



Second Annual Monitoring Report to the Board of Directors
on the
Implementation of Remedial Actions
for the
Visayas Base-Load Power Development Project
in the Republic of the Philippines
(ADB Loan 2612-PHI)

1 August 2014

This document is being disclosed to the public in accordance with ADB's Public Communications Policy 2011.

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- the Asian Development Bank (ADB) Board of Directors, in particular the members of the Board Compliance Review Committee;
- the staff of the Private Sector Operations Department, ADB;
- Freedom from Debt Coalition-Cebu and the requesting parties, who have asked that their identities be kept confidential; and
- the project sponsor, KEPCO-SPC Power Corporation.

ABBREVIATIONS

ADB	– Asian Development Bank
CRP	– Compliance Review Panel
DENR	– Department of Environment and Natural Resources
EMB	– Environmental Management Bureau
EMP	– environment management plan
GTCI	– Geo-Transport and Construction Incorporated
KSPC	– KEPCO-SPC Power Corporation
MMT	– multipartite monitoring team
MW	– megawatt
NGO	– nongovernment organization
PSOD	– Private Sector Operations Department, ADB
TA	– technical assistance

Note

In this report, “\$” refers to US dollars.

Chair	Dingding Tang, Compliance Review Panel
Member	Lalanath De Silva, Compliance Review Panel
Member	Arntraud Hartmann, Compliance Review Panel

In preparing any country program or strategy, in financing any project, or in making any designation of or reference to a particular territory or geographic area in this document, the Asian Development Bank does not intend to make any judgments as to the legal or other status of any territory or area.

I. INTRODUCTION

1. In May 2011, the Compliance Review Panel (CRP) received a request for compliance review of the Visayas Base-Load Power Development Project in the Philippines (Loan 2612-PHI) from people affected by the project. As provided in the Asian Development Bank (ADB) Accountability Mechanism Policy (2003), the CRP conducted the compliance review and submitted its report to the ADB Board of Directors (Board) in March 2012.¹ The report detailed instances of noncompliance by ADB with its operational policies and procedures on environment, public communications, and energy. The Board approved the recommendations in the CRP report, and Management later submitted a remedial action plan to the ADB President (reproduced in Appendix 2 of this report). As mandated under the Accountability Mechanism Policy (2003), the CRP is monitoring the implementation of the remedial action plan and it submitted its first annual monitoring report to the Board on 12 July 2013. This is the CRP's second annual monitoring report to the Board.

2. This monitoring report covers the following:

- (i) a short description of the project;
- (ii) the results of the CRP's compliance review and the CRP's recommendations;
- (iii) the Management's action plan to comply with the CRP's Board-approved recommendations;
- (iv) the findings of the CRP during its second year of monitoring;
- (v) the CRP's conclusions regarding current state of Management's compliance with the Board-approved recommendations; and
- (vi) the CRP's feedback regarding the implementation of Management's remedial actions.

3. This monitoring report is based on a review by the CRP of Management's quarterly reports on the implementation of the action plan and other relevant documents submitted to the CRP by the Private Sector Operations Department (PSOD); interviews with concerned ADB staff; and a site visit to Cebu on 19 June 2014. During the site visit, the CRP met with representatives of the project sponsor, KEPCO-SPC Power Corporation (KSPC) and one of the representatives of the complainants. The CRP conducted a visual inspection of selected areas of the KSPC power plant and two historical ash disposal sites. A list of the persons met by the CRP during the compliance review monitoring is in Appendix 1 of the present report.

4. The report ascertains the progress made by Management in implementing its remedial action plan for complying with the CRP's Board-approved recommendations. This monitoring report contains the CRP's findings and conclusions regarding whether the implementation of its recommendations has resulted in compliance with ADB's operational policies and procedures, on the basis of its review of progress achieved in the second year of the implementation of the Management's action plan. For those recommendations that have not yet been complied with, the CRP provides feedback that Management should take into account in continuing to implement the CRP's recommendations to bring the project into full compliance.

¹ ADB. 2012. *Final Report: Compliance Review Panel Request 2011/1 on the Visayas Base-Load Power Development Project in the Republic of the Philippines (ADB Loan 2612-PHI)*. Manila. Available at [http://www.compliance.adb.org/dir0035p.nsf/attachments/PHI%20FINAL%20REPORT%20FINAL%20APPROVED%20BY%20BOD.pdf/\\$FILE/PHI%20FINAL%20REPORT%20FINAL%20APPROVED%20BY%20BOD.pdf](http://www.compliance.adb.org/dir0035p.nsf/attachments/PHI%20FINAL%20REPORT%20FINAL%20APPROVED%20BY%20BOD.pdf/$FILE/PHI%20FINAL%20REPORT%20FINAL%20APPROVED%20BY%20BOD.pdf)

5. In accordance with the provisions of the Operations Manual (OM),² the CRP submitted the draft of this monitoring report to the Board Compliance Review Committee (BCRC) for review and consultation. The BCRC comments have been considered in the final report. This monitoring report has the concurrence of all three members of the CRP.

