

Social Compliance Audit Report

Project Number: 48423-001
June 2015

Tiwi and MakBan Geothermal Power Green Bonds Project (Philippines)

Prepared by a Third Party Consultant for AP Renewables, Inc. and the Asian Development Bank.

This social compliance audit report pertains to AP Renewables, Inc. The views expressed herein do not necessarily represent those of ADB's Board of Directors, Management, or staff, and may be preliminary in nature. Your attention is directed to the "Terms of Use" section of this website.

This document excludes information that is subject to exceptions to disclosure set forth in paragraph 97 (v) of ADB's Public Communications Policy 2011.

In preparing any country program or strategy, financing any project, or by 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.

PHI: Tiwi and MakBan Geothermal Power Green Bonds Project

Social Compliance Audit Report

JUNE 2015

PHI: Tiwi and MakBan Geothermal Power Green Bonds Project

Social Compliance Audit Report

Introduction

1. The proposed PHI: Tiwi and MakBan Geothermal Power Green Bonds Project (the project) aims to rationalize the capital structure, operational support and maintenance of two geothermal power plants in Luzon, the Philippines, namely, the Makiling-Banahaw Geothermal Power Plant (MGPP) and the Tiwi Geothermal Power Plant (TGPP). TGPP consists of three geothermal power plants located approximately 40 kilometers (km) north of Legazpi City with an installed gross generating capacity of approximately 234 MW. The MGPP is a complex of seven geothermal power plants located approximately 70 km southeast of Metro Manila with an installed generating capacity of approximately 442.90 MW. In July 2008, AP Renewables Inc. (“APRI” or the “Borrower”), which is a wholly owned subsidiary the Aboitiz Power Corporation (the “Sponsor”), won the bid conducted by the Power Sector Assets and Liabilities Management Corporation (“PSALM”) and acquired both MGPP and TGPP (the “Geothermal Complex”). ADB’s financial assistance is requested as a partial credit guarantee for up to 75% of US\$ 240 million equivalent in pesos project bonds and US\$ 40 million equivalent in pesos project loan. The debt will be used to partly refinance the equity capital infused for the purchase and rehabilitation of the power plants.

2. When APRI took over the Geothermal Complex in 2009, the power generating units were in disrepair and some of them were non-operational. APRI, as part of its obligation under the Asset Purchase Agreement, needed to rehabilitate Units 5 & 6 in Makban. APRI undertook the rehabilitation of the power generation facilities from 2011 to 2013 to ensure sustained power delivery and economic viability of the Geothermal Complexes.

3. This audit report is focused on social aspects of the project covering social safeguards, labor, stakeholder engagement, gender and development and APRI’s corporate social responsibility program (the “Report”). An ADB social safeguard mission visited the facilities of the Geothermal Complex in early January 2015. It held discussions with APRI personnel, community members in project areas, barangay representatives, and multipartite monitoring team members at both plants. It also visited several community social responsibility (CSR) programs. The Report summarizes the findings of the mission, discussions with APRI and literature review on the current status of land acquisition, resettlement, and other social aspects of the Geothermal Complex. Based on these findings, the Report recommends a course of actions to comply with ADB’s safeguard policy requirements.

II. Findings of the Audit

A. Social Safeguards

1. Information on Land

4. **The Geothermal Reservation Areas.** The Government of Philippine enacted the Republic Act No. 5092 in 1967 to set aside large land blocks in various parts of the country as geothermal reservations. In 1970, the Presidential Proclamation 739 demarcated 17,661 hectares of land as the Tiwi Geothermal Reservation in the Albay Province. Most of the reservations comprised human settlements, forests, irrigated fields and grassland. Land use in Tiwi geothermal reservation area continues to be agricultural, and people living in the reservation area are mostly farmers; and traders, fishermen, government servants, and industrial workers are also found in the area.

5. MGPP is located in the geothermal reservation area of 162,000 hectares declared by the Presidential Proclamation No. 1111 of 1977. PP 1111 of 1977 also stated that the geothermal reservation area would affect private land and other properties and that no acquisition of such lands should be done without obtaining prior consent and approval of landowners, as provided in national land laws. Land in the the Mak-Ban geothermal reservation area is mainly agricultural, but most of it is being used as residential, commercial, and industrial lands.

