

## ADB's Responses to WAFED Letter of 27 June 2003

#	WAFED Concerns	Status
1	<p><b>a) Adequacy of documents and information provided to the local people during the feasibility study, Environmental Impact Assessment (EIA) process and project implementation</b></p> <p><b>b) Proper information center at the project site or in the Kathmandu where one can access basic and critical project documents and information</b></p> <p><b>c) Adequacy of documents or information kits produced by the project for wider public dissemination, especially in the Nepali language</b></p>	<p>a) The Project has used various methods of consultation/information during the EIA phase. First, a public notice was published in Nepali and English newspapers on 6 October 1999. The Notice sought opinions and suggestions from all concerned people on the scope of EIA. Second, several workshops were held at local and central level. Local level workshops were held between August and December 1999, where large number of stakeholders including beneficiaries, adversely affected people, and VDC/DDC representatives participated. At the central level, NGO Coordination meetings were organized during 1999-2000. Third, several formal and informal meetings and workshops were held locally throughout the EIA process. Fourth, around 1,137 households (HH) affected due to land acquisition were interviewed, and their concerns have been studied and incorporated in the EIA and Resettlement Plan (RP). Finally, the Government had sought suggestions and opinion of concerned people on the draft EIA report before approval of the EIA report. The summary EIA was translated into Nepali and provided to all the affected VDCs and municipalities in the Melamchi and Kathmandu Valleys during the same period. (Source: EIA 2000, Vol. 1, Chapter 10; Resettlement Plan, Vol. 1, Chapter 1, page 12). ADB welcomes your specific suggestions to further improve information dissemination.</p> <p>b) A Project Library has been set up in the MWSDB office in Kathmandu to serve as Public Information Center (PIC). Principle project documents are available in the library. Interested parties can read those documents in the library or request copies by paying a nominal fee. MWSDB also has its own website (<a href="http://www.melamchiwater.org">http://www.melamchiwater.org</a>) that provides various project-related information. Reports available online include: <i>Environmental Management Plan; Irrigation Water Uses in the Melamchi River; Flow Variation in the Melamchi River; Policy and Organizational Structure for Public Involvement Approach; and Executive Summary of EIA Report</i>. Other reports will be made public as they become available. ADB would like to know if you have experienced any difficulty accessing these documents and information.</p> <p>c) Various documents have been prepared in the Nepali language, including Executive Summary of EIA, MWSDB Resettlement Policy, EIA Scoping Document, Kathmandu Valley Water Supply and Sanitation Strategy, and Melamchi Water Supply Project Introduction and Annual Progress Report for the year 2057/2058. These documents are available in the PIC/library. Further, a leaflet outlining project components and MWSDB's resettlement policy was widely distributed locally during the feasibility study and preparation of Resettlement Plan. The MWSDB website also contains Nepali section that provides various project-related information in Nepali language, including Executive Summary of EIA. A new brochure (in English and Nepali) on MWSP is currently being prepared. This brochure will be used for the consultation sessions on the Kathmandu Valley Water Management Support Project, which is an integral part of MWSP. ADB would be happy to make copies of the brochure available. Several consultations on reforms in Kathmandu water management are planned over the next few months.</p>
2	<p><b>a) Whether sufficient consultation was carried out/ information given to the local/affected people on the Resettlement Plan and Social Uplift Program (SUP)</b></p>	<p>a) The affected people have been informed and consulted on the Resettlement Plan in various ways. First, the MWSDB Resettlement Policy has been distributed to each VDC in the Melamchi Valley during the preparation of resettlement plan. Second, the local people are being consulted during survey of land acquisition, when affected land parcels are identified and measured. Third, once the decisions are made to acquire particular land parcels, the respective landowners are informed through a Notice which is published in daily newspapers. Fourth, the Compensation</p>

