

**Complaint from affected people¹
Regarding proposed IFC funding of
The proposed Allain Duhangan (Hydropower) Project**

From:

People from Jagatsukh and surrounding villages near Manali in Kulu district in Himachal Pradesh in North India

To: Compliance Advisor/Ombudsman
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We would like to lodge a complaint concerning the proposed 192 MW Allain Duhangan (Hydropower) Project (ADP) that IFC proposes to fund.

We live in the villages near Manali in Beas river basin in Kulu district in Himachal Pradesh in Northern India. We can be contacted through the following address, telephone number, email:

We do not wish our identity to be disclosed, as we fear we could be pressurized and victimized by the project and other authorities as they have tried this in the past.

The basis of the complaint is as follows:

The project would inflict serious social and environmental impacts in the villages in project area, including Prini, Jagatsukh and surrounding villages. Our livelihoods would be seriously impacted due to diversion of the river, due to serious impact on Apple cultivation and other agriculture crops, due to impact on tourism revenues and due to environmental impacts. We, along with our supporting organisations have been trying to resolve the problems through repeated requests through communications and meetings, but till date even an adequately satisfactory Environment and Social Impact Assessment (ESIA) of the project is not available². And yet we learn (from various sources including from media reports including one in Business Standard Newspaper of August 24, 2004 and also non responses from IFC persons) that the IFC is preparing to push the project through the IFC Board without resolving the basic issues. This would clearly be violation of World Bank norms and policies and would certainly be against the interests of our communities.

1. A description of the name, location and nature of the project is as follows:

The project is a 192 MW hydropower project on Allain and Duhangan rivers that are tributaries of Beas River, which in turn is a tributary of the Indus River. There are to be three dam structures on the Allain and Duhangan streams, water from Duhangan stream is to be totally (for all practical

¹ SANDRP helped the affected people in preparing, submitting and further follow up of this complaint as part of SANDRP complaint on this issue.

² We have seen the ESIA dated May 2003, the revised ESIA dated December 2003 and ESIA Addendum dated September 2004 (we have not seen the Hindi translation of this, but we have been told about the contents of this) and what we write is applicable to all these.

purposes as little water that is to be released as per ESIA documents is not sufficient to take care of the needs of the downstream communities (present and future projected needs) and environment) diverted to the Allain River and both are then to pass through Intermediate reservoir and then through underground tunnels and power house. The water from the powerhouse would return to the Allain stream.

2. IFC is involved with the project:
IFC intends to provide USD 45 million (in the form of equity and debt) to the USD 192 Million cost of the project.
3. The project sponsor is: Rajasthan Spinning and Weaving Mills Limited
4. We are likely to be affected by social or environmental impacts of the project in the following way(s): (See for details the description above or the attached documents).

A. The project is likely to dry up the Duhangan river, which is a lifeline for Jagatsukh village as the whole village (as some others) depend on the river for our drinking water, for our irrigation water and the river has great cultural and religious significance for the village. Our concerns on this issue have not been satisfactorily addressed by the company, the consultants for the ESIA or the IFC in spite of repeated reminders about these concerns³. These and other our concerns have been supported by a number of reports including some from the persons and committees appointed by the IFC. Some of such reports (attached) include:

- The report of the Kalpavriksha team after meetings in affected villages on May 1, 2004⁴
- The report of the Independent Panel that conducted the public hearings on May 20 - 21, 2004⁵
- The report of the visit by Harsh Mander to the affected villages in July 2004 on behalf of IFC.

³ We have noted that the project provides for minimum water release of 150 l/s at all times and ESIA Addendum of Sept 2004 claims that this, when added with the water flow from the stream meeting Duhangan downstream of diversion, is more than the water requirements of downstream areas. This is clearly a wrong conclusion not founded on facts. The ESIA has not done a survey of the irrigated areas, cropping pattern and water requirements in various seasons and weather conditions, the drinking water requirements, the ecological needs of the river and projecting these requirements for say 5, 10 or 20 years from now. Without such a survey and analysis, the need of the downstream requirements cannot be assessed or provided for. In any case the figure of 130 litres per second as requirement for irrigation is wrong and a gross underestimate.

⁴ The Kalpavriksha report recommendations included, among others: "Our recommendation would be that a fuller ESIA is conducted as a *pre-requisite to consideration of funding of the project*. This should be based on data collected over a period of at least one year, and involving the local villagers more intensely. This should cover all the aspects raised by villagers above. This ESIA (*and not the current one*) should then be used to assess the irreversible impacts, the feasibility of available beneficial alternatives to the villagers, and the overall viability of the project. The ESIA needs to clearly highlight the impacts that cannot be ameliorated.", "a study on the current and possible future requirements of water by the villagers (based on actual measurement of use and need) be carried out", "The project should proceed ahead only if there is full consent of the villagers at Jagatsukh, Prini, and other affected villages.", "we would recommend that the public hearing be postponed till after at least these two steps are taken", "In the absence of a full ESIA, a full assessment of alternatives, the explicit written consent of the affected villages, and a credible plan for compliance, providing funds for the project would amount to a violation of basic ecological and social requirements".