6. In 1971, the National Power Corporation (NPC) entered into a contract with Philippine Geothermal Inc (PGI), a subsidiary of Union Oil of California (UNOCAL), to generate electricity by using geothermal energy, collected in the form of underground steam from an area of 1,800 hectares which is about 10% of the Tiwi Geothermal reservation land. This area is located in the municipalities of Tiwi and Malinao. According to the contract, NPC, dealt with power generation and distribution. PGI took over the tasks of exploration and exploitation of underground steam, effluent handling, well operations, and steam delivery to NPC for electric power generation. Drilling and exploration of geothermal energy began in 1972.

7. PGI's responsibility to explore and exploit steam resources, develop and operate wells is now under Philippine Geothermal Production Company, Inc. (PGPC) owned (40%) by Chevron Philippines. For TGPP, PGPC operates 156 wells of which 66 (42%) are active (operational), 56 (37%) are idle (non-operational), and 34 are retired. The 97.4 km steam pipeline passing through mostly agricultural lands is operated and maintained by PGPC up to the agreed delivery point close to the premises of the TGPP.

8. **Land Occupied by the Geothermal Complex.** Commercial production began at MGPP in 1979 with an installed plant capacity of 110 MWe (Plant A, Units 1 and 2) which was increased to 220 MWe (Plant B, Units 3 and 4) in 1980, and 330 MWe (Plant C, Units 5 and 6) in 1984. Binary units totaling 15.73 MWe were installed in early 1994, and twin 20 MWe

generating units were added in 1995 (Plant D, Units 7 and 8)¹ and 1996 (Plant E, Units 9 and 10), bringing the installed capacity to 425.73 MWe. Commercial production at TGPP also commenced in 1979. TGPP has a combined installed capacity of 330 MW and comprises three power plants – Plant A, B and C, each with 2 units, rated 55 MW per unit. Currently, only Plants A (Units 1 and 2) and C (Units 5 and 6) are operational. Plant B's unit 4 was decommissioned in 1999, while Unit 5 was deactivated in 2003.

9. The MGPP assets acquired by APRI originally consist of 16 generating units, warehouses, office complex, laboratories and machine shops, associated with the operation and maintenance of the said generating units and tie-line facilities are located on 446 ha. of land. The TGPP assets originally consists of six generating units, the warehouses, office and housing complex, laboratories and machine shops, and tie line facilities, comprised of 119 ha of land.

10. **Past Land Acquisition and Resettlement by NPC.** NPC has acquired land for MGPP gradually as needed over a period of 20 years. Lands for MGPP plants A, B and C were mostly acquired during the period 1977 to 1981, plants D and E during the period 1982 to 1995 and 2001, and plant E in 2000. NPC's acquisition of land for MGPP physically displaced 57 households. These households self-relocated between 1995 and 1997. They were either informal settlers or occupants who have constructed houses with the permission from the titled landowners. The affected persons' dwelling units were simple and mostly built with light materials such as *nipa* and bamboo. NPC's Social Engineering Department (SED) assisted them in moving and finding alternative land to resettle. Informal settlers were not entitled to any compensation other than assistance in finding resettlement locations. Also in the 1970s, NPC filed expropriation cases for privately owned lands needed for TGPP. When the drilling started in TGPP several decades ago, about 47 informal settler families on NPC lands were temporarily relocated. They were given cash compensation, food allowance and transport facilities. They returned to the land at the end of drilling.

11. All land titleholders were offered compensation at market value and a resettlement plan was prepared as per the national land laws in 1992. In accordance with national legal requirements and procedures, NPC filed land expropriation requests in courts. Courts approved the expropriation of land upon the payment of fair compensation equivalent to fair market price.

12. The NPC after acquiring land for geothermal plants and their ancillary facilities did not block the access of villagers in nearby communities to vacant reservation lands for various purposes including land cultivation. As a result, from the beginning, there has been harmony and peace between the power plants and its surrounding communities, except for a mild initial resistance from local communities to the establishment of the Geothermal Complex in the vicinity of their communities. Where there are landowners who disagreed with the sum of compensation or who dispute ownership claims of applicants for compensation, they had full recourse to legal arbitration according to the laws and procedures applicable to such issues.

