

F. No. J-11011/992/2007- IA II (I)
Government of India
Ministry of Environment & Forests

Paryavaran Bhawan
CGO Complex, Lodi Road
New Delhi-110 003
Tele/fax: 011- 2436 3973
E-mail:-plahujarai@yahoo.com
Dated: 11th March, 2011.

To

M/s Nirma Ltd.
Nirma House, Ashram Road
Ahmedabad -38009, Gujarat

E-Mail : vndesai@nirma.co.in / cement_project@nirma.co.in.

Fax No.: 079-27546999

Sub: Show Cause Notice under Section 5 of the Environment (Protection) Act, 1986 for permanent suspension of work and revocation of the environmental clearance regarding the Cement Plant (Cement Plant 1.91 MTPA; 1.50 Clinker), Coke Oven Plant (1.5 LTPA) and Captive Power Plant (50 MW) near Village Padhiarka, Taluka Mahuva, District Bhavnagar, Gujarat by M/s Nirma Ltd.

Whereas environmental clearance was accorded for Cement Plant (Cement Plant 1.91 MTPA; 1.50 Clinker), Coke Oven Plant (1.5 LTPA) and Captive Power Plant (50 MW) near Village Padhiarka, Taluka Mahuva, District Bhavnagar, Gujarat to M/s Nirma Ltd. vide letter No. J-11011/992/2007- IA II (I) dated 11th December, 2008 subject to stipulation of environmental safeguards; and

2. Whereas the Ministry of Environment & Forests (MoEF) accorded environmental clearance to the above project based on the recommendations of the Expert Appraisal Committee (EAC) - Industry, which is a statutory committee for appraisal of Industrial Projects and after following the procedure, laid in the Environment Impact Assessment Notification, 2006. While appraising the project, the EAC took cognizance of the issues raised during the Public Hearing held by the Gujarat Pollution Control Board on 9th September 2008 including the

salinity control bund. In the public hearing proceedings, it was recorded that the company would 'deepen the salinity control bund area to enhance the water storage capacity by 19%' and that 'three canals would be constructed for smooth flow of incoming water'. It was surmised by the EAC, that these measures would allay all fears regarding salinity, the state of the land -wet or waste- having no bearing on the issue. Environmental clearance was accorded on this basis; and

3. Whereas subsequent to the issuance of environmental clearance, the local people & NGOs raised certain concerns regarding its adverse impact on water body created subsequent to the construction of Bandhara in the year 2000. The environmental clearance was challenged in the Hon'ble High Court of Gujarat. Subsequently, Special Leave Petitions have been filed in the Hon'ble Supreme Court of India; and

4. Whereas to verify the concerns regarding the impact of the cement plant on the water body, an Expert Committee was constituted by the MoEF to inspect the plant site to oversee the implementation of the project by M/s Nirma Limited with reference to the EIA /EMP report, based on which environmental clearance was accorded to the project; verify the ground situation in the vicinity of the plant site as also and the factors which may cause impact on the water body in light of the concerns expressed by the local people in the complaints received regarding the project; cover any other point which is relevant regarding the environment issues pertaining to the project; and submit its report to MoEF. On 10th February, 2011, the Expert Committee submitted its report to the MoEF after inspection of the project site, which is attached herewith at Annexure -I; and

5. Whereas the report of Expert Committee and representations received from all stakeholders were put up to the Expert Appraisal Committee (Industry) and the matter was considered in its meeting held on 22nd - 23rd February, 2011. The records of the facts and the arguments adduced by you during the presentation before the EAC were duly considered by the EAC. The EAC had also examined the nature of project site and its surroundings at different times using satellite imageries. The minutes of the EAC are attached at Annexure -II; and

6. Whereas the conclusions reached by the EAC were as follows:

- a) Weighing the arguments adduced carefully and scanning facts since in evidence, EAC concludes that in the first instance matters of import have been withheld, excluded, omitted to be presented, or perchance not duly urged by parties concerned in time and proper measure. At the Public hearing held on 9th September 2002 by the GPCB, it was recorded that the company would 'deepen the salinity control bund area to enhance the water storage capacity by 19%' and that 'three canals would be constructed for smooth flow of incoming water'. It was surmised that these measures would allay all fears regarding salinity, the state of the land- wet or waste- having no bearing on the issue. Environment clearance was accorded on this basis. The resultant has been genuine misgivings, grievances, litigations, conflicts, contortions and commotion. The EAC might have reasonably recommended differently had facts had been placed before it in 2008 without misprision. The EAC does not normally approve diversion of 'wet' for accommodating industries
- b) The EAC does and has in the past (2007-08) appointed a Sub Committee to inspect sites ante to its recommendations in the case of new, green field projects, if circumstances warranted recourse to the expedient. Herein no data of adverse import was furnished, apparent or traced, hence no pre-project site visit.
- c) The Committee concludes that there could be alternative sites enough in the vicinity that breed no contention. No wet land, so secured in deed by the government for preserving eco systems, needs therefore to be razed to pitch a cement plant therein, and

7. Whereas the conclusions reached by the EAC have been accepted by the MoEF.

8.1 Now, therefore under Section 5 of the Environment (Protection) Act, 1986, you are directed, in view of the aforesaid conclusions of the EAC and the fragile nature as also the importance of avoiding any further damage to the wetland, to hereby stop the implementation, including construction work, of the project with immediate effect and until further orders.

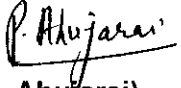
8.2 You are further directed to show cause as to why the environmental clearance accorded to the project should not be revoked and the stoppage of the work not be made permanent.

8.3 Please note that in case you desire any personal hearing, this can be given to you on 16th or 17th March, 2011, provided your response is received at least one day before this date.

This issue with the approval of the Competent Authority.

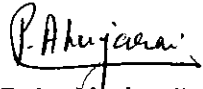
Yours faithfully,

Encl: as above


(Dr. P. L. Ahujara)
Scientist 'F'

Copy to:

1. The Secretary, Department of Environment and Forests, Government of Gujarat, Gandhinagar, Gujarat.
2. The Chief Conservator of Forests (Central), Ministry of Environment and Forests, Regional Office, (West), Link Road No. 3, E-5, Arera Colony, Bhopal – 462 016. (M.P)
3. The Chairman, Central Pollution Control Board, Parivesh Bhawan, CBD-cum-Office Complex, East Arjun Nagar, New Delhi – 110 032.
4. The Chairman, Gujarat Pollution Control Board, Paryavaran Bhawan, Sector 10-A, Gandhinagar, Gujarat -382010.
5. Monitoring Cell, Ministry of Environment and Forests, Paryavaran Bhawan, CGO Complex, Lodhi Road, New Delhi – 110 003.
7. Guard File.
8. Monitoring File.
9. Record File.


(Dr. P. L. Ahujara)
Scientist 'F'

Report of the Expert Committee on visit to Cement Plant site of M/s Nirma Ltd., near Village Padhiarka, Taluka Mahuva, District Bhavnagar, Gujarat from 3rd to 5th February 2011

M/s Nirma limited was granted Environmental Clearance (EC) by Ministry of Environment and Forests (MoEF) on 11.12.2008 for a Cement Plant (1.9 MTPA; 1.50 MTPA Clinker) and Captive Power Plant (50 MW), Coke Oven Plant (1.5 LTPA) near Village Padihiark, Taluka Mahuva, District Bhavnagar, Gujarat by M/s Nirma Limited with stipulation of conditions.