	<p><b>b) Appropriate processes followed for the formation of Local Consultative Group</b></p> <p><b>c) Local Consultative Group not sufficiently consulted in decision-making processes or involved in any specific tasks</b></p> <p><b>d) Need for alternative plans for re-establishing such consultative groups, until local elections are held</b></p> <p><b>e) Sufficient involvement of local concerned groups or communities</b></p>	<p>Determination Committee (CDC) consults representatives of affected people before fixing the compensation rates. Fifth, project staff stationed in Melamchi Field Office inform the affected people on their compensation and other benefits, assist in filing request to MWSDB, if any, and provide other information as requested by the local residents. Finally, if affected people have any grievances, resettlement staff visit the land acquisition sites and meet concerned people to address the issues.</p> <p>During the formulation of SUP program, several local consultations were held in several VDCs in the Melamchi Valley to discuss the MDS and SUP. Further, meetings were also held at the district and central level, including NGO Workshops and Public Hearings. The SUP consultants, mobilized from March 2003, will continue this consultation process to update the SUP. The SUP includes regular consultation and information sharing with the local residents. Local NGOs will be hired to implement most of the SUP components, particularly for social mobilization. ADB would like to hear any specific suggestions on how the consultation processes could be further improved.</p> <p>b) The Local Consultative Group (LCG) comprised VDC Chairperson, VDC members from each Ward, two representatives (1 male and 1 female) from project-affected families (PAFs), and representatives from local schools and health centers. While VDC Chairperson and Ward members were legally elected people, PAFs' representatives were also chosen through community meetings held at local level.</p> <p>c) The Local Consultative Groups (LCGs) have been mobilized for various purposes. The LCGs were consulted during the survey of land acquisition and project affected people, including assessment of losses for the Main Access Road. The LCG representatives are consulted by the CDC before determination of the compensation rates. These groups play an important role in disseminating information to the affected people and in filing grievances to MWSDB on compensation issues. However, the absence of locally elected bodies has affected effectiveness of these LCGs.</p> <p>d) The Project is exploring measures to reorganize new LCGs given the current absence of local elected officials nationwide. At present, pre-existing LCGs are informally consulted, including their representation in the Community Issues Resolution Committee at the Project level to resolve the local problems.</p> <p>e) The Project has been holding periodic meetings with NGOs and concerned groups in Kathmandu. The Project has also started to meet local concern groups in the Melamchi Valley. For example, MWSDB and Project staff participated in a meeting locally organized by Melamchi Concern Group in Melamchi Pul Bazaar on 10 June 2003. Several other local NGOs also participated in this meeting. ADB would like to hear any specific suggestions on how the public involvement processes could be further improved.</p>
3	<p><b>a) Need for discussion in the EIA of assessment processes undertaken</b></p> <p><b>b) EIA should include directly affected or would be affected paddy fields on the reverse side of the river (in Duwachaur and Palchok VDCs).</b></p>	<p>a) The EIA process has been summarized in the methodology section of the EIA report. Similarly, the public consultation process has been summarized in Chapter 10 of the EIA report.</p> <p>b) The EIA has considered construction waste and spoil tips and includes adequate mitigating measures such as managed/controlled disposal of these. These mitigating measures have been incorporated in construction contracts to be followed by the contractors. Therefore, flooding on either side of the river due to dumping of construction waste and spoil tips is not expected to arise. However, MWSDB has committed that it would provide compensation for unanticipated effects/damage that arise during the construction. The resettlement plan also includes a provision that compensation will be paid for all losses retroactively, if any damage occurs to private property as a result of construction works.</p>

4	<b>Need to undertake a comprehensive assessment of water requirement for the Melamchi Valley in the EIA</b>	This issue was studied in the EIA, which concluded that a minimum 400 liters per second water flow from Melamchi Intake would be required to meet all present and future water needs in the Melamchi Valley. The Project has been following up on this study during the Project implementation, including regular monitoring of water flows at several places in the Melamchi River. Two study reports are publicly available on the MWSDB website, including <i>Irrigation Water Uses in the Melamchi River, and Flow Variation in the Melamchi River.</i>