¹ Construction of Plant D, Units 7 and 8 was financed by ADB.

13. Land acquisition was undertaken by NPC long before ADB's Safeguard Policy Statement (2009). The payment of replacement value in place of or in addition to market value of acquired property as required is not a feasible action. Moreover, at the time of land acquisition, NPC was unlikely to have anticipated that they will obtain ADB's financial assistance for the TGPP and MGPP plants. APRI was not involved with compensation issues of project-affected persons. The responsibility for dealing with these issues rests with the landowner, PSALM/NPC, i.e. the Philippine Government and not APRI.

14. After winning the bid for the Geothermal Complex in 2008 and takeover in 2009, APRI acquired leasehold rights over some of PSALM owned lands covering the Geothermal Complex. Although APRI has the right to acquire the leased lands from PSALM, APRI has not exercised said right and no leased lands has yet been acquired for the project. APRI has no immediate and definite plan for buying any leased land for rehabilitation or expansion.

15. Most of titling of land lots is 'in progress' which means it is incomplete and is in different stages. These stages include processing NPC titles with Registry of Deeds (RD), processing issuance of NPC title with RD, and 'filing with RD third party land', 'pending in Land Registration Authority (LRA)', 'pending in courts' and 'for filling in courts'.

16. The delays in land titling and the complexity of the exercise have not affected APRI's power generation at Tiwi-MakBan. APRI further confirmed that the facilities located on non-titled lots are not vital to the operations of the plants.

17. **Leasing of Geothermal Complex Lands to APRI.** Upon winning the bid for the acquisition of the Geothermal Complex, PSALM and APRI also signed a 25-year Land Lease Agreement (LLA) for the lands necessary for the operation of the Geothermal Complex. The LLA is renewable upon mutual agreement. APRI, in 2009, leased TGPP and MGPP, located on an area of 703 ha in 1,274 land lots from PSALM. The land lots are divided into two categories, namely, 'leased' and 'adjoining'. 'Leased' lands are where power generating plants and geothermal facilities are located. 'Adjoining' lands are the land that hold parts of MGPP and TGPP facilities, but not included in the LLA. 'Leased' lands comprise of 1011 lots with total area of 544.9 ha, and 'adjoining' lands comprise of 263 lots with a total area of 158.5 ha.

18. PSALM has the option to sell all or any portion of the leased premises to APRI. According to the lease contract, PSALM continues in its efforts to complete the land titling pursuant to its LLA. Failure by PSALM to protect APRI's possession will be a ground for the termination of the lease contract. The titling is being monitored by APRI with PSALM and NPC.

19. **Informal Dwellers on the Geothermal Complex Existing as of the date of Takeover by APRI in April 2009.** NPC and PSALM conducted an inventory of the informal dwellers found within the Geothermal Complex including certain areas within the geothermal reservations prior to the date of turnover to APRI (the "2009 Inventory").

20. Under the LLA, APRI is not responsible for removing the informal dwellers identified in the 2009 Inventory.

21. Informal dwellers on TGPP land have not posed a challenge to project operations and as a result, APRI has not taken any action to remove them from the project land. In fact, if APRI wants to remove them, the responsibility falls on PSALM, as it is responsible for land titling, registration of plots and handing over unencumbered land to APRI.

22. The informal dwellers have so far not posed any challenge or obstruction to MGPP's operations or access to facilities. APRI built a new administration building beside Plant A on a piece of vacant land leased in from PSALM. APRI has not built or plan to build any other structures on the leased in land where encroachments are found.

23. There are informal dwellers who cultivate crops on project land.

24. A good indicator of the power plants' amicable co-existence with the community, is the low number of court cases involving community dwellers. According to APRI, there are only 29 court cases which are pending resolution. Of them only 5 (17.2%) are criminal cases involving petty theft and 2 (6%) are land compensation against NPC/PSALM (Table 3). The others are regulatory, administrative, and labor management issues.

