



INDEPENDENT REVIEW MECHANISM 2ND MONITORING REPORT

**ON THE IMPLEMENTATION OF FINDINGS OF NON-COMPLIANCE AND
RELATED ACTIONS TO BE UNDERTAKEN BY THE ADB MANAGEMENT
ON**

THE BUJAGALI HYDROPOWER AND INTERCONNECTION PROJECTS

28 July, 2010



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LIST OF ABBREVIATIONS AND ACRONYMS

AfDB	African Development Bank Group
AESN	AES Nile Power
BEL	Bujagali Energy Limited
BIP	Bujagali Interconnection Project
BHP	Bujagali Hydropower Project
CDAP	Community Development Action Plan
CPMP	Cultural Property Management Plan
CRMU	Compliance Review and Mediation Unit
GoU	Government of Uganda
IRM	Independence Review Mechanism
IUCN	International Union for Conservation of Nature
MEMD	Ministry of Energy and Mineral Development
MoTTI	Ministry of Tourism, Trade and Industry
NAPE	National Association of Professional Environmentalists
NEMA	National Environment Management Authority
NGO	Non-Governmental Organization
PMC	Project Monitoring Committee
REA	Rural Electrification Authority
SMP	Sustainable Management Plan
UETCL	Uganda Electricity Transmission Company Ltd
UGFO	Uganda Field Office of the African Development Bank Group

INTRODUCTION

In accordance with paragraphs 52(c) (iii) and 59 of the Operating Rules and Procedures of the Independent Review Mechanism (IRM), the Boards of Directors of the Bank Group on 9 July, 2009 authorized the IRM to monitor the implementation of the findings of non-compliance issues raised by the IRM Review Panel's Compliance Review Report and the related Management Action Plan on the Bujagali Hydropower Project and Bujagali Interconnection Project (hereinafter referred to as "Bujagali Projects"), which was taken note of by the Boards of Directors in their meeting on 22 May, 2009.

The Boards of Directors authorized the IRM Monitoring Team to monitor the actions taken with regard to bringing the Bujagali projects into compliance with the policies of the Bank Group, while the implementation of the recommendations of the IRM Review Panel in relation to institutional systemic issues and policies were left for other entities of the Bank Group to follow-up on. The first monitoring mission conducted by Dr. van Putten, one of the IRM Experts, and Mr. Per Eldar Sovik, the Director of the Compliance Review and Mediation Unit (CRMU) took place from 24 - 29 May, 2009. The First Monitoring Report was finalized on 22 July 2009 and sent to the Boards of Directors for information and to Management for action.

The second monitoring mission took place from 30 May to 8 June, 2010. The Monitoring Team comprised of Dr. Maartje van Putten accompanied by Ms. Grace Kimani, Senior Compliance Officer of CRMU. The Monitoring Team was accompanied in several meetings and the field visits by Mr. Daniel Isooba, Infrastructure Specialist based in the AfDB Uganda field office (UGFO).

By this report the IRM Monitoring Team intends to inform the Boards of Directors and the Bank's Management of the status of the findings of the IRM Review Panel's report, with regard to implementation of the promised actions by the Bank's Management as of the date of the IRM Team's second monitoring mission. Where appropriate, the IRM Monitoring Team makes recommendations on measures that should be undertaken without further delay to mitigate the pending unresolved issues to bring the projects into compliance with the Bank Group's policies and procedures. The proposed measures are based on the discussions that the IRM Team held with different stakeholders during its mission to Uganda and with Bank staff in Tunis.

MAIN FINDINGS

In a general sense the IRM Monitoring Team (hereinafter referred to as “the Monitoring Team”) notes that very little progress has been made regarding the pending issues reported by the Compliance Panel in 2008, followed by the first Monitoring team in 2009. Many of those pending issues relate to compensation.

The project, with all its positive (clean-energy delivery) and negative impacts (on the livelihoods of people in the project area), is considered by many as a model for other hydroelectric projects in the continent. However, to reach such a positive status the Monitoring Team advises all the stakeholders, including the Bank’s Management, to solve the pending issues before the dam is completed and commissioned. It would, for example, be rather unfair if energy is delivered through the transmission line to Kampala and neighboring countries if the fishermen in the resettlement village, who lost their traditional way of living at the riverbanks, are still waiting to be connected to the promised water taps and electricity supply. Likewise, many landowners who lost land because of the transmission line are not yet compensated.

