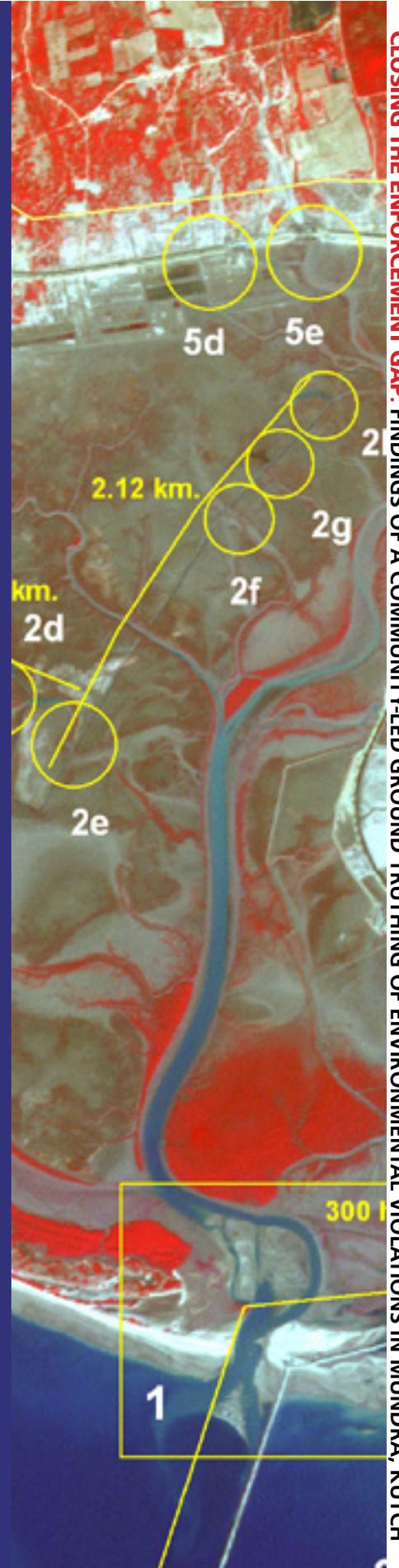


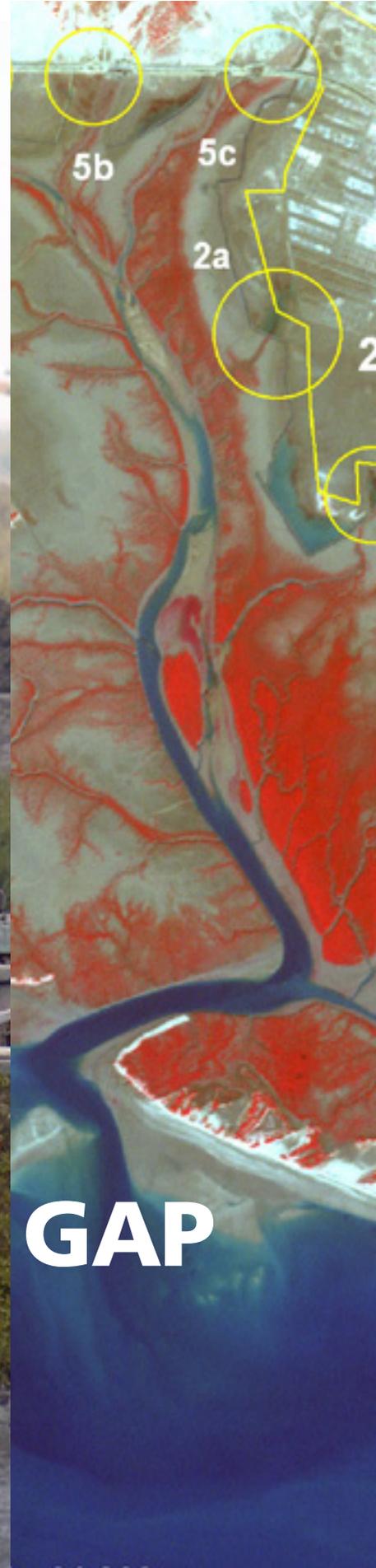
# CLOSING THE ENFORCEMENT GAP

This document is the culmination of a year-long exercise of a community-led process for ground truthing the violations of environmental conditions laid out in the Coastal Regulation Zone approval for a large infrastructure, coal handling and port facility in the Mundra region of Kutch district in the western Indian state of Gujarat. It presents compelling data on the nature of the violations, many of which were anticipated when local community members objected to the Waterfront Development Project (WFDP) of the Adani group in the region. These anticipated impacts were presented to the regulatory bodies prior to the approval as well as in the appellate court soon after where the permission granted to the project was challenged.

This document lays out the evidence of non-compliance by the project and its effects on the environment and the people. The process followed by the community members to document data on impacts and present it as legally permissible evidence is unique. It includes the setting up of the Mundra Hitrakshak Manch (Forum for the Protection of Rights in Mundra), which will now work towards obtaining government action on non-compliance by the project as well as undertake other such studies to record evidence of violations by other projects in the region.



CLOSING THE ENFORCEMENT GAP: FINDINGS OF A COMMUNITY-LED GROUND TRUTHING OF ENVIRONMENTAL VIOLATIONS IN MUNDRA, KUTCH



# CLOSING THE ENFORCEMENT GAP

FINDINGS OF A COMMUNITY-LED GROUND TRUTHING OF ENVIRONMENTAL VIOLATIONS IN MUNDRA, KUTCH

Mundra Hitrakshak Manch (Forum for the Protection of Rights in Mundra)  
Machimar Adhikar Sangharsh Sangathan (MASS)  
Ujjas Mahila Sangathan  
Namati-Centre for Policy Research Environment Justice Program

Mundra Hit Rakshak Manch (Forum for Protection of Rights in Mundra) is an informal collective of villagers impacted by large-scale land use change due to extensive industrial expansion in the Mundra region. These persons and organisations have been regularly raising concerns about the social and environmental impacts of these projects through memorandums, direct confrontations, street actions as well as courts. The forum was organically formed in June 2012 during discussions related to the findings of the community-led ground-truthing exercise.

*Citation:* Mundra Hitrakshak Manch et al. 2013. "Closing the Enforcement Gap: Findings of a Community-led Ground Truthing of Environmental Violations in Mundra, Kutch."

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*Note:* A draft of these community-led research findings was submitted with key evidence to a special committee set up by the Ministry of Environment and Forests on 14 September 2012 to look into the violations by M/s Adani in Mundra, Kutch, Gujarat. The document was signed by the core group members and sent twice to the MoEF and the committee – in October 2012 and February 2013.

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## EXECUTIVE SUMMARY

The Mundra region of Kutch district of Gujarat has for the last decade and a half seen increased industrial expansion. A range of multi-utility ports, coal handling facilities and thermal power plants have been granted approval under various environment regulations, with allegedly inadequate and incomplete assessments. A prominent feature of the Mundra Coast is the vast intertidal zone comprising a network of creeks, estuaries and mudflats. This zone is unique and very important because fishermen use these natural creeks to land their boats to keep them safe from strong winds and currents. The creeks also form a natural drainage system which, if disturbed, can lead to flooding during monsoons.

One of the largest industrial and infrastructure projects in the Mundra region is the waterfront development project (WFDP) by M/s Mundra Port and SEZ Limited (MPSEZL) (Now known as Adani Port and SEZ Ltd [APSEZL]). The Ministry of Environment and Forests (MoEF) under the Environmental Impact Assessment (EIA) and the Coastal Regulation Zone (CRZ) notifications issued clearance for the project on 12 January 2009. According to the EIA notification, activities such as mining, power generation, construction of roads/highways and the setting up of various kinds of industrial projects need to be preceded by a process of assessing potential environmental impacts and conducting a public hearing before permission can be granted to begin construction. These permissions also need to be compliant with the CRZ notification, which restricts the nature of activities in a specifically defined zone.

With every permission, the MoEF and its thematic expert committee put forth a set of conditions that needs to be met during the construction and/or execution of the projects. The environmental clearance for the WFDP was issued alongside 17 specific and 14 general mandatory conditions as set forth by law.

