

The Chairperson
Forest Advisory Council
MoEF, CGO Complex
Lodi Road
New Delhi.

Date: 19th Aug 2009

Dear Sir,

We, as people to be affected by the proposed Renuka Dam project, would like to bring to your notice some important issues related to the proposal for diversion of 790 hectares of Forest land for the project in Renuka, Rajgarh, Nahan, Poanta Sahib and Shimla Divisions.

- 1. Loss of livelihoods and settlement of rights:** The residents of the area almost 750 families from 37 villages, especially the poor and the landless, are the most dependent upon the forest lands for grazing cattle and collecting fuel wood and other NTFPs. There are many tribal Gujjar shepherds who have their summer camps and access routes in the area to be acquired for the Dam. The forest uses of the people of Himachal Pradesh have been elaborately recorded during the forest settlement processes and almost all the people belong to the category of either forest dependent Scheduled Tribes or Other Traditional Forest Dwellers as defined under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act (hereafter referred to as FRA). We are afraid that, as in the past, forest rights of the people would be ignored while diverting forest resources that they depend upon for livelihoods requirements. In keeping with the circular issued by the MoEF on 30th July 2009, the forest clearance to the project should not be given because the process of settlement of rights under the FRA 2006 is still not initiated. The Government of Himachal Pradesh (GoHP) is yet to initiate and complete the process of recognition of forest rights in the lands to be acquired. (Please see attached letters from Gram Panchayats and Sabhas related to the same)
- 2. Loss of forests and biodiversity:** It is unfortunate that the project proponents are claiming that the forest land involved has sparse vegetation where as there are lakhs of trees of saal, khair and aamla and many others. The EIA report itself has a detailed listing of the flora, fauna and riverine ecology of the Giri river valley where the dam is proposed to be constructed. As per the EIA report for the project, out of the land area surveyed in 10 km radius of the dam, if subtract the land used for agriculture, settlement, water bodies, barren land, snow covered land, we see that 65.02% of the remaining land (mostly forested lands) is described as having "Dense Vegetation". We are also attaching here report of the contractor hired to enumerate the trees on private lands which the HPPCL claims has no trees where as lakhs (almost 13 lakhs) of trees have been counted. The loss of these forests could never be compensated through afforestation measures. Apart from the vegetation on the forest lands, there is thick vegetation on *shamlaat forests* (private forests) which are also going to be acquired. However, the trees on these lands are not even being counted or considered

to exist by the project proponents. The fact that 49 hectares of the Renuka Wildlife Sanctuary is also going to be diverted (and there is a High court matter related to this) and that the Renuka lake, a Ramsar Site is just adjacent to the proposed dam site are also issues that need to be looked at seriously.

3. **Downstream impact:** Damming a river is like blocking the life sustaining blood vessels of the environment causing irreversible damage to all human beings; animals; birds; insects; microorganisms; aquatic life including all species and ecosystems listed in the above paragraph on Renuka Wetland. The damming of the Giri River will change the ecology of the area and will affect the normal flow of water from the Renuka Lake to the Giri River, thus, endangering the Lake, and destroying the spirituality of the area and the faith of the people of India.
4. **Greenhouse emissions and climate change:** The EIA report of the project does not mention what will be the climate change contribution of the proposed reservoir. As it has been nationally and internationally accepted, reservoirs in tropical countries like India can emit very large quantities of methane, which has 21 times greater potency than carbon dioxide. Any EIA must estimate this quantity in this age. Similarly, the EIA should also project as to what will be impact of climate change on the project. Neither of this has been done.

We are attaching here a detailed memorandum that was submitted to the Ministry of Water Resources and the Expert Committee of the MoEF considering the environment clearance for the project. We are also attaching news paper clippings indicating the severe opposition to the project by local communities.

Based on the above we appeal that the clearance for diversion of forest lands for this project be rejected considering the wide-reaching ecological impacts of the dam if allowed to be constructed.