The Monitoring Team found the following issues still pending:

1. Resettlement and Compensation Issues

IRM Compliance Review Report of 2008: Failure to resolve legacy issues prior to commencement of the project, especially for people affected by the Bujagali Interconnection Project (BIP), constitutes non-compliance with the Bank’s Policy on Involuntary Resettlement.

AfDB Action Plan of 2009: A mechanism will be established to monitor compensation outcomes for displaced households and a completion report produced.

IRM Monitoring

The IRM Monitoring Team in 2009 expressed concern about the serious delays of payment in finalizing the resettlement and compensation issues and urged the Bank’s Management to ensure that appropriate actions were taken without further delays to resolve these issues.

The Monitoring Team noted during its second mission to Uganda in May/June 2010 that very little progress has been made regarding the resolution of compensation issues along the transmission line (T-line). This has further been complicated by the filing of a court case by 557 affected people living along the T-line claiming that they were inadequately compensated for both crops and land.

(a) *Resettlement in Naminya Village*

The Monitoring Team met with people resettled in Naminya village. The people were generally somewhat satisfied with the houses and their (houses) current condition. The primary school and the health clinic are now operational. However, some people still believe their livelihoods in the past were much better than in the new village. It seemed most difficult for those who used to be fishermen to adapt to agricultural farming. They complained that fish ponds were promised but not yet built. Only in May 2010 a Memorandum of Understanding was signed between BEL and the Ugandan Soul Foundation for the establishment of three fish ponds in Naminya resettlement village. Instead the resettled people received seeds that according to them were of bad quality with little result. They received very young chicks without enough food to grow them, while the goats they received from Bujagali Energy Limited (BEL) were allegedly sick and some of them died. The Monitoring Team observed lack of guidance for this community that has gone through a traumatic experience: a fishermen community transforming into a farmer's community. However, the Monitoring Team notes that AESNP trained the resettled people on agricultural practices but did not put it in practice because they were not supported in buying farm inputs and there were no credit facilities.¹

The school is now in use with a nursery class and primary school from P1 to P5 with a total of 188 pupils. The people indicated they would like to have two additional classrooms to accommodate P6 and P7 pupils who are forced to walk a long distance to attend the nearest primary school. However the project sponsor (BEL) explained that BEL had only promised the resettled people a



nursery school which the people later turned into a primary school and continue to make more demands to accommodate pupils from neighboring villages and not from the resettlement village. BEL further informed the Monitoring Team that it had already constructed ten (10) additional classrooms in the existing Naminya primary school near the resettlement village where pupils in the upper classes from the resettlement village can attend. According to the BHP Resettlement Action Plan, AESNP undertook to build 10 additional classrooms in the existing Naminya Primary School, and Kindergarten in the resettlement village to cater for children below 7 years, who would be unable to walk to the existing primary school.² This therefore means that the resettled people are expecting benefits which are not in the resettlement plan.

¹ Bujagali Hydropower Project Social and Environmental Assessment , Appendix I on Assessment of the Past Resettlement Activities and Action Plan (APRAP), p. 18

² Bujagali Hydropower Project Social and Environmental Assessment , Appendix I on Assessment of the Past Resettlement Activities and Action Plan (APRAP), p. 34

The Monitoring Team observed confusion over what the resettled people called a “disturbance allowance” that was allegedly promised by the original energy company-AES Nile Power (AESN) 9 years ago.³ This was never followed up by the new project sponsor-BEL. Instead, they were introduced to a micro-finance bank that offers loans but the people are reluctant to use their land title deeds as security for such loans. In response, BEL explained to the Monitoring Team that this might have been a misconception because to the best of the information BEL has from the records of the previous project sponsor-AESN, no such allowance was promised. However, BEL had gone out of its way and provided the resettled people with chicks and goats to enable them to cope in their new settlements in an agricultural environment. According to the Resettlement Action Plan for the BHP, BEL was supposed to implement a small business support and micro-credit program in the Community Development Action Plan (CDAP).

A rather particular problem is formed by some empty houses. These are houses in the resettlement village, build by the project sponsor but were never occupied by the people intended to be resettled because they opted for money compensation. The people in the village expressed concern about an incident where one of the houses had been occupied by itinerant people and criminal figures making the atmosphere less safe in the village. The proposal by some villagers to buy those houses from the project sponsor or to give them a different use for the community was, according to the project sponsor, not possible. The project sponsors informed the Monitoring Team that according to the contract between it and the Government of Uganda (GoU), the project sponsor has to hand over all the project property, including the empty houses, to the Government when the project is finalized.

