Dear Mr. Siwakoti, Mr. Pandit, Mr. Khadka, and Mr. Bhandari:

Subject: Notice of Registration of Request for Compliance Review
Request No. 2004/2
Country: Nepal
Melamchi Water Supply Project (Loan No. 1820-NEP)

The Compliance Review Panel (CRP) refers to the request for compliance review (Request) on the Melamchi Water Supply Project (Melamchi Project or Project). This Request was filed by Mr. Gopal Siwakoti, Coordinator, Water & Energy Users' Federation, Nepal (WAFED); Mr. Hasta Pandit, Representative, Melamchi Local Concern Group; Mr. Ram Bahadur Khadka, WAFED, Melamchi Branch; and Mr. Pitambar Bhandari, Chairperson, Federation of Community Forest Users Nepal (FECOFUN), Sindhupalchowk District Branch, Melamchi Valley, (Requesters) on the Melamchi Water Supply Project (Melamchi Project or Project) in Nepal on 12 November 2004. The Requesters live in Melamchi Valley in Sindhupalchowk District and in Kathmandu Municipality, Kathmandu District in Nepal.

The Requesters state in their Request of 12 November 2004 that they are referring the matter to the CRP because the outcome of [their] previous efforts [with ADB staff and the Special Project Facilitator] was unsatisfactory." The Requesters by email of 8 October 2004 had notified ADB's Special Project Facilitator (SPF) of their disengagement with the SPF in the consultation process under the consultation phase of the ADB Accountability Mechanism.

We also refer to the email exchange between the CRP and Mr. Siwakoti on 15 November 2004, 30 November 2004, 1 December 2004, 3 December 2004, 6 December 2004, and 7 December 2004 in order that the CRP can register the request with the "requisite basic information" as referred to in paragraph 30 of the CRP Operating Procedures.

Based on the Request and the email exchange, the Requesters claim on their own behalf to be negatively affected by the Project.

The Requesters also claim to be suffering from, or will be suffering from, harm as a result of alleged noncompliance by ADB of its operational policies and procedures under the Melamchi Project as follows:

1. Inappropriate or inadequate decisions affecting the rights and interests of the claimants and other affected people and communities in the absence or the denial of timely information disclosure;
2. Displacement and the lack of adequate compensation and resettlement in a timely manner;
3. Loss of livelihoods due to the shutting down of water mills (grain mills) and micro hydro for local energy consumption;
4. Destruction of community forests;
5. Destruction of irrigation canals, including those funded by the ADB;
6. Damage to crops and livelihoods due to reduced flows; and
7. Displacement and other adverse effects without an Indigenous Peoples Development Plan for indigenous peoples and communities, including the Majhi (fisherfolk) who rely on fishing and fish from the Melamchi River for survival.
The Requesters have specifically stated alleged violations of ADB's operational policies and procedures which have caused harm to them, including: information disclosure; resettlement; water; environment; forestry; indigenous peoples; and poverty reduction strategy.

The Requesters are seeking the following specific remedies from the ADB:

(i) "immediately undertake the following priority steps to avoid unnecessary harm and damages from materializing":

1. Undertake a comprehensive assessment of current and future water needs for agriculture, ecology, fisheries and other purposes in Melamchi Valley;
2. Conduct a comprehensive assessment of alternative options to water supply in Kathmandu Valley after reviewing all other options assessments that have been conducted but not made available to all stakeholders in Kathmandu;
3. Disclosure of all feasibility studies, options assessments, and other relevant studies pertaining to the Project that have been conducted and/or completed in the past carried out by independent institutions, consultants and other expert bodies;
4. Disclosure of all legal agreements and memoranda between the Government of Nepal and/or Melamchi Water Supply Development Board (MWSDB) with the donors and lending agencies and ADB, including the public-private partnership arrangements; and
5. Review or reassessment of all past and present compensation measures, including community forests, in accordance with the terms of ADB's resettlement policy (including land for land) compensation.

(ii) Re-design of current Social Upliftment Program (SUP) under the Project in a participatory and effective manner; and

(iii) Provision of Project benefits through guaranteed levy system.

The CRP is satisfied that the Request contains the requisite basic information. In accordance with paragraph 30 of the CRP Operating Procedures, the CRP on this date has registered this Request as Request No. 2004/2 in the CRP Registry at www.compliance.adb.org and has issued a press advisory on the registration of the Request.

All communications with the Requesters in connection with the Request will be made until further notice with the following persons at the following address:

Mr. Gopal Siwakoti, Coordinator, WAFED
PO Box 2125, 60 New Plaza Marga
Kathmandu, Nepal
Email: wafed@ntc.net.np

Mr. Hasta Pandit
Representative, Melamchi Local Concern Group
Ichowk Village Development Committee 6
Melamchi Valley, Nepal
Email: msss@mail.com.np
Mr. Ram Bahadur Khadka  
Representative, WAFED, Melamchi Branch  
Palchowk Village Development Committee 4,  
Melamchi Valley, Nepal  
Email: care of wafed@ntc.net.np

Mr. Pitambar Bhandari  
Chairperson, Federation of Community Forest Users Nepal (FECOFUN)  
Sindhupalchowk District Branch  
Kiul Village Development Committee 3  
Melamchi Valley, Nepal  
Email: care of wafed@ntc.net.np

Please use "Request No. 2004/2" as subject matter in any communication with the CRP.

In accordance with paragraph 31 of the CRP Operating Procedures, the CRP will determine, within 14 days from today, whether the Request is eligible, and will inform the Requesters of its decision. If the CRP determines that the Request is ineligible, it will inform the ACB Board of Directors of its decision. If the CRP determines that the Request is eligible, it will recommend to the ADB Board of Directors that a compliance review be authorized.

In addition to the Request, the Requesters have presented the CRP with letters of authority from 12 persons claiming to be negatively affected by the Project. The CRP notes that of these 12 persons, 5 have not filed claims with the SPF under the consultation phase and 7 have filed claims with the SPF but their claims have not been registered as they have not provided the SPF with the information required for registration under the consultation phase. The CRP will consider this matter when determining eligibility of the Request and will inform the Requesters of its findings.

Yours sincerely,

S. Nanwani

Suresh Nanwani  
Associate Secretary, Compliance Review Panel  
for Augustinus Rumansara, Chair, Compliance Review Panel

Mr. Tadao Chino  
President  
Asian Development Bank  

Directors and Alternate Directors  
Board of Directors  
Asian Development Bank