25. APRI 'inherited' the issue of informal dwellers from NPC and PSALM when the lease contract was signed in 2009. The LLA however requires the lessee, APRI, that within 180 days from the termination of the lease agreement, "...to free the leased premises of all unauthorized occupants who, during the term, have been permitted, allowed, tolerated, with the consent or through the negligence of the lessee or whose presence have been acquired through force, intimidation, stealth or threat or strategy." The "unauthorized occupants" exclude those who were identified to be included in the 2009 Inventory and who are the responsibility of PSALM.

26. As part of its obligation, upon takeover, APRI informed barangays of its status as legal occupant of the premises by virtue of the Asset Purchase Agreement and the accompanying Lease Agreement with PSALM. As it is obligated to secure the premises under said agreements, APRI has contracted a security team to regularly inspect its premises and monitor activities of informal dwellers. The security team reports activities of informal dwellers to the legal team and agreed procedures should there be a need to remove informal dwellers from areas needed by APRI for its operations.

27. It is important to note that APRI's procedures is premised on the negotiated settlement in which APRI, local authorities and affected informal dwellers will take part. APRI never uses force under the protection of national laws and regulations in removing informal dwellers. APRI endeavors negotiate an amicable deal with them and to move them as voluntary resettlers.

28. At present, APRI has no known plans to construct new or additional plant infrastructure, expand the power generation activities or implement activities requiring the premises with encroachment to be cleared of informal dwellers. Therefore, the presence of informal dwellers will not pose a risk or threat to the project or its current and future operations.

29. If APRI in the future decides to clear the leased premises of informal dwellers in order for any activity necessary for TGPP and MGPP operations to take place or in order to secure the safety and security of the plant facilities and the community, APRI will push to follow the procedures set in the Appendix.

30. If there are any unanticipated project impacts on non-titled persons and if they are deemed as eligible affected people by ADB, APRI and ADB will follow the procedures agreed upon in the Appendix. Appropriate measures will be taken to ensure that the following key objectives of the SPS would be met (i) enhance, or at least restore, the livelihoods of all displaced persons in real terms relative to pre-project levels; (ii) improve the standards of living of the displaced poor and other vulnerable groups.

31. **Associated Facilities on Leased Premises.** Steam resources required by the Geothermal Complex are produced by Philippine Geothermal Production Company, Inc. (PGPC) under a renewable energy service contract between PGPC and the Philippine government which expires in 2038. Under the service contract, PGPC is responsible for developing new wells, operating and maintaining production and re-injection wells and steam pipelines. For MGPP, PGPC has 97.4-km long pipelines passing through seven barangays² which for the most part follow the internal roads, occasionally passing through fields and fishponds. The MakBan steam field has a total of 120 wells of which 87 are active (operational), 17 wells are idle (non-operational), and 16 are retired. While the wells and ROW for the pipelines are included in the leased premises, PGPC in its agreement with the Philippine Government has full access to these facilities which are needed for steam production.

32. Where APRI is made aware of PGPC activities affecting informal dwellers, APRI shall comply with its obligations on its part in the safeguards and social provisions described in the Appendix. For the avoidance of doubt, APRI shall not be responsible for impacts arising from actions of third parties and where such actions (i) are not through any action, recommendation or activity of APRI (including the financing by APRI of any such action or activity) or (ii) are in relation to facilities not owned by APRI or land that is not in the project area. APRI shall notify ADB if and when APRI becomes aware that any such activities are being planned or implemented by such third parties. If detailed information is available, APRI shall, where possible, provide information in relation to such third party activity, including any potential impacts, affected households, and timeline for the implementation of activity

B. Indigenous Peoples

33. There are no indigenous peoples on MGPP and TGPP lands or in their vicinity. In TGPP, Agta tribal people live in Maynonong of Tiwi Municipality area. TGPP's leased lands do not include their ancestral lands. The population is overwhelmingly Tagalog by ethnic affiliation and mother tongue. The rest who are non-Tagalog included Bicolanos, Cebuanos, Ilonggos,

² Bitin, Bay and, Limao, Calauan in Laguna, San Felix, Sto. Tomas,, Sta, Elena, Sto, Tomas, San Jose, Sto, Tomas, San Pedro, Sto Tomas, and San Vicente, Sto. Toman in Batangas.

