

Machimar Adhikar Sangharsh Sangathan (MASS)

Bhadreshwar, Kutch, Gujarat

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Sir / Madam,

We, the members of Machimar Adhikar Sangharsh Sangathan (MASS- Association for the Struggle for Fishworkers' Rights) representing and belonging to the affected people and the affected communities (from Tragadi, Kuthdi, Juna, Saleiha and Modhva Bunder from the villages of Vandi, Sangadh, Bhadreshwar, Luni, Saleiha and Tunda Wandh), Salt Pan Workers and Rabari community (herding community, Tunda Wandh), would like to bring to your attention our concerns regarding the Tata Ultra Mega Power Project- Coastal Gujarat Power Limited (CGPL) investment, which is being funded by the BNP Paribas and other international and national banks.

BNP Paribas, in its sustainable development framework, mentions two objectives: to curb climate change and to combat all forms of exclusion and discrimination.¹ And these objectives are implemented in the three pillars of sustainable development – economic, social and environment.²

Unfortunately what we see on the ground is blatant violation of these principles. Your money is used to drive people out of their livelihoods, spew more than 30 million tons of CO₂ per year, destroy the fragile environment and discriminate people, because they are economically weak.

¹ <http://www.bnpparibas.com/en/responsible-bank/corporate-social-responsibility>

² Ibid

Your institution has failed to “take full account of any and all risks underlying a financial transaction and ensure that the Bank only supports environmentally responsible projects.”³

Through this letter we would like to alert you about the colossal damage that the project is bringing upon tens of thousands of people whose livelihood is dependent on the aquatic wealth, marginal farmers and cattle herding, and to the fragile ecology of this area.

We have brought the issue to the notice of the concerned Ministries of the Government, the national banks, IFC and the ADB. They are at different stages of enquiries. By bringing this to your notice, we would like to request you to reconsider your decision to finance this project, impress upon the company to stall the project and address the serious issues and take immediate actions to mitigate the damage. By not doing that, you will continue to be a part of this project, which causes irreversible damage to the people and environment. We will hold you responsible, along with other financial institutions, for the continued suffering of the people.

Our key concerns

- 1. The flawed Environmental and Social Impact Assessments** failed to account for significant social, economic, and environmental damages caused by the project and even neglected to identify certain communities as project affected. Further, it:
 - a. Fails to address the immediate threat of physical displacement of fisherfolks due to the setting up of projects on/near our *bander* (fish landing centre);
 - b. Fails to demonstrate a feasible plan to mitigate the long-term threat of decline in fish catch due to deteriorating marine ecology caused by industrial pollution, water discharge outlet of the project and environmental destruction, such as mangrove cutting;
 - c. Does not address the loss of land or open spaces used mostly by women sun-drying fish; this is further complicated by fly ashes that fall on fish drying areas which affect the quality and edibility of fish products sold to the market;
 - d. Fails to provide alternative route for the open channels (used for the intake and discharge of condenser cooling sea water); these channels now block access roads for affected coastal residents and pose threats to the marine ecosystem with the discharge of project waste; and

The project - along with the other mega projects - is located on one of the most bio-diverse regions of India, the 2nd largest mangrove forest in mainland India. By its hot and chemically contaminated water discharge, it is sure to destroy a large part of the rich biodiversity. The temperature of the cooling water discharge is much higher than even the peak summer-time SST of Gulf of Kutch. Marine life being very sensitive to water temperature, this will cause large scale species loss here.

³ <http://www.bnpparibas.com/en/responsible-bank/being-responsible-bank>

The CGPL is now experimenting with mixing high-ash Indian steam coal with the higher cost imported Indonesian steam coal, which has much lower ash content, to save on costs of importing coal. The EIA was conducted based on this low-ash imported coal. The change will push up the ash (both fly and bottom) more than 2 times the original estimate, thus multiplying the adverse impacts. No new impact assessment on this aspect was done.

Serious health implications of huge amounts of coal dust (different from coal ash) is not thoroughly looked into, as the plant will be handling around 13 million tons of coal. Villagers from Tunda-Wandh are already complaining about this.

