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Thursday, March 01, 2007

To: **Peter Lallas**

The Executive Secretary
Inspection Panel
World Bank Group
18184 St. NW Washington DC
20433, USA
Fax: 202 – 522 – 0916

Dear Mr. Lallas,

RE: SUBMITTING A CLAIM ON THE BUJAGALI DAM PROJECT AND INTERCONNECTION PROJECT, UGANDA

Herewith attached is our claim to the Inspection Panel

Also attached is a letter of complaints regarding the problems of the resettled people due to the project.

Please note that we have sent these documents by fax, courier and through the World Bank Country office, Kampala, Uganda.

Please acknowledge receipt.

Thank you.

Signed:

.....
Frank Muramuzi
Executive Director

REQUEST FOR INSPECTION

March 1, 2007

**TO: PETER LALLAS
THE EXECUTIVE SECRETARY
THE INSPECTION PANEL,
WORLD BANK GROUP
18184 St. NW, Washington, DC
20433, USA.
Fax: 202 - 522-0916**

**RE: LODGING A CLAIM ON THE PROPOSED BUJAGALI HYDROPOWER DAM
AND INTERCONNECTION PROJECTS IN UGANDA.**

Dear Mr. Lallas,

In 2001, we submitted a claim to the Inspection Panel concerning the Kiira (Owen Falls Extension) Nalubaale (Owen Falls) and the proposed Bujagali Power stations in Uganda, which was duly addressed by the panel (www.worldbank.org/inspectionpanel)

Following the intervention of the Inspection Panel and coupled with the performance shortfalls, controversies related to social, economic and environmental aspects, evidence of corruption associated with the AES Nile Power's (AESNP) Bujagali dam project and its failure to reach financial closure at the World Bank, the company, AESNP, pulled out of the project, which subsequently stalled the project.

Due to the ever-escalating electricity demand and the inability of Nalubaale and Kiira power stations to generate enough electricity to meet the country's demand, Government of Uganda has revived and is in the process of fast-tracking the Bujagali hydropower dam project under different proponents, locally registered as Bujagali Energy Limited (BEL)¹ that is currently being considered for financial support by the World Bank Group. This has resulted in many shortcuts being taken to ensure that the project is approved as fast as possible, ignoring outstanding and new concerns raised on the project.

As a requirement and basis for funding by the World Bank Group, BEL has submitted in public domain and to the World Bank Group the social and environmental assessment studies on the Bujagali hydropower dam and Interconnection projects.

We, the National Association of Professional Environmentalists (NAPE) and the undersigned Institutions and Individuals, hereby file a claim on the proposed Bujagali Hydropower and Interconnection Projects that is being considered for funding by the World Bank Group.

¹ A consortium of IPS of Aga Khan, Site Global and others

Like in the previous AESNP case, BEL's Bujagali hydropower dam project is based on flawed assumptions and data that have little or no bearing to the current situation and therefore are not an adequate basis for approval of the project. The following are issues of concern:

Hydrological Risk, Climate Change, and Cumulative Impact Assessments

- i. BEL's SEA does not adequately address the outstanding questions about hydrological changes on power production at the Nalubaale, Kiira and the proposed Bujagali facilities, especially now when Lake Victoria water levels have declined.
- ii. Without doubt, Kiira has contributed substantially to the over-draining of Lake Victoria, causing a lot of misery and economic loss to Uganda and neighboring countries. This has not been properly addressed in the documents we have seen.
- iii. According to the SEA, BEL has little or no control on the manner in which Nalubaale and Kiira will be operated by Government of Uganda (GoU) (*HPP Main Report, p356 6th paragraph*) and therefore cannot under the circumstances dictate the outflow rates through upstream power stations to ensure sufficient water for Bujagali's power production, implying that Bujagali's operation will be highly dependent on the operations of Kiira and Nalubaale. Now that BEL cannot control the outflow of water from power stations upstream and did not obtain commitment from GoU to ensure sufficient outflow rates through Nalubaale and Kiira, what guarantees does BEL have that the project will have enough water and generate the projected capacity? This issue is a lynchpin in the project's economic viability.
- iv. BEL's SEA deliberately projects Lake Victoria as being capable of providing adequate water for the project even in its current diminished hydrological state, which is not possible. Where is the additional water going to come from? It is acknowledged by Engineer Elimu Esimu of Eskom that "**currently the facilities (Nalubaale & Kiira) are not running at full capacity, because of limitations from tail water and the need to maintain live storage**" (*ref. Phase 2 Consultation Material PCDP Appendix C, p 12*), implying hydrology is still a major limitation. It is now clear that the Agreed Curve is no longer being respected and the Victoria Nile flow regime has changed; consequently the original long-term energy output assessment for Bujagali is no longer valid (WREM, 2005a). Experts reported that although Bujagali dam was designed for 234-290MW, in reality, this is not possible under the current hydrological regime. Independent experts projected the output to be a maximum of 172MW. BEL's SEA does not address the overall issue of Lake Victoria's long-term health, other than to assert that Bujagali Dam could lead to more sustainable flows out of the lake as it will "make use of the same water" released by the existing dams. Neither the SEA nor the documents it is based on explore the opposite scenario (i.e. that a new dam will provide more incentive to release higher flows, in order to maximize electricity sales).
- v. The Ombudsman of the IFC and the World Bank Inspection Panel stressed the need to address the hydrological flow rates in the previous AESNP Bujagali Project and they considered hydrology critical for Bujagali dam. BEL does not address this concern.

