

REPORT No. 168661-NP

THE INSPECTION PANEL

REPORT AND RECOMMENDATION ON A REQUEST FOR INSPECTION

NEPAL

NEPAL-INDIA ELECTRICITY TRANSMISSION AND TRADE PROJECT (P115767) AND ITS ADDITIONAL FINANCING (P132631)



FEBRUARY 16, 2022

**The Inspection Panel
Report and Recommendation
on a
Request for Inspection**

**Nepal-India Electricity Transmission and Trade Project (P115767) and
its Additional Financing (P132631)**

A. Introduction

1. On October 18, 2021, the Inspection Panel (the “Panel”) received a Request for Inspection (the “Request”) of the Nepal-India Electricity Transmission and Trade Project (NIETTP) (P115767) and its Additional Financing (P132631) (the “Project”) in Nepal. The Request for Inspection was submitted by 49 community members (the “Requesters”) living in the project area. On November 17, 2021, the Panel received a letter signed by 51 community members designating an advocate from the Lawyers’ Association for Human Rights of Nepalese Indigenous Peoples (LAHURNIP) to represent them during the Panel process. The Requesters have asked the Panel to keep their identities confidential.

2. The Requesters state that a transmission line (TL) financed under the project was rerouted and now passes through their densely populated community, which includes indigenous and non-indigenous residents. They claim that they were neither meaningfully consulted nor provided any information about the Project. The Requesters allege that the current alignment of the transmission line causes adverse impact on community members’ homes, schools, cultural and religious sites, agricultural lands, environment and economic activities, and threatens their health and safety. In relation to involuntary resettlement, the Requesters are concerned about i) land acquired for the tower pads, and ii) land affected by a 30-meter-wide right of way (RoW) easement along the corridor of the transmission line.

3. The Panel registered the Request on November 30, 2021, and Management submitted its response to the Request (the “Management Response” or the “Response”) on January 14, 2022. A Panel team visited Nepal from January 26 to 31, 2022, to inform its eligibility assessment.

4. During the preparation of its mission and up until the day of departure, the Panel exchanged numerous emails with the Nepal Country Office regarding conducting the mission, in a context in which the COVID-19 Omicron variant was spreading widely. The Panel was informed that the Country Office was open to a limited number of critical missions, of which the Panel was one, and was ready to support the Panel’s visit. The Panel wishes to express its appreciation to the World Bank Country Office staff in Kathmandu for welcoming the Panel’s visit, providing regular and valuable information about the COVID-19 situation on the ground and local requirements, and for their assistance with logistical arrangements for the mission. The Panel team also attended a COVID-19 briefing session held by the Country Office with a health specialist. Prior to the mission, the Panel developed its own stringent COVID-19-related protocols, in addition to following national and Bank protocols, for the purposes of this eligibility visit. This included distribution of masks and hand sanitizers in three outdoor meetings with fewer than 20 community

participants each who fully complied with relevant physical distancing as per local regulations. Meetings with government officials and Bank staff were held virtually.

5. In accordance with the Resolution establishing the Panel,¹ the purpose of this report is to make a recommendation to the Board as to whether an investigation into the matters alleged in the Request is warranted. Based on its assessment below, the Panel recommends carrying out an investigation, focusing on the Project's analysis of alignment alternatives for the transmission line, resettlement and alleged impact on the livelihoods of vulnerable groups, including indigenous peoples, and the Project's engagement with the affected community, including consultation, participation, information disclosure and grievance redress.

B. Description of the Project

6. The NIETTP was approved on June 21, 2011, for an International Development Association (IDA) credit of US\$84 million equivalent and a grant of US\$15 million equivalent. The Borrower is the Government of Nepal and the implementing agency is the Nepal Electricity Authority (NEA).² On June 24, 2013, an Additional Financing was approved in the form of an IDA credit of US\$37 million equivalent and a grant of US\$2 million equivalent.

7. The NIETTP and its Additional Financing closed on October 31, 2021. At the time of receipt of the Request, the Project was active and 81 percent disbursed. The Project is an Environmental Category B and triggered the following safeguard policies: Environmental Assessment (OP/BP 4.01); Natural Habitats (OP/BP 4.04); Forests (OP/BP 4.36); Indigenous Peoples (OP/BP 4.10); Physical Cultural Resources (OP/BP 4.11); and Involuntary Resettlement (OP/BP 4.12).

8. The Project development objective is to “(a) establish cross-border transmission capacity between India and Nepal of about 1000 MW to facilitate electricity trade between the two countries; and (b) increase the supply of electricity in Nepal by the sustainable import of at least 100 MW.”³ The Project is structured in three parts:

- Part A: design, construction and operation of 400 kilovolt (kV) transmission lines between Muzaffarpur (India) and Dhalkebar (Nepal);
- Part B: design, construction and operation of Hetauda-Dhalkebar-Duhabi 400 kV transmission line (in Nepal) with concomitant substations, and synchronization of the Nepal and India grids; and
- Part C: technical advisory services for: (a) Owners' Engineer; (b) Transmission System Master Plan preparation; (c) Lenders' Engineer; and (d) Capacity Development for NEA and Ministry of Energy.

9. The Request relates to a subcomponent of Part B, which was added to the Project through the 2013 Additional Financing and concerns the construction of two 220 kV transmission lines. It

¹ The World Bank Inspection Panel, September 2020. [Resolution No. IBRD 2020-0004 and Resolution No. IDA 2020-0003 \(the “Resolution”\)](#).

² The World Bank, 2010. Project Appraisal Document (PAD), p. vi.

³ PAD, p. vii.

specifically relates to the construction of the 74-kilometer-long transmission line between Bharatpur and Bardaghat, in particular its section in the Binayi Triveni Rural Municipality Ward No. 2, which is also referred to as Dumkibas, approximately 200 kilometers west of Kathmandu.

10. According to an October 2021 Implementation Review and Support report, the construction of 83 percent of tower foundations and the erection of 80 percent of the towers had been completed, and 98 percent of equipment supplies had been delivered.⁴ When the Panel visited Nepal in January 2022, two towers of the transmission line in Dumkibas remained to be built, and the stringing of the cables between towers numbers 196 and 201 remained to be completed. The community in April 2021 had filed a case against the current routing of the transmission line with the Nepal Supreme Court, which then issued an injunction (stay order) for the outstanding works but, at the time of the Panel's visit, had not heard the substance of the case.

C. Summary of the Request

11. The section below summarizes the issues raised in the Request, and the full Request is attached to this report as Annex 1.

12. The Request explains that the Requesters are residents of the Binayi Triveni Rural Municipality Ward No. 2 in Nepal, which encompasses both indigenous and non-indigenous people. The Requesters oppose the construction of a transmission line that passes through their community and which they claim adversely affects numerous residents in different ways.

13. **Routing of the Transmission Line.** The Requesters explain that the transmission line was rerouted from its original planned route, which passed through a different area of their municipality, as per the survey license of September 2006. According to the Requesters, there was no public notification, consultation, survey or community consent for later moving the route of the transmission line through their community, a densely populated residential area. The Request explains that since 2011 they have been raising their concerns with the Government and have asked for the new route of the transmission line to be reconsidered. According to the Request, the new route has an adverse impact on 96 households of the community, affecting both residential and agricultural land and causing health and safety issues. The Requesters explain that despite all their appeals, two towers were installed in the riverbank and two towers in forests without the consent of the affected community.

14. **Land Acquisition, Resettlement and Compensation.** The Request lists impact on the community members' houses, agricultural land, schools, community houses, public places and sacred sites. It explains that the displacement of people is a major concern. According to the Request, the Project will cause different types of displacement, including from houses, residential properties and agricultural lands. The Request states that community members have resided in the project areas for generations, and some have planned to construct houses there. The Request explains that due to the Project, people cannot build houses under the TL. It alleges that people cannot freely dispose of their property due to the devaluation of land, as banks do not accept the land as collateral for loans. The Request states that the affected people cannot sell these plots or split the land into smaller plots. The Requesters argue that despite the Supreme Court's stay order,

⁴ The World Bank, October 2021. Implementation Status & Results Report - Seq No: 20, p. 2.

two land acquisition notices were issued by NEA. The Requesters also raise livelihood issues due to the Project's impact on agricultural activities and related economies (livestock, dairy farming, nursery, fodder production for cattle and grazing).

15. **Environmental and Cultural Impact.** The Request states that the transmission line affects the environment, flora and fauna, and biodiversity of the area. It also refers to impact on cultural, sacred and religious sites.

16. **Health and Safety Issues.** The Request states that the transmission line threatens the safety and security of people in the area. They are concerned about "leaks" of electricity in case of "thunder" that could harm community members while engaging in farming, commuting to and from school and performing rituals and festivals. The Request alleges that three schools are located within 500 meters of the transmission line, which they believe poses a grave danger to lives. The Request refers to the specific case of a transmission line tower that has been installed within five meters of a house which, they allege, puts the family who lives there, including an infant, at grave risk.

17. **Indigenous Peoples.** The Requesters explain that their rural municipality encompasses indigenous peoples, including Magar, Gurung and Tamang, as well as non-indigenous residents such as Dalits, Madhesis and Khas Arya. The Request alleges that free, prior and informed consent of the affected community was not reached.

18. **Consultation, Participation, Information Disclosure and Grievance Redress.** The Request explains that according to the Project's Environmental Impact Assessment, a public hearing was carried out in September 2005 in a different municipality 30 kilometers away. According to the Request, the affected community, of which the Requesters are part, was absent from this hearing as no prior public notification was provided, and the local Village Development Committee did not provide information about the meeting. They allege that the Project also failed to disseminate information and forged documents relating to a meeting. According to the Request, the Project gathered people who are not affected by the Project to conduct a consultation but failed to engage affected people in the process. The Request claims that the lack of participation of Project-affected persons in the process has created conflict in the community.

19. **Alleged violence/retaliation.** The Requesters state that in April 2021 the community organized a peaceful protest against the excavation of a tower pad area, which according to the Request was done in disregard of the Supreme Court's interim stay order. They allege that the authorities responded to this protest by deploying armed forces that used tear gas and physically assaulted community members, and that some women, senior citizens and a toddler were injured.

D. Summary of the Management Response

20. The Management Response is summarized below, and the full Response is attached to this Report as Annex 2.

21. The Management Response explains that the planning and original alignment of the Bharatpur-Bardaghat transmission line goes back more than 20 years. According to Management,

many of the related problems and conflicts that the Project aimed to address are legacy issues that the Project inherited. Management explains that it has been aware of the concerns of the Dumkibas community since “*well before the Request for Inspection*” and has worked with NEA to help address them. The Response notes that due to various factors – such as a lag in forest clearances, disagreements between the contractor and NEA, the political situation and disputes with local landowners – the transmission line was not completed by the time the Project closed on October 31, 2021. The Management Response further notes the Requesters’ long-standing opposition to the TL and their wish for it to be moved.⁵

22. Management explains that the disputes have escalated into the court case filed by landowners in April 2021 that led to an interim injunction (stay order) halting the works, pending the court’s review and decision. According to Management, it is not clear when the court will decide the matter. The Response notes that the Bank has consistently asked NEA to seek an amicable resolution of the disputes, and that NEA has complied with the Bank’s request and refrained from using eminent domain powers to acquire the land without first trying to reach an agreement. According to Management, pending the outcome of the court case, NEA intends to continue negotiating a compensation package with the affected landowners. Management explains that the disputes either need to be settled between NEA and the landowners directly or resolved in court.⁶

23. **Routing of the Transmission Line.** The Management Response explains that the current routing of the TL was finalized in 2012. According to Management, it is designed to minimize impact on Project-Affected Persons (PAPs) and the environment and reflects a reasonable effort by NEA to weigh alternatives and minimize such impact; considerably fewer households are impacted by the 2012 alignment than what would have been the case under the earlier proposed alignment. The Management Response notes that the dispute is also driven by the landowners’ belief that the original routing avoided their area and that it was later illegally changed. According to Management, this is not correct. Management states that starting with the 1998 alignment, all subsequent adjustments passed through the same part of Dumkibas.⁷

24. **Land Acquisition, Resettlement and Compensation.** According to Management, the TL in the Dumkibas area affects 46 landowners, of which 16 households will have to physically move. Management explains that there are five landowners whose land will be acquired for tower pads 198 and 199. Management further explains that the other 41 landowners have land that is otherwise affected by the TL’s RoW easement corridor. The Management Response refers to some non-title holders who are currently using land within the RoW and explains that they will be identified and compensated as part of the finalization and implementation of the 2021 Resettlement Action Plan (RAP).⁸ The Response explains that NEA is still in the process of negotiating a compensation package for landowners, and that the latter’s resistance partly stems from their demand that, if NEA does not change the routing, it should fully acquire the entire RoW corridor. Management explains that this is not required under the Bank’s policy and not consistent with national law in

⁵ Management Response, p. v, para vi; and p. 4, para 15.

⁶ Management Response, p. 4, para 14.

⁷ Management Response, p. vi, para viii.

⁸ Management Response, p. vi, para vii.

Nepal.⁹ The Management Response explains that in May 2021 a land acquisition notice was issued for the two remaining tower pads despite the Supreme Court Order. Management states that this notice was later withdrawn by NEA. According to Management, a second land acquisition notice was published by NEA in September 2021 on the grounds that the Supreme Court’s Stay Order applied to a cessation of construction activities. Management noted that NEA will have to wait for the Supreme Court’s decision regarding the current routing before it can proceed.¹⁰

25. **Environmental and Cultural Impact.** The Management Response explains that access to forest sites will not be adversely impacted by the transmission line. According to Management, the selected route had the least impact on forest among the alternatives; other routes would have entailed more forest clearance.¹¹ Management notes that for trees cut for the transmission line, compensatory plantation is the main mitigation measure, with 25 trees to be planted and maintained for each tree cut, in compliance with the Department of Forest and Environment Regulations. Management also notes that the Environmental Impact Assessment (EIA) confirmed that the TL is not in the path of migratory bird species.¹²

26. Management explains that the Request provides no specific information on cultural, sacred or religious sites being affected by the Project. Management notes that neither the 2007 EIA nor 2012 Social Impact Assessment (SIA) identified any cultural or sacred sites in the RoW corridor in this area, and this issue was not raised during community consultations. During the Bank team’s visit to the site in December 2021, two small shrines located on public land were found, with one of them being within the RoW. Management explains that the Project will offer to relocate this shrine in line with Bank policy and as per the community’s preference. Management explains that this issue will be discussed with PAPs during RAP finalization and implementation.¹³ Management notes that two schools are in Dumkibas but well outside the RoW and that their access will not be restricted.¹⁴

27. **Health and Safety Issues.** Management states that it understands the Requesters’ concerns about physical and health-related impact they fear could result from the TL operation, such as the risk of failing towers or “leaking” of electricity. It notes that they do not reflect likely occurrences and that the Requesters assume that housing could be retained in the RoW, which is not allowed by law. Management also notes the assumption that crossing under the TL is harmful and thus to be avoided is incorrect. Management explains that it has confirmed that the Project complies with the relevant environmental, health and safety requirements of Bank policy. According to Management, all impact was carefully studied in the EIA for the Project, and the mitigation measures in the Environmental Management Action Plan (EMAP) are adequate. Management notes that there is a need for additional community outreach and education by NEA about transmission line safety.¹⁵

⁹ Management Response, p. 5, para 18.

¹⁰ Management Response p. 11.

¹¹ Management Response, p. 24, claim 5.

¹² Management Response, p. 13, para 50.

¹³ Management Response, p. 11, para 43.

¹⁴ Management Response, p. 12, para 45.

¹⁵ Management Response, p. 6, para 21 ; p. 14, para 54.

28. **Indigenous Peoples.** Management recognizes that indigenous peoples are present in parts of the Project area and that the Bank’s policy on indigenous people is applicable to the Project. Management notes, however, that Dumkibas is a mixed community and most of the indigenous people who live there have migrated to the area for economic and other reasons. Management argues that consequently, the policy criterion of “collective attachment to geographically distinct habitats or ancestral territories in the project area”¹⁶ is not met by the indigenous peoples living in the area subject to the Request. Management notes that the 2012 SIA identified Dalits and women-headed households as among the most vulnerable. Management explains that given the diversity of groups with differing levels of vulnerability, a Vulnerable Communities Development Plan (VCDP) was prepared instead of an Indigenous Peoples Plan.

29. **Consultation, Participation, Information Disclosure and Grievance Redress.** The Management Response explains that a public consultation was conducted by NEA in 2005. Prior to this, different means were used to disseminate information and seek input from PAPs. According to Management, consultations for the 2012 SIA, 2012 VCDP and 2012 RAP were also conducted in Dumkibas and included focus group discussions, a participatory rapid appraisal and household survey. The Response states that several consultations took place between 2015 and 2017 in Dumkibas, but those are not fully documented as participants refused to sign in or sign minutes. Management notes that in 2018 NEA recruited an external facilitator upon the Bank’s recommendation who was to improve interactions with the communities and help negotiate solutions. According to Management, the facilitator visited Dumkibas in February 2020, February 2021 and August 2021.¹⁷

30. **Alleged violence/retaliation.** Management explains that it received complaints about confrontations between the Nepali police and landowners in Dumkibas. It notes that the Bank had no prior knowledge of the reported use of police at the Project site. According to Management, it raised the matter with the Government when it became aware of the incident and requested that all Project activities cease to help calm the situation. Management explains that it is not able to respond to these allegations as no Bank staff witnessed the incident and divergent reports regarding the incident were obtained from multiple sources. According to the Management Response, both the landowners and NEA/police claim that the other side made an unprovoked attack and that there were injuries on both sides. Management notes that it has communicated to the Government that irrespective of the different views, PAPs need to be able to freely engage in consultations and be able to express their grievances.¹⁸

31. **Moving Forward.** The Management Response notes that the Project closed on October 31, 2021, and that the Bank has agreed on an action plan with NEA to address outstanding safeguard obligations, which for this Project component exclusively pertain to the finalization and implementation of the RAP. Management explains that this action plan of “Post-Closure Safeguards Rectification Measures” contains detailed time-bound actions that NEA has committed to follow through on. The Response notes that Management reminded the Borrower that RAP finalization and implementation in a manner that is aligned with Bank policy remains an obligation notwithstanding the Project’s closure. The Bank will continue to follow up with the Borrower on

¹⁶ Management Response, p. 15, para 60.

¹⁷ Management Response, p. 16, para 64.

¹⁸ Management Response, p. 6, para 22.

this and other aspects of implementation of the post-closure action plan. Management also states that NEA has agreed to implement a communications plan by April 2022 that will address health and safety concerns in an accessible manner.¹⁹

32. Management concludes that it believes the Bank has made every effort to apply its policies and procedures. In Management’s view, the Bank has followed the policies and procedures applicable to the matters raised by the Request. It believes that the Requesters’ rights or interests have not been, nor will they be, directly and adversely affected by a failure of the Bank to implement its policies and procedures.

E. Panel Review of the Request and Management Response, and Eligibility Assessment

33. From January 25 to 31, 2022, Panel Member Imrana Jalal, Senior Environmental Specialist Nicolas Kotschoubey, Research Assistant Rupes Kumar Dalai and Analyst Camila Jorge do Amaral visited Nepal to inform the Panel’s eligibility assessment.

34. During its visit, the Panel team met with officials of the Ministry of Finance, the Ministry of Energy, and NEA, as well as Bank Project staff. The Panel also met with the Requesters and their representative and other affected community members. The Panel expresses its appreciation to all those mentioned for providing valuable information and for sharing their views. Particular thanks are due to the World Bank Country Office staff in Kathmandu for their assistance in organizing the Panel’s visit, as well as for sharing guidance and protocols on COVID-19 prevention and mitigation measures. The Panel also thanks the Requesters and their representative for their willingness to meet and share valuable information.

35. The Panel’s review is based on information presented in the Request, the Management Response, other documentary evidence, information gathered through conversations with different stakeholders and through the Panel’s visit to Nepal. The following review covers the Panel’s determination of the technical eligibility of the Request according to the criteria set forth in the Panel Resolution (subsection E.1), observations on other factors (subsection E.2), and the Panel’s review (subsection E.3) supporting the Panel’s recommendation.²⁰

E.1. Determination of Technical Eligibility

36. The Panel is satisfied that the Request meets all six technical eligibility criteria of the Resolution.²¹ The Panel notes that its confirmation of technical eligibility, which is a set of verifiable facts focusing to a large extent on the content of the Request as articulated by the Requesters, does not involve the Panel’s assessment of the substance of the claims made in the Request.

- Criterion (a): *“The affected party consists of any two or more persons with common interests or concerns and who are in the borrower’s territory.”* The Request was submitted by 49 community members living in the project area in Nepal. On November

¹⁹ Management Response, p. 17, para 76.

²⁰ The Resolution, paras. 13-15 and 29.

²¹ The Resolution, paras. 13-15 and 29.

17, 2021, the Panel received a letter signed by 51 community members designating an advocate from LAHURNIP to represent them during the Panel process. The Requesters have asked the Panel to keep their identities confidential. The Panel met with the Requesters and their representative during its visit to Nepal. The Panel therefore considers this criterion met.

- Criterion (b): “*The Request does assert in substance that a serious violation by the Bank of its operational policies and procedures has or is likely to have a material adverse effect on the Requester.*” The Requesters allege that the transmission line financed under the Project adversely impacts their community. According to the Requesters, the transmission line and its towers in its current routing cause different types of harm as they adversely affect community members’ homes, schools, cultural and religious sites, agricultural lands, environment and economic activities, and threaten their safety. The Panel is thus satisfied that this criterion is met.
- Criterion (c): “*The Request does assert that its subject matter has been brought to Management’s attention and that, in the Requesters’ view, Management has failed to respond adequately demonstrating that it has followed or is taking steps to follow the Bank’s policies and procedures.*” The Request explains that, with the support of LAHURNIP, the Requesters submitted a complaint to Bank Management in April 2021. The Panel has reviewed various correspondence between the Bank and LAHURNIP that demonstrate that the Requesters’ concerns have been brought to the attention of the Bank prior to submitting the Request for Inspection. The Panel is satisfied that this criterion is met.
- Criterion (d): “*The matter is not related to procurement.*” The claims do not raise issues of procurement and thus this criterion is met.
- Criterion (e): “*The related loan has not been closed or substantially disbursed.*” At the time of receipt of the Request, the Project was active and 81 percent disbursed. Therefore, this criterion is met.
- Criterion (f): “*The Panel has not previously made a recommendation on the subject matter or, if it has, that the Request does assert that there is new evidence or circumstances not known at the time of the prior Request.*” The Panel has not previously made a recommendation on the issues raised in the Request, and thus this criterion is met.