Subsequent to the issuance of EC to the Nirma plant, the local people & NGOs raised certain concerns regarding its adverse impact on water body created subsequent to the construction of Bandhara in the year 2000. The EC was challenged in the Hon'ble High Court of Gujarat. Subsequently, special leave petition has been filed in the Hon'ble Supreme Court of India by Shree Mahua Bhandara Khetewadi Priyavaran Bachav Samittee. In this connection MoEF appointed an Expert Committee vide Office Memorandum No. L-11011/7/2008-IA-II (I) dated 21st January, 2011 (**Annexure-1**) to undertake field visit to project site of M/s Nirma Ltd. from 3rd - 5th Feb, 2011 with the following terms of reference.

- (i) **Inspect the plant site to oversee the implementation of the project by M/s Nirma Limited with reference to the Environmental Impact Assessment (EIA) report/ Environmental Management Plan (EMP) report, based on which environmental clearance was accorded to the project.**
- (ii) **Verify the ground situation in the vicinity of the plant site as also and the factors which may cause impact on the water body in light of the concerns expressed by the local people in the complaints received regarding the project.**
- (iii) **Cover any other point which is relevant regarding the environment issues pertaining to the project.**

The Committee at the very outset would like to make the following observations to clarify the definition and identifying features of wetlands so that there is no confusion between designating an area as wetland or wasteland.

Wetlands are complex and highly fragile ecosystems forming an integrated part of water cycle. The local communities greatly benefit from their products and services. Unfortunately, wetlands have been widely regarded as wastelands and they have been drained, destroyed and reclaimed. The International Ramsar Convention, 1971 to which the Govt. of India is a signatory, calls for the protection and conservation of all types of wetlands. The official Ramsar definition of wetland recognized globally and adopted by the Govt. of India is given as under:

“Wetlands are area of marsh, fen, peatland or water, whether natural or artificial, permanent or temporary, with water that is static or flowing , fresh, brackish, or salt, including areas of marine water, the depth of which at low tide does not exceed six metres” – Ramsar

The 268 ha of land allotted to M/s Nirma Ltd., has been shown in the Govt. Revenue records as a waste land and the same has been reported in the EIA report by M/s Nirma Ltd. However, it may be observed that our revenue records are very old which needs to be revised, otherwise every wetland will be lost in the name of wasteland. Since wetlands are essential for charging of aquifers and storing water, it is high time for Govt. to initiate change in the revenue records on the basis of ground reality to save these wetlands from ruthless exploitation. This should be a continuous exercise as lots of changes occur in land use pattern from time to time due to urbanization/developmental/anthropogenic pressures. Although the artificially created Samadhiyala Bhandhara may not appear in the list of nationally important wetland identified by MoEF, but it is critically important to the local economy as it is serving as a dependable source for irrigation.

Background of the project:

The MoEF has issued Environmental Clearance (EC) to M/s Nirma Ltd., for Cement Plant (1.9 MTPA; 1.50 MTPA Clinker) and Captive Power Plant (50 MW), Coke Oven Plant (1.5 LTPA) near Village Padihiark, Taluka Mahuva, District Bhavnagar, Gujarat on 11th December, 2008 after following the due process of evaluation and scrutinizing the information provided by the proponent in the EIA report which also includes public hearing proceedings assuming that the information provided by the proponent is reliable and dependable. However, certain anomalies were observed by the Committee during the field visit and from the submissions made by M/s Nirma Ltd. to the Committee on 5th February 2011 at Bhavnagar. The Committee has discussed these issues in the text of the report given below.

Methodology adopted by the Committee:

- a. A briefing of the Expert committee was held on 2.2.2011, prior to the field visit, at Paryavan Bhawan, MoEF, New Delhi. Dr. Nalini Bhatt, Adviser and Dr. P.L. Ahujarai, Director of MoEF appraised the committee regarding the Cement project of M/s Nirma Ltd (1.9 MTPA; 1.50 MTPA Clinker) and Captive Power Plant (50 MW), Coke Oven Plant (1.5 LTPA). The committee was informed about the opposition to this project by the local farmers and related developments leading to the constitution of present Expert Committee by MoEF.
- b. The committee examined the Application Form I and EIA report submitted by M/s Nirma to MoEF for seeking environmental clearance and the EC letter dated 11.12.2008 stipulating specific conditions of clearance, reports of the Shelat Committee and WAPCOS and as well as other related documents and photographs.
- c. The Committee went through the Shelat Committee & WAPCOS reports, judgements of Hon'ble Gujarat High Court and SLP (Civil) nos. 14698, 15016, 32414 and 32615 of 2010 filed with Hon'ble Supreme court and other related press articles.
- d. The committee left for Bhavnagar for site visit on 3rd Feb and returned to Delhi on 6th February.
- e. During site visit, the Committee interacted with project authorities, State Government officials, two major groups of local farmers expressing opposite views about Nirma project, and some individuals as listed in **Annexure –2**
- f. After the site visit on 5th February, the Committee had a meeting with the officials of state Salinity Ingress Department and senior officials of M/s Nirma Ltd. at Bhavnagar.
- g. The Committee had gone through the presentation submitted by M/s Nirma Ltd. and the representations received from different stake holders and others during the site visit.
- h. The Committee met on 9.2.2011 and 10.2.2011 at MoEF to discuss the findings and finalize the report.

Site description:

The project site and the surrounding area is low lying coastal zone hinterland with low elevation and gradual slope towards the South-East into the Gulf of Khambat. The highest part of elevation is around 6 Mt MSL at the project site and Samdhiyala Bandhara has been constructed with the height of 2.5 M. The average yearly rainfall in the area is about 640 mm.

The Samadhiyala Bandhara was constructed to check the salinity ingress in the year 2000 by Salinity Ingress Prevention Circle (SIPC), Rajkot, Govt. of Gujarat. This has resulted in the creation of a large water body as a result of which the salinity of the area has been reduced and recharging of ground water has improved. M/s Nirma Ltd., was allotted 268 ha of land out of which about 100 ha was under submergence. As per the direction of Govt. of Gujarat and Hon'ble Gujarat High Court, M/s Nirma has surrendered 54 ha and 46 ha respectively totaling to 100 ha, which is not a part of the submerged area allotted to them. During the field visit, the Committee was informed by M/s Nirma Ltd. that out of the 100 ha., surrendered by the company, 30.66 ha. is out of so called temporary submergence area as identified by Salinity Dept., which remains unconfirmed.

M/s Nirma Ltd., informed the Committee that a school located in their premises will be shifted to a new site and the company will construct suitable, possibly a better, facility for the school at their cost. A village crematorium is also located in their property area; the company representative informed that this area will be relinquished by the Company for the use of villagers.

Observations of the Committee

Samadhiyala Bandhara

An artificially created Bandhara in the year 2000, possesses all the characteristic features of wetland ecosystem (fresh water body) supporting rich aquatic vegetation composed of different types of aquatic plant species, aquatic birds, fish and amphibians.

Fertile agricultural fields, standing crop of cotton, wheat, sugarcane and other vegetables were growing in different fields in the area. In places, farmers were preparing their fields and carrying out different agricultural operations. In some places, long hose pipelines were present in agricultural fields for lifting water from the Bandhara for irrigation.

Cattle rearing is practiced by majority of village households; cattle appeared very healthy and well fed. Cows, buffaloes and many sheep herds were seen grazing in the area.

Another small Bandhara, located in the extreme north-west direction from project site exists and a small portion was broken at one end, which appeared to be an act of vandalism.

In side the Nirma Project Site:

Permanent plant boundary has been built in part of the area and rest of the area was partly fenced. Civil construction: works of kiln foundation, clinker tunnel was under progress; pre-heater building completed up to approx. 42.54 m level; out of three, one clinker tunnel completed; coal mill footing and wall completed up to 3.70 m leveled from FFL; excavation work for cement silo and cement mill was under progress; construction of water tank, offices, temporary shed for storage of material, DG site building and sub-station for power distribution system completed on the dry land of site.

