$, emissions can be handled at relatively low cost, if plants are properly sited. Imported coal to the extent that it appears in the fuel choice later in the planning period, may require the installation of FGD.

IV. Complete by end December 1998, a Clean-Coal Technology and Incentives and Options for Application Study.

10. The Ministry of Environment and Forests (MOEF) and DEA approved in June 1997, the financing of this study under the Environmental Management Capacity Building Technical Assistance Project. During discussions, it was agreed that the study would be on Coal Quality with the specific objectives of: (i) identifying and prioritizing technically feasible and economically and financially to improve coal quality through improved mining methods and increased coal preparation to reduce the negative environmental effects of coal use in India; and (ii) examining the conditions under which the identified measures can be implemented.

11. The study would be guided by a Steering Group headed by the Ministry of Environment and Forests, with participation of the Ministries of Power, Coal and Railways and agencies such as the State Electricity Boards, Coal India, NTPC and Indian Railways. From the Bank, the study will be managed by a Principal Mining Engineer. A Bank team visit to India to review progress in the implementation of the study is scheduled for early November 1997.

12. Ash Management. In addition to the above study, the Bank is supporting a larger agenda on coal and the environment in India. For example, ash management is a specific focus of NTPC’s Environmental Action Plan (paras. 18-21 of Project-specific Action Program). Two other directly relevant studies are:

(a) Ash Management Disposal and Utilization Study under the larger Environmental Issues in the Power Sector study (para. 8). This study was completed in October 1996 and covered ash pond management, ash disposal and ash utilization. It also developed guidance on engineering and operating practices and environmental mitigation strategies for ash management in coal fired power plants. The mitigation strategies are focused mainly on: the minimization of land use, reduction of fugitive dust, conservation of water, minimization of ground water pollution and enhancement of safety. The
recommendations of best practices were disseminated within the power sector in India; and

(b) Identification of Abandoned Open-Pit Mines which are Potentially Suitable for Ash Disposal under the Coal Sector Environmental and Social Mitigation project. This study will cover all of Coal India's mines and will provide the following outputs: (i) a list of potential mines for ash disposal; (ii) limit conditions for ash disposal; (iii) physical conditions required for ash at supply point; (iv) preferred mode of transport from the power plant to the mine; (v) estimated operational costs for disposal inside the mine and alternative mine reclamation costs; and (vi) hydrological data at the mine site and possible effects of ash leachate on ground water quality.

V. Complete by mid-1999, a number of demonstration mining projects under the Environmental Management Capacity Building Technical Assistance Project

13. The objective of this component of the Environmental Management Capacity Building Technical Assistance Project is to finance best practice demonstration projects for specific mitigation measures such as land reclamation, closure of old abandoned mines, regeneration of ecology and so on. These demonstration projects will cover mining for all major and minor minerals other than coal which is covered under the coal Sector Environmental and social Mitigation Project (para. 12(b)).

14. The GOI constituted an Expert Committee on Mining in March 1997 to guide and monitor the implementation of this component. During a Bank review mission in June 1997, it was agreed that additional professional support would be required for implementation. The Center for Mining and Environment (CME), a Center of Excellence established by the Ministry of Environment and Forests and the Central Mining Research Institute (CMRI) established by the GOI's Department of Science have been selected to carry out this program. The CME will be responsible for the review of existing mining policies, standards and demonstration projects, while the CMRI will be responsible for institutional strengthening and training activities.

VI. Carry out over the next three months the intensive supervision of the components to strengthen the State Pollution Control Board in Uttar Pradesh and Madhya Pradesh under the Industrial Pollution Control and Industrial Pollution Prevention projects.

VII. Provide assistance to enhance the monitoring of hazardous waste generation in the Singrauli area to the Central Pollution Control Board under the proposed Hazardous Waste Management project.

15. Since the GOI and the States of Uttar Pradesh and Madhya Pradesh have agreed to proceed with the expeditious implementation of the Singrauli Development and Environmental Strategy (paras. 22-29 of Project-specific Action Program), with support from a new Bank/IDA-assisted free-standing project, Management has decided that the above actions would best be included in the proposed new project. This project would include not only investments for infrastructure and social development programs but provide technical assistance to appropriate agencies and institutions in the Singrauli area to enhance the monitoring and enforcement of environmental standards, regulations and laws. The area-specific focus of the proposed project would be complemented by the January 1997 approved IDA-assisted Environmental Management Capacity Building Technical Assistance Project which is providing assistance to the MOEF, CPCB and a range of national institutions with the explicit objective of enhancing monitoring, enforcement and compliance with environmental standards, regulations, and laws.