E.2. Panel Observations Relevant to its Recommendation

37. In making its recommendation to the Board and in line with its Operating Procedures, the Panel considers the following:

- whether there is a plausible causal link between the harm alleged in the Request and the project;
- whether the alleged harm and possible non-compliance by the Bank with its operational policies and procedures may be of a serious character; and

- whether Management has dealt appropriately with the issues or has acknowledged non-compliance and presented a statement of remedial actions that address the concerns of the Requesters.

38. Below, the Panel records its preliminary observations on the alleged harm and compliance, noting that in doing so, it is not making any definitive assessment of the Bank's compliance with its policies and procedures and any adverse material effect this may have caused.

39. During its visit to Nepal, the Panel met with the Bank team and different government stakeholders in Kathmandu, and also traveled to Dumkibas, the Project area subject to this Request. The Panel team spent a full day with the community of Dumkibas and spoke to approximately 60 people during different meetings. The Panel met community members who explained that they have been living in the affected area for many generations, as well as others who told the Panel that they have moved there in recent years. During all meetings, strict COVID-19 protocols were observed as summarized above. The Panel appreciates the readiness and willingness of the Requesters and other community members to cooperate and follow these protocols, allowing for a productive and fruitful visit despite challenging circumstances related to a recent surge in COVID-19 infections in Nepal.

40. **Routing of the Transmission Line.** The Panel learned about six possible different route alignments during its eligibility assessment. The Management Response explains that the proposed route alignment has gone through various changes over time. The Response shows three different alignments that were surveyed in 1998, 2004 and 2012. The Panel understands that the current route was adopted by NEA in 2012; it is referred to as the "current alignment" in this report. The Panel understands that two further alternative alignments in the Dumkibas area were analyzed in 2018 and 2019. A sixth alignment, which the Requesters prefer and argue was considered earlier, is referred to in this report as the "River-Forest" route. Management argues that this route was never considered. The Panel notes that based on its preliminary review, there is a lack of clarity about the various alignments considered and the factors taken into consideration when choosing the current alignment.

41. The Panel observes that the Request alleges concerns relating to a rerouting of the transmission line from what the Requesters claim was the original planned route, which allegedly avoided densely populated human settlements. The Requesters argue that the current alignment does not take into account settlement patterns and where people are concentrated. The Requesters argue that the current alignment has an adverse impact on health, agriculture, livestock, and cultural and religious sites, and has affected their ability to improve livelihoods by obtaining loans using land they own within the RoW as collateral. The Requesters allege that the decision on the current alignment did not take into consideration the views of those intimately affected by the route, including in the RoW, but rather consulted those not directly affected by it.

42. The Requesters maintain that the current alignment that crosses the river and their community directly is the quicker, easier and more economic option for NEA, but eschewed the various adverse multiple impacts on their economy, culture, society, indigenous identity and health. The Requesters showed the Panel from a distance the "River-Forest" route that they maintain would allegedly follow the riverbanks, close to the edge of the forests, and bypass areas

of dense human settlement. The Requesters added that they insist on the “River-Forest” option, as any other alternative that was considered under the Project, including the current alignment, would pass through other community members’ land or houses, causing similar harms to them. The Panel heard from a number of people who claimed that their livelihoods are adversely affected by the current alignment, as the TL has directly affected their ability to borrow from local banks using their land as collateral. They claim that the banks have told them that land in the RoW of the current alignment is not viable for resale, and therefore could not be used as collateral for loans. They maintain that their plans to use land for loans that would have diversified and improved their livelihood opportunities were no longer possible.

43. According to the Requesters, the current alignment has an adverse impact on 96 households of the community, affecting both residential and agricultural land. The Panel observed that several towers are already built in the Dumkibas area, and that the locations for the two remaining towers (the subject of the dispute) and concurrent RoW pass through the middle of densely inhabited areas. In all Panel discussions with the community, without exception, members complained about the alignment of the TL and claimed that possible alternative routes that could have avoided going through human settlements were not assessed adequately during the design and implementation of the Project. The Requesters maintain that they have communicated this to the Government, NEA and Bank Management and that their concerns have not been taken into consideration. The Requesters told the Panel that they had to appeal to the Supreme Court of Nepal to get their grievances heard. The Panel understands that the Supreme Court issued a stay order in April 2021 stopping the works on the remaining towers in the communities’ area until a permanent decision is made.

44. The Requesters also told the Panel team that since 2012 – when the SIA, original RAP and VCDP were concluded – many demographic changes have occurred along the current alignment that added to the indigenous population that has been living in the area for generations. The Requesters also question why current Project implementation was now based on studies that were concluded in 2012, almost a decade ago, without taking into account the constantly evolving human settlement within the RoW of the current alignment.

45. The Requesters state that the current alignment passes over several sacred sites, whereas the previous alignment did not. They informed the Panel that by choosing the current alignment, the Bank failed to avoid or mitigate the Project’s adverse impact on historical, cultural and sacred sites as required by Bank policy. The Panel team visited the sites that allegedly have historical or spiritual significance for the local population and observed that the TL and one tower was close to two shrines, and that the TL traversed land close to where shrines and a “*holy and sacred*” water source were located. The Panel also observed that the shrines and water source appeared to be within the RoW of the current alignment.

46. Bank Management informed the Panel that the current alignment is a significantly better alternative compared to the others that were considered, as it affects fewer PAPs and is a reasonable effort by NEA to weigh alternatives and minimize such impact. Management maintains that considerably fewer households are affected by the 2012 alignment than would have been the case under the earlier proposed alignments of 1998 and 2004. Management informed the Panel that the dispute is also driven by an erroneous belief that the original routing avoided the

Requesters' area altogether and that it was later illegally changed. According to Management, this is not correct as all alignments went through populated areas of Dumkibas. Management informed the Panel that the Bank Policy on Physical Cultural Resources was not applied as the SIA indicated that the impact of the RoW on cultural sites is minimal.

47. During its meeting with NEA, the Panel learned that besides the cost and number of affected households, the number of trees and path of migratory birds were also taken into account when selecting the current route alignment. According to NEA, the "River-Forest" route would require the removal of a larger number of trees and would need the approval of the Ministry of Forests and Environment, which they claim would delay the Project and would be difficult to obtain.

48. The Panel observes that the alternative route alignments considered in 1998, 2004 and 2012, and shown in the Management Response, appear to pass through the village of Dumkibas, but it is not clear if fewer households, or more houses overall, are affected by the current alignment. As mentioned above, the Requesters showed the Panel team a different alternative route alignment that they believe could minimize human, social and economic impact. It is not clear to the Panel whether alternative routes that would avoid Dumkibas were adequately considered and could have been feasible alternatives.

49. **Land Acquisition, Resettlement and Compensation.** During the Panel's visit, the Requesters continued to maintain that they are not willing to move from their houses or lose access to land they use for economic, cultural and other purposes. When asked about the Project's resettlement process, they raised several concerns and questions. Their concerns relate particularly to a lack of clarity as to which houses and land parcels would be affected by the towers and RoW, how the physical displacement would take place, what the anticipated impacts on community members' livelihoods are, and what the Project is planning to do to mitigate these impacts. The Panel observed high levels of stress among community members that appear to stem, at least in part, from a lack of information provided by the Project.

50. The Panel notes that a RAP for the towers and structures was prepared by NEA in 2012. According to Management, for the purpose of starting the stringing works, NEA updated the RAP in 2021 based on the current alignment and the Bank reviewed it in September 2021. According to Management, the update was based on several years of consultations with affected communities.²² During the Panel's visit to Dumkibas, the community members told the Panel that they did not participate in such consultations. The community also reported they have never seen the 2012 or 2021 versions of the RAP, nor any material on the compensation packages offered. None of the community members who participated in meetings with the Panel had any recollection of a survey, census or surveyors asking them questions about their household size, occupation, income, etc. NEA informed the Panel that it has not been able to visit the community, conduct survey work or share detailed information since the community has not been willing to receive and engage with NEA representatives. According to NEA, most recent attempts to survey the community led to the April 2021 confrontations. The Panel understands that NEA's engagement with the community is now on hold due to the Supreme Court's injunction.

²² Management Response, p. 9, para 33.

51. The Panel understands that physical displacement is required in the areas of the tower pads and in the RoW, that there will be some land-take for the tower pads and that no one will be allowed to continue living in the RoW. As a result, households located within this 30-meter-wide area of the TL will be displaced and compensated under the Project's RAP. The Panel understands that agricultural, cultural and other activities will continue to be allowed within the RoW; however, trees taller than 4.5 meters would not be allowed. The Panel notes that the Bank and NEA recognize economic impact due to land use restrictions. According to Management, such economic impact includes the inability to build structures in the RoW or plant economically valuable trees beyond a certain height.²³

52. While the Panel met with approximately 60 individuals, many of whom claim their land will be affected by the RoW, the Panel was told by the community that there are more individuals who could be affected by the RoW limitations. The Panel observed confusion among community members about where exactly the transmission line would pass, how far the RoW extends, and what it implies to those who live or farm within it, as well as how many people are going to be affected. The Panel notes Management's explanation that the current alignment in the Dumkibas area affects 46 landowners and will require the physical movement of 16 households, with five landowners affected by land acquisition for the tower pads and 41 landowners being affected by the RoW easement.²⁴ The Panel also notes that the Management Response refers to some non-title holders who are currently using land within the RoW and Management's assertion that they will be identified and compensated as part of the 2021 RAP. Although most of the PAPs the Panel spoke to claim they have been living in Dumkibas since they were born and reside in houses that were left to them by their grandparents, the Panel also spoke to several community members who have moved to the area in recent years. Some told the Panel that they were planning to construct houses in the area or are in the process of doing so. They expressed their concerns about not knowing the exact area of the RoW, the planned timeline for the finalization of the RAP, the cut-off date for the RAP and related limitations to eligibility for compensation under the RAP.

53. During its field visit, the Panel spoke to the owner of a house who explained that a tower was built on his property in the presence of the police without any prior information or consent. He claims that he owns the land and that his house was constructed over 20 years ago. He claimed he received a visit from a Project staff member only after the tower was constructed who then verbally pressured him to accept the compensation and leave. The Panel notes that Management states that to date NEA has constructed towers only on public land in the Dumkibas area. Management added that private landowners in Dumkibas have not yet accepted compensation or allowed construction.²⁵

54. The Panel notes that the Requesters and other individuals it met in Dumkibas were vocal about not wanting compensation but demanded the rerouting of the transmission line. The Panel notes Management's explanation that the resistance of the affected landowners partly stems from their demand that NEA should fully acquire the entire RoW corridor in the absence of a change in the routing of the transmission line.²⁶ According to Management, this is not required under OP

²³ Management Response, p. 9, para 37.

²⁴ Management Response, p. 9, para 35.

²⁵ Management Response, p. 9, para 34.

²⁶ Management Response, p. 9, para 35.

4.12, and Management understands from NEA that this is also not consistent with national law. The Panel notes that the affected community members it met during its visit did not refer to full acquisition of the entire RoW corridor as a potential solution to their concerns.

55. The Panel learned that most men in the Dumkibas area are migrant workers who leave the community for long periods of time to work in the “*Gulf states*”. Therefore, women are mostly responsible for the agricultural production and for running the household while their husbands are away. The Panel understands that the Dumkibas community is made up predominantly of women, elders and children, many of whom are indigenous, and rely primarily on subsistence farming. The Panel learned from the Requesters that they are being denied loans by banks that do not accept the community’s land as collateral due to the devaluation caused by the RoW. According to the Requesters, this affects their ability to borrow money to buy farming equipment and build sheds for their cattle which, in turn, affects their livelihoods. They are also not able to freely dispose of their property or sell or build on their property, nor split the land into smaller plots (a practice known as “*Kitta Kaat*”). Women are concerned that these circumstances will make them even more vulnerable and marginalized and cause further losses to their agricultural production.

56. The Panel understands that in the past the Government of Nepal paid a flat rate of 20 percent of the land value as an easement fee for people with properties under a transmission line, which led to disputes around the country, as the payment was not considered adequate, considering the real economic loss landowners were experiencing. According to Management, the Bank has been working with the Government for years on a more robust and equitable policy for RoW easements that has not yet been approved by Cabinet. The Panel notes Management’s explanation that it has supported NEA to revise the RAP and provide a graduated easement fee, proportionate to the percentage of land under the RoW, up to 50 percent of the land value, which is reflected in the RAP²⁷. The Panel notes that this does not appear to resolve the Requesters’ concerns.

57. **Environmental and Cultural Impact.** The Panel notes the Requesters’ concerns about the adverse impact of the transmission line on their environment, flora and fauna, as well as on biodiversity. The Panel understands that there will be no adverse impact on access to forests as a result of the Project, and that the Project’s EIA confirmed that the TL is not within the path of migratory birds. The Panel notes Management’s explanation that the TL route selected had the least impact on forest among the alternatives. Management further states that for the trees cut to make way for the TL, compensatory planting was adopted as the main mitigation measure in line with Government regulations. The Panel understands that the current regulation requires that for every tree cut 25 trees need to be planted and maintained, although not necessarily in the same area. Due to its tight schedule, the Panel was not able to visit any of the compensatory plantation areas under this project. During its visit to the Dumkibas area, the Panel observed that there are a few tall trees, which men climb to get branches, that are located directly under the transmission line and would need to be cut. The Panel team also observed that it does not appear that there would be extensive adverse impact on the flora and fauna by the transmission line within the disputed area of Dumkibas.

58. During the Panel’s visit to Dumkibas, the Requesters guided the Panel to an area near an already built tower where three sites of religious value to the community are located. The Panel

²⁷ Management Response, p. 11, para 39.

team was told that one of the structures is a so-called Kuldevi temple, where community members worship, while the second structure is a Buddhist temple. The third site is a well, from which community members collect water that they claim is sacred and which they use for worshipping purposes. The Panel notes Management's acknowledgment that neither the 2007 EIA nor the 2012 SIA identified any cultural or sacred sites in the RoW corridor in this area. Management also claims that this issue was not raised during community consultations. The Panel understands that during the Bank team's visit to the area in December 2021, two small shrines located on public land were identified, with one of them being within the RoW. Management explained that the Project will offer to relocate this shrine in line with Bank policy and as per the community's preference, and that this issue will be discussed with PAPs during the RAP finalization and implementation.²⁸

59. **Health and Safety Issues.** During its field visit, the Panel noted the community's concerns relating to the potential adverse effects of electric and magnetic fields created by high voltage power lines. The community believes "leakage" of electricity, due to "thunder" and falling lines, could cause harm to their lives while they engage in farming, commute to school and perform rituals. The women also worry that magnetic fields and "leaks" of electricity could lead to several health impacts, such as infertility, miscarriage and diseases such as cancer, which could harm not only them but their children and animals. According to the women, this is especially worrisome to them because they believe the transmission line will run over or be close to sacred and farming sites, schools and other human settlements. The Panel notes Management's explanation that it understands these concerns, but that the risk of failing towers or "leaking" electricity does not reflect likely occurrences.²⁹

60. The Panel observed that in some areas the TL towers are located near inhabited houses and that the TL lines would pass by densely populated settlements. However, the Panel understands that residents would not be able to retain housing in the RoW and that crossing under the transmission line is not harmful, and hence does not need to be avoided. The Management Response confirms that residents are not allowed by law to retain housing within the RoW. The Panel further understands that the community's agricultural activities can continue to take place under the transmission line and that the assumption that crossing under a TL is harmful and should be avoided is not correct. The Panel notes Management's assertion that the Project complies with the relevant environmental, health, and safety requirements of Bank policy.

61. The Panel notes that many of the health and safety concerns raised by the community appear to be based on a lack of information about the tower and transmission line safety. During the Panel's meeting with NEA, officials stated the agency has prepared accessible educational and informational materials to address the community's questions and concerns regarding health issues. The Panel learned from the community that no awareness campaign, educational materials or evidence has been presented to them to ease these health-related concerns.

62. The Panel understands that Management has reviewed and carefully studied the impact in the Project's EIA and the mitigation measures in the EMAP and recognizes the scientific consensus that no known health impacts can be linked to the electromagnetic exposure that is

²⁸ Management Response, p. 11, para 43.

²⁹ Management Response, p. 5, para 21.

expected to stem from the Project. Management also acknowledges that there is a need for additional community outreach and education by NEA about transmission line safety.³⁰

63. During its visit, the Panel was told by several Requesters that they are concerned that the lack of fencing or other protection around the towers poses a serious risk to the children of the community since they like to play close to the towers and climb them. The Panel observed that the towers that were already built in the community are easily accessible by the community and may pose a safety risk for children.

64. **Indigenous Peoples.** The Requesters state that the current TL route is transiting their densely populated community, which includes indigenous and non-indigenous residents. The Panel team met with indigenous peoples, including Magar, Gurung, Tharu, Kumal and Tamang, as well as non-indigenous residents such as Dalits, Madhesis and Khas Arya. The Request alleges that free, prior and informed consent of the affected community was not reached. The Panel notes that although there is some divergence of opinion regarding the classification of indigenous peoples in Nepal, the previously mentioned groups are recognized as “indigenous nationalities” under the National Foundation for Development of Indigenous Nationalities Act of 2002,³¹ that there are approximately 59 indigenous groups in Nepal, and that the 2015 Constitution of Nepal recognizes the need to promote the rights of indigenous peoples.

65. One group the Panel met was predominantly from the Adivasi community, which identifies itself as Dalit. The VCDP identifies them as one of the most vulnerable groups in the community, together with female-headed households. The Panel saw that a transmission tower has already been built in the backyard of a house in which a multi-generational family of eight Dalit members currently resides. They declared that they are poor and have been living in the area for generations, and that their livelihoods depend on subsistence agriculture on small plots of land that they cultivate. They feel that their identity and social cohesion are under threat due to displacement caused by the Project. They stressed that it is important for them to decide as a whole community about their lands, and that despite the possibility of compensation or the amount, they do not want to relocate to a different area as they fear that their familial connections, ethnic bonds and communal harmony will be fractured. This group claimed that they were being taken advantage of by the authorities as they are mainly women, and that they are the poorest in the community and the most powerless and vulnerable. They stated that when construction machinery arrived to prepare for the tower, women in particular were disadvantaged, as the vast majority of men were away from the country as migrant labor, and they believed their absence allowed women to be bullied, beaten and dragged during alleged scuffles with NEA and the police. They allege that had they been more powerful citizens, and not Dalits, this would not have happened to them.

66. In another community meeting, the Panel team met with indigenous peoples, one of whom claimed that he was an indigenous community leader. He stated that the majority of community members belong to indigenous peoples, whose social and cultural practices are historical, and that they had been in the Dumkibas area for many generations. He maintained that their communal practices are transferred from generation to generation and are part of an unwritten oral history. He argued that the Bank project ought to have applied the Indigenous Peoples Policy and that the

³⁰ Management Response, p. 6, para 21.

³¹ Date of Authentication 2058-10-25 (Feb 7, 2002)

development of a VCDP in 2012 was in complete disregard of their special status. He claimed that the community was made up of a variety of different indigenous groups, that the sole VCDP was prepared in 2012 without appropriately analyzing the specific conditions, concerns and needs of the indigenous peoples, and without consulting them. A number of community women, self-identifying as indigenous, spoke about their lands and houses as part of their great-grandfathers' and grandfathers' heritage, dating back over 150 years. All members of indigenous groups that the Panel team met, without exception, noted their disagreement with the Project because of its alleged deleterious effects on their community, their livelihoods and their cultural identities. They said they had not been consulted during the design or implementation of the Project by the authorities and learned about the Project in different ways. Many community members claimed that the first they heard of the project was when NEA construction teams arrived with bulldozers and construction equipment to begin excavating, grading and removing trees, stumps and boulders to construct the transmission towers.

67. Bank management informed the Panel that the Project developed the VCDP in 2012 and it included many social benefits for community members, including indigenous peoples. However, when asked, community members stated that they are not aware of any specific benefits for indigenous peoples in their community. Management recognizes that indigenous peoples are present in parts of the Project area and that the Bank's Policy on Indigenous Peoples is applicable to the Project. However, it notes that Dumkibas is a mixed community and most of the indigenous peoples who live there have migrated to the area for economic and other reasons. Management argues that accordingly the policy criterion of collective attachment to land is not met by the indigenous peoples living in the area subject to the Request. Management notes that the 2012 SIA identified Dalits and women-headed households as among the most vulnerable. It explains that given the diversity of groups with differing levels of vulnerability, the VCDP was justifiably prepared instead of an Indigenous Peoples Plan. Management maintains that the use of the alternative plan for the development plan of indigenous communities is allowed under Bank policy, and that this was a common practice in Bank projects in Nepal.

68. From its meetings the Panel observed the diversity of the community and the presence of indigenous peoples, non-indigenous Dalits and several other groups. The Panel also noted the large presence of women and several women-headed households. The Panel further noted the absence of men from many households as they traveled abroad as migrant workers. The Panel was able to confirm this is a mixed community with varied levels of vulnerability.

69. **Consultation, Participation, Information Disclosure and Grievance Redress.** During the Panel's visit to Dumkibas, community members explained that they were not consulted meaningfully during the design and implementation phases of the Project. The Request refers to one public hearing carried out in a different municipality, which the affected community was not able to attend due to a lack of prior notice. A representative of the municipality informed the Panel that two public hearings took place that were attended by approximately 20 participants each. The Panel notes that according to Management, in addition to a public consultation in 2005, consultations for the 2012 SIA, 2012 VCDP and 2012 RAP were conducted in Dumkibas. The Management Response in its Annex 2 provides a detailed list of community consultations held in Dumkibas over the years. The Panel notes Management's explanation that several consultations that took place between 2015 and 2017 in Dumkibas were not fully documented as participants

refused to sign in or sign the meeting minutes. It is not clear why the community members the Panel spoke to were not aware of many of these engagements. The Panel also received written information from NEA about six meetings that were held in relation to the community's resistance to the tower construction, the survey and RoW compensation, but it appears that some of these meetings were solely attended by officials and only few included a small number of affected community members.