A kachha road has been constructed by the project authorities, in side the project site formed by earth filling up to approx. 1 to 1.5 m. The western side of the road was abating bandhara wetland having approx. one meter of standing water. The eastern side of the road was low-lying area supporting rich herbaceous and shrubby vegetation. A number of wetland bird species were seen perching in the area. One could easily visualize that the eastern side of the road in the absence of the temporary access road, would have been submerged under water up to considerable distance in the project area.

A temporary Project Site Office has been constructed and along the road leading to the site office (branching off from the main access road) a large number of tree saplings have been planted along this 1 km road forming green belt on either side of the road.

JBC earth moving machines were seen operating in the area at some places in the Project area to carry out earth filling in the submergence area. In addition, mounds of earth were lying waiting to be spread and leveled. Trucks loaded with steel and building materials, Material storage yard and a thatched teashop frequented by JBC operators, laborers and truck drivers were observed.

A building of functional Government primary school (catering to approx. 300 students) present with in the project area in the south-eastern end of the project site. Also a cremation ground used as common facility by the villagers and an overhead water tank for villagers were present.

A portion of public road aprox. 4 km falling in the project area connecting Padhiarka and Dodiya villages. Out of this 4 km road, approx. 1.5 to 2 km of road is passing through the project area allotted to M/s Nirma Ltd. Remaining 2 km of road is passing through 54 ha of land surrendered by the company.

- (i) Inspect the plant site to oversee the implementation of the project by M/s Nirma Limited with reference to the Environmental Impact Assessment (EIA) report/ Environmental**

Management Plan (EMP) report, based on which environmental clearance was accorded to the project.

Compliance of EC conditions by M/s Nirma Ltd.

The EC given to M/s Nirma Ltd., has stipulated 18 Specific and 14 General Conditions. At present, the activities at project site of M/s Nirma Ltd., are mostly related to site development, plant boundary construction and also some civil construction. At this stage, implementation of most of the EC conditions by M/s Nirma Ltd., is not possible to verify except for 4 of the specific and 1 of the general conditions. Assessment of the implementation of these conditions is given as under:-

Specific Conditions:

Ambient air quality including ambient noise levels shall be monitored at different locations including fence of the sanctuary and must not exceed the standards stipulated under EPA or by the state authorities. Monitoring of ambient air quality, fugitive and stack monitoring shall be carried out regularly in consultation with GPCB and reports submitted to the Ministry's Regional Office at Bhopal, GPCB and CPCB regularly.

M/s Nirma Ltd., showed their willingness but no site for monitoring stations has been earmarked.

CRZ clearance for laying the pipeline in coastal area under the CRZ Notification shall be obtained from the concerned department/authority.

CRZ clearance for intake and discharge of seawater is not obtained as on date.

An impact assessment study shall be carried out for the disposal of treated effluent into the seawater and all the recommendations shall be implemented.

No report was made available

The company shall provide housing for construction labour within the site with all necessary infrastructure and facilities such as fuel for cooking, mobile toilets, mobile STP, safe drinking water, medical health care, crèche etc. The Housing may be in the form of temporary structures to be removed after the completion of the project.

The Committee did not see construction except only some temporary make shift shelters for workers.

General Conditions

No further expansion or modification in the plant shall be carried out without prior approval of this Ministry.

The school and cremation ground were not shown by M/s Nirma Ltd. in the EIA report although a brief reference appears in the public hearing proceedings. Overhead water tank in the project area was built subsequent to taking possession of land by M/s Nirma Ltd., which is currently being used by the villagers. On enquiry, the Committee was informed during plant site visit that M/s Nirma are going to skirt out the area having cremation ground and water tank and give it away for the public use. However, they did not mention anything about the dimensions of the area to be given out. Existing Govt. middle school has 8 pakka rooms having an enrolment of about 300 students is also located in the land allotted to M/s Nirma Ltd. The Committee was told that M/s Nirma Ltd., is going to provide a new and a better school building as a replacement of the existing school which will be finally removed. It is not clear whether the due permission to dismantle the school and its relocation elsewhere has been obtained from the concerned authorities and a formal reference has been made to MoEF.

The company has offered voluntarily to deepen at two different places a total area of 62 ha out of 75 ha outside their project area inside the Bandhara wetland as depicted on page 57 of detailed report submitted to the Committee during field visit and it appears that this has not been referred to MoEF.

Public concerns:

The Committee met the MLA of Talaja, Sarpanchs and a large no of people from ten villages who were expressing support to the Nirma project. The Committee also received written submissions in Gujarati from Smt. Bhavanaben R. Makwana, MLA, Talaja and Sarpanchs from villages of Padhiarka, Madhia, Doliya, Dudhala, Samadhiala, Guzarada, Jodiya and Katpor, Amrutvell and Kankot, etc. and the main points of their submission and discussion are as under:

- (i) All the above mentioned villages welcome this cement plant and have no objection to its coming up in this area since it will bring in prosperity.
- (ii) The cement plant will bring in large scale of employment, medical and educational facilities and agricultural improvement etc. to all the villages in the vicinity of the plant site and therefore this plant should come at this place
- (iii) State Govt. has followed the due procedure of public consultation before the EC was issued and has given the place as per rules.
- (iv) The people including MLA Mahuva are opposing the Nirma project misleading the public and is creating an atmosphere of fear among the villagers.
- (v) Neither any farmer's land nor any individual's land is allotted to the project as it is a Govt. wasteland.

A large number of villagers from the surrounding areas met the Committee at Khasra 66 village Padhiarka and expressed their opposition to the Nirma Cement Plant. The concerns of these villagers were voiced by Dr. Kanubhai Kalsaria, MLA. He spoke about the broader issues of development of the area including Bandhara and Mining, repeatedly. He also expressed concerns about the primary school, crematorium and a section of road, connecting Padhiarka and Doliya villages, within the 168 ha of M/s Nirma Limited. He informed that villagers have strong apprehension regarding non availability of water in the Bandhara due to the blockades of natural drainage channels passing through the project site. Other important points raised by him are at **Annexure - 3**.

- (ii) **Verify the ground situation in the vicinity of the plant site as also and the factors which may cause impact on the water body in light of the concerns expressed by the local people in the complaints received regarding the project.**

Impact on water

Construction Phase:

The project site is in the low lying area and the proponent has proposed to raise the plinth by 6 m MSL by bringing earth from outside, to the tune of 2 Lac m³ as informed by the proponent. The coastal area is generally sandy, handling of loose soil will increase particulate pollution and during the rain the loose soil and surface run off will create gullies and carry loose sediment to the water body, increasing turbidity and silt.

Three canals which M/s Nirma have been shown as additional water storage system which it is not.

Operational Phase:

The industry would generate air pollutants (gaseous, particulate matter and fine dust) from various processes and material handling which ultimately deposit on the catchment area and will be partly brought to the water body through the run off water and is not likely to make any serious impact on the water quality for irrigation.

Impact on Air

Concerning the impact on air, the Nirma project - 1.9 MTPA cement plant, 50 MW CPP and 1.5 Lac tonne of Coke oven plant if installed with the best air pollution control equipment as agreed by M/s Nirma Ltd., are maintained at their highest efficiency, conforming to the permissible emission limits of 50 mg/Nm³, will cumulatively emit around 250 to 300 tonnes of dust from stacks per year. In case, limestone mining is to be carried out by the company in the neighboring areas, as indicated in the EIA report, the level of air pollution will increase manifold and the intensity of the impact of air pollution on crops will vary depending on the distances from mining. The proponent has not provided any details of the mining, as they have intended to have a captive limestone mine for this plant, the Committee is constrained to analyze and assess the combined pollution impact. The resultant pollution load of coal will depend on the source of coal, the details of which have not been indicated in the EIA report.

