Summary of Key Findings from the Inspection Panel Investigation Report on Bujagali Hydropower Project, Uganda

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Chapter 3: Environmental Issues

Summary: Key Points and Policy Violations

- Unlike the Bank, the Inspection Panel finds Bujagali Falls to be a "critical natural habitat" that will be "degraded significantly" by the project. The Panel agrees with requesters that the effects of climate change and the cumulative effects of multiple dams on the Nile "have not been properly addressed" in project documents.
- Although there are studies that look at cumulative impacts (e.g., the project "SEA" and the Nile Basin Initiative's "SSEA"), thy do not "address cumulative impacts of existing and planned projects in a meaningful way" nor do they fully analyze the cumulative effect of all of the relevant projects (e.g., Kiira-Nalubaale, Bujagali and its transmission lines, and the proposed Karuma Dam). The SEA has more detail than the SSEA, but it "makes statements that are not substantiated by data or factual analysis." The two studies are not coordinated at all.
- No consideration was given on ways to reduce the amount of land needed for transmission lines.
- A key element in the plan for mitigating the taking of Bujagali Falls (the "Kalagala offset") "may not achieve the purpose for which it was set aside" due to institutional weakness, and lack of a "conservation strategy."
- No Panel of Experts was appointed for the project, although it is a requirement of a World Bank project with Bujagali's level of impacts.
- There is no plan for building institutional capacity in Uganda to handle the project's many complex environmental and social aspects.

RECOMMENDATIONS

- An independent panel of internationally recognized environmental specialists should be appointed for the project.
- A clear, science-based analysis of the cumulative impacts of this project, its transmission lines, the existing dams and proposed dams must be produced.
- The Kalagala offset agreement must be strengthened to preclude development incompatible with an ecologically important area, and with an environmental management plan and necessary supportive policy changes to ensure its protection over time.
- A work plan for institutional capacity building should be created in consultation with Ugandan institutions that will be targeted and NGOs monitoring the project.
- Less-harmful siting of the transmission lines must be considered as a matter of urgency. An Environment Management Plan needs to be put in place before World Bank releases more funds for the project.

Chapter IV: Hydrological and Climate Change Risks

Key Points

- The Panel is very troubled by the Bank's "bold" conclusion that climate change will not have an adverse effect on water releases from the dam.
- The project does not assess Bujagali's potential impact on Lake Victoria, assuming that its "area of influence" stops below the existing Kiira-Nalubaale dams.
- The Panel report confirms that over-releases from the upstream dam complex contributed to the lake level drops during 2002-2005.
- It indicates that a new water release policy has likely been in effect since June 2006. This important hydrological change affects how costs and impacts were analyzed, and may make most of the project's studies unreliable (the project's economic viability was based on the Agreed Curve, while later studies use the new Constant Release curve, whose impact on the Lake's level is unknown.) "This discrepancy between key project documents brings into question the data basis for the Project's economic analysis, and is likely to have resulted in a more positive conclusion to the Economic Study than would have been the case under the Agreed Curve scenario."
- Panel calls on the Bank to assess the impacts of the dam and the new Constant Release curve on Lake Victoria. "The panel notes the importance of making the structure for governance of water releases from Lake Victoria clear and transparent to all stakeholders."

Recommendations by Daniel Kull*

Dams' impact on lake levels: While some data is provided on how the existing dams contributed to the lowering of Lake Victoria (e.g., Table 2, page 63), more detailed information should be made publicly available and neutrally analyzed to better understand the sensitivity of the lake to Victoria Nile dam releases, particularly during drought years such as 2004 and 2005. Such analysis must then inform public and transparent debate about any potential changes to official release policy. **In summary:**

- **Make public the existing dams' releases since the commissioning of Kiira so the sensitivity of Lake Victoria to dam outflow can be neutrally analyzed and used to inform public debate.**

Water releases policy: The Report indicates that a new release policy has likely been in effect since June 2006. This important change in Lake Victoria and Nile River water management does not appear to have been publicly announced. A public forum to discuss the decision-making process for this change and its potential implications for the Lake's health should be instigated immediately. The forum should make clear how upstream (Tanzania and Kenya) and downstream (Sudan and Egypt) nations took part in the decision-making process, and explain the choice to keep the decision from the public. In addition, all information relating to releases since the Agreed Curve was allegedly replaced, as well as those during the 2004-2005 drought, should be made public. In fact, daily (or at a minimum monthly) releases since the commissioning of Kiira Dam are of grave public interest and should be made available. **In summary:**

- **Make public the current release policy and how it differs from the Agreed Curve, as**

well as why, how, when and with whom it was agreed. Neutral analysis of the release policy's implication on lake health should then also follow.

The notion that the Agreed Curve should "be understood as a tool for water resource management rather than simply a mechanism to determine volumes of water to be released" indicates a desired change in priorities of Lake Victoria water management. The original Agreed Curve clearly prioritized natural lake functioning, while the proposed new release policy focuses on "maximum benefit to all riparian countries", which can be interpreted to prioritize power generation, irrigation, water supply as well as environmental considerations. Public debate involving all stakeholders on this apparent change of lake management prioritization is needed, and it should be guaranteed that social and environmental considerations are given equal weighting to economic issues. **In summary:**

- **Initiate public stakeholder debate on any proposed re-prioritization of lake outflow management objectives, guaranteeing that social and environmental considerations are given equal weighting to economic issues.**

Risks to the poor: Traditional cost-benefit analysis, particularly for infrastructure, views the best project alternative as one that optimizes societal welfare. From a macroeconomic perspective, a project is therefore justifiable if it is "likely to contribute to broad based growth," ignoring the issue of "winners" and "losers" in terms of costs and benefits. The Panel's report highlights the lack of analysis of the "economic impact of the project on low income households," but does not make clear how this should be rectified. Current development practice would prescribe broad-based stakeholder dialogue to help clarify such qualitative issues. As opposed to top-down economic modeling, these qualitative approaches would then be used to help design and drive the quantitative cost-benefit analysis. A project cannot be touted as driving development, economic growth and poverty reduction if its true impact on those most in need of such benefits is not well analyzed and optimized. **In summary:**

- **Initiate transparent analysis of the more qualitative distributional aspects of the costs and benefits of Bujagali: who wins and who loses, assessing specifically the economic impact of the project on low income households.**