70. Community members told the Panel team that they were not given the opportunity to provide their input on the routing of the transmission line and other important aspects of the Project, such as resettlement compensation and livelihood support. They claim that they were not provided information prior to the start of works in relation to the number of transmission line towers to be built, their exact locations and the timeline of when they would be built. The Panel team was also told that community members were not informed about the impact of the transmission line, including on health and safety of people living and working under or near the line. According to several people to whom the Panel spoke, no information was received about what types of restrictions would apply in the RoW, which community members would have to be resettled and what compensation they would receive.

71. The Panel learned that NEA recruited an external facilitator upon the Bank's recommendation in 2018 who was hired to improve interactions with the communities and help negotiate solutions. According to Management, the original facilitator was no longer able to continue the work and was replaced by a new facilitator in 2021. The Management Response explains that the facilitator visited Dumkibas in February 2020, February 2021 and August 2021.³² The community members the Panel spoke to were mostly not aware of the facilitator and claimed that they had not met. The Panel team also spoke to a representative of the municipality office who was similarly not aware of the facilitator. NEA informed the Panel team that the community was not granting the facilitator access to engage with them. When speaking to Management, the Panel learned that NEA's engagements with the community were halted and that NEA is awaiting the outcome of the pending Supreme Court case. The Panel notes that the timeline of case is unclear.

72. With regard to the Project's Grievance Redress Mechanism (GRM), the Panel notes that the Management Response refers to a mobile GRM team. The community members the Panel spoke to were not aware of any GRM channels accessible to them provided under the Project.

73. The Panel observed a lack of information among community members about key aspects of the Project and its impact. The Panel notes that misinformation and suspicion is widespread within the community, particularly in relation to health and safety impacts of the transmission line and its effect on livelihoods. The Panel notes the Requesters' assertion that the lack of engagement and opportunity to provide input has created distrust and conflict in the community, including the alleged physical escalation between community members and local police accompanying NEA in April 2021.

74. On January 31, 2022, two days after the Panel's visit to Dumkibas, the Panel received communication from the Requesters who were concerned that workers were in the village allegedly disobeying the stay order by working on one of the existing towers. The Panel informed

³² Management Response, p. 15, para 64.

Management of this and was told that work was likely being conducted on one of the towers located on public land that was not affected by the stay order. The Panel notes that there appears to be a lack of communication and information sharing with the community about works that continue to take place in the area, whether they are allowed under the stay order etc., contributing to their fears and suspicion about the Project.

75. **Alleged violence/retaliation.** During the Panel's meeting with the Requesters, they expressed concern about retaliation against them, which they claim created an atmosphere of intimidation and constant fear. The Panel team visited the site where the alleged violence occurred and met with the community members. The Requesters and other community members alleged that the police force responded disproportionately when they tried to protest peacefully against the construction of a transmission tower on their properties. The Requesters informed the Panel team that they showed Project authorities copies of the Supreme Court stay order that prohibits continuation of construction activities related to the towers and lines until a permanent court order was obtained. According to them, the authorities refused to accept the order and continued the construction activities. They alleged that the police used violence and tear gas to disperse the community members who were protesting. An elderly couple informed the Panel that they were pushed and beaten when they protested. During the Panel meeting with elderly community members, a woman shed tears while relating the alleged violent incident. Other community women were allegedly pushed and shoved in front of their children. Another elderly woman told the Panel team that her knees were injured during the scuffle and claimed she had not completely recovered. Another woman told the Panel team that her arm was injured and claimed that she is yet to recover completely from the injury allegedly caused by police violence at the construction site.

76. During the Panel's meeting with NEA, their project team stated it was aware of the long-standing opposition to the construction of transmission towers and TL in the Requesters' communities but was unaware of any violent activities as alleged by the Requesters. During the meeting with the Bank Project team, the Panel learned that there were divergent records of what had happened, but that Management stated that it appears that violence was caused by both sides. Management informed the Panel that it was not aware of the alleged incident until complaints were received on April 13 and April 15, 2021. Bank Management met with NEA and requested that it cease all construction activities to calm tensions. Management also informed the Panel that it has communicated to the Government that PAPs need to be able to freely engage and express their grievances.

E.3. The Panel's Review

77. The Panel acknowledges the significance of the Project in addressing the necessity for an increase in the supply of electricity in Nepal, for domestic consumption as well as for trade with India. It notes that the Requesters are not opposing the Project but are concerned that the current TL route alignment under the Project allegedly causes serious actual and potential harm to them. They maintain that an alternative alignment that does not lead to the alleged serious harm was not properly considered.

78. The Panel acknowledges the serious concerns of the Requesters and appreciates the additional information received during the recent eligibility visit and the productive discussions

with them, as well as the trust they have placed in the Panel's process. The Panel also acknowledges Management's detailed response to the issues raised in the Request and its willingness to provide further information.

79. The Panel notes Management's assertion that most allegations in the Request were already known and that Management has worked with NEA to help address them. The Panel understands that the Requesters have not been willing to engage with the Project team and NEA and to participate in discussions about the 2021 RAP, which updates the 2012 RAP, as they lack trust in the process and oppose the current alignment. The Panel notes that the Requesters have filed a case against the current routing of the TL with the Supreme Court of Nepal in April 2021, which issued a stay order for the remaining works. The Panel understands that the Project's engagement with the community is now on hold pending the outcome of the Supreme Court case, for which the timeline is unknown.

80. **Alleged Serious Harm and Possible Non-Compliance.** The Panel notes the community members' claims that they have had homes in the affected densely populated area for many years, some for several generations, and have been using the land for subsistence farming and grazing livestock and that some have been selling crops and livestock for income. The Requesters allege actual and potential harm caused by the Project, with the TL passing through the middle of densely inhabited areas and land used for farming and cultural purposes. They say that possible alternative route alignments that could have avoided going through human settlements were not assessed adequately. The Requesters state that the potential harms they are likely to experience if their lands are acquired for the towers and the RoW include adverse impact on their livelihoods, agriculture, livestock, cultural and religious sites, and health and safety. They also allege that the TL is affecting their ability to maintain and improve their livelihoods, including through obtaining loans by using their land within the RoW as collateral. The Panel notes that community members will not be able to live within the 30-meter-wide RoW but will be able to graze livestock and plant crops that grow to a limited height.

81. The Requesters argue that the resettlement process, which they claim they were not consulted on meaningfully, is unclear as to which houses and land parcels would be affected by the TL and the RoW, the manner of the physical displacement, the impact on community members' livelihoods and the mitigation of these impacts. They allege that there has been a lack of consultation and information disclosure on all these issues and that the consultations that did take place did not include those directly affected by the current alignment of the TL. They also state that they were not aware of a functioning GRM to which they could complain. Most community members were also not aware of the external facilitator hired by NEA. Some individuals who were aware of the facilitator explained that this person did not meet with them nor mediate between the groups, but was a messenger liaison for NEA, rather than a mediator. They also allege that community members have been intimidated during the process of building towers. The Panel team observed that community members are very tense about the dispute with NEA since the alleged confrontation in April 2021. Several women, as well as elderly people, said they were severely beaten when they protested peacefully against the building of towers and are still traumatized.

82. The Panel notes that the Requesters provided numerous examples as to how their rights and interests are being, or may be, potentially seriously affected. The Panel therefore notes that

the alleged harms are of a serious character emanating from possible non-compliances by the Bank with its operational policies and procedures.

83. **Plausible Causal Link between Alleged Harms and Project.** The Panel notes from its review that the allegations of harm raised regarding the lack of consideration of an alternative alignment, resettlement of vulnerable groups, livelihood impact, safety issues, and consultation and disclosure of information are plausibly linked to the Project. The Panel observes that some of the Requesters' concerns, in particular about certain livelihood impact, and health and safety risks appear to be based on a lack of information provided by the Project as well as fear, mistrust and uncertainty owing to alleged intimidation. The Panel observed the Requesters' fear that because of the Project they may lose a way of life connected to their social integration with other members of their community, especially as indigenous peoples, Dalits, female-headed households and other vulnerable groups.

84. **Management Actions.** The Panel notes that the Project closed on October 31, 2021, the transmission line in the Dumkibas community has not been completed and that there are outstanding safeguard obligations. The Panel also understands that civil works on the remaining towers, the RAP process, including survey works, and community engagement are currently halted due to the pending case and injunction issued by the Supreme Court of Nepal. The Panel understands that the Bank agreed with NEA on an action plan to address the outstanding safeguard obligations, which pertain to the finalization and implementation of the 2021 RAP. The action plan is included in the Management Response as Annex 4. According to its Response, Management has reminded the Borrower that the finalization and implementation of the RAP in a manner that is aligned with Bank policy is an obligation, notwithstanding the closure of the Project. The Panel observes that the Bank is committed to follow up with the Borrower on this and other aspects of the action plan with NEA. The Panel notes that the action plan agreed between the Bank and NEA may address some of the concerns of the Requesters, if successfully implemented. However, the Panel further notes that it is not possible at this stage to confirm the adequacy of these actions and whether the Bank complied with its policies and procedures. The Panel also understands that NEA has agreed to implement a communications plan by April 2022 which is intended to address health and safety concerns of the community.³³

85. **Conclusion.** In view of the above analysis, and based on observations gathered during the Panel's visit, it is the Panel's view that the Request alleges issues of actual and potential harm of a serious character that are plausibly linked to the Project. The Panel notes that there are conflicting assertions between the Requesters and Management, and it is not possible to assess whether Management has dealt with the issues raised appropriately, sufficiently demonstrated it followed policies and procedures, or that Management's proposed actions adequately address the matters raised in the Request. The Panel notes that the facts relating to the Requesters' assertions and compliance with Bank policies and procedures can only be determined in the course of an investigation.

³³ Management Response, p. 17, para 76.

F. Recommendation

86. The Panel notes that the Requesters and the Request for Inspection meet the technical eligibility criteria set forth in the Panel Resolution. The Panel considers the alleged harm to be plausibly linked to the Project, and that the Request raises important issues of alleged harm and policy non-compliance.

87. Based on the above Panel observations and review, the Panel recommends carrying out an investigation into the alleged issues of harm and related non-compliance, focusing on issues of compliance with World Bank operational policies and procedures under the Project that relate to the Project's analysis of alignment alternatives for the transmission line, resettlement and alleged impact on livelihoods of vulnerable groups, including indigenous peoples, and the Project's engagement with the affected community, including consultation, participation, information disclosure and grievance redress.

88. If the Board of Executive Directors concurs with the Panel's recommendation, pursuant to the Panel Resolution³⁴, the Accountability Mechanism Secretary as Head of the Dispute Resolution Service³⁵ is required to offer an opportunity for dispute resolution to the Requesters and the Borrower. The Panel will then hold its compliance process in abeyance until the dispute resolution process is concluded. If the Accountability Mechanism Secretary informs the Executive Directors that the Parties have reached agreement and signed a Dispute Resolution Agreement, the case shall be considered closed. The Panel shall issue a memorandum closing the case and take no further action with respect to the Request. The Panel will inform the Requesters and Management accordingly. However, if such agreement has not been reached by the Parties within the stipulated period, the Panel will commence its investigation.

³⁴ The World Bank Inspection Panel, September 2020. Resolution No. IBRD 2020-0004 and Resolution No. IDA 2020-0003, paras 29-33.

³⁵ The World Bank Accountability Mechanism, September 2020. Resolution No. IBRD 2020-0005 Resolution No. IDA 2020-0004, para 12 (a): "The Accountability Mechanism Secretary (as head of the Dispute Resolution Service) convenes the Parties to initiate the dispute resolution process. The dispute resolution process will be facilitated by the Dispute Resolution Service in order to reach a mutually agreed solution between the Parties."

Annex 1

Request for Inspection



COMPLAINT (REQUEST FOR INSPECTION) FORM

To:

The Executive Secretary, The Inspection Panel, The World Bank, MSN: MC 10-1007
1818 H St., NW, Washington, DC 20433, USA. Fax: +1(202)-522-0916. Email: ipanel@worldbank.org

Section 1: Complaint

1. What harm do you believe the World Bank-financed project caused or is likely to cause to you or your community? Please describe in as much detail as possible.

- We, the undersigned petitioners, are the affected people by the below-mentioned project, residing at [REDACTED] which encompasses both Indigenous people – *Magar, Gurung, Tamang* – as well as non-Indigenous people – *Dalits, Madhesis, and Khas Arya*, and the constitution of Nepal recognizes them as Nepal's legal residents.

The Fact

Following are the facts of the project that people have concerned:

- Original route changed:** As per the survey license issued on [REDACTED] the proposed original route of the transmission line was *Jyamire Hulaki Khola* of Ward No. 1 of the same Rural Municipality. There was no survey conducted to move the transmission line to [REDACTED] and this area falls under densely populated residential areas. This license was valid till 2008 [REDACTED]. However, without community members' consent and public notification, the tower 44AP of the transmission route is moved to [REDACTED].
- Community appeal to Ministry of Energy (MOE):** On [REDACTED] community appealed to the then VDC (Village Development Community) to send a letter on their behalf to the Ministry of Energy (MOE) to reconsider the original route. The letter detailed that the new route had an adverse impact on 96 households' residential and agricultural land also causing health hazards, violation of human rights, and potential displacement.
- On [REDACTED] the [REDACTED] (VDC) issued a letter on behalf of the community to MOE requesting to move tower no. 199 and 200 and choose a safe alternative route through the northeast of [REDACTED] (*Mijing River*) this route avoids human settlement areas. Or follow the original route as mentioned in Survey One.
- Despite all the appeals sent to MOE, towers no. 197 and 198 were installed in [REDACTED] riverbank and tower no. 201 and 202 were installed in forests by mobilizing armed security forces. To date, MOE never procured expressed consent and all the installation work is carried out without the consent of the 96 households. On September 12, 2005, as per the EIA report, a public hearing was carried out in *Kawasoti* 30 KMs from [REDACTED] and it's a different municipality. The affected community was absent in this hearing due to no prior public notification and [REDACTED] (VDC)'s lack of communication.

Adverse Impacts to the Community

- The project has adverse impacts as follows: (People have begun to already experience and suffered ramifications of this project, and some have a grave impact if the project executes in status quo)
- Physical harm:** The project harms the people's life directly as the transmission line passes through - agricultural land, houses, schools, community houses, public places, and sacred sites. A leak of electricity, thunder harms the lives of people while engaging in farming, school commute, and performing rituals and festivals. *For instance, putting life at grave risk a tower pad (Tower No. 201) has been installed in front of the house within 5 meters of [REDACTED] family members reside in the house including an infant. Community members protested for the installation, but the police force was deployed, and installation was carried out.*
- Impacts to flora and fauna, environment, biodiversity:** Environmental degradation, and adverse impacts to flora & fauna, and biodiversity is another crucial aspect the project will cause.
- Safety and security:** It also threatens the safety and security of people residing in the project areas. Three schools fall under 500 meters of the transmission line and pose a grave danger to lives. [REDACTED] Secondary School, [REDACTED] Secondary School, and [REDACTED] Academy).
- Displacement:** Displacement of people is another major concern. It will cause displacement from houses, lands (agricultural and residential), economic, cultural, social, livelihoods, subsistence, income generations, etc.
- Adverse impacts to sacred sites:** The project will cause adverse impacts to sacred sites, public places (schools), cultural, religious sites, etc.

- **Right to housing:** It also deprives the community of the right to housing. The community members, residing in the project areas for generations, and some of them have allocated their land plots and planned for the construction of houses there already. But, suddenly the project came to operate of making those constructions illegal, and they cannot build houses forever where the transmission line goes. People cannot freely dispose of their property (due to devaluation of land, neither banks accept them as collateral for loans nor they can sell or Kitta Kaat (Split the land for plotting in small sizes).
 - **FPIC:** Free, Prior, and Informed Consent is one of the important aspects that need to respect by the projects in accordance with the provisions of ILO Convention No. 169 and the United Nations Declaration on the Rights of Indigenous Peoples. Those mandatory provisions were violated by the project as did not have disseminated information pertaining to the project and no consultations have been carried out with the affected communities. Rather it has prepared forged documents related to the consultation or public hearing was added. The project gathered people who are not affected by the project and name it consultation. In fact, there was no participation of actually affected peoples in the process. This has created conflict among the community.
 - **Torture/Intimidations:** Despite an interim stay order in place issued by Supreme Court (Dated [REDACTED]), a tower pad was dug, and the community organized a peaceful protest. But the authorities retaliated by deploying armed forces, physically assaulted, and used tear gas. Women, senior citizens, and a toddler were wounded.
 - **Illegal land acquisition notice:** Land acquisition public notification was never published during the project scoping or implementation. After the Interim Stay-order was issued by the Supreme Court Dated [REDACTED] On the First [REDACTED] 1st notice was issued amid COVID 19, community members protested stating that this was a violation of Stay Order and Lockdown rules. Eventually was forced to withdraw. On [REDACTED] 2nd land acquisition notice was issued.
 - **Impacts to the Livelihoods:** The project directly impacts the agriculture activities, lives, and economies affiliated with it, such as livestock, dairy, farming, nursery, fodder for cattle, and grazing.
- Requests**
- Ensure full compliance with the World Bank safeguard policies including the policies related to Indigenous Peoples (ESS1, ESS4, ESS5, ESS6, ESS7, ESS 10, etc).
 - Respect the provisions enshrined in ILO Convention 169 and United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).
 - conduct an independent investigation to reroute the transmission line to follow either the original transmission line route or to find the safer alternative ways.
 - Remove the tower pad from in front of [REDACTED]'s house, this poses a life-threatening danger for [REDACTED] kids.
 - Immediate cease of violent use of power, Adhoc armed force deployment at tower pad installation site, violation of human rights, random visits by local authorities for solicitation without a permit to enter houses and questioning (affected communities are treated like suspects and local authority personnel enters their houses without consent.)
 - Restore the rights of indigenous peoples, Dalits, and other affected communities and find an amicable way to implement a new route implementation plan.

2. What is the name of the World Bank project? (If known)

Nepal-India Electricity Transmission and Trade Project (P115767) (Component B3: Hetauda-Bharatpur and Baratpur-Bardaghat 220 kV Transmission Line and Substations.

3. Where is the World Bank project located? (Please include country name)

The project is located in Nepal (From Hetauda to Bardaghat of Bagmati Province).

4. Do you live in the project area?

Yes.

5. Have you previously reported your concerns to World Bank management? If yes, please provide the details about those communications and explain why you are not satisfied with the Bank's action in response.

Yes. With the support of the Lawyers' Association for Human Rights of Nepalese Indigenous Peoples, we have submitted the complaint to the management of the World Bank ([REDACTED]). Despite the response of the management the NEA and the government of Nepal keep on intimidating the community to allow them to continue project activities. Through the communication, the community requested to facilitate to construct the TL in an original route that is stipulated in section 1 or take the alternative route to save human settlement to ensure safety and security. The project should respect fundamental rights enshrined under the Constitution, 2015 including to live, security, freedom of movement, residence, work, respect ILO C. 169 and UNDRIP, and respect the WB Safeguard Policies including Indigenous Safeguards, Social and Environment Safeguard Policies, etc.

6.

Following WB policies are not followed:
The World Bank safeguard policies; a. social and environmental, indigenous policy, ESS 7/10

7. Do you expect any form of retaliation or threats for filing this complaint to the Inspection Panel?

Yes. The government and NEA may deploy security forces to oppress and intimidate the community, as the government did it before. The government commonly misused its power, including deploying the armed security forces and trap into false cases to suppress Indigenous Peoples and locals to implement development aggression.

Section 2: Contact Information

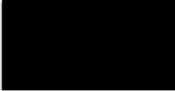

8. Are you complainants or a representative of complainants?

Complainants: Representing a complainant or community:

9. Would you like your name and contact details to be kept confidential? *(The Inspection Panel will not disclose your identities to anyone without your prior consent.)* Yes No

10. Complainants' Names (Minimum two names and signatures are required):

Complainant 1		Complainant 2	
Name	[REDACTED]	Name	[REDACTED]
Address	[REDACTED]	Address	[REDACTED]
Phone	[REDACTED]	Phone	[REDACTED]
Email	[REDACTED]	Email	[REDACTED]

	
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11. We, the undersigned, request the Inspection Panel to investigate the issues described above.

Signatures (*More signatures can be sent as an attachment document*):

Forty-Seven affected people with signature copies are enclosed along with this complaint	
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NOTES:

- Please attach supporting documents, if available.
- If you have any difficulty in completing the form, please contact the Inspection Panel at ipanel@worldbank.org or by phone: +1-202-458-5200.

List of Attachments to the Request for Inspection
1 – Requesters’ Signatures
2 – Letter of Authorization (Representative)
3 – National Human Rights Commission
4 – Gorkha Patra Notice
5 – Stay Order
6 – Dumkibas Photo
7 – Application to Government for shifting TL
8 – Local Government Recommendation to Shift Transmission Tower
9 – No Information Provided

More information about these annexes may be made available upon request to the Panel.

Complaint on
Nepal-India Electricity Transmission and Trade Project (P115767) (Component B3: Hetauda-Bharatpur and Baratpur-Bardaghat 220 kV
Transmission Line and Substations.