vi. BEL's SEA reports do not address climate change and its possible impact on power production at Bujagali. Current and future climate models indicate hotter, drier conditions, lower lake levels and lower downstream river flows (WREM, 2005a). It is unknown whether Lake Victoria will recharge to the high levels and outflow experienced during the 1961-2000 period. It is also not known whether such a recharge will occur in the next few years or in the next 100 years. A 2005 report² by Water Resources and Energy Management International Inc., a US consultancy commissioned by the Uganda Ministry of Energy and Mineral Development, predicts that climate change could dramatically reduce the lake's levels and therefore outflow to the Nile. The report states: "*Lake evaporation shows a steadily increasing trend, a direct consequence of temperature increase. From 2025 on, lake evaporation becomes consistently higher than lake rainfall with this deficit exceeding 20 billion cubic meters per year toward the end of the century. It thus appears inevitable that, if the rainfall process remains stationery, climate warming will disturb the historical balance of lake rainfall and evaporation, and will create serious deficits.*"

vii. A recent (2006) technical report of Directorate of Water Development (DWD), a lead agency, is missing in BEL's SEA. This could probably address the issues of hydrology, climate change, declining water levels in Lake Victoria and River Nile. **No study released to date analyses the risks to Bujagali performance from climate change-induced drought and other hydrological changes.**

viii. The last Inspection Panel report stated: "*The Panel consequently concludes that the issue of cumulative effects, addressed by Management and raised by the Requesters, is of real significance and is deserving of greater attention.*" Although much time has passed since the Bujagali project was first proposed at the World Bank, to date the cumulative impacts issue remains unresolved. There was no deliberate attempt by BEL to identify cumulative impacts. There are no Cumulative Impact studies on Building a Cascade of Dams along the River Nile, including Bujagali. The SEA also does not discuss what changes to the existing dam complex would be required to begin to restore the Lake's level, and how such changes would affect Bujagali. The World Bank and IFC also echoed that lack of a comprehensive management plan gives rise to long-term management challenges of the River Nile. It remains to be seen if other analyses for the project will properly address these concerns. Generally, the ongoing debate over the existing dams' role in the draining of Lake Victoria should be settled in a transparent, participatory way. This requires the timely release of relevant data about water releases through the dams³, information about hydrological assumptions and commitments from the Government on future dam operation and water releases. Even the recently (26th

² Study on Water Management of Lake Victoria: Technical Report 10, Climate Change Impact Assessment, by WREM International, September 2005. Available at <http://tinyurl.com/y2hbkx>

³ At an October 2006 public meeting in Kampala about recent drops in Lake Victoria's water levels, the Uganda Ministry of Energy disputed that the dams were a primary cause of the problem, and promised to release data to prove that. To date, despite numerous written requests, the data has not been released. Hydrologists are asked to see the following: Annual Net Basin Supply (NBS) for the Lake Victoria Basin for all years on record; Daily outflow from both the Nalubaale and Kiira dams since construction of Nalubaale, however most importantly since construction of Kiira, until the present; Daily Lake Victoria water level, measured at Jinja, since construction of Nalubaale, although again most importantly since the construction of Kiira, until the present; Daily Agreed Curve prescribed Owens Falls outflows since construction of Nalubaale, although again most importantly since the construction of Kiira, until the present.

February, 2007) released economic analysis does not adequately address the economic viability in relation to hydrological risks. It is rife with flawed assumptions and computations. There is need in the economic analyses for an analysis of these dams' legacy of environmental damage and disruption to the livelihoods of lakeside dwellers and businesses. It is also critical to involve stakeholders from other countries sharing Lake Victoria in addressing the problems caused by the over-releases of water, and to come up with workable solutions for the long-term. An analysis of the risks of climate change on Uganda's energy sector and its economy should also be undertaken and publicly released.

Kalagala "Offset"

ix.Paragraph 1 of the agreement between World Bank and GoU states that '*Government of Uganda undertakes that any future proposal which contemplates a hydro power 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. Government and the World Bank will jointly review and jointly clear such an EIA*' (HPP Main Report, Appendix D1, 2006). This, however, is not a guarantee that Kalagala Falls would never be developed for hydropower. The commitment on Kalagala Falls as an "Off-set" by government of Uganda is not binding. It does not completely remove Kalagala as a future dam site. Legal interpretation of the agreement by the Inspection Panel also confirmed that there was no guarantee for Kalagala as an offset for Bujagali (Ref. Inspection Panel Report, 2002).

