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March 10, 2009

To  
**Kosi Inquiry Commission,  
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**Subject: Issue of accountability for the breach of Kosi embankment**

Dear Kosi Inquiry Commission members,

This is in response to the advertisement in the Hindustan Times dated February 26, 2009, where the Kosi Inquiry Commission had invited submissions from all concerned by March 13, 2009.

1. There is no doubt that the breach of Kosi embankment on August 18, 2008 was a man made tragedy. The breach occurred because the steps necessary to be taken to ensure adequate maintenance of the embanked river portion were not taken by the concerned persons in the short and the long term.

2. The Ganga Flood Control Commission (<http://gfcc.bih.nic.in/>) is a sub ordinate office of the Union Ministry of Water Resources. The GFCC's Chairman's introduction to the Annual report of the GFCC for the year 2006-07 (the latest year for which the website has the annual report) claims, "As Chairman of the Gandak High Level Committee and Kosi High Level Committee, GFCC has recommended every year, the flood protection works for implementation by the Govts of U.P and Bihar. The implementation of recommendations has successfully helped in maintaining the flood protection embankments satisfactorily thereby protecting large areas behind them." Since GFCC chairman takes the responsibility for the "successfully... maintaining the flood protection embankments satisfactorily" for Kosi river, the responsibility for its mal functioning must be with the same chairman of the GFCC.

3. The section 4.3.1 of the annual report of GFCC says, "The **Kosi High Level Committee (KHLC)** was constituted by the then Irrigation Dept. Govt of Bihar in the year 1978 under the Chairmanship of Chairman, GFCC to review/examine the protection works already taken on the river and recommend protection measures to be taken before the next flood season. Since then the committee is inspecting every year the protection works taken up on the river and is making recommendations regarding protection work to be executed on the river before the next flood season. The State Govt executes the schemes on the basis of the recommendations of the committee." The list of members given in the annual report of the GFCC is copied below.

<b>Chairman</b> , GFCC, Patna.	Chairman
<b>Engineer-in-Chief (North)</b> , Water Resources Deptt., Govt of Bihar.	Member
<b>Director</b> , CWPRS, Pune or his representative.	Member
<b>Member (RM)</b> , Central Water Commission, New Delhi/ representative	Member
<b>Chief Engineer</b> , Water Resources Deptt., Govt of Bihar, Darbhanga.	Member
<b>Chief Engineer (Master Plan)</b> , Water Resources Deptt., Govt of Bihar.	Member
<b>Chief Engineer (Research)</b> , Water Resources Dept, Govt of W Bengal.	Member
<b>Dy. Director General</b> , Irrigation Deptt. HMG, Nepal.	Member
<b>Director, Eastern Region</b> , Irrigatin Deptt., HMG Nepal, Biratnagar.	Member
<b>Chief Engineer</b> , Water Resources Deptt., Government of Bihar, Birpur.	Member-Secretary

It is clear that all those who were members of the KHLC listed above during the period October 1, 2007 (end of the 2007 monsoon season) and August 18, 2008 (the day the embankment breached) and prior periods where necessary, should be held responsible for the lack of required maintenance work done, which lead to the Kosi disaster.

4. In para 5.1 of the GFCC annual report for 2006-07 it is stated, "Besides above, all schemes receiving Central Assistance under the following centrally sponsored /central sector schemes were closely monitored during the year.

❖ Maintenance of flood protection works of Kosi & Gandak Projects in Nepal portion."

The responsibility for close monitoring of the maintenance of the flood protection work of Kosi project in Nepal is, thus, clearly of GFCC and it is lack of maintenance in this area that lead to the Kosi flood disaster of 2008.

5. Attached at **Annexure 1** are three letters, all from Director (Coordination) of GFCC to the Engineer-in-Chief (North), Water Resources Dept, Govt of Bihar. The three letters are dated April 1, 2008, April 25, 2008 and June 12, 2008. Since the text in the letter dated April 1, 2008 is not fully legible, a file containing the retyped letter is attached as **Annexure 1A**. In these letters, the Director, GFCC is telling the Engineer-in-Chief (North), WRD, GoB, that:

- ❖ The estimates/ schemes for the maintenance of the Nepal portion of the Kosi project, as recommended by the KHLC, to be completed in Nepal before the floods of 2008 "has not yet been received in this office".
- ❖ The monthly physical and financial progress reports be sent to GFCC
- ❖ The may be treated as "urgent".

The copies of this letter were also sent to the Chief Engineer, WRD, Govt of Bihar, Dist Supaul.