Previous regional, national and international studies have highlighted that enforcement and compliance continue to be challenging aspects of regulation. With this background in mind, discussions among members of the affected community and others – Panchayat representatives from the area, local activists, researchers, representatives of Machimar Adhikar Sangharsh Sangthan (MASS), Ujjas Mahila Sangathan, SETU and Namati-Centre for Policy Research Environment Justice Program – took place to explore the possibilities of carrying out a community-led assessment to ascertain the extent of non-compliance and its impacts, and especially to understand its relevance in coastal areas. The idea was to initiate a ground-truthing exercise to assess the implications of non-compliance towards achieving a few specific legal empowerment goals:

1. A greater understanding in the affected community about environment regulatory processes related to EIA and CRZ notifications.
2. Initiating a community-led exercise to correlate social and environmental impacts and create legally permissible evidence related to non-compliance of conditions laid in the environment CRZ clearance letters.

3. Organising community responses and follow-ups to the findings with the help of local, state, national and global supporters. Planning subsequent steps—seeking governmental intervention, corporate accountability and media response.
4. Drawing lessons from this exercise for its replicability at other sites and for possible preparation of tools for similar legal empowerment actions.

The four conditions that were identified as part of the community-led ground truthing of violations are:

- Specific Condition No. (i): No existing mangroves shall be destroyed during construction/operation of the project.
- Specific Condition No. (ii): There shall be no filling up of the creek and reclamation of the creeks.
- Specific Condition No. (viii): It shall be ensured that during construction and post construction of the proposed jetty the movement of the fishermen's vessels of the local communities, are not interfered with.
- General Condition No. (v): The sand-dunes, corals and mangroves if any, on the site shall not be disturbed in any way.

As part of the research and discussions, and as a background to this exercise it was revealed that:

1. Many of the concerns and compliance related issues being addressed as part of the community-led research were also along with the issue construction activity prior to receiving clearance; were challenged by multiple petitioners in a case filed before the National Environment Appellate Authority (NEAA) in New Delhi. The petitioners included representatives of fishing communities affected by the WFDP project. The EIA report underplayed the existence of the mangroves and the loss that would occur if the project were to go ahead.
2. Following complaints made by the affected people and the fisher-people's union in the area, the MoEF carried out a site inspection in the Mundra region and specifically looked at the violations of the WFDP project. Based on this, the MoEF issued a show-cause notice seeking explanation from MPSEZL (APSEZL) as to why their approval should not be revoked with respect to the aforementioned violations. Yet, the project carried on.
3. There was only one copy of the mandatory 6 monthly monitoring and compliance reports of the WFDP project, available when sought under Right to Information. This was for the January to June 2011. Here MPSEZL had stated that they were 'complying' with all four conditions related to the destruction of mangroves, the filling up of creeks, the destruction of sand dunes and the access of fishing vessels. No other monitoring or compliance reports were provided despite the RTI application requesting for the same. This implies that either no monitoring or compliance reports existed before this period or the MoEF's regional office in Bhopal did not provided them through the RTI.

In February 2012, the community-led ground-truthing exercise was initiated with a meeting of villagers from Zarpara, Shekhadia and Bhadreshwar villages and several of the fishing harbours accessed by them. Representatives from the horticulture and grazing communities also participated as they had already been active in raising concerns regarding the running of the WFDP project and other operations of the Adani Group including through litigation in the Gujarat High Court. The purpose of this meeting was to:

1. Understand the conditions listed in the CRZ and environmental clearances granted to the WFDP project and the process by which this happened.
2. Discuss the possibilities of a community-led evidence gathering process which would be carried out by representatives of the villages affected by the project along with members of MASS, Ujjas and SETU who would act as resource people in understanding the law and the implications of the violations.
3. Identify a list of conditions which could be verified and investigated through a community-driven process with technical assistance related to mapping and legal clauses provided by other organisations involved.
4. Ascertain the extent of evidence already available among the community and the paralegal work that had already been done by organisations like MASS, Ujjas and SETU.

In the meeting that took place on 17 June 2012, many other villages affected by the WFDP project gathered to discuss the impacts and violations. While many villages were fighting their solitary causes of grazing, fishing or farmlands, during this meeting they organically decided to come together to form the Mundra Hit Rakshak Manch (Forum for the Protection of Rights in Mundra). This was a congregation of village representatives and local NGO community organisers. Members of this forum have contributed extensively to evidence gathering, discussions on coming up with subsequent steps to the ground-truthing exercise and larger conceptual debates around impacts of industrialisation in the region.

Some of the findings of the process, which have also been submitted to a committee headed by Sunita Narain constituted by the MoEF in September 2012 (which was set up midway during this exercise), reiterated:

- The impact of the WFDP has largely been on the creeks in two regions: Bharadi Mata and Kotdi. These areas also had an extensive growth of mangroves which too were destroyed alongside the creeks. It was highlighted that the overall the overall changes in this eco-fragile landscape and destruction of mangroves has also affected the main and supporting creek systems of the area.
- The construction of the different components of the Adani Group's WFDP project has severely impacted the movement of fishermen to their existing fishing commons. While Specific Condition No. (viii) is limited to the movement of the fishermen's vessels, it is important to link it to the fact that ever since the project was proposed, the existence of pagadiya fishing

in the area has been severely undermined. As mentioned earlier, the EIA report of the WFDP project concealed information about the impact on the fishing communities using the fishing harbours in the area.

- In the course of several discussions among the affected villages it was revealed that before the construction of the West Port the area did not have any bunds and had, instead, sand dunes and creeks in the area between Kotdi Creek 1 and Kotdi Creek 2. The bunding activity undertaken in the region without permission led to the destruction of several sand dunes and creeks
- Due to the construction of the WFDP project the sand dunes in the area adjoining the Bharadi Mata hill, which is in the project area, have been completely destroyed.

The organisations involved in this community-led research are:

1. MUNDRA HIT RAKSHAK MANCH (FORUM FOR PROTECTION OF RIGHTS IN MUNDRA) is an informal collective of villagers impacted by large-scale land use change due to extensive industrial expansion in the Mundra region. These persons and organisations have been regularly raising concerns about the social and environmental impacts of these projects through memorandums, direct confrontations, street actions as well as courts. The forum was organically formed in June 2012 during discussions related to the findings of the community-led ground-truthing exercise.
2. MACHIMAR ADHIKAR SANGHARSH SANGATHAN (MASS) Kutch is a trade union of the fishing community in Kutch district, Gujarat. MASS is also associated with the National Fishworkers' Forum (NFF), a national-level collective of fisherfolk and support organisations. Kheti Vikas Seva Trust is a grassroots group based in the Mundra region which has been highlighting concerns related to the impacts of indiscriminate industrialisation on farming and fishing communities in Kutch district. They are currently involved in several public interest litigations on these issues in the Gujarat High Court.
3. UJJAS MAHILA SANGATHAN is a women's collective working on several advocacy issues with women at the core of their efforts and actions. In recent times they have also looked at issues of women and industrialisation in the Kutch region.
4. SETU in Bhadreshwar is an initiative of the Kutch Navnirman Abhiyan that works especially to strengthen local governance in the rural and least-developed areas of the Kutch district. The 18 SETUs help communities and local governments realise their development needs.
5. NAMATI-CPR ENVIRONMENTAL JUSTICE PROGRAM is the India chapter of Namati-Innovations for Legal Empowerment. In partnership with the Centre for Policy Research (CPR), New Delhi, Namati's India work concentrates on environment justice issues.

Adani thermal power plant, Mundra



*There is not enough grazing land for cattle. They used to drink water at the dam, but now the water is dirty... Rich are getting richer, poor are getting poorer and the rich are buying most of the available water... All the water in Kutch is going to companies, not villages.*

*~ Jajiba Jadeja,  
Core group member,  
Founding member of  
Ujjas, Baraya village*

*Companies don't talk to people. They are not ready to listen to us... Many locals think they will get jobs in these companies, but they don't. Companies make false promises.*

*~ Husain Kara,  
Core group member,  
Fisherman, Bhadreshwar  
village*

*Mangroves should be planted again. On paper, the number of mangroves that have been cut are about two crore. But in reality the number is much higher.*

*~ Deval Gandhi,  
Core group member,  
Ujjas member,  
Shekhadia village*

## BACKGROUND TO THE REGION AND THE ISSUE

JANUARY 2009

### Environment and CRZ Clearance for the WFDP Project

The Ministry of Environment and Forests (MoEF) had—under the Environmental Impact Assessment (EIA) and the Coastal Regulation Zone (CRZ) notification—issued clearance for the proposed waterfront development project (WFDP) at Mundra, District Kutch, to M/s Mundra Port and SEZ Limited (MPSEZL) vide letter No.10-47/2008-1A-III dated 12 January 2009. An addendum to this was issued vide letter No.10-47/2008-1A-III, dated 19 January 2009. According to the MoEF's own documents, this clearance was issued based on the recommendations made by the Gujarat State Coastal Zone Management Authority/Gujarat Environment Department vide letter No.ENV10/2008/843-P, dated 13 April 2008, and was for foreshore facilities and other permissible activities on the northern, western, southern and eastern ports.

