

APPENDICES

APPENDIX 1:

CHRONOLOGY

[Please note: All the documents mentioned in the footnotes are available upon request and can be sent by email]

- **2004** - Pre-feasibility report by CEA.
- **2007** - Detailed project report by HPSEBL.
- **July 2007** - GMR Bajoli Holi Hydropower Ltd. was allotted the project after open bidding process conducted by the State Government. The project agreed to pay Rs. 82.06 crores to the Government as the upfront premium; it paid the first installment of 50% of this amount in 2007 and the second installment in 2011.
- **February 11, 2008** - ToR granted to the company by the MOEF, based on consideration by EAC in its meetings dated 13.12.2007 and 17.02.2007. As per the ToRs, the project was to be constructed along the right bank of the Ravi River.
- **December 1, 2008** - Letter by Company to MoEF requesting for shift in the location of the power house and the tunnel from the right bank to the left bank.
- **2 December 2008** - The Ministry of Environment and Forests (MoEF) granted no-objection to the shift in the project components *within one day* of the company applying simply on the basis that the consultant for the project proponent found the left bank design to be more advantageous¹.
- **April 9, 2009** - The Special Secretary (Power), Government of Himachal Pradesh, had allowed the company to shift the project components from the right bank to the left bank on “due to greater techno-economic feasibility” but again without any independent appraisal of the impacts of the shift².
- **November 2009** - The project proponent submitted the Detailed Project

¹ See document MoEF to GMR 2dec2008 OK to shift.pdf

² See document MPP&Power to GMR re project altitudes 9 April 2009.jpg

Report for the project to Central Electricity Authority with the project components on the left bank.

- **April 4, 2010** - The Gram Sabha of the Holi Gram panchayat annulled the consent it had given earlier on 19.07.2009 to the construction of the project citing that the quorum of the sabha on that day had been inadequate (1/5 of the member households)³. Through the same resolution, the Holi Gram Sabha expressed its opposition to the left bank design and reiterated its demand for the project to be constructed on the right bank.
- **April 19, 2010** - The first public hearing for the project was held which witnessed total opposition by the local people on account of the proposed construction of the project components on the left bank of the river⁴. The Environment Impact Assessment (EIA) report based upon which the public hearing was held, was as per the left bank design and also gave a graphic description about the richer vegetation on the left bank as compared to the right bank. The public hearing was called off due to the unanimous protest and the Deputy Commissioner announced that he would consider calling another public hearing only after the project proponent obtained no-objection from all concerned Gram Sabhas.—The state government did not involve the HPSEBL in the public hearing.
- **July-August 2010** - 3 of the 5 affected Gram Sabhas (Nayagraon, Kuleth and Deol), gave their conditional consents to the construction of the project. One of the conditions that the Kuleth Gram Sabha imposed upon the project proponents was regarding the use of Tunnel Boring Machine during the construction phase (Kuleth Gram panchayat resolution available on request). However, there was no change in the position of the Holi Gram Sabha, which had already expressed its opposition to the left bank design on 4.4.2010.
- **August 18, 2010** - The Deputy Commissioner, Chamba, wrote to Chief Engineer (Projects-cum-arbitrator) HPSEBL regarding their comments on an assessment note submitted by GMR to support their case for left bank design.

³ See document Holi Gram Sabha resolution.jpg

⁴ See document Translation of Holi PH 19 Apr 2010.doc

- **September 9, 2010** - The consent granted to the project by the State Government for the left bank design was withdrawn till such time that the developer demonstrated that the local opposition based on environmental and land consideration had been amicably resolved.
- **October 30, 2010** - Two public hearings were held in the second round of hearings for the project⁵. There was little opposition to the project. The only word of dissent was from Mangni Ram, who later moved the High Court challenging the clearances for the project. Citing loss of forest wealth and impact on drinking water sources, he advocated for the use of Tunnel Boring Machine, if at all the project was to be constructed on the left bank. The state government did not involve the HPSEBL in the public hearing.
- **December 20-21, 2010** - The final EIA Report of the project, incorporating the minutes of the public hearing, was placed before the Expert Appraisal Committee (EAC) of Ministry of Environment and Forests during its meeting held at Jaipur. The minutes of the meeting read:⁶