5	<p><b>a) Should have a clear forecast of how much water will really be needed for Kathmandu in 10, 20, 30 or 50 years' time</b></p> <p><b>b) Need for a clearly defined legally binding document to be in place between the locals of the Melamchi Valley and the Kathmandu Valley, before any further commissioning of the project, to avoid potential water-sharing conflicts</b></p>	<p>a) There are several earlier studies estimating future water demands including the one carried out by Nippon Koei for the preparation of the Melamchi Water Supply Project (MWSP). Other major studies are listed in the Program Document of MWSP and available at the MWSDB library. These studies indicate a significant shortage of bulk water in the medium to long run. While future water demand estimates may vary slightly in the studies undertaken, ADB believes that all of these studies clearly justify the Project.</p> <p>b) Due to the still continuing absence of elected local officials nationwide, the process of establishing the so-called inter-basin water transfer levy agreement is delayed. ADB recognizes the importance of such an agreement and is assisting the Government in reaching an early agreement on this.</p>
6	<p><b>a) Melamchi Valley people not informed about the project till the construction of the access roads began</b></p> <p><b>b) Access road being constructed through the most fertile land in the Valley which could easily be avoided by taking the road through alternative routes in different places.</b></p> <p><b>c) Project needs to apply universal criteria for all those who were equally affected/displaced by road construction</b></p>	<p>a) There was prior consultation as explained in 1 and 2 above.</p> <p>b) The road from Melamchi Pul Bazar to Akashe Pul (16km) was aligned and already excavated by the Department of Roads in the past. This road was a general road and was not specifically intended for the Melamchi Project. The Melamchi Project has largely followed this already existing alignment and design to build the current road. The remaining 2km from Akashe Pul to Timbu was properly studied by the Melamchi Project to take the most appropriate route.</p> <p>c) The Resettlement Policy for the MWSP has set criteria for entitlements and compensation, which are also applied for the road construction. So far as different size of road width is concerned, road design has tried to reduce land acquisition requirements as well as displacement of houses along the access roads. As per this strategy, the width of the road in some places has been maintained to a minimum where the road passes through the existing settlement.</p>
7	<p><b>a) The affected people should be provided with the choice of land or cash adequate for resettlement in a new place</b></p> <p><b>b) Sufficient time should be given for the displaced to leave their houses, from the date of public notification</b></p>	<p>a) When affected people were asked compensation options during preparation of the resettlement plan, the majority of the respondents opted for cash compensation. Therefore, the Project has provided cash compensation for the affected people in lieu of their land and/or other properties. The land compensation rates have been fixed in consultation with the affected people. These compensation rates are several times higher than the existing government rates. The Compensation Determination Committee (CDC) decides the VDC-wise compensation rates based on the assessment of quality of land, proximity to roads, existing government rates and recent land transaction rates within the VDC.</p> <p>b) In line with the legal requirements, the affected house-owners have been given 35 days from the receipt of compensation for relocation from their original place. The Project has provided the affected households with displacement allowances equivalent to 270 days wages so that they could manage transitional arrangements such as renting living space until their new houses are built.</p>

	<b>c) People feel threats from the project of the use of army</b>	c) We recognize that the security personnel have been installed in the project area for ensuring security of the project effort. We have no knowledge of abuses by these personnel in the project area; however, if we receive any complaints of alleged abuses we would refer them to the Government. It may be noted that providing security for development activities throughout the country is the responsibility of the Government.
