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SECRETARY

Ministry for Environment, Forest and Climate Change

Government of India

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Sub: Comments, Suggestions and Objections on the Draft EIA 2020 notification

Respected Sir,

As a responsible citizen of this country and referring to the fundamental duties enshrined in our Constitution vide **Article 51-A (g)**, I feel it is my duty to place before you my concerns and objections with regards to the Draft EIA 2020 notification. The current draft contains such provisions which shall certainly impede the Government's ability to perform its duty towards protection and improvement of our country's environment as mandated by the **Article 48A** of the Constitution of India. Following are my broad comments on the shortcomings of the proposed EIA notification 2020:

1. The draft notification apparently stresses more on varied pathways to grant approval to the projects rather than their environmental assessment or audit. EIA is all about applying scientific tools for evaluation of proposed projects so as to minimise potential damage to the environment. EIA is not a tool for impeding economic growth but is definitely an instrument for accelerating sustainable development. Given the current scenario of global pandemic and the quantum of natural hazards in India, we ought to give more importance and priority to conserving nature.
2. The word "Environment" essentially includes the "human species" too apart from the flora and fauna; therefore impacts of projects on human beings must be necessarily taken into account along with the impacts on other biotic and abiotic elements of the environment. Thus, it is very logical and scientific to integrate Social Impact Assessment with the Environmental Impact Assessment of any industrial/developmental project which is grossly missing in the draft EIA 2020.
3. The present notification is not congenial to the indigenous communities (tribal population in vicinity of project sites, fisher communities, Adivasis etc.). Due concern must be given to the protection of the indigenous communities so as to preserve their socio-cultural identity which is perhaps more important than meeting economic needs of the country. Cultural rights are as important as any other human rights. Cultural rights are an expression and requirement of human dignity. The government cannot justify the need for economic development at the cost of the loss of traditional livelihood and cultural identity of the indigenous people. The indigenous communities are displaced from their ancestral places which causes enormous psychological turmoil. These issues cannot be addressed with the draft notification in its present format.
4. The present draft EIA notification and even the existing EIA Notification of 2006 largely ignore the need of considering alternatives for any proposed project. Detailed consideration of alternatives based on principles of environmental economics should be made mandatory in the EIA process, which is a usual step in other parts of the world.



5. No project should be given ex-post facto clearance. Instead even in very low impact projects, prior clearance should be considered based on EIA and properly designed Environment Management Plan so as to avoid any man-made disaster in the future.
6. It is now widely acknowledged and scientifically proven that certain categories of developmental and industrial activities can have long term consequences for the climate. Thus, in the current scenario of development of climate studies, it is imperative to include climate change impact studies for such projects in the EIA process.
7. The draft EIA 2020 further dilutes the existing public hearing process which is already flawed in many terms. To ensure effective public participation in the developmental projects, the first and most important step is the public consultation. Most common form of people participation in planning and development of projects in India is the public hearing. Instead of dilution, provisions for multi-stage public consultation should be inserted into the draft EIA.

All the above comments and suggestions are in coherence with the guidelines and recommendations of the National Environment Policy (NEP), 2006 of India. Further, NEP, 2006 had long back recommended some crucial actions for making the environmental clearance process more effective which included the following:

- a. “Encourage regulatory authorities, Central and State, to institutionalize regional and cumulative environmental impact assessments (R/CEIAs) to ensure that environmental concerns are identified and addressed at the planning stage itself”
- b. “Specifically assess the potential for chemical accidents of relevant projects as part of the environmental appraisal process”
- c. “Give due consideration, to the quality and productivity of lands which are proposed to be converted for development activities, as part of the environmental clearance process. Projects involving large-scale diversion of prime agricultural land would require environmental appraisal”
- d. “..... Emphasize post-project monitoring and implementation of environmental management plans through participatory processes, involving adequately empowered relevant levels of government, industry, and the potentially impacted community.”
- e. Ensure that in all cases of diversion of forest, the essential minimum needed for the project or activity is diverted. The diverted area must not be cleared until the actual construction starts.

Also, the NEP-2006 recommended a vital step to be undertaken for protecting dense forest cover. It states:

“Formulate and implement a Code of Best Management Practices for dense natural forests, to realize the Objectives and Principles of National Environment Policy. Forests of high indigenous genetic diversity should be treated as entities with Incomparable Value.”

However, going through the complete Draft EIA 2020, it appears that individuals engaged in the drafting the new EIA notification did not refer to the above recommendations of the NEP 2006 and disregarded the basic objectives of the said policy, which are as follows:

- i. Conservation of Critical Environmental Resources
- ii. Intra-generational Equity: Livelihood Security for the Poor
- iii. Inter-generational Equity
- iv. Integration of Environmental Concerns in Economic and Social Development
- v. Efficiency in Environmental Resource Use



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- vi. Environmental Governance
- vii. Enhancement of Resources for Environmental Conservation

In addition to the above, a separate note on various objections to specific clauses and sections in the draft EIA 2020 is appended herewith for your kind perusal.

