



Lao People's Democratic Republic
Peace Independence Democracy Unity Prosperity

Prime Minister

No. 471 /PM

Vientiane, date: 11 November 2010

PRIME MINISTER'S DECREE
ON THE MANAGEMENT AND PROTECTION OF NAKAI NAM THEUN NATIONAL
PROTECTED AREA AND NAM THEUN 2 WATERSHED AREA

- Based on Law on the Government of Lao PDR No 02/NA, dated 6 May 2003;
- Based on Law on the Forestry No. 06/NA, dated 24 December 2007;
- Based on Law on the Water and Water Resources, dated 11 October 1996;
- Based on Law on the Environment Protection No 02-99/NA, dated 3 April 1999;
- Based on Law on Local Administration, No.03/NA, dated 21 October 2003;
- Based on the Concession Agreement of Nam Theun 2 Power Project, dated 3 October 2002 and as amended thereafter; and
- Refer to the Proposal Letter of Governor of Khammouane Province, No. 190/KM.Gov., dated 28 October 2010.

The Prime Minister Issues the Decree:

Section I

General Provisions

Article 1: Purposes of the Decree

This Decree defines rules, regulations and principles on the management and protection of Nakai-Nam Theun National Protected Area and Nam Theun 2 Watershed Area. It further defines regulations of the operation of the Watershed Management and Protection Authority and the management of the use of the Fund to ensure sustainable management of the Nakai-Nam Theun National Protected Area and Nam Theun 2 Watershed Area.

Article 2: Definitions

The terms contained in this Decree have the meaning respectively ascribed to them:

Authority: refers to the Nam Theun 2 Watershed Management and Protection Authority established under the Prime Minister's Decree No. 25/PM, dated 26 February 2001 and amended by the Prime Minister's Decree No. 39/PM, dated 23 February 2005, and may be restructured or adjusted from time to time.

Board of Directors: refers to the board of members elected and appointed as provided under article 12 of Section III of this Decree.

Concession Agreement:

refers to agreements and conditions of concession granted to the developers to develop, the own and operate the Nam Theun 2 Hydropower Project by the Government of Lao PDR under the effective conditions of the Agreement, and approved by the resolution of the National Assembly of the Lao PDR No.76/ NA dated 12 October 2002.

Fund:

refers to the fund of the authority derived from the contribution of the NTPC under the Concession Agreement, and financial grants or technical assistances which the authority may receive as provided under Section VII of this Decree.

Implementing Agencies:

refers to agencies entering a contract with the Nam Theun 2 Watershed Management and Protection Authority for the execution of Management and Operational plans. Such agencies may be parties concerned, non-governmental organizations and private or other entities without limitation.

Socio-Environmental Management Framework and Operation Plan (SEMFOP):

refers to the complete Socio-Environmental Management Framework and Operation Plan (SEMFOP) in the Nakai-Nam Theun National Protected Area and Nam Theun 2 Watershed Area and adopted by the Board of Directors of the Nam Theun 2 Watershed Management and Protection Authority, that are defined to serve the purposes of the Authority in supplying basic information to acknowledge and understanding in relation to the Nakai-Nam Theun National Protected Area and NT 2 Watershed Area, natural resources, biodiversity wealth, the environment and multi-ethnic people, including any vulnerable ethnic groups that live in the area , and to define a detailed framework and program for the management/arrangement of the Nam Theun 2 Watershed Area.

Nakai-Nam Theun National Protected Area and Nam Theun 2 Watershed Area:

Shall include the following areas:

1. Nakai-Nam Theun Protected Area established under Article 24 of Forestry Law 2007. It has been determined and established under Article 1 of the Prime Minister's Decree on the Establishment of National Protected Areas in the whole country, No. 164/PM, dated 29 October 1993, and further defined in Article 3 of Prime Minister's Decree on the Establishment of Nakai-Nam Theun National Protected Area, Corridor Areas, Nam Theun 2 Project Reservoir Area, and Resettlement and Forest Areas for People Affected by the Project, No. 193/PM, dated 29 December 2000;
2. Northern Corridor Area connecting the Nakai-Nam Theun National Protected Area and Phou Hin Poun National Protected Area that has an area of 71,260 hectares as defined in Article 4 of the Decree 193/PM, dated 29 December 2000;
3. Southern Corridor Area connecting the Nakai-Nam Theun National Protected Area and Phou Hin Namnor National Protected Area that has an area of 3,310 hectares as defined in Article 5 of the Decree 193/PM, dated 29 December 2000; and
4. Special Conservation Areas comprising of streams alignments and valleys between mountains that may arise in the northern and southern source areas of the reservoir area on the

northeastern side of the border with the resettlement area; the various islands on the northeastern side of the corridor between the Nakai-Nam Theun National Protected Area and the Phou Hin Poun National Protected Area.

The demarcations, boundary and areas provided in this definition are shown in detail on the list of 417 topographic coordinate points on the attachment to this Decree and the boundary areas were determined in accordance with Article 5 of the Prime Minister's Decree on Nam Theun 2 Reservoir, No. 24/PM dated 13 February 2003. The detailed map and topographic points are attached to this Decree. The attached documents and boundary maps of the definitions above, shall be components of this Decree and shall not be separated from this Decree.