Ilokanos, Kapampangans, and Pangasinenses. As no indigenous peoples have been nor will be affected by the TGPP and MGPP operations at both locations, the Project is categorized as 'C' for impacts on indigenous peoples.

C. Labor and ADB's Social Protection Requirements

34. At the time of takeover, APRI conducted a Town Hall meeting in TGPP and MGPP to discuss APRI's corporate outlook as well as plans for NPC personnel. APRI assessed the capacity of various departments to absorb employees and found that MGPP and TGPP workforces had more than what is needed to efficiently run the plants. There were a number of personnel who were over 60 years. The pre-employment test also revealed that several personnel were suffering from communicable diseases (e.g. Hepatitis B and tuberculosis). There were 83 employees that voluntarily availed of the separation package of salary of 5+1 month. In addition, 15 were found to be unfit to work and 22 personnel were transferred to other business units and of them 8 were ex-NPC personnel.

35. During the period following the takeover, plant employees' competence and qualifications were assessed and skills mixes were identified according to the requirements of the new operational structure. At the end of 2009, 286 staff in TGPP and MGPP were regularized and given salaries equivalent to their previous salaries and a benefits package which was compliant with national labor laws (e.g. 15 days paid leave, SSS, medical and life insurance (full coverage) for staff and qualified dependents. Since then and given natural decline of steam resulting in the redundancy program in TGPP in 2013, APRI's manpower now stands at 260 staff members as of end 2014.

Table 4: Permanent Residence of APRI Employees of MGPP and TGPP

MGPP		
Location	No	Percentage
Bay/Caluan/Santo Tomas Bay, Laguna, St Tomas, and Batangas	61	37
Other areas of Laguna	56	34
Other areas of Bantagas	13	08
Outside Laguna/Batangas	36	22
TGPP		
Tiwi/Tabaco	41	60
Other parts of Albay	13	19
Outside of Albay	14	21

As of January 2015, APRI

36. As table 4 shows, the majority of MGPP and TGPP employees lives close to the project sites. In MGPP, 37% lived in Bay, Calauan and Santo Tomas Barangays, and 42% of them live in other parts of Laguna and Batangas Provinces. In TGPP, 60% of employees have their permanent residences in Tiwi and Tabaco areas and only 21% live outside the Albay Province.

37. With respect to compliance to internationally recognized core labor standards (CLS), the audit finds no incidence of forced labor or child labor in any of TGPP and MGPP operations. APRI complies with national labor laws which are consistent with CLS. APRI's current workforce composition is a result of meeting the qualifications required by employment. It neither promotes nor discriminates against women in providing employment. To date, 59 (23%) employees of APRI are women mostly comprising rank and file staff (80%). APRI has a collective bargaining agreement with the labor union in MGPP. Labor relations will be carried out in accordance with national laws and international best practice.

D. Stakeholder Engagement

38. APRI adopted the stakeholder engagement framework of its mother company, Aboitiz Equity Ventures, as its own stakeholder engagement framework. APRI started the stakeholder mapping in end 2014. A stakeholder relationship management seminar was conducted in May 2015 and they are in the process of finalizing the stakeholder map.

39. Following the Aboitiz Power strategies, APRI considers stakeholder engagement as one of the four avenues of achieving the status of world class energy operations. The other three pillars are execution excellence, build human capital, and grow the business. Stakeholder engagement is a strategic function and responsibility of APRI.

40. Stakeholder engagement is operationalized as a comprehensive actionable framework based on best practices. It has 8 components, namely, stakeholder identification and analysis, information disclosure, stakeholder consultation, negotiation and partnership, grievance management, stakeholder involvement in project monitoring, reporting to stakeholders and management functions. Once approved, APRI will implement this framework by establishing relationship assignments, stakeholder consultations, completing a representative sample surveys and implementing programs. In 2016, APRI will assess stakeholder engagement level and perceptions.