Yours sincerely

Puran Chand

Durga Das

Renuka Bandh Sangharsh Samiti

Guman Singh

Himalaya Niti Abhiyan

Copy to

Mr Ansar Ahmed

Inspector General of Forests

Forest Conservation

July 26, 2009

To

The Members and Chairperson,
The EAC- River Valley and Hydropower Projects
Ministry of Environment and Forests
Paryavaran Bhawan, Lodi Road
New Delhi 110003

Subject: Response to the reply submitted by the HPPCL on submissions made by concerned groups

We have seen the response of the HPPCL to the issues raised by us in the context of the Renuka Dam Project in Himachal. After carefully reading the HPPCL response, we are even more convinced that the project does not deserve environment clearance. We are not going to respond to each and every statement of HPPCL, since there are many irrelevant, and frivolous statements in the response, which is possibly an indication of their realisation that their case is rather weak. In any case, the EAC and the MEF should ask HPPCL and other developers to refrain from making such statements and should ask them to withdraw them in current case and ask them apologise for the same.

We are here giving further details of only some of the very crucial issues.

HPPCL acknowledges some basic deficiencies At the start we would like to note that the HPPCL has acknowledged the following basic deficiencies, as pointed out in our submission:

1. The agreement of November 1994 Renuka dam is not valid, “owing to questions on its validity and enforceability a fresh agreement is required to be signed”. Thus a fresh agreement will have to be renegotiated among the Upper Yamuna basin states afresh and state of Haryana is publicly opposing the Renuka Dam Project. Here the contention of HPPCL that “The water would actually start flowing after the reservoir is filled up and so there is enough time (5-6 years) to settle the water” is not right. How can the project be taken up without an agreement with the basin states? It may be added here that water has to be transported to Delhi via the lands of Haryana and there would be no use of the project if Haryana and other states do not sign an agreement first. The terms of the agreement will decide the process and scope of the project. Thus in absence of a valid fresh agreement amongst the upper Yamuna basin states, any progress in this project would be like putting the cart before the horse and may result in entirely avoidable wastage of public money as the project may get stalled at any time resulting from a lack of enabling agreement as mentioned above.

2. Delhi has 40-45% transmission and distribution losses and HPPCL accepts that “reducing the distribution losses is a good proposition”. The trouble is, there is no movement in that direction, we have been hearing the same figures from official reports for over five years

now, there has been no reduction in the losses. Under the circumstances, looking for supply side solutions would be like adding water to leaking bucket.

3. “Renuka Ji Dam Project is primarily a Drinking Water Supply project” for Delhi, HPPCL agrees. In that case, it is expected that it is established that the proposed Renuka Dam is the least cost option for the objective. DJB and HPPCL accepts that this has not been done.

The EIA manual given even today on the website of the Union Ministry of Website (see: <http://envfor.nic.in/divisions/iass/eia/Cover.htm>) says in section 1.2.5, “*An EIA report should provide clear information to the decision-maker on the different environmental scenarios without the project, with the project and with project alternatives.*” Similarly, the annexure 11 of the manual says, “*The best way of impact mitigation is to prevent the event occurring. All efforts should be made to locate the developmental activities in an area free of agricultural lands, cyclones, earthquakes, ecologically sensitive, erosion, forests, flooding, human settlements, land slides, natural scenic beauty, water logging. In case this is not feasible the next step is to look at the raw materials/technologies/ processes alternatives which produce least impact*”. The section 6.3 of National Water Policy 2002 says: “*In the planning, implementation and operation of a project, the preservation of the quality of environment and the ecological balance should be a primary consideration. The adverse impact, if any, on the environment should be **minimised** and should be offset by adequate compensatory measures.*”

So what is required under the National Water Policy and EIA manual is to look for the least cost and least environmental impact option for the given objective, including options like reducing losses, protection of local water systems, local rainwater harvesting, groundwater recharge, demand side management, recycling, charging cost price and higher rates beyond the minimum use in Delhi, which is the main beneficiary state from the project. Such an exercise has not been done either by the Delhi Jal Board, by HPPCL or by the EIA consultant and without such an exercise, giving clearance to the project would be inappropriate and also in violation of the EIA norms. We fail to understand that if these norms have little value or importance in actual practice as seems true in this case, then why have these been put on the statute (National Water Policy and the EIA Manual) in the first place?