Nam Theun 2 Hydropower Project or Project: refers to the hydropower dam project comprising the Nam Theun 2 Dam and Reservoir, Power Station, transmission line system and associated infrastructure in the vicinity of the Nam Theun 2 Watershed Area.

Nam Theun 2 Reservoir or Reservoir: refers to the reservoir of the Nam Theun 2 Hydropower Project as defined in Article 6 of the Decree 193/PM, dated 29 December 2000 that has an area of 45,000 hectares and the highest level of the flooding is 538 meters above the sea level. The detail demarcation of the reservoir is defined in the map attached to this Decree.

Nam Theun 2 Power Company: refers to the Nam Theun 2 Power Company Limited established under the laws of Lao PDR to develop, own and operate the Nam Theun 2 Hydropower Project throughout the project's concession period and the official assignee following the expiration of the concession period.

Water rights of Nam Theun 2 Power Company: refers to the rights in using water, including waters sourced from the areas surrounding the reservoir, and as stored in the reservoir of Nam Theun 2 Power Company as provided by the Concession Agreement.

Reservoir Management Committee: refers to the authority specifically established in Nakai District under the guidance of the local administrative authorities to coordinate with all parties concerned in regard to all uses of water in the reservoir, for hydropower generation, development of fishery, water resources development, biodiversity conservation and other developments as defined in the Decree No 32/PM, dated 21 March 2008.

Objectives: refers to the objectives mentioned in Article 6 of this Decree.

Operational Plan: refers to the operational plan of the Nam Theun 2 Watershed Management and Protection Authority on the basis of coordination with and involvement of all parties concerned, and is approved by the Authority's Board of Directors for each fiscal year.

Secretariat: refers to the Secretariat of the Authority as provided at Section V of this Decree.

Parties concerned in the Nakai-Nam Theun National Protected Area and Nam Theun 2 Watershed Area:

refers to Ministries, Departments, Provinces, Districts and village administrative authorities concerned, including mass organizations and the people living in the Nakai-Nam Theun National Protected Area and Nam Theun 2 Watershed Area and other neighboring areas as defined in the Management and Operational Plan.

Involvement:

refers to the participatory process operated by the Secretariat of the Authority so that all parties concerned engage in informed involvement and receive information, make comments on the process of developing policies, project regulations, various recommendations on all issues relating to biodiversity conservation, environmental protection, and including the delineation of areas and land use planning within and around the Nakai-Nam Theun National Protected Area.

Peripheral Impact Zone (PIZ) or Adjacent Area :

refers to areas surrounding the Nakai-Nam Theun National Protected Area and Nam Theun 2 Watershed Area inhabited by ethnic groups, villages under the administration of Nakai, Gnommalat and Boualapha Districts of Khammouane Province, Khamkeut District of Bolikhamsay Province whose involvement and benefit will be sought from the implementation of activities included in the Authority's Operational Plan to ensure that the operation and the use of natural resources comply with the Authority's objectives; other areas with development projects, including processing industries, mining, road constructions are required to assess environmental impacts in accordance with the Prime Minister Decree 122/PM on Environmental Impact Assessment, date 16 February 2010 and to have consent from the Chairman of the Board of the Authority.

Article 3: Objective of the Adjustment of the Authority

This Decree is issued to adjust the organizational structure, role and legal status of the Nam Theun 2 Watershed Management and Protection Authority that was established under Prime Minister's Decree 39/PM, dated 21 February 2005 to decentralize the management, development and protection of the Nakai-Nam Theun National Protected Area and NT 2 Watershed Area as provided in the Concession Agreement of NT 2 Project to be implemented by local authorities.

Article 4: Nakai-Nam Theun National Protected Area and Nam Theun 2 Watershed Area

This Decree is also to defines Nakai-Nam Theun National Protected Area and Nam Theun 2 Watershed Area that expands the Nakai-Nam Theun National Protected Area established under Article 1(9) of the Decree No. 164/PM, dated 29 October 1993, to include two corridor areas, Northern and Southern Corridors, and Special Conservation Area.

Article 5: Role of the Authority

The Nam Theun 2 Watershed Management and Protection Authority or (WMPA NT2) is the leading agency responsible for a particular task established by the Government. Its role is to manage, develop and protect Nakai-Nam Theun National

Protected Area and Nam Theun 2 Watershed Area in cooperation and coordination with local administrations and divisions or department. The WMPA NT2 reports directly to the Prime Minister and it shall coordinate and cooperate with local administrations, local departments and concerned sectors both at local and central levels.