E. Stakeholder Grievance Mechanism and the Multipartite Monitoring Team

41. APRI does not have a formal grievance redress policy. But amicable relationships have been maintained with the surrounding communities through benefit sharing and continuous dialogue. It deals with grievances through project monitoring committee and stakeholder consultations. Grievance redress thus comes under stakeholder engagement which is a strategic function and responsibility of the entire organization. This strategic function is operationalized through a comprehensive actionable framework which is based on best practices. Most of grievance resolution takes place through multipartite monitoring Team (MMT).

42. APRI will target to formulate the Stakeholder Grievance Mechanism (SGM) Policy and Procedures by December 2015. It is to manage stakeholders' grievances, issues, concerns,

problems and claims (perceived or actual) on APRI's operations, projects, and activities (COPA). The policy once approved will be implemented accordingly.

43. An avenue for community involvement in the project is through its Multipartite Monitoring Team (MMT) at each plant. The MMT comprises representatives from NGOs such as *Samahan ng Maliliitna Mangingisda ng Putsan, Kalipunan ng LipingPilipina* (MGPP); and Senior Citizens Association, Rotary Club, *Sagip-Ilog* (TGPP), community leaders, local residents, local government officials, and technical experts from government agencies (e.g., DENR). The MMT meets quarterly to discuss a variety of environmental issues, including review and validation of air and water quality monitoring data. Its key functions are validation of the projects' compliance with mandatory environmental activities, processing of and recommending resolution of complaints, and ensuring compliance with social and environmental requirements. It has four technical working groups or sectoral monitoring teams, namely, air, water, bio-physical (waste handling) and socio-economic (focus on SDP/CSR). The function and procedures of each committee is listed in the Manual of Operations. Committee members rotate annually or as agreed by the team, sharing experience with each other.

44. According to the MMT member, in 2014, MGPP's MMT received only one complaint. Usually complaints are regarding noise and health hazards. Several years ago, several households who live close to the power plant complained that their corrugated roofs were rusted because of steam and its sulfur content. 300 roofs were replaced because of corrosion. In recent years, compensation for corroded roofs was not paid because houses were not within 200 meters from power plants. Some claimed compensation twice producing bogus receipts.

45. Discussions with several members of MMT of TGPP and GBPP indicated that MMT is appreciative of efforts on continuing information dissemination and consultation with communities on environmental impacts of the geothermal power generation and community involvement in finding solutions and measures to address these concerns e.g. H₂S, risks from pipeline blowout and from steam emissions from unplugged, abandoned wells.

D. Benefit Sharing

46. **Corporate Social Responsibility.** Before APRI leased TGPP and MGPP, NPC and PGI/Chevron had a program to support the communities, households, and barangays in their vicinity. Through their own corporate social responsibility programs and through E.R. 1-94 mandated activities, they complemented the LGU mandate of local development in the areas of infrastructure project assistance, health services, livelihood, environmental resource/watershed management, education, and sports. A perception survey on the implementation of NPC's Social Development Program was conducted in 2006. It showed that while communities around the plant are aware of the environmental impacts of plant operations, they still prefer the presence of power plants because of numerous benefits that they received such as employment, free medical and dental services, school scholarships, training in alternative livelihoods and free electricity. Most respondents were aware and appreciative of infrastructure

projects such as access roads, day care and health centers, barangay halls, schools, water systems.

47. APRI has continued these community development activities as part of its corporate social responsibility (CSR) program. As the table 9 shows, APRI spent Peso 190 million on community development projects between 2009 and 2014. The key areas of development support are education, enterprise development and microfinance, sustainability, primary health care and childcare, and corporate donations.

48. APRI's CSR program has 2 key focus areas: community development initiative and stakeholder engagement. These are being achieved through mutual trust, good reputation, and a dialogue with communities, and stakeholder participation.

49. Stakeholder participation is being obtained through a framework of cooperation which is based on collaboration, leveling of expectations and issue resolution mechanism. The framework focuses on impacts through intervention. The 3 major areas of intervention (3Es) are education, financial support and environmental sustainability. CSR finds livelihood development is the hardest intervention and has already helped USWAC, livelihood development cooperative and fishermen wives cooperative.

