

Address for Correspondence:

Shripad Dharmadhikary,
At Vithalwadi, Post Paud,
Taluka Mulshi, Dist. Pune,
Maharashtra 412 108

Email: manthan.shripad@gmail.com

Phone: +91-9552526472

1 Jan 2019

Dr. Harsh Vardhan
Hon'ble Minister for Environment, Forests & Climate Change,
Government of India,
Indira Paryavaran Bhawan, Jorbagh Road,
New Delhi 110003

Subject: Open Letter to Ministry of Environment, Forests and Climate Change, urging to Make Environmental Clearance Process Mandatory for Inland Waterways

Reference: Order of the National Green Tribunal (NGT) of 1st Nov 2018, in O.A. 487 of 2015, asking MoEFCC to submit its opinion by 31st Jan 2019 on whether Environmental Clearance in respect to Inland Waterways is required or not.

Dear Dr. Harsh Vardhan ji,

You will be aware of the order of the NGT mentioned above that says:

“Therefore, we consider it appropriate to direct Ministry of Environment and Forest to look into the issue in consultation with the Experts in the field, as to whether any Environmental Clearance is required or not and whether Environmental Impact Assessment is to be done in projects relating to Inland Waterways ... The Ministry of Environment would submit their final opinion to the Tribunal by 31st January, 2019.”

With reference to this, we the undersigned, who have been working on issues related to rivers, waterways, ecological and social impacts of interventions in river systems and other linked issues, urge you urgently to make prior environmental clearance mandatory and legally binding for the waterways projects in their entirety, and for each of their components, taken together and separately, by unambiguously bringing them under the ambit of the EIA Notification 2006. This will set to rest the current uncertainty that has been sought to be created to exempt these waterways from the ambit of environmental clearance, in spite of their serious adverse impacts.

This needs to be done for the following reasons:

1. **Waterways have huge environmental and social impacts:** The creation, maintenance and operation of inland waterways has huge adverse environmental and social impacts on the morphology, habitats, ecology, flora and fauna of rivers and other waterbodies, and on livelihoods of communities depending on them.

Waterways involve interventions like dredging the river bed, a highly intrusive activity that can damage the river bed habitats, and river straightening and training works, river protection works, all leading to severe impacts on the river habitat and ecology. Dredging can release toxic pollutants that have previously settled on river beds, as well as create noise and turbidity. Operation of vessels leads to leakage of oil and lubricants, heightened noise and increase in turbidity, all with serious impacts on the flora and fauna. Dust pollution from bulk cargo to be carried on these waterways like coal, fly ash, and other ores also possesses risks for the riverine ecology. Construction of facilities on the river banks like terminals, jetties, depots etc. would also lead to severe impacts. Accidents of vessels carrying hazardous cargo pose additional risks.

All of these are also likely to impact livelihoods of riverine communities, including fisherpeople, boatspeople, riverbed cultivators, among others.

2. **Some components already need Environment Clearance:** The EIA Notification 2006 already includes, as Item 7 (e) of the Schedule, several important components of waterways like dredging and ports. It must be noted that the letter as well as spirit of the Notification clearly indicates inclusion of both maintenance and capital dredging. It is established law that if a component needs to get environmental clearance, then the entire project also needs to seek such clearance. One cannot artificially separate such components of projects. Established environmental practise also requires this. But there appears to be an attempt to circumvent this provision and exempt several waterways from environmental clearance.
3. **Arbitrary application, some waterways are subjected to EC process:** There seems to be great arbitrariness in the application of Item 7(e). In the past, MoEFCC has initiated the process of environmental clearance for some waterways by issuing TORs, for example the Goa Waterways (Waterways 27, 68 and 111, TOR issued on 26 Nov 2016), and stretches of Waterways 4 and Waterways 5. These TORs have been issued with reference to Item 7(e). Yet, others like the Ganga waterway, Brahmaputra waterway, Barak waterway are being allowed to proceed without requirement of EC. This arbitrariness needs to end.
4. **MoEFCC's own expert committee has recommended that waterways must require EC:** On 18th May 2017, the MoEFCC's own "Expert Committee For Streamlining Clearance Procedures Including Examination and Recommendation on Various Technical Issues like Review of Project/Activities for its Inclusion Under EIA Notification 2006..." met to discuss "Applicability of EIA Notification 2006, for Jetty Construction in Rivers and Dredging in Rivers and Inland Waterways Development Projects". Among other things, it explicitly recommended:

"In order to create more clarity regarding the applicability of such projects under the EIA Notification, 2006, the Expert Committee recommended for amending the EIA Notification, 2006 to include 'Inland Waterways, Jetties and Multi modal Terminals under the list of items requiring prior environmental Clearance. However, Public Hearing in respect of Inland Waterways may be restricted to areas where facilities such as jetties, terminals, storage are created."

The Committee also recommended that waterways should be listed as Category A projects. Unfortunately, such an unambiguous recommendation has yet to be acted upon by the MoEFCC.

5. **Work proceeding apace:** Work is proceeding apace on a number of waterways in rivers like Ganga, Brahmaputra, Barak, in sensitive areas like Sundarbans, all without any environmental clearance process or statutorily binding environmental scrutiny. This is leading to huge impacts, many of which are likely to be irreversible in nature. It is to be noted that the National Waterways Act 2016 has already designated the creation of 111 inland waterways in all parts of the country, and more are under discussion.
6. **Current EIAs are outside the legal and regulatory regime:** For some of the waterways, the implementing agency (IWAI) has commissioned EIAs. However, this is not sufficient to protect the environment. Such EIAs are being done outside the framework of the EIA Notification 2006, and hence are not subject to independent scrutiny of the Expert Appraisal Committee of the MoEFCC, or post-clearance independent monitoring and compliance review. They are at best scrutinised by the project promoter itself. Moreover, an environmental clearance under the EIA Notification 2006 would carry legally binding conditions with provision for judicial appeal and recourse to enforcement through judicial intervention. The environmental management plan prepared outside this framework is not legally binding and has no recourse to judicial challenge, and hence subject to discretion of project promoter.
7. **Dredging, ports in Ganga wrongly exempted from EC:** The work on the Ganga waterway (National Waterway 1) including the dredging work, as well as the multi-modal terminal on the Ganga at Varanasi among others has been exempted by MoEFCC from requirement of environmental clearance. This exemption has no legal basis, no rationale, no logic and seems to have been done under pressure bypassing extant laws and regulations. This and such kind of exemptions are possible only because of the lack of explicit articulation in EIA Notification 2006 including in the Item 7(e). This needs to be addressed through an unambiguous articulation of the need for environmental clearance for all these components and the waterways in their entirety.

Given all this, we urge that the MoEFCC, as a part of its response to the NGT Order:

- A. **Clarify that dredging in all waterways has to seek prior environmental clearance as it is covered by item 7(e).**
- B. **Clarify that all river ports, terminals, jetties for inland waterways would have to seek environmental clearance as they are included in Item 7(e)**
- C. **Clarify that A and B above will apply to all waterways including the Ganga**
- D. **Amend the EIA Notification 2006 immediately to include in the Schedule, waterways in their entirety and all components including but not limited to dredging, river training works, river protection works, river ports, river terminals, jetties, operation of barges and vessels in the waterways etc.**

We would be happy to provide any further information, clarifications or inputs related to this.

Signed (In Alphabetical order):

1. **Amita Baviskar**, Institute of Economic Growth, Delhi
2. **Ashish Kothari**
3. **Bharat Jhunjunwala**
4. **Citizen consumer and civic Action Group (CAG)**, Chennai

