

Safeguards Diagnostic Review

for

**Piloting the Use of Jamaican Systems to Address Environmental and
Social Safeguard Issues in the Proposed World Bank-Assisted
Inner City Basic Services for the Poor Project
(ICBSP)**

Equivalence and Acceptability Assessment Report

January 2006

TABLE OF CONTENTS

| | |
|---|----|
| EXECUTIVE SUMMARY | 1 |
| BACKGROUND | 5 |
| PROJECT DESCRIPTION | 6 |
| RATIONALE FOR CHOOSING ICBSF FOR PILOTING | 7 |
| METHODOLOGY FOLLOWED | 7 |
| EQUIVALENCE ANALYSIS | 8 |
| WORLD BANK'S SAFEGUARDS POLICIES APPLICABLE TO THE PROPOSED PILOT | 8 |
| JAMAICA'S LAWS, REGULATIONS, RULES, AND PROCEDURES APPLICABLE TO THE PROPOSED PILOT | 9 |
| LAND ACQUISITION AND INVOLUNTARY RESETTLEMENT | 12 |
| CURRENT AND PROPOSED MEASURES TO IMPROVE THE SYSTEM | 13 |
| ANALYSIS OF GAPS AND DIFFERENCES | 14 |
| PROPOSED GAP FILLING MEASURES | 15 |
| ACCEPTABILITY ASSESSMENT | 16 |
| IMPLEMENTATION PRACTICES AND TRACK RECORD | 17 |
| INSTITUTIONAL CAPACITY | 17 |
| MEASURES TO ADDRESS ACCEPTABILITY | 19 |
| GAP FILLING MEASURES | 20 |
| ROLES AND RESPONSIBILITIES OF JSIF, NEPA AND THE BANK | 21 |
| MONITORING AND REPORTING | 21 |
| PUBLIC CONSULTATION AND DISCLOSURE | 22 |
| | |
| ANNEX 1: EQUIVALENCE ANALYSIS | 23 |
| ANNEX 2: JSIF COMPLIANCE WITH ITS CURRENT ENVIRONMENTAL GUIDELINES IN THE PROJECT CYCLE | 30 |
| ANNEX 3: PUBLIC CONSULTATION WORKSHOP ISSUES RAISED, COMMENTS MADE, AND RESPONSES PROVIDED | 31 |
| ANNEX 4: LIST OF PARTICIPANTS TO THE PUBLIC CONSULTATION MEETING HELD IN KINGSTON ON NOVEMBER 1, 2005 | 34 |
| ANNEX 5: LIST OF KEY OFFICIAL MET | 37 |
| ANNEX 6: LIST OF MAIN DOCUMENTS CONSULTED | 38 |

CURRENCY EQUIVALENTS
(Exchange Rate Effective December 15, 2005)

Currency Unit = Jamaica Dollars (J\$)
63.0 J\$ = US\$1

ABBREVIATIONS AND ACRONYMS

| | |
|-------|--|
| CDB | Caribbean Development Bank |
| CIDA | Canadian International Development Agency |
| DFID | Department for International Development of the United Kingdom |
| EA | Environmental Assessment |
| EIA | Environmental Impact Assessment |
| EMF | Environmental Management Framework |
| EMP | Environmental Management Plan |
| ERO | Environmental and Resettlement Officer |
| EU | European Union |
| GOJ | Government of Jamaica |
| ICBSP | Jamaica: Inner City Basic Services for the Poor Project |
| IDB | Inter-American Development Bank |
| IDP | International Development Partners |
| JSIF | Jamaica Social Investment Fund |
| MIS | Management Information System |
| MOU | Memorandum of Understanding |
| NCDP | National Community Development Project |
| NCHIP | National Coastal Highway Improvement Project |
| NEPA | National Environment and Planning Agency |
| NGO | Non-governmental organization |
| NRCA | Natural Resources Conservation Authority |
| NWA | Jamaica National Works Agency |
| OM | Operations Manual |
| OP | Operational Policy of the World Bank |
| OP/BP | Operational Policy/Bank Procedure of the World Bank |
| PAP | Project Affected Persons |
| PPAH | Pollution Prevention and Abatement Handbook |
| PIOJ | Planning Institute of Jamaica |
| RPF | Land Acquisition and Resettlement Policy Framework |
| SEA | Strategic Environmental Assessment |
| SDC | Social Development Commission |
| TOR | Terms of Reference |
| UCS | Use of Country Systems |
| USAID | United States Agency for International Development |

| | |
|---------------------------|--------------------|
| Vice President: | Pamela Cox |
| Country Manager/Director: | Caroline D. Anstey |
| Sector Director: | Makhtar Diop |
| Sector Manager: | John Henry Stein |
| Team Leader: | Abhas K. Jha |

Piloting the Use of Jamaican Systems to Address Environmental and Social Safeguard Issues in the Proposed World Bank-Assisted Jamaica: Inner City Basic Services for the Poor Project

Safeguards Diagnostic Review

EXECUTIVE SUMMARY

1. **Background.** Jamaica is one of the countries being considered for piloting the use of country systems, specifically in the proposed World Bank-assisted Jamaica: Inner Cities Basic Services for the Poor Project (ICBSP). This pilot operation will be governed by the new operational policy OP/BP 4.00, “*Piloting the Use of Borrower Systems to Address Environmental and Social Safeguard Issues in Bank-Supported Projects*”.

2. **Project Description.** The Government of Jamaica and the Bank have agreed to implement a project to assist Jamaica with small infrastructure improvements and service delivery in selected poor communities. Project components include rehabilitation and upgrading of basic infrastructure; access to micro-finance; tenure regularization; public safety enhancement and capacity building, and support for project management. The project is designed on the basis of community driven development, and will be implemented through the Jamaica Social Investment Fund, a government owned private company, that is also the implementing agency for the Bank financed Jamaica: Loan 7148-JM National Community Development Project (NCDP).

3. **Rationale for Choosing ICBSP for Piloting.** The engagement with Jamaica on the use of country systems dates back to activities undertaken prior to the High Level Forum on Harmonization (Rome, Italy, 2003) where Jamaica volunteered to pilot harmonization of fiduciary and safeguard requirements. As part of this harmonization process, the Bank initiated a dialogue with the Government of Jamaica and financed a comparative review¹ of Jamaican, Bank and other key donor’s safeguard policies. The proposed ICBSP is designed on the basis of a Community Driven Development approach and would be financing small and medium scale infrastructure projects. Therefore, experience from this pilot operation would be relevant to the Bank’s growing portfolio in this sector, particularly in case of projects financed in Caribbean and other small countries including other small island states. JSIF is an autonomous government sponsored institution designed to channel resources from Government and donors to implement small-scale, community-based social and economic infrastructure and social services projects through out Jamaica. Therefore, in the long run, the proposed pilot is expected to bring the added benefit of moving towards harmonization of environmental safeguards requirements among the Government of Jamaica (through JSIF), the World Bank and other development partners, (CDB, CIDA, DFID, EU, IDB and USAID) who support JSIF and other agencies active in the sector. The choice of the proposed ICBSP is also consistent with the guidance of the Board to include a small island state in the pilot program.

4. **Scope of the Pilot.** In accordance with the OP/BP 4.00, scope of the pilot is limited to JSIF operations and more specifically to investments proposed under the project. These investments are expected to have generally positive environmental impacts, albeit that those under component one could result in some minor adverse environmental impacts if

¹ Newman, James R. *Report on Jamaican Harmonization Analysis*, Final Report 2003.

inappropriate design, construction or operational practices are followed. In order to address these potential adverse impacts, the Bank policy area on Environmental Assessment (EA) is applicable to the proposed ICBSP. Furthermore, the policy area on Involuntary Resettlement is also relevant, given that some of the activities proposed under the ICBSP may require land or access to land, either temporarily during construction or permanently for specific community project activities. Considering JSIF's plan to improve its current policies and commitment to apply the principles stated in OP 4.00, both these Policy areas have been chosen for piloting.

5. **Equivalence and Acceptability Assessment.** The Equivalence and Acceptability Assessment was carried out by a multidisciplinary team of Bank Staff² and consultants, in co-operation with NEPA and JSIF staff members, and consultants³. The methodology included a desk review of legislation, administrative guidelines, JSIF's Articles of Agreement and Operations Manual, and available analyses and reports; discussion with Government officials; review of JSIF's implementation of the NCDP and a similar European Union (EU) funded project; field visits to project sites and to a number of random project sites of the NCDP to check the actual implementation of environmental management actions, both of ongoing and completed works. Informal consultations with affected stakeholders formed part of the field visits.

6. The results of the assessment indicate that the operational principles of EA policy (as stated in Table A1 of OP 4.00) and the Jamaican EIA system (NRCA Act of 1991, and subsidiary legislation) have common features and are compatible in several aspects. The differences/gaps that are pertinent to the proposed ICBSP are minimal (see Annex 1) and are primarily due to a lack of clarity on EMP implementation arrangements. The Planning Institute of Jamaica (PIOJ) and NEPA have expressed interest in obtaining support from the Bank and other development partners to go beyond the pilot and upgrade their national EA system in line with the operational principles of EA policy as stated in OP 4.00.

7. The Ministry of Land and Environment, currently with support from CIDA, is in the process of conducting comprehensive consultations, in particular at Parish level, to review the current environmental and planning permit process. It is expected that this review will eventually lead to the preparation of a National Environment and Planning Agency Act and that NEPA's non-binding EIA guidelines may be developed into regulations. At this stage, it is not clear when this process will be completed. However, considering the types of small-scale investments implemented or financed by JSIF, this process is not anticipated to affect the outcome of this review.

8. There are significant differences between Jamaican law pertaining to land acquisition, and the operational principles set out in Table A1 of OP 4.00. The Land Acquisition Act of 1947 does not require the Government to provide replacement land or housing, nor does it require it to provide economic rehabilitation assistance to enable displaced persons to reestablish their livelihoods and incomes. Cash compensation applies only to those project affected persons who can produce either a registered certificate of title or some other means of legal ownership, although there is a provision for Government to enter into equitable arrangements other than payment of cash compensation with persons having a limited interest

² The World Bank team consisted of Asger Christensen, Lead Social Development Specialist (EASSD), L.Panneer Selvam, Senior Environmental Specialist (ESDQC/QACU), Hanneke van Tilburg, Senior Legal Counsel (LEGEN) and Heinz Unger (consultant).

³ A draft of this report was shared with key NEPA and JSIF staff and their consultants.

in the land that is acquired. The Act does not provide for prompt payment of compensation, nor does it ensure that acquisition can only take place after compensation has been paid.

9. JSIF has a reasonably good track record for implementing its current environmental guidelines, and has specified a set of actions for its staff to address environmental concerns at every stage of project cycle. JSIF has a full-time environmental and resettlement officer, and an environmental engineer, and has access to the services of experienced senior environmental consultants on a retainer basis. This combination of in-house staff, complemented by outside expertise that can deal with more complex issues, is working well. Furthermore, JSIF has demonstrated its commitment to good environmental management by a number of actions such as: (i) detailed review by independent consultants of its environmental guidelines; (ii) detailed review by independent consultants of ongoing projects; and (iii) good environmental management of EU-funded Whitfield Town Sanitation Project. There is no track record for land acquisition and involuntary resettlement in projects implemented by JSIF. As a result, JSIF has previously not had a Resettlement Policy Framework, and the management of land acquisition and resettlement was not addressed in JSIF's Operations Manual.

10. **Proposed Gap Filling Measures.** JSIF has prepared an Environmental Management Framework (EMF) and a Land Acquisition and Resettlement Policy Framework (RPF) to address the above discussed differences between the Jamaican systems and the applicable operational principles as stated in Table A1 of OP 4.00. The EMF and RPF have been adopted by JSIF Board in January 2006, and will become an integral part of JSIF's OM once JSIF Board has approved an amendment to the OM to this effect. Thereafter these Frameworks will be applicable to all JSIF projects, irrespective of the funding sources. In addition, the following gap filling actions have been agreed with JSIF to achieve and sustain equivalence and acceptability by the indicated dates:

| Actions To Be Taken | By Whom | Target Date |
|---|----------------|-----------------------|
| To Achieve Equivalence | | |
| JSIF Board to approve the new Environmental Management Framework (EMF) and Resettlement Policy Framework (RPF). | JSIF | Completed |
| Disclose the approved EMF and RPF locally and in Bank infoshop | JSIF and Bank | Completed |
| Draft amendment to JSIF's OM to include: (i) the new EMF and RPF; and (ii) EMF provisions in contract bid documents, including remedial measures to address non-compliance of EMPs. | JSIF | Completed |
| JSIF Board to approve the draft amendment to OM | JSIF | By Board Presentation |
| To Achieve and Sustain Acceptability | | |
| Appoint a permanent environmental specialist and designate alternate staff members to work on environmental issues. | JSIF | Completed. |
| Appoint a permanent resettlement specialist and designate alternate staff members to work on resettlement issues. | JSIF | Completed |
| Include requirements of compliance with EMF and RPF in | JSIF | By Board |

| | | |
|--|---|---|
| Memorandum of Understandings (MOU) between JSIF and its contracting agencies | | Presentation |
| Incorporate the monitoring requirements for EMF and RPF in the MIS | JSIF | By Board Presentation |
| Provide training to JSIF environmental and resettlement specialists, their alternates and staff from SDC and other implementing agencies involved in implementing the new EMF and RPF. | JSIF | Before any disbursement under subcomponent 1.1 (Basic Infrastructure) under the project |
| Provide periodic training and refresher courses for JSIF staff and others in environmental management and resettlement. | JSIF | At least, once every year. |
| Conduct annual audit of sample projects to learn lessons from application of EMP and RPF and introduce corrective measures for sustaining the improved processes | JSIF/NEPA assisted by independent consultants | Once every year. |

11. **Monitoring and Reporting.** JSIF will prepare quarterly monitoring reports with the following objectives:

- to monitor the implementation status of the above discussed gap filling measures and their impact on achievement and sustenance of equivalence and acceptability of applicable Jamaican Environmental laws, regulations and procedures; and
- to monitor the implementation status of the EMF and RPF.