Considering the above facts, I humbly request you to take up immediate steps for withdrawal of the Draft EIA 2020 notification and constitute a new high level committee of eminent environmental scientists, ecologists, social scientists and enviro-legal experts to study the existing EIA framework, environmental governance and jurisprudence in India. The deliverable output from such a committee should be in the form of a robust EIA policy and a set of effective rules which shall pave the way for the country towards sustainable development.

Thanking you,

Yours sincerely,

(Bidyut Bikash Sharma)

Enclosed:

- i. Note on Objections to Specific Clauses and Sections in the Draft EIA 2020



Note on Objections to Specific Clauses and Sections in the Draft EIA 2020

1. **Ex-post facto clearance:** The Draft EIA 2020 notification very specifically mentions about the recurring nature of violations by project proponents with regards construction /expansion / upgradation without Prior Environmental Clearances. **Para-6 (pg. 2)** of the uploaded document states that “... *the Ministry deems it necessary to lay down the procedure to bring such violation projects under the regulations in the interest of environment at the earliest point of time rather than leaving them unregulated and unchecked.....*”. This particular line clearly indicates that the MoEFCC is paving the way for *ex-post facto* clearance for industrial projects. Without prior environmental clearance, there, is every possibility of the projects causing immense harm to the environment. Regularizing environmental violation is unconstitutional and granting ex-post facto clearance is against the basic principles of EIA.
2. **Clause 4:** Appraisal for expansion or modernization of existing projects should be mandatory before granting prior environmental clearances/environmental permission. This is because there have been many instances in the recent times where industrial accidents have occurred and has caused extensive damage to the environment. E.g. Styrene Gas Leakage from LG Polymer Plant at Vishakhapatnam, Oil & Gas Well Blowout from Baghjan Oilfield operated by Oil India Limited. If we consider these two incidents, we find that both the industries had flouted environmental regulatory norms and were operating without proper environmental clearances, as reported by enquiry committees.
3. **Clause 10:** This clause describes the stages in the process of granting Prior Environmental Clearance/Environmental Permission. It is very surprising that the usual first step of “Screening” has been eliminated in this draft notification. Screening is a crucial step as evident from EIA notification-2006 and its elimination cannot be held scientific. Further reducing the other important steps of impact assessments for Category B2 projects is also not justifiable.
4. **Clause 12 (3) (a-d):** The fact that Standard Terms of Reference (ToR) is to be issued by the Regulatory Authority to specific categories of projects without referring to the Appraisal Committee. Now, This is to be applied to all –
 - a. Highway projects in Border Areas
 - b. Projects to be located in notified industrial estates
 - c. Building constructions and Area Development having threshold limit >1, 50,000 sq.mtrs. of built-up area or total land area >50 hectares

All the above kind of projects can have serious environmental impact. As far as NE India is concerned, the border areas are commonly affected by natural hazards like earthquake, landslides and floods. Therefore, highway projects may further destabilize the environmentally fragile regions and have severe impact on the flagship species like the Elephants, Tigers etc.

Further, projects located within industrial estates can equally be disastrous owing to failure to maintain environmental standards and non-compliance to environmental regulatory norms by the project proponents. Also, large township constructions and similar area development projects can cause harm to nearby water resources, air quality and also soil pollution through generation of MSW.

Therefore, the regulatory authority should refer these projects to Appraisal Committee (Experts) for deliberations and framing project specific ToRs.



5. **Clause 13 (2-3):** Baseline data should be collected for all the three periods of pre-monsoon, monsoon and post-monsoon. Baseline data for EIA is commonly collected to determine the air, water and soil quality, ambient noise and floral-faunal diversity. All these abiotic and biotic elements undergo dynamic changes in accordance with seasonal changes. The present clause allows skipping the crucial data for monsoon season which cannot be justified by any scientific principles. For proper scientific assessment and mathematical modeling, raw field data for all season and for at least one complete year is necessary. Also, for any kind of project that is to be designed for Northeast India must take into consideration the monsoon data because, the ecosystem dynamics in this region is particularly driven by the Indian Monsoon system.
6. **Clause 13 (11):** An extensive list of industries/activities are sought to be exempted from submission of EIA reports through their inclusion into the “Category B2”. However, there are serious objections to such a categorization and the objections are based on scientific evidences of the kind of damages that these projects can cause to the environment. All such possible damages are listed in against each type of industrial activity:

Project/industry	Category B2 specifications	Potential Environmental Impacts
Hydro-Electric Projects	<25 MW	This will lead to tremendous proliferation of small dams across the country; SHPs are small in terms of energy production but are definitely massive barriers over river channels causing fragmentation of the rivers. Cascade of SHPs on a single river basin is equally disastrous to the environment when compared to large HEPs. Multiple SHPs create more barriers and causes loss of channel length for fish habitat
Irrigation projects	2000-10000 Hectare culturable command area	Degradation of irrigated land, depletion of groundwater, poor water quality, ecological degradation, increased incidence of water-related diseases, Increased inequity,
Thermal Power Plants	5-15MW; biomass/non-hazardous municipal solid waste based and using auxiliary fuel like coal, lignin, etc.	Burning municipal solid waste produces air pollution and releases the chemicals and substances in the waste into the air. Some of these chemicals can be hazardous to people and the environment. Ash from waste-to-energy plants can contain high



		concentrations of various metals that were present in the original waste Wood smoke contains harmful pollutants such as carbon monoxide and particulate matter
Dyes and Dye Intermediates	Small & Medium Industries	Textile dyes degrades the aesthetic quality of water bodies, increases BOD and COD, impair photosynthesis, inhibits plant growth, enters the food chain, provide recalcitrance and bioaccumulation, and can be toxic, mutagenic and carcinogenic
Airports & Heliports	Water aerodromes, heliports for commercial use	Major source of noise and air pollution. Local air quality degrades due to emission of oxides of nitrogen, hydrocarbons, particulate matter etc. Wastes and effluents from aircraft (toilet wastes, trash from inside aircraft, oil spillage, chemicals and detergents for aircraft maintenance) can cause severe water pollution.
Ports, Harbours, Breakwaters, Capital Dredging	All projects in respect of Inland Waterways	Involve physical interventions like dredging which has the potential to disturb the morphological integrity of the rivers alongwith local aquatic flora and fauna. In Ganga-Brahmaputra river system, inland waterways project can severely affect the Gangetic River Dolphin which is enlisted as an endangered species by the IUCN. Further, waterways will cut across many protected area landscapes like the Manas Biosphere Reserve, Kaziranga National Park, Dibru-Saikhowa National Park etc. Regular movement of large ships through such waterways will obviously affect the



		faunal diversity of these protected areas, particularly those dependent on riverine habitat by means of noise pollution and oil spillage.
Highways or Expressways or Multi-modal corridors or Ring Road	Expansion or widening of existing NH or Expressway Expansion/widening of State Highway	Habitat fragmentation, destruction of wildlife corridors, ecosystem fragmentation, negative impact on habitat dynamics owing to spatial restructuring of landscapes, negative interaction with stream networks
Aerial Ropeways	All projects located in notified Ecologically Sensitive Area	Construction phase activities can have negative impacts on the ecological habitat of the ESZ. Generation of solid wastes, Wastewater and water pollution due to oil spillage from DG sets and extraction of groundwater during operational phase can have long term environmental impacts
Building Construction and Area Development Projects	>20,000 sq.mtrs – 50,000 sq.mtrs >50,000 sq. mtrs of built-up area projects having “Certificate of Green Building”	Severe pressure on groundwater resources, landuse changes, solid waste generation during construction phase. MSW generation, air quality and water quality and availability issues during operational phase. Fertile and productive lands are converted for the purpose which is unsustainable. Certifying bodies must be brought under government control so as to hinder possible malpractices in granting “green building certificate”

7. **Clause 14 Section 2 (a-g):** Many categories of projects listed under these sections have been exempted from Public Hearing which is against the principle of public participation within democracy. All the listed projects can cause severe environmental impacts in addition to the damage to livelihood and destruction of socio-cultural fabric of the local communities. Also, without proper public participation, projects are usually seen to face resistance from the local residents. This is because of the fact that the project proponents do not give consideration to the



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welfare of the local communities. In many projects displacement of local communities become inevitable and yet their rehabilitation is not given due priority.

8. **Clause 22(1) and 23(1):** According to these two clauses, cognizance of violation and non-compliance cases shall be made based on self-reporting by project proponents or by the Government authorities. This completely excludes and ignores the complaints and objections that the general public may have against a particular project. Further, there could be a tendency among project proponents to hide their own lapses and try to rectify conditions without letting know the authorities. Such acts on part of project proponents may lead to major environmental disaster.

Based on the above facts, the EIA 2020 seems to be a very poorly drafted document that allows for rapid infrastructure development in the country but does not give due consideration to the need for protection of environment and conservation of natural resources and biodiversity of the country. With the present infirmities, the draft EIA 2020 should be withdrawn. Instead the MoEFCC must take up steps for removing the loopholes in the existing EIA rules as prescribed by EIA Notification 2006 and its amendments.

(Dr. Bidyut Bikash Sharma)

Dated: 02/08/2017