

**IPN REQUEST RQ07/1**

March 7, 2007

**NOTICE OF REGISTRATION**

**Re: Request for Inspection  
UGANDA: Private Power Generation Project (Proposed)**

On March 5, 2007, the Inspection Panel (the “Panel”) received a Request for Inspection (the “Request”) dated March 1, 2007 related to the proposed Uganda: Private Power Generation Project (the “Project”). The Ugandan National Association of Professional Environmentalists (NAPE) and other local organizations and individuals (the “Requesters”) submitted the Request to the Panel.

According to the Project Information Document (PID), the proposed Project provides for a private sector company (Bujagali Energy Ltd. - BEL) to develop the Bujagali hydropower plant with an installed capacity of 250MW on Dumbbell Island on the Nile River, about 8km downstream from the Nalubaale and Kiira Hydropower Plants. The company is also to construct transmission lines (100km), substations and related works as part of the so-called Interconnection project, which is separate but associated with the proposed Project. The total Project cost is estimated to be around US\$750 million. The International Development Association (IDA)<sup>1</sup> is to support the proposed Project through a Partial Risk Guarantee of up to US\$115 million. The Project is also to be financed through, *inter alia*, an International Financial Corporation (IFC) loan and a Multilateral Investment Guarantee Agency (MIGA) guarantee.

The Requesters state that the proposed Project is based on *“flawed assumptions and data that have little or no bearing to the current situation”* and are thus inadequate. They raise various sets of concerns related to hydrological risks, climate change and cumulative impact assessment; Kalagala falls “offsets”; economic analysis, options and affordability assessment; information disclosure, transparency and openness regarding the Project; dam safety issues; indigenous peoples, cultural and spiritual issues; compensation, resettlement and consultations; and the terrestrial and aquatic fauna. According to the Requesters, the claims they present in the Request constitute a violation of Bank operational policies and procedures, including OP/BP 4.01 (Environmental Assessment), OP/BP 4.04 (Natural Habitats), OP/BP 4.02 (Environmental Action Plans), OP 4.07 (Water Resource Management), OP/BP 4.10 (Indigenous Peoples), OP/BP 4.11

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<sup>1</sup> In this Notice of Registration the terms “IDA” and “the Bank” are used interchangeably.

(Physical Cultural Resources), OP/BP 4.12 (Involuntary Resettlement), OP/BP 4.37 (Safety of Dams), OP/BP 7.50 (Projects on International Waterways), OP/BP (Economic Evaluations of Investment Operations), OP 1.00 (Poverty Reduction), and World Bank Policy on Disclosure of Information.

In December 2001, the Board of Executive Directors approved an IDA Partial Risk Guarantee to support an earlier proposal for the Bujagali Hydropower Project, involving the construction of the Bujagali power plant. Before Board approval, NAPE had submitted in July 2001 a Request for Inspection to the Inspection Panel in relation to this previous Bujagali proposal. After authorization of the Board of Executive Directors, the Panel had conducted an investigation of the issues raised in the 2001 Request.<sup>2</sup>

The Bank subsequently cancelled the IDA Partial Risk Guarantee. According to the Requesters, this was cancelled because of, among other things, *“performance shortfalls, controversies related to social, economic and environmental aspects, [and] evidence of corruption associated with the [private company] AES Nile Power’s (AESNP) Bujagali dam project.”*<sup>3</sup> The Requesters claim that, because of high electricity demand and the inability of the Nalubaale and Kiira power plants to generate sufficient electricity, the Government of Uganda (GOU) has now developed a proposal for a Bujagali project with different *“proponents,”* i.e. different actors implementing it. They add, however, that *“many shortcuts [are] being taken to ensure that the project is approved as fast as possible, ignoring outstanding and new concerns raised on the project.”* A summary of the Requesters’ concerns is set forth below.

**Hydrological risks, climate change and cumulative impact assessment.** The Requesters claim that the social and environmental assessment studies (SEA) that BEL prepared do not adequately address the issues of *“hydrological changes on power production”* at the Nalubaale, Kiira and the proposed Bujagali dams, especially considering that the Lake Victoria waters have declined. According to the Requesters, hydrology is a *“major limitation”* for the Project. The proposed Bujagali dam will be highly dependent on the upstream power plants, Nalubaale and Kiira, but the Requesters claim that BEL cannot control the outflow of water from these plants and has not secured the commitment of the GOU to ensure sufficient outflow rates. Thus, they wonder whether Bujagali will be able to have enough water to generate the projected capacity. They believe that Lake Victoria will not provide sufficient water, although BEL foresees otherwise. The Requesters argue that the Bujagali dam’s designed capacity of 234-290MW is not feasible under the current hydrological conditions. The studies also do not adequately address the issue of the Lake’s long-term health.