The layout of the cascade of projects on Ravi river shows that practically negligible stretches of the river between Bajoli-Holi and upstream project (Bara Bangahal) and between Bajoli-Holi and Kuther downstream project. It was discussed critically about shifting of power house of Bajoli-Holi by reducing the length of HRT. However, the EAC was informed through geological map of the area that the surface power house complex located along a ridge having phyllite, quartzitic phyllite bed rock on the left bank of Ravi river. The proposed site is already shifted from right bank to left bank. Considering the geological formation and less infrastructure work, the Committee accepted the clarification.

The EAC gave its recommendation for grant of Environment Clearance to the project, subject to certain conditions.

⁵ See document Public_Hearing_Bhjholi_Holi_oct[1].pdf

⁶ See document EAC Minutes Bajoli Reco 20 Dec 10.doc

- **24 January 2011** - The MoEF granted Environment Clearance to the project.⁷
- **22 February 2011** – The HPSEBL sent its reply to the Deputy Commissioner, Chamba, on opinion sought by him in August 2010, citing various advantages of the right bank design over the left bank one including geological, social, environmental, religious and economic aspects⁸.
- **8 July 2011** - The MoEF granted stage 1 (in-principle) Forest Clearance to the project subject to fulfillment of certain conditions⁹. The condition No. 5 of the in-principle FC was regarding conduct of a cumulative environment impact assessment (CEIA) study of the Ravi River basin to be conducted by the Government of HP, taking into account all existing and proposed hydro projects in the basin. This was to be done before the final forest clearance to the project was accorded.

The condition No. 16 of the in-principle FC was regarding compliance with the circular of the MoEF dated 3.08.2009¹⁰, based upon the provisions of the Forest Rights Act, 2006. This circular mandates obtaining the consent of the Gram Sabhas, conducted in the presence of more than 50% members, for the construction of the project and that the process of implementation of the Forest Rights Act in the area to be diverted for the project had been completed

- **February 2012** - The first petition titled Mangni Ram vs. Union of India was filed at the High Court challenging the Environment Clearance and in-principle Forest Clearance to the hydro-electricity project. The primary contention was that the shift of the project components would *adversely impact* the rights, ecology, lives and livelihoods of the people living on the left bank which had richer vegetation and agriculture as compared to the barren and virtually uninhabited right bank. There had been *no independent evaluation* of the impacts of the shift of the project

⁷ See document Bajoli EC.pdf

⁸ See document HPSEBL letter to DC CbaBajoli Holi.pdf

⁹ See document HoliBajoli FC Stage I.pdf

¹⁰ See document 3rdAugust2009.pdf

components except by HPSEBL, which had given adverse comments to the idea of the shift and had not been involved in the process of public hearings; the in-principal FC of the project was *in contravention of* the provisions of the FRA.

- **9 April 2012** - The women of Holi Gram Panchayat started protesting against the shift of the project components after they witnessed the bursting of the tunnel at the Chamera III.
- **29 August 2011** – MoEF wrote to the Principal Secretary (Forest), GoHP, modifying the stage I Forest Clearance condition regarding the need to conduct CEIA study prior to the final forest clearance¹¹, at the behest of the state government, on the basis of a commitment from the state government to conduct such a study in the future and also a commitment from the project proponent to comply with the additional conditions that the Central Government may stipulate, based on the outcome of the CEIA study. The modified condition read thus:

“A cumulative study may be carried out by the State Government on behest of all project proponents on River Ravi to assess the impact on landscape in general and wildlife and ecological aspects in specific and the user agency shall submit and undertaking to comply with the additional conditions that the Central Government may stipulate based on outcome of the said study.