4. HPPCL accepts, “If groundwater extraction (both legal and unauthorized) is to be reduced, then surface water supplies have to be improved/augmented and made reliable, which is possible only when monsoon water is harvested”. The trouble is, Delhi, is not even harvesting its rain, as was accepted by the Delhi Chief Minister during a meeting with her of a delegation where some of us were present. Unless such options, including groundwater recharge are exhausted in a credible way, there is no wisdom in pushing for costly, long distance solutions.

5. HPPCL accepts, “It is true that water releases from the proposed project would take priority over power generation as it is primarily a water supply project with only incidental power generation” in the context of power generation from the existing 60 MW Giri

Hydropower project. HPPCL also accepts, “With the surplus water being discharged from the proposed dam during monsoon, impact on Giri HEP due to filling up of the proposed reservoir would be minimal.” This makes it clear that the power generation at the Giri HEP would be seriously hampered during the reservoir filling, since the “surplus water” would be discharged only when the reservoir is filled up. Now if we look at the power generation profile of the Giri HEP over the latest two years, we see that around 55% of the annual generation is happening only during the three monsoon months July, Aug and Sept and during these three months, in most of the years, Giri project will be able to generate almost no power once the Renuka dam comes up, since these are the filling months of the proposed Renuka reservoirs. During these three high power generation months, the existing Giri project will be able to generate power only from the water that comes to the Giri river from the tiny downstream catchment and if there is overflow from the dam. This BIG LOSS of power generation at Giri Project has not even been mentioned by the EIA.

Similarly, it is good to see that HPPCL accepts, “It is reiterated that the proposed Renuka Ji Dam Project is primarily a water supply project; hence, in its case peak time power generation is not an issue at all let alone being it’s USP. As for the Giri HEP, it has the storage for meeting peaking requirement.” However, here is there is a contradiction. If the dam is proposed primarily as a water supply project and water supply being a continuous requirement, how can Giri project operate to meet peaking requirement? Because if Giri Project were to operate to meet peaking requirement, than the water supply cannot be continuous to Delhi, even if Rehuka dam were to make continuous releases, as claimed here. What this means is that even Giri project will not be able to meeting peaking needs, which it is meeting now. This will be another BIG LOSS due to Giri Project, not assessed in the EIA.

6. HPPCL accepts in point 23, “SIA is being conducted by FRI (deemed university), Dehradun.” It clearly means that the Social Impact Assessment is yet to be done. However, this is clear admission of the fact that the EIA, as defined in the EIA notification of September 14, 2006 is incomplete. The EIA notification, under which the clearance is being sought, defines “**GENERIC STRUCTURE OF ENVIRONMENTAL IMPACT ASSESMENT DOCUMENT**” in appendix 6 of the EIA notification, where it is clearly stated that SIA has to be part of the EIA. It is thus clear that HPPCL has admitted that the EIA is yet incomplete.

7. HPPCL accepts that the assessment of methane emission has not been done. Here HPPCL contention that, “Methane is emitted due to decomposing dead animal and plants. This may happen elsewhere, if not in water” is not correct. Methane is emitted when the decomposition of organic matter happens in anaerobic condition, that is in absence of air or oxygen, which is the condition at the bottom of the reservoirs.

Similarly, HPPCL contention “tropical reservoirs being a fountainhead of emitting unacceptable levels of this gas is vehemently denied. This is not yet established scientifically and no credible scientific reference exists” is completely off the mark. Even Indian organisations like NEERI, Planning Commission, Ministry of Environment and Forests and

NHPC accept that indeed reservoirs in tropical countries are established sources of methane emission. Internationally, reputed organisations like the UNFCCC, UNEP and World Commission on Dams, and a number of academic and government bodies accept the reality of this. In fact, in case of the recently approved proposed Tipaimukh dam, the Union Ministry of Environment and Forests has asked the project authorities to assess the potential of methane emission from the proposed reservoir. We can substantiate all these contentions. It is clear that HPPCL is wrong here too.