The resettled people complained that they were yet to receive piped water and electricity as they were promised during the resettlement exercise. With regard to water connection, BEL informed the Monitoring Team that it had already selected a contractor to start the process of water connection to the village, in collaboration with the Uganda National Water and Sewerage Company. As for electricity connection, BEL was concerned that it may take a longer time to connect Naminya village, since BEL is only footing 30% of the total cost required for electricity connection (the community component), while the Government of Uganda, through the Rural Electrification Authority (REA), will contribute the remaining 70%. REA has yet to allocate a budget for this purpose. Nonetheless, according to BEL, the electricity will be connected to the village once the Bujagali project is commissioned.

³ The disturbance allowance is mentioned in the Bujagali Interconnection Project (the T-line) Resettlement Action Plan, 2006 (Appendix G, p.78), but inexplicable not in the Bujagali Hydropower Project Resettlement Action Plan, 2006.

The IRM Monitoring Team urges the Bank's Management to closely follow up with its supervision mission teams of the Bujagali Hydropower Project and ensure that piped-water connection is completed without further delays and that the electricity connection to the Naminya resettlement village is prioritized before the project is commissioned.

(b) Compensation of landowners along the T-line

This action is still pending and the Monitoring Team was informed by government officials, some of the affected people and the witness NGO that a group of 557 people has filed a compensation claim and the case is still pending in court. The Team also met with the lawyer for the claimants. In May 2009 the first IRM Monitoring Team was informed that a court hearing was scheduled for September 2009. The second IRM Monitoring Team, however, learned that the case was later adjourned up to 6 May 2010 to allow the parties to pursue an out of court settlement. According to the lawyer representing the 557 people, the Uganda Electricity Transmission Company Ltd (UETCL) is not interested in an out of court settlement and the court will now proceed and fix the case for hearing. The court process could take long, and the judgment could be delivered well after completion of construction of the dam and the T-line.⁴



As described in the first IRM Monitoring Report, the main cause of the dispute relates to the valuation of land and the 557 claimants allege that the rate that was used to compute compensation for both crops and land was lower than the actual rate that was set by the Local District Administration at that time. Some are demanding to be paid the difference while others have never been compensated at all and are demanding to be compensated on the basis

of the current crop and land market value. At the same time the responsible authorities, UETCL, BEL, the Ministry of Energy and Mineral Developments and the Ministry of Finance assured the Monitoring Team that adequate funds are in place to compensate the people and they will wait for the ruling by the court.

Nevertheless, the Monitoring Team was informed by the witness NGO and the principal requestor, NAPE, that it would be more preferable for the affected people to come to an agreement outside the court as soon as possible and before the project is finalized. NAPE proposed the formation of a Committee comprising the lawyers representing the 557 claimants, the lawyer for UETCL, representatives of relevant government ministries, with

⁴ In a meeting at the offices of the National Environment Management Authority (NEMA) with the Project Monitoring Committee and two representatives of the project sponsor, BEL, it was mentioned that land speculation could be a factor in some of the cases; whereby people have bought land along the transmission line and planted high-valued crops anticipating a windfall from the compensation process.

possible observers from NAPE, to solve all pending compensation issues on a case-by-case basis and reach solutions agreeable to all involved.

UETCL further indicated that it is still trying to resolve 48 cases (not in court), which it termed as “difficult” because the owners of the affected properties have refused to accept the compensation offers from UETCL. UETCL indicated that it is even considering re-routing the T-line in some areas so that the project can stay on schedule.

The IRM Monitoring Team is again disappointed that the project is still not yet in full compliance with the Bank’s policy although it is over two years since the IRM Review Panel communicated its concerns over these issues to the Bank’s Boards and Management.

Bearing in mind that the pending court cases may take long to be determined, the IRM Monitoring Team reiterates its recommendation that the Bank’s Management and staff in their supervision of the Bujagali projects should make sure that appropriate actions on the resettlement and compensation issues along the transmission line are undertaken without further delay, particularly those that are not the subject of the court process.

2. Consultations, Cultural and Spiritual Issues

IRM Compliance Review Report in 2008: Failure to meaningfully consult with spiritual leaders and stakeholders due to the silence of the appraisal reports on the issue is a non-compliance with the Bank’s policies on Involuntary Resettlement, Good Governance and Environment Review Procedures, Integrated Environment & Social Impact Assessment Guidelines.

