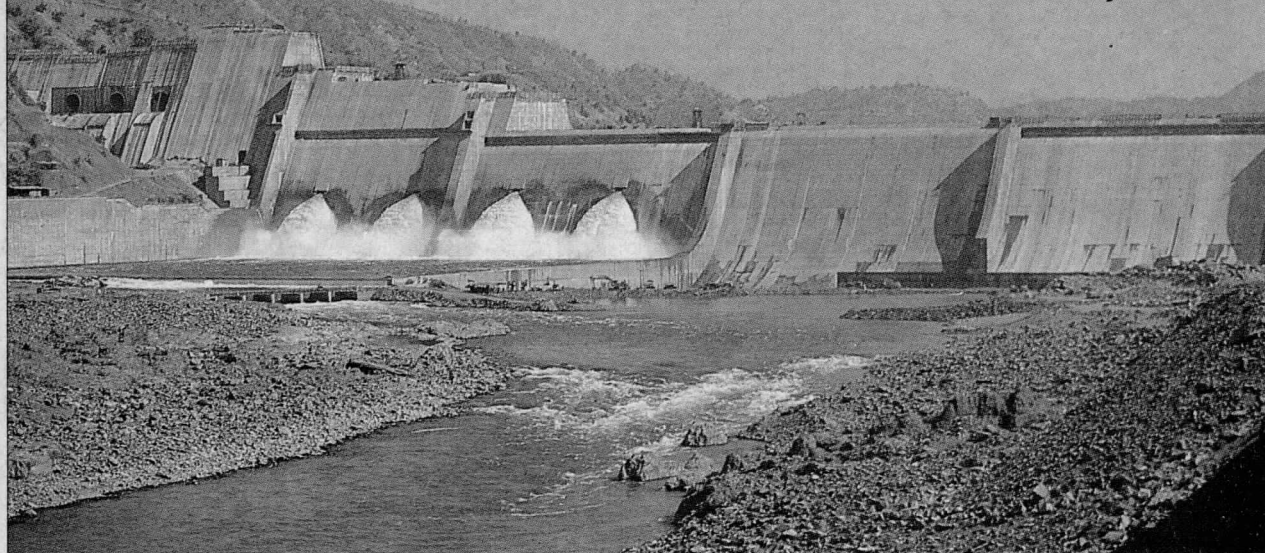


DEVELOPMENT ISSUES

Project shocks

The environmental clearance farce



ASHISH KOTHARI

ENVIRONMENTAL rules and norms are laid down to be broken, both by those for whom they are made and by those who make them. This was the central message of some shocking information recently unearthed at the Union Ministry of Environment and Forests (MoEF). Stunned members of the MoEF's Environmental Appraisal Committee (EAC) for river valley and hydro-electric projects, which screens all proposals for dams, were told that some 90 per cent of all projects cleared until now had *not* fulfilled their conditions of clearance. Ninety per cent of the country's dams and other projects were, in effect, built (or continued to be built) in violation of rules.

These include not just Sardar Sarovar and Tehri, but also other "temples of modern India" like Srisaillam, Telugu Ganga, Upper Krishna, Jaisamand, Rajghat, Chamera, Baspa, Dulhasti, Bansagar,

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The Narmada dam in Gujarat... questions of viability and validity.



The Sardar Sarovar Project canal. Command area development usually lags behind, creating waterlogging and salinity.

Dantiwada, Sipu, Koyna, Subarnarekha, Upper Indravati, Teesta, Kopili... and 200 others. Even more shocking – the MoEF, despite knowledge of the state of affairs, had taken *no* action against the erring project authorities or State governments. Given the thousands of crores of rupees poured into these projects, this

is a scandal of epic proportions.