Climate change analysis: The Panel has rightly indicated a lack of thorough analysis of the potential impact of climate change, also recognizing the issue's inherent high complexity and uncertainty. Further, as also recommended by the Panel, sensitivity tests for financial projections need to use a more comprehensive probability-based analysis (for example a Monte Carlo procedure) with regards to downside and upside risks. This is particularly important when potential climate change impacts on Lake Victoria hydrology are considered. The hydrology is a major driver for Bujagali's economic success and climate change could well occur simultaneously together with other risks, potentially leading to a compounding of risk. Such a sensitivity analysis would provide an overview of the robustness of both the assumptions driving the economic assessment as well as the ultimate results. **In summary:**

- **The project authorities should perform a comprehensive probability-based analysis of downside and upside risks, particularly considering potential climate change impacts, also capturing the eventuality of certain risks occurring simultaneously.**

Addressing how financial risks due to hydrology are managed: Instead of allowing the owners to off-load long-term drought and climate change risk on UETCL (and ultimately the people of Uganda), the owners should be made to purchase some form of business interruption insurance or a specially-tailored weather derivative, in both cases likely index-based, to cover the risk of poor performance due to climate-driven water availability. Considering the perhaps unprecedented nature of such a financial climate risk management approach, a development bank or donor may need to be involved in the product's development. **In summary:**

- **Financial risk due to climate-driven water availability should be reduced by the owners through purchase of some form of financial protection, as opposed to being absorbed by UETCL and the people of Uganda.**

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Chapter 5: Economic and Environmental Analysis of Alternatives

Key Points

The Bank repeatedly violated its own policies with its "inadequate consideration of alternatives." Spiritual and cultural values were improperly factored into consideration of alternatives, and alternatives were not systematically explored but instead were subjected to *a priori* judgments that unduly narrowed the range of project alternatives. The Bank overstated Bujagali’s economic soundness, and underestimated the potential of alternatives.

- The Bank failed to demonstrate a comprehensive consideration of alternatives. Project documents do not mention solar, wind, municipal solid waste, or recent oil discoveries. Biomass co-generation was dismissed for questionable reasons. Least-cost analysis of small- and medium-scale hydro potential was based on just 6 projects in the pipeline, rather than a full survey of potential.
- "In a country where only 5% of the population is connected to the grid and there is widespread poverty, it would be reasonable to expect attention be paid to small and/or distributed generation options (not only hydro) which might in theory more directly address local and rural poverty."
- Conflicting information on geothermal potential was not resolved properly; new studies are needed, and could "have significant bearing on the economic analysis of alternatives." The Bank's downgrading of geothermal potential from 450 MW to just 45 MW was based in part on a 2005 paper by Uganda Dept. of Geological Survey; is not clear if the Bank discussed their conclusions with the paper's authors.
- Least-cost analysis did not include cost of Bujagali transmission lines, which "disadvantages other options whose connection costs are lower." T-line costs were left off, the panel was told, because the Bujagali Interconnection Project will play a wider role in the system. The cost of the transmission system has almost doubled from the estimate in the Economic Study.
- The Bank failed to address concerns about affordability of electricity tariffs.
- Improper consideration of the spiritual and cultural significance of the Bujagali Falls to the Busoga people may have been particularly consequential in decision-making; adequate consideration may have avoided the Bujagali Dam choice.

Recommendations

- Even though Bujagali is already being built, a more thorough analysis of the available energy options should have been done as part of the review process, and still needs to be done as part of this project, so we can benefit from it for analyzing future energy projects.
- The T-line route and appraisal needs to be revised to avoid unnecessary biodiversity losses and reduce compensation and resettlement effects and costs. Options of utilizing the existing T-line infrastructure must be considered
- The World Bank should support Uganda to develop a plan of action for funding and building mini and micro hydropower plants with independent grids across the country.
- Uganda's geothermal potential needs to be thoroughly analysed by geothermal experts with experience in East Africa. An investigation and explanation of why the Ugandan geothermal potential was downgraded during the appraisal of Bujagali needs to be done.

Chapter VI: Economic Evaluation: Poverty Reduction and Risk

Key Points

- Project costs appear to have been underestimated by at least 20%, and a good explanation of cost increases is not given.
- Since the price of project was fixed, the project costs rose another 8%, but tariffs have not been recalculated based on the higher costs.
- Project documents are over-optimistic on expected rate of new grid connections.
- The new, unstudied flow regime "is likely to have resulted in a more positive conclusion to the economic study than would have been the case under the Agreed Curve scenario."
- Project documents do not analyze the economic impact of the project on the poor.
- There is a risk of the power purchaser (UETCL) pulling out. New connections have to almost double by 2012, and existing customers have to increase their energy use, to meet the demand-growth scenario required for the project to be an economic success. Higher tariffs, as might be required with the project's price increase, could lead to lower demand, not higher.
- The benefits of the new project having competitive bidding are "largely lost by post-bid negotiations" – the price of the project was allowed to rise 28%, and the PPA was amended to allow the consortium further cost rises in future.
- "The direct economic benefits may have been overestimated."
- If the dam suffers 30 consecutive months of low water, the owners can unload the unprofitable dam on UETCL—and they are broadly free to set the price they want (which seems particularly unfair given that at this point, the project would be in serious trouble). Under this scenario, the project's electricity would become prohibitively high, meaning the GoU would assume control.
- "As it stands, the net benefits of the project could be substantially less than Bank Management has claimed."
- "… it should not be forgotten that Bujagali will require payments of over US$100 million (equivalent) every year for 30 years."
- The Bank misrepresented how quickly the project will bring in revenue. Will take at least 12 years to repay debt.

- The new PPA puts even more risk on the "power purchaser" and eventually the Government of Uganda than the previous PPA.

Recommendations

- The project's Power Purchase Agreement is disadvantageous for the Ugandan government and unduly shifts projects risks to UETCL. The Ugandan government and UETCL should be allowed and encouraged to renegotiate or amend the PPA. The risk of low hydrology is especially critical, and must be more fairly shared.
- Since the project has not been properly analyzed for poverty reduction or its impact on the poor, a plan for ensuring the poor do benefit should be devised (with public input) as soon as possible. This plan should address options for direct support (not “trickle down” methods) for improving electrification for the poor (e.g., a “developers fund” to help pay for rural energy projects or tariff reductions for the poor; lifeline tariffs, etc.)
- The Bank and project developers should take out “performance bonds,” as described by the World Commission on Dams, to ensure that key project obligations are met.
- The World Bank needs to move away from its ideological support of private-sector infrastructure projects when public-sector alternatives are advantageous.
- The huge increases in the project’s cost, and the decision not to alter the conclusions of the study in view of this substantial rise in costs, needs to be investigated, perhaps by the Bank’s Independent Evaluation Group (and with the involvement by the Inspection Panel). The results of this investigation should be released to the Ugandan public.
- More realistic demand forecasts need to be applied in the analysis of customer growth for the different range of load forecasts (low, base & high).
- There is need for a plan to help Uganda address the potential for lower-than-projected demand for electricity, as well as lower-than-projected water flows and therefore electricity output.