This approval was granted as per the mandatory requirements of the EIA notification, 2006 (earlier 1994), issued under the Environment Protection Act, 1986, according to which activities such as mining, power generation, construction of roads/highways and the setting up of various kinds of industrial projects need to be preceded by a process of assessing potential environmental impacts and conducting a public hearing before permission can be granted to begin construction. It is only after this—and the appraisal of project documents by a thematic expert committee—that a project is granted environmental clearance. [Note: The MPSEZ is now known as Adani Port and SEZ Ltd]

With every permission, the MoEF and its thematic expert committee put forth a set of conditions that needs to be met during the construction and/or execution of the projects. These conditions range from general ones of following standards and stipulations prescribed by environment laws, to more specific ones based on the nature of the project and the region where it is likely to be set up. For instance, clearance conditions for hydroelectric projects stipulate that extra care be taken while dumping debris generated during construction and controlled blasting. In the case of industrial projects, the conditions necessitate the establishment of effluent treatment plants and the continuous monitoring of various parameters such as air, noise and water pollution levels.

A prominent feature of the Mundra Coast, where the WFDP project is located, is the vast intertidal zone comprising a network of creeks, estuaries and mudflats. This zone is unique and very important because fishermen use these natural creeks to land their boats to keep them safe from strong winds and currents. The creeks also form a natural drainage system which, if disturbed, can lead to flooding during monsoons.

The marine fishing settlements are transient villages, which are inhabited by the fishing communities for 8–10 months in a year. These villages are set up on sand dunes or mudflats known as 'bandars'. After the fishing season the communities return to their formal villages, often situated at a reasonable distance from the transient villages. Typically, all the fishing households from a village migrate and stay together in a particular coastal settlement. More than 1,000 families in the coastal area in Mundra are involved in fishing. They fish on small boats and on feet. Besides fishing in high seas, about 229 people are involved in direct vendoring, 73 in net making and repairing, and over 5,000 women in processing the fish (Source: Fishmarc and Kutch Nav Nirman Abhiyan, 2010).<sup>1</sup>

The CRZ cum environmental clearance for the WFDP was issued alongside 17 specific and 14 general mandatory conditions as set forth by law.

The four conditions that were identified as part of the community-led ground truthing of violations (more on this process on page 12) are:

Specific Condition No. (i)

**NO EXISTING MANGROVES SHALL BE DESTROYED DURING CONSTRUCTION/OPERATION OF THE PROJECT.**

Specific Condition No. (ii)

**THERE SHALL BE NO FILLING UP OF THE CREEK AND RECLAMATION OF THE CREEKS.**

Specific Condition No. (viii)

**IT SHALL BE ENSURED THAT DURING CONSTRUCTION AND POST CONSTRUCTION OF THE PROPOSED JETTY THE MOVEMENT OF THE FISHERMEN'S VESSELS OF THE LOCAL COMMUNITIES, ARE NOT INTERFERED WITH.**

General Condition No. (v)

**THE SAND-DUNES, CORALS AND MANGROVES IF ANY, ON THE SITE SHALL NOT BE DISTURBED IN ANY WAY.**

*Lots of changes have occurred. People earn money by selling farmland to the companies, as a result of which farmlands are being destroyed... Mangroves have been destroyed. Temperatures have been rising since the companies came here.*

*- Deval Gandhi.*

*Core group member.*

*Ujjas member.*

*Shekhadia village*

<sup>1</sup> Fishmarc and Kutch Nav Nirman Abhiyan. 2010. "Kutch—People, Environment & Livelihoods". Draft report for discussion during workshop held in Kutch.

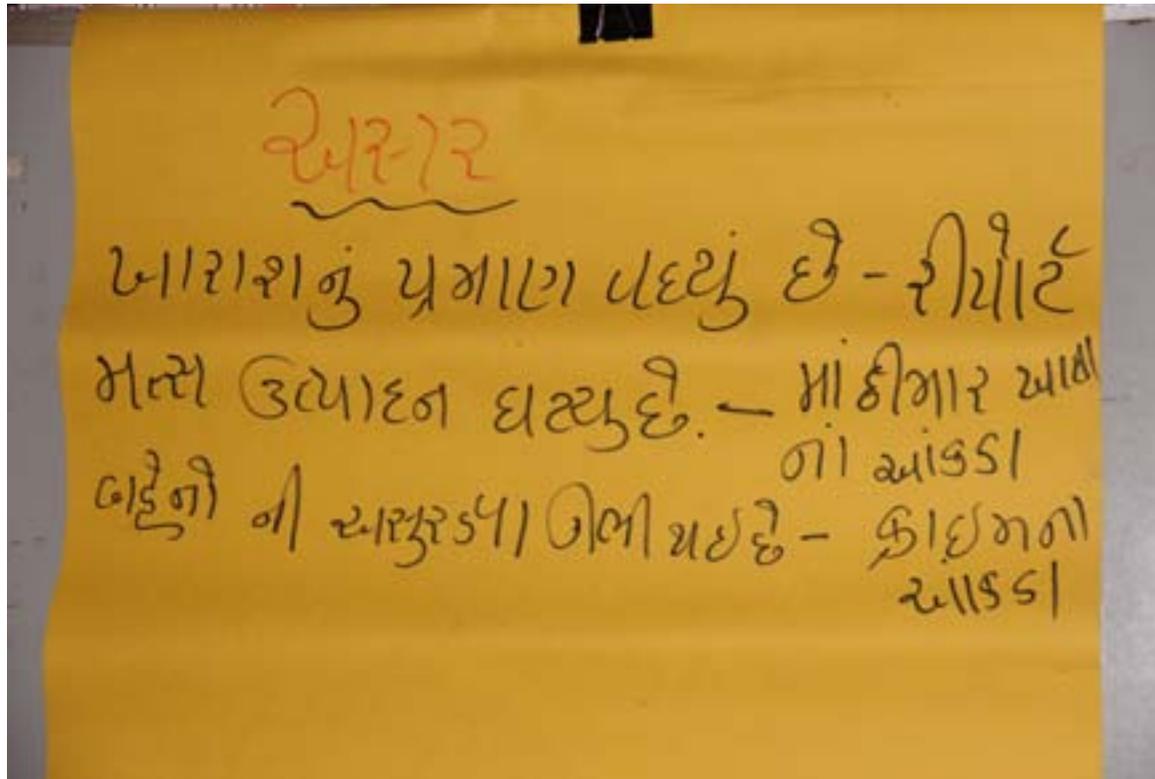
One of the general conditions states that 'The Ministry reserves the right to revoke this clearance, if any of the conditions stipulated are not complied with to the satisfaction of the Ministry.' [General Condition No. (x)]



Photo courtesy: Machimar Adhikar Sangharsh Sangathan

## ABOUT THE COMMUNITY-LED RESEARCH

For the last decade and a half, there has been increased industrial expansion in the Mundra region. A range of multi-utility ports, coal handling facilities and thermal power plants have been granted approval under various environment regulations and with allegedly inadequate and incomplete assessments. Two of these regulations are related to the EIA notification (environmental clearance) and the CRZ notification (CRZ clearance). As mentioned earlier, each clearance is accompanied by several conditions that the project authority must meet to minimise social and environmental damage that may occur before, during and after the construction of an industrial or infrastructure facility. The project authority is also supposed to take on board issues raised by the local community and concerned citizens during public consultations.