II. DESCRIPTION OF THE PROJECT

6. The project involved the construction and operation of a 200-megawatt (MW) coal-fired power plant in Naga City, Cebu Province, Philippines, consisting of two nominal 100 MW units in the ash disposal area of the existing 203.8 MW Naga Power Plant, and using circulating fluidized bed combustion boilers that were expected to generate relatively low levels of nitrogen oxides and sulfur dioxide. The project was aimed at addressing the power shortage in the Visayas region and providing base-load power to the grid. It was designed to (i) support economic growth in the Visayas region by increasing the availability of reliable and competitively priced power to meet the growing demand of consumers without adding to the financial burden on the government; (ii) reduce electricity costs by increasing competition and efficiency through private sector investment; and (iii) be a model for future private sector investments in greenfield, environment-friendly, coal-fired power generation under the new regulatory regime for meeting the country's future energy needs.

7. This project marked the first collaboration between ADB and the Export-Import Bank of Korea. On 11 December 2009, ADB approved a direct loan of up to \$120 million to KSPC.³ Actual loan commitment, however, was only \$100 million. The ADB loan was signed and took effect on 4 March 2010. ADB will continue to supervise the implementation and operation of the project until the final loan repayment period ends on 29 May 2021, as currently scheduled. With construction substantially completed, the plant was commissioned on 31 May 2011 and commercial operations started. It was inaugurated on 27 June 2011. The full loan amount of \$100 million has been fully disbursed, with final disbursement on 27 December 2013.

III. COMPLIANCE REVIEW AND RECOMMENDATIONS

8. On 25 May 2011, Aaron Pedrosa Jr., Secretary General of the Freedom from Debt Coalition-Cebu and Vicente Obando, acting as representatives of the requesters, submitted a request for compliance review to the CRP. According to the request, the KSPC power plant project had or was likely to have adverse effects on the health of the people living near it because of (i) its emission of carbon dioxide (CO₂), sulfur dioxide, and nitrogen dioxide which could cause respiratory illnesses; (ii) the spillage of coal during transport exposing the community to hazardous, toxic metallic elements; and (iii) the seepage of harmful elements from the Balili coal ash dump site which could contaminate marine life and render it unfit for human consumption.⁴ The request added that the technology used in the plant did not prevent the CO₂ emissions responsible for global warming and produced four times more coal combustion waste per megawatt of electricity than conventional coal-burning plants.

9. Based on the CRP's recommendation, the Board authorized a compliance review of the project on 11 July 2011. The CRP conducted its review and found that the project did not

² ADB. 2008. *Operations Manual*. L1/OP, para.70. Manila.

³ KSPC is owned by the Philippine corporations Korea Electric Power Corporation Philippine Holdings (60%) and Salcon Power (SPC, 40%).

⁴ The CRP did not investigate the complaints regarding the Balili site since the inclusion of the site in the ash disposal plan, still being reviewed at the time of the CRP investigation, was uncertain. A decision not to build an ash disposal facility on this site was later made.

comply with certain provisions of Environment Policy (2002) and OM Section F1: Environmental Considerations in ADB Operations (2006); OM Section L3: Public Communications (2008) and OM Section C3: Incorporation of Social Dimensions into ADB Operations (2007); and Energy Policy (2009), para. 15 (v).

10. With respect to the Environment Policy, the CRP found the project to be noncompliant with the provisions requiring the updating of the environmental impact assessment, a due diligence review of ash management, an environmental audit of the preexisting Naga power plant, ambient air dispersion modeling, and the preparation of an environmental management plan for the historical ash disposal sites. Regarding the Public Communications policy, the CRP found noncompliance in addressing community concerns about the health implications of the project, in providing adequate and timely information about environmental impact including the dissemination of the environmental impact assessment and subsequent changes in the assessment; and in ensuring an adequate and functioning grievance redress mechanism and an inclusive consultation process. Regarding the Energy Policy, the CRP found that ADB had decided to finance the coal-fired power plant without first ensuring compliance with social and environmental safeguards. Given these conclusions, the CRP came up with four recommendations to bring the project into compliance.