AfDB Action Plan: Government to update Cultural Properties Management Plan (CPMP) with assistance from BEL.

IRM Monitoring

In 2009, the IRM Monitoring Team recommended that a Committee of various stakeholders including NGOs, representatives of religious leaders, relevant ministries and BEL, and observers from the project financiers including AfDB, be formed to map the way forward in conciliating the cultural and religious differences and relationships in the project area. However, this recommendation seems not to have been acted upon based on what the IRM Monitoring Team found out during the second monitoring mission.

During the second monitoring mission, the Monitoring Team met with Mr. David Sepuya Kalanzi, the consultant specialist in the cultural and spiritual issues of the Busoga people, who was hired by the Government of Uganda to update the Cultural Property Management Plan (CPMP). The Consultant informed the Monitoring Team that the final updated CPMP (March 2010) is yet to be approved by the GoU. According to the

consultant, several appeasement ceremonies have taken place since 2001 with both spiritual leaders, namely, Nabamba Bujagali and Lubaale Nfuudu. Both leaders were also compensated individually for disturbance of their spiritual activities near Bujagali falls. This information was reiterated by BEL who informed the Monitoring Team that under the AESN regime, two appeasement ceremonies were performed for both Nabamba and Nfuudu, the two spiritual mediums for the Busoga Kingdom. Further, Nfuudu moved the spirits to his home awaiting the construction of the shrines to be completed. However, uncertainty still remains over the 3 shrines for the spirits that were constructed but not finalized whereas a budget was made available by BEL to the Busoga Kingdom, which according to BEL, the Kingdom is yet to account for.

The Monitoring Team also met separately with the two spiritual leaders Nabamba Bujagali and Lubaale Nfuudu, both of whom claim to be the medium of the spirits, and each of them asked for one final appeasement ceremony. Nfuudu further asked for the completion of the three (3) shrines to enable him to relocate the spirits from his home. BEL informed the Monitoring Team that it (BEL) did all that it was asked to do in the settlement and appeasement of the spirits and it is now up to the Busoga Kingdom to settle the appeasement issues with the spiritual leaders since BEL provided the money for this activity. BEL is concerned that spiritual leaders may ask for more appeasement ceremonies in the future if no time-frame is fixed and a completion certificate issued after the requested ceremonies are performed.

In the meeting the Monitoring Team held with the Project Monitoring Committee in the NEMA offices, the Committee informed the Monitoring Team that the project sponsor BEL still has to finalize the process of appeasement with the spiritual leaders. Finding 1 of the Project Monitoring Committee Report notes: *“Relocation process of the cultural shrines and resident spirits is incomplete and non-accountability of funds by Busoga Kingdom advanced by BEL for the aforementioned purpose.”*⁵ The Committee Report recommends *“BEL to liaise with Busoga Kingdom and relevant Government Agencies to ensure completion of the relocation process”* by 2 August 2010. The Report further recommends that the Kingdom should issue a Certificate of Completion upon finalization of the cultural issues⁶ so as to lay these issues to a rest.

While the IRM Monitoring Team agrees that religious problems are an internal Ugandan matter, it recommends that the Bank Management should impress upon the Project Sponsor and the Government of Uganda the need to complete the 3 cultural shrines to facilitate relocation of the spirits for whom Nfuudu is the medium. Also a final ceremony should take place with Nabamba Bujagali. The Monitoring Team is of the view that if such steps are taken, the cultural and spiritual matters could be laid to rest once and for all.

⁵ Report on Bujagali Hydropower (HEP) and Transmission line/interconnection (ICP) projects-Committee meeting and Inspections, by Bujagali environmental Monitoring Committee (BEMC) conducted from Tuesday 9th to Friday 12th March 2010, p. 3. A Publication of NEMA.

⁶The above cited Report at p. 7.

3. Kalagala Offset and Forests Conservation

IRM Compliance Review Report in 2008: There is a need for a long term action plan to ensure that the offset serves its purposes.

AfDB Action Plan: A long term Sustainable Management Plan (SMP) for the Mabira and Nile River Forests, and Kalagala Offset is part of the World Bank Indemnity Agreement. The SMP is under preparation by the International Union for Conservation of Nature (IUCN). The Bank will review the SMP produced by IUCN.