Discussions around impacts of the project: increase in salinity, reduction in fish production and increased vulnerabilities for women.

Previous regional, national and international studies have highlighted that enforcement and compliance continue to be challenging aspects of regulation. During talks among members of the affected community, Panchayat representatives from the area, local activists, researchers, representatives of Machimar Adhikar Sangharsh Sangthan (MASS), Ujjas Mahila Sangathan, SETU, and Namati-Centre for Policy Research Environment Justice Program, the possibilities of carrying out a community-led assessment to ascertain the extent of non-compliance and its impacts was discussed. The idea was to initiate a ground-truthing exercise to assess the implications of non-compliance towards achieving a few specific legal empowerment goals:

- A greater understanding in the community about environment regulatory processes of environmental clearance and CRZ as well as the process of conditional clearances.
- A first step towards a community-led exercise to correlate real-time social and environmental impacts with the non-compliance of legal and mandatory conditions laid out during approvals. Addressing the illegality of the act of pollution, degradation and other similar impacts.
- Organising community responses and follow-ups to the findings with the help of local, state, national and global supporters. Planning subsequent steps—seeking governmental intervention, corporate accountability and media response.
- Drawing lessons from this exercise for its replicability at other sites and for possible preparation of tools for similar legal empowerment actions.

*The road connecting Tunda and Vandh that goes from between the Adani and Tata power plants has been shut and another road has been built. But that goes around both the factories and is too long. Only people with personal vehicles can use the original road. We want that road to be reopened to us.*  
- Romat Alimamad, Core group member, Tunda (Vandh)

JULY 2009

JUDGEMENT OF THE NATIONAL ENVIRONMENT  
APPELLATE AUTHORITY

The concerns related to the social and ecological impacts of the WFDP and the construction activity prior to receiving clearance were challenged by multiple petitioners in a case filed before the National Environment Appellate Authority (NEAA) soon after clearance was granted. The petitioners included representatives of fishing communities affected by the WFDP project—Manjalia Amad Iliyas Ishak of Luni village, Gadh Amina Ben Harun of Vandi village (Tuna), Manjalia Amina Ben Ibrahim of Bhadreshwar village, Jam Jennat Ben Ramju and Chamadiya Talab Osman Ishak of Shekhadia village—and Manshi Asher, a researcher and activist working in the region.

*Many people have gone to court, but the companies ignore court orders. The companies are fined, but they can afford to pay the fines.  
~ Kiritsinh Gadeja.  
Core group member.  
Bhadreshwar village*

The application to the NEAA questioned several discrepancies in the draft EIA report submitted by the project proponents which were completely ignored by the expert committee of the MoEF. It highlighted that the EIA report had presented the land of the WFDP project as 'non-agricultural, waste, barren or weed infested', and the intertidal mudflats, mangroves and sand dune areas as wasteland or fallow land.

With respect to mangroves, the EIA report underplayed both their existence and the loss that would occur if the project were to go ahead. In Section 4.3.5 of the report, it was mentioned that 'The Core Impact Area although has mangroves in the neighbourhood, the activities of project domain do not disturb those areas or species in these areas.' However, based on the project area mentioned in the EIA report, the NEAA appeal clearly outlined that the impact zone encompassed 4.42 km<sup>2</sup> of dense mangroves and another 9.30 km<sup>2</sup> of sparse mangroves. It stressed that the loss of nearly 14 km<sup>2</sup> of mangroves would inevitably result in substantial and adverse environmental impacts even if this area is a small portion of the overall impact zone. Satellite imagery was also submitted to support this claim.

The appeal also brought out the gross underestimation of the social impact of the project and the complete neglect of the associated R&R issues. It underlined that along the 27 km long coastline of the WFDP, fishing activities would be obstructed and gradually become nil. This meant that 10,000

fishermen—who had till now been earning crores of rupees per annum from fishing and who did not have any other occupation—would become jobless.

The audiovisual evidence that was submitted showed that 60 per cent of the construction had already been carried out before the project received environmental clearance, thereby impacting the Bharadi Mata and Kotdi creeks. Affected people had also raised this issue as part of the mandatory public hearing on the project as per the EIA notification, 2006.

On 20 July 2009, the NEAA gave its judgement on the case. Certain observations are crucial with respect to the compliance of the environmental clearance conditions set out for the project. The NEAA judgement referred to several assurances made by the project authorities, that is, MPSEZL, that they would not destroy mangroves or fill creeks and also not impact the livelihoods of the fisherfolk. It also reiterated the conditions of the environmental clearance letter and stated that the statutory requirement of the EIA notification as a means of compliance to these conditions would ensure that impacts are contained and apprehensions responded to.

The judgement concluded:

*In light of the apprehension raised by the Appellants over the possible hindrance by the project activities over fishing activities of local fisherman, Respondent-3 (MPSEZL) is directed to ensure that any proposed activities of WFDP do not hinder safe access of fisherman to the sea through the traditional access including their use of bandars. (Annexure 2)*

Further, if

*Appellants are aggrieved that the Respondent-6 has destroyed any part of mangroves and he is carrying out illegal construction activities prior to statutory clearances, they are at liberty to approach the concerned statutory authorities for necessary relief.*

DECEMBER 2010

## MoEF REPORT: SITE INSPECTION AND NOTING VIOLATIONS

Following complaints made by the affected people and the fisher-people's union in the area, the MoEF carried out a site inspection in the Mundra region and specifically looked at the violations of the WFDP project. The site inspection report referred to two conditions (mentioned earlier in this report) regarding mangroves and creeks. Besides making other observations, it stated:

- Large scale reclamation using dredged material is being carried out on mangrove area behind the West and North port site.
- A dredging disposal pipeline has been laid in the inter tidal area carrying the dredged material to the landward side of the port to reclaim the land area on the West and North port side. This pipeline has been obstructing the tidal flow due to which the mangroves stretch on the western and northern port side have been affected and at several places they have dried up.
- At several places there has been large scale destruction of mangrove area specially at the northern port side abutting the dredging pipeline.
- The creeks systems and the natural flow of seawater is being obstructed by reclamation along the creeks. At some stretches destruction of mangroves has been observed.
- Hospital 'Sterling' has been constructed within 20 metres from the same creek which attracts the Coastal Regulation Zone Notification, 1991.

*We have to make them understand the importance of what they have lost and what might be lost in the future. Also, why there is a need for a collective fight for the sake of the future generations. Otherwise they will curse the older generation that we did not stop the destruction when we could. That we did not even try.*  
~ Mundra Hit Rakshak Manch, Meeting 17 June 2012



Destruction of mangroves due to dredging activity in the West Port as part of the WFDP project

Based on this, the MoEF issued a show-cause notice seeking explanation from MPSEZL as to why their approval should not be revoked with respect to the aforementioned violations. (See Annexure 1)

## Monitoring and Compliance of Clearance Conditions

It is important to reiterate that the conditions laid out in CRZ and environmental clearances have manifold implications depending on whether or not they are complied with. In fact, they are considered to be the mechanism through which environment and social impacts of an activity or process are minimised or mitigated. The expert committees and the MoEF might even add additional stipulations in response to the issues raised by the local community and concerned citizens about potential environmental damage. Non-adherence to one or more of these conditions means nothing less than a violation of the legal commitment made by project proponents to reduce the impacts of their project. Moreover, it leaves communities struggling with the effects of pollution and degradation.

The monitoring of these projects is supposed to be carried out by the regional offices of the MoEF where scientific officers have to bring out monitoring reports every six months. The project authority—which in this case is the MPSEZL (APSEZL)—also needs to submit compliance reports to the MoEF's regional office in Bhopal every six months.

In response to a Right to Information application, dated 11 September 2012, seeking copies of the monitoring and compliance reports of the WFDP project, one compliance report was received for the period January to June 2011. Here MPSEZL (APSEZL) had stated that they were 'complying' with all four conditions related to the destruction of mangroves, the filling up of creeks, the destruction of sand dunes and the access of fishing vessels. A copy of the aforementioned show-cause notice was also provided.

No other monitoring or compliance reports were provided despite the RTI application requesting for the same. This implies that either no monitoring or compliance reports existed before this period or the MoEF's regional office in Bhopal did not provide them through the RTI.