11. On 2 April 2012, the Board discussed the CRP's final report and approved its four recommendations. On 5 June 2012, Management submitted to the ADB President an action plan for the project to implement the Board-approved CRP recommendations and bring the project into compliance. The CRP did not have an opportunity to comment on the action plan before it was submitted to the ADB President and circulated to the Board. Management is expected to submit quarterly reports on the implementation of this action plan.

IV. RESULTS OF THE MONITORING OF THE ACTION PLAN

12. The following paragraphs present the findings and conclusions of this second annual monitoring report of the CRP. Each CRP recommendation is mentioned first, together with the related actions proposed in Management's action plan. The CRP's related findings, conclusions, and feedback follow.

A. CRP Recommendation 1

CRP Recommendation 1: Undertake a comprehensive air dispersion modeling study that includes the key pollution sources in the project's area of influence and validate its predictions with actual air emissions and ambient air quality monitoring data. Develop an action plan based on recommendations from the modeling study and emphasize the potential for continuous monitoring and recording of air emissions and ambient air quality.

Management Remedial Action Plan: A Technical Assistance (TA), with the Asian Development Bank as the Executing Agency (EA) and the office of the Department of Environment and Natural Resources (DENR) in Cebu as the Implementing Agency (IA), will be undertaken. As ADB obtains findings from the air dispersion modeling study during TA implementation, the findings will be discussed with KSPC, the local DENR office, and the Naga City government and an appropriate action plan will be developed and implemented. (For full text, see Appendix 2.)

13. **CRP findings regarding compliance with recommendation 1.** To carry out this recommendation and Management's action plan, ADB prepared and approved capacity development technical assistance (TA) for air quality management for the project.⁵ This TA provides for the analysis and interpretation of the findings of the ambient air quality data and dispersion modeling study against the latest research findings of the World Health Organization and international health research institutes. In its first monitoring report, the CRP noted that the TA project has been delayed by 8 months partly because the Department of Environment and Natural Resources (DENR) Region 7 office formally agreed to act as implementing agency only in November 2012. Since then the TA for air quality management for the project has been inordinately delayed on account of a number of reasons. After the evaluation of bids, a consulting firm was chosen but soon thereafter the company replaced a specialist on the team. On evaluation, it turned out that the specialist was not adequately qualified. Bids were then re-evaluated and a second consultant, AECOM, was chosen for the TA. Subsequently, AECOM also substituted a specialist and the bid had to be re-evaluated. Fortunately, the substituted specialist was found to be adequately qualified and accordingly the TA is now proceeding. The CRP has been informed by PSOD that a kick off meeting was held on 25 June 2014 at the KSPC office and included the consultant (AECOM), and representatives from DENR, KSPC, APO Cement, Naga Power Plant and local government units. This is a heartening sign, especially, as this would be a precedent setting study for the Republic of the Philippines, and if done well, can serve as a useful example with many good lessons for others as well. KSPC already has two ambient air quality monitoring stations (one 150m and the other 250m from the power plant), in addition to its stack emission measuring instrumentation. The TA will establish four to six new ambient air quality monitoring stations strategically placed in the area covered by the TA. It is expected that implementation of the TA will be completed in November 2015.

14. **CRP conclusions regarding compliance with recommendation 1.** The CRP finds that by developing, approving and commencing the implementation of the TA, Management has made progress and partially complied with this recommendation. However, as full implementation is now in progress, the CRP is not able to declare this aspect as fully compliant as yet.

15. **CRP feedback to Management on actions to bring the project into full compliance with recommendation 1:** In order for ADB to bring the project into compliance with this recommendation, Management will need to fully implement the TA by November 2015 and develop an action plan that involves the KSPC power plant, the old power plant adjoining the KSPC power plant and the two other facilities that are subject to this TA. The TA implementation as well as the action plan must be developed with the full participation of all stakeholders, including civil society and the complainants in this case.

⁵ ADB. 2013. *Technical Assistance to the Republic of the Philippines for Air Quality Management for the Visayas Base-Load Power Development Project*. Manila (CDTA 8338-PHI, \$1 million; approved in March 2013).

B. CRP Recommendation 2

CRP Recommendation 2: Undertake a comprehensive study on ash utilization at cement plants and the ready-to-mix concrete plant and implement plant-specific recommendations and EMPs. In addition, prepare and implement EMPs for the existing ash ponds and historical ash disposal sites.

Management Remedial Action Plan: KSPC produces about 135 tons/day of ash. KSPC has been temporarily disposing of its ash at the Naga Power Plant's ash pond and KSPC's existing onsite emergency ash pond (Ash Pond B). As the long term solution, since 2011, KSPC, with ADB's guidance, has been developing a new ash management plan, consisting of (i) recycling of ash by a cement plant and a ready-mixed concrete batching plant, (ii) landfilling of unrecycled ash at secured ash ponds to be constructed within KSPC's plant site, and (iii) as a backup measure, landfilling at a secured landfill facility located in a municipal waste management facility. (For full text see Appendix 2.)