Table 5: CSR Programs from 2009 to 2014

Focus	Projects	Description
Education	113	Classrooms, scholarship program, capability building, books and laboratory facilities
Enterprise development and Microfinance	2	Agricultural production – bamboo seedlings
Sustainability	9	A-Park, adopt a river, summer youth camps and Clean and Green School competitions
Primary healthcare and childcare	20	Dental, medical, optical, and minor surgical missions, and capability building
Corporate donations	232	Office equipment, corporate sponsorships and construction materials
Total	376	

Source: APRI 2015

50. In 2015, the CSR program has been focused on 39 projects and APRI has allocated Peso 20.36 million for the projects. The key activities will be education (15), enterprise development and microfinance (3), sustainability (1) and corporate donations (21).

51. In 2013, APRI built a 'Cleanergy Center' at MGPP. It provides a venue for educational facilities focused on energy. Its various displays explain energy theory and practice through an interactive display program. Since 2013, 14,487 guests have visited the center.

52. Field visits to several CSR programs showed that the programs are well focused on local needs and are well received by local population. The primary education programs are popular. At two schools, the mission witnessed how this program is conducted. The facilities and ambiance in classrooms are modern and conducive to applied learning. Teachers in charge of the program are well selected and trained.

53. APRI also contributes to local employment by requiring all its contractors to hire 40% of its workforce from qualified local residents. To increase the chances of employment of local residents, APRI will work in partnership with local contractors to conduct vocational training for interested local residents.

54. **National Wealth Tax.** The Republic Act No. 7160 (Local Government Code of 1991) requires that TGPP and MGPP contribute 1% of their generated revenue as national wealth tax. Under RA 7160, the host provinces are entitled to a 20% share of the national wealth tax, while the host municipalities are entitled to a 45% share and the balance 35% goes to the host barangays. As required under RA 7160, 80% of the proceeds were applied solely to subsidize the cost of electricity in the host local government units. The remaining amounts were used to finance local development and livelihood projects in the area.

55. **Benefit Sharing under Energy Regulation No. 1-94.** The Department of Energy Regulation - ER No. 1-94 - requires the Generation Company to set aside one centavo per kilowatt-hour (P0.01/kWh) of the total electricity sales as financial benefit for the host communities of such Generation Facility. These remittances are allocated as fund sources for electrification, development and livelihood and reforestation, watershed management, health and environment enhancement projects. Host communities of MGPP includes seven Barangays, three Municipalities, two Provinces and Region 4A - CALABARZON. TGPP covers 16 barangays, one Municipality, one Province and the Region 5 - Bicol, as host communities. APRI will comply with the requirements of ER No. 1-94 and continue to provide the said funds to the region, province, municipality and *barangays* that host TGPP and MGPP.

III. Conclusions and Actions Required

A. Social Safeguards

56. **Past Land Acquisition and Resettlement by NPC.** Land acquisition was undertaken by NPC long before ADB's Involuntary Resettlement Policy of 1995 and Safeguard Policy Statement (2009). APRI has only leasehold rights over some of PSALM land and was not involved with compensation issues. APRI has neither increased nor currently plan to add more land to its current leased land area. Therefore, past land acquisition and compensation issues of

the Geothermal Complex do not come within the purview of ADB's involuntary resettlement policy framework.

57. At present, land titles of 13% of TGPP and MGPP lands acquired by NPC are registered in the name of NPC/PSALM, 3% are registered in the names of third parties, and 17% of lots are still unregistered. While there are delays in land titling due to the complexity of the exercise, this has not affected APRI's operations.

58. The debt component of the proposed ADB financing will be utilized to partly refinance the equity capital infused for the purchase and rehabilitation of the power plants. There are no plans to acquire any additional land for either TGPP or MGPP. APRI is also not exercising its option to purchase the adjoining lands from NPC as per the LLA.

Action required: *No action required on past land acquisition undertaken by NPC. APRI to monitor the land titling process being undertaken by PSALM and report the status to ADB.*

59. **Encroachment on the Leased Premises** Informal dwellers have encroached into peripheral land where there is no plant infrastructure. At present, APRI has no known plans to construct new or additional plant infrastructure, expand the power generation activities or implement activities requiring the premises with encroachment to be cleared of informal dwellers. Therefore, the presence of informal dwellers will not pose a risk or threat to the project or its current and future operations. If at all there is a possibility of affecting encroachers on the leased premises (i.e. encroaching on the ROW of the access road), it is only when the steam provider, PGPC, would be required to bring large equipment and machines to the drilling area if there is a need to drill new wells or tap existing ones.

