

Objection to Proposed CDM Status for 4.5 MW Hul SHP in Himachal Pradesh, India

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The PDD dated 01/08/12 for Hul SHP is laden with contradictions. The basis of these objections is elaborated below:

1. SINCE 12 April, 2011, the people of eight panchayats in the Saal Valley of Chamba,



under the banner of the Saal Ghaati Bachao Sangharsh Morcha, have been peacefully demonstrating against the attempts of the Hul Hydro Power Private Limited (HHPPL) company to enter their villages with the police and begin work on a hydropower project. The history of this long struggle dates to 2003 when villages here started opposing the construction of the 4.5 MW Hul micro hydroelectric project due to its impact on local forests, water and the environment. (Photo above of protest demonstration against the Hul Project by the affected people and their supporters.) The PDD mentions none of these protests and thus is clear attempt to mislead the UNFCCC and global stakeholders.

2. Himachal Pradesh has slotted around 750 MW of power from 'small hydro' or 'run-of-the-river' projects. Such power projects produce less than 25 MW each. Very large of such projects are coming up with state and central govt subsidies and policy encouragement, many of them without CDM credits. This clearly shows that such projects do not require CDM credits and hence are not additional.



Photo above of Saal Valley where this project is located.

3. To attract micro hydroelectric projects, the state government is offering private power producers incentives in the form of easy land acquisition procedures and speedy clearances. The Hul project is one such example. The company, HHPPL, signed an MoU with the government of Himachal Pradesh way back in 1996 for the construction of a 4.5 MW hydel plant on the Hul stream or nala of the Saal river, a tributary of the river Ravi in Chamba district. The fact that the PDD does not mention either the 1996 MOU nor the protests since 2003 only shows that the company is misleading the UNFCCC and global stakeholders.

4. The Hul project will ruin around five km or one-fourth of the catchment of the Hul stream, a tributary of the 28 km Saal river. "The Hul nala has been supporting the

livelihood of nearly 6,000 people directly or indirectly. It is used for irrigation, drinking water, fishing and running water-mills. The projects coming up on the Hul are planned in some of the most pristine oak forests of the valley. Those forests will be destroyed and so will people's livelihoods based on livestock rearing. A scarcity of milk, ghee and honey will be created in Chamba town," says Ratan Chand, an ex-Zilla Parishad member and leader of the Saal Ghhati Bachao Sangharsh Morcha. He is leading the movement against the project for close to a decade now and has suffered several human right violations and attacks in the process. The project thus has created a huge conflict in the area and the project cannot be considered appropriate for CDM credits.

4. Himachal Pradesh's micro-hydel policy clearly states that the consent of the affected gram sabhas is necessary before the construction of any project. Yet, despite all the local gram sabhas passing resolutions against the project, the developer, with some hand in glove officials, have been trying to push this project. Several memoranda and resolutions have been sent by the grams sabhas to all the government officials concerned, including the Chief Minister, but there has been no response.

5. "In 2007, three MLAs from Chamba region brought up this issue in the State Legislative Assembly and asked for cancellation of this project. While assurances to review the project were given by the government, no such action has been taken," says Man Singh, pradhan of one of the affected panchayats who has actively led this struggle.

6. The state government's apathy has, it seems, encouraged the company to try innumerable tactics to break the movement. In February 2010, its contractors and goons allegedly attacked members of the Saal Ghati Sangharsh Morcha in village Chungah with swords, guns and sticks while they were conducting a peaceful meeting. Five members were grievously injured. Ratan Chand and Man Singh had to be hospitalised for months even as the perpetrators managed to get out on bail.

7. As a response to this attack, a public hearing was conducted by the local administration but its findings have not been made public. More than 1,500 villagers from Jadera, Gulera, Chugha, Sungal, Barour, Chambi, Chaminu, Dhar, Muhal, Kega, Oyle, have objected in writing to the project.

"We obtained a copy of the report of the public hearing from sources and found that the committee has acknowledged the concerns of local communities and is in their favour," says Ratan Chand. "The report says that the wishes and aspirations of the local people should be honoured. It says the act and conduct of the project authorities in the whole episode was very suspicious."

And so women, men and children from the affected villages have been holding peaceful demonstrations even during the harsh monsoon months until finally the police stationed on site was forced to withdraw. On 12 August, 2011 the morcha held a massive rally in Chamba town. The memorandum they sent on that day to the Chief Minister of Himachal Pradesh and others is attached at Annexure 1, it elaborates why the people opposing the project.