- **15 July 2012** – In its resolution¹², the Gram Sabha of Nayagraon expressed upfront its opposition to the proposal for the diversion of the forest land for the project and resolved *not to consider the clearance* for the project till the project proponent decided to shift the project components as per the original design to the right hand bank of the river

¹¹ See document MoEF letter modification of Stage I condition.jpg

¹² See document Nayagraon GS resolution 15 Jul 12.pdf

- **20 September 2012** – MoEF wrote to the Principal Secretary (Forests), GoHP¹³ diluting the requirement to adhere to the MoEF circular dated 3.08.2009. It accepted the request of the Chief Minister, HP, that in case of HP, a certificate issued by the Collector-cum-Deputy Commissioner of the District concerned stating that no claim under FRA existed or was pending in respect of the forest land to be diverted for the project would be considered as a sufficient evidence for meeting the procedural requirement under FRA. This exemption in the respect of Himachal Pradesh was given on the request of the Chief Minister made vide his letter¹⁴ dated 19.04.2012.
- **4 October 2012** - The Collector-cum-Deputy Commissioner Chamba issued a certificate¹⁵ stating that the process under FRA had been carried out for the 75 hectare land to be diverted for the project and *“there is no Primitive Tribe Groups (Schedule Tribe) and Pre Agriculture Communities (Other Traditional Forest Dwellers) were available on the proposed forest land proposed to be diverted and whose Forest Right Act, 2006.”*

On the basis of the above-mentioned certificate, MoEF found the project to be *compliant with all the conditions* imposed at the time of granting the in-principle FC, including the one related to FRA.

- **26 October 2012**- MoEF granted Final Forest Clearance to the project¹⁶. Among other conditions, the condition No. 13 of the clearance letter said that the other standard conditions as applicable to proposals of hydro-electricity projects will be applicable in this case also.
- **22 November 2012** -A second petition titled Vinod Kumar vs. Union of India was filed at the High Court challenging the Final Forest Clearance to the project. The primary basis of the challenge was the non-compliance with the conditions of the in-principle FC regarding the conduct of CEIA study and the

¹³ See document MoEF letter re HP CM's no outstanding FRA Issues.jpg

¹⁴ See document HP CM's letters to MoEF re FRA waiver.pdf

¹⁵ See document Chamba DC letter No STs of FC land.jpg

¹⁶ See document Stage II FC Bajoli Holi 20 Oct 2012.pdf

one regarding compliance with the provisions of FRA (including mandatory consent of all the concerned Gram Sabhas).

- **3 January 2013** - A crowd of about 900 people gathered outside the office of the NayabTehsildar, Holi, to protest the initiation of construction on the project and forced the official to halt the construction on the project till further orders from the higher officials.
- **28 February 2013** - the Minister of Tribal Affairs, VK Deo, wrote a letter to the CM, HP¹⁷, stating that the State's claims regarding the rights of the people already having been settled was wrong and that the implementation of FRA cannot be set aside due to settlements done in the past.
- **1 April 2013** - Ministry of Tribal Affairs (MoTA) wrote to MoEF¹⁸ stating that the exemption given by MoEF to Himachal Pradesh from adherence to provisions of FRA through its letter dated 20.09.2012 was violatedthe FRA, that the letter be withdrawn immediately and MoTA be consulted in future before any directions are issued in matters relating to compliance with FRA in diversion of forest land for non-forest purpose.
- **22 May 2013** -The High Court of Himachal Pradesh passed judgment on both the petitions¹⁹. The petitions were dismissed with costs on the 5 tribal petitioners to the tune of Rs. 25,000 each. The court had no appreciation for any of the contentions of the petitioners and labelled them as handful of disgruntled elements while imposing costs. All contentions regarding lack of application of mind while granting no-objection to the shift of project components, the communication of the HPSEBL to be considered, the violation of FRA, the opposition of two Gram Sabhas to the project design, communications from the ministry of Tribal Affairs and diluting the condition related to conduct of CEIA study were brushed aside. The court decreed that since Central Electricity Authority (CEA) was the competent agency to grant techno-economic clearance to projects with a budget above Rs. 500 crores,