60. **Action Required.** If there are any unanticipated project impacts on non-titled persons and if they are deemed as eligible affected people by ADB, APRI and ADB will follow the agreed procedures in the Appendix.

64. **Indigenous Peoples.** There are no indigenous peoples in project areas or in their vicinity. As APRI's operations do not interfere with or impact on indigenous peoples property or livelihoods, the project is categorized as 'C' for impacts on indigenous peoples.

61. **Action required.** None.

B. Social Protection Requirements

62. APRI complies with applicable labor legislations and the audit did not find any incidences of violation of core labor standards.

63. **Action Required.** ADB requires that APRI shall continue to comply with applicable labor laws (e.g. minimum wages, safe working conditions, and social security contributions etc) in relation to the Project, and shall take the following measures to comply with the core labor standards for the TGPP and MGPP operations;

- (a) carry out its activities consistent with the intent of ensuring legally permissible equal opportunity, fair treatment and non-discrimination in relation to recruitment and hiring, compensation, working conditions and terms of employment for its workers (including prohibiting any form of discrimination against women during hiring and providing equal work for equal pay for men and women engaged by the Borrower);
- (b) not restrict its workers from developing a legally permissible means of expressing their grievances and protecting their rights regarding working conditions and terms of employment;
- (c) engage contractors and other providers of goods and services:
 - (i) who do not employ child labor or forced labor;
 - (ii) who have appropriate management systems that will allow them to operate in a manner which is consistent with the intent of (A) ensuring legally permissible equal opportunity and fair treatment and non-discrimination for their workers, and (B) not restricting their workers from developing a legally permissible means of expressing their grievances and protecting their rights regarding working conditions and terms of employment; and
 - (iii) whose subcontracts contain provisions which are consistent with paragraphs (i) and (ii) above.

64.. APRI shall provide ADB with an annual report on its compliance with the measures identified above. Such report may be included in any report required to be provided to ADB pursuant to the Safeguard Policy Statement.

C. Stakeholder Engagement and Benefit Sharing

65. The audit finds APRI's draft stakeholder engagement framework satisfactory. Documentation of consultations, agreements and follow-up actions need to be improved.

66. CSR programs and sharing national wealth tax and real property tax with host barangays and communities in the form of free or subsidized electricity, infrastructure facilities, and plant employment indicate that APRI is well aware of social and economic mitigation program and project benefit sharing programs. APRI's corporate policies and field practices particularly in relation to informal dwellers demonstrate its willingness to co-exist with the host communities which has guaranteed plant operations without any disruption to plant operations and harmony in community social organization.

67. **Action required.** *APRI to document and report on its stakeholder engagement activities, report on results of stakeholder consultations, any surveys and programs including CSR, remittances under the national wealth tax and contributions under Energy Regulation No. 1-94 as part of its annual environmental and social reporting to ADB.*

D. Grievance Mechanism

68. **Grievance Mechanism.** APRI has formulated several guidelines to respond and manage such 'grievances'. The formulation of the Stakeholder Grievance Mechanism and the establishment of GRM at the project level will facilitate better communication between APRI and host communities. It will also facilitate meaningful consultations and negotiations between APRI and informal dwellers on the leased land. APRI will target to formulate the SGM policies and procedures by December 2015. Stakeholder engagement in project planning and implementation will place the project in a good stead as a benevolent development project which provide development opportunities to host communities and informal dwellers who use APRI land as residential, farming and business purposes. Multiple monitoring team (MMT) has already developed an elaborate monitoring system of social benefits and CSR activities

69. **Action Required.** The grievance mechanism policy is an essential requirement under the SPS. The target approval of the GRM policy is December 2015. APRI's regular reporting to ADB will need include the list of issues or concerns or grievances from the community, employees and other TGPP and MGPP internal and external stakeholders as identified in the stakeholder engagement framework during the reporting period and information on how those were resolved.