Article 6: Objectives of the Authority

The objectives of the Authority include:

1. To guarantee sufficient volume of water with low sediment load, flowing into or from the Nam Theun 2 Reservoir by protection and rehabilitation of forest areas in the Nam Theun 2 Watershed Area;
2. To fulfill the commitments of the Government under Government Letter of Implementation Policy, No. 198/CPI, dated 7 March 2005;
3. To perform the obligations of the Government as defined in the Concession Agreement of Nam Theun 2 Power Project specified as being the responsibilities of the WMPA NT2;
4. Preserve, and protect the natural biodiversity system and facilitate the maintenance and increase in naturally occupied populations of plants and animals in the Nakai-Nam Theun National Protected Area and Nam Theun 2 Watershed Area, particularly the conservation or multiplication of habitat of rare, endangered or near extinct bird and aquatic life species;
5. Capacity building and strengthening of the Authority and other parties concerned that are involved in the management and implementation of the Authority's activities;
6. Contribute towards and facilitate the improvement of the livelihoods of the multi-ethnic people living in the Nakai-Nam Theun National Protected Area and Nam Theun 2 Watershed Area, with a view to poverty reduction by defining activities and sustained development plans in a manner that does not exert a net impact on the environment, with the participation and consent of different ethnic groups in these areas;
7. Protect and acknowledge freedom of the multi-ethnic people that live within and around the Nakai-Nam Theun National Protected Area and Nam Theun 2 Watershed Area in their place of residence and movement as defined by the law; the Authority acknowledges the customary rights of the multi-ethnic people to use natural resources within the area that are consistent with regulations, laws and binding agreements with the Authority; and
8. Strictly manage the fund, (income, expenditure, cash reserve and other assets) and effectively use the Fund in order to realize the Authority's above-mentioned objectives.

Article 7: Scope of Jurisdiction

In order to protect and manage Nakai-Nam Theun National Protected Area and Nam Theun 2 Watershed Area to ensure sufficient water supply for the production of electricity of Nam Theun 2 Power Company and in order to protect biodiversity and forest in the Nakai-Nam Theun National Protected Area and Nam Theun 2 Watershed Area as in the Government Letter for Implementation Policy of the Government of Lao PDR to the International Financial Institutions and other international organizations, the Nam Theun 2 Watershed Management and Protection Authority shall have jurisdiction to regulate and supervise all projects, operations and activities taking places in the following areas:

1. Nakai-Nam Theun National Protected Area;

2. Northern Corridor Area;
3. Southern Corridor Area; and
4. Special Conservation Area.

In addition to these areas, the Authority shall have power and duty to make recommendations provide or withhold consent or advice to the relevant authorities on proposed projects or operations that will take place in surrounding or neighboring areas, which are likely to cause negative impact to the Nakai-Nam Theun National Protected Area and Nam Theun 2 Watershed Area.

Article 8: Prohibited, Restricted and Promoted Activities in the Nakai-Nam Theun National Protected Area and Nam Theun 2 Watershed Area

In order to achieve the above mentioned objectives of Article 5 of this Decree, Nakai-Nam Theun National Protected Area and Nam Theun 2 Watershed Area, shall have status as National Protected Area and the regulations under Article 24 of Forestry Law, No.06/NA, dated 24 December, 2007, and other legislation for the protection of national protected areas shall apply to this National Protected Area. This National Protected Area shall be further classified into total protection zones and controlled used zones as defined in Article 24 the Forestry Law No. 06/NA, dated 24 December 2007.

1. Prohibited Activities:

The following activities are prohibited in the Nakai-Nam Theun National Protected Area and Nam Theun 2 Watershed Area:

- Commercial logging;
- Hunting of aquatic animal and wildlife;
- Mining; and
- Destruction of forest for other objectives.

2. Restricted activities in the Nakai-Nam Theun National Protected Area and Nam Theun 2 Watershed Area:

The following activities are restricted and closely inspected in the controlled use zone:

- Customary utilization of resources;
- Household and livelihood utilization of resources.

3. Promoted activities in the Nakai-Nam Theun National Protected Area and NT 2 Watershed Area:

In order to promote the forest protection and conserve the Nakai-Nam Theun National Protected Area and Nam Theun 2 Watershed Area as provided in Article 5 of this Decree, the following activities are promoted in the Nakai-Nam Theun 2 Protected Area and Nam Theun 2 Watershed Area:

- Land conservation and river bank protection;
- Community development and livelihood improvement;
- Forest conservation and regeneration;
- Protection of biodiversity and wildlife conservation;
- Ecotourism in the form conservation and participation manner;

- Environmental friendly production of agricultural and forestry products and goods; and
 - Research and Study.
4. Investments and activities planned for the Peripheral Impact Zone of the Nakai-Nam Theun National Protected Area and Nam Theun 2 Watershed Area shall be subject to the socio-economic development plans of the Government and provinces and environmental and social impact assessment approval processes. Additionally, the relevant national and local authorities must seek a written opinion from WMPA regarding the activity's potential impact on the in the Nakai-Nam Theun National Protected Area and Nam Theun 2 Watershed Area prior to finalizing their decision.

Section II

Rights and Duties of the Authority

Article 9: Legal Status of the Authority

The Authority is the secretariat to the Government that has the leading role in the protection and management of Nakai-Nam Theun National Protected Area and Nam Theun 2 Watershed Area and it is a focal point for coordinating in the implementation of all other sector activities in Nakai-Nam Theun National Protected Area and Nam TTheun 2 Watershed Area. It has the right to summarize and prioritize proposed programs, plans and projects of concerned sectors and based on those documents to allocate the budget and technical assistance to support and assist the concerned sectors to implement them. It shall have the powers and duties to monitor and evaluate the implementation of those activities and to report to the Government.