⁵ Some of the conclusions of the Independent Panel include: "The company (along with ERM and IFC) should immediately respond comprehensively to the various issues relating to the ESIA report raised by the villagers and by SANDRP... for they are clearly those that have a significant influence on the thinking and behaviour of the villagers and, we dare say, on the viability and integrity of the project itself", "... another public hearing might be organised only when there is confidence that workable and acceptable solutions have been found", "The company and the IFC must also differentiate between three types of gaps and infirmities in the ESIA documents: a. those that could have a bearing on the economic, social or ecological viability of the project. These must, obviously, be settled before the project is approved. b. Those that could have a bearing on the scope and design of the project, but not on its viability. These must be settled prior to project initiation."

➤ Letter from Kalpavriksha to the World Bank President dated 27 August 2004.⁶

B. We have many other serious concerns.

□ The Himalayan region is known to be geologically unstable and prone to erosion, land slides and is active seismic area. The 4.5 km long tunnel will pass over the Jagatsukh village and we are particularly worried about the implications of this. The Tunnel of the Malana Hydropower project by the same company in the same district was known to have developed leak, endangering the lives of the downstream areas. The company, IFC or the ESIA consultants have done nothing to address this serious concern. The IFC has claimed that a report has been done by international consultants on this issue, but that report is yet to be made available to the public in spite of repeated requests.

□ The project would mean serious impacts on our livelihoods due to impacts on apple cultivation (the main source of cash income for us⁷), on tourism⁸ (which provide livelihood to a significant number of people) and on the environment. The ESIA does not assess such impacts and how they will be mitigated.

□ The Duhangan stream has deep cultural and religious significance us and these concerns do not even find mention in ESIA.

□ Due to the induction of large number of outsiders in the villages, we, particularly the women among us are feeling that their security and privacy would be seriously affected. Women regularly go into the forest to collect herbs, grass, fodder and for cattle grazing and other purposes. Many of them also stay for long periods of time in the forest and farms. There have been instances in other projects in surrounding areas where safety of the women have been seriously affected. Report of the Public Hearing notes, "This point about women's safety could not be adequately addressed by the Company or the ERM representatives".⁹

□ The behavior of the company, the IFC and the ESIA consultants with the village people for all these months, have been far from confidence inspiring. They have repeated gone back on their words, have cheated people, tried to pressurize us in various ways to take the views that the project authorities want and have misrepresented the concerns of the people. The bad experience of others who have suffered at the hands of the same company only adds to our concerns in this regard.

□ There are other concerns, which are not all listed here. Most of these concerns have been supported by the independent panels appointed by IFC.

⁶ Reminding the World Bank President about the recommendations of the Kalpavriksha, the letter said among other things, "**It would be unfortunate if after facilitating a process on public hearing, getting numerous pleas from the affected villagers and local NGOs, and getting independent and specific inputs and recommendations from organizations like Kalpavriksh, IFC was to go ahead with funding the project without implementing the recommendations.** Such a step would question the very intentions behind carrying out the public hearings and seeking independent views."

⁷ The ESIA Addendum of September 2004 has a rather dismissive mention of this issue and ends by saying the the Project Company will consider any and all claims of impact on crop production through the established grievances redressal mechanism. Firstly, we have no faith in the proposed GRM where company officials are going to sit. From our past experience with company we do not think any body that has the company officials on it can do justice to our concerns. Secondly, without baseline information and clearly defined compensatory plan, such statements have no value. Most importantly, the impacts are not going to be only due to dust from vehicular traffic and construction activity, as is made out in the ESIA addendum, but the impacts are likely to be from the project itself.

⁸ The ESIA Addendum dated September 2004 claims that the dependence of local population on employment in tourism related business was not significant. This in fact only goes to show how unfounded the ESIA is. A very significant number of people are dependent on tourism related business for their livelihood and that would certainly be badly affected due to the project.

⁹ Only specific measure suggested by the ESIA Addendum dated September 2004 about this concern is establishment of a police station at Prini village, which is clearly not going to help.