(iii) Cover any other point which is relevant regarding the environment issues pertaining to the project.

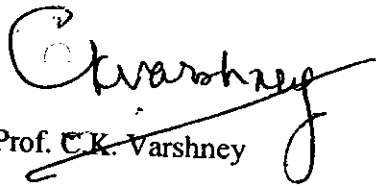
1. All issues raised in public hearing are not addressed by the company.
2. during construction, proper accommodation not being provide to the workers.
3. land being reclaimed within the water body by filling with earth dug out from somewhere else.
4. EIA/EMP report of mines not prepared / clearance not obtained. This is essential condition and usually a prerequisite for obtaining consent to build/operate the plant. This needs to be ascertained.
5. The area seems to be unsuitable for a heavy industry /large mining activity owing to the fact that large number of villagers may have to be shifted/rehabilitated. A medium sized industry based on agriculture products can be a better proposal for this area.

Remarks:

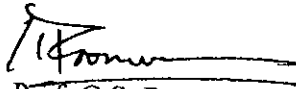
1. It can be appreciated that the above issues related to the project of M/s Nirma Ltd., elaborated above are largely on account of unfortunate oversight in the preparation of EIA/EMP report which could have been easily avoided by greater vigilance and detailed ground studies in preparing EIA reports.
2. Taking lessons from this assessment by the Committee, clearly brings out that developmental projects submitted to MOEF for EC if located in ecologically sensitive areas such as forests, coastal areas, wetlands etc., a critical scrutiny of the project site is essential by site visit by experts selected by MoEF. Committee is of the opinion that selected experts should verify field facts before granting of EC.
3. It may not be out of place to mention here that recently introduced scheme of EIA consultants accreditation is likely to improve the quality of future EIA Reports.

Annexures:

1. MoEF Office Memorandum No. L-11011/7/2008-IA-II (I) dated 21st January, 2011
2. List of Participants
3. Issues raised by Dr Kanubhai V Kalasariya, MLA vide letter dated 4.2.2011 against M/s Nirma Ltd. and the observations of the Committee
4. Reports/Documents Consulted
5. Acknowledgements



Prof. C.K. Varshney
(Chairman, Committee)



Prof. G.S. Roonwal
(Member)




Dr. A. Mehrotra
(Member Secretary)



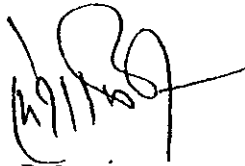
Shibana Raina
(Member)



Dr. S. Kaul
(Member)



J.K. Vyas
(Member)



Dr. R.C. Trivedi
(Member)

9 February, 2011

F. No. L-11011/7/2008-IA-II (I)
Government of India
Ministry of Environment and Forests

E mail: plahujarai@yahoo.com

Telefax: 24363973

Paryavaran Bhavan, CGO Complex

Lodi Road, New Delhi-110003

Dated: 21st January, 2011

OFFICE MEMORANDUM

Sub: Constitution of Expert Committee to carryout inspection from 3rd to 5th February, 2011 to the Cement Plant (1.9 MTPA; 1.50 MTPA Clinker) and Captive Power Plant (50 MW), Coke Oven Plant (1.5 LTPA) near village Padihiark, Taluka Mahuva, District Bhavnagar, Gujarat by M/s Nirma Limited.

The Environment Impact Assessment (EIA) Notification dated 14th September, 2006 issued by the Ministry of Environment and Forests provides for mandatory prior environmental clearance for certain categories of developmental activities listed under its schedule. Environmental clearance under the EIA Notification, 2006 was accorded on 11.12.2008 for the Cement Plant (1.9 MTPA; 1.50 MTPA Clinker) and Captive Power Plant (50 MW), Coke Oven Plant (1.5 LTPA) near Village Padihiark, Taluka Mahuva, District Bhavnagar, Gujarat by M/s Nirma Limited.

2. Subsequent to the issuance of the environmental clearance to the cement plant, concerns were raised by the local people and certain NGO's regarding its impact on Bandhara (water body) which is located in its proximity. The environmental clearance was challenged in the Hon'ble High Court of Gujarat. Subsequently, special leave petitions have been filed in the Hon'ble Supreme Court of India.

3. To verify the concerns regarding the impact of the cement plant on the water body, it has been decided to constitute an Expert Committee comprising of the following members:

- | | | |
|-----|--|----------|
| i. | Prof. C.K. Varshney
88, Vaishali, Pitampura,
Delhi-110 034 | Chairman |
| ii. | Professor G.S Roonwal
C-520, SFS, Sheikh Sarai-I
New Delhi- 110017 | Member |

iii.	Shri Shiban Raina 2067/Sector -9 Faridabad- 121-006 Haryana	Member
iv.	Shri R C Trivedi Ex-Additional Director CPCB R Block 50 E Dilshad Garden Delhi - 110095	Member
v.	Dr. S Kaul, Adviser, Ministry of Environment and Forests MOEF	Member
vi.	Shri J K Vyas, Director, Department of Environment Government of Gujarat	Member
vii.	Dr. A Mehrotra, Director MOEF, Regional Office Bhopal	Member Secretary

4. Shri B R Naidu, Scientist 'D' and In-charge, Zonal Office Vadodara, CPCB and Shri Ramesh Motipalli (Scientist 'C'), I A Division of MoEF shall accompany and assist the Expert Committee for the Site Visit.

5. The Expert Committee shall:

- (i) Inspect the plant site to oversee the implementation of the project by M/s Nirma Limited with reference to the EIA /EMP report, based on which environmental clearance was accorded to the project.
- (ii) Verify the ground situation in the vicinity of the plant site as also and the factors which may cause impact on the water body in light of the concerns expressed by the local people in the complaints received regarding the project.
- (iii) Cover any other point which is relevant regarding the environment issues pertaining to the project.

6. The Committee shall submit its report to the Ministry by 9th of February, 2011.

7. The TA/DA for non-official members shall be borne by the Ministry, as per rules.
8. The arrangements for the site visit shall be made by the Zonal Office, CPCB Vadodara and the Department of Environment, Gujarat.
9. This issues with the approval of the IFD vide IFD Dy no. 207 dated 20.01.2011.

(Dr. P.L. Ahujarai)
Director

Copy to:

- 1) The Chairman / all members of the Expert Committee.
- 2) The Secretary, Department of Environment and Forests, Government of Gujarat, Gandhinagar, Gujarat.
- 3) The Chief Conservator of Forests (Central), Ministry of Environment and Forests, Regional Office, (West), Link Road No. 3, E-5, Arera Colony, Bhopal – 462 016. (M.P.)
- 4) The Chairman, Central Pollution Control Board, Parivesh Bhawan, CBD-cum-Office Complex, East Arjun Nagar, New Delhi – 110 032.
- 5) The Chairman, Gujarat Pollution Control Board, Paryavaran Bhawan, Sector 10-A, Gandhinagar, Gujarat -382010.
- 6) Shri B R Naidu, Scientist 'D' and In-charge, Zonal Office, CPCB, Vadodara
- 7) Monitoring Cell, Ministry of Environment and Forests, Paryavaran Bhawan, CGO Complex, Lodhi Road, New Delhi – 110 003.
- 8) The Pay & Accounts Officer, Govt. of India, MoEF, New Delhi-110003
- 9) IFD/Budget and Account Section
- 10) Guard File / Monitoring File / Record File.