2. **The project blocked access to fishing and grazing grounds.** Access roads for the fisher-folk and the pastoralists to fishing and grazing grounds have either been blocked or diverted, forcing villagers to take an unusually long route and pay more for their transport, and resulting in considerable delay for women returning from the markets after selling fish.
3. **The project has caused drastic reduction in fish catches, destroying the livelihoods of local fisher-folk.** Available fish-catch data indicate considerable reduction in fish catch in the past three years since the adjacent Adani plant was commissioned, which has been exacerbated by the partial commissioning of Tata Mundra. Communities fear total loss of aquatic wealth when the project is fully operational, along with their livelihoods as fisher-folk.
4. **Absence of a cumulative impact study.** The project, sited in the vicinity of several other large-scale polluting industries, will have significant cumulative impacts on the local population and environment, yet no cumulative impact assessment has been performed.
5. The **high chemical content and increasing acidity** in the outlet water from the project, which is detrimental to fish eggs and larvae. The company is yet to do a thorough study on it and share it with the affected communities.
6. **The company failed to conduct adequate, meaningful, and informed consultations with the affected communities** before the project started and failed to share key information about the impacts and mitigation plans.
7. **The project violated its environmental clearance by destroying inland ecosystems.** Large stretches of mangroves, dry-land forests, and biodiversity-rich creeks were destroyed for the construction of the inlet and outfall channels and other associated activities of the project. This is done without a forest clearance from the Government.

8. **The project violated its environmental clearance by adopting a one-through cooling system.** The project was permitted for a closed-cycle cooling system, but installed a cheaper, more environmentally-destructive one-through cooling system.
9. **The project failed to thoroughly examine or adequately address the health and environmental impacts of ash contamination from the project.** The partially-operational plant is already contaminating drying fish, salt, and animal fodder in the area, causing significant health concerns. Ash contamination has been demonstrated to cause an increase of diseases and abnormal abortions in cattle. Further, heavy metals contained in toxic coal ash—such as cadmium, lead, selenium, and mercury—are known to bio-accumulate in animal and human bodies.
10. **The project ignored the potential impacts of radioactivity from the coal ash pond.** Independent readings taken as far as 400 meters away from the ash pond recorded radiation levels that were double those found in the villages. While this reading is about half the permissible limit, the project is only one-fifth operational, with four more units planned. None of the impact assessments have addressed this.
11. **Accountability of financial Institutions is dismal.** While implementation of the safeguard policies in the case of IFIs is dismal, the absence of any such social or environmental policies for the national banks and national financial institutions is a matter of great concern. Having no policies is no excuse for abetting violations.

Findings and Recommendations of Independent Fact Finding Team

In July 2012, a fact-finding team was composed of independent professionals with established expertise in adjudication, legal enforcement, and policy analysis; civil, political, cultural, and women's rights; energy economics and planning; and environmental and social impact assessments, with particular attention to marine resources, hydrology, involuntary resettlement, and livelihood security. The team included: Justice (Retired) SN Bhargava, former Chief Justice of Sikkim, former Chairperson of Human Rights Commissions of Assam and Manipur; Dr. Varadarajan Sampath, former Advisor to the Ministry of Earth Sciences of the Government of India; Praful Bidwai, senior journalist and columnist; Jarjum Ete, former Chairperson, Commission for Women in Arunachal Pradesh; and Soumya Dutta, energy specialist and National Convenor of Bharat Jan Vigyan Jatha.

The team made two visits to the project affected areas on April 24-25 and May 19-21 for investigation and meetings with the affected communities—including fishworkers in their traditional coastal settlements as well as their original villages, salt-pan owners and workers, pastoralists, and local women—and CGPL senior staff, including its CEO. The team based its findings on diverse sources of information from all parties concerned, including a series of focus-group discussions; documented testimonies from affected persons; face-to-face meetings with CGPL management; collection and evaluation of data on water and air pollution;

consultant reports and public documents from the IFC, the ADB, the government, and CGPL; independent publications; and extensive project-site visits.