Chapter VII: Involuntary Resettlement

Key Points

- "The Panel's review of the livelihood assessment method and other project data shows that the Bujagali Project is facing substantial problems in measuring, monitoring and mitigating livelihood risks, especially among vulnerable peoples. The Panel finds that the Project is in non-compliance with the mandate of Bank Policy on Involuntary resettlement to improve, or at least restore, the livelihoods and standards of living of the people displaced by the Project."
- Resettlers have been left in limbo for 7 years, and promises made to them by the previous project developers have not been fulfilled. There is no method for determining what promises were made and remain unfulfilled, nor a timetable for meeting these past promises.
- Livelihood restoration programs are likely under-budgeted and budgets are lower than for the first project, despite the 2002 Panel report calling for more funding for such programs. Programs for helping those to be resettled for transmission line are even more under-budgeted than for already-displaced people in the reservoir area.
- Consultation process was "truncated" and only addressed "ongoing issues," and was

based on assumption that resettlement was "largely completed" (even though there is no formal report definitively showing this is so). Need more clear communication with affected people.

- The updated version of the old Resettlement Action Plan, which is the foundation of the Bank's approach to resettlement in the project, was completely inadequate in identifying ongoing problems.
- The Bank treated livelihood restoration as simply a matter of compensation, and did not ensure that farmers or fishermen have the means to continue their livelihoods on a better footing than before.

Recommendations

- Since BEL's Bujagali project is considered a new project, a comprehensive RAP needs to be prepared for the project. The APRAP is not a replacement for a complete RAP
- The impact of the delay of the Bujagali project since 2001 on the loss of livelihoods for the affected people during the interim period need to factored into and compensated for in the new RAP for the current project. Also, the compensation and resettlement framework being used in the current project needs to be updated to capture current market and socio-economic conditions. People who had earlier been compensated and relocated during the prior project, especially the landless and vulnerable groups, need to be considered in the development of the new RAP, in keeping with Bank policy.
- A comprehensive baseline survey needs to be made to form basis for the preparation of a new RAP, which should also be subjected to public scrutiny.
- BEL and government should not assume that because some form of resettlement and compensation was completed in the prior project, they have completed the tasks. A plan to ascertain that livelihood restoration has been achieved must be devised with the directly affected people's input and approval. This is an area where "Performance Bonds" could play a role in ensuring obligations to affected people are met.
- BEL and government need to clearly spell-out what promises to affected people will or will not be fulfilled and why. This requires providing concrete alternatives to loss of livelihoods. A timetable needs to be spelled out as to when all outstanding issues will be settled/resolved
- Full replacement value compensation needs to be done.
- An evaluation (assessment) of the socio-economic conditions of the vulnerable needs to be done and updated in the RAP and CDAP
- WhiThere is a need to put in place a mechanism for sharing benefits accruing from the project with the project-affected persons/communities.

Chapter VIII: Cultural and Spiritual Values

Key Points

- Unlike the Bank, the Panel finds Bujagali Falls to be a "critical natural habitat" that will be "degraded significantly" by the project. The Bank's failure to make a clear argument refuting this finding means that the project could be in violation of bank policy. The Panel calls for the Bank to "address these issues in a coherent and well-founded manner."
- The Bank "misjudged the size, location, scale as well as the nature and magnitude of the cultural and spiritual significance of Bujagali Falls" and that they did not consult widely

enough on this issue. "Mitigation measures were not adequate because of the scope of the impact and the consultation process was incomplete … Management has thus far failed to support negotiations that would allow enduring coexistence with spiritual elements of Busoga traditional religion and the Bujagali dam."

- Cultural and spiritual matters were not properly considered in comparing Bujagali w/ Karuma project.

Recommendations

- Consultations with all the spiritual mediums/leaders associated with the Bujagali Falls needs to be done, especially with Jajja Nabamba Budhagali.
- The choice of an action plan should be consultative, not to assume that pre- and post appeasement exercises are sufficient to resolve the spiritual/cultural controversy.
- The consultations should go beyond the project site, since the believers in Bujagali Falls spirits also exist outside the project area.
- There is a need to prepare a comprehensive cultural property management plan.

Chapter IX: Systemic Issues Affecting Policy Compliance

Key Points

- "The experience with the Bujagali Dam highlights the significant problems that may arise when actions of previous projects are not carried to completion or corrected in accordance with Bank policy."
- The conclusion that *"'there will be no adverse effect on water release due to climate change during the life of the proposed project'* failed to include a risk or uncertainty factor, was inconsistent with the underlying analysis, and appears to provide an overly optimistic reading of the potential effects of climate change. The Panel believes climate change requires a change in mindset towards thinking in probabilistic rather than deterministic terms, recognizing the inherent uncertainty that surrounds climate issues, and avoiding categorical, deterministic statements."
- The Panel supports concern by Requesters "that it was not possible for them to bring the Request at an earlier time because of the lack of transparency and disclosure during the discussions of reviving plans for a second round of investment in the Bujagali dam project… While the Panel notes ongoing efforts to streamline procedures, this should not be at the expense of providing adequate information to the public in a timely way."
- Lack of transparency with public-private partnerships such as this, and Bank reliance on others' analysis, mean "the net benefits of the Project could be substantially less than Bank Management has claimed." Panel found "under-estimation of capital costs in the PAD … underestimation of the likely impact of the Project on tariffs … non-recognition of likely shortfall in UETCL [utility] revenue … non-recognition of some key risks." Also, "approach to assessing alternatives to the project was insufficiently transparent, making it difficult for Bank Management authoritatively to address claims that it was inadequate and biased in favor of the Project."
- "Internal guidance to staff" for application of rules on critical natural habitats and sacred places problematic; "seems to suggest a more limited interpretation and application of the policy than a plain reading of its terms would warrant."