8	<p><b>a) How are the local people benefiting from the Project?</b></p> <p><b>b) Local people's demands of 10% sharing of benefits as per the Local Autonomous Act should be addressed and this issue of benefit sharing to be legally formalized.</b></p>	<p>a) There are several ways that MWSP can benefit the local residents in the Melamchi Valley. Affected people will be given priority in skills training and employment in the project construction works. The local residents will be assisted through the SUP program, which aims at sustainable development and poverty alleviation in the 14 VDCs of Melamchi Valley. The SUP pursues holistic and participatory development approach and consists of 5 different components, including Income Generation and Community Development; Rural Electrification; Health; Education; and Buffer Zone Development. The local residents, community organizations, and NGOs will be involved while implementing all these program components. Further, there is a provision of levy from water consumers of Kathmandu to the Melamchi Valley residents once the Melamchi water starts flowing to Kathmandu. The water levy will allow valley residents to capture benefits from the water flow that would otherwise simply flow downstream.</p> <p>b) Inter-basin water transfer levy, which is already in the Project framework, is an equivalent of profit sharing. ADB is assisting the Government in reaching an early agreement on this.</p>
9	<p><b>a) Adverse impact of the Project on irrigation canals and local water mills.</b></p> <p><b>b) Need for a clear and strict legal provision for the regular supply of water and proper compensation to these mills for their future income-loss</b></p>	<p>a) <b>Irrigation Canals.</b> The EIA has concluded that the existing irrigation canals will not be affected in terms of water availability. However, the EIA has expected that some structure improvement works may be required due to the reduced flow in the river after the river diversion. MWSDB will undertake mitigation activities in this respect under the Environmental Management Program.</p> <p><b>Water Mills.</b> Quite a number of water mills operate on tributaries upstream of the Melamchi River and, therefore, will not be affected at all. The EIA has considered the impacts on water mills operating by the Melamchi water. The minimum riparian flow of 400 liters per second at the intake site, which increases thanks to contribution from tributaries downstream, is expected to ensure that these mills can be operated as they are now. However, the Project has a policy to compensate any damage, including displacement of water mills, due to any unexpected event. There are also opportunities to switch the power source over to electricity after the Rural Electrification Program is implemented.</p> <p>b) Please see the response to Question 9 (a) above.</p>
10	<b>Need for consultation with the people in Kathmandu Valley about what is actually happening in the Melamchi Valley and the related issues of their concerns</b>	A number of consultation sessions have been held to date to keep concerned NGOs and civil society well informed. NGO Forum on Kathmandu Valley Urban Water and Sanitation has been playing an important key role in this regard. The latest session was held on 25 June 2003. Intensive consultation sessions are planned over the coming several months starting in late August.
10a	<b>Alternatives or option assessments made before deciding on Melamchi as the best option for the drinking water in the Kathmandu valley should be discussed.</b>	There were a number of good feasibility studies on the alternatives of bulk water supply for the Kathmandu Valley in the past, including the one done by Binnie and Partners in 1988 and another one done by Nippon Koei in 1989-90. At Project appraisal, ADB reviewed these previous studies and carried out its own economic feasibility analysis. Another ADB study,

		“Optimizing Water Use in Kathmandu Valley Project” which is nearing completion concludes again that in-valley bulk water supply alternatives are unlikely to be adequate in the long run.
10b	<b>What are the major policy and institution-related problems in water management system in the Kathmandu Valley?</b>	Establishing a reliable and efficient water utility with proper incentive framework is crucial for achieving better water supply service delivery. Other policy actions to address the current institutional problems include establishment of regulator, introduction of more efficient management through a performance-based management contract , levy agreement for the inter-basin water diversion, and groundwater licensing legislation.
10c	<b>Is privatization of the Nepal Water Supply Corporation and the water itself a good idea to address the present "crisis" of drinking water?</b>	The Government and the Donors believe that the currently proposed performance-based management contract for NWSC will have the best chance of success. This does not amount to privatization because the assets of the water utility will still stay with the Government and the ultimate responsibility of the water supply, including the determination of the tariffs, will remain under the Government. In essence, Kathmandu's water service remains as a public service, but with more accountable and efficient management.