The lack of up-to-date and adequate information on hydrology, climate change, cumulative impacts assessments and commitment on Kalagala "Off Set" in BEL's SEA violates the World Bank's Policies on Environmental Assessment (OP 4.01), Environmental Action Plans (OP 4.02), Natural Habitats (OP 4.04) and Water Resources Management (OP 4.07). We believe that the absence (inadequacy) of this critical information will negatively affect the well being of Ugandan society, in particular and East Africa, in general.

Economic, Comprehensive Options and Affordability Assessment

i. There is no evidence in the SEA report that a comprehensive economic analysis for Bujagali HPP was done. What has been released on the World Bank website (www.worldbank.org/bujagali) is not comprehensive and therefore cannot be used as basis for determining the economic viability of the project. Therefore, it is difficult to determine the economic viability of the project. Both the World Bank Inspection Panel and IFC Compliance Advisor/Ombudsman echoed similar concerns in the previous AESNP Bujagali dam project. The Inspection Panel recommended that comprehensive assessments be carried out before any further damming of the Nile could be done.

ii. BEL's SEA report (HPP Main Report, p335) states that "*if Bujagali were not to be built, then either lack of electricity will persist or more expensive alternatives will be needed to be built.*" Yet, alternative energy options have not been adequately studied to provide evidence that Bujagali dam project is the least-cost option. Again, the recently

released economic analysis does not adequately address the issues of assessing the alternatives. In recent years, various efforts to analyze Uganda's renewable energy potential have been discussed or begun. There is therefore evidence that energy alternatives were not adequately addressed in BEL's SEA. In addition, efforts to implement these alternatives have not been taken seriously by government⁴. For instance:-

- Bagasse:** Although it has been discussed for years, the country has developed only a few megawatts of its currently estimated 40MW potential⁵.

- Small hydro (less than 10 MW):** Of at least 46 MW at 16 sites that has been identified, only 13MW have been developed.

- Micro-hydro (less than 100 kilowatts):** A limited number of sites have been developed, despite there being at least 40MW of potential⁶.

- Karuma Dam (150 MW)** is considered to be less socially and environmentally destructive than Bujagali (and in fact than all currently proposed large dams in Uganda). It would have the added benefit of bringing electricity to the northern part of the country, whose development has been marred by continued rebel conflict. It was previously compared directly to Bujagali, but lost-out over economics. Later, Karuma's project sponsors in Norway discovered that the economic analysis used to justify Bujagali was based on greatly inflated costs for building Karuma.⁷

- Geothermal:** Uganda has significant potential, with estimates ranging up to 450 MW, but studies have lagged behind hydroelectric analysis. Although the Bujagali EIA by Burnside International Ltd. states that only 45 MW is feasible, this seems premature and pessimistic as some of the sites they refer to as having a poor chance of commercial development are still being studied. Experts we have talked with who are working directly on such studies say that the potential for specific sites is much greater than the project SEA indicates.

- Municipal Solid Waste:** Uganda has an estimated 10-30 MW potential.

- Solar:** The *East African* recently reported: "*The government's plan to save 46MW of grid power during peak hours using solar photovoltaic and solar water heaters has not taken off. Government had estimated that a total of 100,000 grid connected consumers*

⁴ Ref. Uganda's Ministry of Energy and Mineral Development's "Support of Renewable Energy Development in Uganda" (<http://www.ren21.net/iap/commitment.asp?id=127>), which had as a goal "By 2006: solar PV systems equivalent to 320 kWp sold to households and institutions; a comprehensive database of Uganda's renewable energy resources developed; feasibility studies for the development of an additional 60 MW completed."

⁵ "Review of Norwegian support to the Energy Sector in Uganda," 13 June 2006, by the Nordic Consulting Group. The report notes that in 1998, Kakira Sugar Works planned to install a 30MW bagasse-fueled electricity plant, which could have been installed in 2 years' time. Instead, the government focused on the "presumably less expensive power generation options at Owen Falls Extension and Bujagali."

⁶ Ibid

⁷ "Confidential report over-prices competing Karuma Falls project," *Development Today*, December 3, 2003. The article states that "a World Bank report comparing Uganda's energy options operates with cost figures for the Norwegian backed Karuma hydropower project that are some US\$200 million higher than those the developer, NORPAK, has presented to the Ministry of Energy in Uganda. In a comparison of Karuma with Bujagali, the Canadian consultant firm Acres International has used its own design concept for Karuma ... Bank management has insisted on keeping the Acres report secret, even though the Bank's Inspection Panel states that not making it public is 'not in compliance with the World Bank Disclosure Policy. The report was the key document in the Bank's decision to support the Bujagali project in December 2001.'"

would install solar PV systems and use solar lighting instead of grid electricity."⁸. Energy used for water heating is a significant contributor to the electricity demand, accounting for almost 50MW. Experts estimate that 10MW of peak power could be saved immediately (and more in future) with solar water heaters for grid-connected customers.