The Requesters claim that the SEA did not address climate change impacts on power production, which may cause lower lake levels and lower downstream river flows. These issues were raised in a 2005 report commissioned by the Uganda Ministry of Energy and Mineral Development and prepared by Water Resources and Energy Management International, Inc (WREM), a US consultancy firm. The Requesters state that BEL also ignored a technical report by the Directorate of Water Development (DWD) on climate change effects. An additional issue that, in the Requester’s view, BEL did not analyze is the Project’s cumulative effects. The

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<sup>2</sup> Inspection Panel Investigation Report, UGANDA: Third Power Project (Credit No. 2268-UG), Fourth Power Project (Credit No.3545-UG), and Bujagali Hydropower Project (PRG B 003-UG), May 23, 2002.

<sup>3</sup> Request for Inspection, Lodging a Claim on the Proposed Bujagali Hydropower Dam and Interconnection Projects in Uganda, March 1, 2007, p. 1.

Requesters contend that BEL did not even attempt to study this issue and there are “*no Cumulative Impact Studies on Building a Cascade of Dams along the River Nile.*” The SEA also fails to discuss changes to the existing dam complex and its impacts on the Bujagali dam, changes that are needed to restore the Lake’s water levels. According to the Requesters, these hydrological risks, which may cause environmental damage and disruptions in the livelihoods of lakeside dwellers and businesses, and their economic viability, are not even analyzed in the Project’s economic analysis.

**Kalagala Falls “offset.”** The Requesters state that the commitment of the GOU to establish the Kalagala Falls as an offset for the development of the Bujagali falls is not binding. They cite the following paragraph from the Indemnity Agreement signed between the World Bank and the GOU in the context of the financing of the Bujagali hydroelectric dam: “*Government of Uganda undertakes that any future proposals which contemplates a hydropower development at Kalagala will be conditional upon satisfactory EIA being carried out which will meet the World Bank Safeguard Policies as complied with in the Bujagali project.*”<sup>4</sup> The Requesters state, therefore, that there is no guarantee that the Falls will never be developed for hydropower.

**Economic analysis, options and affordability assessment.** The Requesters state that there is no evidence that a comprehensive economic analysis of the Project was carried out, because the study published on the World Bank website cannot be considered “comprehensive” and a basis for determining the economic viability of the Project. In addition, the Requesters argue that the economic analysis does not include an adequate assessment of the Project’s economic alternatives that support the statement that the Bujagali dam is the least costly option. Alternative energy options were not taken into consideration. The Request describes eleven alternatives to the proposed Project that were allegedly dismissed because of their costs and the “difficulty to connect to the national grid.” However, according to the Requesters, the economic analysis does not provide costs, cost-benefit and opportunity cost-scenarios and calculations for developing these alternatives and rejecting them in favor of the Bujagali option. The Requesters also state that, in deciding on the best option, important factors were not discussed and the Bank and the GOU have “*skewed research efforts to consistently promote Bujagali above other options.*” In addition, in the Requesters’ view, “*the idea of dismissing energy alternatives, because they cannot easily be connected to the national grid ... is erroneous,*” and other options that would “*help reduce the burden on existing national grid-based hydropower at competitive costs*” were not addressed.

They further argue that the Project is “*economically risky,*” also in view of the changing hydrology, and that concerns such as the citizens’ ability to afford it, the high costs and indebtedness have become contentious issues. The Requesters state that from an original estimate of US\$430 million, the Project cost has now jumped up to US\$735 million. NAPE states that, on February 28, 2007, it met with World Bank officials who acknowledged that the cost increase has been 30%. The Requesters believe that this cost increase makes clear that the majority of Ugandans, who live in rural areas far from the national grid, will not be able to afford unsubsidized electricity from the Bujagali dam. Furthermore, the high Project costs will limit the funds for rural electrification and will likely lead to reducing subsidies for grid-connected users.

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<sup>4</sup> Request, p. 4.

The Requesters claim that the Project will *‘negate the country’s economic development and efforts for poverty eradication.’*

**Information disclosure, transparency and openness regarding the Project.** According to the Requesters, the Bank refuses to make public the information on the Nile hydrology and the Lake Victoria’s hydrological conditions, such as information contained in a Bank-funded Independent Hydrological Review. The Requesters call for more transparency and openness from the Bank and believe that all studies on economic viability and the options evaluations should be released in a timely manner, to allow time for their review before decisions are made. The Requesters particularly complain that the Power Purchase Agreement (PPA), which is a key Project document, was recently released but only one photocopy is available, with no signing dates and no serialized pages, and it can be read only during working hours at the Uganda Electricity Regulatory Authority (ERA). They also claim that this copy is incomplete – e.g. does not include Project costs – and that, in reality, this is not the actual PPA used to negotiate the loans with the World Bank. According to the Requesters, Ugandan laws require that the Parliament approve the state’s obligations under the PPA but *‘there is no evidence that BEL’s PPA has been debated and approved by Uganda’s Parliament...’* The Requesters also note that the Project’s SEA has been signed by the Government in 2005. This means, in the Requesters’ opinion, that the PPA was signed in violation of Ugandan laws and without taking into account the costs of the Project studies, compensation and resettlement issues, which will nevertheless bear on the ultimate tariff for electricity.