Response to HPPCL's wrong contentions The response to the submission by HPPCL is not just inadequate but unacceptable on many grounds, some crucial ones are listed below.

1. **Adequacy of water in Delhi** The 11th Five Year Document of the Planning Commission (Vol 2, chapter 5, page 163, first column top), "per capita availability of water in cities like New Delhi exceeds that in Paris". Similarly, the "Integrated Water Management Policy and Action" document dated May 2009 from the Planning Commission says, "Delhi, for instance, has more water per capita than Paris." Under the circumstances, HPPCL trying to argue the case that Delhi needs more water is strange.

HPPCL response that Delhi required more water even in 2001 than what was available is not correct. In a presentation that the then chairman of Delhi Jal Board made at a World Bank meeting on March 3, 2005, Mr Rakesh Mohan said (a copy of this presentation is available with us and we would be happy to share it) about Delhi Water situation (his own questions and answers):

Q: Is there adequate water	A: Yes
Q: Is the distribution system known fully	A: No
Q: Does the utility know where all water goes	A: No
Q: Is the utility in control of distribution	A: No
Q: Are there unauthorised tapping and leakages	A: Yes

It is clear from above that even in 2005, DJB chief's view was clear that Delhi had adequate water. HPPCL's response is clearly wrong here.

2. **Problematic tone of the response:** The entire response not just to our submissions but those from the Panchayats and project affected people is interspersed with sarcasms as well as value judgements on the intentions of the opponents and appellants. This goes to show the callous and insulting attitude of the HPPCL, the same which it has maintained in its public interactions in the area. It is unlikely that such an implementing agency will even be bothered about the disastrous impacts of this project which will come to public light in a short period of time if the project is allowed to go through. Some such aspects are already before us in terms of making wrong claims, charges and using such language.

3. **TEC is conditional, final clearance still not given** The project proponent should furnish all the documents related to the TEC which it claims was accorded in 2000. We have

seen minutes of the meeting in which a conditional TEC was "found suitable" for the project by the CWC. One of the three conditions was obtaining of the Environment and Forest Clearance. This includes the denotification of the 49 hectares of the Renuka Wildlife Sanctuary. All this is pending. Infact the HPPCL is misleading the EAC by constantly referring to the Supreme Court recommendations on the denotification of the RWLS. While such a recommendation has indeed been made - that too is based on several conditions. However, the Forest Clearance as well as the denotification of the RWLS is still pending with the MoEF. It also must be mentioned here that there is a litigation in High Court challenging the use of the RWLS for non-forestry activities in which HPPCL is also a party. The Central Water Commission said in response to an RTI application, "The HPPCL has submitted a revised cost estimate of the project on Nov 4, 2008 which is under appraisal in CWC. The B.C. Ratio will be finalised after finalisation of the cost of the project." It is clear that final TEC clearance is still awaited.

4. **Sparse Vegetation in forestland?** HPPCL claims in point 10, "most of the 749 hectares (ha) forestland does not have much vegetation". This claim is in fact contradicted by Table 3.9 of the EIA, where, out of the land area surveyed in 10 km radius of the dam, if subtract the land used for agriculture, settlement, water bodies, barren land, snow covered land, we see that 65.02% of the remaining land (mostly forested lands) is described as having "Dense Vegetation". HPPCL claim here is clearly wrong. We will separately send you the report of the contractor hired to enumerate the trees on private lands which the HPPCL claims has no trees where as lakhs of trees have been counted.

5. **Shamlaat lands or private forests:** The proponents in response to our submission have conveniently avoided the issue of forest rights of the local communities on the forest and shamlaat lands involved. They merely refer to the highly inadequate and vague R and R plan in this context. In the compensation package being awarded through negotiation by HPPCL it is offering 50,000 per Bigha for this land which it conveniently refers to "wasteland", so that it does not have to compensate for the very valuable forests that stand on this land. Further, it is shocking that in their response to representation by the affected people they quote the Godhavarman case and claim that the activities carried out by the people on the shamlaat forests (for which they have separate titles) are illegal. This shows the high handedness of the agency which forgets that the local communities have been using and protecting these forests for many generations and that during the HP Forest Settlement titles were accorded for the shamlaat forests in the *Maal Gujari and Bahi Khata*. The EIA does not refer to these lands which are a key source of income through sale of NTFPs. In addition HPPCL had hired a contractor for the counting of trees standing on private property and as per the report submitted by the contractor 13 lakhs trees (both on agriculture land and private forest land) have been found standing in submergence area (the hard copy of report attached with the hard copy being sent to the EAC member secretary). The HPPCL has made full payment to the contractor but is silent about this report.