•**Efficient Lighting:** The bulk of Uganda's peak demand is used for lighting, which consumes up to 92MW, according to a World Bank study. If all lights were replaced with energy-efficient light bulbs, the country's peak demand could be cut to below 20MW.⁹

•**Transmission Losses:** According to the 2006 Bujagali EIA by Burnside International Ltd., "Another option to reduce demand is to reduce technical losses, which for Uganda is high at 21 percent. Acres (1999) estimated that improvements to the country's failing distribution infrastructure, could eliminate as much as 30 MW of losses from the grid." On 3 October 2006, the *East African* reported that Uganda was applying for a US\$180 million loan from the World Bank to cover a variety of investments in the energy sector; only US\$10 million from the project is expected to go toward demand-side management and energy efficiency measures.¹⁰

•**Wind power potential** needs further exploration, as wind speeds have only been recorded at low heights, not the 10 meters that is standard for wind power analysis.¹¹

•**Improved, efficient stoves and biogas digesters** would be key to bringing cleaner energy to the rural poor, and reduce deforestation from cutting fuel wood.

Uganda Government technocrats have dismissed the contribution of these alternative energy options based on their development costs and difficulty to connect to the national grid. The SEA does not give cost, cost-benefit and opportunity-cost scenarios and calculations for installation and development of these alternative energy options as basis for determining Bujagali as the least-cost option. The idea of dismissing energy alternatives, because they cannot easily be connected to the national grid (*BEL's HPP Main Report, p167-171*) is erroneous. What should be assessed is rather whether alternative electricity options will help reduce the burden on existing national grid-based hydropower at competitive costs (prices) than other options by taking away areas where other energy options could be developed as independent grids rather than emphasizing the need for connectivity to the national grid. These independent grids could prove more beneficial to the majority of the people and the current rural electrification scheme being promoted by government. It therefore becomes clear that the various energy options have not been assessed in either a comprehensive or balanced way as part of the evaluation leading up to Bujagali. The *East African*

⁸ <http://allafrica.com/stories/200610100044.html>

⁹ "Reduce your power costs, use energy saving bulbs," *New Vision*, January 22, 2007.

¹⁰ The Energy Ministry has identified preliminary needs to improve efficiency, including educational programs to increase awareness on energy conservation and efficiency; a program to reduce the cost of efficient lighting; a program to subsidize energy efficient technologies; a national building code based on energy efficiency concepts (and a program for compliance); and a host of other important needs.

¹¹ "Investing in Uganda's Energy Sector," <http://www.ugandainvest.com/energy.pdf>

Commission, in a report on the decline of Lake Victoria's water levels¹², stated that: "*Partner states should make deliberate efforts to reduce dependency on hydropower by developing alternative sources of energy like geothermal, wind, solar, thermal and natural gas within 5 years.*" But, the government of Uganda, the project developer and the World Bank are proceeding with Bujagali as the least-cost option, yet this has been effectively disputed.

Other factors critical to the decision-making process about "best options", for example, the risk that drought will cripple the economy have not been adequately assessed. It is not clear whether the World Bank's "Independent Hydrological Review" of the Victoria Nile will be publicly released and debated in time for an informed decision-making process. The World Bank Group, like the Ugandan government, has skewed its research efforts to consistently promote Bujagali above other options. In the project's first incarnation at the Bank, data was manipulated to justify Bujagali as the "least-cost" option for Uganda after its consultants pointed to other projects as cheaper. While the World Bank's 2002 appraisal of the Bujagali project was over-optimistic in many instances, the analysis of alternatives to the project was consistently pessimistic. This is still a problem with the new BEL Bujagali project. Going back even further, the World Bank used unusually optimistic hydrological data on the Kiira project, and claimed there was little risk to using the optimistic figures (even though most experts at the time believed otherwise). This has resulted in drastic draining of Lake Victoria to low levels close to those in 1924. A comprehensive, independently facilitated and participatory options assessment process is needed for future energy planning in Uganda, especially one that incorporates a rights and risk analysis. More importantly, there needs to be concerted action to develop these resources.

Affordability

Bujagali remains an economically risky project, a risk worsened by changing hydrology. The cost of Bujagali to Uganda has long been a contentious issue, and questions have been raised about citizens' ability to afford its tariffs, the high cost of the project, which has grown considerably, and issues of indebtedness. At one time, the cost of Bujagali project was reported to be US\$430 million, then US\$550 million and then US\$580 million. Now, it has risen to US\$735 million. The Prayas report of 2002 indicated that the project had been over-priced by more than double the actual costs, which could lead to a national loss of more than US\$20 million in excessive payments each year. In a meeting between the World Bank and NAPE held on the 28th February 2007 in Kampala, World Bank acknowledged that the cost of Bujagali project had increased by 30%. It is, therefore, increasingly becoming clear that Bujagali Dam will not meet the basic energy needs of the majority of Ugandans who are now without power and live far from the national grid. Biomass (burning wood) continues to account for more than 90% of the nation's primary energy use, and only a fraction of the population can afford unsubsidized electricity. Bujagali will feed into a very limited national grid, its power bound mainly for Kampala, Jinja, Entebbe and other urban centers. Therefore, we are convinced that, even if the national grid covers the whole of Uganda, electricity from the Bujagali project would not be affordable. The high cost of the project will further limit

