

THE INSPECTION PANEL

Request for Inspection

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

Report on Investigation

December 22, 1997

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Abbreviations used in this document

EAP	Environmental Action Plan
EAS	Environmental Assessment Summary
EdF	Electricité de France
EIA	Environmental Impact Assessment
GOI	Government of India
NCL	Northern Coal Ltd./Coal India Ltd.
NDO	World Bank New Dehli Office
NGO	Non-Governmental Organization
NTPC	National Thermal Power Corporation
OD	Operational Directive
PAP(s)	Project Affected People
PAF(s)	Project Affected Families
SAR	Staff Appraisal Report
R&R	Resettlement and Rehabilitation
RAP(s)	Resettlement Action Plan
ReAP(s)	Remedial Action Plan
TOR	Terms of Reference
VDAC	Village Development Advisory Council
XIDAS	Xavier Institute of Development Action and Studies

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.¹ 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

¹ 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.

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.

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 Report as Annex 1. Also made publicly available was the Management's September 2, 1997 Updated Action Program which is also attached to this Report as Annex 2.

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.³ 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.⁴

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.

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 Supervision Mission Report for the mission undertaken from

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.

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

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*

⁵ "September Mission Report" refers to the October 20, 1997 Supervision report for the Bank mission in September.

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, ¶ 4). 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

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”).

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 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.⁷
- 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:

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.

- 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)⁸ but allowed them to remain living on and cultivating the land until such time as it was actually needed for construction.
- 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.

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 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.

- 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 writing⁹ 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:

⁹ PAPs gave to the Inspector some 30 letters with over 100 signatures.

- 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 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.¹⁰ The Panel noted that Court ordered R&R benefits appear to go beyond those in the RAPs.

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.

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 Vindhychal Stages I and II
- differences in pre-displacement standards of living, occupations, etc.
- 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)”

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)”¹¹

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 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)

¹¹ Source: Terms of Reference for XIDAS.

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 PAFs' 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 NGOs¹² 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.

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.

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 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 Vindhychal 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 Vindhyaachal 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 Vindhyaachal 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 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.
- 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 policies 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.

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 Vindhyaachal 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 Vindhyaachal 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.

145. 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.”

148. 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 are 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 I.** 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-eminence 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 is 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

FOR ANNEX 1 OF THIS DOCUMENT, PLEASE REFER TO ANNEX 1 OF THE REPORT AND RECOMMENDATION.

¹³ Please see Footnote 17 above.