*If we want any documents, we get them after a long time due to the RTI laws... We have filed RTIs, but there are people who take bribes and don't release information.*  
~ Kiritsinh Gadeja, Core group member, Bhadrashwar village

JANUARY 2012

## INITIATION OF THE GROUND-TRUTHING PROCESS

In February 2012, the community-led ground-truthing exercise was initiated with a meeting of villagers from Zarpara, Shekhadia and Bhadreshwar villages and several of the fishing harbours accessed by them. Representatives from the horticulture and grazing communities also participated as they had already been active in raising concerns regarding the running of the WFDP project and other operations of the Adani Group including through litigation in the high court. The purpose of this meeting was to:

- Understand the conditions listed in the CRZ and environmental clearances granted to the WFDP project and the process by which this happened.
- Discuss the possibilities of a community-led evidence gathering process which would be carried out by representatives of the villages affected by the project along with members of MASS, Ujjas and SETU who would act as resource people in understanding the law and the implications of the violations.
- Identify a list of conditions which could be verified and investigated through a community-driven process with technical assistance related to mapping and legal clauses provided by other organisations involved.
- Ascertain the extent of evidence already available among the community and the paralegal work that had already been done by organisations like MASS, Ujjas and SETU.

In the first meeting on 27 February 2012, the clearance letter was translated into Gujarati and shared with the participants. All the conditions were reviewed and four conditions were identified for the ground-truthing exercise, as one for which the community representatives could collect evidence. During this meeting a steering committee was chosen to manage the evidence gathering and coordination exercise. The members of the committee were: Kiritsinh Jadeja, Bhadreshwar village; Naranbhai Ghadvi, Zarpara village; Husain Saleh Muhd. Usman Bhai Kara, Bhadreshwar village; Devalben Malji Ghadvi, Shekhadia village; Javjiba Rangoba Jadeja, Baraya village; and Romatben Kumbhar, Tunda village. Members of Ujjas, MASS and SETU were chosen to act as technical assistants to this committee.



Meeting to discuss the ground-truthing process, February 2012

Following this, other meetings took place on 11 March 2012, 4 April 2012, 17 June 2012 and 10 October 2012. During this time, gathering of evidence—photographs, Right to Information data, local testimonies, existing petitions, memorandums, letters, etc.—continued. In addition, efforts were made to represent land use changes through the Google Maps exercise. The idea was to corroborate the changes visible in and around the project site with imagery available through Google Earth. The final findings of this report reflect this interface.

In the meeting that took place on 17 June 2012, many other villages affected by the WFDP project gathered to discuss the impacts and violations. While many villages were fighting their solitary causes of grazing, fishing or farmlands, during this meeting they organically decided to come together to form the Mundra Hit Rakshak Manch (Forum for the Protection of Rights in Mundra). This was a congregation of village representatives and local NGO community organisers. Members of this forum have contributed extensively to evidence gathering, to discussions on coming up with subsequent steps to the ground-truthing exercise and to larger conceptual debates around impacts of industrialisation in the region. There were indepth discussions around what the group would be looking to do with the information gathered and put together and what are the ultimate outcomes are being envisioned once violations are recorded. Would the group be looking at steps to restrain industrial expansion or work towards regulatory and restorative measures.

Members of MASS and Namati helped with the writing and finalisation of this report which was subsequently shared with the members of the steering committee and the Mundra Hit Rakshak Manch in a meeting on 10 October 2012. Prior to this, the report was translated into Gujarati and disseminated among the members in order to facilitate discussions during the meeting. The findings were collectively discussed, suitably modified and endorsed.

During the October 2012 meeting it was also discussed that the findings of this ground truthing exercise could be submitted to a committee set up by the Ministry of Environment and Forests on 14th September 2012 to look into the violations of the APSEZL in Mundra. It was discussed that while this would be important to feed into an existing process, it would be important to continue to debate on what are the other next steps that the Manch would like to take both with respect to the findings of this report as well as other issues in the Mundra region.

*Kiritsinh Jadeja highlighted that there are many fights against the companies in the region, but they are all spread out and not collective. This way energies are divided. He said: 'we have to draw lessons from our first historic fight for independence in 1857. If we want positive results, then we will have to come together on one platform and fight. We have to form a committee to look into all the activities and issues in the Mundra area.'*  
 ~ Mundra Hit Rakshak Manch. Meeting 17 June 2012



Left: Satellite image of the Bharadi Mata Creek. Violation areas marked during the ground-truthing process

Below: Bharat Patel explains the changes in the landscape in the WFDP area using satellite imagery



\* મુખ્ય જવાબદારી

- કીરીટ સિંહ
- જાણભાઈ
- ઠાણભાઈ
- દેવભાઈ
- જલજલા
- રોમલબેન

- કોલેરાય  
માગદશીન  
ભરભાઈ

૨૨ માર્ચ

૧૧:૦૦ વાગ્યે

ઉમાશ લાભાજ ડોમ

... all present at the meeting would carry out a collective study by collecting data through various means and analysing it together. There was a discussion on what the current status of the project was and what were the kinds of conditions that could be monitored by the community representatives and organisers. What kind of documentation would be required to carry out such a ground-truthing process, which is led by community representatives with the help of other researchers and community organisers, was also discussed.  
- Mundra Hit Rakshak Manch, Meeting 27 February 2012

List of responsibilities, names of core group members and planning for the next meeting on ground truthing

*If there is no value today, then there will be value tomorrow...  
This is a small step we have taken.  
We hope Kutch and entire Gujarat wakes up.  
- Kiritsinh Jadeja,  
Core group member,  
Bhadreshwar village*

### Core members

**KIRITSINH JADEJA**  
Bhadreshwar  
village

**BHARAT PATEL**  
Bhadreshwar  
village

**NARAN GHADVI**  
Zarpara village

**HUSAIN KARA**  
Bhadreshwar village

**JAVJIBA JADEJA**  
Baraya village

**HAJI AYUB  
OSMAN MAJALIA**  
Bhadreshwar  
village

**PALU JIVARAJBHAI  
GHADVI**  
Shekhadia village

**DEVAL GANDVI**  
Shekhadia village



FINDINGS OF THE  
COMMUNITY-LED  
GROUND TRUTHING

Specific Condition No. (i)  
**NO EXISTING  
MANGROVES SHALL  
BE DESTROYED  
DURING  
CONSTRUCTION/  
OPERATION OF  
THE PROJECT.**

Mangrove destruction in  
the project area

**Specific Condition No. (i)  
NO EXISTING MANGROVES  
SHALL BE DESTROYED  
DURING CONSTRUCTION/  
OPERATION OF THE PROJECT.**

According to the report of the Integrated Coastal and Marine Area Management (ICMAM), Department of Ocean Development, Government of India, in May 2002:

*The southern coast of Gulf of Kachchh is almost occupied with ecologically sensitive features like mangroves, corals and mudflats—some of which are potential for regeneration of mangroves. The ecology along southern coast is already under severe stress exerted through the major commercial projects already situated, hence the southern coast can not withstand any further stress from the future developments which are under proposal / sanctioning stage.*