Article 10: Powers and Duties of the Authority

The Authority shall have the following powers and duties:

1. Coordinate and manage all activities included in the Management Plan and Operational Plan according to the Authority's objectives;
2. Provide comments to the relevant authorities on all activities in the Peripheral Impact Zone surrounding the Nakai-Nam Theun National Protected Area and Nam Theun 2 Watershed Area that will impact the Authority's objectives, the environment in within and around the Nam Theun 2 Watershed Area;
3. Consult and lay out plans jointly with parties concerned in order to develop Management and Operational Plans, their implementation in compliance with the Authority's objectives;
4. Develop detailed annual budget planning based on the Management Plans and Operational Plans;
5. Coordinate, facilitate and finance, as necessary, the implementation of Management Plans and Operational Plans that are executed by Implementing Agencies;
6. Receive, disburse and record funds provided by NTPC and other donors to the Authority to be used for the implementation of activities accordingly to the Authority's objectives;
7. Coordinate with NTPC and the Reservoir Management Committee on issues relating to the water usage rights with and prevent any activity liable to affect such rights through the following measures:

- a. Develop regulations and system for authorizing and licensing that is effective in the Nakai-Nam Theun National Protected Area and Nam Theun 2 Watershed Area for different activities that may exert an impact on the Authority's objectives;
 - b. Enforce, monitor and control the application of regulations and license system effective in the Nakai-Nam Theun National Protected Area and Nam Theun 2 Watershed Area; and
 - c. Monitor and control the Authority's Management Plan and Operational Plan implementation.
8. Promote and encourage scientific surveys, technical research and information collection in the Nakai-Nam Theun National Protected Area and Nam Theun 2 Watershed Area, including the promotion of ecotourism;
 9. Cooperate with local administrative authorities and other parties concerned in applying laws and regulations liable to affect the Authority's objectives in the Nakai-Nam Theun National Protected Area and Nam Theun 2 Watershed Area, including Special Conservation Areas and surrounding locations in the implementation of duty in the aspect of forestry and forest land under the own responsible areas;
 10. Facilitate the improvement of living conditions for the multi-ethnic people living in and around the Nakai-Nam Theun National Protected Area and Nam Theun 2 Watershed Area aimed at poverty reduction through sustainable and environmental friendly development in ways that are consistent with the Lao Government's Letter regarding the implementation of policy on Nam Theun 2 Project;
 11. Enter contracts with different parties such as: hiring contracts with experts, universities, scientists and various conservation organizations in order to carry out research, implementation of activities, monitoring, and assessments in Nam Theun 2 Watershed Area and facilitate the implementation of the activities of the said- above parties;
 12. Purchase, own and sell movable and fixed assets;
 13. Receive assistance, donations and other assets, and to be the keeper and user of such assistance for investment and application in accordance with the Authority's objectives;
 14. Open and manage bank accounts under its own name within and/or outside the Lao PDR in order to receive and disburse money received in compliance with the regulations of the Bank of Lao PDR;
 15. Review, comment on and provide conditional or unconditional non-objection to proposed development projects in surrounding areas when such projects are deemed as liable to affect the Authority's objectives. In case of conflict the project proposing party shall submit such conflict to the Government for consideration or refusal of the project;
 16. In compliance with the laws of Lao PDR, the Authority has the right to perform its functions within and outside the Lao PDR and has the right to cooperate with the parties concerned or other individuals as deemed appropriate by its Board of Directors such as right for forest and forest land inspections in accordance with the scope of their responsibilities; and
 17. Exercise other powers and perform other duties that are consistent with objectives of the Authority and as approved by its Board of Directors.

The Authority's powers and duties described under this Article shall not be restricted by the local administrative authorities except national defense and security matters.

Section III

Organizational Structures of the Authority

Article 11: The Authority is composed of:

1. The Board of Directors;
2. Board's Committees; and
3. Secretariat.

Article 12: Members of the Board of Directors

1. The Board of Directors in the highest organ of the authority, and it has the following members:
 - 1.1 Governor of Khammouane Province Chairman
 - 1.2 Vice-Governor of Khammouane Province Vice Chairman
 - 1.3 Vice-Governor of Bolikhamsay Province Vice Chairman
 - 1.4 Director General, Department of Forestry,
Ministry of Agriculture and Forestry Member
 - 1.5 Head of the Cabinet of Water Resources
and Environment Administration (WREA) Member
 - 1.6 Director, Khammouane Province Agriculture and
Forestry Department Member
 - 1.7 Director, Bolikhamsay Province Agriculture and
Forestry Department Member
 - 1.8 Nakai District Governor Member
 - 1.9 Khamkeut District Governor Member
 - 1.10 A nominee of the Chief Executive Officer of Nam
Theun 2 Power Company appointed by the Board
of Directors of Nam Theun 2 Power Company
(as long as Nam Theun 2 Power Company funds the Authority) Member
2. The Authority may perform its rights and duties albeit there may be vacant positions within its Board of Directors;
3. Based on the conditions prevailing from time to time, the chairman of the Board of Directors may invite delegates from other agencies (including from non-governmental organizations or international organizations) to participate in meetings as observers or as members of standing committees or special subcommittees as described in Article 15 of this Decree; and
4. The Director of the Secretariat is not a member of the Board, but he/she is required to attend to all meetings of the Board of Directors and must perform his/her duty as Secretary of its meetings.