(Detail of affected People)

Name of Complainants

SN	Name	Address	Gender	Ethnicity Indigenous/Dalits/ Khas Arya	Effect House/Land/Other /Living in that area	Signature
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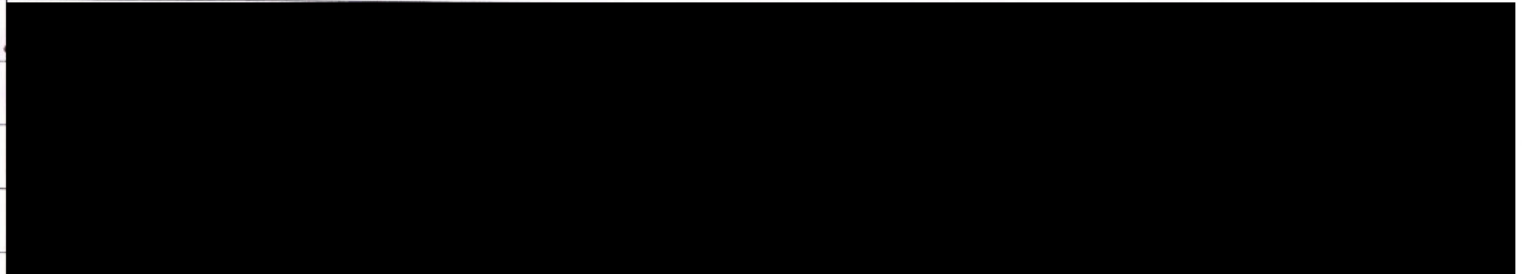
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November 11, 2021

The Executive Secretary
The Inspection Panel, The World Bank
MSN: MC 10-1007
1818 H St., NW, Washington, DC 20433, USA.
Fax: +1(202)-522-0916.
Email: ipanel@worldbank.org

Re: Letter of Authorization

We, the complainants of the complaint on "*Nepal-India Electricity Transmission and Trade Project (P115767) (Component B3: Hetauda-Bharatpur and Baratpur-Bardaghat 220 kV Transmission Line and Substations)*" submitted to the inspection panel dated October 18, 2021, would like to inform you that the attorney of power for regular communication with the panel regarding community issues and represent community when and where needed has been delegated to Advocate [REDACTED] of Lawyers' Association for Human Rights of Indigenous Peoples (LAHURNIP).

Due to technical, language and other reasons it is not possible for us to be in regular contact with you and cannot respond to your emails on time. Hence, we would like to authorize [REDACTED] to communicate with the panel on-behalf of the community and represent the community whenever it deemed necessary.

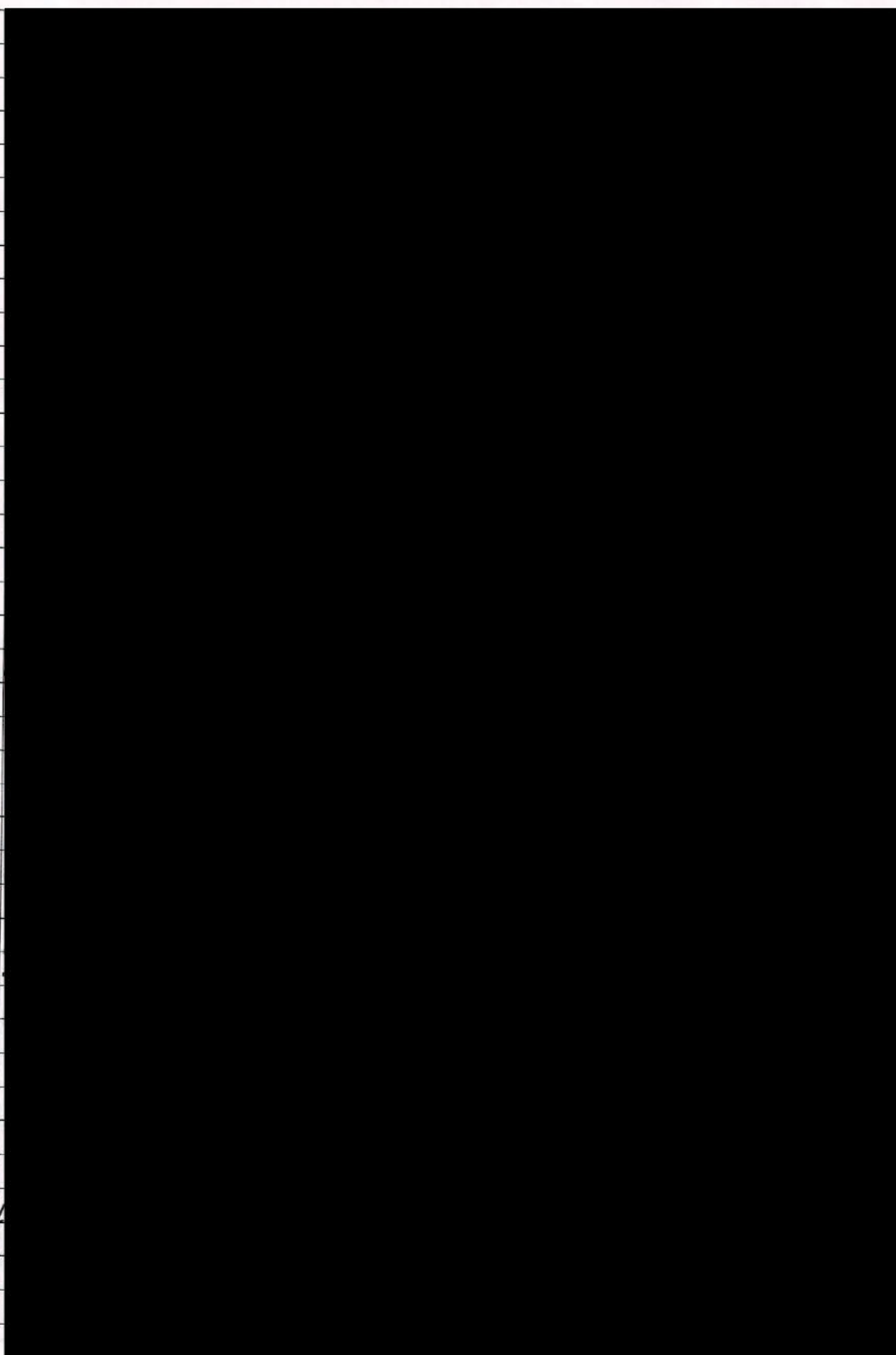
He can be reached through the following details:

Contact #: [REDACTED]
Email: [REDACTED]

Yours sincerely'

S.N	Name	Address	Signature
1	[REDACTED]	[REDACTED]	[REDACTED]
2	[REDACTED]	[REDACTED]	[REDACTED]
3	[REDACTED]	[REDACTED]	[REDACTED]
4	[REDACTED]	[REDACTED]	[REDACTED]
5	[REDACTED]	[REDACTED]	[REDACTED]
6	[REDACTED]	[REDACTED]	[REDACTED]
7	[REDACTED]	[REDACTED]	[REDACTED]
8	[REDACTED]	[REDACTED]	[REDACTED]
9	[REDACTED]	[REDACTED]	[REDACTED]
10	[REDACTED]	[REDACTED]	[REDACTED]

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50	[REDACTED]		
51	[REDACTED]		
52	[REDACTED]		
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Annex 2

Management Response

**MANAGEMENT RESPONSE TO
REQUEST FOR INSPECTION PANEL REVIEW OF THE
NEPAL: NEPAL-INDIA ELECTRICITY TRANSMISSION AND TRADE
PROJECT (NIETTP) (P115767) AND ITS ADDITIONAL FINANCING (P132631)**

Management has reviewed the Request for Inspection of the Nepal: Nepal-India Electricity Transmission and Trade Project (NIETTP) (P115767) and its Additional Financing (P132631), received by the Inspection Panel on October 18, 2021 and registered on November 30, 2021 (RQ21/04). Management has prepared the following response.

January 14, 2021

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III. PROJECT BACKGROUND.....	2
IV. MANAGEMENT’S RESPONSE.....	4

Maps

- Map 1. Planned transmission lines
- Map 2. The routing of the transmission line according to the surveys
- Map 3. Location of RoW corridor in Dumkibas

Photographs

- Photo 1. Example of a building (close to tower no. 200) that has to be compensated for and moved
- Photo 2. Small private shrines (of Gumba and Magar origin) located near the transmission line

Annexes

- Annex 1: Claims and Responses
- Annex 2: List of Community Consultations in Dumkibas
- Annex 3: Disclosure of Safeguards Documents on the BB Transmission Line
- Annex 4: Action Plan: Post-Closure Safeguards Rectification Measures (for the BB Line)

ABBREVIATIONS AND ACRONYMS

BB	Bharatpur-Bardaghat (transmission line)
COVID-19	SARS-CoV-2
CPP	Compensatory Plantation Plan
DAO	District Administration Office
EIA	Environmental Impact Assessment
EMAP	Environmental Management Action Plan
GoN	Government of Nepal
GRM	Grievance Redress Mechanism
ha	Hectare
HB	Hetauda-Bharatpur (transmission line)
IPN	Inspection Panel
ISDS	Integrated Safeguards Data Sheet
km	Kilometer
kV	Kilovolt
LAHURNIP	Lawyers' Association for Human Rights of Nepalese Indigenous Peoples
m	meter
MD	Management Director (NEA)
MW	Megawatt
NEA	Nepal Electricity Authority
NIETTP	Nepal-India Electricity Transmission and Trade Project
OHS/CHS	Occupational health and safety/Community health and safety
OP	Operational Policy
PDO	Project Development Objective
RAP	Resettlement Action Plan
RoW	Right of Way
SIA	Social Impact Assessment
US\$	United States dollar
VCDP	Vulnerable Communities Development Plan
VDC	Village Development Committee
WBG EHS	World Bank Group Environment, Health and Safety (Guidelines)

EXECUTIVE SUMMARY

The Project

- i. The Nepal-India Electricity Transmission and Trade Project (NIETTP) (P115767) was approved by the Board on June 21, 2011 for US\$99 million. An Additional Financing (P132631) for US\$39 million equivalent was approved on June 24, 2013. The Project closed on October 31, 2021. The Project's development objectives were to: (a) establish cross-border transmission capacity of about 1,000 MW to facilitate electricity trade between India and Nepal; and (b) increase the supply of electricity in Nepal through the sustainable import of at least 100 MW of electricity.
- ii. The Request for Inspection pertains to Component B3 of the Project, the construction of a ca. 74-km transmission line from Bharatpur to Bardaghat, and associated sub-stations, in particular the section in the Binayi Triveni Rural Municipality Ward No. 2, formerly the Dumkibas Village Development Committee, Ward No. 2 (hereinafter Dumkibas) of Nepal.

Request for Inspection

- iii. The Request for Inspection was submitted by 49 individuals living in the Dumkibas area. The Requesters have designated an advocate from the Lawyers' Association for Human Rights of Nepalese Indigenous Peoples (LAHURNIP) to represent them. The Requesters have requested confidentiality.
- iv. The Request raises a variety of concerns about: (i) the routing of the transmission line, and specifically alleged changes made to this routing; (ii) the proposed land acquisition required for the transmission line; (iii) potential harm stemming from the operation of the transmission line; (iv) the Government's use of police force; and (v) compliance with Nepali law and international conventions.

Management's Response

- v. ***Management notes that the planning and original alignment for the BB transmission line goes back more than 20 years, and many of the related problems and conflicts that the Project tried to address are legacy issues that the Project inherited.*** Management has been aware of a variety of concerns at Dumkibas since well before the Request for Inspection and has worked with the Nepal Electricity Authority (NEA) to help address them. There have been delays stemming from difficulties due to lags in forest clearances, disagreements between the contractor and NEA, the political situation in Nepal, and disputes with local landowners. ***These various factors contributed to the line not being completed by the time the Project closed on October 31, 2021.***
- vi. ***Management notes the Requesters' long-standing opposition to the transmission line and their wish to see it moved to a different location.*** Unfortunately, the realities of essential national infrastructure construction, such as transmission lines that serve

the entire country, are such that the impacts have to be jointly borne by residents and may affect some more than others. Specifically, linear infrastructure, such as transmission lines for distribution of power, cannot always be placed away from private land and settlements to accommodate landowners' preferences.

- vii. ***The current routing of the transmission line was finalized in 2012 and is designed to minimize the impact on Project-affected people and the environment.*** The 2012 alignment impacts considerably fewer households than the earlier proposed alignment would have. It affects 46 landowners and will require the physical movement of 16 households in the Dumkibas area. There are 5 landowners who will be affected by land acquisition for tower pads for towers no. 198 and no. 199. The other 41 landowners have land that is otherwise affected by the Right of Way (RoW) easement. There are some non-title holders currently using land within the RoW, who will be identified and compensated in accordance with Bank policy as part of the finalization and implementation of the 2021 Resettlement Action Plan (RAP).
- viii. ***Management notes that the dispute about the line's routing is also driven by the landowners' incorrect belief that the line's original routing avoided their area altogether, and that the routing was changed illegally later on to their disadvantage.*** This is not correct. Management reviewed all pertaining documentation and can confirm that starting from the 1998 route alignment, all subsequent adjustments to the routing did pass through the same part of Dumkibas.
- ix. ***These disputes that currently keep the line from being completed have escalated into a court case leading to an interim injunction to halt the works pending the court's review and decision on the merits of the landowners' complaint.*** It is not clear when the court will hear the case or take a decision on the matter. Until such time, the construction works in the Dumkibas area will remain stalled.
- x. ***The Bank has consistently requested NEA to seek an amicable resolution of the disputes concerning the route alignment and the acquisition of the land needed for the route.*** NEA has complied with the Bank's request and refrained from initiating land acquisition in Dumkibas using eminent domain powers without first forging an agreement with the landowners. Towards this end, NEA has engaged an external facilitator to improve interactions with the communities and to help negotiate solutions. Pending the outcome of the lawsuit, NEA intends to continue to negotiate a compensation package for landowners that is acceptable to them and complies with both Nepali law and Bank policy.
- xi. ***A substantial aspect of the Request pertains to concerns about physical and health-related impacts that Requesters fear could result from the operation of the transmission line. Management understands these concerns but notes, however, that they do not reflect likely occurrences.*** The concerns include, for example, the risk of failing transmission towers or possible "leaking" of electricity. These concerns also assume that residents would retain housing in the RoW, which is not legally allowed. Moreover, the Request seems to imply that crossing under the transmission line is harmful and hence to be avoided, which would have far reaching impacts on

communities and livelihoods. Those assumptions are incorrect. Management has reviewed the Project design and has confirmed that the Project complies with the relevant environmental, health, and safety requirements of Bank policy. All impacts were carefully studied in the Project's Environmental Impact Assessment (EIA) and the mitigation measures in the Project's Environmental Management Action Plan (EMAP), which are under implementation, are adequate.

- xii. ***Management was made aware of confrontations between the Nepali police and landowners at Dumkibas through complaints it received. The Bank had no prior knowledge of the reported use of police at the Project site.*** When it became aware of the incident, Management raised the matter with the Government of Nepal (GoN), requesting that all Project activities cease to help calm the situation. At the same time, Management is not in a position to respond to the allegations regarding the Government's use of police. No Bank staff were on site to witness the incident and Management has obtained divergent reports from multiple sources regarding the incident.
- xiii. ***Regarding the international conventions cited in the Request, Management would like to clarify that the Bank is not mandated nor in the position to review the Borrower's compliance with international conventions and declarations or national law, outside the requirements of the Bank's operational policies and procedures.***
- xiv. ***The Project closed on October 31, 2021.*** The Bank has agreed with NEA on an action plan to address outstanding safeguard obligations beyond Project closure. For the BB line, such obligations exclusively pertain to the finalization and implementation of the RAP.

Conclusion

- xv. ***Management believes that the Bank has made every effort to apply its policies and procedures and to pursue concretely its mission statement in the context of the Project. In Management's view, the Bank has followed the policies and procedures applicable to the matters raised by the Request. As a result, Management believes that the Requesters' rights or interests have not been, nor will they be, directly and adversely affected by a failure of the Bank to implement its policies and procedures.***

I. INTRODUCTION

1. On November 30, 2021, the Inspection Panel registered a Request for Inspection, IPN Request RQ21/04 (hereafter referred to as “the Request”), concerning the Nepal: Nepal-India Electricity Transmission and Trade Project (NIETTP) (P115767) and its Additional Financing (P132631) financed by the International Development Association (the Bank).

2. ***Structure of the Text.*** The document contains the following sections: Section II presents the Request; Section III provides background on the Project; and Section IV contains Management’s response. Annex 1 presents the Requesters’ claims, together with Management’s detailed responses, in table format. Annex 2 is a list of community consultations and Annex 3 contains information on the disclosure of the safeguard documents for the transmission line from Bharatpur to Bardaghat. Annex 4 is the Action Plan: Post-Closure Safeguards Rectification Measures (for the transmission line from Bharatpur to Bardaghat).

II. THE REQUEST

3. On October 18, 2021, the Request for Inspection was submitted by 49 community members living in the Project area in Nepal (hereafter referred to as the “Requesters”). On November 17, 2021, the Panel received a letter signed by 51 community members designating an advocate from the Lawyers' Association for Human Rights of Nepalese Indigenous Peoples (LAHURNIP) to represent them. The Requesters have requested confidentiality.

4. The Request makes note of the following attachments, which were provided to Management on December 14, 2021:

- Requesters’ Signatures (redacted)
- Letter of Authorization (Representative)
- National Human Rights Commission
- Gorkha Patra Notice
- Stay Order
- Dumkibas Photo
- Application to Government for shifting transmission line
- Letter requesting to Shift Transmission Tower
- Letter requesting NEA to provide information

5. No further materials were received by Management in support of the Request.

III. PROJECT BACKGROUND

6. **The Project.** The Nepal-India Electricity Transmission and Trade Project (NIETTP) (P115767) was approved by the Board on June 21, 2011 for US\$99 million (total Project cost US\$182.3 million). The Additional Financing (P132631) for US\$39 million equivalent was approved on June 24, 2013. The Project closed on October 31, 2021. The Project was prepared under the Bank's Operational Policies (OPs) for environmental and social safeguards that were applicable at the time.

7. **Project Objectives.** The project development objectives (PDO) of the NIETTP were to: (a) establish cross-border transmission capacity of about 1000 MW to facilitate electricity trade between India and Nepal; and (b) increase the supply of electricity in Nepal through the sustainable import of at least 100 MW of electricity. No change was made to the PDO for the Additional Financing.

8. **Project Components.** The original NIETTP was comprised of three components: Component A (Dhalkebar-Muzaffarpur Transmission Line); Component B (Hetauda-Dhalkebar-Duhabi Transmission Line and Grid Synchronization); and Component C (Technical Advisory Services). Component A was not financed by IDA, but it was considered a linked activity to Components B and C, which received IDA financing.

9. The 2013 Additional Financing added Component B3, which included the construction of two 220 kV transmission lines between Hetauda-Bharatpur and Bharatpur-Bardaghat, and associated sub-stations. The Bharatpur-Bardaghat (BB) line is the continuation of the Hetauda-Bharatpur (HB) 220 kV transmission line that was already under construction under a different Bank-supported Project. The BB section of the line starts from Aaptari Substation, Bharatpur municipality, Chitwan district, and terminates at Bardaghat Substation, Bardaghat municipality, Nawalparasi district. The total length of this section of the transmission line is 73.40 km, covering two districts of Nepal.



Map 1. Planned transmission lines

10. ***Project area related to the Request for Inspection.*** The Request for Inspection pertains to a section of the BB transmission line in the Binayi Triveni Rural Municipality Ward No. 2, formerly Dumkibas Village Development Committee, Ward No. 2 (hereinafter Dumkibas area or Dumkibas) of Nepal (see Map 1).

IV. MANAGEMENT'S RESPONSE

11. The Requesters' claims, accompanied by Management's detailed responses, are provided in Annex 1.

12. Management has carefully reviewed the Request for Inspection. The Request raises a variety of concerns about: (i) the routing of the transmission line, including subsequent changes in the routing; (ii) the proposed land acquisition that is required for the transmission line; (iii) potential harm stemming from the operation of the transmission line; (iv) the Government's use of police force; and (v) compliance with Nepali law and international conventions. Management addresses each of these concerns below.

13. ***Management notes that the planning and original alignment for the 220 kV BB transmission line goes back more than 20 years, and many of the related problems and conflicts that the Project tried to address are legacy issues that the Project inherited.*** Management has been aware of a variety of concerns at Dumkibas since well before the Request for Inspection and has worked with the Nepal Electricity Authority (NEA) to help address them. There have been delays stemming from difficulties due to lags in forest clearances, disagreements between the contractor and NEA, the political situation in Nepal, and disputes with local landowners. These latter disputes have escalated into a court case leading to an interim injunction to halt the works pending the court's review and decision on the merits of the landowners' complaint.

14. ***These various factors contributed to the line not being completed by the time the Project closed on October 31, 2021.*** Although the Bank and the Borrower have agreed on an action plan for the completion of outstanding environmental and social safeguards measures after Project closure, the disputes that currently keep the line from being completed are still not resolved. These disputes need either to be settled between NEA and the landowners directly or resolved in court where they are currently pending.

15. ***Management notes the Requesters' long-standing opposition to the transmission line and their wish to see it moved to a different location.*** Unfortunately, the realities of essential national infrastructure construction, such as transmission lines that serve the entire country, are such that the impacts have to be jointly borne by residents and may affect some more than others. Specifically, linear infrastructure, such as transmission lines for distribution of power, cannot always be placed away from private land and settlements to accommodate landowners' preferences, especially in a challenging topography as is the case in Nepal.

16. ***Management notes that the dispute about the line's routing is also driven by the landowners' incorrect belief that the line's original routing avoided the Dumkibas settlement altogether, and that the routing was changed later on to their disadvantage.*** This is not correct. Management reviewed all pertaining documentation and can confirm that starting from the 1998 route alignment, including subsequent adjustments to the routing, it did pass through Dumkibas.

17. ***The current routing of the transmission line was finalized in 2012. The current alignment is designed to minimize the impact on Project-affected people and the environment.*** The 2012 alignment impacts considerably fewer households than the earlier proposed alignment would have. It affects 46 landowners and will require the physical movement of 16 households in the Dumkibas area. There are 5 landowners who will be affected by land acquisition for tower pads for towers no. 198 and no. 199. The other 41 landowners have land that is otherwise affected by the Right of Way (RoW) easement, which means that structures in the RoW need to be moved and new ones may not be built there. In Dumkibas, there are some non-title holders currently using land within the RoW. These persons will be identified and compensated in accordance with Bank policy as part of the finalization and implementation of the 2021 Resettlement Action Plan (RAP).

18. ***NEA is still in the process of negotiating a compensation package for landowners that is acceptable to both sides and that complies with both Nepali law and Bank policy.*** The affected landowners' resistance partly stems from their demand that – in the absence of a change in routing – NEA should fully acquire the entire RoW corridor. This is not required under OP 4.12. NEA has informed the Bank that it is also not consistent with Nepal's legal provisions for land acquisition for transmission lines. NEA intends to continue to negotiate a compensation package for landowners that is acceptable to them and complies with both Nepali law and Bank policy.