10d	<b>Who will be the private sector and what will be its <i>modus operandi</i>?</b>	Competent and experienced international water supply operators will be invited to bid for the performance-based management contract. It is quite likely that Nepali counterpart professionals and firms will be required to make the scheme successful. Furthermore, the contract will include training program for the Nepali water utility staff.
10e	<b>Why are the donors rejecting the idea that the Melamchi water could be managed by the five municipalities of the Kathmandu valley as a public service rather than selling water as a commodity, and also run it in "profit" for cost recovery unlike the sole profit-motive of the transnational corporations?</b>	At the moment, the five municipalities lack experience in managing water supply services. It is, therefore, extremely risky to adopt such a municipal utility model and, thus, this model is not considered feasible in the medium-term for Kathmandu. However, distribution service licensing is being actively considered. Under this system, the distribution service within a particular neighborhood, previously unserved, could be carried out by the community itself or an entrusted service provider if all the residents agree to the arrangement and the community or service provider is proven capable of the task. In this case, the water utility will play the role of a bulk water supplier. Municipalities will also have a role on the Board of the water utility. Several successful examples of this type of provision exist in the Region.  ADB believes that appropriate pricing of the water is crucial for sustainable water management. The establishment of a proper incentive framework based on a reward/penalty regime focusing on customer satisfaction is the most promising approach. ADB also believes that cost recovery is very important and it is inappropriate to subsidize the water for Kathmandu Valley residents by the tax monies paid by outside-valley population. In effect, the user should pay for the resource consumed.
10f	<b>What are the other lending conditions that Nepal will be obliged to comply with and what are the impacts that they would have in the overall economy of Nepal and debt servicing?</b>	Key conditions include the establishment of new water utility, the establishment of regulator, signing for private sector involvement through a performance-based management contract, levy agreement for the inter-basin water diversion, and groundwater licensing legislation. ADB is assured of the project's continued economic and financial feasibility in the country's overall economy and with respect to the Government's debt servicing.
-	<b>ADB and the Nepali government need to apply the lessons learned from Kali Gandaki 'A.'</b>	ADB and the Government have agreed to organize a Joint Seminar/Workshop on Lessons Learned from the KGA Project. A proposal has been prepared that proposes both KGA and MWSDB persons address these issues. This program was conceived of several months ago, and is planned for 2003.

## Requests by WAFED at the Meeting with ADB and MWSDB on 12 June 2003

#	Requests	ADB Responses
1	<b>Release all project documents and information for the local people and the interested public (both in Melamchi and Kathmandu valleys), also in Nepali language.</b>	ADB will share upon request all project documents that can be disclosed under ADB's Policy on Confidentiality and Disclosure of Information (1994). Please access this policy and related information at ADB's website: <a href="http://www.adb.org/Documents/Policies/Confidentiality_Disclosure/default.asp">http://www.adb.org/Documents/Policies/Confidentiality_Disclosure/default.asp</a> and <a href="http://www.adb.org/Documents/Manuals/Operations/om52.asp">http://www.adb.org/Documents/Manuals/Operations/om52.asp</a> .
2	<b>Review and re-do the EIA with full information and public participation in advance to gain the prior informed consent of the local people, particularly for taking their water to Kathmandu.</b>	ADB believes that the EIA for MWSP has been prepared properly, and had a sufficient public consultation process. Nonetheless, ADB would like to hear about any specific shortcomings in the environmental management under MWSP as the EIA is only an initial step towards sound environmental management.
3	<b>Fully apply ADB's policy on compensation and resettlement, water, environment etc., including relevant Nepali laws and international obligations to defend the interests of the people and the ecology.</b>	ADB intends to monitor the MWSDB/Government in its implementation of agreed actions to ensure full compliance with ADB's applicable policies including those on resettlement, environment, etc. We would appreciate any information on performance so that appropriate parties can initiate necessary actions.