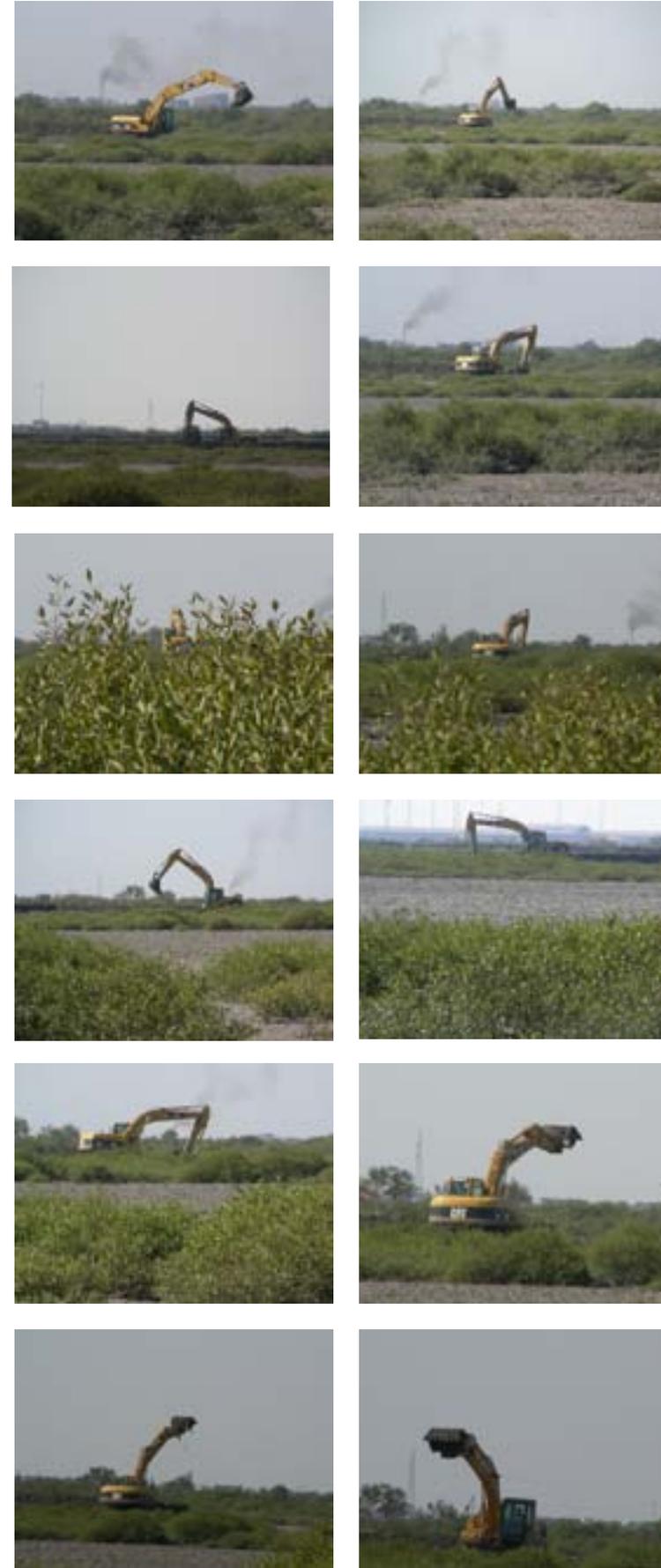
Looking at the Mundra-Kandla area within which the WFDP is located, the report said:

*Another 38 km long stretch between Mundra and west of Kandla creek is occupied by rich intertidal mudflats of area around 115 km<sup>2</sup>. The eastern tip is characterised by a scattered mangrove area extending to 4.3 km<sup>2</sup>. Recently, Scientists discovered live corals near Mundra, the exact location and details of them are yet to be studied.*

And, finally:

*In order to protect the newly found coral beds of Mundra and also to minimise the effect of eddy off Mundra, it is suggested that controlled waste disposal activities be located atleast 10 km away from the coral beds. It is also suggested that the entrepreneurs who are permitted for this activity in this zone may be given the responsibility of afforestation of mudflats of this zone and innermost Gulf. This will help in reduction of sedimentation and safeguarding the newly discovered corals.*

A Gujarat Forest Department report by H.S. Singh, Chief Conservator of Forests, published in early 2007, talked



Destruction of mangroves by an excavator, 30 December 2006



Destruction of the mangroves due to the WFDP project

about 'drastic losses of mangrove forest stem' mainly from industrial activities, specifically in the Gulf of Kutch. 'In certain areas like Mundra and Hazira, they disappeared overnight,' Singh stated. Quoted in this report, the Mundra SEZ area had 3,000 hectares of mangroves and much of these had already been cleared (Kohli and Samdariya, 2010).<sup>2</sup>

As mentioned earlier, activities under the WFDP project had been initiated even before the CRZ cum environmental clearance was granted for this project. What this means, in effect, is that the mangrove destruction had already started much earlier and had continued even after approval was received along with Specific Condition No. (i). While the show-cause notice of the MoEF already listed this as a violation, the evidence gathered through a community-led research and mapping exercise also pointed to the extent of the impact.

The Writ Petition (PIL) No. 12 of 2011 by the Kheti Vikas Seva Trust (through its office-bearers Naran Bharu Seda Gadhvi, Ram Devdas Kanani and Bharu Ranshi Sakhra, all residents of Zarpara village) pointed out that the Adani Group's activity, as part of MPSEZL's WFDP, was severely destroying mangroves in and around Zarpara. On 12 July 2011, the Gujarat High Court also directed that:

*6. During the pendency of the writ petitions, no developer or industry will cut any mangrove or any other forest, without prior permission of the Forest and Environment Department of the State....*

Successive submissions and rejoinders pertaining to this case highlighted that the destruction of mangroves had continued despite the warning by the high court. The MPSEZL used 'heavy machinery' for the destruction of mangroves.

Several newspapers, including the *Hindu Business Line* on 21 September 2011, reported that the Gujarat High Court had directed an enquiry into the alleged destruction of mangroves by the Adani Group in Mundra. This was while hearing a petition moved by the Kheti Vikas Seva Trust of Mundra seeking contempt of court proceedings against the Adani Group—MPSEZL as well as Adani Power Limited (APL). The high court then ordered the constitution of a special team, which would visit the coastal areas near Mundra in Kutch district to find out whether the Adani Group was involved in the destruction of mangroves in violation of the directions by the court.



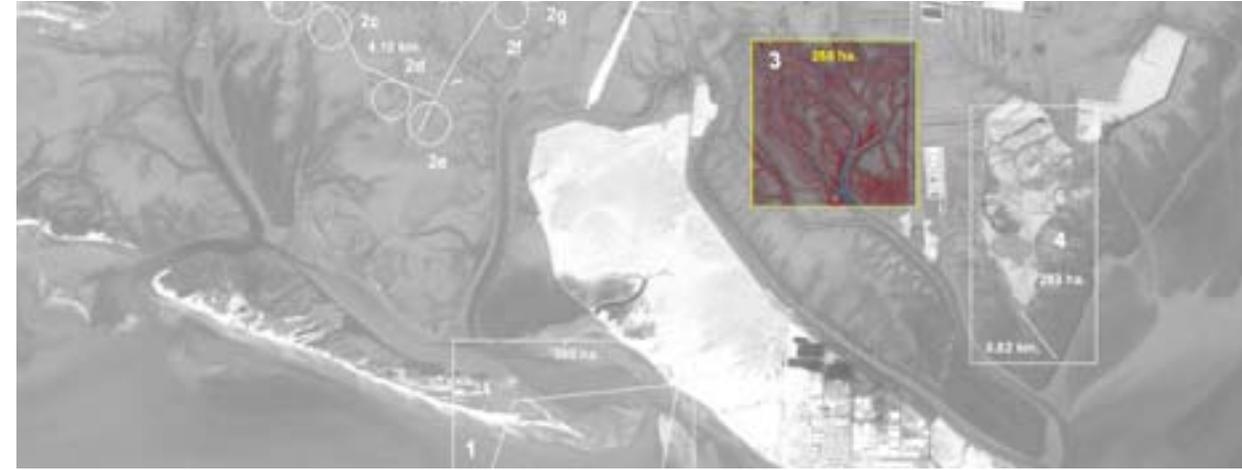
Destruction of mangroves by an excavator, 16 September 2012

<sup>2</sup> Kohli, K. and Samdariya, V. 2010. "Ripping Off the Mundra Coast! Environment and Forest Clearance Violations in Mundra Port and Special Economic Zone Ltd.'s Projects". Kalpavriksh, New Delhi.