¹² *Special Report on the Declining of Water Levels of Lake Victoria*, April 2006, by the EAC Lake Victoria Basin Commission (http://www.eac.int/lvdp/lake_victoria_waterlevels_apr_06.pdf)

funds available for rural electrification and is expected to lead to reductions in subsidies for electricity tariffs for grid-connected users. Uganda already has the most expensive power in the region and tariffs have more than doubled in recent months, thus pushing more people out of the already limited market for electricity. This will therefore negate the country's economic development and efforts for poverty eradication.

We believe that the absence of an adequate and comprehensive economic and alternative (options) assessment of the Bujagali dam Project violates the World Bank's Policies on Economic Evaluation of Investment Operations (OP 10.04), Poverty Reduction (OP/BP 1.00), among others, which requires the evaluation of projects to ensure that they meet development goals. The Bank assesses the robustness of the project with respect to economic, financial, Institutional and environmental risks. The Bank's economic evaluation considers the sources, magnitude and effects of the risk associated with the project, by taking into account the possible range in values of the basic variables and assessing the robustness of the project's outcome with respect to changes in these values." There is sufficient evidence that the Bujagali dam project was not subject to this kind of analysis at the World Bank Group.

Information Disclosure, Transparency and Openness regarding the Bujagali Dam Project

The World Bank has also recently refused to publicly release information on the Nile hydrology and the impacts of Kiira Dam's operations on the levels of Lake Victoria, as has the Ministry of Energy and Mineral Development (MEMD). The Bank has commissioned new analysis of the Lake Victoria hydrological situation¹³, but it is unclear if these studies (and the data they are based on) will be made public.

More transparency and openness is needed on how various options have been evaluated. At least, project proponents should release all documents on the project's economic viability, including all studies on the Lake Victoria/Nile hydrology, the PPA, and options analysis. The information must be released with adequate time to review before further action is taken on Bujagali. The only document released for review was BEL's SEA, which does not address the overall issue of Lake Victoria's long-term health, other than to assert that Bujagali Dam will be designed based on the "Agreed Curve."

The key document that assigns economic risks, the Power Purchase Agreement (PPA), was only recently (January 8, 2007) released for public scrutiny at the Uganda Electricity Regulatory Authority's (ERA) Office in Kampala. It is a photocopy, without dates for its signing, the pages are not serialized, it has excerpts of AESNP¹⁴, there are inconsistencies in what the term "the company" refers to (is it UETCL¹⁵, AESNP, IPS¹⁶ or BEL¹⁷?), it does not include the costs of Bujagali dam project, it does not apportion responsibilities, risks

¹³ "Victoria Nile - Independent Hydrological Review," http://www.esd.worldbank.org/bnwpp/index.cfm?display=display_activity&AID=439&Item=10

¹⁴ Applied Energy Services-Nile Power (AESNP)

¹⁵ Uganda Electricity Transmission Company (UETC) Ltd

¹⁶ International Promotions Services (IPS)

¹⁷ BEL is referred to in passing as a special purpose company

and guarantees between the parties regarding the dam project and it is tied by strings to a reading table in ERA's library. One is not allowed to obtain an original copy (photocopy). People are required to read it only during working hours. Since it is only one document, it is difficult for two or more people to read it at the same time, thus limiting public participation. We believe that this is not the actual PPA being used to negotiate loans from the World Bank.

The previous PPA for AESNP was first kept secret, until after the High Court of Uganda ruled¹⁸ that it is a public document that should be made public. This was also the position of the Inspection Panel in 2002, which stated that "*It seems evident that full disclosure of the PPA is vital, if the intent is to place the public in a position to analyze, understand, and participate in informed discussion about viability of the Project and its impact on the economy and well-being of Ugandans.*" When the AESNP PPA was finally released, it was revealed that it posed unjustifiable risks to the Ugandan government, consumers and taxpayers. Uganda laws require that Parliament must approve the state's obligations under the PPA. There is no evidence that BEL's PPA has been debated and approved by Uganda's Parliament, yet it is reported in BEL's SEA to have been signed way back in 2005 by government. BEL's SEA was therefore signed without incorporating the costs of the project related to studies, construction and compensation and resettlement issues, which will definitely be reflected in the tariff of electricity from the Bujagali project. This is not proper.

We believe that the discrepancies in the PPA pose a great threat to the Ugandan society and economy and are a contravention of the law of Uganda and violate the World Bank's Policy on Information Disclosure, Accountability, Economic Evaluation of Investment Operations (OP 10.04), Poverty Reduction (OP/BP 1.00), etc.