19. ***The Bank has consistently requested NEA to seek an amicable resolution of the disputes concerning the route alignment and the acquisition of the land needed for the route.*** NEA has complied with the Bank's request and refrained from initiating land acquisition in Dumkibas using eminent domain powers without first forging an agreement with the landowners and non-title holders. Towards this end, NEA has engaged a facilitator to improve interactions with the communities and to help negotiate solutions. If no agreement can be reached with the landowners, Bank policy requires that any adverse impacts as a result of involuntary acquisition be avoided or minimized where possible, or otherwise mitigated and compensated.

20. ***A substantial aspect of the Request pertains to concerns about physical and health-related impacts that Requesters fear could result from the operation of the transmission line.*** Management has reviewed the Project design and has confirmed that the Project complies with the relevant environmental, health and safety requirements of Bank policy. As discussed in more detail below, Management considers that all impacts were carefully studied in the Project's Environmental Impact Assessment (EIA) and that the mitigation measures in the Project's Environmental Management Action Plan (EMAP), which are under implementation, are adequate and will continue to address the impacts identified in the EIA.

21. ***Management understands the Requesters' concerns regarding potential environmental, health and safety impacts but notes, however, that these concerns do not reflect likely occurrences.*** They include, for example, the risk of failing transmission towers or possible "leaking" of electricity. These concerns also assume that residents would retain housing in the RoW, which is not legally allowed. Moreover, the Request seems to imply that crossing under the transmission line is harmful and hence to be avoided. Those

assumptions are incorrect and prompt the need for additional community outreach and education by NEA about transmission line safety.

22. ***Management was made aware that there have been confrontations between the Nepali police and landowners at Dumkibas through complaints it received. The Bank had no prior knowledge of the reported use of police at the project site.*** As soon as the Bank became aware of the reported incident, Management raised the matter with the Government of Nepal (GoN), requesting that all Project activities cease immediately to help calm the situation. At the same time, Management is not in a position to respond to the allegations regarding the Government's use of police. No Bank staff were on site to witness the incident and Management has obtained divergent reports from multiple sources regarding the incident. The landowners and NEA/police both claim that the other side made an unprovoked attack and that there have been injuries on both sides. Irrespective of these differing views, Management has communicated to the GoN that project-affected persons need to be able to freely engage in consultations and express their grievances.

23. ***Regarding the international conventions cited in the Request, Management would like to clarify that the Bank's responsibility is limited to ensuring that the Borrower has complied with its operational policies and procedures.*** The Bank is not mandated nor in the position to review the Borrower's compliance with international conventions and declarations, insofar as they do not relate to Bank policy. Allegations that the GoN has failed to comply with its obligations under international declarations and treaties and national law go beyond the Bank's institutional mandate to ensure Project compliance with Bank safeguard policies and are not relevant for reviewing such compliance.

Specific Issues Raised in the Request

Transmission line routing

24. ***The proposed route alignment for the BB line, which is central to the Requesters' complaint, has gone through various changes over a period of more than 20 years, reflecting primarily efforts to minimize the impacts on local communities and the environment.*** In Management's view, the current alignment, adopted by NEA in 2012, reflects a reasonable effort on the part of NEA to weigh alternatives and to minimize impacts on landowners and the environment.

25. ***On April 5, 2021, a group of landowners affected by the BB line in Dumkibas filed a complaint with the Supreme Court of Nepal against the construction of the transmission line in the current routing.*** The Supreme Court admitted the lawsuit and on April 7, 2021 issued a Stay Order on any works pending the court's decision. It is currently not clear by when the Supreme Court will render a decision on the matter. In addition, it is unclear what other legal avenues may be pursued by either party subsequently. Until such time, the construction of the two remaining towers and the completion of the line will remain stalled.

26. A key component of the lawsuit is again the landowners' incorrect assertion that the line's routing originally avoided the Dumkibas settlement north of the East-West Highway altogether, and that this routing was illegally changed later to go through the part of Dumkibas located north of the East-West Highway. This is not correct. As illustrated in Map 2 below, all alignments that were surveyed did pass through the part of Dumkibas that is located north of the East-West Highway.



Map 2. The routing of the transmission line according to the surveys. (1998 survey - blue line; 2004 survey – yellow line; and final 2012 survey - red line)

Background

27. **The route alignment for BB, originally outlined in 1998, was revised in 2004 with the aim to avoid settlements.** Based on the 2004 route alignment, a survey license was issued on October 13, 2006. The 2007 EIA Report of the Hetauda-Bharatpur-Bardaghat 220 kV Transmission Line Project then proposed two route alternatives for the transmission line and recommended the alternative under which only 31 houses would need to be relocated, rather than 200 as under the previously proposed alignment. The chair of the Local Government unit covering Dumkibas expressed support for the Project, as

described in the 2007 EIA.¹ Local landowners at that time, however, asked that the line be re-routed, and wrote to the Minister of Energy in 2006 and again in 2008 to request realignment.

28. ***As per standard practice, the contractor who was awarded the contract finalized the route alignment in 2012 for the BB transmission line segment as part of its scope of work.*** In the Dumkibas area, minor adjustments to the location of the angle towers² were made compared to the 2004 alignment. The final BB route sought to avoid settlements as much as possible and passes through forest land for about 80 percent of the route. No further change was made to the route alignment after 2012.

29. ***In 2013, the BB transmission line was incorporated into the NIETTP through Additional Financing, as the project it was originally part of was closing.*** At that time, the Bank team noted that a number of landowners in the Dumkibas area sought either a rerouting of the transmission line or the complete acquisition of their properties in the RoW corridor, rather than partial acquisition or payment of easement fees. This, however, was not consistent with the policy for land acquisition in RoWs in Nepal and not required by OP 4.12. Hence, this demand could not be accommodated.

30. The contract for construction works had been signed in November 2010 under the previous project. Procurement of goods and obtaining approvals for forest clearance and land acquisition took almost two years. An ensuing contractual dispute between the original contractor and NEA led to the contract's termination in June 2017. A new contractor was selected and mobilized in August 2018.

31. ***Due to these delays, the Bank requested NEA in 2017 to revisit and confirm the alignment for those areas where disputes with landowners had emerged.*** NEA produced a draft alternative alignment analysis based on a desk study. However, the NEA team was not able to discuss the options for route alignment adjustments with the community members who declined to engage on this, absent a complete re-routing away from Dumkibas. The desk study results indicated that changes to the alignment either would not be feasible financially, or they would increase adverse impacts on the environment, or transfer the land acquisition impacts from one group of landowners to another.

32. ***NEA prepared and disclosed the RAP in 2012 for the angle towers and structures. For the purpose of starting the stringing works in the RoW, NEA updated the RAP in 2021 based on the current alignment (see Map 2), which now needs to be finalized, disclosed, and implemented.***³ Due to the pending lawsuit, however, NEA has halted any

¹ The EIA includes a letter from the then Chief of the Village Development Committee of Dumkibas. The letter states that as per the letter received from NEA on March 16, 2005 (2061/12/3 BS), it is understood by the VDC that there is no major adverse impact on the community. Therefore, as per Article 10 of the Environmental Act 2054, the VDC recommends implementation of the Project.

² Angle towers are used where a line must change direction.

³ So far NEA has (i) advertised affected land plots in the local newspapers and through local government offices requesting landowners to present their ownership documents for verification; (ii) carried out a verification process for landowners and non-title holders through site visits; and (iii) put in place a robust implementation process that includes a mobile GRM team to identify non-title holders as well as any missing

further assessment of possible alternative routings to await the court's decision on the appropriateness and legality of the current line routing.

Land acquisition and compensation

33. ***The updated RAP prepared by NEA was reviewed by the Bank in September 2021.*** This update is based on several years of consultations with affected communities. It provides for additional benefits for Project-affected people, reflecting an effort on the part of NEA to address the potential economic costs associated with the limitations placed on the use of land subject to the RoW. Finalization and implementation of the RAP will likely be delayed pending the Supreme Court's decision on that routing of the transmission line.

34. ***To date in the Dumkibas area, NEA has constructed towers only on public land, pending a resolution with private landowners.*** The section of the BB line that passes through the Dumkibas area is about 0.75 km (between towers no. 197+ and no. 200). The private landowners in Dumkibas have not yet accepted compensation or allowed construction to date. The two remaining towers in Dumkibas are no. 198 and no. 199 (Note that the tower numberings in the Request are not correct).

35. ***The current routing of the transmission line has resulted in minimizing the impact on Project-affected people and the environment. The current alignment affects 46 landowners and will require the physical movement of 16 households in the Dumkibas area.*** There are 5 landowners who will be affected by land acquisition for tower pads (for towers no. 198 and no. 199). The remaining 41 landowners have land that is affected by the RoW easement. The affected landowners' resistance partly stems from their demand that – in the absence of a change in routing – NEA should fully acquire the entire RoW corridor, an action that is not required under OP 4.12. Management understands from NEA that it is also not consistent with the national legal provisions for land acquisition for transmission lines. NEA believes that the improved compensation package for landowners and non-titleholders under the 2021 RAP may be acceptable to both sides.

36. The 2021 RAP covers full compensation for the tower pad areas, structures, trees, and crops, in addition to payments for economic losses and disturbances caused by the displacement. Structures and trees in the RoW which had to be dismantled and/or removed (i.e., where the land itself was not acquired) were also fully compensated for.

37. Regarding the stringing of the transmission line over private property, the Bank and NEA recognized that the easement creates economic impacts due to the restrictions on land use in the RoW, despite the fact that ownership of the land within the RoW remains unaffected. Such economic impacts include the inability to build structures in the RoW or plant economically valuable trees beyond a certain height.

title holder, or trees and assets that may not have been surveyed. The next step in the process is conducting a full census.



Photo 1. Example of a building (close to tower no. 200) that has to be compensated for and moved

38. Another aspect that had a specific impact on land acquisition was the Government's economic recovery plan after the civil war ended in Nepal in 2006. The plan included support for international work programs to allow workers to go abroad and provide remittances. This led to a practice of mortgaging land to pay for the migration costs involved. Most of the financial institutions in Nepal, however, do not accept land in a RoW as collateral for loans. Therefore, landowners now demanded full acquisition and compensation of properties in the RoW, while such compensation according to NEA is not consistent with Nepali law.

39. In the past, the GoN has paid a flat rate of 20 percent of land value once as easement fee to people affected by a transmission line strung over their property. This led to disputes in transmission line projects across Nepal, as the payment was not considered as adequately reflecting the real economic loss experienced by landowners. The Bank has been working with the GoN for many years to develop a more robust and equitable RoW policy. This draft policy is yet to be passed by the Cabinet. In the absence of this policy being approved, the Bank supported NEA to revise the RAP to more adequately take into account the

impacts of the RoW and provide a graduated easement fee up to 50 percent of the land value.⁴ The revised RAP provides for that.

Disputed land acquisition notice of May and September 2021

40. On May 19, 2021, the Bank team was contacted by LAHURNIP regarding a land acquisition notice, which was issued on May 15, 2021, by the District Administration Office for the two remaining tower pads (no. 198 and no. 199) on the transmission line. This land acquisition notice was issued despite the Supreme Court's Stay Order.

41. On May 21, 2021, Management met with the Managing Director (MD) of NEA on the issue of the land acquisition notice, during which meeting the MD decided to withdraw the notice. NEA noted in a letter on May 23 that the land acquisition notice was issued only with the intent to process valuation of land, but not to move ahead with works. Nevertheless, the Bank received confirmation that NEA withdrew the notice of land acquisition for the Dumkibas area on May 24, 2021. The Bank informed LAHURNIP both of the Bank's actions and of the withdrawal of the land acquisition notice by NEA (by telephone on May 25, 2021, and by e-mail on May 29, 2021).

42. In September 2021, NEA published a second land acquisition notice on the grounds that the Supreme Court's Stay Order applied to a cessation of construction activities. In any case, NEA will have to wait for the court's decision regarding the current routing before it can proceed. The Bank has reminded NEA that applicable policies still apply, and that any land takings remain subject to the provisions of OP 4.12.

Environmental impacts

Cultural sites and schools

43. ***Cultural, sacred, or religious sites.*** The Request alleges that such sites would be affected by the transmission line, but provides no specific information, name, or location. The 2007 EIA did not identify any cultural or sacred sites in the RoW corridor in the area concerned. Likewise, the 2012 Social Impact Assessment (2012 SIA) also did not identify sites in the area concerned. During consultations and community meetings to date this issue has never been raised. The Bank team visited the site again on December 13, 2021 and found two small shrines that are located on public land close to the transmission line. One shrine is located outside the RoW, while the other one falls within it. In line with Bank policy, the Project will offer to relocate the affected shrine, as per the community's preference. This will be discussed with Project-affected people as part of the RAP finalization and implementation.

⁴ Per the 2021 RAP, easement fee to be paid as per the area of the land: 20 percent of valuated amount paid as easement fee if 25 percent or less land falls under RoW; 30 percent for 25 to 50 percent of land under RoW; 40 percent for 50 to 75 percent of the land under Row; and 50 percent for 75 percent and over.



Photo 2: Small private shrines (of Gumba and Magar origin) located near the transmission line

Schools

44. Two schools are located in Dumkibas but are well outside of the RoW. *Manakamana Secondary School* is about 250 m north of the transmission line routing, and *Bhanudaya Secondary School* is about 200 m south of the transmission line (see Map 2).

45. The access to schools and forest sites will not be adversely impacted by the transmission line. There is no risk in walking underneath the transmission lines, which are built according to standards to ensure human safety. These standards also require weather patterns to be taken into account when designing transmission lines in order to ensure they are safe, including during rainy seasons.

Forest

46. ***The transmission line route selected had the least impact on forest among the alternatives, as the others would have entailed more forest clearance.*** Based on the 2007 EIA and the 2012 EMAP, the Project employed a mitigation hierarchy to avoid and minimize impacts on flora and fauna and biodiversity.

47. The 2012 EMAP estimated that within the RoWs of the BB and HB transmission lines, approximately 193 ha and 187.5 ha of forest land would be affected, respectively. In several sections of the RoW of both segments, the forest quality is degraded, with short trees (less than 3 m), shrub and grasslands. The species of vegetation affected are prevalent in the adjoining forests and throughout the Terai forests in Nepal. The 2012 EMAP estimated that about 16,267 trees in the BB RoW and associated substation areas would

have to be cut from community and government forests. As of June 2021, the total forest area affected by the BB transmission line was 193 ha.

48. The Project followed the mitigation hierarchy by avoiding and minimizing forest clearance and followed stringent procedures for tree felling, which required identification and marking of trees to be felled in the presence of Forest officials and the final permit for felling to be scrutinized by Forest offices at various levels (Divisional Forest Office, Department of Forest, Ministry of Forest & Environment, and final approval by the Council of Ministers).

49. ***Compensatory plantation is the main mitigation measure, with 25 trees to be planted and maintained for each tree cut, in compliance with the Department of Forest Regulations.*** As compensatory plantation had not been completed by Project closure, NEA committed to completing the remaining plantation as part of the Action Plan agreed with the Bank on Post-Closure Safeguard Rectification Measures.

50. ***The EIA also confirmed that the transmission line route is not within the path of migratory bird species. NEA closely monitored the construction activities in the forest areas.*** There has been no report of any impact on wildlife during construction. Impacts on the forest, wildlife and avifauna during operation are expected to be minimal as regeneration of vegetation up to a certain height under the transmission line (in the RoW) is permitted, and there will be no disturbances to wildlife movement arising from the operation of the transmission line.

Alleged health and safety impacts

51. ***Management understands the concerns of the Requesters regarding potential environmental, health and safety impacts that relate to the Project.*** Management has reviewed again the Project design and has confirmed that the Project complies with the relevant environmental, health and safety requirements of Bank policy. Management considers that all impacts were carefully studied in the Project's EIA and that the mitigation measures in the Project's EMAP, which are under implementation.

52. ***The concerns about physical and health-related impacts from the transmission line raised in the Request are not realistic and are based on incorrect assumptions.*** This specifically pertains to the assumption that Project-affected people would be required to continue living in houses which would then be under the transmission line or in the immediate proximity of the towers, and that crossing under the line would be dangerous.

53. ***A Bank team visited the Dumkibas site on December 13, 2021, to review the concerns expressed in the Request and verified the specific cases cited, as follows:***

- The tower cited in the Request as no. 201 appears to be tower no. 200, which has been built on public land, about 5 meters away from a house. These residents cannot remain there and will have to be compensated and moved away from the RoW should the line be completed on the current alignment. There are 4 more structures close to tower no. 200 that need to be removed, because they are in the RoW. One resident confirmed that he is aware that he will need to move.

- The tower cited in the Request as no. 200 appears to be tower no. 199. This tower will indeed have to be built in a location between two houses. However, both houses would then be in the RoW and would need to be compensated for and moved, should the line be completed with the current alignment.
- Towers no. 198 and no. 199 are yet to be built. No lines have been strung yet.

54. Management recognizes the need for additional community outreach and education about transmission line safety. Management will request NEA to organize and carry out such informational campaigns.

55. ***It is not clear from the Request what “ramifications” people allegedly suffer from already, given that the transmission line is not completed and energized.*** The transmission line is designed and constructed in line with the appropriate technical specifications and industry standards. As per the contract, the transmission lines are to be built with a minimum ground clearance of 7.5 m above the ground. Agriculture and other activities can be pursued under the towers as long as equipment or vehicle height does not exceed 4.5 m. Given the type of agriculture pursued in this area, no vehicles or equipment taller than 4.5 m are used.

56. The transmission line will be built with an earth wire (acting as a lightning rod) and grounding of each tower to protect the line from lightning. The contractor is responsible for performing a Tower Footing Resistance test of each tower and ensuring that tower footing resistance complies with the applicable safety standards. Like trees and other tall objects, transmission towers may indeed intercept lightning strikes, but they do not attract lightning. In any case a lightning strike on a grounded transmission tower does not create a safety hazard for community members.

Alleged livelihood impacts

57. ***The adverse economic impact alleged in the Request is based on the wrong assumption that people cannot safely walk under the power line, which would prevent the cited economic activities from taking place, thus creating further economic impacts.*** This, however, is incorrect. None of the livelihoods cited in the Request will be affected by the operation of the transmission line: Agricultural activities, livestock, dairy, farming, nursery, fodder for cattle, and grazing can continue to take place under the transmission line. Agricultural and livestock activities take place under transmission lines around the world without any problems.

58. Any other impact on livelihoods that may result from temporary access restrictions during construction works or be related to the Project’s permanent use of private or public land is governed by the Bank’s policy, OP 4.12 on Involuntary Resettlement, to ensure that due process is followed, and adequate compensation provided.

Indigenous Peoples

59. **Management recognizes that Indigenous Peoples are present in parts of the Project area and that OP 4.10 on Indigenous Peoples is applicable to the Project.** This recognition is based on the requirements of OP 4.10 as well as Nepal’s National Foundation for Upliftment of Adivasi/Janjati Act, 2058 (2002). This was noted in the Project’s appraisal stage Integrated Safeguards Data Sheet (ISDS).

60. **It is important to note, however, that Dumkibas is a mixed community and that most of the Indigenous Peoples living in Dumkibas migrated into the area for economic and other reasons.** As such, the OP 4.10 criterion of “collective attachment to geographically distinct habitats or ancestral territories in the project area” is not met by the Indigenous Peoples living in the portion of the Project area that is subject to this Request. The 2012 SIA identified Dalits and women-headed households as among the most vulnerable to negative impacts of the Project. Given this diverse set of groups with differing levels of vulnerability, a Vulnerable Communities Development Plan (VCDP) was prepared – rather than an Indigenous Peoples Plan – in addition to the RAP, to help mitigate impacts on the community.

Consultation and disclosure

61. A public consultation about the Project was conducted by NEA on September 12, 2005 at Kawasoti, Nawalparasi. Prior to the consultation, the following approaches were used by the Project to disseminate information and seek input from affected community members:

- Letters sent to Village Development Committees (VDCs), including Dumkibas, to send representatives – August 31, 2005;
- Letters sent to civil society organizations and journalist association informing about the consultation;
- Notices published in national daily newspaper on June 4-6, 2005;
- Notice posted in affected areas VDCs in June 2005;
- Three mobilizers informed Project-affected people about the consultation; and
- Local FMs disseminated information.

62. Furthermore, consultations for the 2012 SIA, the 2012 VCDP, and the 2012 RAP were also conducted in Dumkibas. These consultations included approaches such as focus group discussions, participatory rapid appraisal, and household survey. Dumkibas was one of the consulted villages.

63. According to NEA, during the years of 2015 – 2017 several consultations were held with community members in Dumkibas, but those are not fully documented as participants refused to sign in or sign meeting minutes. During site visits in February 2017 and February 2018, this was also noted by Bank teams.

64. In 2018 NEA recruited an external facilitator upon the Bank’s recommendation in order to find a new engagement with local landowners. The facilitator was to improve

interactions with the communities and to help negotiate solutions. The facilitator visited Dumkibas on February 11, 2020, February 17, 2021 and again on August 12, 2021. In Management's view, attempts to resolve compensation-related disputes may benefit from facilitated negotiation. For this reason, Management had encouraged NEA to pursue engagement through the external facilitator, or to consider an independent mediation.

65. Annex 2 provides more details on the consultations carried out in Dumkibas. Information on disclosure of safeguards documents under the BB line is included in Annex 3.

Police deployment

66. ***Management is aware of a confrontation between the Nepali police and landowners on April 9, 2021. The Bank had no prior knowledge that police forces were present on site.*** As soon as the Bank became aware of the reported incident, Management raised the matter with the GoN, requesting that all Project activities cease immediately to help calm the situation.

67. The confrontation apparently occurred following the Stay Order granted by Nepal's Supreme Court on April 7 stopping any further work on the transmission line in the Dumkibas area. According to NEA, the Stay Order was only received on April 9, 2021 at 3 pm at the office of the local Chief District Officer and not properly communicated to the local authority. This lack of communication appears to be one of the reasons for the incident which took place on April 9, 2021.

68. ***No Bank staff were on site to witness the incident and Management has obtained divergent reports from multiple sources regarding the incident.*** Management has also reviewed the available media reports and videos shared on social media about the incident. However, the video and photo footage obtained is insufficient to determine what specific activities NEA was conducting on site and hence did not help to clarify the situation.

