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February 11, 2008

To
Union Minister for Power
Shram Shakti Bhawan,
Rafi Marg, New Delhi 110 001

Respected Sir,

Sub: New Hydropower Policy

We understand that the government of India is formulating a new Hydropower Policy. We would like to raise a few concerns in that regard.

1. Public consultations before notifying the policy There has been no public consultation with the people affected by such projects and with groups and individuals who have been raising social, environmental and other concerns about such projects, except putting up some draft guidelines on the Ministry's website in May 2006. The policy has undergone very significant changes thereafter and should not be notified without such consultations.

2. Issues around EIA-EMP-Clearances-Compliance Hydropower of all sizes necessarily have adverse impacts on the environment and society in the project area. The Environment Impact Assessments done for the projects are pathetic in quality of work, information, in fact in every way. The Environment Management Plans are rarely implemented and there are no consequences when they are not implemented. Continuation of such a situation is not even in the interest of the hydro projects. Some of the steps required to ensure that these issues are properly addressed are: To ensure that there is credible independent review of EIAs, there is elaborate guidelines about what should be there in an EIA, the EIA is made available to local people in their language, for every project there is a monitoring committee to ensure that EMP of the project is implemented pari passu with the project and when it is not progressing in the required manner, the committee has the powers to order stoppage of construction till the EMP implementation catches up. At least 50% of the members of such a committee will be from affected area and the committee will have the powers to get any information about the project and will have access to the project sites and documents. The committee can have representation from the project developer, from the MEF, MOP, state environment department, SPCB, EIA consultants, local and other NGOs. The hydropower policy should clearly set norms for this.

3. Disincentives when design generation is not achieved The Hydropower Projects (HPs) are cleared based on promise of certain generation at 90% dependability. However, 90% of the projects do not achieve the design 90% dependability generation, and there are no disincentives when they under perform. On the contrary, they can actually get incentives by just showing more than 85% availability. This is not an acceptable situation. The hydropower policy should have mechanisms to ensure that when the projects do not generate power as per design, there are disincentives. Without such disincentives, unviable schemes and unviable designs are being pushed and the costs are paid by the local people, environment and consumers. Our analysis shows that generation per MW of installed capacity has dropped by 20% in last 15 years, but there is neither an attempt to analyse and understand why this is happening, nor is there an attempt to take corrective steps. One of the ways to ensure is that the tariffs allowed for such projects is suitably adjusted to take care of the disincentives. CEA/ CWC also needs to be held accountable for this.

4. CEA concurrence under Section 8(2) of Electricity Act 2003 Under Section 8(2) of the electricity Act, hydropower projects are supposed to seek the concurrence of the Central Electric Authority with, "particular regard to, whether or not in its opinion,- (a) the proposed river-works will prejudice the prospects for the best

ultimate development of the river or its tributaries for power generation, consistent with the requirements of drinking water, irrigation, navigation, flood-control, or other public purposes, and for this purpose the Authority shall satisfy itself, after consultation with the State Government, the Central Government, or such other agencies as it may deem appropriate, that an adequate study has been made of the optimum location of dams and other river-works". We have seen no evidence to see how CEA is ensuring such a concurrence is given after adequate credible examination. The guidelines put up by CEA on its website in January 2007 in this regard are far from adequate; in any case without a credible, transparent and accountable examination of such a concurrence, it would not serve the purpose for which this section has been added in EA2003. Moreover as per the notification of the MoP dated April 18, 2006, the limit for the projects under this is Rs 2500 crores (when project is part of the National Electricity Plan, which is the case for most big hydro projects now being taken up), which will exclude practically most of the hydropower projects. This limit needs to be reduced to about Rs 250 crores and the Hydropower guidelines needs to have norms to ensure that CEA indeed issues concurrence in a transparent, credible and accountable way.

5. Local Area Development Fund We have learnt from media reports and statements of Power Ministry officials that the new policy proposes to suggest a fund for local area development from sale of 2% power generated (1% from the developer and 1% from the 12% free power given to the state). However, unless there are clearly defined guidelines as to what this money will be spent for, how decisions for this can be taken, it is likely that this money will also be spent in a way that will not justify the purpose for which it will be spent. The Power Ministry should hold consultation with the concerned groups before notifying the National Hydro Policy. The committee suggested in Second Para above can be a mechanism for administering the above mentioned fund.

6. Upfront payments are violation of legal processes The state governments are allocating large hydro projects to developers through up front payments, even before the DPRs made, before the techno economic, environment and other clearances are given, before public consultations are held, before impact assessments are done. This is like bypassing all these processes and the question arises, after such huge up front payments, is there any possibility of objective assessments and ensuring proper processes? Hydropower policy should make it clear that this is not an acceptable process. Competitive bidding should be the norm for all hydropower projects and the issue of geological surprises can be tackled in exceptional cases, under credible independent mechanism.

There are other issues we would like to raise on this very important policy. The Ministry should not notify the policy without such a wide ranging consultation and without adequately addressing these issues. We would be happy to meet you to elaborate on these issues.

Looking forward to hearing from you,

Yours Sincerely,

Himanshu Thakkar
South Asia Network on Dams, Rivers & People

PS: A signed copy of this letter was handed over to Shri Jayant Kawale, joint Secretary, Ministry of Power, during a meeting with him on February 11, 2008.