Article 13: Expenses of the Board of Directors

Members of the Board of Directors have the right to be paid for their expenses associated to the performance of their functions and other expenses arising from the Authority's activities.

Article 14: Replacement of Members of the Board of Directors

Members of the Board of Directors shall come from the positions in the concerned organizations and will be replaced in the following cases:

1. Temporary absence from Lao PDR or temporarily absent from their position;
2. Inability to attend meetings of the Board of Directors for some reasons; or
3. Inability to perform the tasks of a member to the Board of Directors.

The parties concerned are able to appoint other person to replace a member of the Board of Directors but shall provide the authorization to the replacement member in writing.

Article 15: Board's Committees

1. The Board of Directors will appoint a Standing Financial Oversight Committee to assist the Board of Directors in their supervision of the financial management of the Authority;
2. The Board of Directors may appoint special committees to study other issues and report the results of such studies and submit their proposals to the Board of Directors. Such special committees shall be dissolved when the assignment is completed or approved by the Board;
3. Committees are required to hold meetings as directed by the Board of Directors. In the absence of such directives, committees shall meet as they deem necessary; and
4. Decisions by committees shall not be considered as decisions of the Board of Directors, except they are approved and adopted by the Board of Directors.

Section IV

Meetings of the Board of Directors

Article 16: Annual Meeting of the Board of Directors

1. The Board of Directors will meet once at least year at a location within Lao PDR and at a date and time set by its Chairman;
2. Meetings of the Board of Directors will be convened by its Chairman and the date, time, venue and agenda of the meeting will be notified by the Secretariat to all members at least 15 days in advance; and
3. The work of the Board of Directors' annual meeting will include:
 - a. Listen to the annual report on the Authority's activities (including the independent monitoring and audit agency's report as provided under Section VII) which is presented by the secretariat and appointed by the Chairman or the Secretary of the Board of Directors;
 - b. Listen to reports regarding summary of annual financial statements that have been audited already;
 - c. Examination of other issues that are included in the meeting's agenda and were proposed prior to the meeting.

Article 17: Extraordinary Meetings

The Chairman, or 1/3 of the Board of Directors, may convene a meeting. The meeting's secretary is required to notify an extraordinary meeting to all members of the Board of Directors and in the notice, shall describe the meeting's agenda. The convened meeting shall not examine issues other than those included in its agenda.

Article 18: Quorum of the Board of Directors

All meetings shall require the presence of 2/3 of the Board of Directors to form a quorum in order to carry out the Board’s activities. No resolution shall be effective where the quorum is not achieved. If, within half an hour from the time set for the meeting’s opening, the quorum is not achieved, the meeting shall be automatically postponed to the following day at the same time and venue without requiring further notice. At the postponed meeting, the quorum shall require the presence of 8 members of the Board of Directors. Such meeting shall carry out the agenda originally set.

Article 19: Resolution of the Board of Directors

Any resolution at a meeting of the Board of Directors where the required number of members to form a quorum is present, shall require approval from two thirds of the members present at the meeting through vote casting within the Board of Directors.

Article 20: Disclosure of Interest of Board Members

1. Any direct or indirect financial interest held by members of the Board of Directors related to issues to be examined or considered by the Board of Directors shall be disclosed at the meetings of the Board of Directors as soon as possible after learning about the issues;
2. Any interest held by members of the Board of Directors arising from the occupation of a position that has allowed member to become a member of the Board of Directors or from the reason for appointment by an agency as mentioned under Article 12, Paragraph 1 is recognized and no need be disclosed;
3. Any disclosure of interest as mentioned under Article 20, Paragraph 1 shall be recorded in the minutes of meeting of the Board of Directors and, unless decided otherwise by the Chairman of the Board of Directors, the members concerned may not:
 - a. Participate to meeting when the Board of Directors is examining the relevant issue; or
 - b. Participate to the process of the Board’s decision making in relation with such issue.
4. Members unable to disclose their interest under Article 20, Paragraph 1 may be required to withdraw from the Board of Directors at the following meeting after the Board of Directors has learned of the said members’ violation of regulations. The formal motion for the said members’ removal shall require votes from members of the Board of Directors without the member’s concerned participation. On the other hand, such breach shall not render any resolution previously adopted by the Board of Directors invalid.

Article 21: Records of Meetings

1. The meeting’s secretary is required to properly record resolutions and the process of the Board’s meeting and the names of participants to the meeting and must send copies of the meeting’s resolutions and proceedings to the members of the Board of Directors within 7 days after the meeting; and
2. Board members who review and see that the records of the meeting are incorrect shall notify the meeting’s secretary and Chairman of the Board of Directors within 7 days from the receipt of a copy of the meeting’s records, and the Chairman of Board

shall ensure that such mistakes are duly rectified before endorsing the records by affixing his signature.