6. **Forest Rights Act 2006:** Contrary to the belief of HPPCL, under the provisions of the Forest Rights Act 2006, the communities' rights, not just in these shamlaat forests, but in the

entire 749 hectares including the Sanctuary area will have to first be settled as per the procedure under the Act. As mentioned in our submission, almost the entire forest area to be submerged is being used by the people for grass, fodder, medicinal plants, timber, fuel and other NTFP extraction. All these are recognised rights under the FRA 2006 and the claims of the right holders will have to be recognised and settled. Any diversion of the forest land without this is a blatant violation of the FRA 2006. It is strange that in point 10 the proponent states that there is not much vegetation on the 749 hectares of forest land. The good health and biodiversity of the forests has been very well described in the EIA report. However, the EIA in the section on Impacts ignores the role of these forests in the local livelihoods.

7. **Land requirement for project** HPPCL says in its response in point 18, "Please refer to Table 3.10 in the EIA Chapter-3-Physical Environment, page number 60 under paragraph 3.12, where total land requirement for construction of the project is clearly depicted as 2239 hectares." This is indeed strange, the EIA that we have (a PDF file downloaded from the HPPCB website, and the one that was put up there for the public hearing held on Oct 21, 2008) in fact in the same table in the same section as mentioned by HPPCL, gives the figure of total land requirement as 1532.6 ha, including forest land of 955.82 ha and private land of 576.78 ha. So it seems HPPCL is in fact quoting from a different version of EIA, which was not used during the public hearing.

However, for deciding the adequacy of the EIA, the public hearing etc, the EIA document that was used during the public hearing needs to be referred to, as per the requirements under EIA Notification of September 2006. A new version of EIA cannot be used for getting clearance for the project. In fact, such attempt to use an updated version of EIA, is an attempt to deliberately mislead the EAC and MEF and should invite rejection under section 8(vi) of the EIA Notification of Sept 2006.

Since the difference in basic parameters like land requirement differs so much between the two versions, this difference itself should be good enough for ordering a fresh public hearing.

8. **Private Negotiation with Urgency Clause?** The response in point 21 to the use of 17/4 (Urgency clause under the Land Acquisition Act) is completely misleading. There are various alternatives to the Dam proposal itself which have not been considered since there has been no options assessment done, as mentioned above. Further, once the option of filing objections is not the same thing as providing scope for "private negotiation". By using 17/4, the proponent and state are attempting to pressurise the land holders to sell their land at the rates being offered with an implied threat that the awards would be made whether or not people are satisfied with the compensation.

The facts of the Supreme Court order in November 2008 are as under: The Supreme Court held that the government cannot acquire private land by invoking the 'urgency clause', without inviting objections from those aggrieved or citing sufficient justification. This was stated by a Bench of Justice C K Thakker and Justice D K Jain, while quashing the acquisition proceedings launched by the Haryana government to acquire private lands "for

public purpose”. The Bench held that the acquisition proceedings sought to be launched under the urgency clause were not justified as the authorities had failed to cite any urgent cause for it.

The situation in case of Renuka dam is similar. There is no cause for urgency, there is not even a valid agreement in place, the project does not have necessary clearances, it has not done options assessment, there is no water crisis (as regards availability) in Delhi as such so there is clearly no cause for urgency, and hence use of section 17(4) has no validity.