69. There are conflicting assertions by NEA and landowners as to what happened.

70. ***According to NEA,*** it attempted on April 9 to survey land jointly with a government land surveyor from the District Survey Office to identify the plots under the RoW of towers no. 198 and no. 199. NEA claims that it had obtained the consent of the affected persons to undertake this survey on their property. NEA, further claims that its team was attacked unprovoked by protesters throwing stones and injuring NEA personnel when they attempted to access one of the sites. This was when police intervened.

71. ***According to the landowners,***⁵ NEA allegedly attempted to undertake construction activities defying the Stay Order, which landowners tried to physically stop. At this point the police intervened with force and several people were physically hurt. The police also arrested a number of people, but subsequently released them on the same day. It is also the Bank's understanding that no charges were brought against any landowners.

⁵ Expressed in virtual meeting with affected landowners, LAHURNIP and the Bank.

72. ***As stated before, the Bank was unaware of the police action until the complaint letters received on April 13 and 15, 2021.*** In response to the incident, Management met with the MD of NEA on April 15 and requested that all Project activities cease immediately to help calm the situation on the ground. Management has communicated to the GoN that project-affected persons need to be able to freely engage in consultations and express their grievances, which is the case for the Project. The GoN has confirmed this shared understanding but also pointed to the need to protect project staff from physical attacks.

73. ***While the Bank deplores any physical confrontation and injury to people, Management is not in a position to respond to the specific allegations regarding the Government's use of police, or questions of the legality or proportionality of such police deployments.***

Actions

74. Management has agreed with NEA that NEA will implement an Action Plan of "Post-Closure Safeguards Rectification Measures," which contains detailed time-bound actions that NEA has committed to follow through on, with a view to addressing weaknesses in the implementation of selected safeguard obligations.

75. Management has reminded the Borrower that finalization and implementation of the RAP in a manner that is aligned with Bank policy remains an obligation of the Borrower notwithstanding closure of the Project. The Bank will continue to follow up with the Borrower on this and other aspects of implementation of the post-closure action plan.

76. Furthermore, NEA has agreed to implement a communication plan by April 2022 to provide accessible information to communities about the transmission line that would address questions about health and safety in a manner accessible by different target groups.

Conclusion

77. ***Management believes that the Bank has made every effort to apply its policies and procedures and to pursue concretely its mission statement in the context of the Project. In Management's view, the Bank has followed the policies and procedures applicable to the matters raised by the Request. As a result, Management believes that the Requesters' rights or interests have not been, nor will they be, directly and adversely affected by a failure of the Bank to implement its policies and procedures.***

**ANNEX 1
CLAIMS AND RESPONSES**

No.	Claim	Response
1.	<p>We the undersigned petitioners, are the affected people by the below-mentioned project, residing at [...] which encompasses both Indigenous people – <i>Magar, Gurung, Tamang</i> – as well as non-Indigenous people – <i>Dalits, Madhesis, and Khas Arya</i>, and the constitution of Nepal recognizes them as Nepal’s legal residents.</p>	<p><i>Management recognizes that Indigenous Peoples are present in parts of the Project area and that OP 4.10 on Indigenous Peoples is applicable to the Project.</i> This recognition is based on the requirements of OP 4.10 as well as Nepal’s National Foundation for Upliftment of Adivasi/Janjati Act, 2058 (2002). This was noted in the Project’s appraisal stage ISDS.</p> <p><i>It is important to note, however, that Dumkibas is a mixed community and that most of the Indigenous Peoples living in Dumkibas migrated into the area for economic and other reasons.</i> As such, the OP 4.10 criterion of “collective attachment to geographically distinct habitats or ancestral territories in the project area” is not met by the Indigenous Peoples living in the portion of the Project area that is subject to this Request.</p> <p>The 2012 SIA identified Dalits and women-headed households as among the most vulnerable to negative impacts of the Project. Given this diverse set of groups with differing levels of vulnerability, a VCDP was prepared – rather than an Indigenous Peoples Plan – in addition to the RAP, to help mitigate impacts on the community.</p>
2.	<p><i>Original route changed:</i> As per the survey license issued on [September 2006] the proposed original route of the transmission line was <i>Jyamire Hulaki Khola</i> of Ward No. 1 of the same Rural Municipality. There was no survey conducted to move the transmission line to [...] and this area falls under densely populated residential areas. This license was valid till 2008. However, without community members’ consent and public notification, the tower 44AP of the transmission route is moved to [...].</p>	<p><i>The original route was not changed.</i> Management notes that the dispute about the line’s routing is partly driven by the landowners’ incorrect belief that the original routing led the line south of the East-West Highway and hence avoided their area of Dumkibas altogether (passing it at a distance 5 km south), and that this routing was later changed to their disadvantage. This is not correct. Management reviewed all pertaining documentation and can confirm that starting with the 1998 alignment, all subsequent adjustments to the routing led the line north of the highway. NEA also confirms no routing that would have avoided Dumkibas partly or entirely was ever considered, discussed, or communicated. It is not clear on what basis the landowners assert otherwise.</p> <p>Adjustments to the 1998 transmission line alignment were made as per standard practice to minimize the impact on people and the environment. As noted in the 2007 EIA, notification of the BB line was made, and consultations were held in line with Nepali law. Any adjustments made to routing however, were marginal and remained within the current RoW corridor.</p> <p>Irrespective of this, the Request claims that the landowners’ consent was required for the final routing and land acquisition, which is not required under Nepali law or Bank policy.</p> <p>In Management’s view, the current alignment, adopted by NEA in 2012, reflects a reasonable effort on the part of NEA to weigh alternatives and to minimize impacts on landowners and the environment. Nevertheless, in light of continuing concerns raised by landowners in Dumkibas, the Bank has encouraged NEA to continue</p>

No.	Claim	Response
		<p>to explore the costs and benefits of further adjustments to the routing, and to include such considerations in ongoing dispute resolution efforts with the landowners.</p> <p><i>On April 5, 2021, a group of landowners affected by the BB line in Dumkibas filed a complaint with the Supreme Court of Nepal against the construction of the transmission line in the current routing.</i> The Supreme Court admitted the lawsuit and on April 7, 2021 issued a Stay Order on any works pending the court’s decision. It is currently not clear by when the Supreme Court will render a decision on the matter. In addition, it is unclear what other legal avenues may be pursued by either party subsequently. Until such time, the construction of the missing towers and the completion of the line will remain stalled.</p> <p>A key component of the lawsuit is the landowners’ incorrect assertion that the line’s routing originally avoided the Dumkibas settlement north of the East-West Highway altogether, and that this routing was illegally changed later to go through the part of Dumkibas located north of the East-West Highway. This is not correct. All alignments that were surveyed did pass through Dumkibas.</p> <p><i>Background</i></p> <p><i>The route alignment for BB, originally outlined in 1998, was revised in 2004 with the aim to avoid settlements and important landmarks.</i> Based on the 2004 route alignment, a survey license was issued on October 13, 2006. The 2007 EIA Report of the Hetauda-Bharatpur-Bardaghat 220 kV Transmission Line Project then proposed two route alternatives for the transmission line and recommended the alternative under which only 31 houses would need to be relocated, rather than 200 as under the previously proposed alignment. The chair of the Local Government unit covering Dumkibas expressed support for the Project, as described in the 2007 EIA.¹ Local landowners at that time, however, asked that the line be re-routed, and wrote to the Minister of Energy in 2006 and again in 2008 to request realignment.</p> <p><i>As per standard practice, the contractor who was awarded the contract finalized the route alignment in 2012 for the BB transmission line segment as part of its scope of work.</i> In the Dumkibas area, minor adjustments to the location of the angle towers² were made compared to the 2004 alignment. The final BB route sought to avoid settlements as much as possible and passes</p>

¹ The EIA includes a letter from the then Chief of the Village Development Committee of Dumkibas. The letter states that as per the letter received from NEA on March 16, 2005 (2061/12/3 BS), it is understood by the VDC that there is no major adverse impact on the community. Therefore, as per Article 10 of the Environmental Act 2054, the VDC recommends implementation of the Project.

² Angle towers are used where a line must change direction.

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		<p>through forest land for about 80 percent of the route. No further change has been made to the route alignment after 2012.</p> <p><i>In 2013, the BB transmission line was incorporated into the NIETTP through Additional Financing, as the project it was originally part of was closing.</i> At that time, the Bank team noted that a number of landowners in the Dumkibas area sought either a rerouting of the transmission line or the complete acquisition of their properties in the RoW corridor, rather than partial acquisition or payment of easement fees. This, however, was not consistent with the policy for land acquisition in RoWs in Nepal and not required by OP 4.12. Hence, this demand could not be accommodated.</p> <p>The contract for construction works had been signed in November 2010 under the previous project. Procurement of goods and obtaining approvals for forest clearance and land acquisition took almost two years. An ensuing contractual dispute between the original contractor and NEA led to the contract's termination in June 2017. A new contractor was selected and mobilized in August 2018.</p> <p><i>Due to these delays the Bank requested NEA in 2017 to revisit and confirm the alignment for those areas where disputes with landowners had emerged.</i> NEA produced a draft alternative alignment analysis based on a desk study. However, the NEA team was not able to discuss the options for route alignment adjustments with the community members who declined to engage on this, absent a complete re-routing away from Dumkibas. The desk study results indicated that changes to the alignment either would not be feasible financially, or they would increase adverse impacts on the environment, or transfer the land acquisition impacts from one group of landowners to another.</p> <p>NEA prepared and disclosed the RAP in 2012 for the angle towers and structures. For the purpose of starting the stringing works in the RoW, NEA updated the RAP in 2021 based on the current alignment (see Map 1), which now needs to be finalized, disclosed, and implemented. Due to the pending lawsuit, however, NEA has halted any further assessment of possible alternative routings to await the court's decision on the appropriateness and legality of the current routing.</p>
3.	<p><i>Community appeal to Ministry of Energy (MOE):</i> On [...] community appealed to the then VDC (Village Development Community) to send a letter on their behalf to the Ministry of Energy (MOE) to reconsider the original route. The letter detailed that the new route had an adverse impact on 96 households' residential and agricultural land also causing health</p>	<p><i>Management notes that under Nepali law and Bank policy, NEA is not required to secure the consent of local landowners for a change in route alignment or land acquisition. Bank policy requires adverse impacts to be avoided or minimized, where possible, and otherwise mitigated and compensated.</i></p> <p><i>Route alignment.</i> See Item 2 above regarding the transmission line alignment.</p> <p><i>Alleged health hazards.</i> Regarding health issues, please see Item 4 below.</p>

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	<p>hazards, violation of human rights, and potential displacement.</p> <p>On [...] the [...] (VDC) issued a letter on behalf of the community to MOE requesting to move tower no. 199 and 200 and choose a safe alternative route through the northeast of [...] (<i>Mijing River</i>) this route avoids human settlement areas. Or follow the original route as mentioned in Survey One.</p> <p>Despite all the appeals sent to MOE, towers no. 197 and 198 were installed in [...] riverbank and tower no. 201 and 202 were installed in forests [that they use] by mobilizing armed security forces. To date, MOE never procured expressed consent and all the installation work is carried out without the consent of the 96 households. On September 12, 2005, as per the EIA report, a public hearing was carried out in <i>Kawasoti</i> 30 KMs from [...] and it's a different municipality. The affected community was absent in this hearing due to no prior public notification and [...] (VDC)'s lack of communication.</p>	<p>Consultations. A public consultation was conducted on September 12, 2005 at <i>Kawasoti</i>, <i>Nawalparasi</i>. Prior to the consultation, the following approaches were used by the Project to disseminate information and seek input from affected community members:</p> <ul style="list-style-type: none"> • Letters sent to VDCs, including <i>Dumkibas</i>, to send representatives - August 31, 2005; • Letters sent to civil society organizations and journalist association informing about the consultation; • Notice published in national daily newspaper on June 4-6, 2005; • Notice posted in affected area VDCs in June 2005; • Three mobilizers informed Project-affected people about the consultation; and • Local FMs disseminated information. <p>Furthermore, consultations for the 2012 SIA, the 2012 VCDP, and the 2012 RAP were also conducted in <i>Dumkibas</i>. These consultations included approaches such as focus group discussions, participatory rapid appraisal, and household survey. <i>Dumkibas</i> was one of the consulted villages. Annex 2 provides more details on the consultations carried out in <i>Dumkibas</i>. Information on disclosure of safeguards documents under the BB line is included in Annex 3.</p> <p>The Bank has consistently requested NEA to seek an amicable resolution of the disputes concerning the route alignment and the acquisition of the land needed for the route. NEA has complied with the Bank's request and refrained from initiating land acquisition in <i>Dumkibas</i> using eminent domain powers without first forging an agreement with the landowners. Towards this end, NEA has engaged a facilitator to improve interactions with the communities and to help negotiate solutions. If no agreement can be reached with the landowners, Bank policy requires that any adverse impacts as a result of involuntary acquisition be avoided or minimized where possible, or otherwise mitigated and compensated.</p> <p>With regard to community concerns about consultation and decision making, the Bank asked NEA on December 19, 2018 to engage an external facilitator to help understand these concerns and develop possible options for settling disputes. Unfortunately, COVID-19 restrictions led to serious delays and a subsequent illness of this individual resulted in the hiring of a new external facilitator by NEA on July 18, 2021. The new external facilitator visited the site on August 12, 2021, spoke to some members of the community and made a preliminary report to NEA.</p> <p>Management notes that there are slight discrepancies in the tower numbers referenced in the Request. Towers in the <i>Dumkibas</i> area are nos. 197, 197+, 198, 199, 200, 201, and 202 (which are located between angle towers J43 and J44). NEA built towers no. 197 and no. 197+ on the east riverbank and nos. 200, 201, and 202 in the</p>

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		<p>forest (on the west bank) in November-December 2020, but refrained from any construction involving private land.</p> <p>The Bank was unaware this construction had occurred until it was brought to the Bank’s attention in the complaint by landowners in April 2021.</p> <p>See Item 11 below for details regarding the Bank’s response to this incident.</p>
4.	<p>Adverse Impacts.</p> <p>The project has adverse impacts as follows: (People have begun to already experience and suffered ramifications of this project, and some have a grave impact if the project executes in status quo).</p> <p>Physical harm: The project harms the people’s life directly as the transmission line passes through – agricultural land, houses, schools, community houses, public places, and sacred sites. A leak of electricity, thunder harms the lives of people while engaging in farming, school commute, and performing rituals and festivals. <i>For instance, putting life at grave risk a tower pad (Tower No. 201) has been installed in front of the house within 5 meters of [...] family members reside in the house including an infant. Community members protested for the installation, but the police force was deployed, and installation was carried out.</i></p> <p>[From Notice of Registration:</p> <p>According to the Requesters, another tower, 200, was going to be built “in the middle of two houses” and a community member’s cow shed was dismantled in the process.</p> <p>The Requesters state that the power lines have not yet been put in place and nothing currently prevents community members from accessing the forest and the wood collection area. However, due to the proximity of these lines to houses and schools, and the location of wood</p>	<p><i>Management understands the concerns of the Requesters regarding potential environmental, health and safety impacts that relate to the Project.</i> Management has reviewed again the Project design and has confirmed that the Project complies with the relevant environmental, health and safety requirements of Bank policy. Management considers that all impacts were carefully studied in the Project’s EIA and that the mitigation measures in the Project’s EMAP, which are under implementation.</p> <p><i>The concerns about physical and health-related impacts from the transmission line raised in the Request are not realistic and are based on incorrect assumptions.</i> This specifically pertains to the assumption that Project-affected people would be required to continue living in houses which would then be under the transmission line or in immediate proximity of the towers, and that crossing under the line would be dangerous. These assumptions are incorrect. Any Project-affected people living in houses in the RoW would be compensated and required to move out of the RoW. Passage through and across the RoW does not present a risk of physical harm and the RoW can be crossed freely.</p> <p><i>A Bank team visited the Dumkibas site on December 13, 2021, to review the concerns expressed in the Request and verified the specific cases cited, as follows:</i></p> <ul style="list-style-type: none"> - The tower cited in the Request as no. 201 appears to be tower no. 200, which has been built on public land, about 5 meters away from a house. These residents cannot remain there and will have to be compensated and moved away from the RoW should the line be completed on the current alignment. There are 4 more structures close to tower no. 200 that need to be removed, because they are in the RoW. One resident confirmed that he is aware that he will need to move. - The tower cited in the Request as no. 200 appears to be tower no. 199. This tower will indeed have to be built in a location between two houses. However, both houses would then be in the RoW and would need to be compensated for and moved, should the line be completed with the current alignment. - Towers no. 198 and no. 199 are yet to be built. No lines have been strung yet.

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	<p>collection activities, the Requesters are concerned about various potential harms that could occur once these lines are installed. They claim the power lines are dangerous and might cause accidents, especially during rainy seasons.]</p>	<p>Management recognizes the need for additional community outreach and education by NEA about transmission line safety. Management will request NEA to organize and carry out such informational campaigns.</p> <p><i>It is not clear from the Request what “ramifications” people allegedly suffer from already, given that the transmission line is not completed and energized.</i> The transmission line is designed and constructed in line with the appropriate technical specifications and industry standards. As per the contract, the transmission lines are to be built with a minimum ground clearance of 7.5 m above the ground. Agriculture and other activities can be pursued under the towers as long as equipment or vehicle height does not exceed 4.5 m. Given the type of agriculture pursued in this area, no vehicles or equipment taller than 4.5 m is used.</p> <p>The transmission line will be built with an earth wire (acting as a lightning rod) and grounding of each tower to protect the line from lightning. The contractor is responsible for performing a Tower Footing Resistance test of each tower and ensuring that tower footing resistance complies with the applicable safety standards. Like trees and other tall objects, transmission towers may indeed intercept lightning strikes, but they do not attract lightning. In any case a lightning strike on a grounded transmission tower does not create a safety hazard for community members.</p>
5.	<p>Impacts to flora and fauna, environment, biodiversity: Environmental degradation, and adverse impacts to flora & fauna, and biodiversity is another crucial aspect the project will cause.</p>	<p><i>The transmission line route selected had the least impact on forest among the alternatives, as the others would have entailed more forest clearance.</i> Based on the 2007 EIA and the 2012 EMAP, the Project employed a mitigation hierarchy to avoid and minimize impacts on flora and fauna and biodiversity.</p> <p>The 2012 EMAP estimated that within the rows of the BB and HB transmission lines, approximately 193 ha and 187.5 ha of forest land would be affected, respectively. In several sections of the RoW of both segments, the forest quality is degraded, with short trees (less than 3 m), shrub and grasslands. The species of vegetation affected are prevalent in the adjoining forests and throughout the Terai forests in Nepal. The 2012 EMAP estimated that about 16,267 trees in the BB RoW and associated substation areas would have to be cut from community and government forests. As of June 2021, the total forest area affected by the BB transmission line was 193 ha.</p> <p>The Project followed the mitigation hierarchy by avoiding and minimizing forest clearance and followed stringent procedures for tree felling, which required identification and marking of trees to be felled in the presence of Forest officials and the final permit for felling to be scrutinized by Forest offices at various levels (Divisional Forest Office, Department of Forest, Ministry of Forest & Environment, and final approval by the Council of Ministers).</p>

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		<p><i>Compensatory plantation is the main mitigation measure, with 25 trees to be planted and maintained for each tree cut, in compliance with the Department of Forest Regulation.</i> As compensatory plantation had not been completed by Project closure, NEA committed to completing the remaining plantation as part of the Action Plan agreed with the Bank on Post-Closure Safeguard Rectification Measures.</p> <p><i>The EIA also confirmed that the transmission line route is not within the path of migratory bird species. NEA closely monitored the construction activities in the forest areas.</i> There has been no report of any impact on wildlife during construction. Impacts on the forest, wildlife and avifauna during operation are expected to be minimal as regeneration of vegetation up to a certain height under the transmission line (in the RoW) is permitted, and there will be no disturbances to wildlife movement arising from the operation of the transmission line.</p> <p><i>There is no significant conversion of critical natural habitat because the BB TL does not pass through protected area or known critical natural habitat, or of critical forests areas. Most of the affected forests are community forests and it is estimated that less than 1 percent of the forest in the area is affected. Further, during the operation phase, regeneration of the vegetation in the RoW is permitted as long as it does not exceed a certain height.</i></p> <p>The EIA and EMAPs also identified risks to and impacts on wildlife movement and biodiversity during construction due to disturbances and human activity, and corresponding mitigation actions were identified and included in the EMAPs and implemented by the contractors.</p> <p>Further research undertaken in 2021 indicates the possibility of the NIETTP-funded transmission lines intersecting with some bird movement corridors east of Dhalkebar, which is more than 200 km east of Dumkibas. This, however, needs further studies. That said, bird collision with or electrocution by existing 132 kV lines are not known to be a common issue.</p>
6.	<p><i>Safety and security:</i> It also threatens the safety and security of people residing in the project areas. Three schools fall under 500 meters of the transmission line and pose a grave danger to lives. [...] Secondary School, [...] Secondary School, and [...] Academy).</p>	<p>See also item 4.</p> <p><i>Schools.</i> Two schools are located in Dumkibas but are well outside of the RoW. <i>Manakamana Secondary School</i> is about 250 m north of the transmission line routing, and <i>Bhanudaya Secondary School</i> is about 200 m south of the transmission line (see Map 2).</p> <p>The third school cited in the request (“[...] Academy”) could not be identified during the field visit. Local communities and the local authorities were also not aware of a third school in the vicinity of the transmission line.</p> <p>The access to schools and forest sites will not be adversely impacted by the transmission line. There is no risk in walking underneath the</p>