Article 22: Powers and Duties of the Board of Directors

The Board of Directors has the task to:

1. Promote the implementation of activities furthering the Objectives of the Authority;
2. Develop policies and administrative instructions for the activities of the Authority;
3. Coordinate with concerned sectors, local administrations, divisions or offices or organizations at central or local levels;
4. Monitor and control the Secretariat's activities as necessary;
5. Prepare and develop Management Plans, Operational Plans and annual budget planning prepared by the Board's Secretariat, and submit to the ordinary or extraordinary meeting of the Board for their consideration and adoption.
 - Monitor, control and evaluate the implementation of such Operational Plans to achieve the Authority's objectives;
6. Adopt regulations, licensing system for activities within the Nakai-Nam Theun National Protected Area and Nam Theun 2 Watershed Area as formulated by the Secretariat in relation to activities that may impact on the Authority's Objectives;
7. Appointment of an efficient investment managerial agency and application of capital that is not planned for use to make investment;
8. Define investment policy and recommendations on Fund management for professional investment manager to follow in his performance;
9. Appoint an Independent Monitoring Agency consistent with the Concession Agreement and an independent auditor of international standards to perform the activities as defined in Section VII in order to facilitate transparency and confidence building in management and implementation of activities carried out under the supervision of the Authority;
10. Appoint the Director and Deputy Director of the Secretariat of the Authority;
11. Appoint or recruit consultants or task force team to undertake studies or special tasks and report the results to the Board;
12. Define appropriate remunerations for the Director, Deputy Director and staff of the Authority's Secretariat, as well as for consultants and experts working for the Authority;
13. Report the progress of activities carried out by the Authority to the Government on a regular basis; and
14. Perform other activities consistent with the objectives approved by the Board of Directors.

Article 23: Powers and Duties of the Chairman of the Board of Directors

1. The main duty of the Chairman of the Board of Directors is to ensure that the Authority may effectively carry out its activities and achieve its objectives smoothly. Thus, the Chairman is required to:
 - a. Uphold the adherence to the Authority's regulations;
 - b. Chair meetings of the Board of Directors; and
 - c. Represent and carry out tasks on behalf of the Authority as advised by the meetings of the Board of Directors in period between its sessions.
2. In case of the Chairman or Vice Chairman is unable to attend the meeting of the Board of Directors; a Board member who is assigned by the Chairman of the Board

of Directors shall preside the meeting as assigned by the Chairman or Deputy Chairman. The Chairman is required to:

- a. Prior to the meeting of the Board of Directors:
 - Consultation with the meeting's secretary in the drafting of an agenda;
 - Review the correctness of the previous meeting's records that will be presented to the meeting for adoption; and
 - Review related or other documents to be presented at the meeting.
- b. Convene meetings as set under this Decree;
- c. Open meetings when it is deemed that the quorum is achieved and inquire about reasons for absence from the meetings;
- d. Sign records of previous meetings after ascertaining their correctness and after adoption by the meeting of the Board of Directors;
- e. Overall supervision of the meetings' proceeding and procedures as approved by the meeting and proposal for the adoption of some procedures deemed necessary by the Chairman and required to enhance the efficiency and effectiveness of debates and examination of issues and correct vote casting and recording of votes at meetings;
- f. Instruct the termination of activities outside the scope of responsibilities or mandate of the Authority or outside the scope authorized by law; and
- g. Close or postpone meetings when:
 - A proposal has been examined and voted on; or
 - All activities have been duly carried out; or
 - The meeting quorum is not achieved.

Article 24: Appointment of the Standing Member

The Board of Directors may appoint one of its members as the Standing Member to direct the Secretariat's activities in implementing its work at each stage.

Article 25: Powers and Duties of the Meeting's Secretary

The Secretary of the meeting of the Board of Directors has the following duty:

1. Send notices on Board Meetings to each member with appropriate advance time prior to the meeting or send such notices by registered mail to Board members at the office address of that member;
2. Prepare the agenda of each Board Meeting in consultation with the Chairman prior to the Board Meetings;
3. Record each meeting of the Board of Directors as required by Article 21;
4. Distribute quarterly reports of the Secretariat to the Board of Directors as provided under the Article 29, Paragraph 12;
5. Preserve information on all contacts with or made by the Authority and inform their contents to the Board of Directors; and
6. Keep the Authority's seal in safe.

Section V

Secretariat and Advisors to the Authority

Article 26: Status and Role of the Secretariat

The Secretariat is a permanent executive office to the Board to be in charge of day to day execution of all activities of the Board and has the rights and duties to coordinate with all concerned sectors and organizations, domestic and international, local and central levels as authorized by the Board.

Article 27: Location of the Secretariat

To facilitate the Authority's activities and communications in the Nakai-Nam Theun National Protected Area and Nam Theun 2 Watershed Area, the office of the Secretariat must be located at Nakai District, Khammouane Province.

Article 28: Organizational Framework of the Secretariat

The Secretariat is composed of its Director, Deputy Director, and some technical and support staffs.

- The Director of the Secretariat is responsible before the Board of Directors for:
 - a. The management and administration of the Authority's day-to-day activities as provided in general policies and specific directives of the Board of Directors; and
 - b. Due performance of various rights and duties of the Secretariat.
- The Board of Directors may occasionally appoint a person to perform tasks of the Head of the Secretariat during the latter's illness or absence. The person appointed to act as the Director of the Secretariat shall have similar duties as the Director of the Secretariat while performing functions of this position, and will receive appropriate remunerations approved by the Board of Directors.
- Technical and administrative staff of the Secretariat, may come from the government or contractual staff that meet the employment qualifications of the Authority, and when perform their duties in the Authority they shall not have status as Government staff and they shall be entitled to receive salaries, social security and other policy as determined by the Board and in accordance with the laws and regulations. For Government staff, when they return to their former office, they shall have salaries and other benefits under the Decree on Regulations for Civil Servants of Lao PDR.