16. **CRP findings on compliance with recommendation 2.** The CRP reviewed the initial environmental examination report prepared by KSPC on the New Fly Ash and Bed Ash Disposal Scheme, which was posted on the ADB website in August 2013, and note that comments by the CRP and stakeholders during the 23 May 2013 consultation were incorporated where applicable or relevant.

17. DENR-Environmental Management Bureau (EMB) Region 7 had verbally confirmed that both APO Cement and Geo-Transport and Construction Incorporated (GTCl) are in compliance with their respective environmental clearance certificates. It was reported that the multipartite monitoring team (MMT) for APO Cement had also been meeting on a quarterly basis and no issues had been raised with respect to the suitability of using KSPC's ash in APO Cement production. DENR had also verbally confirmed that KSPC ash is suitable for use in the APO and GTCl plants. The CRP requested PSOD to obtain written confirmations by DENR. It would also be best if DENR confirmed that no further revisions to the permits are required since the ash disposal method now in operation is covered by the existing permits. PSOD has informed the CRP that it has requested APO Cement and DENR EMB Region 7 for written confirmation on (i) the suitability of using bottom ash and fly ash in APO's production and (ii) the respective environmental compliance certificates of APO Cement and GTCl cover the use of ash in their production.

Figure 1: Completed Emergency Ash Pond B at KSPC Compound



18. KSPC has completed the construction of the emergency ash pond B lined with three impermeable membranes to prevent seepage of waste water. The ponds were empty when the CRP inspected the power plant because all ash is currently being recycled. The CRP was informed by KSPC staff that the pond has a storage capacity of one year. This is a good margin to have in case the recycling is disrupted for any reason. Ground water testing for heavy metals was done on 25 March 2014 (delayed as target was 4th quarter of 2013) with one sample each from upstream and downstream of the pond. The results of the tests disclosed in PSOD's eighth quarterly progress report of 6 June 2014 to the CRP states that "the heavy metal concentrations are safe for all groundwater stations" and that "(t)he levels are way below the standard limits. In this regard, KSPC has reportedly advised "the community that the water is not suitable for drinking because of the high TDS (Total Dissolved Solids) and Coliform values which are consistent with the historical values before the plant was constructed". TDS and Coliform values are both not attributable to the plant operations and are probably due to natural geological characteristics of the area and sanitary practices of the domestic population. Tests will continue to be done every quarter until results or data yield insignificant impacts to the water resource within a reasonable observation period and will eventually be discontinued unless and until the pond is used for storage of ash for over a two week period. PSOD has informed the CRP that KSPC has confirmed that the groundwater monitoring will be done on a quarterly basis and reported accordingly.

19. The CRP inspected the Pangdan and Naalad historic ash disposal sites and interviewed KSPC staff with regard to action taken. KSPC completed the concrete cover for Pangdan. For Naalad, the riprap has been declared completed by the contractor but is still the

subject of KSPC's inspection. A solid retaining wall 4.5m high was built to prevent ash from the sites being washed into the nearby stream.

Figure 2: Soil erosion preventive measure at Pangdan



20. **CRP conclusions regarding compliance with recommendation 2.** The CRP finds that significant progress has been made with regards to ash disposal and providing adequate cover for the historic ash disposal sites at Barangays Pangdan and Naalad, and that Management has mostly complied with this recommendation.

21. **CRP feedback to Management on actions to bring the project into full compliance with recommendation 2.** In order for ADB to bring the project into full compliance with this recommendation, (i) Management should urgently obtain written confirmation (in addition to the verbal confirmation already received) and advice from DENR (region 7 office) and EMB on the suitability of using KSPC's bottom ash and fly ash in APO Cement production and the need to issue a revised permit with the required specifications, and Management should seek confirmation from DENR that APO Cement and GTCI are operating in compliance with their respective environmental compliance certificates. All of these tasks have to be completed by the 3rd quarter of 2014; (ii) Management should request KSPC to continue to monitor groundwater contamination from its ash disposal sites through the established test wells and report the monitoring results to DENR and make them available to the public via the barangay meetings, its own website, and through the MMT meetings. Once these steps are completed, the CRP will be able to declare this aspect of the recommendation as fully compliant.

C. CRP Recommendation 3

CRP Recommendation 3: Expand or complement the existing MMT to ensure representation of all communities directly affected and all appropriate NGOs and to facilitate transparent and inclusive communication and grievance redress.