12. **The Bank's Responsibilities.** The Bank is responsible for the following actions: (i) periodic supervision of project implementation, including field visits to completed sub-projects and those under construction to monitor the sustenance of equivalence and acceptability; (ii) reviewing the quarterly monitoring reports prepared by JSIF; (iii) reviewing of environmental audits carried out by JSIF and by NEPA; (iv) reviewing of land acquisition and resettlement audits carried out by JSIF; and (v) agreeing on any remedial actions required by JSIF and NEPA to sustain equivalence and acceptability.

13. **Public Consultation and Disclosure.** A public consultation workshop was organized to discuss the draft version of this report in Kingston on November 1, 2005. In preparation for this workshop, the document and invitations were placed on JSIF's website, and invitations were also sent to potentially interested stakeholders. Participants expressed overall support for the pilot and agreed with the findings and gap filling actions proposed to achieve and sustain equivalence.

14. A separate consultation workshop with community members and government representatives was held January 13, 2006 to present and discuss the draft Resettlement Policy Framework and Environmental Management Framework. Some 75 people attended and all questions concerned clarifications sought on the RPF. No major problems or issues were raised or objections were made. Annex 3 of the Main Report provides a matrix of issues raised and comments made in both these consultations.

15. The draft version of this full report and the final versions of EMF and RPF have been disclosed in the following places: (a) JSIF website; (b) the World Bank office in Kingston; and (c) the World Bank Infoshop in Washington DC.

Piloting the Use of Jamaican Systems to Address Environmental and Social Safeguard Issues in the Proposed World Bank-Assisted Jamaica: Inner City Basic Services for the Poor Project

Safeguards Diagnostic Review

BACKGROUND

1. Over the next two years the World Bank will be supporting a limited number of pilot projects in which lending operations will be prepared using the borrowing country's systems⁴ for environmental assessment and other environmental and social safeguards, rather than the Bank's operational policies and procedures on safeguards. The rationale for using country systems is to scale up development impact, increase country ownership, build institutional capacity, facilitate harmonization and increase cost effectiveness. These pilot operations are governed by a new operational policy⁵ (OP 4.00) "*Piloting the Use of Borrower Systems to Address Environmental and Social Safeguard Issues in Bank-Supported Projects*" issued in March 2005. This Policy elaborates on the approach, enumerates the criteria for assessing country systems, and specifies documentation and disclosure requirements and respective roles of the client country and the Bank.

2. The Bank considers a borrower's environmental and social safeguard system to be equivalent to the Bank's if the borrower's system is designed to achieve the objectives and adhere to the applicable operational principles set out in Table A1 of OP 4.00. Since equivalence is determined on a policy-by-policy basis in accordance with Table A1, the Bank may conclude that the borrower's system is equivalent to the Bank's in specific environmental or social safeguard areas in particular pilot projects, and not in other areas.⁶ Before deciding on the use of borrower systems, the Bank also assesses the acceptability of the borrower's implementation practices, track record, and institutional capacity. The above approach and criteria for assessment were developed with inputs from external stakeholders such as representatives of governments, bilateral and multilateral development institutions, civil society organizations, and the private sector and is consistent with commitments made by the development community in the Paris Declaration on Aid Effectiveness in March 2005.

3. Jamaica is one of the initial countries being considered for piloting the use of country systems, specifically in the proposed Bank-assisted Jamaica Inner City Basic Services for the Poor Project (ICBSP). This document describes the scope, methodology, and findings of the equivalence and acceptability assessments carried out by Bank staff, in co-operation with the National Environment and Planning Agency (NEPA) and Jamaica Social Investment Fund (JSIF) staff and assisted by consultants and local specialists.

⁴ Country systems is defined as the country's legal and institutional framework, consisting of its national, subnational, or sectoral implementing institutions and relevant laws, regulations, rules, and procedures that are applicable to the proposed pilot project.

⁵ OP/BP 4.00 can be viewed at this website:

<http://wbln0018.worldbank.org/Institutional/Manuals/OpManual.nsf/tocall/E49CED1645FB433885256FCD00776B19?OpenDocument>

⁶ The Bank's environmental and social safeguard policies will apply to the areas which the Bank has determined not to be equivalent to its applicable policy framework and will continue to apply to all projects that are not part of the pilot program.

PROJECT DESCRIPTION

4. The proposed project will be implemented within a timeframe of five years, through the JSIF, a government owned company that is also the implementing agency for the Bank financed National Community Development Project (NCDP). The proposed project consists of the following three components:

- **Component 1: Access to Services** will include three key subcomponents as follows:
 - **Subcomponent 1.1: Basic Infrastructure** will finance urban upgrading in project areas through two primary types of infrastructure investments:
 - (i) On-site network and community infrastructure investments in eligible project areas spread over four Parishes ⁷ and the eligible menu of sub-projects includes the following:
 - Drinking Water Supply – public and household connections;
 - Sewerage including small package treatment plants;
 - On-site sanitation (pit latrines, septic tanks) for unserviceable houses;
 - Storm drainage;
 - Solid waste system improvements (collection and pick-up services);
 - Small roads within the communities (re-surfacing, curb and gutter);
 - Sidewalks;
 - Electricity connections, street lighting and strategic lighting;
 - Zinc fencing replacement; and
 - Community centers and recreation facilities.
 - (ii) Off-site investments to finance the construction and rehabilitation of off-site infrastructure critical to maintain adequate service levels in project areas. Planned off-site infrastructure includes the rehabilitation of a drinking water supply tank and trunk mains in Kingston bordering Federal Gardens and Jones Town communities, and main drains linked to the Whitfield Town project area. The project will also finance the procurement of several mini-compact tractor trucks for collection and transportation of garbage.
 - **Subcomponent 1.2: Access to Financial Services** will provide micro-finance services in project areas (selected inner city neighborhoods) for productive purposes and incremental home improvements (including hook-ups to basic infrastructure services). The component will finance an output-based aid instrument to create incentives for existing Financial Institutions to provide these services.
 - **Subcomponent 1.3: Tenure Regularization** will finance the implementation of a pilot land titling initiative, involving three activities: inventory of land ownership, development of a regularization strategy and program, and a land titling program.

⁷ Namely Kingston-St.Andrew (Whitfield Town, Federal Gardens/Trench Town, Dunkirk/Passmore Town, Jones Town) , St.Catherine (Tawes Pen, Africa, Central Village, Shelter Rock, Lauriston, Bog Walk/Knollis), Clarendon (Bucknor/Rectory Lands) and St.James (Flankers). Of these areas, four are inner city communities, eight are peri-urban and two of these are more or less rural. See: Neighborhood Basic Infrastructure and Public Safety Plans – Overview and Summary, JSIF October 2005, p.3.

- **Component 2: Public Safety Enhancement and Capacity Building** will aim to enhance public safety by financing initiatives in four broad categories: (i) operation of “Peace and Justice” community centers; (ii) mediation and conflict resolution; (iii) alternative livelihoods and skills development; and (iv) youth education and recreation. These interventions would be complemented by the series of physical investments (community centers, recreational facilities, street lighting, traffic management and removal of zinc fencing physical investments etc.) that will be financed under subcomponent 1.1 of the project.
- **Component 3: Project Management** will finance consultant services and operating costs for the project management and administration. The component will also finance consultant services for: monitoring and citizen report cards; impact evaluation; financial audits; and technical supervision and audits.

RATIONALE FOR CHOOSING ICBSP FOR PILOTING

5. The engagement with Jamaica on the use of country systems dates back to activities undertaken prior to the High Level Forum on Harmonization (Rome, Italy, 2003) where Jamaica volunteered to pilot harmonization of fiduciary and safeguard requirements. As part of this harmonization process, the Bank initiated a dialogue with the Government of Jamaica and financed a comparative review⁸ of Jamaican, Bank and other key donor’s safeguard policies. The proposed ICBSP is designed on the basis of a Community Driven Development approach and would be financing small and medium scale infrastructure projects. Therefore, experience from this pilot operation would be relevant to the Bank’s growing portfolio in this sector, particularly in case of projects financed in Caribbean and other small countries including other small island states. JSIF is an autonomous government sponsored institution designed to channel resources from Government and donors to implement small-scale, community-based social and economic infrastructure and social services projects through out Jamaica. Therefore, in the long run, the proposed pilot is expected to bring the added benefit of moving towards harmonization of environmental safeguards requirements among the Government of Jamaica (through JSIF), the World Bank and other development partners, (CDB, CIDA, DFID, EU, IDB and USAID) who support JSIF and other agencies active in the sector. The choice of the proposed ICBSP is also consistent with the guidance of the Board to include a small island state in the pilot program.

METHODOLOGY FOLLOWED

6. The **Equivalence Analysis** was carried out by a multidisciplinary team of Bank Staff⁹ and consultants, in co-operation with NEPA and JSIF staff members and consultants¹⁰. The methodology included a desk review of currently in force legislation and administrative guidelines; review of JSIF’s Articles of Agreement and its Operations Manual; discussion with Government officials; and, review of the experience with the Bank financed NCDP which is currently being implemented by JSIF. For Environmental Assessment (EA) it also included review of available analyses of Jamaican EA laws¹¹, and review by a local legal

⁸ Newman, James R. *Report on Jamaican Harmonization Analysis*, Final Report 2003.

⁹ The World Bank team consisted of Asger Christensen, Lead Social Development Specialist (EASSD), L.Panneer Selvam, Senior Environmental Specialist (ESDQC/QACU), Hanneke van Tilburg, Senior Counsel (LEGEN) and Heinz Unger (consultant).

¹⁰ A draft of this report was shared with key NEPA and JSIF staff.

¹¹ (i) Newman, James R. *Report on Jamaican Harmonization Analysis*, Final Report, 2003; and (ii) Toppin-Allahar, Christine. *Assessment of JSIF’s Safeguards Compliance Capacity*, 2005.

environmental specialist of a draft of this report. For Involuntary Resettlement, Bank staff further examined the 1998 draft Green Paper “*Toward a National Involuntary Resettlement Policy*” prepared by the Ministry of Environment and Housing, and held discussions with staff of the Jamaica National Works Agency (NWA) who are responsible for the current Northern Coastal Highway Improvement Project (NCHIP) which involves some land acquisition and involuntary resettlement.

7. The equivalence analysis matrix (Annex 1) provides a comparison between the EA and Involuntary Resettlement policy objectives and operational principles, as stated in Table A1 of OP 4.00, with requirements under the applicable Jamaican laws, regulations, rules, and procedures.

8. The methodology for **Acceptability Assessment** included a desk review of JSIF’s project implementation procedures, practices and records by JSIF consultants¹², by Bank staff and consultants. Subsequently, JSIF staff involved in the NCDP and in other projects, such as the EU-funded Whitfield Town Sanitation Project, was interviewed to verify and complement the written records and documents. The NCDP was considered the most appropriate operation for review since it is similar in scope and approach as the ICBSP and it is currently being implemented by JSIF, the same entity that will implement the investments under the proposed Inner Cities Basic Services for the Poor Project. Bank staff and consultants also carried out field visits to a number of random project sites supported under the NCDP to check the actual implementation of environmental management actions, both of ongoing and completed works. Informal consultations with affected stakeholders formed part of the field visits.

9. Annexes 5 and 6 provide a list of key officials met during the diagnostic review (Equivalence and Acceptability Assessment) and a list of documents consulted.

EQUIVALENCE ANALYSIS

WORLD BANK’S SAFEGUARDS POLICIES APPLICABLE TO THE PROPOSED PILOT

10. **Environmental Assessment:** The investments proposed under component one are expected to have generally positive environmental impacts, albeit that they could result in some minor adverse environmental impacts if inappropriate design, construction or operational practices are followed. In order to address these potential adverse impacts, the Bank policy area on Environmental Assessment is applicable to the proposed ICBSP. Adverse impacts would likely to be only be minor and local, and the project could be classified as environmental category “B” under OP 4.01, thus requiring the preparation of environmental management plans (EMPs), including consultation with project affected groups and NGOs as appropriate, instead of a full Environmental Impact Assessment (EIA).