IRM Monitoring

The IRM Monitoring Team in 2009 recommended that the Bank's Management should review the Sustainable Management Plan upon completion, and that the Bank should ask the GoU to stop any developments in the Kalagala Offset until the SMP is finalized and approved by the Government. The report also questioned the fences that were put up by Adrift without a license from NEMA and was restricting the local people from accessing the river bank.

The IRM Monitoring Team visiting Uganda in May/June 2010 was informed by the Ministry of Energy and Mineral Development (MEMD) that the Sustainable Management Plan for the Kalagala Offset was finalized and approved by the GoU in May 2010. The Ministry of Tourism, Trade and Industry (MoTTI) and MEMD were optimistic that the SMP will be implemented despite lack of clear budget allocation for implementing the same. On the other hand, the Ministry of Finance promised to allocate a budget to facilitate implementation of the SMP by the various government agencies mentioned in the SMP.



The Monitoring Team visited the Kalagala offset and the river banks. To the surprise of the Team, the fences built by the rafting company had not yet been removed. However, a section of the fence was destroyed as a result of a severe storm whereby branches of the adjacent sacred tree fell on the fence, damaging it. The construction of the planned lodges behind the fence had stopped. The activities on the island seemed to have expanded further.

Officials of NEMA confirmed to the Monitoring Team that the fences were built without a license by the rafting company (Adrift). NEMA had not yet acted against the fences since Adrift had submitted an Environmental Impact Assessment Report which was under review by NEMA. Officials of other Ministries also expressed their dissatisfaction that the fences had not yet been removed.

The Monitoring Team met with the officials of the Ministry of Tourism and was informed that the Ministry hardly was involved in the project, although the Ministry was involved in the development of the Sustainable Management Plan and was aware that most of the activities in the SMP are not funded. The Permanent Secretary of the Ministry expressed the view that in such projects where a large compensation area as the Kalagala offset was set aside, there should have been a related separate side project for sustainable tourism implemented by the Uganda Government in which sustainable tourism and employment opportunities for the local population are included.



The SMP requires actions to protect the Nile River and the ecosystem of the Mabira Forest Reserve, Kalagala Forest Reserve and Nile Bank Central Forest Reserve for the future. The SMP concludes *“The SMP is addressing an important development action for Uganda; i.e., addressing mitigation measures against negative environmental and social impacts of BHP. The SMP will go a long way to ensuring sustainable development at local and national level. However, the impacts of this SMP may take a relatively long time to bear evidence and therefore the SMP implementation is expected to last long, although it is initially described for 10 years.”*⁷

The SMP contains a monitoring and evaluation plan. However, the IRM Monitoring Team is concerned about the inadequate budget allocation for the long term monitoring and evaluation of the SMP.

The IRM Monitoring Team draws the attention of Bank’s Management to the following note in the SMP about the risks associated with the implementation of this Plan:

⁷ Kalagala Offset Sustainable Management Plan (2010-2019), Ministry of Water and Environment, Kampala Uganda, April 2010 page 132.

“The following risks have been assessed.

a) **Managing a complex programme with multiple players:** This risk will be addressed through a strong M&E framework, strengthening capacity of coordinating institution to convene and bring into action different players, and through the various coordination and supervision mechanisms.

b) **Applying the Ecosystem approach:** SMP is a pioneer programme and as such, the implementation considerations and approaches require a different institutional approach that is not familiar to most implementing institutions. This gap will be addressed by engaging a technical assistance to facilitate initial implementation and build skills in implementing institutions, applying a lesson-learning culture that will utilize the outcomes of the M&E.

c) **Inadequate institutional capacity** to fulfill institutional mandates and obligations e.g., enforcing the law and monitoring compliance to policies, standards and regulations. This will be addressed through the institutional capacity strengthening initiatives proposed in the SMP.

d) **Sustainability of the SMP:** the SMP is a long term undertaking whose sustainability may not easily be predicted now. This is to be addressed through strategies described in Section 4.3.

e) **Political support:** the current political support cannot be guaranteed over the long term, especially after the elapse of the Indemnity agreement. This comes along with the requirement to accommodate future changes in policy regarding land, forests, wetlands and water uses. This is proposed to be addressed by planning for period longer than the Indemnity agreement and by considering the SMP as a framework for guiding all developments that would have bearing on Kalagala Falls and Itanda Falls Site. “

Kalagala Offset Sustainable Management Plan (2010-2019), Ministry of Water and Environment, Kampala Uganda, April 2010, p. 110.