Management Remedial Action Plan: Representatives of the project team will attend the quarterly multi-partite monitoring team (MMT) meetings.

In a meeting with the local DENR office and Chairman of the MMT on 28 May 2012, ADB reiterated its request to include appropriate NGOs as members of the MMT or at least invite them to the quarterly meetings. The MMT Chairman will discuss ADB's request with other MMT members in the next MMT quarterly meeting to be scheduled in June 2012.

In case the MMT declines ADB's proposal to include the NGOs or at least invite them to the quarterly meetings, ADB will ask KSPC to hold complementary meetings with the NGOs on a quarterly basis to update them on project developments and share minutes of the MMT quarterly meetings. (For full text, see Appendix 2.)

22. **CRP findings regarding compliance with recommendation 3.** Four MMT meetings (31 October 2013, 14 January, 28 March, and 25 June 2014) and an annual stakeholder's consultation (14 February 2014) were held during this monitoring period. Cebu-based NGOs, particularly Freedom from Debt Coalition (FDC), were invited to both meetings but apparently they only attended the stakeholders' consultation meeting. Further, barangay consultations were held on 16, 22, and 23 August 2013 and NGOs based in Naga City were represented.

23. The minutes of the 31 October 2013 MMT meeting state that all MMT members present disagree to the proposed inclusion of national NGOs during MMT meetings.

24. As KSPC management has yet to decide on setting up its own website, MMT minutes and information materials are still not on the web. Translation of the MMT minutes to the vernacular was thought to be unnecessary by some MMT members since they felt that residents are adequately knowledgeable in the English language.

25. KSPC's Complaints Management Plan has been approved by KSPC management and is being implemented. KSPC Environmental Department has been mandated to ensure that all implementing departments will fulfill their roles. To date, about three complaints have been received and processed. The CRP requested and received a copy of the complaints management system and an example of a complaint registered in the system and showing how it was dealt with.

26. **CRP conclusions regarding compliance with recommendation 3.** While recognizing the progress made in this regard, the CRP concludes that recommendation 3 has not yet been fully complied with.

27. **CRP feedback to Management on actions to bring the project into full compliance with recommendation 3.** In the view of the CRP, Management should take the following steps to comply with this recommendation: (i) Management should continue to use its leverage with MMT and DENR to broaden the membership of the MMT and fully include NGOs and to effect this, Management (through KSPC) should continue to request DENR to do so; (ii) alternatively,

Management should, without any further delay request KSPC, to convene complementary multi-stakeholder consultation meetings, including NGOs and other civil society, private sector, and government stakeholders, at least twice a year (or ideally every four months instead of the annual multi-stakeholder forum). This issue has not been fully complied with despite reference to it in our first monitoring report and the CRP expects this to be done urgently. These steps need to be commenced by the 3rd quarter of 2014; (iii) Management should request KSPC to make available to the local population in an appropriate user-friendly format and in the local language, the minutes of the MMT meetings and information dissemination materials now being prepared (including the results of KSPC monitoring). PSOD and KSPC informed CRP that they do not see the need for MMT minutes to be translated into the local language as English is widely understood by the various stakeholders. Based on interactions the CRP had with villagers when it visited the site in 2013, the CRP did not agree with this assessment as the level of English spoken by some villagers was quite rudimentary. It was on this basis that the CRP required the translations of MMT minutes. The CRP sees no reason to change that decision in this report. These activities must be initiated urgently.

D. CRP Recommendation 4

CRP Recommendation 4: Implement a community outreach program focusing on preventing negative health impacts from air, water, and noise pollution and potentially negative impacts from exposure to unprotected coal ash deposits.

Management Remedial Action Plan: During the public consultation on KSPC's ash disposal plan last 27 April 2012, KSPC agreed to enhance its information outreach and awareness programs/activities to inform the affected or potentially affected people on the project including its ash management plan and on precautionary measures to avoid any potentially negative impacts from air, water and noise pollution and exposure to coal ash deposits.

ADB held an initial consultation with public health officials in Naga City on 26 April 2012. For a period of 1 year, ADB will hold quarterly meetings with the Naga City rural health units to continue and improve monitoring of the leading causes of morbidity in the project area, collect information and use the data in providing inputs to KSPC's medical missions. (For full text, see Appendix 2.)

28. **CRP findings regarding compliance with recommendation 4.** Reports submitted by PSOD inform about KSPC's efforts to inform adjacent barangays/villages about the environmental and health risks related to the plant's operation and the quarterly public consultation meetings with each barangay. The CRP recognizes this as good progress and encourages KSPC to continue these efforts. However, a fully effective public information system is partially dependent on the implementation of the TA relating to the cumulative impacts on the air shed which is underway.