11. No adverse impacts are anticipated from the potential uses of productive loans that are likely to be financed under the Access to Financial Services (micro-credit finance) subcomponent.

12. **Involuntary Resettlement:** Some of the activities proposed under the ICBSP will require land or access to land, either temporarily during construction or permanently for

¹² (i) TEMN Ltd *Environmental Screening and Supervision of 37 JSIF Projects under Implementation*, 2005; and (ii) Toppin-Allahar, Christine. *Assessment of JSIF’s Safeguards Compliance Capacity*, 2005.

specific community project activities. Such land will be furnished either through voluntary private land donations; transactions between willing-seller-willing-buyer; access to vacant government land, or land acquisition under eminent domain. At this stage of preparation, the proposed interventions are only expected to require very limited land acquisition under eminent domain.¹³ In any event a Land Acquisition and Resettlement Policy Framework (RPF) is required to ensure that any land acquisition impacts are mitigated in accordance with the objectives and operational principles on involuntary resettlement as stated in OP 4.00, Table A1.

13. **Other Safeguards:** There is no information to indicate that other safeguard policy areas of the Bank are applicable to the proposed ICBSP. While six of the selected project communities are located in the Parish of St. Catherine, surrounding the historic city of Spanish Town, the project areas are away from the historic buildings and other monuments, and the small-scale civil works under the project are not expected to pose any risks of damage to known physical cultural property. Consequently the Cultural Property policy area is not applicable. However, procedures to deal with chance finds are described JSIF's Operations Manual (OM) and will continue to be included as standard provisions in construction contracts.

JAMAICA'S LAWS, REGULATIONS, RULES AND PROCEDURES APPLICABLE TO THE PROPOSED PILOT

ENVIRONMENTAL ASSESSMENT

14. Each prospective sub-project must comply with the environmental guidelines and procedures described in JSIF's OM¹⁴. These guidelines and procedures build on the requirements of applicable Jamaica's laws and regulations on Environmental Impact Assessment (EIA). The **1991 Natural Resources Conservation Authority Act (NRCA Act)** provides the legal framework for environmental impact assessment in Jamaica, and establishes the Natural Resources Conservation Authority (NRCA), to ensure the conservation, protection and proper use of Jamaica's natural resources. The NRCA Act provides the basis for the following EA related legislation:

- Natural Resources (Prescribed Areas; Prohibition of Categories of Enterprise, Construction and Development) Order, 1996; and
- Natural Resources Conservation (Permits and Licences) Regulations, 1996, as lastly amended in 2004.

15. As part of a Public Sector Reform Program under the Executive Agencies Act (Act 4 of 2000) the National Environment and Planning Agency (NEPA) was formed in April 2001, by merging the NRCA, the Town Planning Department, and the Land Utilization and Development Commission. This regulatory agency now has the responsibility for the application of the legislation listed above.

16. **Licenses and Permits.** Under the above legislation, categories of projects that require an environmental permit or license from NEPA have been defined. The Natural Resources Conservation (Permits and Licenses) Regulations, 1996 (amended in 2004) sets out the following requirements:

¹³ The only known case, at this time, is that of the Flankers neighborhood, where three squatter dwellings on top of a storm drain will have to be relocated.

¹⁴ In accordance with JSIF's Articles of Association (Section 125) this manual governs all JSIF operations.

- a **permit** is required for any (enterprise, development or construction) activity within certain prescribed categories. It is intended to safeguard the various environmental / natural resources from direct damage due largely but not exclusively to physical development; and
- a **license** is required for discharging sewage or trade effluent or other polluting matter to air, ground or water to safeguard the environment from contamination.¹⁵ In case of new construction, a license application is subsumed in the permit application.

17. **EIA requirements.** An applicant is required to submit a standard Application Form and a Project Information Form to NEPA to determine, at its discretion, whether an EIA is required. Consequently, NEPA may grant the permit subject to certain terms and conditions as it deems appropriate, or refuse to grant a permit. The NCRA Act prohibits the granting by any other agency of any approval, license, permit or consent for a project until after a decision to grant an environmental permit has been made¹⁶.

18. Pursuant to the NCRA Act these requirements apply to designated areas only. However, through the 1996 Natural Resources (Prescribed Areas; Prohibition of Categories of Enterprise, Construction and Development) Order, the whole of Jamaica was designated as an area within which EIAs may be required. Figure 1 illustrates NEPA’s environmental permitting and licensing process¹⁷.

19. **Prescribed categories.** For over 60 categories of projects, environmental permits or and EIAs may be required under the existing legislation. The Table below provides an overview of project types that are eligible for funding under component 1 of the proposed ICBSP, and the corresponding environmental permit (and possible EIA) requirements, as confirmed by NEPA (its letter dated December 6, 2005) in response to a query from JSIF.

Table 1: Permitting and EIA requirements for subprojects to be financed under ICBSP

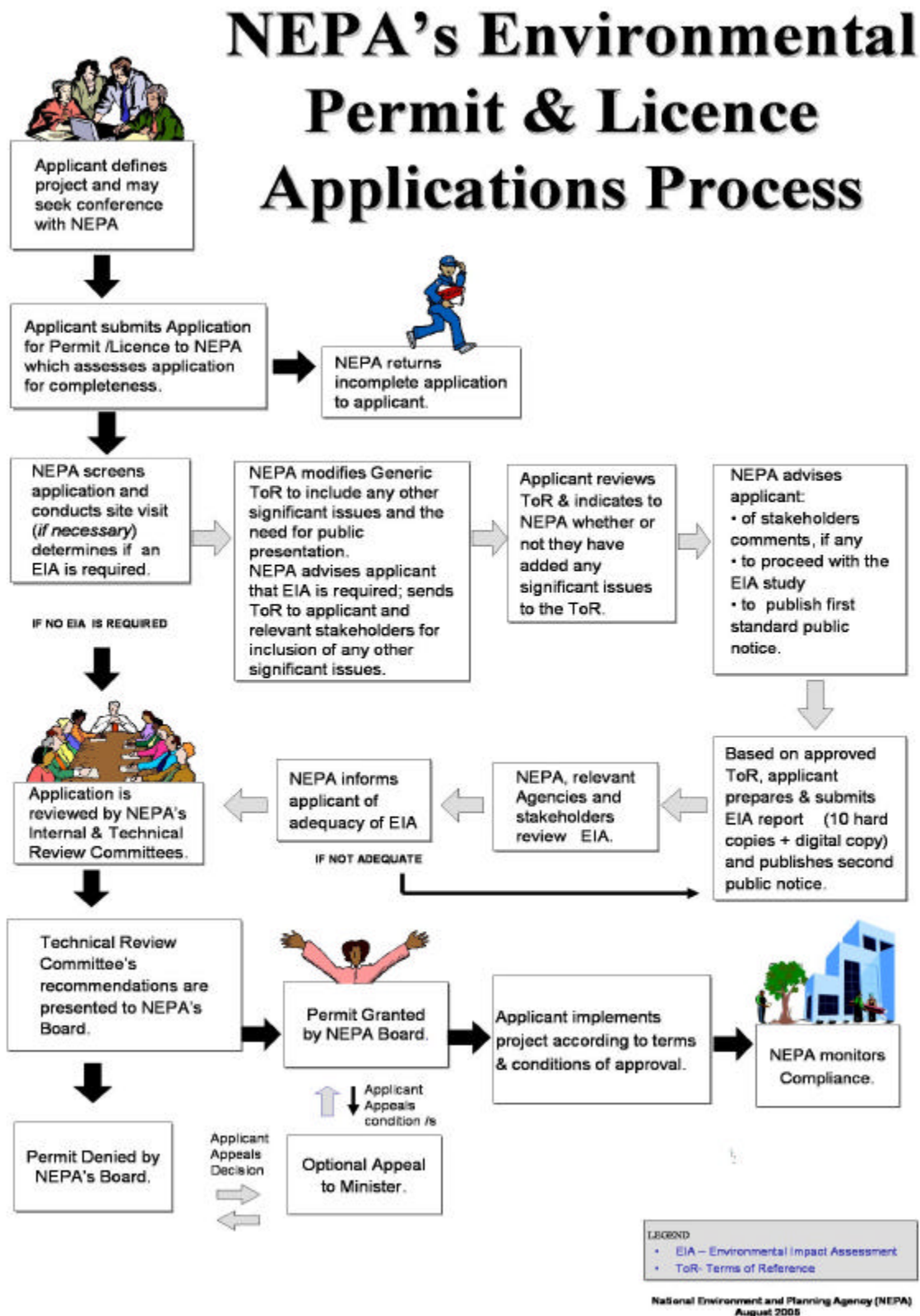
| List of investments for which No Environmental Permit is required – no need to apply to NEPA | List of investments for which an Environmental Permit is required | List of investments for which an EIA is required for obtaining Environmental Permit |
|---|---|---|
| <ul style="list-style-type: none"> - Household connections for water or sewers provided diameter of pipelines do not exceed 10 cm - Water supply pipes (less than 10cm diameter) - On-site sanitation and sanitary cores for unserviceable houses - Small roads within the communities - Sidewalks | <ul style="list-style-type: none"> - Sewer pipes (with diameter of 10 cm and above) - Small (package) domestic wastewater treatment plants - Storm drainage - Solid waste management, such as collection points and pick-up service | <ul style="list-style-type: none"> - To be determined by NEPA based on their screening process |

¹⁵ A number of exceptions to the license requirements are listed in the guidelines (e.g., agricultural, emergencies, domestic waste disposal).

¹⁶ Section 10(3) requires that NEPA informs such other agencies that a notice requiring an EIA has been issued to the project proponent.

¹⁷ NCRA/NEPA has issued two guidelines to clarify EIA requirements: (i) “*The Natural Resources Conservation Authority (Permits and License System) Guidelines for Project Proponents*” October 1996 (revised in December 1996) and (ii) “*Guidelines for Conducting Environmental Impact Assessments*” (issued by NCRA in 1997 and revised by NEPA in August 2005).

Figure 1: (Source: NEPA)



LAND ACQUISITION AND INVOLUNTARY RESETTLEMENT

20. The following are the two main regulations that govern the land acquisition process in Jamaica¹⁸:

- The **1962 Constitution of Jamaica**, which deals with the Protection of the Fundamental Rights and Freedoms of the individual in Chapter III. Section 18 of Chapter III determines that no property shall be compulsorily taken possession of and no interest in or right over property shall be compulsorily acquired, except by or under a law that: (i) prescribes the principles on which and manner in which compensation is determined and given and (ii) provides right of access to a court to determine questions of rights, entitlement and compensation.
- The **Land Acquisition Act of 1947 as amended**, which vests authority in the Commissioner of Lands to acquire all land required by the Government for public purposes. The term “public purpose” is not defined. The Commissioner is empowered to acquire land either by way of private treaty or compulsory acquisition following a gazetted declaration of intent. Rights of appeal relate only to the quantum and apportionment of compensation.

21. The procedure under the Land Acquisition Act of 1947 is as follows:

- The Minister responsible for Crown Lands, if it appears to him that any land is required for a public purpose, will cause a notice to that effect to be published in the Gazette and serve a copy of such notice on the owner of the land and the Commission of Lands (“Commissioner”) shall cause notice of that notification to be posted at the locality.
- The Minister will authorize his officers to go onto the land to ascertain whether the land is suitable for the purposes for which it is required, to carry out surveys and to delineate the boundaries of the land to be taken.
- When the Minister is satisfied that the land is in fact suitable, he will issue a declaration to that effect and instruct the Commissioner to take proceedings to acquire the land.
- The Commissioner will then cause the land to be surveyed and valued and enter into negotiations for the purchase of same by negotiations and agreement (private treaty).
- If there is no agreement by private treaty within a reasonable time (reasonableness to be determined by the Commissioner of Lands), the Commissioner will invite all interested persons (by way of notices served on occupants of the land and posted at convenient places on or near the land) to present to him in writing at a specific time and place, the nature of their interests in the land and the amount and particulars of their claims to compensation of such interests.

¹⁸ Other Jamaican legislation containing provisions on land acquisition are the 1968 Housing Act and the Mining Act of 1947, but these are not pertinent to the proposed ICBSF.