What these letters convey is that GFCC had no idea about the implementation of the repair of the Kosi embankment in Nepal portion on April 1, 2008, by which time, in normal course, the work should have been completed, since the snow melt in summer increases the flow in the river Kosi. What is strange from the subsequent letters of April 25, 2008 and June 12, 2008 is that they refer to the earlier letters, they say the same thing, they say that the matter may be treated as urgent, and yet they show no evidence of any action, besides writing of these letters. In matters where lives, livelihoods, safety of crores of people is at stake, where safety of crops and property over lakhs of hectare is at stake, the officials who are statutorily authorized (we can assume that since Director GFCC was writing these letters, he was writing on behalf of GFCC and it reflected the state of minds and actions of everyone at GFCC, including its chairman) and responsible, were indulging in writing these letters and nothing else. These officials should have been taking many other urgent steps rather than limiting to writing these letters to ensure that the duty given to them is indeed fulfilled. It seems that they taken no urgent steps to fulfill their statutory responsibilities.

Hence everyone at GFCC, right from chairman down to all others who are responsible in this matter are held accountable for the lack of maintenance at the Kosi embankments that lead to the breach.

The fact that the Engineer-in-Chief, WRD, GoB in Patna and the Chief Engineer at Supaul did not respond to these letters (as seems to the case from the series of unanswered letters) mean that they both and also the lower officials should be held accountable for this disaster.

This in turn also fixes the responsibility of all the members of KHLC since it was their duty to ensure that the required maintenance of the embankment is done properly and in time.

6. At **Annexure 2**, I have attached the daily *Tatbandh samachar* from the Executive Engineer of Bihar Water Resources Department at the Central Flood Control Room in Patna dated August 16, August 17 and August 18, 2008. The reports of the embankment news for August 16 and 17 are one liner: "All the embankments under the Water Resources Department are safe." Then suddenly, the report on August 18, 2008, the report says that the embankment of about 400 m length between 12.1 and 12.9 km has been damaged and water is entering Nepal and area around Birpur.

These three reports firstly shows that the flood control room of the WRD of Bihar was contradicting itself when they certified till Aug 17, 2008 that all embankments are safe and than suddenly saying on Aug 18 that the embankment has breached. Their reports were untruthful or they were plainly ill informed about the condition of the Kosi embankment. In either case, they should be held responsible for the breach.

Secondly, the report of August 18, 2008 also said that the spurs along stretch of the embankment between 12.1 and 12.9 km were facing erosion for "the past many days". If that was the situation, why did they not

mention it in their previous reports? It claims that the local engineers were constantly involved in efforts to protect the embankment, that some anti social elements forced the labourers to flee from the site during the night of August 17 and hence there was excessive pressure on the embankment, that the materials sent for the flood protection on August 18 could not reach the site of work due to the Nepali people creating problems and the local administration not having been able to establish law and order. What this means is that the according to WRD, Govt of Bihar, the breach occurred only because of the events after the night of August 17, 2008 and that everything was fine before that. This is completely wrong, if we see what we know was happening before August 17, is also clear from the Annexure 4 mentioned below. Thus, all the officials of the Bihar WRD from Chief Engineers down, at the location and also those at the Flood control Room at Patna should also be held accountable for the breach.

7. At **Annexure 3**, I have attached an extract from one of the official documents (though we do not have the information as to which document this comes from, we know reliably that this is from official documents), that shows the comparison between what the field officers of Bihar WRD proposed for repair of the Eastern Kosi Afflux Bundh in Nepal, to be executed before the flood of 2008, and what the KHLC sub committee approved and what the KHLC itself approved, for the portion of embankment at 12.1, 12.8 and 12.9 kms, the very portion that ultimately breached and which lead to the Kosi flood disaster. It is clear from this comparison that the field officers had recommended much higher quantum of repair work and this was progressively diluted by the KHLC sub committee and than by KHLC. What this means is that the members of the KHLC sub committee and the KHLC should be held accountable as to the reasons for this dilution and if this dilution was one of the factors that lead to the Kosi disasters.

8. At **Annexure 4**, I have attached copies of the urgent communications from the Chief Engineer (Birpur), Water Resources Department of Bihar, to the Public Relations Officer of Bihar Govt in Katmandu (Nepal), dated August 9 and August 15 (this one also referred to the letter of August 14), 2008, requesting for cooperation in ensuring that in view of continued "massive" erosion of the Kosi eastern afflux bund at 12.9 km in Nepal, the work is going on "day and night". This communication said that there is unnecessary delay from Nepal customs officials in Sunsari district and also the local organisations in Nepal are forcing the labourers to flee the place of work. The copies of these letters were also sent to the Executive Engineer in Flood Control Room of WRD in Patna, who in spite of all this, kept sending reports of all safe till August 17, 2008.

These communications indicate that that indeed the massive erosion of the embankment at the breach location was known to the engineers of the Bihar WRD at the location of the embankments at least since August 8, if not earlier. And yet they were not taking urgent steps to ensure that this work is completed soon, and in stead are sending such communications. Secondly, the officers who were recipient of these communications should also be held accountable to show what they did to amend the situation.