The IRM Monitoring Team emphasizes again the importance of the Bank’s immediate review of the SMP, support for the budget allocation for the monitoring and evaluation of the Plan and strongly urges the Bank to ask the Government of Uganda to put on hold further private activities in the Kalagala offset that are not in accordance with the SMP.

4. Systematic Collection of Data

IRM Compliance Review Report in 2008: Shortage of baseline data on affected people before the commencement of the project makes it difficult to establish if the resettlement plan meets the requirements of applicable policies.

AfDB Action Plan: Updated socio-economic survey has been commissioned for BHP by BEL to be completed by March 2009. The Bujagali Interconnection Project conducted a comprehensive census of affected land. A grievance mechanism (RCDAP section 9) is in place to deal with disputes in dynamic situations and witness NGO reports will be made available for inspection.

IRM Monitoring

The IRM Monitoring Team in 2009 emphasized that in future, the Bank's Management and staff should ensure that socio-economic surveys are conducted to establish appropriate baseline data before an investment of the magnitude of the Bujagali projects is undertaken.

The earlier mentioned pending cases in court show how important it is to have baseline data early enough before a project is implemented. Had adequate baseline data been collected regarding the ownership of land during the design phase of the project, it could have reduced the possibility of speculation taking place in the transmission line area, where some people have been accused of having bought small parcels of land and planted high-value crops along this area with an intention of reaping gains from the compensation process.⁸ The IRM Monitoring Team wants to emphasize again that the Bank Management and staff should ensure that socio-economic baseline data are available in the early stages of future projects to avert delays in their implementation.

5. Witness NGO and the Project Monitoring Committee

IRM Compliance Review Report of 2008: The treatment of one witness NGO to be both the independent monitor of the resettlement and a participant in the decision making process that deals with grievances arising from the resettlement fails to comply with the applicable policy requirements.

AfDB Action Plan: The Witness NGO, while not totally independent, is and has been providing satisfactory performance, and BEL/UETCL/GoU would not wish to compromise at this stage. The NGO provides observations and recommendations but does not participate in the decision-making process. An additional NGO will be included in the Project Monitoring Committee under NEMA. The witness NGO will share its reports with the Project Monitoring Committee.

⁸ Remarks about speculation were made during our meeting with Project Monitoring Committee

IRM Monitoring

In 2009, the IRM Monitoring Team recommended that the role of the witness NGO should be closely followed-up in future supervision missions of the Bank, by taking into consideration how the potential users of the grievance mechanism perceive the dual role of the witness NGO by monitoring and providing recommendations on the one hand, and providing observations to the grievance committees on the other.

During the second monitoring mission in May/June 2010, the IRM Monitoring Team held a meeting with a representative of the witness NGO, InterAid Uganda Ltd, in order to understand how this NGO works and its relationship with BEL. The NGO explained that it conducts its operations without any influence by BEL, though it is hired and paid by BEL. The NGO showed the Monitoring Team several (draft) reports concerning problems of the project affected people such as ‘the effects of blasting on infrastructures and animal husbandry in areas around the Bujagali energy project’ (see below). The Monitoring Team, however, could not verify if the witness NGO is considered as a representative of the affected people, by the affected people.

The first IRM Monitoring Report of 2009 indicated that the Project Monitoring Committee was established in early 2009 and started its work on 4 March 2009 and that the National Association of Professional Environmentalists (NAPE) was a member of this Committee. The Monitoring Team then indicated that it was too early to comment on the performance of the Project Monitoring Committee, although the Committee’s terms of reference were considered sound.

As mentioned before (see under point 1) the IRM Monitoring Team had a fruitful meeting with the Project Monitoring Committee (PMC) and its Chairman Prof. Jackson Mwakali during its mission to Uganda in May/June 2010. The Committee showed commitment to follow up on the pending issues. It struck the Monitoring Team, however, that the Committee chairman and members expressed their dissatisfaction with the allocated budget for their work. Currently, the Committee is funded by NEMA and the Committee chairman alleged that their budget is not enough, especially for undertaking field visits, which the IRM Monitoring Team considers essential for the Committee’s ability to carry out its function.