Dam Safety Issues

Bujagali dam design does not adequately consider the safety problems regarding the old Owen Falls (Nalubaale) dam, especially now when the powerhouse and bridge have large cracks. BEL's SEA states that a Bujagali Dam Safety Panel (BDSPP) shall be formed. Just forming a dam safety panel is not enough. There should have been an integral comprehensive plan and strategies for addressing dam safety issues. Such strategies should have included concrete steps to decommission the old Nalubaale and disaster preparedness mechanisms and associated costs. Such strategies are very important; especially since there was no EIA done for Kiira dam and no post-construction audit done for Nalubaale dam. In a meeting between NAPE and Racheal Kyte of the World Bank held in Kampala on the 28th February 2007, the Bank acknowledged that the absence of EIA for Kiira and post-construction audit for Nalubaale was an omission. The issue of whether Bujagali Dam would be able to survive a failure of the Owen Falls Dam is still a major concern. Failure to address dam safety issues in the SEA violates World Bank Policies on Safety of Dams (OP 4.37), OP/BP 4.01, OP/BP 4.04, OP 7.50, to mention but a few.

¹⁸ Greenwatch vs GoU & UETC ref. HCT-00-CV-MC-0139 OF 2001

Indigenous Peoples, Cultural and Spiritual Issues

BEL's SEA considers the project area as not inhabited by indigenous people. It therefore considers Basoga as not being indigenous, yet the Constitution of the Republic of Uganda (third schedule) considers Basoga as an indigenous people.

i. Has the constitution of Uganda changed? Or is the Constitution of Uganda (1995) not relevant to the Bujagali project? 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's Policy on Indigenous Peoples (OP/BP 4.10).

ii. Cultural and spiritual issues in the Bujagali project area were inadequately covered in the SEA. It is assumed in the SEA to have addressed cultural and spiritual issues of the affected community.

iii. This, then calls for an effective consultation process involving all clans that are culturally and spiritually attached to Bujagali Falls followed by a public hearing.

Compensation and Resettlement

i. BEL's SEA states that AESNP, the previous project proponent, completed land acquisition, resettlement and relocation of all residents formerly located in the reservoir area and compensated land owners and other project affected people. However, houses and facilities provided to the resettled communities by AESNP are now dilapidated less than five years after construction, implying that the structures were poorly constructed and would probably soon crumble.

ii. The existing compensation and resettlement frameworks are out-dated and do not reflect current economic situations.

iii. People affected by the Bujagali Interconnection Project were never compensated and resettled. It is therefore important that compensation and resettlement of project-affected people is based on updated compensation and resettlement frameworks that reflect current economic realities.

iv. There is, however, no clear commitment on the part of BEL to complete the compensation and resettlement exercise in a manner that reflects current realities. There should have been a re-assessment of social costs and benefits of the compensation and resettlement exercise to reflect the current and future realities.

Most of the people who were moved in 2002 were not given land titles to their new lands, which caused great uncertainty. Problems that arose with the resettled communities were left unresolved for years after the original project sponsor (AESNP) abandoned the project. It took strenuous lobbying on their behalf by our organizations to get the government to respond to some of the problems. Attached herewith is a letter addressing the problems faced by the community resettled in Naminya by the dam developers and GoU.

The lack of a detailed compensation and community development action plan in BEL's SEA is a violation of World Bank's Policy on Information disclosure, Involuntary Resettlement (OP/BP 4.12), Piloting the use of Borrower systems to address Environmental and Social Safeguard Issues in Bank-Supported Projects (OP/BP 4.00), Environmental Action Plans (OP/BP 4.02), Indigenous Peoples (OP/BP 4.10), (Projects in Disputed Areas (OP/BP 7.6.0), among others.

Consultation Concerns

While there is evidence of consultations in BEL's SEA, project proponents confuse consultation with true participation in a decision-making process. Consultations with the 240 clans in Busoga and 52 clans of Buganda were not done at all. In addition, the SEA does not indicate how each of the stakeholders' concerns raised during the consultation process are going to be addressed. The failure to address concerns raised and obtain agreements during the consultation process by the dam developer violates World Bank Policies on Environment Action Plan OP/BP 4.01, Social Assessment (OP/BP 4.10), Physical Cultural Resources (OP/BP 4.11)

Old and Inconsistent Data

BEL's Social and Environmental Studies (SEA) are based on old data that has little or no bearing to current situation. For example, sections 7.4.1.3 p336, water quality data, climate, air-borne particulate data, among others were done almost ten years ago and do not reflect the current environmental realities e.g. declining lake and river water levels, degradation of wetlands and forests, increased silting, climate change, etc. that have impacts on hydropower production. Fish species that were found to be endemic in the previous AESNP studies were mysteriously not discovered in BEL's SEA, raising doubt on the fish report in BEL's studies. Was it a deliberate attempt on the part of the consultants to manipulate information? Or is that now the endemic fish species have become extinct?