29. **CRP conclusions regarding compliance with recommendation 4.** The CRP finds that ADB has partially complied with this recommendation.

30. **CRP feedback to Management on actions to bring the project into full compliance with recommendation 4.** In order for ADB to bring the project into compliance with this recommendation, (i) Management should request KSPC to systematically disseminate to communities near the plant information on pollution-related risks and preventive action on a continuing basis through disclosure of test results and emissions data on the KSPC website and

at MMT and barangays as well as KSPC-convened stakeholder meetings; and (ii) Management should ensure that the action plan under the TA for air quality management, to be completed by November 2015, will include recommendations specifically leading to targeted public health interventions as appropriate. The complainant expressed concern to the CRP with regard to health impacts. In this regard, statistics being collected by health care professionals and the Naga City Health Department should be taken into account in the TA, as appropriate. The CRP discussed this matter with PSOD staff and was informed that studies by the World Health Organization and other international studies already done correlating power plant emissions to public health will also be considered in analyzing the results of the air modelling study and in developing an action plan. PSOD staff confirmed that public health impacts, if any, will be carefully evaluated as part of the study and plan development. The CRP wishes to stress the importance of including the complainants and other NGOs at critical points in the air modelling study, full disclosure of study results, data and analysis to them and their involvement in the development of an action plan. Having stakeholder buy-in to the action plan is essential to ensuring that it is relevant and has community support for its full implementation.

V. CONCLUSIONS

31. Of the four recommendations in the CRP's compliance review report approved by the Board, ADB has partly complied with all four recommendations. Full compliance with recommendation 2 and 3 can be easily achieved by Management once the few steps outlined in this report are concluded. Full compliance with recommendations 1 and 4 however, will have to await the results of the air modelling study in November 2015. The CRP observed continuing improvements over the past year, both in the attitude of KSPC plant staff to environmental and social concerns and in the management of such concerns. These improvements are to be encouraged as they augur well for the future of the project itself, the good relations with and well-being of the local community, and compliance with ADB's environmental and social safeguard policies as well as its public communications policy. The CRP hopes that efforts to fully implement the Management's action plan will be accelerated with the full cooperation of KSPC. Based on the Accountability Mechanism Policy (2003), the CRP will continue to monitor the implementation of the Board-approved recommendations and report to the Board annually unless the Board specifies a different timetable.

32. Below is a summary of the actions identified by the CRP as a result of its second year of monitoring, to bring the project into compliance with the Board-approved recommendations:

CRP Recommendations	Feedback to Management on Actions to Bring the Project into Full Compliance
<p>1. Undertake a comprehensive air dispersion modeling study that includes the key pollution sources in the project area of influence and validate the predictions with actual air emissions and ambient air quality monitoring data. Develop an action plan based on</p>	<p>Status of compliance: Partially complied with.</p> <p>(i) The TA must be fully implemented and the modeling study completed by November 2015. The TA must be implemented with the participation of all stakeholders including NGOs, as appropriate at critical points of the modelling study; (ii) the action plan under this TA must be developed in close consultation with all stakeholders, including the Airshed Governing Board, KSPC, APO Cement, other emitters in the study area, the Naga City health office, DENR, MMT, communities affected by the emissions, NGOs, and the general public so that input from these consultations can be considered prior to the finalization of</p>

CRP Recommendations	Feedback to Management on Actions to Bring the Project into Full Compliance
<i>recommendations from the modeling study and emphasize the potential for continuous monitoring and recording of air emissions and ambient air quality.</i>	the action plan to be prepared under the TA.
<p>2. Undertake a comprehensive study on ash utilization at cement plants and the ready-mixed concrete plant and implement plant-specific recommendations and EMPs. In addition, prepare and implement EMPs for the existing ash ponds and historical ash disposal sites.</p>	<p>Status of compliance: Partially complied with.</p> <p>(i) Management should obtain <u>written</u> confirmation and advice from DENR (region 7 office) and EMB on the suitability of using KSPC's bottom ash and fly ash in APO Cement production and the need to issue a revised permit with the required specifications, and Management should seek confirmation from DENR that APO Cement and GTCI are operating in compliance with their respective environmental compliance certificates. All of these tasks have to be completed urgently. The written confirmation should be submitted to the CRP as part of PSOD's quarterly progress reports;</p> <p>(ii) Management should request KSPC to continue to monitor groundwater contamination from its ash disposal sites on a quarterly basis through the established appropriate test wells and report the monitoring results to DENR and make them available to the public via the barangay meetings, its own website, and through the MMT meetings.</p>
<p>3. Expand or complement the existing MMT to ensure representation of all communities directly affected and all appropriate NGOs and to facilitate transparent and inclusive communication and grievance redress.</p>	<p>Status of compliance: Partially complied with.</p> <p>(i) Management should continue to use its leverage with MMT and DENR to broaden the membership of the MMT and fully include NGOs and to effect this, Management (through KSPC) should continue to request DENR to do so by 31 August 2014;</p> <p>(ii) Alternatively, Management should, without any further delay, request KSPC, for a plan and timeline to convene complementary multi-stakeholder consultation meetings, including NGOs and other civil society, private sector, and government stakeholders, at least twice a year (or ideally every four months instead of the annual multi-stakeholder forum). This issue has not been fully complied with despite reference to it in the CRP's first monitoring report. The CRP expects this to be done urgently. This plan has to be completed by the 3rd quarter of 2014;</p> <p>(iii) Management should request KSPC to make available to the local population in an appropriate user-friendly format and in the</p>