In the assessment of the Monitoring Team, the PMC is willing to perform a serious job in trying to address the pending issues in the Bujagali projects such as cultural and spiritual issues, resettlement and compensation along the transmission line, blasting impacts and compensation and unlicensed developments in Kalagala Offset area. However, the work of the PMC is being hampered by inadequate funds. During the meeting with the PMC it was explained to the Monitoring Team that the appointment of NAPE to the Committee was cancelled by NEMA because NAPE, according to the Committee, was distorting the information discussed by the Committee outside the deliberations of the Committee to advance its own (NAPE) agenda, and this amounted to a conflict of interest. On its part, NAPE alleged that it was hardly invited to attend the meetings of this Committee and rarely received the minutes of those meetings. NAPE further explained that its

participation in the Committee was cancelled because of lodging a complaint with the European Investment Bank about the Bujagali Projects. In the meeting with PMC, the representative of the NGO that has replaced NAPE in the Committee –Nature Uganda–reiterated that if all the concerns about the Bujagali projects are not adequately addressed by the Committee, then Nature Uganda is free to raise those concerns in another forum.

In the view of the IRM Monitoring Team, the operations of the Project Monitoring Committee has to be strengthened and it recommends that the Bank’s Management should closely follow the work of the Committee during its supervision missions and impress upon the GoU the need to provide adequate funds and to strengthen NGO participation to enhance the performance of this Committee.

6. Negative Impact of ongoing construction work/rock blasting at the Bujagali Dam site

IRM Monitoring

In 2009, The IRM Monitoring Team reported damage to houses due to blasting at the dam site. BEL informed the Monitoring Team that they had a system in place to survey and compensate for damages, and that they have insurance to cover such damages after the blasting is finished. The Monitoring Team recommended that future Bank supervision missions follow-up on this issue, and also look into the practice of valuation of damages, including what is considered to be sub-standard and ineligible for compensation.

During the second monitoring mission in May/June 2010, the IRM Monitoring Team again met with the affected people of Malindi village who still raised concerns about the damaging impacts of blasting and the lack of compensation by BEL. The blasting effects mentioned by the affected people include: cracks on the houses, leaving the area, sometimes for hours and no work could be done in the area during those hours. Some complained about lower production of milk by cows and production of eggs. The Monitoring Team was given several photographs showing cracks on houses (some of which are shown below). The IRM witnessed some cracks on houses near the road where the meeting took place.



In discussion with BEL, one case was mentioned about a premature birth and the consequent loss of the child. BEL told the Monitoring team it had followed up on this case. Based on medical evidence, BEL is convinced that the premature birth was not necessarily caused by the blasting. According to BEL, the complainant (father of the lost child) had promised to submit additional evidence that the loss was occasioned by the blasting, but did not show up at a proposed meeting where he was to tender that evidence.

The Management of BEL expressed concern with the ongoing increase of claims in a widening area outside the radius of 500 meters in the old quarry and 700 meters in the new quarry where baseline data was collected before the blasting began. According to BEL, some cracks in the houses of those complaining could be caused by structural defects inherent in the construction of those houses or even by effects of road traffic for the houses near the road, and not necessarily the blasting. BEL informed the Monitoring Team that it has contracted an independent expert on blasting to look into the subject and define the criteria for assessing damages that can be attributed to the blasting.

The Monitoring Team would like to stress that defining criteria for assessing damages should take into account the weakness of the village buildings as they are more fragile (build of clay and poor bricks) compared to the solid construction of buildings in other parts of the world.

From the above discussion, the Monitoring Team is of the view that little has been done by BEL to solve the problems concerning the blasting, or to improve its public relations with the affected people to explain its compensation procedures and when the actual payment of compensation will be effected.

The IRM Monitoring Team urges Management to make sure that the best international standards are used by the project sponsor in assessing the damage caused by the blasting activities in reasonable terms. Moreover, future Bank supervision missions should follow up and ensure that those affected by the blasting are compensated as soon as the blasting activities are finished tentatively by November 2010, as indicated by the project sponsor.

7. Projects' Costs

IRM Monitoring

The IRM Monitoring Team in its discussion with the Bank Management got the impression that the costs for the Bujagali Projects may have increased from the initial overall estimated costs due to delays in the completion of the project(s) by ten (10) months. However, the cost increase is within the project's contingency funds. The IRM Monitoring Team intends to look into this issue in greater detail during its third monitoring mission next year.