- On the day specified, the Commissioner will enquire into the value of land and the interests of persons claiming compensation and will make an award as to the true area of the land, the compensation for the land and the apportionment of the compensation to the persons interested.
- Any interested person (“interested” as defined by the Act) who is dissatisfied with the award may within a specified time require that the Commissioner refer the matter for the determination by the Supreme Court of Judicature of Jamaica.
- The Minister will direct the Commissioner to take possession of the land and at the time the Commissioner takes possession the land will be vested in the Commissioner of Lands and a notice to that effect will be published in the Gazette.
- After an award has been made, the Commissioner shall pay to the persons interested the compensation awarded. If the persons interested do not consent to the award; or if there is no one to transfer the land; or if there is any dispute as to the right to receive compensation or as to the appointment of it, the Commissioner will deposit the amount in the Supreme Court of Jamaica.
- In the case where a property owner cannot be identified or if the ownership of the property is in dispute, the property will be acquired under provisions of the Land Acquisition Act, 1947.
- The Government is not required by law to resettle persons who have been disrupted/uprooted/displaced due to land acquisition. The law requires that they be compensated. In addition, only those persons who can show either a registered Certificate of Title or some other means of legal ownership are entitled to compensation. Illegal occupants/squatters are not so entitled.

CURRENT AND PROPOSED MEASURES TO IMPROVE THE SYSTEM

22. **Environmental Assessment:** The Ministry of Land and Environment, currently with support from CIDA, is in the process of conducting comprehensive consultations, in particular at Parish level, to review the current environmental and planning permit process. It is expected that this review will eventually lead to the preparation of a National Environment and Planning Agency Act (NEPA Act), which will legally support the establishment of NEPA and the merger described earlier. Also, it is likely that the NEPA guidelines referred to above may be developed into regulations. At this stage, it is not clear when this process will be completed. However, considering the types of small-scale investments implemented or financed by JSIF, this process is not anticipated to affect the outcome of this review. The Planning Institute of Jamaica (PIOJ) and NEPA have expressed interest in obtaining Bank and donor support to go beyond this pilot and upgrade their national EIA system. During implementation, the Task Team will explore options to support NEPA’s and PIOJ’s interest, in coordination with other Development Partners.

23. **Land Acquisition and Involuntary Resettlement:** In 1998 a review of land acquisition and resettlement practices was undertaken by the Ministry of Land and

Environment, which resulted in the draft Green Paper “*Towards a National Involuntary Resettlement Policy*” dated May 1998. The document identifies deficiencies in the existing national legislation, and proposes measures that would bring the national system in line with international best practices. However, the Green Paper remains in draft, and to date has not been formally endorsed by the Government. It is expected that the experience gained by JSIF in implementing its new Land Acquisition and Resettlement Policy Framework would be useful in finalizing the draft green paper.

ANALYSIS OF GAPS AND DIFFERENCES

24. **Environmental Assessment:** As stated before, all JSIF funded activities are required to follow its environmental guidelines to ensure compliance with NRCA. In order to understand the overall context and Jamaican EIA system, NRCA was used as a starting point for the equivalence analysis. As can be seen from the equivalence analysis matrix in Annex 1, the Bank's EA policy and the Jamaican EIA system have several common features. For example, similar to the Bank's policy on EA, the Jamaican EIA system classifies projects and activities into three types of projects: (i) those that require a full EIA; (ii) those that after screening are assessed to require a limited environmental analysis and an environmental management plan (imposed through terms and conditions) and, lastly, (iii) those that do not require an environmental permit because they are not on the list of prescribed categories.

25. The significant differences between the Jamaican laws and regulations on EIA and the operational principles, as stated in Table A1 of OP 4.00 are primarily due to lack of clarity on: (i) description of legal framework and requirements under international agreements signed by Jamaica; (ii) use of Pollution Prevention and Abatement Handbook guidelines; (iii) use of independent panels for high risk projects; and (iv) EMP implementation arrangements. However, the differences/gaps mentioned under (i) to (iii) are not pertinent to the small-scale community level infrastructure sub-projects implemented or financed by JSIF.

26. **Land Acquisition and Involuntary Resettlement:** As can be seen from the equivalence assessment matrix in Annex 1, there are significant differences between Jamaican law pertaining to land acquisition, and the operational principles set out in Table A1 of OP 4.00. The Land Acquisition Act of 1947 does not require the Government to provide replacement land or housing, nor does it require it to provide economic rehabilitation assistance to enable displaced persons to reestablish their livelihoods and incomes. Cash compensation applies only to those project affected persons who can produce either a registered certificate of title or some other means of legal ownership, although there is a provision for Government to enter into equitable arrangements other than payment of cash compensation with persons having a limited interest in the land that is acquired. The Act does not provide for prompt payment of compensation, nor does it ensure that acquisition can only take place after compensation has been paid.

PROPOSED GAP FILLING MEASURES

27. **Environmental Assessment:** JSIF has recently expanded its environmental guidelines into a comprehensive Environmental Management Framework (EMF). The EMF covers all types of sub-projects that can be funded under ICBSP and include specific provisions for: (i) screening of proposed sites and projects; (ii) minimizing impacts through environmental management plans incorporated into the construction contracts; (iii) involving stakeholders; and (iv) monitoring during implementation. The EMF has been adopted by JSIF Board in January 2006, and will become an integral part of JSIF's OM once JSIF Board has approved an amendment to the OM to this effect. Thereafter it will be applicable to all JISF projects, irrespective of the funding sources.

28. As recommended by the review of JSIFs environmental performance carried out earlier in 2005¹⁹, JSIF will also amend its Operations Manual to provide that specific penalties for non-compliance with EMP must be included in the contract documents. In addition, JSIF will ensure that its Memorandum of Understanding (MOU) with its contracting agencies includes the requirement of compliance with JSIF's EMF.

29. **Land Acquisition and Involuntary Resettlement:** JSIF has prepared a Land Acquisition and Resettlement Policy Framework (RPF), which addresses the significant differences between Jamaica's system and the Bank's applicable operational principles as stated in Table A1 of OP 4.00. JSIF's RPF has been approved by JSIF's Board and cleared by the Bank in January 2006. The Framework will become an integral part of JSIF's OM, once JSIF's Board has approved an amendment to this effect. Thereafter, it will be applicable to all JISF projects irrespective of the funding sources.

30. The RPF defines eligibility and entitlements, means and documentation requirements for obtaining land for project activities; a process to ensure coordination between the technical dimensions of community project preparation and the identification of land acquisition impacts together with consultations to avoid or minimize such impacts; grievance redress arrangements; describes roles of JSIF, the Commissioner of Land, and the Land Valuation Division regarding land acquisition; and includes monitoring arrangements and indicators. The RPF also determines that projects that would involve resettlement of more than 10 families would be ineligible for JSIF funding.

31. The infrastructure investments implemented or financed by JSIF are for the most part located within and identified by the beneficiary communities and therefore, access to land could be obtained through one or a combination of the different means listed in the matrix below. While all of these means of obtaining land would require documentation, not all would necessitate payment of compensation and/or provision of relocation and rehabilitation assistance.

¹⁹ TEMN Ltd. Phase 1 Report: Environmental Screening and Supervision of Projects Under Implementation, 2005.

| Means of obtaining land | Requirements to comply with OP/BP 4.00 |
|---|---|
| Voluntary donation or long term lease of private land. | Proof of Ownership and Documentation of Donation of Assets or Documentation of Long Term Lease. |
| Donation of community land. | Proof of Ownership and Documentation of Donation of Assets. |
| Willing-seller-willing-buyer transaction. | Proof of Ownership and Documentation of Sale of Assets. |
| Transfer of public land without squatters or other encumbrances. | Proof of ownership (i.e. permission from the Government Agency holding the land or from the Commissioner of Lands) and certification by JSIF that land is free from squatters and encumbrances. |
| Transfer of public land with squatters or other encumbrances. | Proof of ownership (i.e. permission from the Government Agency holding the land or from the Commissioner of Lands) together with a mitigation plan to provide rehabilitation and relocation assistance for squatters. |
| Involuntary land acquisition based on eminent domain with or without associated displacement. | Abbreviated Resettlement Plan. |

ACCEPTABILITY ASSESSMENT

PURPOSE AND SCOPE

32. The purpose of the acceptability assessment is to confirm that the implementation practices, track record and institutional capacity of relevant Jamaican institutions, in addressing environmental and involuntary resettlement issues in the proposed ICBSB are acceptable and meet the requirements stated in Bank Policy OP/BP 4.00. Thus, the scope and level of this assessment commensurate with the requirements of the proposed pilot project and do not provide a comprehensive assessment of national institutions or country wide implementation track records in Jamaica.

33. Discussions with JSIF and NEPA staff and field visits to a few project sites confirmed that none of JSIF projects, implemented to date, have required an environmental permit or license from NEPA, or involuntary land acquisition based on eminent domain. Also in future, as indicated in Table 1 above, most subprojects of the proposed ICBSB will not require an environmental permit from NEPA but be implemented under the environmental procedures of JSIF. NEPA's role is limited only to those projects which fall in one of the two "prescribed categories", for which permit and/or license applications together with a "project information form" must be submitted. Also, the role of Ministry of Land and Environment is expected to be minimal, since JSIF obtains land through involuntary land acquisition based on eminent domain, only as a last resort. In view of the above, the following review focuses mainly on environmental and social procedures of JSIF which serves as a specialized implementation agency for the Government of Jamaica.

IMPLEMENTATION PRACTICES AND TRACK RECORD

ENVIRONMENTAL ASSESSMENT

34. JSIF has a reasonably good track record for implementing its current environmental guidelines. JSIF has specified a set of actions for its staff to address environmental concerns at every stage of project cycle. Starting from concept stage, all sub-project proposals submitted by local communities are to be evaluated against specific environmental criteria. A summary of these requirements and an assessment of the level of compliance, as noted by an independent evaluation study, are given in Annex 2 “*JSIF Compliance with its current environmental guidelines in the Project Cycle*”.

35. JSIF in its efforts to improve compliance with its own guidelines, commissioned an independent study to evaluate the environmental performance of 37 randomly selected sub-projects, in early 2005. Only minor problems were found with 6 of the 37 sub-projects, and it was found that JSIF has, to a great extent, integrated environmental analysis and management actions into its sub-project processing procedures. Some of these minor problems were: existence of an uncovered manhole, missing garbage disposal facility in a basic school, eroding gravel road surface, and dust nuisance during construction.

INVOLUNTARY RESETTLEMENT

36. There is no precedent for land acquisition and involuntary resettlement in projects implemented by JSIF. As a result, JSIF has previously not had a Resettlement Policy Framework, and the management of land acquisition and resettlement was not addressed in JSIF’s Operations Manual.

37. The report on “*Assessment of JSIF Safeguards Compliance Capacity Environment and Resettlement*” states that (page 58): “*under the current project appraisal system projects requiring resettlement are not normally included in the JSIF portfolio – these would be excluded on the basis that JSIF does not fund any project that requires acquisition of land or buildings. Since all JSIF projects are demand driven, the land requirements are usually settled before the project is appraised*”. However, this past practice of considering land acquisition as a matter to be managed and settled by the beneficiary community in isolation from the project preparation process is not in compliance with the operating principles as stated in Table A 1 of OP 4.00 and would not be acceptable for infrastructure investments financed under the proposed ICBSF. However as stated before, JSIF has recently adopted a Land Acquisition and Resettlement Policy Framework that reflects these principles.

INSTITUTIONAL CAPACITY

STRENGTHS AND WEAKNESSES

38. **Environmental Assessment:** JSIF has a fulltime environmental and resettlement officer (ERO), and an environmental engineer, and has access to the services of

experienced senior environmental consultants on a retainer basis. This combination of in-house staff, complemented by outside expertise that can deal with more complex issues, is working well. Since environmental management has been fully integrated into JSIF's operations, all project staff, including technical staff and community coordinators, are to some extent involved in dealing with environmental siting and design issues and implementing EMPs during the sub-project cycle. JSIF's responsibility for good environmental management extends to all types of sub-projects, including those to be implemented by other executing agencies, such as the National Water Commission or the National Works Agency.

39. JSIF has demonstrated its commitment to good environmental management by a number of actions such as: (i) detailed review by independent consultants of its environmental guidelines; (ii) detailed review by independent consultants of ongoing projects; (iii) good environmental management of EU-funded Whitfield Town Sanitation Project; and (iv) hiring and appointment of environmental staff and consultants.

40. JSIF management has no quick access to information on the status of environmental performance of projects, as the monitoring data are currently not included in the Management Information System (MIS). And, so far no sanctions have been applied to contractors who do not comply with the EMP attached to contract documents²⁰. Further, the newly appointed ERO and project officers need special training to gain knowledge and experience, particularly in implementing the EMF.

41. Despite the 2001 merger of the NCRA, the Town Planning Department and the Land Utilization Commission into NEPA, it appears that the three entities within NEPA are still not fully integrated and that problems of overlapping jurisdiction and mandate remain. Most likely consolidation and modernization of the legislation that NEPA administers could simplify and streamline the task of enforcement of environmental law. Some potential weaknesses were noted from the discussions with NEPA, JSIF, consultants and local NGOs with respect to NEPA's capacity to handle the workload of: (i) timely reviews and issuance of environmental permits and licenses, and (ii) monitoring and enforcement of project implementation, in particular with respect to the terms and conditions that may have been attached to permit/license. It should be noted that in the case of the proposed ICBSB, very few sub-projects will require an environmental permit from NEPA, and the bulk of sub-projects will be subject to environmental screening through JSIF's EMF and the project will support measures to strengthen coordination between JSIF and NEPA when required for selected subprojects.