(Dr. P.L. Ahujarai)
Director

Copy for information to:

- i. PS (MEF) / PPS Secretary (E & F) / PS to AS (JMM)

PEOPLE MET

DELEGATES/VILLAGERS OF PADHIARKA, MADHIYA, DOLIYA, SAMDHIYALA, NESTRI, VANGAN, VISHLAYA AND DUDHARA MADE REPRESENTATIONS INVOLVING FOLLOWING

1. Dr. Kanubhai Kalsaria, MLA, BJP
2. Shri Raghavbhai Makwana, General Secretary, BJP
3. Mrs. Makwana, MLA, BJP

OTHER OFFICIALS MET THE COMMITTEE

1. Chairman, APMC, Mahuva
2. Shri Sanat Mehta, Mahuva

Issues raised by Dr Kanubhai V Kalasariya, MLA vide letter dated 4.2.2011 against M/s Nirma Ltd

S.No	Issues	Observations of the Committee
1	No hazard industry requiring previous environment clearance can be setup in the water body and a wet land.	EC was sought on the basis of information given in the revenue records.
2	Artificial channels cannot substitute natural flow of the water with complete disregards of hydrology and in disrespect of over ground and underground channels and contributories. Artificial channels and its adverse consequences on remaining water body has not been analyzed or assessed by any independent organization like NEERI or others. Scope of reference made to WAPCOS is very limited. It has only sanctioned the design of channels and answered only one question whether digging up to 2.5 meters rise the salinity	The issues have been discussed in text of report.
3	Environmental clearance is based on suppression and misinformation. Nirma's application shows that it is waste land and barren land. Satellite images produced by Nirma are of dry season. Plant site is on the environmentally fragile area. Plant is on the river bed of the river " SANSORI" and here is a big reservoir called " MALAN BANDHARA" within 10 kms. There is a part of reserve forest as well as Lions are seen wondering in this region	The issues have been discussed in text of report. Due to time constraints, committee could not visit Malan Bandhara. However, no map showing Malan Bhandara was brought to the committee.
4	All of the 10 Kms coastal land between MALAN BANDHARA and SAMDHIALA BANDHARA is wet land and fertile land there are multiple small and big water bodies and water from MALAN BANDHARA is connected with SAMDHIALA BANDHARA.	There is a govt plan to connect these Bhandaras. However, as per report of SPIC, GOG local people have laid unauthorized pipeline having 1200 mm dia & 1100 m long parallel to sanctioned alignment of Malan Bhandhara to

		<p>Samadhiyala Bhandhara spreading channel from Malan Bhandhara reservoir to Gujarada Village.</p> <p>M/s Nirma has also approached Government of Gujarat vide letters dated 9.8.10 & 3.2.11 informing about laying of unauthorized pipeline from Malan Bhandhara to Samadhiyala Bhandhara.</p>
5	<p>All the land principally sanctioned for mining lease is situated in this wet and fertile region. Process of Environment clearing for mining has not been done till today. How a cement plant can run without mining?</p>	<p>The present project does not have any mining aspect.</p>

REPORTS/DOCUMENTS CONSULTED

1. Ministry's OM L-11011/7/2008-IA.II(I) dated 21.01.2011 constituting expert committee.
2. Environmental clearance issued by MoEF on 11.12.2008.
3. Rapid Environmental Impact Assessment and Environmental Management Plan for proposed cement plant at Mahuva by M/s Nirma Ltd. and Form-1.
4. Shelat Committee report submitted to GOG, 2009.
5. Samadhiyala Bandhara report by WAPCOS Limited.
6. HC Judgment dtd 27.9.10_MCA 1473 of 10 and affidavits, other judgment and order dated 26/04/2010 in SCA No.3477/2009 of The HIGH COURT OF GUJARAT AT AHMEDABAD.
7. Reports, affidavits and documents pertaining to SLP (Civil) nos. 14698, 15016, 32414 and 32615 of 2010 in the Hon'ble Supreme Court.
8. Representations and photographs by Dr. Kanubhai Kalsariya, MLA and his letter dated 5.2.2011 submitted to the Chairman during field visit.
9. Representation of Centre for Science and Environment, New Delhi
10. Representation of groups at Madhiya and Padhiarka villages, Mahuva
11. Information and documents submitted by Salinity Prevention Ingress Circle, Bhavnagar, GOG
12. Information, photographs and documents submitted by M/s Nirma Limited

ACKNOWLEDGMENTS

We wish to express our thanks to Dr Nalini Bhat, Advisor, Dr P L Ahujarai, Director, and Shri Ramesh Motipalli Scientist - 'C', of Ministry Of Environment & Forests for providing reports/documents to the committee. Thanks are also to Shri B.R. Naidu, Scientist 'D' and In-charge, Zonal Office, Vadodara, CPCB for logistics & necessary assistance.

Thanks are also due to Shri B.P. Chauhan, Addl. Collector, Bhavnagar, GOG for security and smooth meetings during the visit and support provided by the officials of Salinity Prevention Ingress Circle, Bhavnagar, GOG. Thanks are also due to Shri. A.V. Shah, Regional Officer, GPCB and his team for their assistance.

Minutes of Expert Appraisal Committee (Industry-1) at the Meeting held on 23rd February to consider approval accorded to Nirma Ltd to establish a Cement Plant at Padhiarka, District Bhavanagar, in Gujarat.

Papers pertinent to the application made by Nirma Ltd in 2008, consideration by EAC thereon, approval accorded thereto, events thereafter and Report of the Varshney Committee were placed before EAC at its meeting on 23rd February 2011 for opinion on verity, exactitude and scope of information that moved the EAC as constituted in 2008 to savour the proposal.

2. The company, Nirma Ltd., was invited by MOEF to place its views and arguments before the committee. The EAC afforded opportunity to Nirma Ltd to present its case in entirety. The views put forth by Nirma Ltd are summarized in the **Annexure-1**. On examining all relevant matters and taking into account the arguments adduced by Nirma Ltd, EAC concludes as set out in the succeeding paragraphs.

3. The site of 268 Ha allotted to Nirma Ltd in 2008 was culled out from a tract classified as 'wasteland' in land records that were obsolete and not current. The site was in fact 'wet land'. What is more, 222 Ha of this site fell within an extent of 400 Ha given by the Government to the Salinity Control Board and was taken from its possession for transfer to Nirma Ltd. The tract lies in the coastal boundary of Gujarat near the gulf of Khambat. The EAC has examined its nature at different times (including the plant site) using satellite imageries (**Annexure-2**). The imagery of 1998 (and also of earlier years) reveals the presence of dense vegetation and water bodies thereon. Areas such as these areas are known as 'Beela' in local parlance which means 'wet land' Thus, the site was 'wet land' and should have been officially recognized and re-classified as such even prior to 1998, amending patently incorrect records which describe the site as 'wasteland'. The original fault left uncorrected, only further follies could spring thereof. To preserve the eco-system of the area, Government of Gujarat constructed a dam in 2000 known as 'Samadhiyal Bhandhara' at the mouth of the river Shensur. This arrangement helped to rein in fresh water, recharge the aquifer, augment domestic water supply, propagate wetland ecosystem and repel saline ingress in the area. With the erection of the dam and storage of water in the reservoir the land stood transformed and distinctly confirmed as 'wet'. To have continued to

describe it as 'waste land' even thereafter was folly surmounted by misprision- palpable and gross.

4. Imageries of 2000 confirm that the area is 'wet land' and show vegetation seasonally varying, as is to be expected, from January to May. Imageries of 2003 and of 2006 depict flourishing vegetation. Significantly, the image of 2010 testifies to a decline in vegetation due to the Cement plant construction. What is more, a portion of the reservoir is seen made up with barren earth, reducing thereby the water spread and degrading the wet land. The imageries are shown in the attachment hereto and are from Selvam 2003 'Environmental classification of mangrove wetlands of India, *Current Science*' Vol. 84, No... 6 p. 757-765. According to this report, parts of the Gulf of Khambhat areas have been classified as degraded wetland constituted by degraded mangroves and saline encrusted mudflats. The rainfall is 800-900 mm annually.