5. **Dhruba Das Gupta**, Project Director, Society for Creative Opportunities and Participatory Ecosystems (SCOPE), Kolkata
6. **Dr. Himanshu Kulkarni**, ACWADAM, Pune
7. **Dunu Roy**, Hazards Centre
8. **Ekta / Ravi Shekhar**, The Climate Agenda, Varanasi.
9. **Forum for Policy Dialogue on Water Conflicts in India**
10. **Gopal Krishna**, ToxicsWatch Alliance (TWA)-Ban Asbestos Network of India (BANI), New Delhi
11. **Himanshu Thakkar**, SANDRP, Delhi
12. **Jagdish Krishnaswamy**, ATREE, Bengaluru
13. **Joe Athialy**, New Delhi
14. **Joint Action Committee-BHU (Contact: Dhananjay Tripathi)**, BHU-Varanasi
15. **K Ramnarayan**, Uttarakhand
16. **K. J. Joy**, Society for Promoting Participative Ecosystem Management (SOPPECOM) and Forum for Policy Dialogue on Water Conflicts in India, Pune
17. **Kanchi Kohli**, Independent researcher
18. **Madhuresh Kumar**, National Alliance of People's Movements
19. **Maj Gen S.G.Vombatkere**
20. **Manoj Misra**, Convener, Yamuna Jiye Abhiyaan.
21. **Manu Moudgil**, Chandigarh
22. **Minhaj Ameen**, earth&us, Auroville, Tamil Nadu
23. **Ms Anu Aga**, Former Chairperson of Thermax Limited, Pune
24. **Mukesh Kumar Upadhyay**, PhD Scholar,IMS, BHU, Varanasi
25. **Nachiket Kelkar**, ATREE, Bengaluru
26. **Nityanand Jayaraman**
27. **Prabir Banerjee**, PondyCAN, Pondicherry
28. **Prafulla Samantara**, President,Lokshakti Abhiyan, Bhubaneswar
29. **Rajesh Kumar**, Delhi Support Group, Delhi
30. **Ranjan Panda**, Mahanadi River Waterkeeper
31. **Ravindra Kumar Sinha**, University Professor of Zoology, Patna University, Patna
32. **Rohit Prajapati**, Activist, Paryavaran Suraksha Samiti, Gujarat
33. **Rosamma Thomas**, Pune
34. **Sajha Sanskriti Manch**, Fr. Anand Mathew, Convener, Sajha Sanskriti Manch, Varanasi
35. **Samir Mehta**, International Rivers South Asia, Mumbai
36. **Sandeep Kumar Pattnaik**, National Center For Advocacy Studies, Bhubaneswar
37. **Sarang Yadwadkar**
38. **Sarika Sharma**, The Tribune, Chandigarh
39. **Shripad Dharmadhikary & Avli Verma**, Manthan Adhyayan Kendra, Pune
40. **Shweta Narayan**, Healthy Energy Initiative- India, Chennai
41. **Siddharth Agarwal**, Veditum India Foundation, Kolkata
42. **Subrat Kumar Sahu**, Filmmaker, New Delhi
43. **Sudarshan Chhotoray, Ananta Bhai, Ganeshi Kachwaha, Raghubir Pradhan**, Convenors, Mahanadi Banchao Jivika Banchao Aviyon, Odisha - Chhattisgarh
44. **Sudhir Pattnaik**, Odisha
45. **Sujit Patwardhan**, Parisar, Pune
46. **Suma Josson**, Film maker, Pune
47. **Surabhi Singh**, Student - MSc. Environmental Engineering, TU Delft

48. **Surekha Dalvi**, Shramik Kranti Sangathana , Raigad, Maharashtra
49. **Tara Murali**, Architect
50. **Tarun Nair**, Bangalore
51. **Ulka Mahajan**, Sarvahara Jan Andolan, Maharashtra
52. **Vallabhacharya Pandey**, Co-Convener, Right To Information Campaign UP, Varanasi
53. **Varsha Torgalkar**, Journalist, Pune
54. **Vijay Bharatiya**, Ahmedabad
55. **Xavier Dias**, Former Editor, Khan Kaneej Aur ADHIKAR, (Mines minerals & RIGHTS)

Contact:

Shripad Dharmadhikary, Manthan Adhyayan Kendra, Pune

Email: manthan.shripad@gmail.com Mobile: 9552526472

CC: Dr. Mahesh Sharma, Hon'ble Minister of State (EF&CC)