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		<p>transmission lines, which are built according to standards to ensure human safety. These standards also require weather patterns to be taken into account when designing transmission lines in order to ensure they are safe, including during rainy seasons.</p> <p>The transmission line and towers were routed and designed so as to keep the minimum distance from any building, structure, and the ground as per industry standards and practice and in accordance with the Nepal Electricity Regulation 1993 and WBG EHS Guidelines (Electric Power Transmission and Distribution). This is to ensure health and safety of communities during the operation of the line.</p> <p><i>There are no threats to the safety and security of people residing in the Project area stemming from the transmission line. The RoW of the transmission line is 30 meters wide. There is no limitation or impacts on the cited structures, which are 200-300 meters away from the transmission line.</i></p> <p><i>It remains unclear what the Request means by “grave dangers.” No serious risks from the operation of transmission lines are plausible nor were such risks identified in the ESIA.</i></p> <p>Occupational health and safety and community health and safety (OHS/CHS) during construction was one of the risks identified by the EIA and EMAPs, for which mitigations measures were identified. These measures were included in the bidding documents and civil works contracts. The contractor is required to comply with OHS measures. Monitoring done by the NEA and by the Bank during site visits noted variations in the level of compliance with OHS/CHS measures at different sites along the length of transmission lines, and highlighted during the regular supervision missions. These issues were raised to the Borrower and action plans were developed to improve this performance. No OHS/CHS-related incident or accident affecting workers or community members has been reported or observed during construction and there have been no fatalities reported during construction.</p> <p><i>While not articulated in the Request, Management notes that the Requesters’ lawsuit raises concerns about electromagnetic radiation. Management has researched the matter and concluded that the scientific consensus is that no known health impacts can be linked to the electromagnetic exposure that is expected to stem from the Project.</i></p> <p>Internationally recognized radiation protection agencies and national health agencies have reviewed the scientific literature and evidence available and have concluded that evidence is insufficient to establish a definitive causal relationship between low frequency magnetic field exposure and increased incidences of cancer and other illnesses.</p> <p>The WBG EHS Guidelines (Electric Power Transmission and Distribution) state that: “Although there is public and scientific concern over the potential health effects associated with exposure to</p>

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		<p>[electric and magnetic field] EMF (not only high voltage power lines and substations, but also from everyday household uses of electricity), there is no empirical data demonstrating adverse health effects from exposure to typical EMF levels from power transmissions lines and equipment.”</p> <p>Furthermore, in Nepal there is a clear regulation (Electricity Regulation 1993) regarding safety of transmission lines with respect to the ground clearances, road crossing, distance to be maintained on either side of the line and grounding, etc., with which the Project complies.</p>
7.	<p>Displacement: Displacement of people is another major concern. It will cause displacement from houses, lands (agricultural and residential), economic, cultural, social, livelihoods, subsistence, income generations, etc.</p>	<p>The updated RAP prepared by NEA was reviewed by the Bank in September 2021. This update is based on several years of consultations with affected communities. It provides for additional benefits for Project-affected people, reflecting an effort on the part of NEA to address the potential economic costs associated with the limitations placed on the use of land subject to the RoW. Finalization and implementation of the RAP will likely be delayed pending the Supreme Court’s decision on that routing of the transmission line.</p> <p>To date in the Dumkibas area, NEA has constructed towers only on public land, pending a resolution with private landowners. The section of the BB line that passes through the Dumkibas area is about 0.75 km (between towers no. 197+ and no. 200). The private landowners in Dumkibas have not yet accepted compensation or allowed construction to date. The two remaining towers in Dumkibas are no. 198 and no. 199.</p> <p>The current routing of the transmission line has resulted in minimizing the impact on Project-affected people and the environment. The current alignment affects 46 landowners and will require the physical movement of 16 households in the Dumkibas area. There are 5 landowners who will be affected by land acquisition for tower pads (for tower no. 198 and no. 199). The remaining 41 landowners have land that is affected by the RoW easement. The affected landowners’ resistance partly stems from their demand that – in the absence of a change in routing – NEA should fully acquire the entire RoW corridor, an action that is not required under OP 4.12. Management understands from NEA that it is also not consistent with the national legal provisions for land acquisition for transmission lines. NEA believes that the improved compensation package for landowners and non-titleholders under the 2021 RAP may be acceptable to both sides.</p> <p>The 2021 RAP covers full compensation for the tower pad areas, structures, trees, and crops, in addition to payments for economic losses and disturbances caused by the displacement. Structures and trees in the RoW which had to be dismantled and/or removed (i.e., where the land itself was not acquired) were also fully compensated for.</p>

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		<p>Regarding the stringing of the transmission line over private property, the Bank and NEA recognized that the easement creates economic impacts due to the restrictions on land use in the RoW, despite the fact that ownership of the land within the RoW remains unaffected. Such economic impacts include the inability to build structures in the RoW or plant economically valuable trees beyond a certain height.</p> <p>Another aspect that had a specific impact on land acquisition was the Government's economic recovery plan after the civil war ended in Nepal in 2006. The plan included support for international work programs to allow workers to go abroad and provide remittances. This led to a practice of mortgaging land to pay for the migration costs. Most of the financial institutions in Nepal, however, do not accept land in a RoW as collateral for loans. The landowners now demanded full acquisition and compensation of properties in the RoW, whereas according to NEA such compensation is not consistent with Nepali law.</p> <p>In the past, the GoN has paid a flat rate of 20 percent of land value as easement fee to people affected by a transmission line strung over their property. This led to disputes in transmission line projects across Nepal, as the payment was not considered as adequately reflecting the real economic loss experienced by landowners. The Bank has been working with the GoN for many years to develop a more robust and equitable RoW policy. This draft policy is yet to be passed by the Cabinet. In the absence of this policy being approved, the Bank supported NEA to revise the RAP to more adequately take into account the impacts of the RoW and provide a graduated easement fee up to 50 percent of the land value. The revised RAP provides for that.</p>
8.	<p>Adverse impacts to sacred sites: The project will cause adverse impacts to sacred sites, public places (schools), cultural, religious sites, etc.</p>	<p>Cultural, sacred, or religious sites. The Request alleges that such sites would be affected by the transmission line, but provides no specific information, name, or location. The 2007 EIA did not identify any cultural or sacred sites in the RoW corridor in the area concerned. Likewise, the 2012 SIA also did not identify sites in the area concerned. During consultations and meetings with the local community, to date this issue has not been raised. The Bank team visited the site again on December 13, 2021 and found two small shrines that are located on public land close to the transmission line. One shrine is located outside the RoW, while the other one falls within it. In line with Bank policy, the Project will offer to relocate the affected shrine, as per the community's preference. This will be discussed as part of the RAP finalization and implementation.</p> <p>Regarding school locations, see Item 6. A church is located about 300 m away from the transmission line.</p> <p>Following the recent complaint by the Dumkibas community in March 2021, and a virtual meeting with the community, concerns were raised that children would have to cross under the transmission</p>

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		<p>line. It was explained that there is no risk to adults or children crossing underneath the transmission line (see Item 6 above on safety). The transmission line does not restrict movement of people who need or wish to pass under it.</p> <p>NEA will follow up by providing educational and informational materials to address the community's questions and concerns regarding health issues in an accessible manner for different age and literacy groups.</p>
9.	<p>Right to housing: It also deprives the community of the right to housing. The community members, residing in the project areas for generations, and some of them have allocated their land plots and planned for the construction of houses there already. But, suddenly the project came to operate of making those constructions illegal, and they cannot build houses forever where the transmission line goes. People cannot freely dispose of their property (due to devaluation of land, neither banks accept them as collateral for loans nor they can sell or Kitta Kaat (Split the land for plotting in small sizes).</p>	<p><i>The Project does not deprive community members of housing. If land needs to be acquired for or is impacted by the Project, the affected household will be resettled and/or compensated in line with Bank policy requirements.</i></p> <p><i>See Item 7 for land acquisition.</i></p> <p>Physical displacement of people caused by the transmission line was addressed in the original RAP for the Project, which was disclosed on March 2, 2012. Management recognized, as discussed in Item 7 above, that some impacts to land and structures in the RoW were not adequately addressed in the original RAP and hence worked with NEA to revise the RAP to achieve an appropriate compensation package. The revised 2021 RAP also provides for transportation costs and a disruption allowance.</p> <p>Compensation for residential structures is paid at full replacement cost, including the full cost of the land on which the structure was built (both for tower pads and in the RoW). This allows affected Project-affected people to buy an equivalent piece of land in case they do not have enough remaining land to rebuild their house outside the Project's footprint.</p> <p>To mitigate the economic impact due to land use restrictions in the RoW, the revised RAP includes additional compensation of up to 50 percent of the value of the land in the RoW.</p>
10.	<p>FPIC: Free, Prior, and Informed Consent is one of the important aspects that need to respect by the projects in accordance with the provisions of ILO Convention No. 169 and the United Nations Declaration on the Rights of Indigenous Peoples. Those mandatory provisions were violated by the project as did not have disseminated information pertaining to the project and no consultations have been carried out with the affected communities. Rather it has prepared forged documents related to the consultation or public hearing was added. The project gathered people who are not</p>	<p><i>The Bank's operational policies applicable to this project do not require Free, Prior, and Informed Consent.</i></p> <p><i>The Bank's responsibility is limited to ensuring that its operational policies and procedures mandated by the Bank's Board are complied with by the Borrower. The Bank is not mandated nor in the position to review the Borrower's compliance with international conventions and declarations, insofar as they do not relate to Bank policy.</i></p> <p>The Bank does recognize the presence of Indigenous Peoples in this Project and therefore triggered OP 4.10.</p> <p>Annex 2 provides a list of all documented community consultations and document disclosures. The concerns of the communities have remained the same over the years, with communities preferring a change in line routing, and expressing concern about the loss of land.</p>

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	affected by the project and name it consultation. In fact, there was no participation of actually affected peoples in the process. This has created conflict among the community.	Management is not aware of the allegation that documents for the consultation have been forged. This issue has not been raised previously. Without more specific information it is not possible to review this claim.
11.	<p>Torture/Intimidations: Despite an interim stay order in place issued by Supreme Court (Dated [...]), a tower pad was dug, and the community organized a peaceful protest. But the authorities retaliated by deploying armed forces, physically assaulted, and used tear gas. Women, senior citizens, and a toddler were wounded.</p>	<p><i>The Bank had no prior knowledge of the reported use of police. As soon as the Bank became aware of the reported incident, Management raised the matter with the GoN, requesting that all Project activities cease immediately to help calm the situation.</i></p> <p>The confrontation apparently occurred following the Stay Order granted by Nepal’s Supreme Court on April 7 stopping any further work on the transmission line in the Dumkibas area. According to NEA, the Stay Order was only received on April 9, 2021 at 3 pm at the office of the local Chief District Officer and hence was not properly communicated to the local authority. This lack of communication appears to be one of the reasons for the incident which took place on April 9, 2021.</p> <p>No Bank staff were on site to witness the incident and Management has obtained divergent reports from multiple sources regarding the incident. Management has also reviewed the available media reports and videos shared on social media about the incident. However, the video and photo footage obtained is insufficient to determine what specific activities NEA was conducting on site and hence did not help to clarify the situation.</p> <p>There are conflicting assertions by NEA and landowners as to what happened:</p> <ul style="list-style-type: none"> • According to NEA, it attempted on April 9, 2021 to survey land plots jointly with a government land surveyor from the District Survey Office to identify the plots under the RoW of towers no. 198 and no. 199. NEA claims that it had obtained the consent of the affected persons to undertake this survey on their property. NEA, further claims that its team was attacked unprovoked by protesters throwing stones and injuring NEA personnel when they attempted to access one of the sites. This was when police intervened. • According to the landowners, NEA allegedly attempted to undertake construction activities defying the Stay Order, which landowners tried to physically stop. At this point the police intervened with force and several people were physically hurt. Police also arrested a number of people, but subsequently released them on the same day. It is also the Bank’s understanding that no charges were brought against any landowners.

No.	Claim	Response
		<p>As stated before, the Bank was unaware of the police action until the complaint letters received on April 13 and 15, 2021. In response to the incident, Management met with the MD of NEA on April 15 and requested that all Project activities cease immediately to help calm the situation on the ground. Management has communicated to the GoN that project-affected people need to be able to freely engage in consultations and express their grievances, which is the case for the Project. The GoN has confirmed this shared understanding but also pointed to the need to protect project staff from physical attacks.</p> <p>While the Bank deplors any physical confrontation and people getting injured, Management is not in a position to respond to the specific allegations regarding the Government's use of Police, or questions of the legality or proportionality of such police deployments.</p>
12.	<p>Illegal land acquisition notice: Land acquisition public notification was never published during the project scoping or implementation. After the Interim Stay-order was issued by the Supreme Court Dated [...] On the First [...] 1st notice was issued amid COVID 19, community members protested stating that this was a violation of Stay Order and Lockdown rules. Eventually was forced to withdraw. On [...] 2nd land acquisition notice was issued.</p> <p>[From Notice of Registration:</p> <p>The Requesters allege that other houses in the community were marked for resettlement, but that these markings have since been erased.]</p>	<p>Management took action as soon as it learned of this issue and has confirmed that the land acquisition notice was removed.</p> <p>On May 19, 2021, the Bank team was contacted by LAHURNIP regarding a land acquisition notice, dated May 15, 2021, issued by District Administration Office for the two remaining tower pads (No. 198 and mo. 199) on the transmission line. This land acquisition notice was issued despite the Supreme Court's Stay Order.</p> <p>On May 21, 2021, Management met with the MD NEA on the issue of the land acquisition notice, during which meeting the MD decided to withdraw the notice. NEA noted in a letter on May 23 that the land acquisition notice was issued only with the intent to process the land valuation, but not to move ahead with works. Nevertheless, the Bank received confirmation that NEA withdrew the notice of land acquisition for the Dumkibas area on May 24, 2021. The Bank informed LAHURNIP both of the Bank's actions and of the withdrawal of the land acquisition notice by NEA (by telephone on May 25, 2021, and by e-mail on May 29, 2021).</p> <p>In September 2021, NEA published a second land acquisition notice on the grounds that the Supreme Court's Stay Order applied to a cessation of <u>construction</u> activities, but not of notification of Project affected persons. In any case, NEA will have to wait the court's decision regarding the current routing before it can proceed. The Bank has reminded NEA that applicable policies still apply, and that any land takings remain subject to the provisions of OP 4.12.</p> <p>Whether or not houses were marked for resettlement could not be ascertained during the site visit of December 13, 2021.</p>
13.	<p>Impacts to the Livelihoods: The project directly impacts the agriculture activities, lives, and economies affiliated with it, such as livestock,</p>	<p>The adverse economic impact alleged in the Request is based on the wrong assumption that people cannot safely walk under the power line, which would prevent the cited economic activities from taking place, thus creating further economic impacts. This, however, is incorrect. None of the livelihoods cited in the request will be affected by the operation of the transmission line. Agricultural activities,</p>

No.	Claim	Response
	dairy, farming, nursery, fodder for cattle, and grazing.	<p>livestock, dairy, farming, nursery, fodder for cattle, and grazing can continue to take place under the transmission line. Agricultural and livestock activities take place under transmission lines around the world without any problems.</p> <p>Any other impact on livelihoods that may result from temporary access restrictions during construction works, or be related to the Project's permanent use of private or public land is governed by the Bank's policy, OP 4.12 on Involuntary Resettlement, to ensure that due process is followed and adequate compensation provided.</p> <p>The RAP is complemented by a separate VCDP, which addresses poverty among vulnerable community members in the Project area. Consultations were conducted during preparation of the SIA and RAP and these have been disclosed.</p> <p>According to NEA, compensation for tower pads on private land has been paid, except for those areas where there is disagreement with the local landowners in relation to the line routing. Once the disputes have been resolved, these areas can be included in the RAP for compensation.</p> <p>The VCDP focused on providing training to upgrade skills of vulnerable people to prepare them for income-earning opportunities and provided community support in accessing drinking water, health, sanitation, and small-scale irrigation facilities.</p>
14.	<p>Previous Contact:</p> <p>With the support of the Lawyers' Association for Human Rights of Nepalese Indigenous Peoples, we have submitted the complaint to the management of the World Bank ([...]). Despite the response of the management, the NEA and the government of Nepal keep on intimidating the community to allow them to continue project activities. Through the communication, the community requested to facilitate to construct the transmission line in an original route that is stipulated in section 1 or take the alternative route to save human settlement to ensure safety and security. The project should respect fundamental rights enshrined under the Constitution, 2015 including to live, security, freedom of movement, residence, work, respect ILO C. 169 and UNDRIP, and respect the WB Safeguard Policies including</p>	<p><i>Management engaged with LAHURNIP promptly when issues were raised.</i></p> <p>Management undertook the following actions after receipt of the complaint on April 13 and 15, 2021, respectively.</p> <ul style="list-style-type: none"> • Responded immediately to the complaint by email to LAHURNIP on April 15, acknowledging receipt of message. • Bank's Country Director met with the MD NEA, and followed up with a letter dated April 26 (due to an administrative lapse only sent on May 21, 2021), stating the unacceptability of using security personnel, and requesting an immediate stop to survey and construction work (meetings held on April 15 and May 21, 2021), which was done • Held virtual (due to COVID-19 lockdown in Nepal) meetings of Bank Project team with LAHURNIP on April 30, 2021, and with LAHURNIP and communities of Dumkibas on May 10, 2021. <p>NEA confirmed the stoppage of construction and site activities in Dumkibas, aligned with the Court Stay Order issued by Nepal's Supreme Court, while resolution was being sought with communities. The external facilitator visited the site on August 12, 2021 and also confirmed that construction had stopped. Moreover, this was reported in the media.</p>

No.	Claim	Response
	Indigenous Safeguards, Social and Environment Safeguard Policies, etc.	See Item 16, below for actions Management has taken to support NEA in resolving the disputes with the communities.
15.	<p>Safeguard policies:</p> <p>Following WB policies are not followed: The World Bank safeguard policies; a social and environmental, indigenous policy, ESS 7/10.</p>	<p><i>The ESF does not apply to this Project, which was approved prior to the ESF became effective in October 2018.</i> The Operational Policies (OPs) applicable to the Project are OP 4.01, 4.04, 4.10, 4.12, and 4.36.</p>
16.	<p>Retaliation or threats for filing complaint:</p> <p>The government and NEA may deploy security forces to oppress and intimidate the community, as the government did it before, The government commonly misused its power, including deploying the armed security forces and trap into false cases to suppress Indigenous Peoples and locals to implement development aggression.</p>	<p><i>The Bank does not tolerate reprisals and retaliation against those who share their views about Bank-financed projects. When complaints, including allegations of reprisal in connection with Bank projects, are brought to its attention, the Bank works with appropriate parties to address them. Those who feel they have been negatively affected are entitled to seek redress through robust mechanisms and instruments. In the case of the Project, Management engaged immediately with NEA on the April 9, 2021 incident as soon as it became aware of it.</i></p> <p>With regard to the Project more broadly, the Bank wrote to NEA on April 26, 2021 listing 5 concrete action items that NEA should take in order to improve its overall approach to managing disagreements with local landowners, including the need to improve consultations, by making them fully transparent, inclusive, and well documented.</p> <p>The Bank’s team supported NEA in the implementation of these measures by conducting a workshop dedicated to lessons learned from dispute resolution on June 18, 24 and 30 and July 1, 2021. On July 29, 2021, a further workshop was held to provide information on holding consultations in a safe manner with regard to COVID-19. On August 11, 2021, a further virtual workshop was held dedicated to managing the (new) RAP Implementation Plan, Grievance Redress Mechanism (GRM) and Communication Plan for NIETTP.</p> <p>The new external facilitator was hired as per the Bank’s request on of July 18, 2021. The Bank team provided hands-on training to the facilitator on July 23, 2021. The external facilitator made a first visit to the site in August 2021 and reported back to NEA. It appears that the facilitators may have only spoken to landowners of tower pads during that first visit. The Bank team raised concerns about the need for a community-based approach, given the history of the dispute, and the need for a transparent process for all concerned, and suggested a follow-up meeting with the external facilitator and NEA on the process agreed in the former’s terms of reference.</p> <p>On July 22, 2021, NEA provided a report on the proposed approach to dispute resolution in each of the disputed areas, which was one of the requirements for lifting the threat of suspension. It was informed by one of the workshops held between the Bank team and NEA at the end of June 2021, which focused on identifying new approaches for resolving disputes along transmission lines.</p>

No.	Claim	Response
	Requests	
17.	<p>1. Ensure full compliance with the World Bank safeguard policies including the policies related to Indigenous Peoples (ESS1 ESS4, ESS5, ESS6, ESS7, ESS 10, etc.).</p>	<p><i>As noted in Item 15, the Bank's OPs applicable to the Project are OPs 4.01, 4.10 and 4.12. The ESF is not applicable to this project.</i></p> <p>The Project was prepared and implemented in accord with the requirements of the respective OPs. NEA has prepared the Action Plan: Post-Closure Safeguard Rectification Measures to implement all outstanding resettlement commitments and meet policy requirements. NEA confirmed that the required budget would be available to implement the plan.</p>
18.	<p>2. Respect the provisions enshrined in ILO Convention 169 and United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).</p>	<p><i>The Bank's responsibility is limited to ensuring that its operational policies and procedures mandated by the Bank's Board are complied with by the Borrower. The Bank is not mandated nor in a position to review the Borrower's compliance with international conventions and declarations, as far as they do not relate to Bank Policy.</i></p>
19.	<p>3. Conduct an independent investigation to reroute the transmission line to follow either the original transmission line route or to find the safer alternative ways.</p>	<p>See response under Item 2.</p>
20.	<p>4. Remove the tower pad from in front of [...]’s house, this poses a life-threatening danger for [...] kids.</p>	<p>During a field visit conducted on December 13, 2021, the Bank’s team ascertained that a house was at about 5 m distance from tower no. 200. The house is in the RoW and will have to be moved along with 4 more structures nearby. See Item 4.</p>
21.	<p>5. Immediate cease of violent use of power, Adho armed force deployment at tower pad installation site, violation of human rights, random visits by local authorities for solicitation with a permit to enter houses and questioning (affected communities are treated like suspects and local authority personnel enters their houses without consent).</p>	<p>Following the incident in Dumkibas on April 9, the Bank communicated to NEA and the GoN that local communities’ concerns need to be adequately addressed, and that any construction activity was to cease immediately around the site to help calm the situation on the ground.</p> <p>The Bank also requested NEA and the GoN to assess and report on the incident, including an account of what happened, whether any arrests/charges were made and whether and when those arrested (if any) were released. Further, the Bank requested NEA to review the adequacy of the latter’s protocol related to the engagement of security personnel, and to adopt improvements if needed.</p>
22.	<p>6. Restore the rights of indigenous peoples, Dalits, and other affected communities and find an amicable way to implement a new route implementation plan.</p>	<p>See Item 19 above.</p>