Since the late-1970s, State governments are required to get environmental clearance for proposals for irrigation and hydro-electric projects. The idea is to assess the possible environmental impact of a project *before* it is built, so that a decision can be made whether it should be built, and if so,

with what safeguards. In the first few years, the process of impact assessment and evaluation was haphazard and sporadic, governed by brief guidelines of the Central Water Commission; only in 1985 was a detailed set of guidelines issued by the MoEF. Until very recently, the clearance itself was an administrative requirement to obtain a green signal from the Central Investment Board and the Planning Commission; in January 1994, the MoEF issued a notification under the Environment Protection Act, making clearances mandatory.

The MoEF has set up the EAC comprising official and non-official members, to screen each project proposal and recommend it for clearance or rejection. Very few projects have actually been rejected outright; however, in most cases, clearances have been given subject to the fulfilment of specified conditions.

The most common of these are: if forests are being submerged by the project, the project authorities have to ensure 'compensatory afforestation' of at least an equivalent area; if people are being displaced, they have to be adequately resettled; if there are chances of high siltation from upstream areas, the catchment area (from where the river receives its rainwater, along with silt) has to be treated to minimise that silt flow; labourers at the construction site have to be provided fuel so that they do not cut adjacent forests; if threatened wildlife species are to be affected, they have to be relocated or compensated for in some way; if the command (irrigable) area is prone to waterlogging, proper drainage and other measures have to be taken; and so on.

A PAPER TIGER

The logical implication of such a 'conditional clearance' is that, if the conditions are not fulfilled, the clearance is no longer valid. Any further construction should then be considered improper and illegal.

In neither spirit nor in letter have State or Central Governments followed this logic. Members of the present EAC, constituted in mid-1995, asked for information on how the MoEF monitored the conditions it imposed on project authorities. Some of its members, having been involved with the Narmada controversy for over a decade, were aware that the Gujarat Government had consistently violated

the conditional clearance given to the Sardar Sarovar Project, but that the MoEF had taken no action. They suspected a similar story for other projects too.

The information took months in coming, and when it did, it was explosive. Scientists from the six regional offices of the MoEF, entrusted with monitoring the cleared projects, testified that in almost no case were conditions being fully or adequately fulfilled.

The Table presents data compiled from the regional office reports. Country-wide, 319 projects have been cleared in the last decade and a half. Of these, 102 have never started off (mostly owing to lack of funds). Another 70 are complete, and 142 ongoing — of these, available data shows that nearly 90 per cent have not fulfilled their conditions of clearance. The situation in some regions is especially bad: in Uttar Pradesh, Rajasthan, Haryana, Andhra Pradesh, Goa, Karnataka, Tamil Nadu and Kerala, none of the 84 completed and ongoing projects had fully complied with conditions.

The most commonly violated conditions are catchment area treatment (to avoid excessive siltation), command area development (to avoid waterlogging and salinisation), compensatory afforestation (in lieu of forests being submerged or diverted for project purposes), and provision of fuel to labourers.

The Telugu Ganga Project authorities in Andhra Pradesh, cleared in 1988, have not implemented the resettlement and command area development plans. The construction parameters have been changed without referring back to the MoEF — a bit like

conditions to be irrelevant, including building a fish ladder (for migratory fish), securing a corridor for elephants, and ensuring the 'nistar' rights of local people.

Resettlement in the case of North Koel and Subarnarekha in Bihar (see previous story) is reported to be abysmal. The Man project authorities (Madhya Pradesh) reduced the resettlement package on their own, after obtaining clearance, stating that the Chief Engineer was empowered to do so! Example after example shows lack of respect for environmental safeguards.

Further enquiries by the EAC revealed that, though the regional offices had been sending regular reports regarding these violations, the MoEF rarely followed them up. Non-compliance of conditions should mean the clearance is no longer valid. It ought to be revoked, and project authorities told to halt construction. Serious violations should even lead to prosecution of officials concerned. The Environment Protection Act of 1986 empowers the MoEF to do these things, but it has never been invoked thus. In such a situation, *conditional clearance is a farce; in effect, it is a mere rubber stamp for development projects*, an irritating formality that project authorities have to complete.