42. **Involuntary Resettlement:** Since JSIF has not previously been dealing with land acquisition and involuntary resettlement in its projects, it has not had staff dedicated to, or experienced in, the planning, implementation, and monitoring of land acquisition and resettlement. However, it appears from a review of JSIF's documentation and a site visit that the consultation and planning procedures followed for infrastructure improvements in the target communities do indeed include consideration of land acquisition and of

²⁰ Toppin-Allahar, Christine: *Assessment of JSIF's Safeguards Compliance Capacity*, 2005.

alternatives to avoid such impacts²¹. It is recognized that there is a need to clarify and document the consultation process and how it is sequenced with, and integrated into the community planning process with indications of how and where in this process land acquisition is assessed, alternatives considered, and possible acquisition methods and compensation agreements agreed. These concerns have been addressed in the recently adopted RPF.

MEASURES TO ADDRESS ACCEPTABILITY

43. **Environmental Assessment:** JSIF, as part of its project preparation activities for ICBSP, has initiated the following measures to improve its environmental performance: (i) conduct more staff training focusing on environmental management; (ii) use additional consultants as needed to improve its performance; (iii) extend its implementation monitoring system to cover environmental aspects as well; and (iv) introduce standard provisions in the construction contract bid documents to implement the EMF requirements, including remedial measures for non-compliance.

44. JSIF is also planning to obtain ISO 14000 certification²² (Environmental Management System) during the course of project implementation. An Environmental Management System (EMS) manager has already been appointed by JSIF, and initial contacts for local and international partnerships have been made. Terms of reference for the first phase of the EMS program have been agreed, and the preparation consultants will develop, prior to Board approval, a plan and terms of reference for the program implementation. It is expected that JSIF will benefit from the proposed ISO 14001 certification, because it is seen as a public declaration of its commitment to good environmental management and compliance with national laws and regulations (especially as a UCS pilot) and a process to attain local clients' and international donor recognition.

45. **Involuntary Resettlement:** To manage its new Land Acquisition and Resettlement Policy Framework, JSIF has recently recruited a full time Environment and Resettlement Officer (ERO). Additionally, JSIF has designated one of its Legal Officers to be responsible for environment and land acquisition/resettlement issues. The Bank will facilitate training for these two staff on the Land Acquisition and Resettlement Policy Framework as well as the Environmental Management Framework. Both staff will in turn serve as trainers for JSIF project staff and staff from the Social Development Commission (SDC) involved in JSIF financed community projects. Both the JSIF project staff and the staff from SDC already have some experience with land issues in community projects, since they have been involved in consultations with community

²¹ Neighbourhood Basic Infrastructure and Public Safety Plans – Overview and Summary. JSIF October 2005, p1-6. Also site visit and discussion with residents in the target community of Trench Town and Withfield Town on November 1, 2005.

²² ISO 14000 provides a management framework under which organizations or companies identify, achieve and control environmental performance standards.

members on technical alternatives to avoid land acquisition impacts in community projects (including the 12 IC BSP sub-projects).²³

GAP FILLING MEASURES

46. The following gap filling actions have been agreed with JSIF to achieve and sustain equivalence and acceptability by the indicated dates:

| Actions To Be Taken | By Whom | Target Date |
|---|-----------------------------------|---|
| To Achieve Equivalence | | |
| JSIF Board to approve the new Environmental Management Framework (EMF) and Resettlement Policy Framework (RPF). | JSIF | Completed |
| Disclose the approved EMF and RPF locally and in Bank infoshop | JSIF and Bank | Completed |
| Draft amendment to JSIF's OM to include: (iii) the new EMF and RPF; and (iv) EMF provisions in contract bid documents, including remedial measures to address non-compliance of EMPs. | JSIF | Completed |
| JSIF Board to approve the draft amendment to OM | JSIF | By Board Presentation |
| To Achieve and Sustain Acceptability | | |
| Appoint a permanent environmental specialist and designate alternate staff members to work on environmental issues. | JSIF | Completed. |
| Appoint a permanent resettlement specialist and designate alternate staff members to work on resettlement issues. | JSIF | Completed |
| Include requirements of compliance with EMF and RPF in Memorandum of Understandings (MOU) between JSIF and its contracting agencies | JSIF | By Board Presentation |
| Incorporate the monitoring requirements for EMF and RPF in the MIS | JSIF | By Board Presentation |
| Provide training to JSIF environmental and resettlement specialists, their alternates and staff from SDC and other implementing agencies involved in implementing the new EMF and RPF. | JSIF | Before any disbursement under subcomponent 1.1 (Basic Infrastructure) under the project |
| Provide periodic training and refresher courses for JSIF staff and others in environmental management and resettlement. | JSIF | At least, once every year. |
| Conduct annual audit of sample projects to learn lessons from application of EMP and RPF and introduce corrective measures for sustaining the improved processes | JSIF/NEPA assisted by independent | Once every year. |

²³ Neighbourhood Basic Infrastructure and Public Safety Plans – Overview and Summary. JSIF, October 2005, p.1-6. Also site visit and discussions with residents in the target community of Trench Town and Whitfield Town on November 1, 2005.

| | | |
|--|-------------|--|
| | consultants | |
|--|-------------|--|

ROLES AND RESPONSIBILITIES OF JSIF, NEPA AND THE BANK

47. JSIF will be responsible for the following actions:
- Satisfactory implementation of gap filling actions set out above to achieve and sustain equivalence and acceptability;
 - Satisfactory implementation of EMF and RPF. This would involve timely screening all investment proposals from eligible communities and determine the course of actions required to mitigate any potential environmental and land acquisition risks and impacts;
 - Performance of bi-annual environmental audits of sample investments under construction and under operation;
 - Performance of bi-annual land acquisition and resettlement audits of sample investments under construction and under operation; and
 - Preparation of quarterly monitoring reports as described below, for the Bank’s review.
48. NEPA will be responsible for:
- Timely processing of any applications by JSIF for environmental permits; and
 - Performance of annual spot checks/audits of sample investments financed by JSIF for their compliance with Jamaican Law, and imposition of corrective actions to achieve compliance.
49. The Bank is responsible for the following actions:
- Periodic supervision of project implementation, including field visits to completed sub-projects and those under construction to monitor the sustenance of equivalence and acceptability;
 - Reviewing the quarterly monitoring reports prepared by JSIF;
 - Reviewing of environmental audits carried out by JSIF and by NEPA;
 - Reviewing of land acquisition and resettlement audits carried out by JSIF; and
 - Agreeing on remedial actions to be taken by JSIF and NEPA to sustain equivalence and acceptability.

MONITORING AND REPORTING

50. JSIF will prepare quarterly monitoring reports with the following objectives:
- to monitor the implementation status of the above discussed gap filling measures and their impact on achievement and sustenance of equivalence and acceptability of applicable Jamaican Environmental laws, regulations and procedures; and
 - to monitor the implementation status of the EMF and RPF.

PUBLIC CONSULTATION AND DISCLOSURE

51. JSIF, NEPA and the Bank jointly organized a public consultation workshop in Kingston, Jamaica, on November 1, 2005, to discuss the draft version of this report. The meeting was chaired by NEPA, and was well attended by over 60 participants, including representatives from various donor partners, NGOs, ministries and government agencies, local governments, and local media. Invitations were issued to all potentially interested stakeholders and JSIF also advertised the workshop on its website.

52. At the workshop, NEPA presented an overview of their environment permit and license process, and JSIF introduced their environment management system and guidelines, and also their proposals to address any land acquisition and involuntary resettlement in the project. Bank mission members made presentations on the proposed UCS pilot, globally, and as proposed for Jamaica specifically. Participants expressed overall support for the project, no serious concerns regarding the UCS pilot were raised by any of the attendees, and most questions were not directly relevant to the pilot.

53. A separate consultation workshop with community members and government representatives was held January 13, 2006 to present and discuss the draft RPF and EMF. Some 75 people attended and all questions concerned clarifications sought on the RPF. No major problems or issues were raised or objections were made.

54. A summary of the issues raised during the workshops, and a list of participants are attached in Annexes 3 and 4. As of the date of this report, neither further inquiries nor comments regarding the UCS pilot were received by the Bank, JSIF or NEPA.

55. The draft version of this full report and the final versions of EMF and RPF have been disclosed in the following places: (a) JSIF website; (b) the World Bank office in Kingston; and (c) the World Bank Infoshop in Washington DC.

EQUIVALENCE ANALYSIS

| Summary Matrix on Environmental Assessment ²⁴ | | | | |
|--|--|--|--|---|
| Bank Policy (OP 4.00) Requirements (Objective and Operational Principles) | Jamaica's Equivalent Requirements | | Gaps and differences between OP 4.00 and Jamaica's requirements. | Remarks and System improvements to be undertaken by Jamaica before implementation of the project activities |
| | Objectives and Operational Principles as stated in Jamaica's corresponding laws, rules, regulations, procedures | Jamaica's corresponding laws, rules, regulations, procedures | | |
| <p>Objective: To help ensure the environmental and social soundness and sustainability of investment projects. To support integration of environmental and social aspects of projects into the decision-making process.</p> | <p>The NRCA Act and its subsidiary legislation, does not explicitly state its objective. However the functions of the NRCA include <i>"effective management of the physical environment of Jamaica so as to ensure conservation, protection and proper use of natural resources"</i>, and the NRCA is mandated to require EIA where it is of the opinion that (...) <i>"activities have or are likely to have adverse effect on the environment"</i>.</p> <p>According to NEPA's EIA Guidelines, EIA is aimed at <i>"identifying, predicting and evaluating impacts"</i> and <i>"assisting the decision making authority"</i>.</p> <p>Social aspects are not mentioned in the NRCA Act. However, the project information form (contained in the Schedule to the NRCA Regulations, and which is designed to provide authorities information in order to decide whether to require an EIA), includes the following items:</p> <ul style="list-style-type: none"> - human health; - growth and character of community; - need for relocation of people/houses/facilities. <p>NEPA's non-binding EIA Guidelines also include <i>"human environment"</i> in the checklist of critical aspects to be considered in an EIA (and mention among others: <i>"demographics, employment, livelihood, archeological heritage, social structure, and cultural values"</i>).</p> | <ul style="list-style-type: none"> - Natural Resources Conservation Authority Act, 1991 ("NCRA Act"), and subsidiary to it: - Natural Resources (Prescribed Areas) (Prohibition of Categories of Enterprise, Construction and Development) Order, 1996 ("NCRA Order") - Natural Resources Conservation (Permits and Licenses) Regulations, 1996 (amended 2004) ("NCRA Regulations"). <p>NEPA Guidelines (non binding):</p> <ul style="list-style-type: none"> - The Natural Resources Conservation Authority (Permits and License System) Guidelines for Project Proponents, revised December 1996 ("NEPA's PP Guidelines"); - Guidelines for Conducting Environmental Impact Assessments", revised August 2005 ("NEPA's EIA Guidelines"). <p>Besides the above, Jamaica has other sector laws of interest such as:</p> <p>Watersheds Protection Act (1963), Water Resources Authority Act (1995); Town & Country Planning Act (1948, amended 1999); Public Health Act (1985); Clean Air Act (1961); Litter Act (1985); Land Development and Utilization Act, National Solid Waste Management Authority Act (2001); Jamaican National Heritage Trust Act (1985).</p> <ul style="list-style-type: none"> - JSIF Operations Manual | <p><i>No significant gap</i></p> | <p><i>None</i></p> |

²⁴ Most of these operational principles are mentioned in one form or another in the NEPA's EIA Guidelines, but not explicitly referred to in the NRCA Act. However, requirements under the NEPA's EIA guidelines are not mandatory.