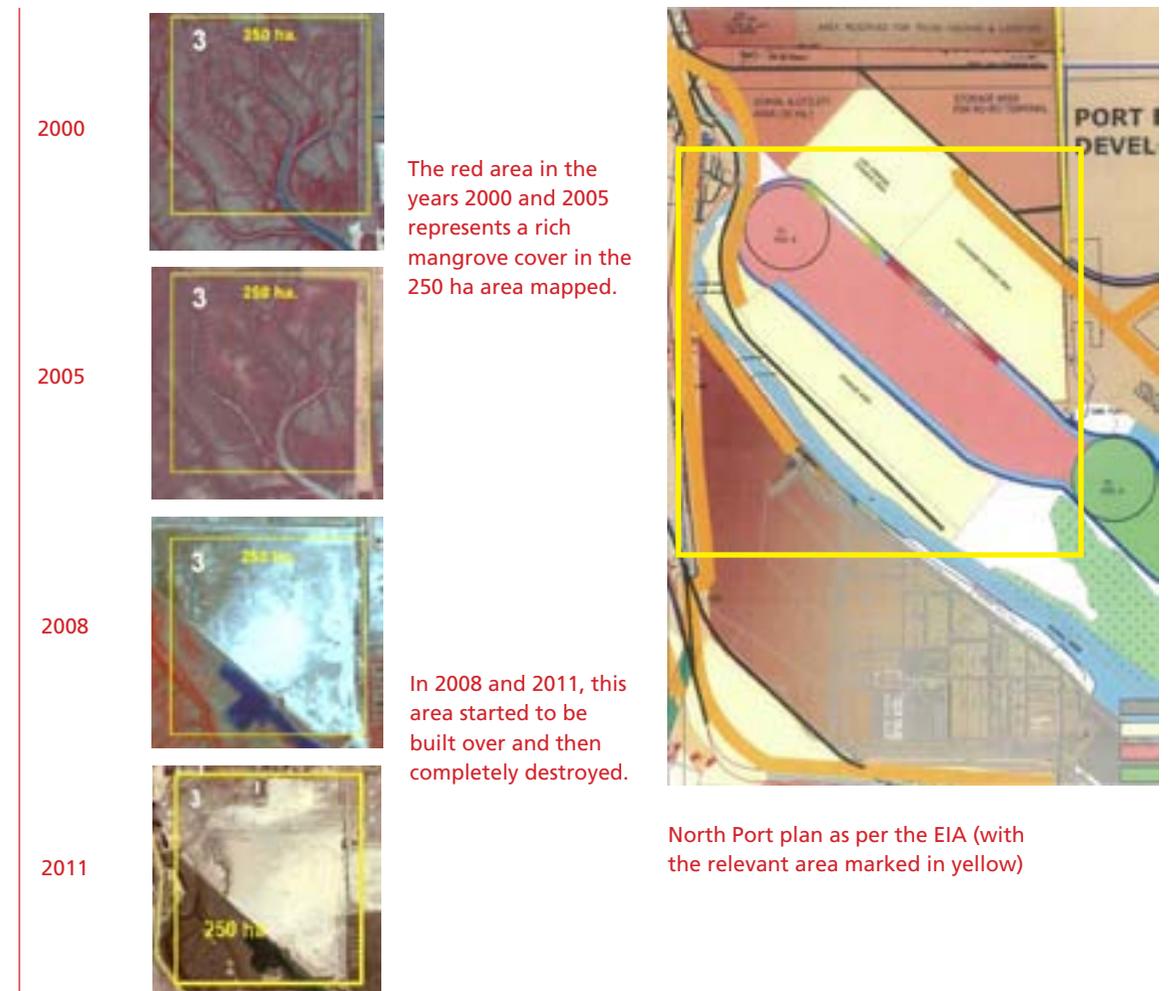
According to Naran Ghadvi, the petitioner in the case and a member of the community-led ground truthing of violations, the destruction of mangroves had been continuing since August 2012. This was also confirmed by the members of MASS and the community representatives residing around the WFDP project area.

The construction of the North Port started in 2007 without environmental clearance in the area south-west of the Indian Oil Corporation depot and near the proposed North Port. Before this construction started, a system of creeks branching out of the Bocha Creek existed with an extensive mangrove cover. Around 200 ha of mangroves were indiscriminately destroyed during the North Port construction.

An article in *Tehelka* magazine, 'Vibrant Gujarat? Your coast is not clear, Mr Adani', dated 26 February 2011, stated that farmers from Zarpara village displayed photographs of the reserved mangrove forests which were indiscriminately cut by the Adani Group in January 2011. This area which is part of the WFDP project is located at 22°46'5.90"N 69°40'9.24"E.



Bharadi Mata Creek and the adjacent area, 15 November 2000





Specific Condition  
No. (ii)  
**THERE SHALL  
BE NO FILLING  
UP OF THE  
CREEK AND  
RECLAMATION  
OF THE CREEKS.**

300 ha.  
1

4  
293 ha  
0.52 km.

Satellite image taken in 2008 showing the impact on the Bharadi Mata Creek and its adjacent area.

Specific Condition No. (ii)  
THERE SHALL BE NO FILLING  
UP OF THE CREEK AND  
RECLAMATION OF THE CREEKS.

The impact of the WFDP has largely been on the creeks in two regions: Bharadi Mata and Kotdi. These areas also had an extensive growth of mangroves which too were destroyed alongside the creeks. While area-wise description of the violations and impacts is detailed later in the section, presented here are the overall changes in this eco-fragile landscape that have affected the main and supporting creek systems.

### Impact on creeks in the Bharadi Mata area (2000-2011)

There are no recent photographs of this area as entry into the area is prohibited by the project authorities. However, the satellite maps reveal the gradual change in land use in the area where the creeks have been bunded and mangroves cut down. A huge change is visible between 2008 and 2011, which is the crucial time period when the WFDP project was under construction.

The specific areas indicated with squares and circles in the maps have been further described in this section. The colour red represents mangroves, white represents salt pans, blue is for water (including the sea and the various creeks), and the shades of brown are for the landmass in the intertidal area.

2000



2005



2008



2011

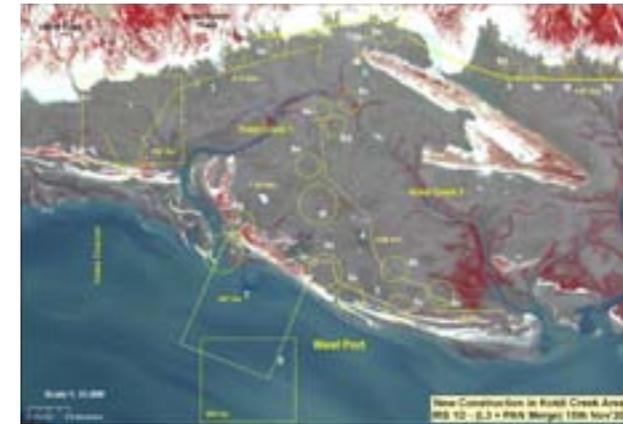


### Impact on creeks in the Kotdi area (2000–2011)

Since entry into the area is prohibited by the project authorities, there are no recent photographs of this area either. Creeks in the area have suffered the same fate as those in the Bharadi Mata area. In both cases, the imagery in 2011 clearly indicates the disappearance of creeks and mangroves as well as the salt pans that were interspersed in this ecosystem.

The indicators used here are the same as for the maps on the previous page: red for mangroves, white for salt pans, blue for water and brown for the landmass in the intertidal area. The imagery also indicates the areas where massive dredging has taken place towards the seaward side for the construction of the West Port.

2000



2005



2008



2011





Bharadi Mata Creek and the adjacent area, 15 November 2000

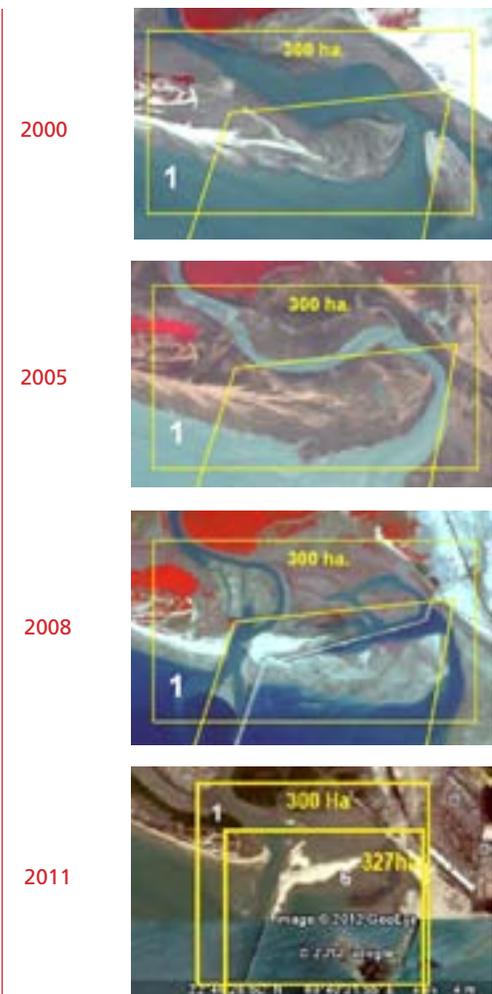


Kotdi Creek area, 15 November 2000

**AREA NO. 1**

Mouth of the Bharadi Mata Creek  
 Area west of the existing Adani port  
 22°45'6.66"N; 69°40'11.05"E

**VIOLATION:** The course of the Bharadi Mata Creek was modified by bunding due to the construction on the South Port, which started without environmental clearance. Prior to the construction, Bharadi Mata Creek used to flow eastwards for a few kilometres before entering the sea. The construction work still continues in this ecologically sensitive zone.