WHAT AILS THE SYSTEM

The entire process of clearance and monitoring is riddled with loopholes. Most of the project impact assessment reports the MoEF receives for clearance are poorly researched and incomplete. There are several reasons for this. The MoEF's 1985 Guidelines for Environmental Impact Assessment of River Valley Projects, though detailed, are vague on a number of counts, leaving ample room for misinterpretation by project authorities. For instance, they ask for an assessment of impacts of a dam on downstream areas — most project proponents simply look at

the impact on commercial fisheries, ignoring potentially serious effects on other aquatic flora-fauna, on estuarine areas, and on land adjacent to the river.

In addition, most project authorities simply treat the assessment reports as an irritating formality — they get hold of the most obliging consultants to certify that the environmental impact is negligible. With surprising regularity, for instance, the answer to the question —

Status of compliance of environmental conditions by river valley and hydro-electricity projects

Status	R E G I O N						
	North	North-east	West	Central	East	South	Total
Total	50	22	76	51	42	78	319
Not started	21	4	23	11	13	30	102
Completed	10	4	12	15	8	21	70
Ongoing	19	14	41	21	20	27	142
Non-compliance	85%	75%	80%	100%	80%	100%	90%

Source: Reports of the MoEF's regional offices.

a film-maker inserting sequences after obtaining the censor's certificate.

The Chamera hydro-electric project authorities in Himachal Pradesh have refused to respond to the MoEF's queries as to why they dumped 4 million cubic metres of construction waste into the Ravi river.

In the case of the Sharavathi Tail Race Project in Karnataka, project authorities unilaterally declared several

whether there are any threatened species in the impact zone is a simple "no" – surprising, because dams are usually built in ecologically rich areas.

Inadequate data from project authorities prompt the MoEF to seek more information; this can take months in coming, and is usually still unsatisfactory. Letters sometimes go back and forth for years, until finally the State government complains to the Prime Minister, who enquires from the Environment Minister, who in turn asks the MoEF's impact assessment division to take a decision quickly. This was how Sardar Sarovar was cleared, despite very incomplete data, and this is how dozens of other dams have been cleared – more on political considerations than on rational grounds.

At the Ministry itself, conditions for evaluation of proposals are far from perfect. A two-person team has to struggle to keep pace with the proposals, not just on dams but on other development projects also. The EAC, meant to screen the proposals thoroughly, finds it difficult to assess the veracity of data which is often very site-specific. It occasionally undertakes field visits, but these are necessarily cursory. The propensity of the Environment Minister to stuff the committee with friends and well-wishers, who have no particular expertise, does not help matters.

Once the project is screened and accepted for clearance, the MoEF usually imposes certain conditions which project authorities have to comply with. Here, too, the weaknesses are glaring. Often in the past, complete impact assessments and environmental management plans (EIAs and EMPs) have not been sought prior to clearance; rather, they have been required as part of the conditional clearance. The result is that project work starts off, the EIAs and EMPs never come, and all the MoEF does is to froth at the mouth.

The Sardar Sarovar example is typical: the clearance letter in 1987 specified various EIAs and EMPs which were to be submitted by 1988; none of them came in time, and some are still to come. Several dozen other projects have a similar tale; in many cases, submergence has taken place and no assessment of the forests and flora-fauna lost is available, irrigation has started but no command area development plan has been prepared, displacement of people has taken place but no rehabilitation plan has been finalised.

While project authorities are usually

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At the Ramganga Reservoir in Uttar Pradesh, a stark example of deforestation in submergence area.

to blame, the MoEF cannot be fully absolved. In the case of the Ranganadi hydro-electric project, Arunachal Pradesh, a catchment treatment plan submitted by the project authorities in 1991 has to date not been cleared by the MoEF.