5. The applicant in seeking Environment clearance submitted an interpretation diagram based on satellite imagery data and not the satellite imagery itself. The later alone could help determine precisely the state of the land. Satellite imageries ought to have been produced from 1970 itself and these would have indicated the true nature of the lands at any point of time.

6. Weighing the arguments adduced carefully and scanning facts since in evidence, EAC concludes that in the first instance matters of import have been withheld, excluded, omitted to be presented, or perchance not duly urged by parties concerned in time and proper measure. At the Public hearing held on 9th September 2002 by the GPCB, it was recorded that the company would 'deepen the salinity control bund area to enhance the water storage capacity by 19%' and that 'three canals would be constructed for smooth flow of incoming water'. It was surmised that these measures would allay all fears regarding salinity, the state of the land- wet or waste- having no bearing on the issue. Environment clearance was accorded on this basis. The resultant has been genuine misgivings, grievances, litigations, conflicts, contortions and commotion. The EAC might have reasonably recommended differently had facts had been placed before it in 2008 without misprision. The EAC does not normally approve diversion of 'wet' for accommodating industries

7. The EAC does and has in the past (2007-08) appointed a Sub Committee to inspect sites ante to its recommendations in the case of new, green field projects, if circumstances warranted recourse to the expedient. Herein no data of adverse import was furnished, apparent or traced, hence no pre-project site visit.

8. The Committee concludes that there could be alternative sites enough in the vicinity that breed no contention. No wet land, so secured in deed by the government for preserving eco systems, needs therefore to be razed to pitch a cement plant therein.

List of Satellite Images

Figure 1: Satellite Image of 1998 presents the plant site, (a) Full view and (b) Enlarged view of areas under vegetation in red and of water bodies in blue. This is prior to the construction of the 'Samadhiyala Bhandhara'

Figure 2: Satellite Image of January, 2000 furnishes (a) Full view and (b) Enlarged view of the plant site. The bright red area indicates rich vegetation and the light blue area, the water bodies

Figure 3: Satellite Image of May, 2000 depicts the plant site in summer with sparse vegetation.

Figure 3b: Sets out the reservoir with the dam in 2002 (ISRO)

Figure 4: Satellite Image of October, 2003 shows vegetation on the plant site and the reservoir

Figure 4b: Satellite Image reveals the dam, the reservoir (Blue) and the vegetation (green) (From Down to Earth, 2011)

Figure 5: Satellite Image of October, 2006 showing the plant site and changes in Reservoir area

Figure 5b: Satellite Image of October, 2006 reflects the plant site and changes in Reservoir area (From Down to Earth, 2011)

Figure 6 and Figure 6b: Satellite Images of 2010 showing the plant site.

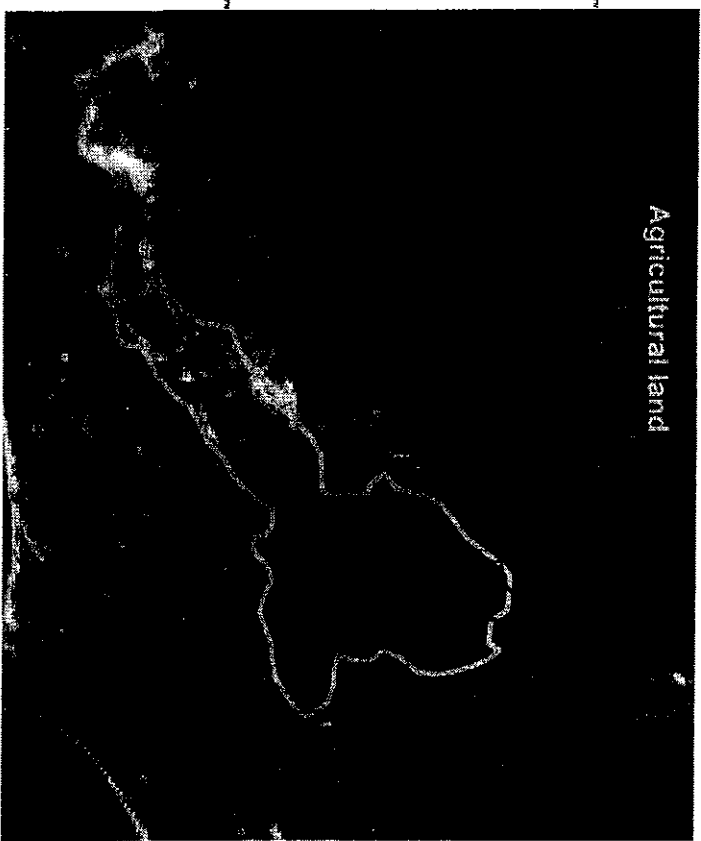
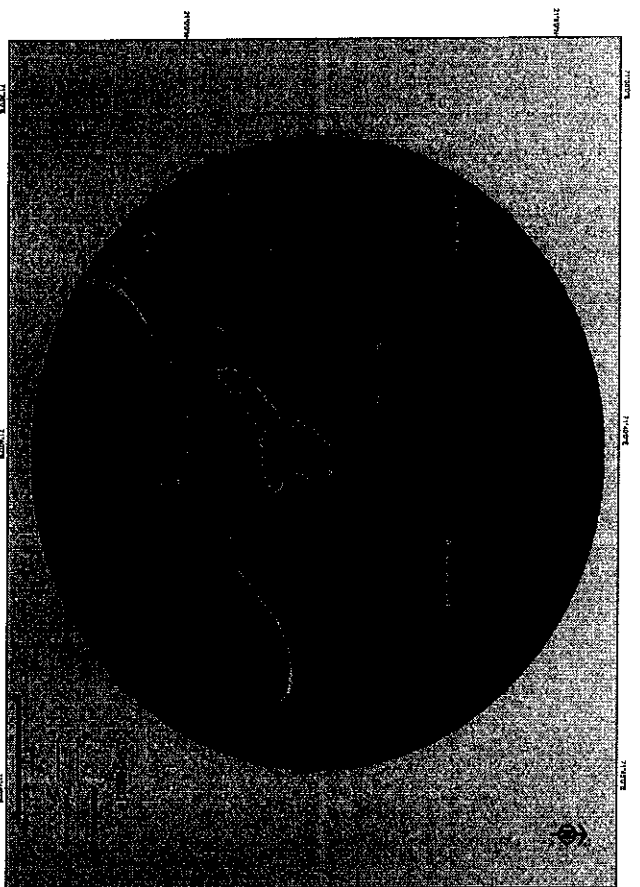


Figure 1: Satellite Image of 1998 presents the plant site, (a) Full view and (b) Enlarged view of areas under vegetation in red and of water bodies in blue. This is prior to the construction of the 'Samadhiyala Bhandhara'