Annex 2
List of Community Consultations in Dumkibas

Date	Mode of communication	Location	Reference
15-Mar-05	Letter sent by NEA to Dumkibas village development committee (VDC).	N/A	Annex 5-a of ESIA of Hetauda - Bardaghat 220 kV TL
31-Mar-05	Dumkibas VDC responded to NEA.	N/A	Annex 5-a of ESIA of Hetauda - Bardaghat 220 kV TL
4-6-Jun-06	<ul style="list-style-type: none"> • Public notice published in the national daily (Gorakhpatra). • Local FM radio also announced the details of the public consultation such as dates and location. • Notice posted in affected areas about the public consultation by mobilizing local helpers. 	N/A	Annex 5 of ESIA of Hetauda - Bardaghat 220 kV TL
31-Aug-05	<ul style="list-style-type: none"> • Letters sent to Civil Society Organizations and Journalist Association to inform about the public consultation. • Letters sent to VDCs to send their representatives to the public consultation. 	N/A	Annex 5 of ESIA of Hetauda - Bardaghat 220 kV TL
12-Sept-05	Public consultation conducted: <ul style="list-style-type: none"> • Participants were provided with booklet in Nepali language consisting of Project information and outcomes of the EIA report. • The route alignment and maps were displayed for the participants. 	Shivamandir, Kawasoti, Nawalparasi	Annex 5 of ESIA of Hetauda - Bardaghat 220 kV TL
14-Sept-05	Public consultation conducted: <ul style="list-style-type: none"> • Participants were provided with booklet in Nepali language consisting of Project information and outcomes of the EIA report. • The route alignment and maps were displayed for the participants. 	Basamadhi, Makwanpur	Annex 5 of ESIA of Hetauda - Bardaghat 220 kV TL
25-Jul-07	ESIA disclosure notice published on local and district level including	Multiple locations	Annex 5 of ESIA of Hetauda -

Date	Mode of communication	Location	Reference
	municipalities and District development committees.		Bardaghat 220 kV TL
7-May-12 (dates for these consultation varied, included the disclosure date of SIA)	<p>2012 SIA conducted multiple consultations in Dumkibas</p> <ul style="list-style-type: none"> • 16 households surveyed; • One market survey; • One participatory rapid appraisal done on November 19, 2011) (15 participants); • One focus group consultation done on January 15, 2012 (30 participants); and • One key indicator survey was conducted. <p>During the consultation, the participants were requested to express their concerns/issues regarding the Project as well as being informed regarding the Project and its activities. Information such as Project purpose, type, impact area, likely impacts and potential opportunities arising from Project implementation were provided to the people during the consultation.</p>	Dumkibas	Chapter 5, SIA, 2012.
1-Feb-12	Consultations held with Project-affected families (as listed in VCDP).	Dumkibas	Annex I and II of VCDP-2012 Also refer Chapter 3 of the VCDP
1-Feb-12	Consultations held with Project-affected families (as listed in the RAP).	Dumkibas	Annex I and II of RAP-2012 Also refer Chapter 3 of the RAP
2015/2016/ 2017	Project team organized meeting and interaction program with Project-affected families.	Dumkibas	
Feb-17	Bank team visited the Dumkibas site and observed consultation. The Bank team noted that the affected community had requested a change of alignment and had not allowed the Project to survey the site.	Dumkibas	
Feb-18	The Bank team visited the site and interacted with the community.	Dumkibas	

Date	Mode of communication	Location	Reference
14-Sep-18	External facilitator: Consultation carried out. It was agreed that after the paddy harvest, survey works would be allowed to start in the Dumkibas area.	Dumkibas	
June 2019 Nov 2019 Dec 2019	<ul style="list-style-type: none"> • External facilitator: Meetings (June, November, and December) were organized with stakeholders (including local government representatives, political representatives, and Project-affected families but without success. • Project Manager visited related ministers, chief ministers of provinces 4 and 5 and high-level politicians to resolve the issue. • Meeting with Project-affected families along with all stakeholders planned in the presence of Minister of Energy, Water Resources and Irrigation and Chief of Province. But the Project-affected families cancelled at the last moment. 		
11-Feb-20	External facilitator visited the Dumkibas site.	Dumkibas	
24-Jan-21	Former Energy Minister, Project Manager with team visited the site and discussed with local leaders and community. The community agreed to allow the survey for land under tower pad and RoW, structures under RoW and also asked to measure land pieces of the same parcel left over on left and right side of the RoW and evaluate the compensation amount.	Dumkibas	
17-Feb-21	External facilitator visited Dumkibas to provide an orientation session to Project-affected people about the dialogue process.	Dumkibas	
15-Mar-21	Consultation carried out.	Dumkibas	
23-Mar-21	Consultation carried out at the Chief District Officer's office with the aim of starting the compensation process.	Dumkibas	

Date	Mode of communication	Location	Reference
	Participants included the Chief District Officer, the Chief of Rural Municipality, ¹ the NEA Project team, Dumkibas community, and the Dumkibas affected people (RoW and tower pad). According to NEA the affected people suggested that in order to start the discussions they wished to meet on neutral ground. It was agreed that a next meeting would be held on March 31, 2021 at the District Police Office with the same participants to resolve the matter.		
31-Mar-21	Consultation carried out at the District Police Office to study the impact of the RoW and what structures needed to be removed. But the Project-affected people (those living between towers 198 and 199) were absent. Since these were absent it was decided to postpone the meeting to April 5, 2021.	Dumkibas	
5-Apr-21	Consultation carried out but the Project-affected people (those living between towers 198 and 199) were again absent, so the meeting was postponed until further notice.	Dumkibas	

¹ The Chief District Officer is Government appointed. The Chief of Rural Municipality is elected by the municipality which the Chief represents, which in this case is Dumkibas.

Annex 3: Disclosure of Safeguards Documents on the BB Transmission Line

SN	Project Documents disclosed at NEA website	Date	Documents attached (language)	Links
1	Resettlement Action Plan (RAP) (Hetauda-Dhalkebar-Duhabi 400 kV and Bharatpur-Bardaghat 220 kV TLP)	2021-08-11	RAP report (Nepali)	https://www.nea.org.np/publications
2	सामाजिक प्रभाव मुल्याङ्कन (SIA) –प्रतिवेदन पुनर्वास कार्य योजना (RAP) प्रतिवेदनको शारंस जोखीम समुदाय विकाश योजना (VCDP) प्रतिवेदनको शारंस	2013-09-11	Nepali-जोखीम समुदाय विकाश योजना (VCDP) प्रतिवेदनको शारंस (VCDP -Hetauda – Bharatpur summary in Nepali)	https://www.nea.org.np/publications?page=15
2	RAP and SIA for Bharatpur Bardaghat 220 KV Transmission Line Project	2013-08-27	Entitlement matrix (Nepali); RAP summary (Nepali); VCDP summary (Nepali); SIA summary (Nepali)	https://www.nea.org.np/publications?page=15
3	Environmental Management Action Plan of Bharatpur-Bardaghat 220kV Transmission Line Project	2012-06-12	EMAP report (English)	https://www.nea.org.np/publications?page=16
4	Social Impact Assessment (SIA) of Bharatpur-Bardaghat 220 kV Transmission Line	2012-05-07	SIA report (English)	https://www.nea.org.np/publications?page=16
5	Resettlement Action Plan (Towers and Structures falls in Row) of Bharatpur-Bardaghat 220 kV Transmission Line Project	2012-03-20	RAP report (English) with; List of households with type of affected structures (English)	https://www.nea.org.np/publications?page=16
6	Vulnerable Community Development Plan of Bharatpur-Bardaghat 220 kV Transmission Line Project	2012-03-20	VCDP report (English); Affected structures and Affected households (English)	https://www.nea.org.np/publications?page=16
7	Environmental Management Action Plan of Hetauda-Bharatpur 220kV Transmission Line Project	2012-03-20	(English)	https://www.nea.org.np/publications?page=17
8	Resettlement Action Plan Report, Grid Development, Hetauda Bharatpur 220 kV Transmission Line Project.	2012-03-04	RAP main report (English); Route alignment with maps (English); Affected households with land and structure loss (English)	https://www.nea.org.np/publications?page=17
9	Social Impact Assessment Report, Grid Development, Hetauda Bharatpur 220 kV Transmission Line Project.	2012-03-04	SIA report; Route alignment; Affected households with land and structure loss (English)	https://www.nea.org.np/publications?page=17
10	Vulnerable Community Development Plan Report, Grid Development, Hetauda Bharatpur 220 kV Transmission Line Project	2012-03-04	VCDP main report (English); Route alignment (English); Affected households with land and structure loss (English)	https://www.nea.org.np/publications?page=17
11	Environmental Impact Assessment	2007-12-24	Main Report (English), Executive Summary (English and Nepali)	http://documents.worldbank.org/curated/en/432891468291026850/Main-report

**Annex 4: Action Plan: Post-Closure Safeguards Rectification Measures
(for the BB Line)**

Task	Activities	Indicators of Completion	Estimated Duration	Comments
1. Maintain GRM until RAP is fully implemented	<ul style="list-style-type: none"> • Maintain avenues with requisite resources (e.g., staffing) for uptake of/proper handling of complaints/grievances • Investigate and resolve outstanding complaints • Share quarterly GRM records with World Bank 	<ul style="list-style-type: none"> • Quarterly report on GRM submitted to the World Bank. The report should indicate number of cases resolved, number of cases outstanding and describe issues/complaints • Final GRM report shared with World Bank 	Until RAP is fully implemented (expected completion in Dec-2023)	
2. Disclose the revised RAP as per the agreed RAP dissemination plan	<ul style="list-style-type: none"> • Use local radios to disseminate information about the RAP • Produce and distribute brochures • Hold community sessions when possible • Use community notice boards • make copies of revised RAP available at community level 	<ul style="list-style-type: none"> • Disclosure notification records • Minutes of consultations 	Oct – Nov 2021	
3. Fully implement the revised RAP	<ul style="list-style-type: none"> • Complete payments for Project-affected people impacted by tower pads & substation • Complete payments for easement fees and impacted structures, crops, private trees under RoW • Complete payments in respect of demolition, relocation, transportation, and house rental allowances to Project-affected people 	<ul style="list-style-type: none"> • Monthly RAP implementation report submitted to the World Bank (e.g., Excel sheet with payment information) • RAP completion report submitted to World Bank 	Oct 2021 to Dec 2022	There may be the need for an escrow account in the case of unresolved payments
4. Compensation for non-title holders	<ul style="list-style-type: none"> • Complete compensation payment/ easement fees for non-title holders • Actions on the verification of such long-term users by local 	<ul style="list-style-type: none"> • Final report upon approval by World Bank • Local government report on the 	Oct 2021 to Dec 2022	Actions initiated by the NEA division offices

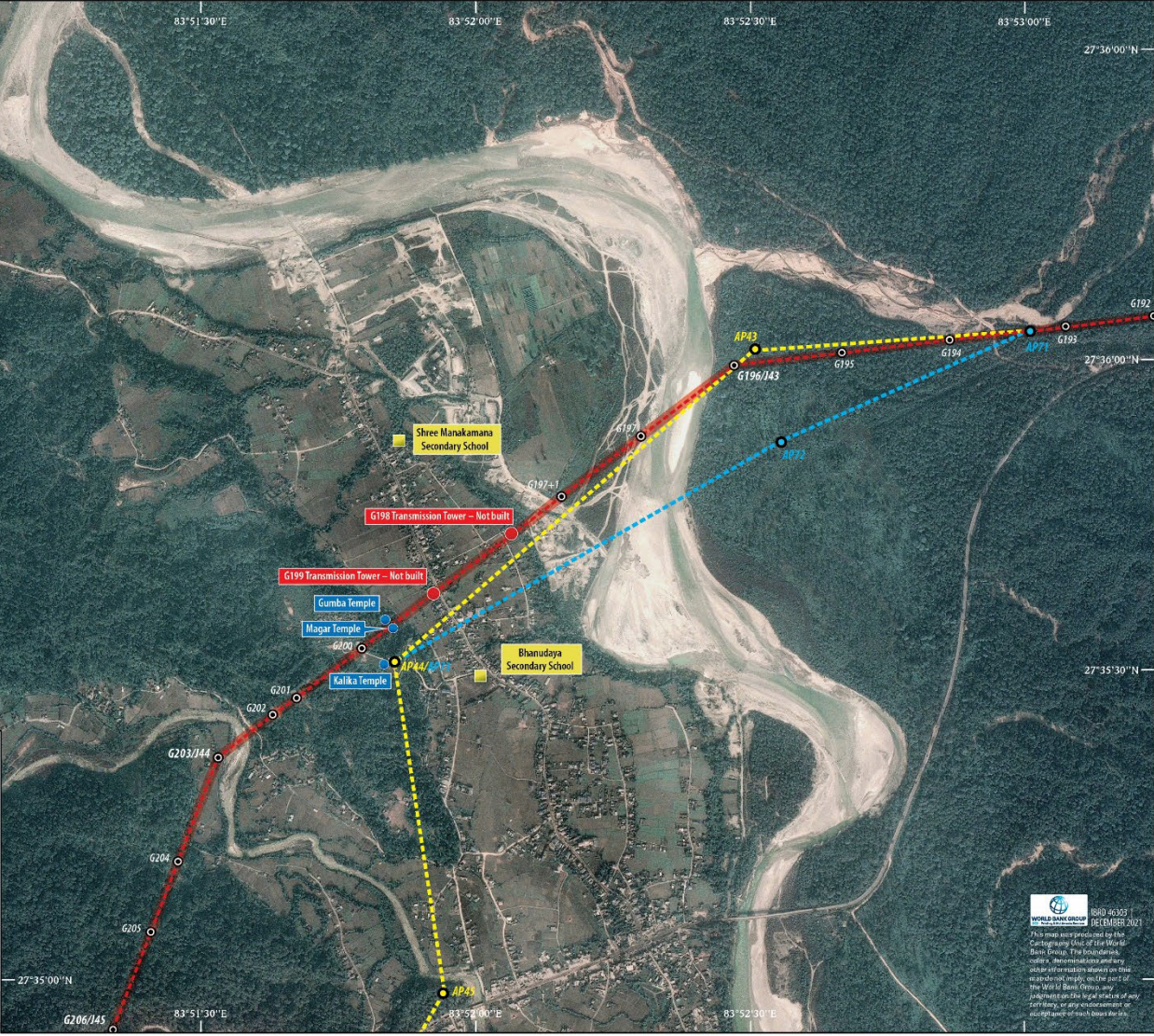
Task	Activities	Indicators of Completion	Estimated Duration	Comments
	<p>government elected officials and other witnesses for land falling under tower pads and RoW</p> <ul style="list-style-type: none"> • District Administration Office (DAO) forming a sub-committee to verify long term users • Field verification report by sub-committee and the details sent to NEA head office through the respective division • NEA through the Ministry of Energy, Irrigation and Water Resources to prepare a report to be tabled to the Cabinet Meeting of GoN for further action • Council of Ministers take a decision based on the Fast Track and Chattiwan non-titleholder precedents • Formation of a sub-committee to recommend valuation of such land • The CDC determines the valuation price of such land and a notice is published in a national newspaper specifying the names of the affected and the area of land 	<p>verification of long-term users also sent to NEA and District Administration Office</p> <ul style="list-style-type: none"> • A notice from DAO of formation of a sub-committee for verification of long-term users • DAO field verification report • Notices for compensation and easement fees to be provided to local governments, put out at public places in the communities affected • Final report approved by World Bank after compensation and easement fees paid to non-title holders 		
5. Resolve community disputes	<ul style="list-style-type: none"> • Implement the dispute resolution action plan • Agree on community-based approach for dispute resolution • Use Independent Facilitator (IF)² to further engage and understand entrenched interest • Document and respond community concerns 	<ul style="list-style-type: none"> • Share consultation minutes with World Bank • Final report upon resolution of community disputes to World Bank 	Oct 2021 to Dec 2023	Dispute resolution process is underway with the help of an external facilitator

² Also referred to in this document as “external facilitator.”

Task	Activities	Indicators of Completion	Estimated Duration	Comments
6. Complete outstanding plantation as per the Compensatory Plantation Plan (CPP) for Hetauda-Dhalkebar – Duhabi 400 kV Transmission Line and Hetauda-Bharatpur – Bardaghat (220 kV) Transmission Line 2021	<ul style="list-style-type: none"> • Update the CPP if final alignment of the TL in the disputed sections requires the plan to be updated • Confirm the plantation sites and species to be planted, in accordance with the CPP/updated CPP • Establish nursery or show evidence of purchase agreement with existing nurseries for supply of seedlings in accordance with the CPP/updated CPP • Plant seedlings at identified sites during the next rainy season (June – August 2022 and 2023), in accordance with the CPP/updated CPP • Undertake nursery care in accordance with CPP/updated CPP 	<ul style="list-style-type: none"> • Updated CPP, if required • Submit Status report on plantation to the World Bank (after reconfirmation of sites and species, confirmation of nursery/ supply of saplings/ seedlings, and plantation progress) • Plantation Completion Report submitted to the World Bank 	Updated CPP, submitted to Bank review and clearance by plantation season of 2022 (June-August 2022) and Plantation season of 2023 (June-August 2023)	<p>Plantation will be done as agreed in the CPP/updated CPP with Department of Forests, Ministry of Forests & Environment</p> <p>Plantation requirement may need to be updated depending on the final alignment of the TL in the disputed sections, in which case, the CPP will be updated</p> <p>Plantation is seasonal activity done during rainy season June-August</p>

NEPAL – INDIA ELECTRICITY TRANSMISSION AND TRADE PROJECT DUMKIBAS

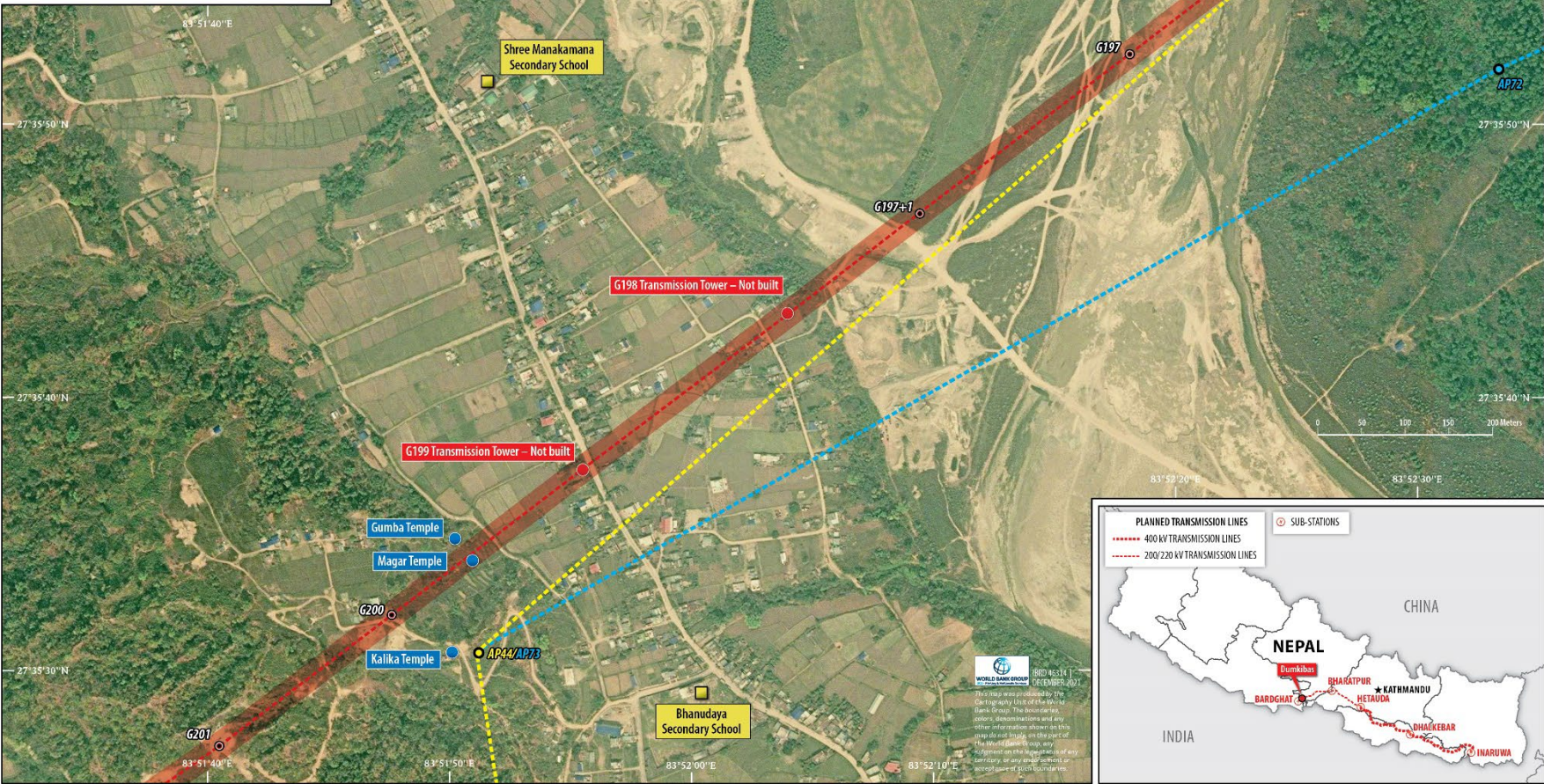
- - - 200/220 kV PLANNED TRANSMISSION LINE BASED ON 2012 FINAL SURVEY
- - - 2004 SURVEY LINE AND TOWERS
- - - 1998 SURVEY LINE AND TOWERS
- █ 30 m RoW CORRIDOR




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NEPAL – INDIA ELECTRICITY TRANSMISSION AND TRADE PROJECT
DUMKIBAS

- 200/220 kV PLANNED TRANSMISSION LINE-BASED ON 2012 FINAL SURVEY
- 2004 SURVEY LINE AND TOWERS
- 1998 SURVEY LINE AND TOWERS
- 30 m RoW CORRIDOR



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