Until recently, conditional clearance letters have often been vague, not specifying precise parameters or a time schedule. The compensatory afforestation condition often did not specify the region of operation, or recommended species, and project authorities at times carried out monoculture plantations of exotic species in regions far-removed from the submergence zone. With no time-stipulations, whether a condition was being met or not was open to subjective interpretation.

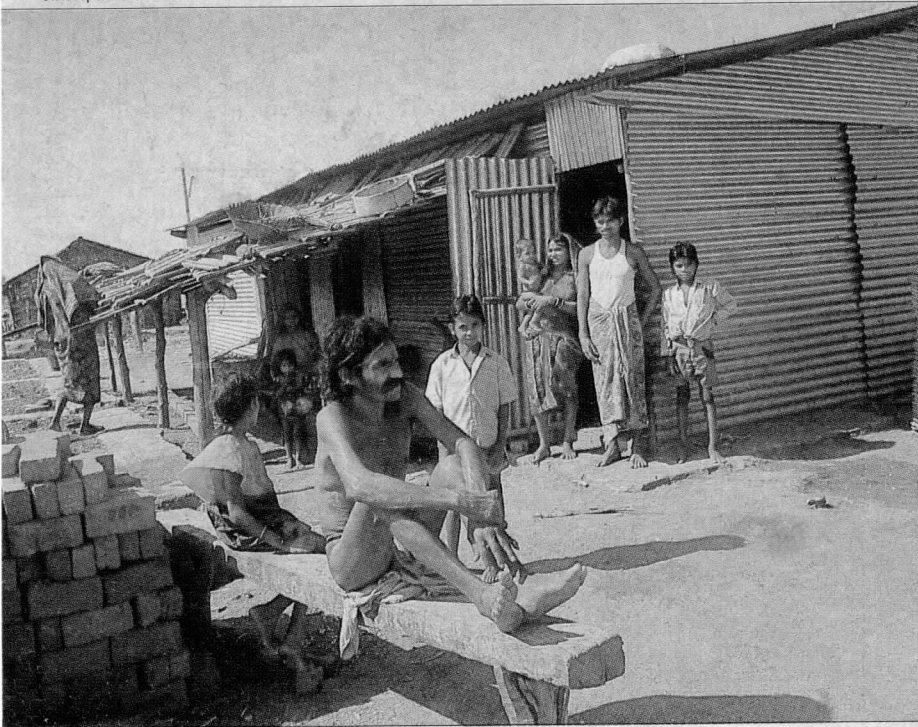
More recently, the MoEF is putting the *pari passu* condition, requiring that environmental measures be taken simultaneously with construction. However, even with this there is lack of clarity on what measures, in what amount, are to go simultaneously with what phase of construction. Time stipulations and greater precision are now coming in, but there is still a long way to go.

Regional officers of the MoEF have often found that engineers on the project site are ignorant, or claim ignorance, of environmental conditionalities. It would not be surprising if clearance letters often get filed away at State headquarters, never to surface again. The scientist at the

MoEF's northern regional office reported that he personally had to deliver copies of the clearance letter to some 30 project authorities, with the original letters from MoEF nowhere to be found!

Officers of the MoEF's regional units face various other constraints. A small group of scientists and research staff have to monitor dozens, in some cases hundreds, of development projects (dams, mines, thermal power stations, industries). Visits to each project site to verify fulfilment of conditions are therefore few and far between – at best once in six months. All offices report that responses from project authorities to their queries are poor and irregular. In Singur Irrigation Project, Andhra Pradesh, people's rehabilitation is in the Collector's hands, and he has never responded to the MoEF's regional office. Surprisingly, regional offices are not provided with project documents by the MoEF – all they are armed with is a copy of the clearance letter. There exist no guidelines for monitoring, nor any regular training sessions.