CRP Recommendations	Feedback to Management on Actions to Bring the Project into Full Compliance
	local language, the minutes of the MMT meetings and information dissemination materials now being prepared (including the results of KSPC monitoring). These activities must be initiated urgently.
<p><i>4. Implement a community outreach program focusing on preventing negative health impact from air, water, and noise pollution and potentially negative impact from exposure to unprotected coal ash deposits.</i></p>	<p>Status of compliance: Partially complied with.</p> <p>(i) Management should request KSPC to continue to disseminate information on pollution-related risks and preventive action systematically to communities near the plant through disclosure of results on the KSPC website and at MMT and barangay as well as KSPC- convened stakeholder meetings; and</p> <p>(ii) Management should ensure that the action plan under the TA for air quality management, to be completed by November 2015, will include recommendations specifically leading to targeted public health interventions. The complainant expressed concern to the CRP with regard to health impacts. In this regard, statistics being collected by health care professionals and the Naga City Health Department should be taken into account in the TA, as appropriate. The CRP discussed this matter with PSOD staff and was informed that studies by the World Health Organization and other international studies already done correlating power plant emissions to public health will also be considered in analyzing the results of the air modelling study and in developing an action plan. PSOD staff confirmed that public health impacts, if any, will be carefully evaluated as part of the study and plan development. The CRP wishes to stress the importance of including the complainants and other NGOs at critical points in the air modelling study, full disclosure of study results, data and analysis to them and their involvement in the development of an action plan. Having stakeholder buy-in to the action plan is essential to ensuring its smooth and full implementation.</p>
<p>CDTA = capacity development technical assistance DENR = Department of Environment and Natural Resources EMB = Environmental Management Bureau EMP = environment management plan GTCl = Geo-Transport and Construction Incorporated KSPC = KEPCO SPC Power Corporation MMT = multipartite monitoring team NGO = nongovernment organization TA = technical assistance</p>	

33. Management should report on the progress achieved on each of the recommendations in its quarterly reports to the CRP, which will assess progress in its third annual monitoring report of July 2015.

/S/ Dingding Tang, Chair, Compliance Review Panel

/S/ Lalanath de Silva, Member, Compliance Review Panel

/S/ Arntraud Hartmann, Member, Compliance Review Panel

1 August 2014

LIST OF PERSONS MET DURING THE COMPLIANCE REVIEW MONITORING

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MANAGEMENT’S ACTION PLAN FOR IMPLEMENTING THE RECOMMENDATIONS OF THE COMPLIANCE REVIEW PANEL