C. The village assembly of Jagatsukh village has not given no Objection Certificate for the project as is legally required under Himachal Pradesh laws. In fact on July 4, 2004 the Jagatsukh village assembly unanimously passed a resolution rejecting the No Objection Certificate to the project and opposing the project. And yet IFC has been claiming that the project has an NOC as claimed to them by the company. (see IFC letter dated Dec 12 2003) As per Himachal Pradesh laws, the NOC is to be given by the village assembly and not by the village panchayat headman. The company has claimed to IFC that they have an NOC signed by a village headman in 1997. However, that NOC is invalid as NOC is supposed to be given by Village assembly and that assembly has rejected the NOC. In any case the person who is supposed to have given the NOC in 1997 said publicly during the public hearing held on January 6, 2004 that the letter he gave in 1997 was not an NOC for the project. (A video recording of the Jan 6 2004 public hearing is available and can be provided on request.)¹⁰

D. The ESIA is fundamentally flawed as shown in our letter to the World Bank President dated May 21, 2004. This is clearly in violation of IFC Environmental and social norms. Some of the fundamental inadequacies of the project include: absence of full social impact survey¹¹, absence of impact assessment due to crucial project components¹², absence of impact assessment across a year¹³, absence of options assessment¹⁴, bias towards the project in the ESIA right from the beginning, absence of impact assessment on cultural and religious places of the people¹⁵, absence of quantification and management plan for impacts on apple cultivation (this is the main source of cash income for the people), the tourism, agriculture, water sources, grazing grounds, among others.

When the concerned IFC staff is contacted and letters are written to them, they respond by saying that the current ESIA is only a draft. However, that draft is fundamentally inadequate as mentioned above and IFC has yet to respond to the fundamental inadequacies. And yet in letter dated Aug 23, 2004 from Shalabh Tandon, Senior Investment Officer, South Asia Region, IFC, to SANDRP and also in a letter dated Sept 8, 2004 to Kalpavriksha, Mr Tandon says, "The project sponsor has provided IFC with all relevant information regarding the project and implemented consultation procedures in line with our requirements". This (and also the article in Business Standard Newspaper of August 24, 2004) gives rise to suspicion that IFC is about the push the project through the IFC Board without addressing our problems and concerns about the project.

E. It is true that under pressure from people's demands, two public hearing have been held so far. However, neither of them were useful for providing us an opportunity to make an informed opinion about the project. Before the January 6, 2004 public hearing we did not even have the ESIA in Hindi, the only language most of us can understand. For the May 20-21 2004 when ESIA was made available in Hindi, we realized how inadequate those assessments were and made it clear to

¹⁰ The ESIA addendum dated September 2004 does not even mention the unanimous resolution passed by Jagatsukh Assembly on July 4, 2004 and only reiterates the misrepresentation about what the company claims to have received in 1997. In fact the ESIA Addendum also misrepresents the report of the Independent observer after his meetings in July 2004. The Independent Observer has clearly noted in his reports, "The villagers said that the NOC obtained from former Pradhan of village Jagatsukh does not have legal validity. In my meeting, he was present and he himself admitted that he did not consult either with the Panchayat or with the Gram Sabha." Such misrepresentations only add to the distrust we have towards the company, the ESIA consultants and the IFC.

¹¹ Not yet done as per ESIA Addendum dated September 2004.

¹² The ESIA Addendum dated September 2004 agrees that assessment of impacts due to project components like some roads and transmission line is yet to be done.

¹³ The ESIA Addendum dated Sept 2004 agrees that this is yet to be done for flora, fauna, fisheries and wildlife impacts.

¹⁴ The ESIA Addendum dated Sept 2004 agrees that this is not done.

¹⁵ The ESIA Addendum of Sept 04 does not have even what is important for us from cultural and religious point of view and how important the Duhangan river is for us.

the project authorities in various ways that the current ESIA is totally inadequate for taking any decision about the project¹⁶. We have been demanding that first a full and proper ESIA should be available then only a proper public hearing conducted where people can give their informed opinion about the project. Such a public hearing is yet to happen and we learn that IFC is about to push the project through the board for discussion and approval. This would be in violation of IFC policies requiring to give affected people a chance to give their opinion about the project, its impacts and management plan.

F. In spite of repeated requests (see (the latest) letters to IFC in May 2004, July 2004 for example) IFC has not changed the ESIA to address the fundamental inadequacies of the ESIA. The earliest letter with detailed critique of the ESIA was sent in November 2003 (by the South Asia Network on Dams, Rivers and People (SANDRP)). As noted earlier, the ESIA Addendum dated September 2004 on IFC website does not help bridge the fundamental inadequacies and incompleteness of the ESIA.

