



No. 1402 / 869

Office of the National Water Resources
89/168-170 Vibhavadi Rangsit Road
Lak Si, Bangkok 10210

20 February B.E. 2562 (2019)

Dear MRCS CEO,

Re: Thailand response to a Prior Consultation of the Pak Lay Hydropower Project

Reference is made to MRCS letter No.L-MRCS (PD) 507/18 dated 11 July 2018 regarding a Prior Consultation of the Pak Lay Hydropower Project (PBHPP) proposed by the Government of Lao PDR. Taking into account the potential benefits and contribution of the PLHPP to Lao PDR and the region as a whole, the Royal Thai Government is fully aware of the importance of the project in development path of Lao PDR. As we have recognized, transboundary cooperation among the member states has been built upon the Mekong Spirit to achieve friendly and mutually sustainable development and well-being of all Riparian States and their people which are placed emphasis on the principles of equitable and reasonable use of water resources, good neighborliness, and reciprocity enshrined in the 1995 Mekong Agreement.

In accordance with the Procedures for Notification, Prior Consultation and Agreement (PNPCA) the Thai National Mekong Committee (TNMC) held two meetings, attended by representatives from the concerned implementing agencies, and three national information sharing meetings on the PLHPP during 9th November 2018 – 8th February 2019. The objectives of the meetings are to gather information, concerns, suggestions and recommendations from the concerned authorities concerning the above project. As a result, major concerns raised during the meetings have been chiefly placed upon potential socio-economic and environmental transboundary impacts from the proposed project to Thailand, in particular, on the affected local communities and people who reside in eight provinces along the Mekong River. The high levels of concerns include fisheries and fish passage facility, hydrological and ecological changes, dam safety and socio-economic as well as mitigation and remedial measures in line with Article 7 “prevention and cessation of harmful effects”, and Article 8 “state responsibility for damages”. The details of the public views and concerns are reflected in the Format for Reply to Prior Consultation enclosed herewith for your reference.

Based on the 1995 Mekong Agreement, the Royal Thai Government wishes to reiterate that we recognize the sovereignty and rights of the Government of Lao PDR in making any decision toward the implementation of the project. We also anticipate that in moving the Project forward, the proper transboundary impact assessment as well as appropriate measures should be conducted and taken for the sake of the lower Mekong River's vital ecological system and quality of life of the people in the region. In this regard, we stand ready to fully cooperate with the Government of Lao PDR and the Mekong River Commission on this matter.

Therefore, we would like to request the Mekong River Commission Secretariat to convey our response and concerns about the Prior Consultation of the PLHPP to the Government of Lao PDR.

Your kind cooperation in this matter would be appreciated.

Yours sincerely,



(Mr. Somkiat Prajamwong)
Secretary-General

Enclosure: Annex II (B) MRC PNPCA Form/Format for Reply to Prior Consultation

Dr. An Pich Hatda
Chief Executive Officer, MRC Secretariat
184 Fa Ngoum Road, Unit 18
Ban Sithane Neua, Sikhottabong District
Vientiane 01000, Lao PDR

Mekong River Commission
Procedures for Notification, Prior Consultation and Agreement
Form/Format for Reply to Prior Consultation

1. Replying state: Kingdom of Thailand

2. Date of Reply: February 2019

3. Replying Ministry/Agency:

Name: Office of the National Water Resources, Prime Minister Office
Address: 89/168-170 Vibhavadi Rangsit Rd., Lak Si District, Bangkok, 10210
Telephone: +66 (0) 2521 9140-8
FAX: +66 (0) 2521 9140-8 ต่อ 1487

4. Contact person/facilitator:

Name: Pradab Kladkempetch
Assistant to the Secretary-General
Address: Office of the National Water Resources, Prime Minister Office,
89/168-170 Vibhavadi Rangsit Rd.,
Lak Si District, Bangkok 10210, Thailand
Telephone: +66 (0) 2521 9140-8 ext 1024, 1005
FAX: +66 (0) 2521 9140-8 ต่อ 1487
E-mail Address: pradab_kla@hotmail.com

5. Name of the proposed use/project:

The Pak Lay Hydropower Project (PLHPP)

6. Location of the proposed use:

The PLHPP is located about 30 kilometers in the upper reach of the Mekong River in Pak Lay District of Oudomxay Province, Lao PDR.

7. Nature...

7. Nature of the proposed use:

Intra-basin use in the Mekong mainstream during wet and dry season

8. Date of receipt of the documents

12 July 2018

9. Reply to Proposed Use

In accordance with the Procedures for Notification, Prior Consultation and Agreement (PNPCA), the Thai National Mekong Committee Secretariat (TNMCS) has carried out tasks/activities in compliance with the PNPCA process and its regional roadmap. All related documents on the PLHPP provided by Lao PDR, through MRCS were distributed to concerned implementing agencies, and several inter-departmental meetings were later held to discuss, review and make assessment on those documents. The Technical Review Report has been jointly reviewed and assessed by concerned agencies to figure out practical solution and measures for minimizing associated risk and foreseeable impacts from the PLHPP toward the lower Mekong ecological balance and Thai people. The TNMCS organized three National Information Sharing Meetings on the PLHPP to share information and gather all concerns raised by national and provincial authorities, local governments, private sector and local people networks living in eight provinces along the Mekong River during 9 November 2018 – 22 January 2019. The followings are key issues of concerns and some suggestions for further improvement and better management of the PLHPP, thereby contributing to sustainable development of the lower Mekong sustainable development:

9.1 Fisheries and fish passage facticity.

Several great concerns on these issues have been addressed as follows;

(1) The designed fish passage facility may be neither suitable nor effective enough for accommodating upstream and downstream seasonal fish migration, concerning, in particular, its type, size and a variety of species, which can possibly cause a decline in natural fish stocks and, as a result, might pose a significant threat to Thai local fisheries and food security in the region.

(2) Additional...

- (2) Additional study should be undertaken in terms of effects from cascade dams toward fish and fisheries, aquatic ecology in the upstream and downstream areas.
- (3) The lessons learnt from the effectiveness and efficiency of the Xayaburi fish passage operation and monitoring to the development of PLHPP should also be taken into consideration

9.2 Hydrological and ecological changes.

- (1) There is a deep concern regarding abnormal hydrological changes to downstream communities, causing foreseeable risk for tourism, river bank agriculture and sudden inundation.
- (2) It is recommended that additional studies be conducted on trans-boundary impacts on the river ecology from cascade dam operation comprehensively and systemically.
- (3) Monitoring and information sharing for Hydrological and hydraulic changes from cascade dams are suggested.

9.3 **Dam safety.** It is suggested to having a simulation model covering dam safety and risk area scenarios, early warning, and mitigation measures.

9.4 **Socio-economic.** Further study and analysis on trans-boundary and accumulative impact assessments toward downstream areas are highly recommended. These include clear identification of mitigation measures for those affected.

9.5 **Mitigation and remedial measures.** Compensation and remedial fund should be established, including concrete mitigation measures by the developer for relieving the affected people socially, economically and environmentally in line with Article 7 “prevention and cessation of harmful effects”, and Article 8 “state responsibility for damages” under the 1995 Mekong Agreement.