| | | | | |
|--|--|---|--|---|
| | | (revised March 2004), which governs all JSIF operations - JSIF Environmental Guidelines 1998. | | |
| <p>Operational Principles:</p> <p>1. Use a screening process for each proposed project, as early as possible, to determine the appropriate extent and type of environmental assessment (EA) so that appropriate studies are undertaken proportional to potential risks and to direct, and, as relevant, indirect, cumulative, and associated impacts. Use sectoral or regional environmental assessment when appropriate.</p> | <p>A screening process is in place for those projects that are subject to environmental permitting (prescribed categories) and licensing. Use of standard project information forms (to be submitted as part of the permit application) is prescribed, and forms are designed to provide information to NCRA/NEPA in order for it to determine if a project requires an EIA. NCRA/NEPA may request additional information.</p> <p>Thus, projects can be divided into three categories: (a) projects that require the preparation of a full EIA; (b) projects that require only a summary description of the project, its impacts and appropriate mitigation measures; (c) projects for which no permit and license (and consequently no assessment is required).</p> <p>The EIA must contain such information as may be prescribed by NCRA/NEPA.</p> | <p>Section 9 NCRA Act, and the entire NRCA Order, on which project types are subject to permitting/ licensing (prescribed categories). Section 3 and the Schedule of the NRCA Regulations on the use of standard forms. Section 18 NCRA Regulations on the authority to require additional information.</p> <p>The screening process is set out in more detail in NEPA's non binding EIA Guidelines.</p> <p>Section 10 NRCA Act on the authority to request (after screening of a permit / license application) an EIA.</p> <p>Section 10 (1)(b) of the NCRA Act on the extent of the EIA.</p> <p>JSIF's Environmental Guidelines 1998, provide a checklist and form for field officers, that include impacts on environmental, health, safety and cultural property.</p> | <p>The NCRA Act and its subsidiary legislation make no reference to indirect, cumulative, and associated impacts and sectoral/regional EAs.</p> <p>However, NEPA's EIA Guidelines do refer to cumulative (implying also regional), associated impacts, and strategic environmental assessment, albeit with inadequate details.</p> <p><i>Thus, screening for indirect, cumulative, and associated impacts, as relevant, and requirement of sectoral and regional EA are not mandatory, and considered to be a significant gap.</i></p> | <p><i>This gap is not pertinent to the proposed pilot, given the nature, small size and type of interventions.</i></p> |
| <p>2. Assess potential impacts of the proposed project on physical, biological, socio-economic and physical cultural resources, including trans-boundary and global concerns, and potential impacts on human health and safety.</p> | <p>The project information form, designed to provide authorities information in order to decide whether to require an EIA, includes items such as site description, and effects on human health.</p> <p>An EIA should contain such information as may be prescribed by NCRA/NEPA.</p> <p>The NRCA Act and subsidiary legislation lack further detail. However, NEPA's non-binding EIA Guidelines contain a "basic checklist of critical aspects to be considered in an EIA", that include the physical, biological, and "human environment". Under the category "human environment", guidance is given on including socio-economic, health, cultural values and archaeological heritage aspects in the assessments. Sample TORs prepared by NEPA.</p> | <p>NRCA Regulations, Schedule (form 2)</p> <p>NCRA Act, section 10 (1)(b)</p> <p>NEPA EIA Guidelines, Section 3 (Box I-IV), and generic TORs prepared by NEPA for different categories of developments (Annex I of the NEPA EIA guidelines).</p> | <p>The NCRA Act and its subsidiary legislation make no adequate references to list of potential impacts to be assessed and trans-boundary, global concerns.</p> <p>However, NEPA's EIA Guidelines do refer to potential impacts, albeit with inadequate details.</p> <p><i>Assessment of potential impacts, particularly the global and trans-boundary concerns, is not mandatory, and considered to be a significant gap. Nonetheless, this gap is not pertinent to the proposed pilot, given the nature, small size and type of interventions.</i></p> | <p><i>Assessment of potential impacts, as relevant to the proposed pilot, will be addressed as part of the EMF and incorporated in JSIF's OM.</i></p> |
| <p>3. Assess the adequacy of the applicable legal and institutional framework, including applicable international environmental agreements, and confirm that they</p> | <p>Under the NRCA Act the project proponent must submit an EIA containing such information as may be prescribed by NCRA/NEPA. No further details are provided.</p> <p>NEPA's EIA Guidelines (section</p> | <p>NRCA Act, section 10 (1)(b)</p> | <p><i>Significant gap in the sense that assessment of this item is not mandatory as they are mentioned in EIA guidelines only</i></p> | <p><i>Assessment of the applicable legal and policy framework, as relevant to the proposed pilot, will be addressed as part of the EMF and incorporated in JSIF's</i></p> |

| | | | | |
|--|--|--|--|---|
| provide that the cooperating government does not finance project activities that would contravene them. | 3.2.5) suggest that the EIA should include information on the regulatory framework within which the potential development will have to operate, including the relevant national and regional legislation and policy initiatives, and international legislation. However, these guidelines are non-binding. | NEPA's EIA Guidelines, section 3.2.5. | | OM |
| 4. Provide for assessment of feasible investment, technical, and siting alternatives, including the "no action" alternative, potential impacts, feasibility of mitigating these impacts, their capital and recurrent costs, their suitability under local conditions, and their institutional, training and monitoring requirements associated with them. | Under the NRCA Act, the project proponent must submit an EIA containing such information as may be prescribed by NRCA/NEPA. No further details are provided. NEPA's EIA Guidelines recommend that "no action" alternative must be considered under the EIA for all projects that are subject to a full EIA. The other points listed under this principle (4) are referred to in varying degrees of detail in NEPA's EIA Guidelines. | NRCA Act, section 10 (1)(b). NEPA's EIA Guidelines section 3.2.8 on mitigation, and section 3.2.9 on consideration of alternatives. NEPA's EIA Guidelines, section 3.2.10 on environmental management of the project, including training and monitoring. | <i>Significant gap in the sense that these requirements are not mandatory as they are mentioned in EIA guidelines only.</i> | <i>Assessment of feasible options, analysis of alternatives, as relevant to the proposed pilot, will be addressed as part of the EMF and incorporated in JSIF's OM.</i> |
| 5. Where applicable to the type of project being supported, normally apply the Pollution Prevention and Abatement Handbook (PPAH). Justify deviations when alternatives to measures set forth in the PPAH are selected. | | No reference to PPAH guidelines in NRCA Act or subsidiary legislation, nor in NEPA's EIA Guidelines. | <i>Significant gap.</i> | <i>This gap is not pertinent to the proposed pilot, given the nature, small size and type of interventions.</i> |
| 6. Prevent and, where not possible to prevent, at least minimize, or compensate for adverse project impacts and enhance positive impacts through environmental management and planning that includes the proposed mitigation measures, monitoring, institutional capacity development and training measures, an implementation schedule, and cost estimates. | Permits/licences may specify conditions. No further details in NCRA Act. NEPA's EIA Guidelines emphasize both positive and negative impacts with focus on the mitigating measures for addressing negative impacts. These guidelines also suggest the development of an EMP, including environmental quality objectives, training, and an outline monitoring plan, to be finalized to include permit conditions following approval of a project by NEPA. Monitoring parameters mentioned include (i) quality of water, (ii) noise and air quality, (iii) relevant health indicators, (iv) waste management, (v) wildlife, (vi) public health, and (vii) workers health and safety. However, no specific details are given for EMP implementation budget, or the staffing of the implementing agency. | NEPA's EIA Guidelines section 3.2.6, 3.3.8, 3.2.10 | Project proponent is not required to provide EMP implementation details such as budget and staffing requirements, implementation schedule etc., <i>Significant gap in the sense that these requirements are not mandatory as they are mentioned in EIA guidelines only, albeit with inadequate details.</i> | <i>Description of EMP implementation details, as relevant to the proposed pilot, will be addressed as part of the EMF and incorporated in JSIF's OM.</i> |
| 7. Involve stakeholders, including project-affected groups and local nongovernmental organizations, as early as possible, in the preparation | Not provided for in NCRA Act and subsidiary legislation. NEPA's non-binding EIA Guidelines provide that: - if EIA is required by NEPA, the project proponent will be asked to | NEPA's EIA Guidelines, Section 2.3 and Annex II | <i>Significant gap in the sense that this is not a mandatory requirement but mentioned in EIA guidelines only.</i> | JSIF's Operations Manual provides for extensive consultations with communities, both during project preparation and implementation. |

| | | | | |
|---|--|--|--|---|
| process and ensure that their views and concerns are made known to decision makers and taken into account. Continue consultations throughout project implementation as necessary to address EA-related issues that affect them. | hold public consultations with all affected parties and civil society, including NGOs; - two public notices should be posted: (i) the first to indicate that EIA has been requested and how public can access TORs for review, and(ii) a second notice indicating that/where EIA report can be accessed and the time and place of public presentation. Sample public notices are provided; - the final EIA report is to be submitted to NEPA for review, including review by a technical review committee which comprises stakeholder agencies external to NEPA. - Further details are provided on record keeping, timing and methods of notification. | | | |
| 8. Use independent expertise in the preparation of EA where appropriate. Use independent advisory panels during preparation and implementation of projects that are highly risky or contentious or that involve serious and multi-dimensional environmental and/or social concerns. | There is no such requirement in the NCRA Act and subsidiary legislation. NEPA's non-binding EIA Guidelines mention that the team assembled to conduct and EIA should consist of qualified and experienced professionals from a range of disciplines required for the EIA, based on the critical aspects identified for the project. Furthermore, the NEPA EIA guidelines suggest that the final EIA report is to be submitted to NEPA for review, including review by a technical review committee which comprises stakeholder agencies external to NEPA. | NEPA's EIA Guidelines, sections 3.3 and 4.0. | <u>Use of independent expertise</u> : gap in that this is not a mandatory requirement, but guidance only <u>Use of independent advisory panels</u> : Significant gap. However, this principle is NOT pertinent to the proposed project. | |
| 9. Provide measures to link the environmental assessment process and findings with studies of economic, financial, institutional, social and technical analyses of a proposed project. | There is no such specific requirement. However, NEPA's EIA Guidelines suggest that proponent do an analysis of alternatives including the no-action alternative, and NEPA has the mandate to review consistency of EIA and project design. | None. | No significant gaps. | None. |
| 10. Provide for application of the principles in this Table to subprojects under investment and financial intermediary activities. | NEPA may screen and review all "activities of any construction, enterprise, and development" in prescribed categories for their likely adverse effect. | NRCA Act, section 10 (1)(b) | No significant gaps. | None. |
| 11. Disclose draft EA in a timely manner, before appraisal formally begins, in an accessible place and in a form and language understandable to key stakeholders. | Not provided for in NCRA Act and subsidiary legislation. NEPA's EIA Guidelines suggest that the public be notified through newspaper advertising and all other suitable and appropriate means (including the NEPA website), in addition to specific invitation letters to affected stakeholders. These notices are to include advice on where and how to access the EIA report and where the public review will take place. Further see above under principle 7 | NEPA's EIA Guidelines , Annex II | Gap in the sense that this is guidance and not a mandatory requirement. | JSIF shall hold public consultation and disclosure workshop prior to(sub-) project appraisal. |

Summary Matrix on Involuntary Resettlement

| | | | | |
|--|--|--|--|---|
| <p>Objective: To avoid or minimize involuntary resettlement and, where this is not feasible, to assist displaced persons in improving or at least restoring their livelihoods and standards of living in real terms relative to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher.</p> | <p>The purpose of the Land Acquisition Act is to enable land acquisition for public purposes.</p> | <p>- 1963 Constitution Chapter III, section 18, - Land Acquisition Act of 1947, as amended (in this table also “Land Acquisition Act” or “Act”).</p> | <p><i>Significant gap</i></p> <p>The Act does not require assisting displaced persons in improving or at least restoring their livelihoods and standards of living.</p> | <p>The objective of JSIF’s Land Acquisition & Resettlement Policy Framework (RPF) is equivalent to that of OP 4.00.</p> |
| <p>Operational Principles:</p> <p>1. Assess all viable alternative project designs to avoid, where feasible, or minimize involuntary resettlement.</p> | <p>Whenever it appears to the Minister (responsible for Crown lands) that land in any locality is needed for any public purpose, a notification to that effect shall be published in the Gazette and a copy thereof served upon the owner of such land</p> | <p>Land Acquisition Act, Part II, section 3 (1).</p> | <p><i>Significant gap</i></p> <p>The Act does not require assessment of alternatives through consultation with the population affected by a particular project</p> | <p>The RPF requires that consultation on land acquisition impacts and assessment of alternatives is embedded in the participatory project planning process at the community level (Section VII).</p> |
| <p>2. Through census and socio-economic surveys of the affected population, identify, assess, and address the potential economic and social impacts of the project that are caused by involuntary taking of land (e.g. relocation or loss of shelter, loss of assets or access to assets, loss of income sources or means of livelihood, whether or not the affected person must move to another location) or involuntary restriction of access to legally designated parks and protected areas.</p> | <p>The Minister shall direct the Commissioner to take proceedings for the acquisition of the land, and shall thereupon cause the land to be surveyed, unless such land has already been marked out).</p> | <p>Land Acquisition Act, Part II, sections 6 and 7</p> | <p><i>Gap</i></p> <p>Apart from the survey of land and asset losses, the Act does not require baseline data on socio-economic conditions and resettlement impacts.</p> | <p>The RPF includes formats / categories on required socio-economic data and inventory of losses (Annex 7, 8, & 9).</p> |
| <p>3. Identify and address impacts also if they result from other activities that are (a) directly and significantly related to the proposed project, (b) necessary to achieve its objectives, and (c) carried out or planned to be carried out contemporaneously with the project.</p> | <p>Not considered in the Act.</p> | <p><i>None</i></p> | <p><i>Not applicable</i></p> | <p><i>Not applicable</i></p> |
| <p>4. Consult project-affected persons, host communities and local nongovernmental organizations, as appropriate. Provide them opportunities to participate in the planning, implementation, and monitoring of the resettlement program, especially in the process of developing and</p> | <p>The Commissioner shall cause the land to be valued and shall enter into negotiations for the purchase of the land by private treaty, and may also require any person interested to deliver to him the name of any other person possessing any interest in the land or any part. If any dispute arises regarding the compensation or any part thereof, or as to the persons to whom compensation is payable, the</p> | <p>Land Acquisition Act: Part I, section 8, Part III, section 17</p> | <p><i>Significant gap</i></p> <p>The Act does not require consultation with PAPs regarding the planning and implementation of land acquisition impacts and mitigation measures, and refers all grievances to the Courts.</p> | <p>The RPF includes:</p> <ul style="list-style-type: none"> • Consultation on land acquisition impacts and alternatives is embedded in the participatory project planning process at the community level (Section VII). • Attention to vulnerable groups is provided for (Section |