8. **Global capital** People find the government's obduracy in the face of local opposition for years rather strange. It is also surprising that a small company has enough finance to hang around twiddling its thumbs, waiting for the project to start. The profits must be worth the wait. A look at the profile of HHPPL provides some answers. HHPPL is a joint venture of the Astha Projects (India) Ltd and Indus Power & Infrastructure, a Mauritius based company. Through Indus, a US based company holds stakes in HHPPL in India. Apart from this, the son of an Andhra based politician has stakes in this project. A US based hedge fund, Wexford Capital LLC (Wexford) also has stakes in the project. Wexford Capital has interests in the natural resources and renewable energy market. And so what on the surface appears as a small enterprise trying to promote this 'ecofriendly and tiny project,' has clear links with global finance capital trying to make profits from the natural resources of poorer countries. Since the funds of the developed world are also involved in this project, that should be sufficient to debar this project from getting CDM credits.

9. According to India's national water policy and also Himachal Pradesh's water policy, priority must be given for drinking water, irrigation, environment, biodiversity, forestry and tourism over hydropower and industry. But the government in its hunger for power and revenue seems to have forgotten its commitments. For the people of the Saal Valley, however, this compromise is far from acceptable. UNFCCC should be an instrument in support of such vested interests.

10. The Project proponent has neglected to mention additional financial incentives available to the project in the form of Renewable Energy Certificates distributed by the Central Government of India. According to the Renewable Energy Certificate Registry of India, "RE [Renewable Energy] generators will have two options - either to sell the renewable energy at preferential tariff fixed by the concerned Electricity Regulatory Commission or to sell the electricity generation and environmental attributes associated with RE generation separately...On choosing the second option, the environmental attributes can be exchanged in the form of REC. Price of electricity component would be equivalent to weighted average power purchase cost of the distribution company including short-term power purchase but excluding renewable power purchase cost. The value of REC will be equivalent to 1 MWh of electricity injected into the grid from

renewable energy sources.”¹ Under the above policy, Hul project would be eligible to avail additional revenues, if it comes up. This is a significant amount of public subsidy that may have been left out of their PDD to make the project seem less financially attractive.

11. Though the PDD talks about a stakeholder consultation in section E, the details provided there is insufficient, misleading and patchy. The fact that even in Sept 2012, the project continues to suffer from strong opposition shows that the PP had conducted no genuine public consultation and they must be asked to produce video recording of the claimed consultation and share all the details with affected people.

12. The calculations provided in the PDD fail to include various government subsidies which are available for the purpose of constructing small hydro power projects. As displayed on the Ministry of New and Renewable Energy (MNRE)’s website,² the government has provided a formula to calculate Central Financial Assistance for the construction of small hydro power projects, which is available to all projects:

$$1.50 \text{ crore} \times (C)^{0.646}$$

*C being the capacity of the project in MW

Using this formula, one finds that the total amount of subsidy available to Hul Project comes out to be Rs. 3.6 Crore (approximately 720 000 USD) for the construction of the Hul HEP. This is a significant amount of public funding and seems to have been neglected in the PP’s investment analysis in order to overstate the additionality of the project.

13. In addition to the Rs. 3.6 Crore available under the aforementioned Grid-Interactive Power Programme the central government has recently established a department under the MNRE specifically to deal with small hydro power projects (the Small Hydro Power Division of the MNRE). In 2009 the Ministry revealed a Small Hydro Power Programme to promote SHP projects of 25 MW capacity or less. In this, the government offers resources to identify SHP project sites, help in upgrading existing SHP stations, financial aid for setting up ventures in the private/cooperative/joint sectors, and support for training, business meets, and further development of SHP. In addition to the benefits offered in the SHP Programme, Small Hydro Power (SHP) projects in both the public and private sectors enjoy complete exemption from: public hearings (the main vehicle for citizens to know about the project and express their views about development works in India), Environmental Impact Assessment (EIA), and other standard regulations such as environmental clearance, Environmental Management Programme, environment monitoring and compliance. Thus, contrary to what the PP has stated in the PDD, there are no existing barriers to the execution of the Hul project. Keeping all of the above considerations in mind, CDM credits are clearly superfluous to the economic viability of the project.

¹ <https://www.recregistryindia.in/index.php/general/publics/AboutREC>

² <http://www.mnre.gov.in/cfa-schemes-programmes.htm>

Considering all of the above points and the fact the project is not additional, nor is it sustainable development, and is facing strong opposition for long from local people, is mired in human rights violations and involves global capital, it would be inappropriate if the project gets validated, registered as CDM activity or gets CERs.

Sept 6, 2012

Annexure 1

Dated: 12th August 2010

To,

The Chief Minister,

Govt of Himachal Pradesh

Shimla.

SUBJECT: Appeal for cancellation of Hul-1 4.5 MW Micro Hydro Power Project on the grounds of its serious and adverse impacts and violations

Dear Sir,

We, the local people of 8 Panchayats of the Saal Valley of Chamba, who have mobilized under the banner of the 'Saal Ghaati Bachao Sangharsh Morcha', have for the last eight years been opposing the construction of the Hul hydroelectric project on grounds of its negative impacts on our local forests, water resources and environment. Hul is 4.5 MW project proposed to be built on the Hul stream or nallah, of the Saal river, a tributary of the river Ravi, the lifeline of Chamba valley.