Article 29: Powers and Duties of the Secretariat

The Secretariat's rights and duties are subject to the supervision of the Secretariat's Director and include:

1. Coordinate and carry out the day-to-day activities of the Authority in accordance with the general policies and specific directions of the Board of Directors;
2. Consult with parties concerned in a participatory process in the preparation, implementation and improvement of Operational Plans for approval by the Board of Directors;

3. Develop detailed annual budgets based on the Management Plans and Operational Plans for the Board for approval. Institute continual budget oversight, review and management to ensure funds are adequate for the successful implementation of the annual plans within the available funds;
4. Coordinate, engage, facilitate, monitor and control the implementation of the Management Plans and Operational Plans by the implementing agencies;
5. Enter into contracts on behalf of the Board of Directors as approved by the Board of Directors;
6. Ensure that all money received is deposited into the bank accounts as soon as possible;
7. Disburse funds for activities as defined in the Management Plans, Operational Plans and Annual Budget Plans approved by the Board of Directors;
8. Manage and control the implementation of activities that may impact upon the objectives of the Authority by:
 - a. Developing regulations for management of licensing system for activities within the Nakai-Nam Theun National Protected Area and Nam Theun 2 Watershed Area for approval by the Board of Directors following consultations with all parties concerned;
 - b. Enforcing and monitoring the implementation regulations, licensing system for activities within the Nakai-Nam Theun National Protected Area and Nam Theun 2 Watershed Area; and
 - c. Monitoring the implementation of Management Plans and Operational Plans in the Nakai-Nam Theun National Protected Area and Nam Theun 2 Watershed Area.
9. Promote and encourage scientific surveys, technical research and various data collection in the Nakai-Nam Theun National Protected Area and Nam Theun 2 Watershed Area and ecotourism;
10. Facilitate the development of methods for livelihoods of the multi-ethnic people the Nakai-Nam Theun National Protected Area and Nam Theun 2 Watershed Area that are sustainable and have [no] impact on the environment;
11. Keep proper accounts and records of activities of the Authority and ensure that these records are audited at the end of each financial year;
12. Prepare quarterly, semi-annually, and annually progress reports of the Authority for distribution to the Board of Directors. Such reports shall cover:
 - a. The progress of works and implementation of activities of the Authority in that quarter;
 - b. A summary of the financial plans and status of the Authority; and
 - c. Formulation of plans and budget of the Authority for the following quarter.
13. Perform other activities considered consistent with the objectives of the Authority and approved by the Board of Directors and under the direction and supervision of the Board of Directors.

Article 30: Staff and Advisors to the Secretariat

1. Based on the conditions prevailing from time to time, in order to allow the Secretariat to perform its tasks and responsibilities and when deemed appropriate by the Director of the Secretariat, the Director of the Secretariat may:
 - a. Engage or release administrative, technical and managerial staff as necessary; and
 - b. Engage experts and advisors.

2. With the approval of state organizations, the Director of the Secretariat may enjoy the services of officers or staff of government agencies based on mutually agreed terms and conditions; and
3. The Director of the Secretariat has the right to recruit staff & advisors from both the government and/or private sector in order to find the best qualified staff/advisor for any given position.

Section VI

Relation and Division of Power and Duties with other sectors

Article 31: Relation with other sectors

The relation between the Authority with other sectors is the coordinating relationship, in which the authority is the forum to present the objectives, strategy, plans, programs and projects of the Nakai-Nam Theun National Protected Area and Nam Theun 2 Watershed Area to other sectors to improve the capacity and understanding of other sectors and assisting concerned sectors to elaborate the objectives of the Authority into their programs, plans or projects in accordance with the contents and objectives of this Decree.

Article 32: Division of Powers and Duties

The Authority has power and duties to coordinate with concerned sectors in the implementation of their activities; it shall not have duties for direct implementation of activities that found under direct jurisdiction of concerned departments. Powers and duties to implement those activities shall be vested on the concerned sectors, local administrations, departments, offices or organizations who have rights and duties to implements their activities as defined in the relevant laws and regulations. The Authority has the right to engage private sector organizations, including NGO's, international and local organizations, unless there are relevant laws and regulation prohibiting the engagement of such activity to a private/non government organization.

Section VII

Budget and Activities of the Authority

Article 33: Establishment of Fund

1. The Authority's various activities are funded by:
 - a. Contributions from Nam Theun 2 Power Company as agreed under the Concession Agreement;
 - b. Grants obtained by the Authority from Government and public or private sources; and
 - c. Income generated from the investment of funds as determined in the investment policies and guidelines approved by the Board of Directors and set under Article 22, Paragraph 8. All such funds will be transferred into the Fund and form the Authority's Fund.
2. The Board of Directors is responsible for managing the Fund so as to ensure a reliable source for long-term funding for the Authority's activities;

3. To give effect to provisions of Article 29, Paragraph 6, the Board of Directors shall instruct the Secretariat to open and maintain bank accounts in the name of the Authority in the Lao PDR and abroad with the approval of the Bank of Lao PDR in the currency determined by the Authority and the Authority shall not be obliged to exchange one currency to another at all; and
4. The Secretariat shall deposit all money designated under Article 29, Paragraph 6 in the bank accounts and may disburse at all times from such bank accounts in the following cases:
 - a. Disbursement according to annual budgets approved by the Board of Directors;
 - b. Money that should be invested in accordance with investment policies and guidelines approved by the Board of Directors; and
 - c. Other payments authorized or under this Decree upon the signature of persons authorized by the Board of Directors and according to resolutions of the Board of Directors.