5. The following action has been taken by us to try to resolve these issues:
Letters written by us starting from October 23 2003 to July 2004, messages and letters from support organisations. Meetings with the concerns persons. Presentations at Public hearings and other meetings.
6. The name of any contact person(s) at IFC are:
Shalabh Tandon, Senior Investment Officer, IFC, Delhi: standon@ifc.org
Richard English, Environment Specialist, IFC, Washington DC: renglish@ifc.org
7. We have had contact with the following other persons and agencies in attempting to resolve these issues:
Shalabh Tandon, Richard English, Yasmin Tayyab (Corporate Relations, IFC Washington DC), IFC Executive Vice President, World Bank President, ESIA consultants, Shekhar Singh and his team, Kalpavriksha team, Harsh Mander, Himachal Pradesh government and Govt of India

(Occasionally, information has also been given to IFC CAO office. E.g. CAO office responded on Dec 19, 2003, Jan 20, 2004. The latest correspondence was copied to CAO office in early Sept 2004)
8. The following are details of policies, guidelines or procedures of IFC or MIGA that have not been complied with:
 - ❑ IFC's Policy on Disclosure of Information,
 - ❑ IFC's OP 4.01 for Environmental Assessment,
 - ❑ OD 4.30 for Involuntary Resettlement, and
 - ❑ the new OP 4.12, Involuntary Resettlement, (if applicable)
 - ❑ OP 4.37 for non disclosure information about dam height (from lowest foundation level) and misleading and contradictory information about dam height,¹⁷

¹⁶ Since then we have seen the ESIA Addendum dated Sept 04 (though we have yet to be provided Hindi translations of the same) and we do not think the addendum in any way helps to fill for the inadequacies of the ESIA of May 2003 and Revised ESIA of December 2003.

¹⁷ The ESIA has given very contradictory information about dam height. For example, the Revised ESIA of Dec '03 says about Allain Barrage: Max water level: 2752 m, Min water level: 2738 m and crest level of undersluice Bays: 2737.5 m. This means that the min height of the dam above crest level of undersluice bays is 14.5 m. The river bed level or dam height above lowest foundation level is not given in any of the ESIA documents. Annex X in the ESIA addendum put up on IFC website on Sept 13 2004 says the 2 m free board is provided in Allain Barrage above the full reservoir level. By this, the height of the dam even above ground would be 16.5 m.

- any other as applicable

9. We would like to see this complaint resolved in the following way:

All issues to be addressed before the project goes to Board.

And

IFC implements the recommendations of the independent committees and panels appointed by IFC.

And

Stop IFC funding to the project that is not acceptable to the people

or

to modify the project to people's satisfaction before IFC funds the project.

10. Any other relevant facts to support this complaint are: The company that IFC is intending to fund through the project does not have confidence-inspiring track record. The company has in fact constructed and has been operating another hydropower project in the nearby area and there people have large number of unresolved complaints of serious nature.

- IFC has not been responding to request for information or response in any adequate way.
- At times unacceptable means have been used in various ways for pressuring the people.

Copies of relevant documents and other material mentioned in this complaint are attached as listed below.

Attachments:

- Letter from Affected persons to the World Bank President on Oct 23, 2003
- IFC response to affected people and SANDRP on Dec 12 2003
- Letter to World Bank President on Nov 21 2003 with summary of EIA critique
- Report of the Kalpavriksha meeting on May 1 2004
- Letter from Affected villagers to the World Bank President on May 21 2004
- Report of the panel that conducted public hearing on May 20-21, 2004
- Jagatsukh Assembly resolution of July 4, 2004 refusing No Objection Certificate to the ADP
- Report of the visit to the villages by Shri Harsh Mander on behalf of IFC in July 2004
- Letter from Kalpavriksha to the World Bank President on August 27 2004
- Messages to IFC persons in August and Sept 2004
- Critique of ESIA by SANDRP
- Other communications

Date: September 20, 2004

Similarly in case of Intermediate reservoir, the Revised ESIA of Dec 2003 says, "Maximum height will be less than 14.5 m". This is clearly a strange statement that does not provide the height of the reservoir wall above the lowest foundation level.

What is also strange is the attempt in the Annex X of the ESIA addendum to redefine how the height of the dam is measured which is an established procedure. As per World Bank OP 4.37, "The definition of "large dams" is based on the criteria used to compile the list of large dams in the World Register of Dams, published by the International Commission on Large Dams." ICOLD defines large dams as "as dam with a height of 15 m or more from the foundation." This definition of ICOLD can be found in National Register of Large Dams published by Govt of India (1990): "A dam above 15 m in height measured from the lowest portion of the general foundation are to the crest".

Putting aside this unambiguous definition, the ESIA Addendum says in Annex X, "the height for the water retaining structure is considered from the base of the section to the full reservoir level", thus excluding the level from bed level to the deepest foundation and also from the full reservoir level to the crest level. This redefining the established norms is clearly a violation of Bank Norms including OP and BP 4.37.

Signature(s): (Name, villages, and signature)

THE NAMES HAVE BEEN KEPT CONFIDENTIAL ON REQUEST OF THE COMPLAINANTS

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