We have used peaceful protest as well as engaged directly with the local administration since 2003 and submitted innumerable petitions raising our concerns. Despite this, the government of Himachal Pradesh have turned a deaf ear and a blind eye to our position. . This paralysis in the government has continued even after the said company has used hired goons and violently attacked, fired upon and injured our leaders in broad day light. For the last four months, we have been peacefully conducting a dharna in our area, as the company has tried to forcefully enter our villages and start work using police force for intimidating us.

This endless crisis and the struggle for ensuring our basic survival has deeply affected our day to day lives and we now put forth our case to you anticipating your immediate support in the matter. These are our key concerns:

1. Violation of our Livelihood, Forest and Water Rights:

- In the Himalayan mountains, the smaller rivers and streams are the lifelines of the society, as they are used, more than bigger rivers, as sources for irrigation, drinking water, fishing and running water-mills. The Hull stream is no exception to this rule. The Hull Nala has been supporting the livelihood of approximately 6,000 peoples directly or indirectly over last many centuries of settled habitations, which now administratively fall in these 8 panchayats.

- Forty one *Gharats* (watermills) are going to be adversely affected by the construction of the Hul hydel projects. These *Gharats* (watermills) are bearer of Haat and Gharat culture of the hill community. A single Gharat supports the livelihoods of upto 3 to 5 families.

- There are approximately fifty fishermen (and their families) whose livelihood is being supported by this nallah, and the construction of this project will completely destroy their livelihood. The total loss of indigenous sustainable employment in this region due to closure of *Gharats* and ceasing of fishing activity will be more than any potential sustainable livelihoods proposed to be created by the installation of these two projects on Hul nallah.

- This whole region, the Saal Valley, is known for its milk, ghee and honey production, which depends on the local bushes and fodder available in the forests. Both the Jadera and Sillagharat Panchayats, which will be affected by the project, fulfill approximately 50% of dairy need of the Chamba town, the capital of the district. Almost all the families from Silla-Gharat and Jadera Panchyats are dependent for their incomes on sale of milk to Chamba town and are already facing acute shortage of green fodder (especially in winters). All the forests in Chamba district, except coniferous forests, are deciduous in nature, and only the Oak trees provide green fodder during winters. The design of the projects coming up on the Hul are planned in some of the most pristine oak forests of the valley and are going to destroy these, and people's livelihoods and the create a scarcity of milk, ghee and honey for Chamba town.

- According to survey conducted by Sal Ghati Bachao Sangarsh Morcha, Chamba, there are 1782 trees of different species and 2045 bushes of local variety falling in the path of proposed five km open water channel for Hul-1. The destruction to this forest will erode the livelihood base of the Gujjar community which is entirely dependent on livestock economy.

- The amount of water (the discharge) in the sources from where various local drinking water supply schemes take water to Sillagharat, Jadera, Paluhien, Sungal and Kaila Panchayats, has reduced over the years and there is every likelihood of these sources going dry in the coming future, creating a grave danger for the area., In response, the IPH department proposes to lift water from Hul nallah to augment these schemes as a part of MLA Priority scheme, as there is no other source in the vicinity from where the water could be lifted. It is officially recognised that the intake point of the proposed water supply scheme also falls in the stretch of the proposed Hul project. Another lift irrigation scheme named Pipeline Irrigation Scheme, from Silla khud to Koni-ki-behi, has been sanctioned under BRGF by Zilla Parishad, Chamba (Jadera ward). All these crucial schemes for the above mentioned panchayats would not have adequate water at their planned sources in Hul nallah if the execution of the Hul project is allowed.

2. Environmental Impacts of the project:

- The total length of Sal River is 28 kms, and even in this short stretch, seven mini and micro hydro-power projects are proposed or under commission, which will adversely and drastically impact the ecology, the geology, the socio-economic and the cultural status of the area. The Hul

project in specific, will disturb approximately 5 kms, or one fourth of the flow, and thus the catchment of Hul stream.

- The forest through which the channel of Hul project is going to pass is a mixed dense forest dominated by Oak trees, rare to find in Chamba. The deforestation will adversely impact the wild flora and fauna like Black Bear, Tiger, Peej and etc.. Saal valley has been lauded as a wildlife conservation area managed by local inhabitants and this history and social investment stands to be destroyed.

3. Violation of our constitutional rights and the authority of the Gram Sabha:

- According to Micro Hydel Policy of the Himachal Pradesh State government, the consent of the affected Gram Sabhas is necessary before the construction of any project. However, the state government has been trying to push this project despite all the local Gram Sabhas having passed resolutions against the project.