¹⁷ See document Minister letter to HP CM on FRA.pdf

¹⁸ See document MoTA OM to MoEF against HP exemption to FRA compliance.pdf

¹⁹ See document HC Judgment 24 May 13 CWP 2083 2012.pdf

the report of HPSEBL was of no significance. The CEA, in its reply to one of the petitions, had stated that it had nothing to do with the issue of shift of the project components, which was a concern of the State Government and the project proponent. The court did not find any reason to question the competence of the DC to have issued a false certificate under FRA or for the MoEF to have exempted Himachal Pradesh from producing consents from local Gram Sabhas before diverting forest land for projects.

- A review petition (date to be added) was filed at the High Court. Two additional documents were brought to the notice of the court at the time of review:

a.a. The relevant minutes of the EAC of MoEF dated 20-21.12.2010²⁰ regarding which the petitioners had contended that the EAC had only been informed about the decision of the shift, two years after the actual decision thus confronted with a *fait accompli* situation and had agreed to the shift in project components.

a.b. A report²¹ prepared by HPSEBL during the pendency of the court case in July 2012 which looked once more at all the aspects related to the shift and gave its opinion against it.

- **13 November 2013** - The review petition was dismissed by the High Court.²²
- **25 March 2014:** Police arrests 31 women belonging to various Mahila Mandals of Holi Gram Panchayat protesting at the power house site of the project. They were charged under sections 153A and 232 of IPC and were released on bail after 24 hours at Chamba.
- **2 April 2014:** Women's protest turns into a day-and-night vigil at the power house site of the project. Their agitation against the project construction intensified in the year 2013 and continues till date.

²⁰ See document EAC Minutes BajoliReco 20 Dec 10.doc

²¹ See document HPSEBL report Jul 12.pdf and Typed HPSEBL report.docx

²² See document Judgment Review petitions.pdf

APPENDIX II:

ITINERARY OF THE FACT-FINDING TEAM

April 16, 2014

- Meeting with the Himdhara team at Chamba.
- Meeting with the women protestors at the dharna sthal where the conditions of protest were recorded.
- Meeting with the local community at Holi with representatives of all affected villages on 17th April 2014 where the history of the project and protest was shared in detail.
- Overnight stay at the protest site. Discussions continue about the status of the hydro-project, as well as the repercussions of the women's protest on their lives, livelihoods and the lives of their families.

April 17, 2014

- Informal discussions with residents of Holi village.
- Visit to the dam site by some team members.
- Meeting with the Assistant Deputy Magistrate (ADM) in Chamba to discuss the women's arrests and unwarranted police attacks on the women and men. He was of the view that the project proponents should dialogue with the local people rather than use force.
- Press Conference in Chamba.

April 18, 2014

- Meeting with the DC. The DC said he would look into the matter. He also informed that the report of the High Level Committee that investigated the matter in 2013 is yet to be made public.

APPENDIX 3:

LIST OF SOURCES AND READING MATERIALS:

1. Press Note released on 17.04.2014 after the fact finding visit:

<http://www.himdhara.org/2014/04/17/press-release-all-womens-independent-fact-finding-team-visits-holi-expresses-solidarity-with-local-struggle/>

2. Newspaper Coverage of Holi Protest and other links:

- <http://www.downtoearth.org.in/content/tribal-women-protesting-gmrs-hydel-project-charged-inciting-communal-riots>
- <http://www.himdhara.org/2014/04/11/□□□□-□□□-□□□□-□□□□-□□□□/>
- <http://www.himdhara.org/2014/03/26/action-alert-tribal-women-in-chamba-arrested/>
- <http://timesofindia.indiatimes.com/home/news/In-Chamba-people-ask-parties-to-clear-stand-on-projects/articleshow/33769781.cms?>

3. Video on the issue:

- <http://www.himdhara.org/2014/06/12/a-video-on-the-dharna-in-holi-village-chamba/>