Recommendations

- The Bank should develop a system for following up on interrupted projects.
- In this case, Management performance fell short in regards to the analysis of generation options, the evaluation of project costs, risks and benefits, and project structure and risk management. The Bank needs to devise a system to hold accountable those behind poor analyses on its projects, and redress for actions taken on account of its flawed analysis.
- The Bank should create a system for putting projects on hold while serious allegations are investigated.
- Bank transparency rules should be applied to work by private sector projects at the Bank.
- The World Bank should incorporate clearer instructions on assessing cumulative impacts into future projects.

EXCERPTS FROM REPORT

Chapter 3: Environmental Issues

Cumulative Impacts
"The analyses in the SSEA … do not provide a systematic examination of the potential consequences of the Nalubaale and Kiira facilities, the Bujagali Project, and the planned Karuma project all being situated on the Victoria Nile between Lake Victoria and Lake Kyoga. In addition, there is no examination of the impact of additional transmission lines between the hydropower stations and Kampala. Although section 14 of the SSEA is headed 'Assessment of Cumulative Impacts' the Panel finds that the analyses are not sufficiently backed by evidence and include opinions rather than careful fact-based examinations of the additive effects of impacts from present and foreseeable projects." (p. 42)

The Bujagali SEA lists some potential cumulative impacts (deeming them of "minor significance") but "no data or arguments are provided to substantiate the above statements, including the judgment that the negative cumulative impacts of the Project are of minor significance. There is no determination of how many people stand to involuntarily lose access to their assets, how much agricultural land is to be lost, the extent to which riverine forest habitat will be lost, or the extent to which tourism will be affected. In light of the foregoing, the Panel finds that neither the SSEA nor the SEA has addressed the cumulative effects of the existing and planned projects in a meaningful way." (p. 43)

Project documents "fail to address the cumulative effects of transmission lines or to propose mitigation to reduce additive effects. The cumulative loss of forest habitat from the transmission lines has not been determined." (p. 44)

Transmission Lines
"The transmission lines … pass through areas where people live, wetlands, and the ecologically important Mabira Forest. The Panel notes that the SEA fails to address the cumulative effects of transmission lines; neither does it propose mitigation to reduce additive effects." (p. 44)

"The Panel was not furnished with documentation indicating that the Project considered ways to mitigate or reduce the amount of land taken for the second (Bujagali) transmission line. Rather, the Project assumed that the size of the existing right of way needed to be doubled, which is technically incorrect. Considerate planning of the new transmission line … could significantly reduce the width of the required wayleave thus reducing the cumulative impact on Mabira and Kifu forest habitat as well as the number of families to be resettled." (pp. 44-45)

Kalagala Offset
The Bank and GoU have agreed to set aside the "ecologically similar" Kalagala Falls area as a mitigation effort for inundating Bujagali Falls.The Panel notes that the current agreement in fact does not preclude development: "The possibility of a power generation development at the Kalagala site is not precluded but rather subject to the Bank's agreement." (p. 52)

"The Panel finds that there is evidence that the offset site is not being subject to appropriate conservation and mitigation measures in conformity with sound social and environmental standards. The project is thus not in compliance with OP 4.04 on this point." (p. 53)

"The Panel finds that the capacity of local institutions to plan and manage the Kalagala offset has not been developed and that no provision has been made to rectify this. As a consequence, the Kalagala offset may not achieve the purpose for which it was set aside, and this is not consistent with the provisions of OP 4.04." (p. 53)

Institutional Capacity
The Panel notes that the need for strengthening country institutional capacity in the social and environmental sectors was identified in the Project Concept Note … among other things to assist the Government with monitoring the environmental and social compliance aspects of the project. … In the Panel's view, adequate capacity to implement the social and environmental aspects of a project is critical for its success. The requirement to support needed capacity building, which is important in the implementation of the social and environmental aspects, has not been complied with in this Project." (p. 38)

Panel of Experts
"…an independent panel of internationally recognized environmental specialists has not been appointed for the project… As the project is contentious and involves complex multidimensional environmental concerns, appointment of an environmental panel of international experts is warranted and the lack of such a panel is not in compliance with OP 4.01." (p. 38)

Chapter IV: Hydrological and Climate Change Risks

Dam releases and impact on Lake Victoria:
"… the Agreed Curve … has been used to specify the outflow that should be released from Lake Victoria down the Victoria Nile. Between 2000 and 2006, outflow exceeded the Agreed Curve due to Ugandan demand for electricity." (p. 62)

"The PAD states that 'Since the end of 2005, the Government has steadily decreased hydropower generation in an effort to return to the Agreed Curve operating regime. Water flows for power production are being scheduled in such a way that the return to the **Agreed Curve is achieved as soon as reasonably possible.'** (emphasis added)." (p. 64)

"During its field visit in Dec. 2007, the Panel was given documentation showing what appears to be a new release policy, whereby discharge was fixed at either 850 or 750 cubic meters per second depending on the level of the lake." (p. 65)

"On the one hand, the PAD states that the planning of the Bujagali Project and the assessment of the energy output was based on flows released in accordance with the Agreed Curve. On the other hand, the Economic Study states that the economic evaluation of the Bujagali Project to determine energy generation capability was based on the Constant Release rule. The Panel notes that this discrepancy between key project documents brings into question the data basis for the project's economic analyses, and is likely to have resulted in a more positive conclusion to the Economic Study than would have been the case under the Agreed Curve scenario. This is inconsistent with OP 10.04." (p. 68)

"In March 2007 an internal Management Review had proposed that the PAD should confirm that the plant would be operated under Lake Victoria's Agreed Curve release strategy, rather than under a constant release regime, 'and should confirm that this regime does not affect the conclusion of the economic evaluation of the project'. The PAD does not appear to have followed this latter recommendation. In the Panel's view, the provisions of OP 10.04 require Management to provide an accurate picture of the economic analysis (based on the Agreed Curve), and indicate whether this affects the relevant conclusions. The Panel notes that this contradiction in project documents has a material impact not only on the economic viability of the project and the provisions of OP 10.04, but also on the lake levels of Lake Victoria, since different operational rules result in different time-profiles and variance of water levels." (p. 68)

"The Panel notes that the SEA study was based on the assumption that the Project's upstream area of influence ends downstream of the Kiira-Nalubaale dams. The SEA does not take into account the project's potential impacts on Lake Victoria." (p. 69)