9. **Poor participation in the Public Hearing:** According to HPPCL 220 persons were present in public hearing, which is, slightly more than the one fourth of the total households going to be directly affected by the project, barring the downstream population and Gujjars population which are also going to be affected by this project. Gujjars are one of the most vulnerable and marginalized sections of society totally dependent on livestock for their livelihood. Members of the Gujjar community are going to lose their grazing right in both reserve and protected forest without their agreement and compensation. Even among those present at the public hearing, many have said that HPPCL has taken their signatures without informing them as to why this is being taken. Many of those who were present at the hearing are willing to testify that they were not clearly told the purpose of the hearing and that they were treated to a lunch and given general information about the benefits from the project rather than about the environmental impacts.

10. **People opposed to the project** HPPCL says in response to concluding para, “It is wrong to allege that EIA records that 95 % of the affected people are against the project that too without quoting the relevant paragraph and page number.” We have a copy of the EIA that was used for the public hearing process, which says in section 7.7, “It was found that about 95.62 % PAFs are not in favour of this project”. In fact, there is a table 7.22 (again repeated in table 7.24), which gives the % of people as follows:

Table 7.22: Attitude of affected families of Renuka Dam Project

Questions	Yes (%)	No (%)
Do you know about the Project to be constructed in the area?	100.00	00.00
Are you in favour of Project?	4.38	95.62

The EIA says in Table 7.24 that the reasons for being against the projects are: 1 Loss of Fertile Agriculture Land 95.62 %; Deprived of fuel and fodder 91.34 %; Losing their ancestral place 67.13 %.

It is clear from the above table from the EIA that according to EIA, 95.62% of the surveyed people said that they are NOT in favour of the project. If the newer version of the EIA document has removed these sections, which actually amounts to hiding the authorities with a view to mislead them. Attempting to get clearance through such means should also be held against the project authorities. Here section 8 (vi) of the EIA notification of Sept 2006 is relevant: “(vi) Deliberate concealment and/or submission of false or misleading information

or data which is material to screening or scoping or appraisal or decision on the application shall make the application liable for rejection, and cancellation of prior environmental clearance granted on that basis.” Thus, such deliberate concealment of information by the HPPCL should lead to rejection of the application.

11. The studies of the Renuka Lake contained in the EIA are not founded on all parameters which influence the ecology, the river and the forests. The hydrological cycle showing the interaction between the lake, the ground water and the Giri River does not find a place in the EIA document. The Ramsar Wetland document shows a connection between the Giri river and the Renuka lake through the Parshuram taal. Other studies further show the connection between the Renuka lake and the Giri River whose flow will be adversely impacted by the construction of the Renuka dam. Thus, reiteration and reassurances that the present Renuka ji wetland is not being touched, is untrue.

Conclusion The points of our earlier submission are reiterated notwithstanding the arguments made in defense of the project by HPPCL. It is wrong to describe it as a project of national importance ascribing the reason to the NCR's water demand. From the available information, it is clear that the project is not feasible because of technical, social and environmental issues. The inadequacy of the EIA and the public hearing process has been established and the clearance for the project should not be granted.

We would like to make this case before the EAC and would urge you to kindly let us know the time and place in advance, where we can make our case.

We will look forward to your response. We also request you to make it a policy that whenever the project developer has been asked to respond to such submissions, developers should be asked to send copies of their responses to the applicants when they send their response to EAC. In any case, MEF should promptly send such responses to the applicants.

Thanking you,

Yours Sincerely,

1. **Subodh Abbhi, Jan Ekta Samiti, Batamandi, Paonta Sahib, District Sirmour-173025, Himachal Pradesh subodh.abbhi@gmail.com**
2. **Guman Singh & Kulbhushan Upmanyu, Himalaya Niti Abhiyan, HP guman107@yahoo.co.in**
3. **Manshi Asher, Environment Research & Action Collective, C/o Vanshika Niwas Diffarpat Village, Bindravan Panchayat, Palampur 176061, Kangra, HP manshi.asher@gmail.com**
4. **Puran Chand, Secretary, Renuka Bandh Sangarsh Samiti, Sirmaur, Himachal Pradesh**

5. **Rahul Saxena, Lok Vigyan Kendra, Palampur, Himachal Pradesh, lokvigyankendra@gmail.com**
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