

Allain Duhangan Hydro Power Project, India Complaint Conclusion Report

March 2008

This document summarizes the response to the complaint received by the Compliance Advisor/Ombudsman (CAO) on the Allain-Duhangan hydropower project from local communities in northern India and actions taken to bring resolution to the issues raised.

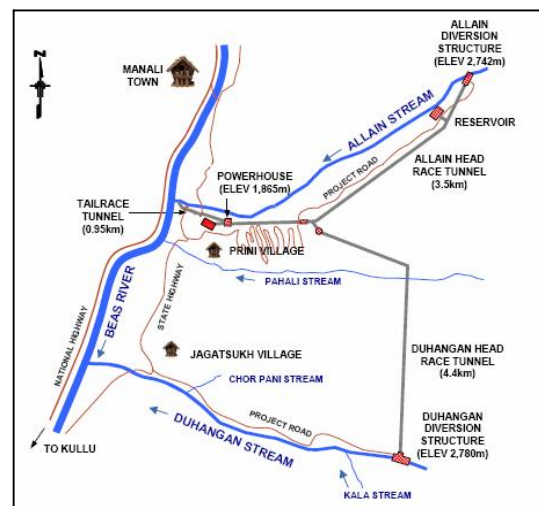
The Complaint

In November 2004, communities from Jagatsuk, a small Himalayan village in Himachal Pradesh, India, lodged a complaint with the CAO based on their concerns about the impacts of the Allain-Duhangan hydropower project. The project is sponsored by an Indian firm, the Bhilwara Group, and supported by the International Finance Corporation (IFC) and the Norwegian company, S.N.Power. It is India's first merchant power plant, a 192 megawatt (MW) run-of-river project that involves the harnessing of two river systems, the Allain and Duhangan (see map). The project's design requires diverting the majority of the Duhangan's water into processing facilities, which will be located in the Allain valley near Prini village. The village of Jagatsuk lies downstream of the Duhangan stream, and relies on the river water for a variety of uses, including agriculture (through a series of ancient channels or *kuhls*) and livestock. Jagatsuk also sources potable water from a small spring (*Chor Pani*) on the hillside above the village.

The sponsor had partially completed an Environmental Impact Assessment (EIA) and a series of public consultations prior to construction. No resettlement was envisaged, but as part of the EIA process the sponsor had made commitments relating to environmental and social impacts expected in both Prini and Jagatsuk communities. In relation to water, the sponsor committed to leaving sufficient water flows in the Duhangan stream to meet current demand from Jagatsuk. A complaint to the CAO, signed by 63 villagers from Jagatsuk, raised concerns about the adequacy of water to be left in the Duhangan stream, as well as the capacity

and commitments undertaken by the sponsor in terms of its obligations under the EIA and Indian regulatory requirements.

The Allain Duhangan Hydropower Project, Himachal Pradesh, NW India



Process/Approach

The CAO team undertook field assessments in November 2004 and March 2005. Interviews with community members highlighted their grave concerns about how the diversion in the river increased their vulnerability with respect to village water supplies. They remained anxious and apprehensive about whether the company would keep to its promises: they feared that the commitments made in the EIA would not be kept once the project had been approved by the IFC Board. The CAO mediated an initial agreement between the complainants and the sponsor. This agreement identified action items in relation to:

- **Water:** The sponsor agreed to establish contingency supplies of water to protect the villagers' access to water, as well as re-evaluate and publish new studies on current and projected demand for water from the Jagatsuk communities over the 40 year projected life of the project to assure users of their adequacy.
- **EIA commitments:** The sponsor agreed to develop an implementation plan with the participation of the villagers, to be used as the basis for sharing information on progress and enabling local communities to verify implementation of promises and commitments made. These included issues such as security, labor conditions, watershed management and deforestation.
- **Community investments:** The sponsor agreed to develop a participatory process under which community funds would be made available for broad societal benefits.

During the fall of 2005, the CAO received further complaints suggesting that the agreements had broken down and that the sponsor had not met its obligations. After receiving more complaints in early 2006, the CAO returned to the field in July and subsequently in the fall of 2006.



During the field visits of 2006, the CAO found that the sponsor had responded to some, but not all, of its commitments. Construction was underway. The sponsor had created a number of local business opportunities (road building, transportation etc) and had drawn a proportion of the project staff from local communities. Within Jagatsuk itself, the leadership of the village

parliament (Panchayat) had changed, with a number of Panchayat leaders now broadly supportive of the project. The community was divided, with entrepreneurs and youth generally in favor of the project, while farmers and traditional leaders were working through the courts and media to oppose it. There were still periodic work stoppages. The local government, through the Deputy Commissioner (DC), had stepped into a more active role by implementing a Local Area Development Authority (LADA). This required the sponsor to submit its earmarked community contributions to the LADA committee, comprising representatives of the Panchayat, the sponsor, and local government. There was, however, no implementation plan for EIA commitments.

The CAO met with all key stakeholders and facilitated additional agreements between divergent community leaders and, subsequently, between these leaders and the sponsor.



Outcome

In response to the complaints, the sponsor has now implemented some practical solutions which have resulted in material improvements.

- **Water supplies have been protected,** additional supplies piped into the village, and irrigation channels repaired. These changes have been verified through field visits.
- **Additional water studies have been released** – both as a result of the CAO intervention and a court order and are

available publicly and on the CAO's website.