"The Panel notes that these statements [about how Bujagali will not alter the flows from the lake] will assume the natural conditions of lake level will be maintained in the future. This in some way may argue for restricting the project area of influence upstream of Kiira-Nalubaale and not studying the impact on Lake Victoria changing levels. However, the Panel also notes that this approach – reduced project area of influence – does not take into account two important factors: (1) the contradiction between the PAD and Economic Study regarding the Project's operation rule discussed in the previous section, and (2) the recent history of 2003-2005 when the Nalubaale-Kiira system was operated above the Agreed Curve, which contributed to a severe depletion of the Lake." (p. 70)

"The Panel notes the importance of assessing such a situation and extending the area of influence of the project to Lake Victoria. … the lowering of water levels in Lake Victoria brings significant social and environmental impacts upon the Lake ecology and the people and countries that rely on it for resources and livelihoods." (p. 70)

"The Panel was variously informed that at present the ultimate authority for determining water releases was (a) the Commissioner for Water Resources Management; (b) an Inter-Ministerial Committee; (c) the Dept. for Water Development, (d) the Ministry of Water and Environment, (e) the Ugandan Minister of Water Affairs." (footnote, pp. 70-71)

"In light of its relevance to the analysis of the Bujagali Project, the Panel notes the importance of making the structure for governance of water releases from Lake Victoria clear and transparent to all stakeholders." (p. 70)

Climate Change:

"In relation to climate change and whether and how it was taken into account in the economic study and modelling, the Economic Study main text states boldly that 'The possible influence of climatic changes was found not to be significant enough in the medium term (to 2030) to influence [in] one way or the other the hydrological scenarios.' The further discussion of climate change in the Economic Study is in Appendix B, where it occupies only one page and two tables. … **In the Panel's view, the brevity of this discussion of a highly complex issue with the potential to influence significantly the Project's economic outcomes does not demonstrate compliance with OP 10.04's paragraph 5, which requires proper assessment of the robustness of the Project with respect to environmental risks.**" (p. 72)

"The Panel is aware of the limitation of the known technology in evaluating climate change scenarios and that the analysis of climate change is an evolving science, where gaps remain. Indeed, this situation makes all the more troubling the PAD's categorical assertion, without any references to risk and uncertainty, that there will be no adverse effect on water release due to climate change during the project life. This failure to express a risk factor is not consistent with OP 10.04. The Panel notes the importance of continued attention and analysis to the effect of climate change on flows and hydropower generation on the Victoria Nile." (p. 76)

Chapter 5: Economic and Environmental Analysis of Alternatives

Electricity Demand and Tariff Rates
"For the base forecast, apart from the reference to the 'ending of generation capacity constraints,' the Economic Study does not explain how the study arrived at the sudden jump from 17,000 to 25,000 new connections per year between 2010 and 2011, a 47 percent increase in a year, which is then assumed to remain constant throughout the next decade. Such a sudden increase would surely prove extremely demanding for both management and workforce of UMEME, the distribution company. The Panel notes that although the availability of reliable electricity supply at the time the Bujagali plant is commissioned might reasonably be expected to stimulate new connections, the Economic Study appears to assume a more sudden increase in connections than seems likely to occur." (p. 83)

Economic Analysis of Alternatives
Geothermal Potential
"The Panel notes the statement in the Management Response that additional studies and shallow drilling are included under the ongoing Uganda Fourth Power (Power IV) Project, to assist the Government in assessing geothermal prospects at several sites in Western Uganda. The additional information resulting from this work would help resolve conflicting views regarding geothermal potential in Uganda, and may have a significant bearing on the economic analysis of alternatives." (p. 91)

Small and Medium Scale Alternatives
"The Economic Study …asserted that, 'There is some potential in Uganda for the generation of electricity from wood waste, coffee husks and rice husks as identified in the ESMAP study. However, these biomass resources are considered to be too small and spread out to be economically justifiable for large-scale power generation within the timescale of this study.' The Economic Study cites no authority or source for this statement." (p. 92)

"The Economic Study examines smaller scale hydro and biomass alternatives, apart from those likely to come on stream before 2011, in little more than four sentences […] and one reference, to the 1999 ESMAP study. The Economic Study does not raise or discuss any other renewable sources of electricity, such as municipal solid waste, solar or wind, even simply to confirm that the resources might be unidentified, insufficient or otherwise unsuitable for appraisal in the least cost expansion planning process.” (p. 93)

“The [Economic Study] ToR tended to encourage a focus on relatively large grid-connected plant and did not draw attention to the evaluation of smaller scale or off-grid alternatives. In addition, as noted above, Management has stated that any project providing power to the grid or suitable for grid connection was considered in the economic study. However, in a country where only 5% of the population is connected to the grid and there is widespread poverty, it would be reasonable to expect attention be paid to small and/or distributed generation options (not only hydro) which might in theory more directly address local and rural poverty." (p. 93)

“The Panel notes that the information in the Economic Study and the PAD relating to knowledge about and the potential of smaller scale and/or distributed generation alternatives did not clearly establish that the available studies and data had been identified and evaluated in a way that would have enabled decision-makers to decide whether further consideration was required. Consequently, the Panel finds that the Economic Study and the PAD did not demonstrate full compliance with OP 10.04’s requirement in paragraph 3 to evaluate alternatives.” (p. 93)

Oil Resources
“The Economic Study does not appear to discuss the oil discovery at all. While the oil resource discovery was at a very early and unproven stage at the time when the Economic Study Final report was completed (February 2007), the Panel finds that the existence and potential of this resource should have been reviewed in the discussion of alternative supply options.” (p. 94)

Large Hydroelectric Power Plants: Bujagali Project Costs
“The Economic Study states that they evaluated the economic cost of Bujagali, taking into account the results of the EPC contract negotiations reached by January 31, 2007, and the unit rates of civil works and power plant equipment. They do not comment here on the very large difference between the EPC costs of the earlier Bujagali proposal and the current proposal. The PAD acknowledges that by the time of its publication, estimates of Bujagali’s EPC costs of US$511 million, excluding spares, were substantially higher than those for the prior Bujagali Project (US$315 million in 2000). The PAD offers three sentences of explanation, with no quantitative information. … Because EPC costs form a key element in the determining the Project’s economic and financial viability, the Economic Study and the PAD should have supplied fuller explanations of the details of this cost increase, supported by appropriate analysis and quantitative evidence.” (p. 96)