Fauna (terrestrial & Aquatic)

BEL's EIA studies on animals, birds and aquatic life were carried out for very short periods of 1 to 2 months that do not give the variations in species distribution and diversity that usually occur over a period of one year. The failure to adequately conduct environmental assessments violates the World Bank Policies on Environmental Assessment (OP/BP 4.01), Natural Habitats (OP/BP 4.04), Environmental Action Plans (OP/BP 4.02), Water Resources Management (OP/BP 4.07), OP/BP 4.00, etc.

We have taken the following actions to try to resolve the above mentioned issues, but in Vain:-

- Requested for the Power Purchase Agreement (PPA), a comprehensive economic and options assessment of the Bujagali Dam project from World Bank, Uganda government and the developer (BEL), but, what is now available as PPA, economic and options analyses do not address our outstanding concerns.
- We have sent our outstanding concerns to the World Bank (available at <http://www.irn.org/programs/bujagali/index.php?id=061204letter.html>).
- We invited the World Bank Country Office in Kampala to attend our public meetings on Lake Victoria and the role of the dams in draining Lake Victoria (held in August and October 2006), and got no response. The only meeting we had on 28th February 2007 was with Racheal Kyte of the World Bank Headquarters, Washington D.C. that did not adequately address our concerns, because she stated that her

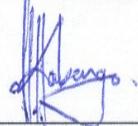
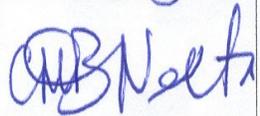
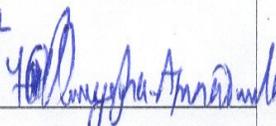
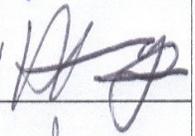
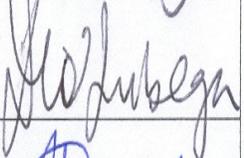
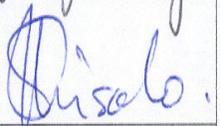
mission to Uganda was not to resolve issues concerning the project, but to appraise the project.

We, therefore, believe that the above actions, which are contrary to World Bank Policies, have materially affected our rights and interests and are likely to jeopardize our future social, cultural, and environmental security. We request the Panel to recommend to the Bank's Executive Directors that an investigation of these matters be conducted in order to resolve the controversies. As we have always stated there can be no sustainable development without "truth-telling and truth-seeking in development."

We look forward to your response.

Signed by:

NAME	ADDRESS	SIGNATURE
1. MURAMUZI FRANK	Executive Director National Association of professional Environmentalists (NAPE)	[Signature]
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	E-mail: nape@nape.or.ug Tel. 256-41-530181 /	
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NAME	ADDRESS	SIGNATURE
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3. KABONGO ISAAC	ECOLOGICAL CHRISTIAN ORGANISATION LTD (ECOL)	
4. KEETHA S. KATWESA	ECOVIC (U) CHAPTER ecovic@yaho	
5. Semwogerere Daniel	Agency for Environment & Wetlands (0772351736)	
6. Kugonza N. Robert	P.O. Box 6, Fort Portal lecturer	
7. Barumeeta Chris (Dr)	Makerere Univ	
8. OWETEYEGA-AFUNADUULA	INTEGRATED ENVIRONMENTAL CONCERNS -UGANDA	
9. Di Ukens Kamukwasha (Advocate)	AFRICA INSTITUTE FOR ENERGY GOVERNANCE	
10. DEO LUBEKA	SAVE BUSAGALI CRUSADE 071-2890369	
11. Sarah Kisolo	P.O BOX 1727 Kampala RUDMEC.	
12. BAZIRA HENRY	SCARFACE CONSULTANTS LTD P.O. Box 23704 KLG.	

**NAMINYA RESETTLEMENT AREAS
WAKISI SUB-COUNTY
MUKONO DISTRICT**

18 February 2007

**To: The Director
Bujagali Energy Limited (BEL)
Jinja, Uganda**

Dear Sir,

**RE: Unfulfilled promises by Bujagali dam project and
Problems we are facing at the Naminya Resettlement
area.**

We the people who were displaced by the proposed Bujagali dam and resettled in Naminya Resettlement area are writing to you to express the problems we are facing in this area since we were resettled.

Before we were resettled, we were promised many things, but up to now, it is five years, many of those things have never been fulfilled or provided

The following are the problems:

1. Land titles

We were promised that all the resettled people would be given plots of land with land titles. Few people have so far received land titles for their plots after long waiting and protests to government. Many of us are not sure whether or not we shall be able to get land titles for our plots of land. This has caused uncertainty to whether the land we have belongs to us or another person holding the land title, who can easily evict us. We have heard rumours that the land we have belongs to Madhvani

2. School

We were promised a Primary School for our children, but today, our families are increasing and the children do not have any primary school to go to. We have improvised by using one of the vacant houses in the resettlement area as a nursery and primary 1 to 4 classes. But, we are continuously warned to vacate the premises and take our children elsewhere. Where shall we take our children for

schooling? The nearby school is a missionary and private school and the owners have refused our children to go to attend in that school.