- Several memoranda to all the concerned Government officials, including the Chief Minister of the state, have been sent with these resolutions but, there has been no government response. In 2007, 3 MLAs from Chamba region had raised this issue in the State Legislative Assembly asking for cancellation of this project. While assurances to review the project were given by the government then in power, no such action has been taken.

4. Human Rights Violations by the company:

- The State Government's silence on this issue has encouraged the company so much so that, on 14.02.2010 its contractors and goons attacked members of Saal Ghati Sangarsh Morcha in village Chungah while they were conducting a peaceful meeting, with swords, guns and sticks, in which five members suffered life threatening injuries and were hospitalized for long stretches of time.

5. Neglect of the ADM report and its recommendations:

- In response to the shoot-out, the government initiated a public hearing (through order of the DM Chamba No. RRO-CBA-HUL-PROJECT/2010 dated 12th March, 2010) that was conducted under the chairmanship of ADM Chamba. In this public hearing, around 1,500 villagers from Jadera, Gulera, Chugha, Sungal, Barour, Chambi, Chaminu, Dhar, Muhal, Kega and Oyle attended and placed their written objections (about 500 cases) against the project before the committee. The Public Hearing report was submitted to the state government for further persual on 26/04/2010 but unfortunately, the government never made the findings of the report public. We have obtained a copy of this report from sympathetic sources and found that the committee has clearly verified the concerns of local communities about the adverse impacts of Hul Project and has concluded the following:
 - *There has been opposition to the Hul I project right from the time of survey which had been brought to the notice of state and district administration.*

- *The Hul project is a threat to the environment and people fear that it would cause depletion of their natural resources, including water, upon which the people of Jadera and other nearby villages fully depend. This need for water and fodder for the local people is increasing with the passage of time. The Hul nallah is their chief, effective and fruitful source of water supply. At least 16 water mills would get affected by the drying up of the stream.*
- *Proposed lift water supply schemes by the IPH department and irrigation schemes under BRGF would be affected by the project.*
- *The Hul project authorities started their execution work without any redressal of the grievances of the local inhabitants and without also completing the codal formalities required to be completed before execution of the work, e.g. transfer of the government land on lease in the name of the company.*
- *The project authorities have engaged Anil Gupta Engineer Builders (of village Sarol, Chamba) and Sh. Neeraj Singh (r/o Mohalla Bangotu, Chamba), to carry out some of the civil works for the project of the company. These contractors, in cahoots with the few disgruntled local elements and subcontractors, with a view to crush the continued peaceful agitation of the local inhabitants, attacked them as has been registered at P.S. Chamba vide FIR (No. 32/2010 dated 14/02/2010) undersections. 147,148,149,323,506,307 IPC and 25 , 54, 59 Arms Act..*
- *Wishes and aspirations of people in the area should be honoured but the act and the conduct of the project authorities in whole of the episode is found to be suspicious and doubtful, through use of persons with criminal background.*
- *The execution of the project is not advised without first redressing the reasons stated above, otherwise the law and order problem, which has cropped up in the recent past, will increase and make it difficult for the administration to provide fool proof protection to the functionaries of the project as there is immense shortage of police force in this district. It will also be against the will and general interests of the people at large.*

Despite all of the above, the company is trying to start the project works and the government is a mute spectator. This is because the Hul Hydro Power company was able to secure a High Court judgment (in case the CWP 425/2010), in which the court held that the police should render all necessary and effective protection to the company for carrying out the work. But the judgment also provided that the public could record their protests in a peaceful manner without creating any law and order problem at the site.

And even so, as we, the women, men and children have been holding a peaceful demonstration for the last four months in the harsh monsoon rains to protect our interests, the government has not engaged positively with us at all to consider our voices and fears. It is appalling that the government is pushing a project of 4.5 MW size as though it is one of national importance. It is high time that the government take a position in our favour and in accordance with the State Water Policy, in which priority is given to drinking water, irrigation, environment, bio-diversity, forestry and tourism over hydropower and industry. We will not allow companies, acting as a front for foreign investors and hedge funds, to destroy our lives just to multiply their riches and our governments watch their interests and not of their citizens.

We thus demand that the MoU for the Hul-1 micro hydro power project be cancelled and the project withdrawn immediately.

We, the Saal Ghaati Bachao Sangharsh Morcha, are culminating our four month sit-in demonstration with a massive rally in Chamba town today. With this culmination we are putting the call back in the court of the government. Our rally is the signal to the state government that it is time that the government play its right role as being one 'of the people, by the people and for the people', and actively intervene by ceasing the Hul Project. If this does not happen, then people shall respond as necessitated by the events at hand for which we shall not be responsible.

Signed

Saal Ghaati Bachao Sangharsh Morcha