“In January 2008, a communication from Management to the Panel stated that the final EPC price was US$564.4 million. Thus, the expected cost of the ‘fixed price EPC contract’ had risen significantly during the appraisal process between tender evaluation and the April 2007 PAD estimate of US$511 million. By December 2007 the final price was US$123 million (28 percent) above the tender value.” (p. 97)

“The May 2007 African Development Fund Appraisal Report for the Bujagali Interconnection Project (BIP) produced an estimated total cost of the project of US$75 million (of which US$17 million were for resettlement/compensation). The PAD says that, ahead of the competitive tender and EPC contract, the *'construction cost of the Interconnection Project is estimated at approximately US$55 million.'* This estimate is almost double the US$28 million used in the Economic Study." (p. 98)

"EPC costs have increased by US$123 million (28 percent) from the Economic Study estimate to the point where the contract price was fixed. Second, the Economic Study, which appears to be the only economic appraisal addressing the total project costs, uses the lowest numbers, for both the hydropower and the interconnection projects. The PAD relies heavily on this study in confirming the judgment that this is the lowest cost option for generation and should enable retail tariffs to be reduced. The PAD adds a financial appraisal of Bujagali Hydropower Project (BHP) (using higher costs), but omits Bujagali Interconnection Project (BIP) from this analysis altogether, on grounds that – as the Panel was recently informed – the Bujagali Interconnection Project's wider role in the system would make it *'inappropriate to attribute the transmission line costs solely to the Bujagali project.'* " (p. 98)

"Even if the total cost of BIP is omitted for the purpose of tariff calculation, the Economic Study still appears significantly to underestimate costs as shown in the PAD's Table 3. It thus seems likely that the Economic Study underestimated both the costs (for comparative purposes) and the tariff effects of the BHP/BIP project and tariff effects of the BHP/BIP project." (p. 99)

"'The PAD should have included an explanation and supporting evidence of why the substantial project cost variations would not alter the conclusions of the Economic Study." (p. 99)

Karuma Project
"The Panel finds that the updating of the EPC cost figures does not obviously disadvantage Karuma relative to Bujagali. At the same time, the Panel found conflicting and incomplete reports on cost estimates for Karuma at the time of the prior project. Thus, the Panel could not fully assess these estimates, but notes that a recent report funded by the NBI and carried out as part of the SSEA ranks Karuma ahead of Bujagali in comparing costs, socio-economic and environmental considerations." (p. 102)

"[A study carried out by the SSEA under the NBI] ranked Karuma [dam], as well as thermal plants outside of Uganda, ahead of Bujagali." (p. 112)

Tariffs and Affordability
"The costs used [to predict average long term cost of supply] by the Economic Study for Bujagali were again based on their EPC estimate of US$441 million, rather than the 18 percent greater US$520 million cited in the PAD, as well as on their probably understated figure for transmission connection costs. This suggests that the Economic Study's 16¢/kWh estimate of post-2011 average long term cost of supply was an underestimate – and that the post-2011 gap between the supply cost and the assumed tariff would have been smaller than the 1.2¢/kWh cited earlier." (p. 103 – 104)

"The Panel notes that the Project's impact on tariffs and their affordability was known to be a key concern. In this light, the Panel considers that the relationship between the estimates in the

Economic Study and those from the PAD's financial analysis should have been presented more clearly and transparently in the PAD." (p. 104-05)

Internal Rate of Return Analysis
Macroeconomic Considerations in the Analysis of Alternatives
"One advantage of small multi-fuel generation is that it may make more use of both indigenous fuels and indigenous materials and skills than the big Independent Power Producer options, and thus conserve foreign exchange. In discussing balance of payment 'benefits,' it should not be forgotten that Bujagali will require payments of over US$100 million (equivalent) every year for 30 years." (p. 107)

Cultural Analysis of Alternatives
Hydropower Alternatives within Uganda
"The Panel finds that Management did not ensure that cultural and spiritual matters were properly considered when comparing the Bujagali and Karuma alternatives, as required by OP 4.01. This is especially relevant in light of the significant cultural and spiritual importance of the Bujagali Falls to the Busoga people. The lack of proper consideration of cultural and spiritual matters in this comparison had important consequences, in that it appears to have led to the conclusion that there was little difference between the Bujagali and Karuma sites and that therefore the economic and financial aspects of the options should become the determining factor in selecting the preferred option." (p. 115)

Alternative Project Configuration at Bujagali
"A more transparent approach would have been to lay out the various technically feasible alternatives together with their economic, social and environmental benefits and costs, so that judgments on optimal alternatives could be made with a full understanding of the trade-offs involved." (p. 117)

"The Panel is concerned, however, that the analysis unduly narrowed its consideration of alternatives on the basis of *a priori* judgments rather than exploring all technically feasible options, including those that would not involve flooding the Bujagali falls and thus have lower social and environmental costs, and laying them out in a systematic way along with their economic, social and environmental benefits and costs, so that judgments on optimal alternatives could be made with a full understanding of the trade-offs involved. This is not consistent with OP 4.01's provisions that feasible alternatives should be explored systematically to meet the basic Project objectives, and may have led to inadequate consideration of alternatives that met Project objectives while avoiding the social and environmental costs associated with flooding the Bujagali Falls." (p. 117)

Chapter VI: Economic Evaluation: Poverty Reduction and Risk

Affordability and Poverty Reduction
"From a macroeconomic perspective, the analysis appears to have complied with the requirement in OP 1.00 to show that the Project is likely to contribute to "broad based growth" (374)

“The Panel notes, however, that the 16¢/kWh figure provided in the Economic Study is likely to be an underestimate of the cost of electricity with the Project. … the Bujagali Engineering-Procurement-Construction (EPC) costs used in the Economic Study were nearly a fifth below the EPC values cited in the PAD. Further, the transmission cost estimates used in the Economic Study were low. The Management Response does not mention these differences in cost estimates or make clear their implications for the tariff estimates of the Economic Study, on which the estimate of US16¢/kWh and Management’s above statement about improved affordability are based.” (376)

“Much of the expected direct benefit from Bujagali, however, especially in the early years, is likely to be experienced by the better off urban households and particularly the industrial and to a lesser extent the commercial sectors and their stakeholders.” (377)