9. At **Annexure 5** I have attached abstract of some papers presented t the 1<sup>st</sup> India Disaster Management Congress, organised by the National Institute of Disaster Management (Govt of India) on 29-30 Nov, 2006 at Vigyan Bhawan, New Delhi. In a paper titled "Kosi-A Review of Flood Genesis and Attempts to Solve this Problem" by officials of Central Water Commission (CWC) AK Jha and DP Mathania (then posted at the Joint Project Office for the Kosi Project in Biratnagar, Nepal), it is stated, "But, this engineering approach has proved to be far too insufficient in its objectives as at present the pond of the barrage at Hanumannagar is almost full of sediments. Soon the embankments would be ineffective to control the Kosi floods. It would thus be naïve to embark upon finding of this menace through structural measures...". This and other documents indicate that the officials in the government agencies at Patna and Delhi knew that the pond of the Kosi barrage was already full of sediments in 2006 and in fact much earlier. The question that needs to be posed to the officials at the CWC, Union Ministry of Water Resources, GFCC and Bihar WRD is, What had they done to address this problem and also what steps they had taken to ensure that this sedimentation does not lead to the disasters like the one Bihar witnessed in August 2008?

10. In another paper shown at Annexure 5, by SK Sinha of WRD, Bihar, it is stated that construction of ponds and sinking of injection tubewells in the catchment area can help in flood management. The question that also needs to be asked of the officials agencies listed above, is what they have done to take up these measures on wide spread level? Why did they not take these measures to wide spread level on urgent

basis? Which officials were responsible for this? Such officials in turn must also be held accountable since their inaction also contributed to the Kosi disaster of 2008.

In fact as per another paper by SK Sinha and RR Prasad of WRD, Bihar, no less than the then President of India had, in a Chief Ministers' conclave in Delhi on August 4, 2004, had recommended construction of layered wells as a step toward flood management in Bihar. Why were such measures not taken up on war footing and who are responsible for this?

11. The officials of the government agencies listed above also needs to be asked as to what they have done with regard to the following issues which have significant bearing on the August 2008 Kosi disaster.

- ❖ The Indo Nepal Treaty of 1954, as amended subsequently had provision of soil conservation works. What has been done by the Govt of India to ensure that these have indeed been taken up at wide spread level all across the catchment areas in Kosi basin at regular intervals?
- ❖ The National Flood Commission (Rashtriya Barh Ayog) of GOI, also a number of other related committees and commissions had made a series of recommendations on the issue of flood management and embankment maintenance and their efficacy. What has been done by the Governments in India to ensure that these recommendations have been implemented?
- ❖ There had been breaches of embankments in the past in Bihar and elsewhere, including in Kosi basin. What has the Bihar and Govt of India done to ensure that accountability for such disasters in the past is fixed so that there is deterrence for future?
- ❖ Shri Dinesh Kumar Mishra, Barh Mukti Abhiyan and many others have been making detailed recommendations about ensuring that those affected due to the construction of embankments are justly compensated and proper accountability norms are fixed, and to ensure and that where necessary, the embankments be decommissioned and that credible, independent post facto evaluation of the embankments should be done. A case in point is the book by Shri Mishra, titled: "Trapped! Between the Devil and Deep Waters: The story of Bihar's Kosi River", published by SANDRP and PSI in September 2008. [We are sure the commission would have copies of this, if not, we can send if requested.] What has the governments done to ensure that such recommendations are implemented?

12. Thus, among the persons who are clearly responsible for this mishap and who should be held accountable include:

- A.** The chairman & members of the KHLC and its sub committees from October 1, 2007 to August 18, 2008.
- B.** The responsible officers of the Ganga Flood Control Commission, including its chairman and director (coordination) during the period mentioned in A above.
- C.** The officers of Bihar WRD at the field level who were directly responsible for the maintenance of the embankment upto the level of Chief Engineer, Engineer-in-Chief (North), the PRO of the Bihar govt in Kathmandu, the executive engineer and others responsible at the Flood Control Room of Bihar WRD in patna and also the officers and ministers to whom they were immediately answerable during the period mentioned above.
- D.** The minister and the secretary, Union Ministry of Water Resources and Chairman of Central Water Commission, to whom the GFCC was answerable, for the period mentioned above.

The Kosi Inquiry Commission must recommend investigation against all the mentioned above and pending inquiry, these officers should stand suspended, unless there is sufficient ground to show that some of them could not perform their tasks in spite of their wishes and efforts (this will have to be credibly demonstrated).

I would be happy to answer questions on the above. I will look forward to seeing adequate response of the commission on the above issues.

Thanking you,

Yours Sincerely,

Himanshu Thakkar  
For SANDRP

Annexures: As mentioned above.