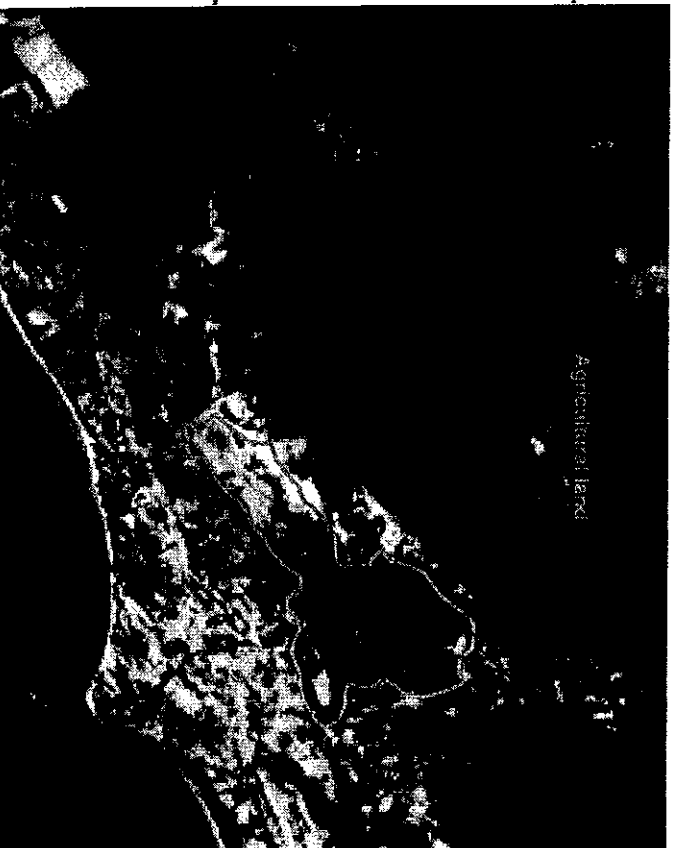


Figure 2: Satellite Image of January, 2000 furnishes (a) Full view and (b) Enlarged view of the plant site. The bright red area indicates rich vegetation and the light blue area, the water bodies



Figure 3: Satellite Image of May, 2000 depicts the plant site in summer with sparse vegetation.



Figure 3 b: Sets out the reservoir with the dam in 2002 (ISRO)



Figure 4: Satellite Image of October, 2003 shows vegetation on the plant site and the reservoir

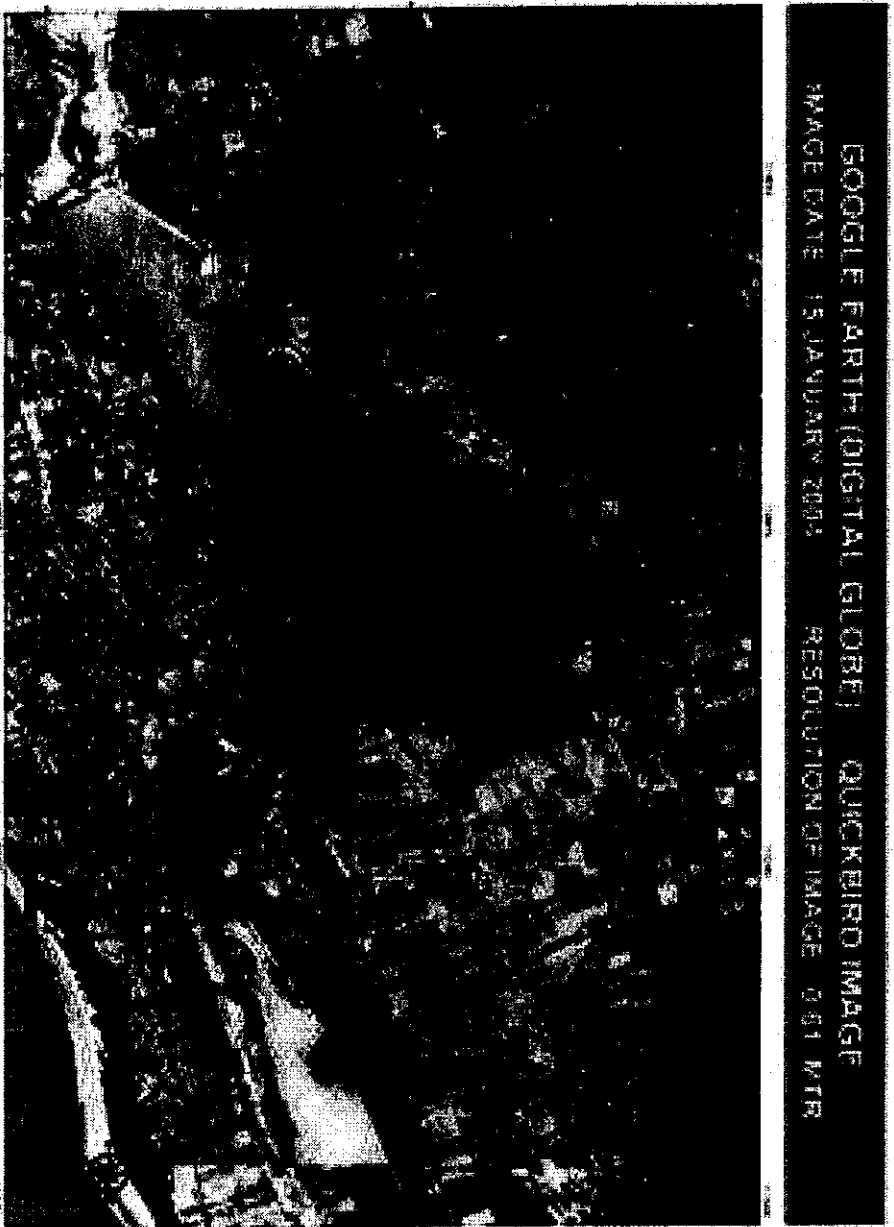


Figure 4b: Satellite Image reveals the dam, the reservoir (Blue) and the vegetation (green) (From Down to Earth, 2011)



Figure 5: Satellite Image of October, 2006 showing the plant site and changes in Reservoir area



Figure 5b: Satellite Image of October, 2006 reflects the plant site and changes in Reservoir area
(From Down to Earth, 2011)



Figure 6: Satellite Image of 2010 showing the plant site.



Figure 6b: Satellite Image of 2010 showing the plant site.

Record of facts and arguments adduced by M/s NIRMA Ltd. before the EAC (Industry-1) of MoEF on 23rd February 2011 in connection with the Proposed Cement Plant (1.9 MTPA; 1.50 MTPA Clinker), Captive Power Plant (50 MW), and Coke Oven Plant (1.5 LTPA) near Village Padihiark, Taluka Mahuva, District Bhavnagar, Gujarat

The Chairman EAC welcomed the officials of Nirma Ltd. and requested them to place their views before the Committee in the light of developments up to date. M.s Nirma was represented Shri Kalpesh Patel, Executive Director and Shri V.N. Desai, Vice President (Projects). The company presented written submissions and also went over the history of the case urging as under.

2. In 2002 the company approached the Government of Gujarat for allotment of Government wasteland for setting up a Cement Plant of capacity of 1.91 MT PA (Clinker of 1.5 MT PA) supported by a Captive Power Project. Land considered for allotment was 268 Ha of which 222 Ha fell within a spread of 400 Ha that was given by the government to the Salinity Department for construction a structure called Samdhiyala Bhandhara to prevent ingress of salinity on shore. Government of Gujarat conducted elaborate technical studies and consulted the Salinity Control Department before allotment of the land to Nirma. This was done to ensure that there is no adverse effect upon a Bhandhara that had been constructed in the area in 2000 to ward off salinity about 2.5 to 4 Km from the site sought. Certain conditions were laid down by the Salinity Control Department to protect Bhandhara while according NOC for the allotment of land to Company. Details regarding the Salinity Bhandhara were explained as under:

- (i) The structure is an 'Ungated Tidal Regulator' that prevents ingress of sea water on shore into an estuary or creek. It is situated 2.5 to 4 Km from the plant site.
- (ii) It was constructed on Motapak creek and is a 200-meter long concrete wall of 3.82-meter height above MSL in opposition to the maximum height of the tide of 2.8-meters. The concrete portion is connected with Earthen Bhandhara
- (iii) Post Bhandhara construction the seawater flow beyond Bhandhara on the Eastern side was controlled. Topography of the area allows rainwater to accumulate on the landside as in a reservoir. The reservoir is thus rain fed, temporary, man-made and of capacity 62.31.Mcft. It is by no means a natural water-body, nor has it been notified as such.