“The Panel did not find evidence in the Economic Study or the PAD of any estimates of the economic impact of the Project on low-income households.” (380)

Financial and Governance Risks
“The Panel notes that this statement in the PAD [“*The power sector will be a drain on the Treasury until the proposed project is commissioned but a net contributor after”]* appears misleading and seriously at odds with the projected revenue stream of the Bujagali Project […] The revenue gap that UETCL, in particular, will face, may lead to large, urgent demands on the GoU Treasury and potentially on the Bank via its Guarantee.” (385)

“The likely tariff variations and the possible revenue shortfalls or surpluses and their implication for UETCL, UMEME and government net revenues are key sustainability concerns; they matter for the future of the power sector, for electricity consumers, actual and potential, and for the GoU’s ability to invest in key sectors and services.” (386)

“Whichever levelized tariff is set, there will be a significant revenue shortfall, to be paid by UETCL, against the required capacity charge up to 2022, or $32m, plus compensation for losses, *per annum* on average, peaking at $74m plus in 2022. If the tariff were set at 8.4¢ but 2022 was actually a year of low hydrology, the revenue gap that year would rise to $89m plus.” (389)

“In the PAD’s financial discussion and projections, it is not obvious where, if at all, the expected costs of the transmission project enter the projections and on what estimates they are based.” (390)

“”Even so, in the Panel’s view, to demonstrate compliance with OP 10.04, and in light of the varying estimates of the costs of the Interconnection project, the evaluation should have presented identifiable estimates of the impacts on electricity tariffs and of the challenge facing UETCL in recovering these costs, on top of the requirement to meet the capacity payments for the dam project.” (391)

The Power Purchase Agreement
“In the Panel’s opinion, the introduction of a cost-based formula in the 2005 PPA, instead of the maximum capacity charge specified in the 1999 PPA, is probably the single largest adverse

contractual change for the power purchaser (UETCL) and its guarantors. The new contractual basis for the Project represents a significant shift in risk away from the project investors and lenders to the power purchaser." (400)

"The Panel finds that for the Sponsor and its lenders, the terms and conditions of the 2005 PPA… seem to represent a low-risk (though potentially disputatious) means of managing and recovering costs which are, by definition, subject to uncertainty. For UETCL, the power purchaser, and its guarantors, by comparison, it means that there is no ceiling on capital costs and whether or not the Project delivers the direct economic benefits offered over 30 years, in terms of costs and tariffs which are, to a significant extent, outside their hands." (405)

"The Panel observes that the high allocation of risk to the UETCL, the power purchaser, and eventually the GoU increases the possibility that the Project may not achieve the broad objective of sustainable development and poverty reduction embodied in Bank Operational Policies and Procedures. This also increases the possibility of the Bank (IDA) Guarantee being called. The Panel is concerned that any additional GoU resources that are spent in the financing of the development and operation of this Project may lead to decreased resources available for social and other priority development programs." (420)

Excerpts from Report by Graham Hadley, Economic and Commercial Consultant, UK, consultant to the Inspection Panel:

Costs, Revenues and Risks

"The Economic Study – the basis of the PAD's appraisal – has taken the lowest available cost estimates for both the BHP and the BIP. As a consequence, it is possible that the comparison of generation options was unduly favourable to Bujagali; and the likely tariff impact was too optimistic (5.5-5.8)" (2.8)

" In this case, the cost appears to have increased by $123m (28%) from the Economic Study estimate to the point where the contract price was fixed, and further increases seem to be allowed by the PPA. It is clearly preferable if possible to treat the bid price as binding, which would be international best practice (IBP); the PAD does not appear to explain why that was not done here. It allowing 'single-track' negotiation after the competition has closed, any benefit from competitive pressures may be lost."

"For a fair comparison of generation options, transmission connection costs for all should be included. […] Failing to do so disadvantages, in the appraisal, other generation options whose connection costs are less."

"In considering tariff effects, the full recoverable costs of the Project must be included. […] It thus seems likely that the Economic Study underestimated both the costs (for comparative purposes) and the tariff effects of the BHP/BIP project."

"<u>Sharing the Risk</u>. From the documents, the greatest share of economic risks lies with the power purchaser. The capacity charge may be adjusted upwards if the developer/operator hits unforeseen costs, but not downwards if demand or supply conditions deteriorate for the purchaser. In effect, the lenders especially but also the investors are held harmless against all or most eventualities. However, in a crisis of non-affordability in Uganda such as might be produced by currency devaluation or very low hydrology, the investors and lenders may also be at risk, if the money to pay the capacity charge is just not there. In these circumstances, buy-out is likely to provide the best solution. Personally, I would have preferred (as described in my 2002 report and in the Inspection Panel's Report on the prior Bujagali project) to see terms more favorable to the purchaser." (8.11)

"A wider personal observation relates to the decision to build BHS as an IPP, rather than as for the BIP, a public sector project. The high cost of commercial debt in Uganda, coupled with the high-pricing, risk-averting strategy of the investors in response to a perceived high-risk environment, has inevitably saddled the project with large front-end-loaded costs. GoU and the IFIs have still had to accept ultimate liability as guarantors. As an alternative, public sector financing might have produced lower costs overall, and would certainly have made it easier to manage costs and cost recovery via tariffs over a 40 year project life-time." (9.5)

"Setting aside the positive aspects of the Project, it may be helpful to summarize those areas in which management performance may have fallen short. These appear to be:

- **In analysis of generation options:** there was an insufficiently transparent approach to the assessment of Bujagali against all feasible alternative generation options, making it difficult for management authoritatively to refute charges that the analysis was either inadequate or biased in favour of Bujagali.
- **In project evaluation:** the assessment of costs, risks, and benefits was unduly optimistic. In particular (1) capital costs were under-estimated; (2) the likely effect on tariffs was under-estimated: Bujagali is more likely to exert upward than downward pressure on tariffs; (3) the risk of a significant revenue gap (between UETCL's income and the requirements of the Bujagali capacity charge) in the first 10 years of the project was not recognized: the attendant risk is that the WB guarantee may be called; (4) other risks, notably those of shortfalls against recovery rate forecasts, and the exchange rate, were not given due weight.
- **In project structure and risk management:** (1) management failed to realize the benefits of competitive solicitation by allowing a long period of post-bid negotiation with the winning bidder, during which the price increased by nearly 30%; (2) management failed to fix or cap the capacity charge in the PPA, thus increasing the risk that the power purchaser will have to accept further cost increases in the future; (3) management failed to set sufficiently robust performance penalties and buy-out terms, to minimize downside risk for the power purchaser." (9.6)