**Dam safety issues.** The Request reports that the safety issues regarding the Nalubaale dam at the Owen Falls are not taken into consideration in the Bujagali dam design. The Requesters raise the issue of whether the Bujagali dam would be able to survive a failure of the Owen Falls dam. The Requesters do not consider sufficient the proposal to form a dam safety panel, because they believe there should be an integral comprehensive plan and strategies to address these issues. They argue that these strategies are very important, especially in light of the fact that there was no Environmental Impact Assessment for the Kiira Dam nor a post-construction audit for the Nalubaale dam.

**Indigenous peoples, cultural and spiritual issues.** The Requesters state the Basoga people living in the Project area are not considered as indigenous peoples in the SEA, but are considered to be so under the Constitution of Uganda. They add that the *‘failure of the World Bank to respect the Constitution of the Republic of Uganda as regards indigenous peoples is a violation of World Bank Policy on Indigenous Peoples (OP/BP 4.10).’* In addition, the SEA addresses cultural and spiritual issues inadequately.

**Compensation, resettlement and consultations.** The Requesters state that the existing compensation and resettlement framework are outdated and do not reflect the current economic conditions. They believe that the social costs and benefits of the compensation and resettlement program should be re-assessed in line with current and future realities. The Requesters also include a letter from people displaced as a consequence of the preparation of the earlier proposal for Bujagali. With respect to consultation of affected people, the Requesters note that there is evidence of consultation, but also claim that BEL *“confuse consultation with true participation in a decision-making process.”* In addition, there was no consultation with 240 clans of the Basoga and 53 of the Busanga indigenous peoples.

**Old and inconsistent data and issues related to the fauna.** According to the Requesters, the proposed Project is based on outdated data, e.g. on water quality and climate, which were gathered almost ten years ago and do not reflect the current environmental realities. In addition, the studies on the terrestrial and aquatic fauna were carried out only for a very short period of time and do not provide variations of species distribution and diversity that normally occur in a period of one year.

**Raising concerns with the World Bank.** The Requesters state that they expressed their concerns in a letter sent to the Bank. They further note that they invited the Bank's Country Office in Kampala to attend public meetings, held in August and October 2006, on Lake Victoria and the role of dams in draining the Lake, but received no response from the Bank. In addition, the Requesters state that they recently met with Bank officials in Kampala to reiterate their worries, but claim that the Bank has not adequately addressed their concerns. They believe that the actions described in the Request are contrary to the World Bank policies and procedures and have materially and adversely affected their rights and interests. They ask the Panel to recommend that an investigation of the issues raised in the Request be carried out

The above claims may constitute non-compliance by the Bank with various provisions of its operational Policies and Procedures, including the following:

OP/BP 4.01	Environmental Assessment
OP/BP 4.02	Environmental Action Plans
OP/BP 4.04	Natural Habitats
OP 4.07	Water Resource Management
OP/BP 4.10	Indigenous Peoples
OP/BP 4.11	Physical Cultural Resources
OP/BP 4.12	Involuntary Resettlement
OP/BP 4.37	Safety of Dams
OP/BP 7.50	Project on International Waterways
OP/BP 10.04	Economic Evaluations of Investment Operations
OP 1.00	Poverty Reduction
World Bank Policy on Disclosure of Information	

Until further notice, all communications with the Requesters in connection with the Request will be sent to Frank Muramuzi, Executive Director of NAPE.

Pursuant to paragraph 17 of the Panel's Operating Procedures (the 'Operating Procedures'), I am notifying you that I have, on March 7, 2007, registered this Request in the Inspection Panel Register.

In accordance with paragraph 18 of the IDA Resolution that established the Panel ('Resolution'), paragraphs 2 and 8 of the *Conclusions of the Board's Second Review of the Inspection Panel* (the '1999 Clarifications'), and paragraph 18 (d) of the Operating Procedures, Bank Management must provide the Panel, no later than April 5, 2007, with written evidence that it has complied, or intends to comply, with the Bank's relevant policies and procedures in relation to the above-referenced Project. The subject matter that Management must deal with in a response to the Request is set out in paragraphs 3 and 4 of the 1999 Clarifications.

After receiving the Management response, the Panel will, as outlined in the 1999 Clarifications and as provided by paragraph 19 of the Resolution, “*determine whether the Request meets the eligibility criteria set out in paragraphs 12 to 14 [of the Resolution] and shall make a recommendation to the Executive Directors as to whether the matter should be investigated.*”

The Request has been assigned IPN Request Number RQ07/1.

Yours sincerely,

A handwritten signature in black ink that reads "Edith Brown Weiss". The signature is written in a cursive, flowing style.

Edith Brown Weiss  
Chairperson

cc: Mr. Frank Muramuzi  
National Association of Professional Environmentalists  
P.O. Box 29909  
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Mr. Paul Wolfowitz  
President  
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The Executive Directors and Alternates  
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