| | | | | |
|---|---|---|---|---|
| <p>implementing the procedures for determining eligibility for compensation benefits and development assistance (as documented in a resettlement plan), and for establishing appropriate and accessible grievance mechanisms. Pay particular attention to the needs of vulnerable groups among those displaced, especially those below the poverty line, the landless, the elderly, women and children, Indigenous Peoples, ethnic minorities, or other displaced persons who may not be protected through national land compensation legislation.</p> | <p>Commissioner may refer such dispute for the decision of the Court.</p> | | | <p>IV & X),</p> <ul style="list-style-type: none"> • PAPs without title are eligible to compensation (Section X), <p>Grievance procedures involve other mechanisms than the Courts alone (Section IX),</p> |
| <p>5. Inform displaced persons of their rights, consult them on options, and provide them with technically and economically feasible resettlement alternatives and needed assistance, including (a) prompt compensation at full replacement cost for loss of assets attributable to the project; (b) if there is relocation, assistance during relocation, and residual housing, or housing sites, or agricultural sites of equivalent potential, as required; (c) transitional support and development assistance, such as land preparation, credit facilities, training or job opportunities as required, in addition to compensation measures; (d) cash compensation for land when the impact of land acquisition on livelihoods is minor; and (e) provision of civic infrastructure and community services as required.</p> | <p>In determining the amount of compensation to be awarded for land acquired under the Act, the following is considered:</p> <ul style="list-style-type: none"> • The market value at the date of the service of notice (land, house, crops, fruits) • The damage, if any, sustained by any person interested at the time of taking possession by the Commissioner by reason of the acquisition injuriously affecting the actual earnings of such person, <p>The reasonable expenses, if any, incidental to any change of residence or place of business of any person interested which is necessary in consequence of the acquisition.</p> | <p>Land Acquisition Act, Part II, section 14</p> | <p><i>Significant gap</i></p> <p>The Act does not require consultation with PAPs regarding the planning and implementation of land acquisition impacts and mitigation measures, or payment of compensation before the asset is taken into possession.</p> | <p>The RPF includes:</p> <ul style="list-style-type: none"> • consultation on land acquisition impacts and options (Section VII). • Payment of compensation is required before assets are taken into possession (Section IV). • Entitlements addressing the requirements of OP 4.10 (Section X). |
| <p>6. Give preference to land-based resettlement strategies for displaced persons whose livelihoods are land-based.</p> | <p>The Act only provides for monetary compensation.</p> | <p><i>None</i></p> | <p><i>Significant gap</i></p> <p>No provision for land-based resettlement as an option</p> | <p>The RPF entitlements include land-based resettlement as an option (Section X).</p> |
| <p>7. For those without formal legal rights to lands or claims to such land that could be recognized under the laws of the country, provide resettlement assistance in lieu of compensation for land to</p> | <p>The Act only provides for compensation to PAPs with formal legal rights or claims to.</p> | <p>Land Acquisition Act, Part II, section 10(1)</p> | <p><i>Significant gap</i></p> <p>No provision is made for resettlement assistance to PAPs without formal legal rights to lands.</p> | <p>The RPF includes resettlement assistance to PAPs without formal legal rights to lands (Section X).</p> |

| | | | | |
|---|---|--|---|--|
| help improve or at least restore their livelihoods. | | | | |
| 8. Disclose draft resettlement plans, including documentation of the consultation process, in a timely manner, before appraisal formally begins, in an accessible place and in a form and language that are understandable to key stakeholders. | The Act requires that the Commissioner of Lands shall cause public notification to be given at a convenient place in the locality where land is acquired. | Land Acquisition Act, Part II, section 3(1) | <i>Significant gap</i> No provision made for disclosure of draft resettlement plans. | The RPF requires disclosure of resettlement plans (Section VII). |
| 9. Apply the principles described in the involuntary resettlement section of this Table, as applicable and relevant, to subprojects requiring land acquisition. | The act does not distinguish between projects or subprojects, but regards any “land likely needed for public purpose” | Land Acquisition Act Part I, section 3(1) None | <i>No significant gap</i> | The RPF is designed to apply to community driven sub-projects. |
| 10. Design, document, and disclose before appraisal of projects involving involuntary restriction of access to legally designated parks and protected areas, a participatory process for: (a) preparing and implementing project components; (b) establishing eligibility criteria; (c) agreeing on mitigation measures that help improve or restore livelihoods in a manner that maintains the sustainability of the park or protected area; (d) resolving conflicts; and (e) monitoring implementation. | The Act does not make any reference to legally designated parks and protected areas. | <i>None</i> | <i>Not applicable</i> The small scale community driven projects under IC BSP will not involve involuntary restriction of access to legally designated parks and protected areas. | <i>Not applicable</i> |
| 11. Implement all relevant resettlement plans before project completion and provide resettlement entitlements before displacement or restriction of access. For projects involving restriction of access, impose the restrictions in accordance with the timetable in the plan of actions. | The Land Acquisition Act does not require implementation of mitigation measures before project completion. It is possible that compensation is not paid before possession is taken of the land. | Land Acquisition Act, Part III, section 36. | <i>Significant gap</i> No provision to require that, where applicable, a time-bound land acquisition/ resettlement plan should be an integral part of a community project implementation plan. | The RPF requires that compensation and resettlement assistance is provided before assets are taken into possession (Section IV). |
| 12. Assess whether the objectives of the resettlement instrument have been achieved, upon completion of the project, taking account of the baseline conditions and the results of resettlement monitoring. | <i>None</i> | <i>None</i> | <i>Significant gap</i> | The RPF requires implementation monitoring and assessment of income rehabilitation (Section XII). |

Annex 2

JSIF COMPLIANCE WITH ITS ENVIRONMENTAL GUIDELINES IN THE PROJECT CYCLE

| Step in Project Cycle | Objective | Actions | JSIF Compliance |
|---|---|--|--|
| Targeting & Promotion | Ensure that environmental issues are introduced to beneficiaries | Educate beneficiaries and intermediaries (CBOs/NGOs) and other executing agencies on environmental issues and sub-project requirements | An Environmental Module has been incorporated into the initial JSIF Training Workshop for beneficiary communities |
| | | Ensure conformity with national environmental policies and strategies | JSIF projects are subject to, and respect, all applicable Jamaican regulatory requirements |
| Project Formulation | Ensure that environmental issues are considered at earliest stage of the project cycle | Provide technical assistance directly to project formulators when necessary, or direct them to qualified specialists who can help in project formulation | JSIF provides technical assistance and/or expert assistance |
| | | Ensure impacts are identified and alternative sites and/or designs and mitigation measures are considered by project proponents | This is an integral aspect of the JSIF project design process |
| Project Appraisal | Ensure that environmental impacts have been analyzed and appropriate mitigation measures designed | Screen project proposals to categorize projects according to type of environmental review that will be necessary | This aspect of the JSIF project appraisal process has recently been enhanced |
| | | Carry out an Environmental Review, Limited Environmental Assessment, or Full Environmental Impact Assessment, which will identify impacts and design appropriate mitigation measures | This is an integral aspect of the JSIF project appraisal process. Because of their scale, JSIF projects ordinarily require only Environmental Review or Limited Environmental Assessment |
| Project Approval | Select most needed and environmentally sound projects for funding | Once project has been screened and any necessary environmental review or assessment has been carried out, project can be approved if it meets viability criteria | This is JSIF practice |
| | | In some cases, approval may be denied if the environmental assessment recommendations have not been incorporated into project design | This is JSIF practice. Projects have been declined when required mitigation measures were unaffordable |
| Project Implementation & Supervision | Ensure that all design standards and mitigation measures are being properly implemented | Prepare contracts with environmental clauses for contractors/communities/ NGOs to execute projects | Standard forms of design and construction contracts incorporate environmental management plans. |
| | | Undertake site visits to ensure that environmental criteria and mitigation measures, as required by contracts, have been incorporated into project | Site visits are undertaken by both JSIF staff and their project supervision consultants |
| | | Require changes to sub-project design and/or implementation if unforeseen impacts occur | This is JSIF practice, i.e. recent introduction of chance find procedures for cultural property |
| | | Approval required to issue final payment for sub-project construction | Checks for environmental compliance have recently been added to procedures for release of payment |
| Project Monitoring and Evaluation | Ensure that all environmental contractual obligations are being met and EA process is refined | Site visits during project execution and operation to assess how environmental screening and mitigation measures are succeeding/ have succeeded in minimizing impacts | An environmental performance review of 37 NCDP sub- projects was completed by consultants in January 2005 |
| | | Determine if changes are needed to improve EA process | A review and update of JSIF Environmental Guidelines was completed by consultants in February 2005 |
| | | Meet with contractors/community representatives to gather feedback | A Workshop for this purpose is planned for late 2005. |

Source: Toppin-Allahar, Christine. *Assessment of JSIF's Safeguards Compliance Capacity*, 2005

Annex 3

ISSUES RAISED, COMMENTS MADE, AND RESPONSES PROVIDED AT THE PUBLIC CONSULTATION MEETINGS HELD IN KINGSTON

| Issue raised and comments made | Is comment relevant to the proposed UCS pilot project? | Remarks and Responses |
|---|--|---|
| Public Consultation Meeting Held on November 1, 2005 to Discuss the Draft Safeguards Diagnostic Review Report | | |
| <i>A. Comments by Participants</i> | | |
| 1. Several interveners expressed concerns over how the infrastructure and the social services would be maintained. | No | The project is community-based and will promote ownership by communities to ensure greater sustainability of the economic and social infrastructure. Moreover, JSIF requires that beneficiary communities make contributions in cash or kind. |
| 2. The specific role of the communities in the project was questioned. | No | The project is participatory, and communities are expected to participate actively, such as during the initial rounds of consultation. JSIF employs community liaison officers whose mandate is to sensitize the communities, using focus group discussions and other techniques. |
| 3. It was suggested that communities would require access to adequate (vocational) training facilities. | No | The project cannot solve all problems that are present in inner city communities, and will implement the infrastructure improvements. However, partnering with other agencies will assist to improve conditions in the communities. |
| 4. An intervener asked whether the high drop-out rate and unemployment would be addressed within the scope of the project. | No | The micro-finance component would attempt to assist with employment generation by stimulating small-scale economic activities and investments |
| 5. The selection of the project communities was questioned since most donor funds seem to be dispersed in the Kingston metropolitan region while outlying parishes are neglected. | No | JSIF investments are evenly distributed across the island. This project, however, is focused on inner city communities; criteria used also looked at the levels of crime and violence which are high in the Kingston-St. Andrew and St. Catherine parishes. |
| 6. Infrastructure works should take account of specific and difficult site conditions and it must make sure that offsite problems are also considered. | No | The planning and engineering design process takes into account all site conditions and constraints, and where necessary, the proposals also includes off-site investments. Environmental screening and mitigation plans will ensure that there are no adverse impacts. |

| Issue raised and comments made | Is comment relevant to the proposed UCS pilot project? | Remarks and Responses |
|--|--|--|
| 7. The sub-projects listed in the draft safeguards diagnostic review report as requiring a permit application; do not exactly correspond to the specific categories defined by NEPA based on the legal framework. | Yes | A query process was initiated by JSIF, and clarifications were obtained from NEPA, indicating which type of sub-projects would require a NEPA permit. |
| 8. A question was raised whether JSIF's proposed Resettlement Policy Framework (RPF) is consistent with the draft Green Paper "Towards a National Involuntary Resettlement Policy" | Yes | The draft JSIF land acquisition and resettlement policy framework is expected to be broadly consistent with the draft Green Paper. |
| 9. It was asked whether there would be an adequate legal and regulatory framework to ensure the maintenance of infrastructure in the communities. A clear definition and demarcation of responsibilities would also be needed. In addition, the possible need for an enforcement mechanism was raised. | No | Community-based organizations (CBOs) would be formed under the project, and they would be responsible for maintaining the infrastructure for the benefit of the communities. A Memorandum of Understanding (MOU) would be signed with each community and all the agencies concerned with the provision of services and maintenance; responsibilities would be spelled out in the MOU. An inter-sectoral steering committee would also ensure that there is adequate coordination between the intervening various agencies. |
| Public Consultation Meeting Held on January 13, 2006 to Discuss the Draft Resettlement Policy and Environmental Management Frameworks | | |
| 1. Is it correct that the less land acquisition there is in a project, the better it is for the project? | Yes | Yes, indeed, because it is better for the people who don't have to give up anything or even move. But sometimes it is unavoidable that land has to be acquired, and therefore we need the RPF and its principles. |
| 2. Can expenditures for land acquisition be funded from the project? | Yes | No cash payments to individuals can be made from the World Bank Loan, but all other related expenditures can be covered. |
| 3. Will the financing of expenditures related to land acquisition reduce the project budget? | Yes | Yes, but only in a minor way since land-related expenditure are not expected to be very large. |
| 4. Has land status and ownership been determined in all project communities? | Yes | There is a tabulated summary analysis of the land needs in the various communities which was distributed. Inputs from community members are still wanted to complete this information. |

| Issue raised and comments made | Is comment relevant to the proposed UCS pilot project? | Remarks and Responses |
|---|---|--|
| 5. As there are problems with land titles in some communities, will the project help people with getting proper titles? | Yes, somewhat | There are other, Parish-level programs to address these problems, but the project may also be able to help in some areas. |
| 6. Can a community member provide land needed for the project without selling or donating it? | Yes | Yes, the land needed can be provided through a long term lease at a nominal rate. A signed lease agreement will be needed. |