Chapter VII: Involuntary Resettlement

"Overall, the Panel finds that the Project is in non-compliance with the mandate of Bank Policy on Involuntary Resettlement to improve or at least to restore, in real terms, the livelihoods and standards of living of the people displaced by the Project." (p. 158-159)

Inadequacy of abbreviated and updated version of previous resettlement plan (APRAP):

“Management opted to complete an assessment and action plan based on selective fulfillment of commitments made under an outdated RAP [resettlement action plan] that had been shown by the previous Inspection Panel to have a deficient baseline, rendering inconclusive any findings on livelihoods restoration … This does not comply with OP 4.12.” (p. 139)

“The Panel found no formal monitoring or evaluation supporting the assertion that the involuntary resettlement was ‘largely completed,’ the reason stated for forgoing a full RAP preparation…The Panel notes that resettlement is a process…and the degree of progress of previous resettlement efforts does not exempt the Project from meetings the requirements of a RAP…The way an Assessment and Action Plan was substituted for a full RAP… had far ranging consequences.” (p. 139)

“The critical policy requirement to census all displaced persons as of the project baseline was neglected – a decision undermining much of the policy objectives.” (p. 140)

Consultations
“The Panel also finds that the approach to consultations with people who had moved and had been compensated is not consistent with the involuntary resettlement policy. The consultation strategy was structurally flawed because it excluded the majority of displaced persons and limiting the scope of consultations to previous commitments.” (p. 143)

Livelihood Restoration
“The Panel finds that the Project failed to provide adequately for loss of livelihood associated with the loss of fishing and agriculture, in non compliance with OP 4.12.” (p. 150-151)

“The Panel was not provided any evidence that livelihood restoration has been monitored since the prior Sponsor carried out partial resettlement activities in 2001.” (p. 158)

Fishing: “No compensation or assistance was made following resettlement for this loss of livelihood, now stretching into its seventh year…Among other problems, fishermen were settled much farther from the fishing areas, lacked transport to get there, and have had their access even to these areas restricted by fencing connected with Project activities.” (p. 147-148)

Agriculture: “The livelihood restoration strategy focused on the physical size of replacement land rather than its quality or location.” (p. 149)

“[T]he resettlement site is a former sugar plantation, a monoculture crop that depletes soil fertility. The Panel is concerned that plans are underway to move T-line displaced families to Naminya without evaluation of this issue.” (p. 150)

“On the East bank of the Nile, resettled people reported that their replacement agricultural land was too far away from their residences and less fertile, effectively reducing their income.” (p. 150)

Compensation
“The Panel concurs with the APRAP’s findings, which validate the claims of the project affected

peoples that full replacement value compensation may have not taken place in the prior project." (p. 151)

Land Titles
"Bank missions reported in February 2005 that only 22 of the 69 titles pending the component had been arranged and all eight households at Nansana were still awaiting titles." (p. 152)

"The Panel finds that the APRAP conclusion related to the necessity of issuing land titles…is consistent with OP 4.12. The Panel notes however that there seems to be no agreed timetable for the issuance of these titles." (p. 152)

Vulnerable Peoples
"The Panel notes that…none of the proposed assistance measures [to cater to vulnerable people] addresses the vulnerable tenants/sharecroppers or children. Additionally, the assistance measures [which amount to an additional $20,000 for unspecified support] do not address the question of sustainability beyond the limited Project support. The Panel finds the Bujagali Project is out of compliance with the vulnerable peoples provisions of OP 4.12." (p. 153-154)

"The Panel's review of the limited scope of the livelihood restoration programs indicates that they may be under-budgeted…As livelihood restoration instruments develop, Management is expected to monitor the resettlement budget to provide sufficient resources as per OP 4.12." (p. 156)

Benefit Sharing
"The Panel identified four compliance issues related to the CDAPs [Community Development Action Plans]: i) the lack of focus of the CDAPs on displaced persons, ii) inequalities in allocations between displaced persons on the T-line and [hydropower project]; iii) the lack of specificity of the sustainable development programs, and iv) a decrease in investment resources to this effort." (p. 160)

"The fact that the same problems are surfacing with two different sponsors is of concern to the Panel. The Panel finds that with limited funding, broad criteria for eligibility and lack of specificity, the CDAP programs do not assure compliance with OP 4.12." (p. 161)

Chapter VIII: Cultural and Spiritual Values

"BEL committed itself to detailed consultations with locally affected communities regarding cultural properties management work. BEL's consultations led it to conclude that rather than a localized site, Bujagali Falls are of spiritual significance to Busoga Kingdom, since they are considered a place inhabited by spirits. The Panel finds that management and the sponsor have increasing recognised and involved the Kyabazinga institution as an important guardian of the Busoga cultural tradition. The Panel recognises that the Kyabazinga institution is not empowered to speak as surrogates in consultations for the Basoga spiritual stakeholders.

Management failed to appropriately consider or implement alternatives to avoid the projected related impacts on Basoga spirituality and culture in violation of OP/BP 4.11

The consultation methodology used in the Resettlement Community Development Action Plan (RCDAP) was detailed, but structurally flawed. First, it involved laymen who were not sufficiently knowledgeable of the traditional religion. Second, it excluded key spiritual leaders (Budhagali), and third, it was limited to the people in the project area, many of whom were non-Basoga migrants, yet most of the people who believe in the significance of Bujagali Falls spiritual site do not live in the immediate vicinity of the project. Therefore, the project failed adequately to consult the Busoga spiritual clan leaders associated with one or more high status spirits about the significant cultural patrimony of the Bujagali falls. This is not in compliance with OP 4.11."

"Misidentifying the Bujagali Falls as a local cultural site, misaligning its consultation strategy, and failing to prepare a new cultural property management plan compounded errors and muddled mitigation. This resulted in loss of objectivity of the sponsor, impatience, assignment of pecuniary motives to stakeholders, cost cutting, culturally inappropriate mitigation efforts, and most importantly, a misunderstanding that the Bujagali project is ensconced in a long-term relationship with its new neighbours and the spirit world. The Panel finds that management unnecessarily and inappropriately took sides in a spiritual controversy of a religion in which millions of Ugandans believe. This action by management is not compliant with OP 4.11."