3. In the opinion of the company, four Public hearings have taken place on the Project. The first was on 16.05.2006 prior to allotment of land. This was for eliciting opinion and consent of villagers to transfer 222 Ha out of 400 Ha held by the Salinity Control Department to the company. The land was transferred on 16-4-2008

4. The second Public hearing was held on 9.9.2008 by GPCB for in connection with environmental clearance. The attendance was about 400. Issues were raised and clarified relating specifically to salinity control and Samadhiyala Bhandhara. Aspects concerning employment, social development, school, road, and the existing crematorium were also discussed satisfactorily. Public were assured that the project would in no way impact the salinity control bund existing or the reservoir. The Company undertook to deepen the salinity control reservoir area to make up for any loss of water-spread area due to the plant or other reasons. The holding capacity would be enhanced by 19% in consultation with Irrigation Department. Three canals will be constructed for unimpeded flow of incoming water into the reservoir. Educated people will be considered for employment as per Company Policy. The Company would improve facilities like crematorium, school, pond, etc.

5. The Company duly thereafter obtained requisite approvals such as; Environmental Clearance from MoEF, consent to establish (NOC) from Gujarat Pollution Control Board (GPCB), and CRZ Demarcation (the plant is outside CRZ boundary).

6. The third Public hearing according to the company was held at the behest of the local MLA on 17.12.2008 after Environmental clearance had been given by MoEF on 11th Dec. 2008. The Collector of Bhavnagar presided. It is stated that various concerns were discussed and answered.

7. The fourth Public Hearing according to the company was the progeny of a PIL filed against the project in Gujarat High court in March 2009. Consequent to the PIL Gujarat Government on 29-5-2009 appointed the Shelat Committee. This Committee obtained reports from consultants and experts such as Water and Power Consultancy Services (WAPCOS), National Environment Engineering Research Institute (NEERI), National Council for Cement and Building Material (NCCBM), Director Agriculture, Government of Gujarat and from the Gujarat Pollution Control Board. This Committee also conducted a Public Hearing on 6.6.2009 whereat out of 18 groups, 14 groups supported the setting up of the proposed Plant. The Shelat Committee submitted its report to the Government of Gujarat on 4.8.2009. Government referred to a Committee of four ministers and on its advice vide order dated 8.12.2009 directed the Company to

- ◆ surrender 54 hectares from Village Doliya,
- ◆ deepen 40 Hectares of the surrendered 54 hectares at its cost
- ◆ further deepen 62 hectares out of 75 Ha. of adjacent Government land.

These were precautionary measures to eliminate any threat of salinity in the area. Nirma surrendered 54 Ha. of land on 9-12-2009.

8. The High Court of Gujarat on 16-3-2010 granted a status quo order on the PIL pending before it. And finally disposed of the petition on 26-4-2010 ordering and observing as under

- The Bandhara is an artificial manmade reservoir. On the strength of opinion of various agencies and slew of measures taken, there is no danger of reduction of water carrying capacity of the reservoir or availability of water during rainy season being adversely affected.
- If 100 hectares rather than just 54 be surrendered (which was one of the alternatives suggested by Shelat Committee) the original status of the reservoir and terrain would be largely restored.
- That by preserving the reservoir, if industrial development can be achieved, in which substantial investment has already been made, the same should not be objected to.

The High Court imposed the following specific conditions:

- ◆ Company shall further surrender additional 46 hectares in addition to already surrendered 54 hectares and no part of this 46 surrendered land shall include any land to be occupied by the canals leading fresh water into the reservoir which Company is obliged to construct.
- ◆ Company shall construct three canals around the plant, as directed by the Government of Gujarat and shall further ensure that it is desilted periodically, so that the flow of rainwater from the surrounding area is not obstructed.
- ◆ Company shall excavate and deepen 75 hectares of Government wasteland.
- ◆ Company shall not use any water from the reservoir for its activities.
- ◆ Company shall ensure that its activities do not pollute or contaminate the water in any manner.
- ◆ The Government shall ensure that Company has complied with all the directions before issuing certificate of completion of construction or before granting permission to start the factory.
- ◆ The Government shall on basis of record of rainfall in the region and the total amount of water collected in the reservoir immediately after the monsoon, judge whether on account of setting up of the factory, there is any significant reduction in income of fresh water in the reservoir. Should this occur, Government shall require Company to take up such remedial measures, as may be found necessary.

9. The company thereafter explained the subsequent developments,- filing of SLPs in the Supreme Court and the Review Petition before the Gujarat High Court. The review petition filed before the Gujarat High court was dismissed.

10. Visit of the Varshney Committee appointed by MOEF is deemed by the Company to be the fifth public hearing.
11. The company has strongly urged the following facts as central to the issue:
- i) At no time was any detail withheld from the MoEF, the Public, State Government or the High Courts of Judicature.
 - ii) The land was classified as wasteland and is wasteland only. The Salinity control Board and the State Government have declared it to be none other. The land allotment order by the Collector also mentions the land as the wasteland.
 - iii) The Samadhilya Bandhara is not a notified water body.
 - iv) Environmental clearance has been duly granted.
 - v) Government of Gujarat had sought the opinion of their Advocate in transferring the land
 - vi) The company has been at great pains to ensure that no salinity ingress control measure is in the least affected
 - vii) On account of various measures such as deepening of surrendered land as well as deepening of the adjacent Government land, there will be an in storage of 293%.
 - viii) The EIA Report was carried out by Min Mec Consultancy. The land use submitted is based on satellite imagery and the area under land use has been tabulated in table-3.11, page no.3-20. The presence of Bandhara was discussed during the Public Hearing and the record of the Public Hearing was submitted to MoEF by GPCB.
 - ix) The Company has already committed Rs.493 crores which is about 49% of estimated project cost of Rs.995crores. Details have been furnished of the status of civil construction, list of equipments, machineries already delivered at site, list of equipment ready for despatch, list and the status of other infrastructure established at the site.
 - x) In regard to water bodies/ wetland the company stated that
 - a. The Samadhiyala Bandhara was constructed primarily for controlling salinity ingress.
 - b. After monsoon, the water on the landside of the Bandhara creates a temporary storage for 2-3 months. The plant land is situated at a distance of about 2.5 kms from this Bandhara.
 - c. The rainwater collection in the Bandhara is not permanent, continuous or consistent in nature. It is not notified water body; even revenue record does not show any entry as water body.
 - d. As per the Affidavit submitted by Government of Gujarat before Hon'ble High Court, the 100 Ha. had only temporary submergence in the year 2005 in last 10 years and the average water column was 1.11 ft. The rest of the land there is no issue of even temporary submergence.
 - e. The Govt. of Gujarat had obtained technical report of Salinity Control Dept regarding conservation of water of Bandhara. The Salinity Control Dept. had suggested measures like deepening, construing canals and had opined that with these steps, the capacity of the Bandhara will not only be preserved but increased.
 - f. The State Govt. had even sought opinion of Advocate General regarding the transfer of land.

- g. The water in Bandhara generally remains for 2-3 months post monsoon. Even the Govt. of Gujarat during proceeding before the Hon'ble Gujarat High Court had submitted the photographs taken in December 2009 showing the Bandhara totally dry. The water this year has been due to late rains as well as laying of illegal pipeline on behest of the local MLA.
- h. The Hon'ble High Court in its Order dated 26.04.2010 has stated that it is an artificial manmade reservoir.
- i. The issue of wetland has been raised for the first time by the Committee of MoEF which has visited the site. The Notification i.e. Wetland Conservation and Management Rules, 2010 has become legally enforceable rules only from 4th December 2010, whereas the Environmental Clearance by MoEF to the Project was granted on 11th December 2008. The plant land does not fall under notified wetlands either by the State Government or by the Central Government. The Wetland rules are prospective in nature and do not apply retrospectively.