- **Issues related to safety and labor** conditions were addressed and verified through enhanced supervision by IFC.
- **Together with the CAO, the sponsor prepared a commitments register** of its obligations under the EIA. The sponsor agreed to meet publicly with the community on a monthly basis to allow participatory verification and discussion on progress with respect to commitments made at the outset of the project planning process. The commitments register is also disclosed to the public on the CAO's website.

Despite some good progress, not all of the complainants were satisfied. Some local leaders continue to challenge the company through the courts.

After a period of 6 months, based on the commitments register and periodic supervision reports from IFC, the CAO accepted that the sponsor had met its obligations under agreements with the CAO. By February 2008, the CAO had received no further complaints relating to the project, and the case was concluded. The CAO remains vigilant with respect to this project and will continue to request periodic supervision reports from IFC on implementation of the commitments register.

Insights

1. Perceived exclusion of boundary communities

Issue: From the perspective of many community members in Jagatsuk, the diversion of the Duhangan stream resulted in increased vulnerability and risk of loss of access to water. The sponsor and IFC believed that there would be no significant impact on the Jagatsuk community due to conditions held in the EIA and contracts with the local government. Some community members, particularly farmers and others with agrarian livelihoods, saw little to gain and much to lose from the project, distrusting both the sponsor and the local government to uphold these commitments. The community wanted assurances and

concrete steps to protect their interests. They saw the EIA process as excluding them from participating in potential project benefits.

Insight: Building relationships with groups that are on the boundary of project impacts, and therefore potentially excluded from further consideration in project management plans, is essential. Detailed social mapping to uncover the key sectors of this community, and their perceptions of risks and opportunities, could have yielded solutions earlier.

Keeping promises – repeated good faith engagement with the community by the sponsor – using tools such as the commitments register – is a relatively simple approach that builds trust. It also strengthens and builds on existing management processes like the EIA so should be cost-effective.

2. Effective representation

Issue: Effective representation is a challenge. In this case, both the Panchayat leadership as well as the local government stepped into the conflict to take ownership of commitments made by the sponsor to communities in the EIA – such as the community investment program and forest rehabilitation. There may be legitimacy to their assertion, but the capacity of these local entities to fulfill the sponsor's commitments is of grave concern to the communities. These concerns may rebound and become risks to the project.

Insight: While community interests may be represented by multiple parties, the sponsor will likely benefit from taking a proactive role as a responsible representative of the LADA committee to ensure that its obligations to communities are met. India's Right to Information Act (implemented in 2005) is being discussed by community leaders as an important tool for citizens to promote greater local accountability between communities and their representatives

Further information on the Allain-Duhangan case, and other CAO cases, is available at www.cao-ombudsman.org



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ANNEX

Activities and agreements between Jagatsuk community and sponsor stakeholders

Manali, May 1-5, 2007

The CAO translated the commitments register to Hindi and distributed copies to village leaders. The CAO convened meetings to discuss the register during the project visit. These included multiple pre-meetings, separately, with project management and staff; complainants; and the complainants and panchayat members in order to ensure that the information provided was well understood.

CAO convened two meetings between the company, panchayat and complainants. At these meetings, it was agreed that:

1. The company will prepare an environmental management plan for implementing and monitoring remaining commitments. This plan will be drawn from the commitments register and will prioritize management actions, including a timetable for implementation. This prioritization process will be shared with the community through a Gram Panchayat meeting.
2. The Panchayat leadership will invite the company to each Gram Panchayat meeting in order to provide an update on implementation of the environmental action plan as well as answer questions raised by the community. Records of these sessions will be made available to the public as well as to the CAO as part of its formal monitoring of the project.
3. The company, complainants and Panchayat leaders will provide the CAO with a monthly update of progress towards implementation of these agreements. Wherever possible, these three stakeholders will jointly contribute these updates. However, all stakeholders are free to provide independent communiqués to the CAO.
4. In case that there are disputes or concerns about implementation of these agreements, the parties agree to first seek resolution through the existing project mechanisms. Parties are free to notify the CAO in this event and to keep the CAO informed of developments. The CAO will re-engage with this project in the event that outstanding concerns are not resolved with the time period that is stipulated by the project grievance mechanism.
5. The company and local community leaders recognize that the current grievance system is not being used. One suggestion, agreed by the company, is to use the grievance system to log complaints that have been lodged with managers at each of the different work sites of the company and to report on progress towards their resolution in a systematic fashion. The result should be better integration of the grievance system into the project's management program.
6. A number of ESIA responsibilities, particularly with respect to local community benefits and the Catchment Area Treatment (CAT) Plan, have been transferred to the Local Area Development Authority (LADA) which is chaired by the Deputy Commissioner, Kullu. Both the project as well as the Panchayat leadership are



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represented on LADA. As a result, CAO expects that community members should be kept informed of the progress and implementation of critical commitments made by the company in its ESIA through LADA, and that both the Panchayat leader as well as company managers act to ensure that community priorities are met through exercising their role on the committee. CAO recognizes that India's Right to Information Act (RTI - which came into force in October 2005) gives private citizens the opportunity to request information on the implementation of LADA and hold their local authorities accountable to commitments including the CAT plan. CAO expects that local community members will use the RTI Act to ensure that local priorities and development interests are met. The project will send to the CAO the LADA notification documents.