CRP Recommendations	Action Plan
<p><i>Undertake a comprehensive air dispersion modeling study that includes the key pollution sources in the project area of influence and validate the predictions with actual air emissions and ambient air quality monitoring data. Develop an action plan based on recommendations from the modeling study and emphasize the potential for continuous monitoring and recording of air emissions and ambient air quality.</i></p>	<p>A Technical Assistance (TA), with the Asian Development Bank as the Executing Agency (EA) and the office of the Department of Environment and Natural Resources (DENR) in Cebu as the Implementing Agency (IA), will be undertaken. The TA will cover air quality monitoring, meteorological data collection and air dispersion modeling study, which will include the key pollution sources in the project’s area of influence and validate the predictions with actual air emissions and ambient air quality monitoring data to be generated from continuous monitoring and recording systems. The target date for TA approval is August 2012 and is expected to be completed by June 2014. In a meeting on 28 May 2012, the local DENR office has agreed to the concept of the TA.</p> <p>As ADB obtains findings from the air dispersion modeling study during TA implementation, the findings will be discussed with KSPC, the local DENR office, and the Naga City government and an appropriate action plan will be developed and implemented.</p>
<p><i>Undertake a comprehensive study on ash utilization at cement plants and the ready-to-mix concrete plant and implement plant-specific recommendations and EMPs. In addition, prepare and implement EMPs for the existing ash ponds and historic ash disposal sites.</i></p>	<p>KSPC produces about 135 tons/day of ash. KSPC has been temporarily disposing of its ash at the Naga Power Plant’s ash pond and KSPC’s existing onsite emergency ash pond (Ash Pond B). As the long term solution, since 2011, KSPC, with ADB’s guidance, has been developing a new ash management plan, consisting of (i) recycling of ash by a cement plant and a ready-mixed concrete batching plant, (ii) landfilling of unrecycled ash at secured ash ponds to be constructed within KSPC’s plant site, and (iii) as a backup measure, landfilling at a secured landfill facility located in a municipal waste management facility.</p> <p>KSPC is preparing the environmental impact assessment report and an environment management plan (EMP) for this new ash management arrangement. As part of this process, KSPC held a public consultation on 27 April 2012 and sought comments from the affected communities, government agencies, and civil society organizations, including Freedom from Debt Coalition, the requestor for the Compliance Review of this Project. While questions were raised particularly on the environmental impact, KSPC explained how its EMP will prevent and mitigate the impacts and no objections were raised to the proposal.</p> <p>ADB requested KSPC to submit the new ash management plan by end June 2012, together with environmental impact assessment report and other documentation. Upon ADB’s approval, KSPC will gradually transition to the new ash management arrangement from July to December 2012. During this transition period, KSPC will expand Ash Pond B and continue to dispose of its ash in this ash pond.</p>

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	<p>KSPC will be required to implement the EMP for its ash disposal activities, in addition to its existing EMP for the power plant. KSPC will continue to submit environment monitoring reports to ADB semi-annually and these reports will include information on ash disposal.</p> <p>With respect to the historical ash disposal sites, KSPC will install a concrete cover on the river bank to permanently prevent soil erosion, to be completed from July to November 2012.</p> <p>ADB will monitor KSPC's implementation of this plan.</p>
<p><i>Expand or complement the existing MMT to ensure representation of all communities directly affected and all appropriate NGOs and to facilitate transparent and inclusive communication and grievance redress.</i></p>	<p>Representatives of the project team will attend the quarterly multi-partite monitoring team (MMT) meetings.</p> <p>In a meeting with the local DENR office and Chairman of the MMT on 28 May 2012, ADB reiterated its request to include appropriate NGOs as members of the MMT or at least invite them to the quarterly meetings. The MMT Chairman will discuss ADB's request with other MMT members in the next MMT quarterly meeting to be scheduled in June 2012.</p> <p>In case the MMT declines ADB's proposal to include the NGOs or at least invite them to the quarterly meetings, ADB will ask KSPC to hold complementary meetings with the NGOs on a quarterly basis to update them on project developments and share minutes of the MMT quarterly meetings.</p> <p>ADB will also propose that MMT disclose to the public the minutes of its quarterly meetings to ensure transparency, effective and inclusive communication. If MMT disagrees, we shall ask KSPC to ensure that information on project developments and environmental and social impact mitigation measures are disseminated to the affected communities in an appropriate form and in the local language.</p>
<p><i>Implement a community outreach program focusing on preventing negative health impacts from air, water and noise pollution and potentially negative impacts from exposure to unprotected coal ash deposits.</i></p>	<p>During the public consultation on KSPC's ash disposal plan last 27 April 2012, KSPC agreed to enhance its information outreach and awareness programs/activities to inform the affected or potentially affected people on the project including its ash management plan and on precautionary measures to avoid any potentially negative impacts from air, water and noise pollution and exposure to coal ash deposits.</p> <p>ADB held an initial consultation with public health officials in Naga City on 26 April 2012. For a period of 1 year, ADB will hold quarterly meetings with the Naga City rural health units to continue and improve monitoring of the leading causes of morbidity in the project area, collect information and use</p>

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	<p>the data in providing inputs to KSPC's medical missions.</p> <p>ADB will ask the Freedom from Debt Coalition representatives to provide the names of local residents who they identified as suffering from health problems due to KSPC plant's operation. ADB will ask KSPC medical missions to help these patients.</p> <p>KSPC will install a concrete cover to permanently eliminate the risk of exposure due to deposits of 'unprotected' coal ash at sites of historical ash disposal at Naalad and Pangdan. ADB will further ask KSPC to conduct semi-annual medical mission to monitor skin/health related impacts due to such exposure in these neighborhoods and provide appropriate medical care.</p>