CONCLUSION AND RECOMMENDATIONS

As mentioned in the introductory remarks, the IRM Monitoring Team is disappointed by the little progress made in resolving the pending issues since its last mission in 2009. The IRM Monitoring Team proposes to the Bank's Management to supervise more closely the following actions in order to solve the pending issues:

- 1** *On Resettlement and Compensation: To ensure that the Naminya resettlement village is connected to piped water and electricity. Furthermore, that the pending compensation issues along the transmission line that are not in court are settled without further delays. The Bank should urge the Government of Uganda to form a Committee consisting of representatives of the claimants and relevant government ministries and agencies to hear and determine agreeable compensation on case-by-case basis to all pending compensation issues as soon as possible and at the latest, before the Bujagali Projects are completed and commissioned.*
- 2** *On Cultural and Spiritual Issues: To ensure that the project sponsor-BEL, the relevant government ministries and other stakeholders including the two spiritual leaders Nabamba Bujagali and Lubaale Nfuudu are involved in resolving the issues of settlement and appeasement of the spirits and the completion of the three (3) cultural shrines.*
- 3** *On Kalagala Off-set and Forest Reserves Mitigation Measures: To ensure that the Sustainable Management Plan (SMP) is reviewed by the Bank as indicated in the Action Plan and that it is implemented as intended, including the removal of the fences near the river to allow full and unhindered access to the falls by the local communities.*
- 4** *On the Blasting issue: Guarantee that the best international standards concerning blasting are used and that all the people affected by the blasting activities are adequately compensated by the project sponsor as soon as the blasting is finished.*

The IRM intends to undertake a third monitoring mission to Uganda during 2011 to assess the progress made in resolving the issues detailed in this report to ensure that the pending issues are closely followed up and properly implemented to bring the Bujagali projects into compliance with the relevant Bank Group's policies and procedures.

LIST OF PEOPLE AND INSTITUTIONS MET

- Mr. Frank Muramuzi, Director, National Association of Professional Environmentalists (NAPE) and other Requestors
- Noreen Nampewo, Project Officer, NAPE
- Tabaro Dennis Natukunda, Project Officer, NAPE
- John Kaganga, Director, Kikandwa Environment Association (KEA)
- Mwema & Mugerwa Advocates-Law firm representing the 557 compensation claimants along the transmission line
- Noreen from Law Society of Uganda representing a claimant along the transmission line
- Mr. Keith J. Muhakanizi, Deputy Secretary to the Treasury, Ministry of Finance (MoF)

- Eng. Mr. Paul Mubiru, Director, Energy and Mineral Department, Ministry of Energy and Mineral Development (MEMD)
- Mr. Moses Otim, Hydro Power Development Unit, Uganda Electricity Generation Company Ltd (UEGCL)
- Mr. John Othieno, Principal Environment Officer, Uganda Electricity Transmission Company Limited (UETCL).

- Ambassador Julius B. Onen, Permanent Secretary, Ministry of Tourism, Trade and Industry (MoTTI)
- Mrs. Grace Mbabazi Aulo, Commissioner Tourism, (MoTTI)
- Mr. Fred E.G. Mwesigye, Commissioner for Co-operatives, (MoTTI)
- Mr. James Lutalo, Commissioner for Wildlife, (MoTTI)

- Prof. Jackson A. Mwakali, Chairman, Project Monitoring Committee
- Mr. Thomas Rukondo, National Forest Authority (NFA)
- Mr. Jackson Twinomujun, Ministry of Water and Environment
- Mr. Edgar Buhanga, Uganda Wildlife Authority
- Mr. John Tumuhimbiso, Ministry of Environment and Mineral Development
- Mr. Mr. Collins Oloya, Wetlands Department, Ministry of Water and Environment
- Mr. Achille Byauhaga, Nature Uganda
- Ms. Anne Nakateew, Wakiso District

- Mr. David Bizimana, Project Coordinator/ M &E Specialist, InterAid Uganda Ltd
- Ms. Allen Kikomeko, Field Officer/ Environmentalist, InterAid Uganda Ltd

- Dr. Aryamanya-Mugisha, Henry Executive Director, National Environment Management Authority (NEMA)
- Mr. Herbert Oule, Senior Environmental Inspector, NEMA
- Mr. Francis Ogwal, NEMA

- Mr. Bill Groth, Resident Construction Manager, Bujagali Energy Ltd. (BEL)
- Mr. Kenneth Kaheru, Deputy Construction Manager, BEL
- Mr. Zakalia Lubega, Team Leader Community-Liaison, BEL

- Mr. John Berry, Transmission Line Manager, BEL
- Mr. Emmy Beraho, BEL

- Ms. Peninah Kariuki, Country Economist/Officer-in-Charge, African Development Bank Field Office, Uganda (UGFO)
- Mr. Daniel Isooba, Infrastructure Specialist