4	<b>Explain and ensure both direct and indirect benefits to the local people as well as for the country as a whole.</b>	ADB is assisting MWSDB to prepare further publications explaining the benefits of the project. Substantial information is already available in the MWSDB library and on-line. Further consultations with affected parties will be held. There will be further consultations to determine the amount of the levy from water consumers in Kathmandu Valley to the Melamchi Valley. Earlier economic analysis is shown in Appendix 11 of the RRP. ADB also intends to update the economic analysis to incorporate subsequent information as a part of the processing of a loan for the Kathmandu Valley Water Management Support Project. ADB believes that the benefits of the Project will be significant in terms of improved water supply and wastewater service delivery for the Kathmandu Valley residents, in particular the urban poor, which, in turn, will improve their environmental hygiene and quality of life. The Project will also set an important precedent of public enterprise reform and promote better governance in the urban water supply and wastewater sector for other urban areas of Nepal.
5	<b>Finalize and implement the SUP only after the direct and meaningful involvement of all the affected communities and the local government bodies and with their prior approval as against the current top-down and high-cost urban consultant-led approach.</b>	Implementation of SUP is an ongoing process subject to adjustments based on feedback from stakeholders. ADB believes that the SUP has been prepared properly and has had sufficient public consultation/involvement processes. Nonetheless, ADB is open to constructive suggestions for improving the SUP. The Government is exploring measures to reorganize new Local Consultative Groups (LCGs) in the current absence of local elected officials. However, at present, pre-existing LCGs are informally consulted, and have representation on the Community Issues Resolution Committee at the Project level to resolve local problems. ADB would welcome any specific suggestions in this regard.
6	<b>Create strong, independent and representative monitoring of SUP and other project-activities so that the problems like of Kali Gandaki 'A' will not be repeated.</b>	Agreed. There is a provision of "Social & Environmental Third Party Monitoring" under MWSP, which is meant for this purpose. ADB anticipates that this third party monitoring will start soon. ADB has proposed that MWSDB organize a workshop with the NEA to share lessons learned from the Kali Gandaki 'A' Project.
7	<b>Fully respect and apply the relevant WCD criteria and guidelines and other international framework to improve existing ADB policy standards and</b>	ADB follows its own policies rather than the WCD criteria, although many aspects of the Project's implementation are consistent with the WCD guidelines.

	<b>procedures throughout the project.</b>	
8	<b>Give up the idea of privatizing the water and/or relevant institution(s) and guarantee an access to water as a human right in an affordable price – not for profit but as a public service.</b>	HMGN and the Donors believe that the currently proposed water supply performance-based management contract will have the best chance to improve water service in the Kathmandu Valley. This is not a "privatization" as the assets of the water utility remain with the Government and the ultimate responsibility of the water supply, including determination of the tariffs, will be still under the Government. Water supply will, in essence, remain a public service. The Project is designed to ensure that the urban poor in Kathmandu Valley will have equitable access to a 24-hour piped water supply, which they currently do not have. ADB further believes, in order to achieve this goal, proper pricing of water is crucial. Without proper pricing, the investments necessary to bring water to all, including the poor, will not materialize.
9	<b>Release all option assessment reports, if it was ever done properly, and allow for their an open and public discuss and debate before implementing the project as the only best option for water supply in Kathmandu valley.</b>	Reports discussing option assessment, mentioned in 5a and 10a as well as others contained in the MWSP document list, can be found in the MWSDB library. As mentioned in the response to question 10a above, ADB believes that proper economic analyses were carried out through a number of past studies. ADB is also updating this economic analysis to incorporate updated information, as a part of the processing of the Kathmandu Valley Water Management Support Project. This report will be released to the public when available.
10	<b>Conduct a comprehensive and independent scientific study on whether the inter-basin river/water diversion is a good approach at all.</b>	ADB believes that the EIA and economic analysis for MWSP, together with the prior studies of in-valley and out-of-valley water supplies, have comprehensively and independently endorsed this inter-basin water diversion approach. While in-valley options can augment current supplies, they are unlikely to be adequate in the longer term.