Annex 4

LIST OF PARTICIPANTS TO THE PUBLIC CONSULTATION MEETINGS HELD IN KINGSTON ON NOVEMBER 1, 2005 AND JANUARY 13, 2006

| NAME | ORGANIZATION |
|--|---|
| November 1, 2005 Meeting to Discuss the Draft Safeguards Diagnostic Review Report | |
| Ms. Karen McDonald- Gayle | USAID |
| Mr. Nobihiko Kumagai | JICA |
| Mr. Evan Cayetano | Inter-American Development Bank |
| Ms. Nadia Ferguson | Negril Area Environment Protection Trust |
| Ms. Angella Omeally | National Environment Societies Trust (NEST) |
| Ms. Susan Outuokon | Jamaica Conservation and Development Trust and Private Sector Organization of Jamaica |
| Mr. Brian Zane | Montego Bay Marine Park |
| Ms. Paula Hurlock | Dolphin Head Trust, Hanover |
| Dr. Juliet Bailey Penrod | University of the Northern Caribbean (UNC) |
| Mr. Cavon White | Planning Institute of Jamaica (PIOJ) |
| Ms. Nadine Jones | Planning Institute of Jamaica (PIOJ) |
| Ms. Sharon McDonald | Planning Institute of Jamaica (PIOJ) |
| Ms. Sherine Walker | Social Development Commission (SDC) |
| Mr. Dunstan Bryan | Ministry of Finance and Planning |
| Mr. Richard Murray | Ministry of Finance and Planning |
| Ms. Jacqueline Brown | Ministry of Finance and Planning |
| Ms. Ida Ormsby | Ministry of Finance and Planning |
| Ms. Claudette Hall | Ministry of Land and Environment |
| Mr. Rohan Richards | Ministry of Land and Environment |
| Ms. Jeanette Calder | Ministry of Water and Housing |
| Ms. Frances Blair | National Environment & Planning Agency (NEPA) |
| Ms. Michelle Grant | NEPA |
| Ms. Winsome Townsend | NEPA |
| Mr. Cherton DaCosta | National Housing Trust (NHT) |
| Mr. Dwight Myers | National Land Agency |
| Ms. Lisa Campbell | LAMP |
| Mr. Errol Mortley | National Solid Waste Management Authority |
| Mayor George Lee | Portmore Municipal Council |
| Ms. Teresa McKar | Portmore Municipal Council |
| Mr. Ian Reid | St. James Parish Council |
| Ms. Ayanna Mitchelle | JSIF |
| Mr. Richard Muirhead | JSIF |
| Ms. Kaideane Simpson | JSIF |
| Mr. Rohan Bell | JSIF |

| | |
|--|--|
| Mr. Carl McKenzie | JSIF |
| Mr. Gerald Murray | JSIF |
| Mr. G. Antonio Blake | JSIF |
| Ms. Dawn White | JSIF |
| Ms. Leith Dixon | JSIF |
| Ms. Donette Spence | JSIF |
| Ms. Nicola Lee | JSIF |
| Ms. Debbie Leslie | JSIF |
| Mr. David Eberle | JSIF |
| Ms. Kamna Patel | HTSPE, Consultants to JSIF |
| Dr. Margaret Williams Jones | Environmental Solutions Ltd, Consultants to JSIF |
| Ms. Sharon Mae Shirley | Environmental Solutions Ltd, Consultants to JSIF |
| Dr. Wayne Henry | The World Bank |
| Mr. Abhas Jha | The World Bank |
| Mr. Dan Hoornweg | The World Bank |
| Mr. Panneer Selvam | The World Bank |
| Mr. Heinz Unger | The World Bank (Consultant) |
| January 13, 2006 Meeting to Discuss the Draft Land Acquisition and Resettlement Policy Framework and the Draft Environmental Management Framework | |
| Winston Hinds | Bucknor |
| Solomon Sille | Bucknor |
| Paula Watson | Bucknor |
| Dalius Bailey | Bucknor |
| Cynthia Aiken | Bucknor |
| Marcell Beckford | Bucknor |
| Rohan Harrison | Africa |
| Winston Smith | |
| Orville Hibbert | Africa |
| Sheldon Wint | Africa |
| Winsome Townsend | National Environment and Planning Agency |
| Veda Fagan | Dunkirk |
| Sherine Walker | Social Development Commission |
| Sharonmae Shirley | Environment Solutions Limited |
| Richard Kelley | Planning Institute of Jamaica |
| Angella Omeally | National Environmental Societies Trust |
| Ryan Mighty | Craig Town Youth Organization (Jones Town) |
| Robin Rock | Jones Town |
| Leith Dixon | JSIF |
| Yvonne Francis | JSIF |
| Dawn White | JSIF |
| Paulette Dixon | JSIF |
| Mareeca Brown | JSIF |
| Ngozi McKenzie | JSIF |
| Debbie Leslie | JSIF |
| Thricia Brooks | District Development Committee (Bog Walk) |

| | |
|---------------------|--|
| Michelle Marshall | Bog Walk |
| Richard Johnson | Bog Walk |
| Dwayne Dillon | Bog Walk |
| Shirley Webley | Tawes Pen |
| Janice Francis | Tawes Pen |
| Devon Forbes | Tawes Pen |
| Keith Webley | Tawes Pen |
| Wilton Campbell | Tawes Pen |
| Ricardo Reid | Tawes Pen |
| Delroy Pedley | Tawes Pen |
| Shawn Thompson | Tawes Pen |
| Olivia Grange | M.P Tawes Pen |
| Rudolph McKenzie | National Housing Development Corporation |
| Nazbourne Lee | Central Village |
| Simone Richards | Central Village |
| Juliet McKenzie | Dunkirk |
| Linval Annakie | Whitfield Town |
| Michael Whittingham | Whitfield Town |
| Anthony Gayle | |
| Greg Tyrell | |
| Judith | |
| Rohan Perry | Jones Town |
| Marlene Green | Jones Town |
| Marie Glanville | Whitfield Town |
| Uvalyn Williams | Elleston Primary (Dunkirk) |
| Christopher Francis | Central Village |
| Shirley Piller | Central Village |
| Marianna Hudson | Central Village |
| Natalee McDonald | Central Village |
| Natalie Gordon | Central Village |
| Joy Green | Central Village |
| Vivia Lawrence | Central Village |
| Agilita Fuller | Dempshire Pen |
| Gerald Williams | Dempshire Pen |
| Mohan Bunwarn | Dempshire Pen |
| Michael Griffiths | Dempshire Pen |
| Anthony Currie | Shelter Rock |
| Avril Griffiths | Shelter Rock |
| Hortensia Gordon | Shelter Rock |
| Marilyn Nash | Flankers |
| Andrew Williams | Flankers |
| Valerie Williams | Flankers |
| Benjamin Palmer | Flankers |
| Cecil Spence | Flankers |
| Sylvia Myer | Flankers |
| Carmen Haughton | Flankers |
| Freddy Cockings | Flankers |

Annex 5

LIST OF KEY OFFICIALS MET

| NAME | ORGANIZATION |
|---|---|
| Scarlette Gillings, Managing Director | Jamaica Social Investment Fund |
| Faith Graham, Project Manager | Jamaica Social Investment Fund |
| Omar Sweeny, Operations Manager | Jamaica Social Investment Fund |
| G. Antonio Blake, IT Manager | Jamaica Social Investment Fund |
| Celia Dillon, Environmental Coordinator | Jamaica Social Investment Fund |
| Gangolf Schmidt, Technical Advisor | Jamaica Social Investment Fund |
| Leila Palmer, Director, External Cooperation Management Division | Ministry of Finance and Planning (PIOJ) |
| Mohini Kiswani | Ministry of Land and Environment |
| Leonie Barnaby, Senior Director, Environmental Management Division | Ministry of Land and Environment |
| Claudette Hall | Ministry of Land and Environment |
| Pearl Piccott, Commissioner of Land Valuation | National Land Agency |
| Joy Alexander, Director | National Environment and Planning Agency |
| Glenroy English, Legal Officer | National Environment and Planning Agency |
| Frances Blair, Permits Section | National Environment and Planning Agency |
| Cheryl Gopaul, Development Officer | High Commission of Canada |
| Willie Clarke-Okah, First Secretary (Development) | High Commission of Canada |
| Louise Valle, Senior Governance Program Manager | Canadian International Development Agency (CIDA) |
| Gerd Jarchow, Ambassador – Head of Delegation | European Union (EU) |
| Howard F. Batson, Director, Office of Environment & Natural Resources | U.S. Agency for International Development (USAID) |
| Diana McCauly, CEO | Jamaica Environment Trust |
| Peter Dawes, Team Leader | HTSPE Consultants |
| Clive English, Technical Director | HTSPE Consultants |
| Donovan Rose, Director | TEMN Consultants |
| Courtney Douce, Project Resettlement Manager | Northern Coastal Highway Improvement Project (NCHIP), National Works Agency |
| Fay Anderson, Team Leader Standardization Division | Bureau of Standards Jamaica |
| Cheyenne Blake, Environmental and Occupational Health Manager | Norman Manley International Airport |

List of Main Documents Consulted

- Government of Jamaica.** *Constitution of Jamaica, 1962.*
- Government of Jamaica. *Draft Green Paper “Toward a National Involuntary Resettlement Policy” 1998.*
- Government of Jamaica. *Land Acquisition Act of 1947.*
- Government of Jamaica. *Natural Resources Conservation Authority Act, 1991.*
- Government of Jamaica. *Natural Resources Conservation Authority Act Proclamation, Rules and Regulations, 1996.*
- Government of Jamaica. *Natural Resources (Prescribed Areas) (Prohibition of Categories of Enterprise, Construction and Development) Order, 1996.*
- Government of Jamaica. *Natural Resources Conservation (Permits and Licences) Regulations, 1996, amended, 2004).*
- Government of Jamaica. *Jamaica National Heritage Trust Act, 1985.*
- HTSPE et al. *Assessment of JSIF Safeguards Compliance Capacity, Environment and Resettlement, 2005.*
- HTSPE et al. *Neighborhood Basic Infrastructure and Public Safety Plans, Overview & Summary, 2005.*
- HTSPE et al. *Neighborhood Basic Infrastructure & Public Safety Plans, Volumes 1 to 7 (with specific neighborhood plans), 2005.*
- HTSPE et al. *Jamaica: Technical Studies & Preparatory Activities for the Development of the Jamaica Inner City Basic Services Project, 2005.*
- Jamaica Social Investment Fund (JSIF). *Operations Manual & Annexes, Revised, 2004.*
- National Environment & Planning Agency (NEPA). *Towards a National Policy and Strategy on Environmental Management Systems (EMS), White Paper, Final Draft, 2002.*
- National Planning & Environment Agency (NEPA). *Inventory of Legislation, Policies, Guidelines, Standards & Regulations Used by the National Environment & Planning Agency unpublished, 2004.*

National Environment & Planning Agency (NEPA). *Guidelines for Conducting Environmental Impact Assessments*, 2005.

Natural Resources Conservation Authority (NRCA). *Permits and Licence System - Guidelines for Project Proponents*, 1996.

Newman, James R.. *Report on Jamaican Harmonization Analysis*, Final Report, including Annex II: Jamaican EA Harmonization Congruency Composite, 2003.

TEMN Ltd.. *Phase 1 Report: Environmental Screening and Supervision of Projects Under Implementation*, 2005.

TEMN Ltd.. *Phase 2 Report: Preparation of Updated JSIF Operations & Maintenance Manual*, 2005.

TEMN Ltd.. *Phase 3 Report: Review of JSIF Supervision TOR Template*, 2005.

Toppin-Allahar, Christine. *Assessment of JSIF's Safeguards Compliance*