The team confirmed our concerns and asked an immediate halt of the project. It further recommended:

“The company is urged to compute and monetize all the social and environmental costs and add these to the project costs; compensate all local people for their livelihood losses; create a fund for the restoration of mangroves destroyed; restore people’s access to fishing and grazing grounds, and to salt-pans unconditionally; and employ all possible pollution control measures on a war footing, to save this fragile zone from further damage.

“The Governments of India and Gujarat are urged to put a moratorium on permission to any more industry/power plants in Mundra/Kutch; issue show cause notice to the CGPL/Tata Mundra for multiple violations of clearance conditions; form independent expert committee(s) to thoroughly investigate all pollution, contamination, and radioactivity hazards within a reasonable time frame; and direct all national banks/financial institutions to adopt and enforce mandatory social and environmental safeguard policies at a reasonable timeframe.

“The international financial institutions are urged to undertake an immediate review of the project to examine adherence of their safeguard policies; suspend financial assistance until such a review is done; putting in place an independent monitoring mechanism to ensure strict compliance of their safeguard policies. Meanwhile, the national financial institutions should adopt social and environmental policies and implement them scrupulously in this project. The implementation should be monitored by independent agencies, which include the affected people’s representatives.”

Financial Implications

In addition to severe social and environmental impacts, the project is now publicly acknowledged to be a “non-performing asset” without a renegotiation of its Power Purchase Agreement (PPA). Doing so would effectively double electricity rates for average citizens posing reputational risk for those associated with the project as well as severe development impacts for the country’s poor and its manufacturing sector. At the same time the project is now being considered for a full audit by the Compliance Advisor/Ombudsman of the International Finance Corporation (IFC).

Financial losses are likely to mount for private financiers if public money used to backstop the project is withdrawn. The Compliance Advisor/Ombudsman of the International Finance Corporation (IFC) is now entertaining a complaint filed against the Tata Mundra plant, and is currently considering conducting a full audit of the project. Past projects that have been taken to a full audit that have entailed social and environmental impacts have lead to the IFC withdrawing its funding. In the case of the Tata Mundra project this would mean withdrawing the IFC investment of USD 500 million.

In addition to the IFC complaint the underlying financial problems in the project are quite severe. The project was green-lighted on the promise that it would “contribute to enhanced access to electricity through supply of cheap and reliable power” to manufacturing, service industry, and poor, rural customers alike. Now, with the plant only one-fifth constructed, in response to the rapidly-escalating price of imported coal Tata is already lobbying the Indian government to revise its Power Purchase Agreements with five Indian states to increase the agreed-upon electricity tariff. From its original bid of INR 2.26/kWh, Tata now wants to charge transmission/distribution utilities INR 3.05/kWh (an increase of 35%), which would require a rate for end-use consumers of close to INR 5.00/kWh—effectively doubling the price of power.

What’s worse, these financial troubles are likely to be compounded by an unrealistically low assumption of costs associated with the project. Tata Power’s bid incorporated a 2012 coal price of USD 36.86/mt (that would rise over 25 years to USD 37.37/mt), which was USD 15/mt less than the prevailing spot market price for Australian coal (FOB) at the time of the bid. With coal prices continuing to rise, Tata’s bid was USD 25/mt less than published coal prices at the time of the award, and USD 74.21/mt less than the most recently published Indonesian benchmark price. It is highly likely that even with a PPA revision coal prices will continue to rise further endangering the economics of the project.

In addition, Tata’s bid was premised on a construction cost of slightly more than USD 1 million/MW (USD 4.2 billion for a 4000 MW plant). This is far less than the cost for similar plants, and substantially less than contemporaneous bids from competing companies for other supercritical plants in India.

Adjusting for these miscalculations will continue to make the power produced by the Mundra plant unaffordable for average citizens, much less the poor local communities that are already bearing the brunt of the social and environmental impacts listed above. More importantly from the standpoint of financial backers, it will compress profit margins and impair their ability to repay substantial levels of foreign debt that continues to increase in cost with the devaluation of the Rupee.

We urge you to withdraw your financial support from this troubled project to avoid future reputational damage and financial losses and not be a part to the colossal damage to environment and gross human rights violation.

Sincerely,

Bharat Patel

General Secretary

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