For their part, project authorities too face serious difficulties in implementing environmental measures. There is genuine lack of expertise, and there are constraints in obtaining such expertise. Coordination with other agencies which have to carry out measures, for example, the Forest Department for compensatory afforestation, or the Revenue Department for compensa-



Badrauli, a resettlement area in Gujarat's Baroda district, where people displaced from a Madhya Pradesh village by Sardar Sarovar live now... compensation more a mirage than a reality.

tion, is beset with the same inter-departmental problems that characterise government functioning in general. Catchment area treatment and command area development are complicated by resistance from private land owners or other government departments. Nonetheless, and without belittling these problems, there is overwhelming evidence that project authorities usually just do not care, so long as their construction work is not hampered.

That is where the final and most telling weakness lies – there is no provision for automatic withdrawal of clearance if conditions are conclusively shown to have been violated. Such withdrawal is at the MoEF's discretion – and it has *not once* exercised the option (the few cases of clearance being revoked, mentioned in the Table, are for other reasons). Surprisingly, none of the EACs before the current one even asked for information on compliance of conditions – so all this time the MoEF's non-action has remained hidden.

The lack of action has sent a clear signal to State governments that they can continue to act with impunity. Such is their disregard for environmental rules that there are even cases of project construction being started and carried on *without any clearance whatsoever*!

The EAC came up with some examples recently: Srisailam and Sriramsagar in Andhra Pradesh, and Bisalpur in Rajasthan. In these cases, work had started prior to the new stipulations regarding environmental clearance; this was used as an excuse to start on new extensions or operations, though the stipulations clearly require clearance for any new work. Bisalpur is nearly complete, and has already caused displacement of several hundred families – yet it has no environmental clearance, nor even a clearance for its rehabilitation package from the Ministry of Social Welfare.

Some States have taken advantage of an anomaly in the clearance procedure at the MoEF. Under the Forest Conservation Act, clearance to a project for diverting forest land is given by a separate committee, which has no links to the EAC. Projects have at times been started on the basis of forest clearance, even though environmental clearance is still awaited.

NEED FOR SHOCK TREATMENT

Nothing short of a shock treatment can help at this stage. Letters of warning will no longer do to inject some accountability into the system. The EAC has recommended that clearance be withdrawn, and States asked to halt construction on at least some projects. A short-list, based on the seriousness

of violations, includes Chamera in Himachal, Sipu in Gujarat, Koyna in Maharashtra, Man, Jobat, and Hasdeo Bango in Madhya Pradesh, North Koel in Bihar, Upper Indravati in Orissa, Singur and Telugu Ganga in Andhra Pradesh, and Sharavati Tail Race in Karnataka. Another list has been drawn up of projects requiring close monitoring in future.

Committee members have also recommended prosecution of the officials concerned in the case of some projects with serious and repeated violations, under the Environment Protection Act. Finally, it has recommended that all defaulting State governments be sent a list of offending projects and told to initiate environmental measures, failing which strong steps may be taken. And, to clinch the issue, some members have refused to take part in clearing any more projects from such States until they pull up their socks.

In the long run, the entire process of clearance and monitoring needs to be strengthened. The EAC has overhauled the Guidelines for Environmental Impact Assessment, making them more comprehensive, systematic, and precise. It has recommended steps to change the clearance letter format and contents, especially to introduce time-bound stipulations. It has suggested ways to strengthen the regional offices, especially by providing them relevant project documents, guidelines for monitoring, powers to inspect project premises and issue show-cause notices, and funds to hire independent experts for help in monitoring. It has urged that the MoEF's own impact assessment division be expanded. Finally, it has recommended that the separate clearance processes under the Forest Conservation Act and the Environment Protection Act be closely coordinated. A letter to this effect to Union Minister of State for Environment Kamal Nath has evoked no response.

Environmentalists and social activists have already labelled big dams as unviable and undesirable symbols of 'destructive development'. Development planners, on the other hand, take pains to argue their benefits, asserting that adverse impacts can be ameliorated by environmental and social measures. The evidence unearthed by the EAC shows, however, that such measures are more a mirage than a reality. With that, the validity of large dams becomes as shaky as the ground near the epicentre of the Latur earthquake. ■