3. Health centre

We were promised a Health Centre III with maternity ward, laboratory, minor theatre, inpatient wards, but today what we have is a model house with two health personnel which operates 5 days a week and only 3 hours a day. To get this facility was a very long struggle with the help of some NGOs that linked us to Mukono District Local Government. The question is, "When shall we ever get the type of health facility that was promised"?

4. Water

We were promised water tanks for harvesting rain water on every house, but after using those tanks for less than one year, they started licking and now majority of them are not functioning. The available 3 functional plastics water tanks were provided by an NGO.

There is only one borehole in the community that can not serve the whole community. Even then, it is not centrally located and not easily accessible by the majority of the resettled people.

5. Housing

The houses that we were provided with are sub-standard and incomplete. By the time, people were resettled, the houses did not have kitchens, were not plastered and lacked ceilings. The houses are too small to cater for our families, especially those of us with two wives and many children. To make the matters worse, the houses are now cracked and we fear that they will fall on us.

6. Latrines

The latrines that were provided were too small in size and shallow (less than 8 ft deep) and whenever it rains, they are filled with water that floods which could pose danger to our health.

7. Electricity

We were promised electricity, but up to now, we have never been given electricity. Moreover, during the resettlement, some settlers were given plots in the way-leave of the high voltage transmission lines, that evacuates electricity from Jinja to Kampala. Later on, these people are being told that they can not use these plots and yet they are not given alternative plots.

8. Sources of income and food

Where we originally were, we carried out fishing and farming as sources of income, but the plots we were given in the resettlement

area are not enough for farming. Moreover, we no longer have access to the river to do fishing, because the river has been fenced-off by the dam developers. This has negatively affected our sources of income and food. The fish ponds that were promised to us have never been put in place.

9. Resettlement disturbance package

We were promised a resettlement disturbance package for a period of five years, but up to now, we have never received anything.

10. Community centre

We were promised a community centre, but up to now, it has never been put in place

11. Market

We were promised a market nearby, but up to now the market has never been constructed.

12. Environment protection

We were promised tree seedlings to plant in our compounds and the resettlement area, but up to now we have never received any seedlings, yet the resettlement is on a slope and is bare without trees.

13. Employment

We were promised jobs once construction of Bujagali dam starts. But we need written assurance that we shall get those jobs when construction of the dam starts, particularly we want to know how many of our people will be employed.

14. Routine maintenance of access roads and other infrastructure

We were promised routine maintenance of our access roads, but up to now, maintenance has never been done

15. Visitations and consultations by World Bank, Government and the dam developer

Government and the dam developers. Why is it that whenever World Bank, Government and the Bujagali dam developers visit us, they just pass through without talking to us. They just discuss among themselves and leave. Even when they want to discuss with us, they do not give us ample time for us to prepare ourselves. Does being in a resettlement area, remove our respect of being citizens of this country?

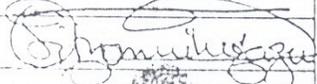
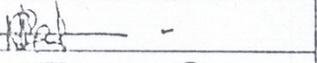
We look forward for your answers to our problems.

Signed by the resettlers of Naminya Resettlement area.

We attach the signatures of the resettlers.

- c.c. Hon. Minister of Energy and Mineral Development
- c.c. Hon. Minister of Lands
- c.c. Hon. Minister of Local Government
- c.c. Hon. M.P. Buikwe
- c.c. Hon. M.P. Women
- c.c. NAPE
- c.c. I.G.G.
- c.c. R.D.C. Mukono
- c.c. Chairman L.C.5 Mukono
- c.c. Chairman L.C.III Wakisi
- c.c. Chairman L.C.II Naminya
- c.c. Chairman L.C.I Namilyango
- c.c. World Bank

NAME	SIGNATURE
Mukisa yaweri	
Kuzza Lawrence	
Orukogo Lukaris	
Gambe Lusi	Gambe
Lukase Nakisita	
Olunga Mathias	
Kauma Lakhia	
Otabonyo Steven	
Nakemya Teodora	
Ngobi vicent	
KAWUKA PETER	Peter
Kawuka Astep	
Keziya Amaiti	
Mukaidu Lye H.	
Namuganya Jane	
Sunday Amuda	
NASANDU JULINYANA	
NAIMUJO MALIMUNA	
OYITE KIFLOLI	Cyite K
Nyambi Francis	
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Nabwure Christin	
Mugebane Jemasi	mugebane
Nyambi Florence	Nyambi Florence
Amola Jane	
Kakayi Lana	
Magemu Robert	Magemu
Bazila Isizi	Isizi
Wedundwe Sam	

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Bulage Margret	
Bogere David	
BOGERE SHERIFER	bogere Sherifer
NAFUUNA GRACE	
WANYAMA ALEX	