Article 34: Utilization of the Fund

- The utilization of the fund shall be in transparent, effective and accountable manner;
- The fund of the Nam Theun 2 Watershed Area, shall be only used to support the implementation of plans, programs, projects and activities taken place in the Nam Theun 2 Watershed Area;
- The fund shall be mainly used for the implementation of the Master Plan and the Socio-Environmental Management Framework and Operation Plan (SEMFOP);
- All proposed programs, plans and projects of concerned sectors which are implemented in the Nam Theun 2 Watershed Area that are eligible to apply for the fund shall be in conformity with and directly support the implementation of the Master Plan and SEMFOP;
- The implementation of the Master Plan and SEMFOP, including programs, plans and projects that have supports from the fund shall be subject to the reviews of the Panel of Experts and Independent Monitoring Agencies;
- Budget and technical supports shall be based on the levels of effectiveness and efficiency of the implementation of concerned plans, programs and projects.

Article 35: Qualifications for Annual Funding from NTPC

Proposed programs, plans and projects apply for annual funding from the WMPA shall meet the following qualifications:

1. Proposed programs, plans and projects shall obtain certifications from Panel of Experts and Independent Monitoring Agency;
2. Proposed programs, plans and projects shall be approved by the Board of Directors of the WMPA; and
3. The implementations of the proposed programs, plans and projects, shall be audited by the auditor or independent auditing company.

Article 36: Professional Investment Manager

The Board of Directors may engage a professional investment manager to assist in managing the Fund and investing the surplus according to the investment policies

and guidelines referred to in Article 22, Paragraph 8. The surplus funds may be invested in Lao PDR or abroad with approval from the Bank of Lao PDR.

Article 37: Non-Profit Authority

1. The Authority's assets and income shall be applied to further activities serving the Authority's objectives and its assets shall not be transferred or its income disbursed either directly or indirectly to members of the Board of Directors, except as remuneration for the performance of activities or expenses arose from the performance of duties on behalf of the Authority; and
2. The Board of Directors may outline policies to force the Secretariat to reduce the office and administrative expenses of the Authority.

Section VIII

Independent Monitoring and Audit, and Reports on the Authority and Activities and activities coordinated by the Authority

Article 38: Independent Monitoring of the Authority's Activities and various Activities Coordinated by the Authority

The Independent Monitoring Agency engaged by the Board of Directors shall meet international standards and monitor the activities carried out every year and evaluate the implementation of duties and activities of the Authority and activities coordinated by the authority and shall report the progress of implementation of duties and activities to the Board of Director. Such report should also be distributed to the local administrative authorities, central authorities and the parties concerned.

The Board of Directors, Secretariat and Implementing Agencies of the Authority shall extend cooperation and facilitation to the Independent Monitoring Agency including providing access to information, documents reflecting activities and access to relevant sites to effectively monitor and evaluate the activities carried out and coordinate by the Authority.

Article 39: Independent Audit of the Authority and Activities Coordinated by the Authority

The independent auditing agency engaged by the Board of Directors to audit its accounts shall meet international standards and audit the Fund on an annual basis and independently, and audit the financial transactions, accounts and records and data of the Authority by applying the internationally recognized account audit principles. The audit agency shall be entitled to access the records, documents and information relating to the Fund's administration, financial transactions and affairs of the Authority, including information relating to the Director of the Secretariat, Deputy Director of the Secretariat and staff of the Authority at all times as appropriate.

Article 40: Annual Report of the Authority to parties concerned

The Authority shall provide with an annual progress reports and annual monitoring reports and audit reports of the Independent Monitoring Agency and independent audit agency to the National Assembly, the Government, the National Environmental Committee, and donors and other parties concerned at their request.

The executive summary of such reports shall be made public through the media or website of concerned government authorities.

Section IX

Final Provisions

Article 41: Seal, Logo and Uniform

1. The Nam Theun 2 Watershed Management and Protection Authority has its own seal, logo and uniform to be used on the official activities which determined by the Board of Directors of Watershed Management and Protection Authority;
2. No person may use the Authority's seal without authorization from its Board of Directors; and
3. All documents bearing the seal will be signed by:
 - a. The Chairman and the Director of the Secretariat; or
 - b. Person, another member appointed by the Board of Directors to perform such work objectives.

Article 42: Implementation

Relevant ministries, committees (authorities) equivalent to ministries, various agencies, organizations and local administrative authorities concerned, have the duty to efficiently implement this Decree.

Article 43: Effectiveness

This Decree is effective from the date of its signing and replaces the Prime Minister's Decree on establishment of the Nam Theun 2 Watershed Management and Protection Authority No. 39/PM, dated 21 February 2005.

Prime Minister of Lao PDR

(Sealed & Signed)

Bouasone BOUPHAVANH