South Port plan as per the EIA

There are no recent photographs of this area as entry into the area is prohibited by the project authorities.

**AREA NO. 2**

Mouth of the Kotdi Creek  
 1 220 46.374' N 690 33.553' E

**VIOLATION:** Creek blocked by road. Before the West Port construction started, Kotdi Creek used to run eastwards for nearly 500m before entering the sea (the 2000 and 2005 images reveal this). Post 2008, the mouth of the creek was blocked by an approach road to the West Port. The surrounding area is being completely reclaimed by bunding and dredged material.



Kotdi Creek emerging from land

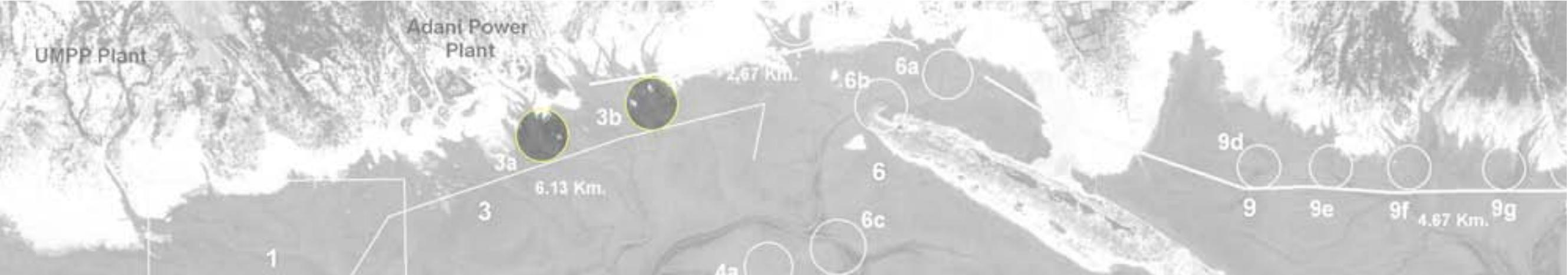
Original course of the Kotdi Creek

New course of the Kotdi Creek after blocking by road



Photo of Area No. 2, 26 January 2009

There are no recent photographs of this area as entry into the area is prohibited by the project authorities.



Kotdi Creek area, 15 November 2000

**AREA NO. 3**

South of the Adani power plant  
**VIOLATION:** Bunding without permission. Before West Port construction started, the area didn't have any bunds. During the construction, a bund was built across the Kotdi Creek area leading to several creeks getting blocked. Construction of this bund has not been permitted. A letter from the MoEF states:

*The area shall be demarcated on ground by erecting 4 feet high RCC pillars with forward and backward bearing and distance from pillar to pillar. (See Annexure 4, paragraph 6)*

The letter from the Central Empowered Committee (CEC) states:  
*...the diversion of forest land in a phased manner as a part of expansion of Mundra Port and Special Economic Zone Limited may be rejected. (See Annexure 3, last paragraph)*

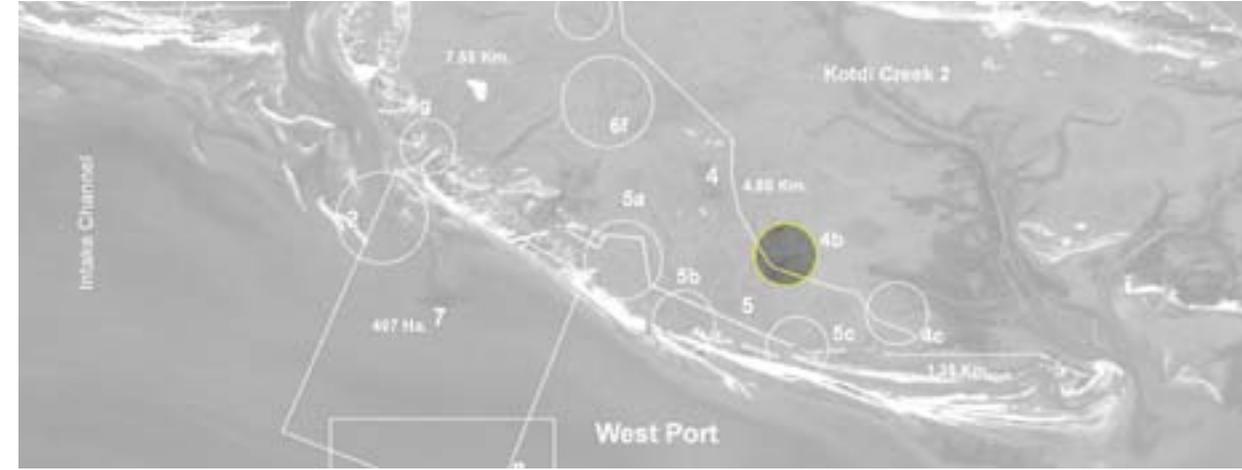
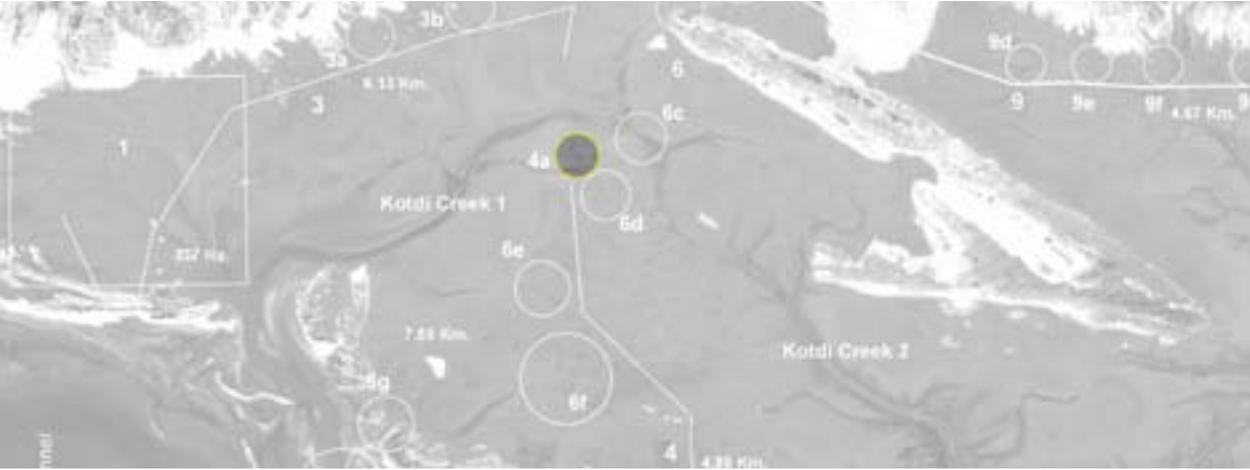
**AREA NO. 3A**

Location: 22°48'19.95"N 69°33'55.33"E  
 South of the Adani power plant  
**VIOLATION:** Creek blocked by bund.

**AREA NO. 3B**

Location: 22°48'44.42"N , 69°34'8.77"E  
 South of the Adani power plant  
**VIOLATION:** Creek blocked by bund.





Kotdi Creek area, 15 November 2000

**AREA NO. 4**

Area between Kotdi Creek 1 and Kotdi Creek 2  
**VIOLATION:** Bunding without permission. Before the West Port construction started, the area didn't have any bund. During the construction, a bund was built across the Kotdi Creek area leading to several creeks getting blocked.



There are no recent photographs of this area as entry into the area is prohibited by the project authorities.

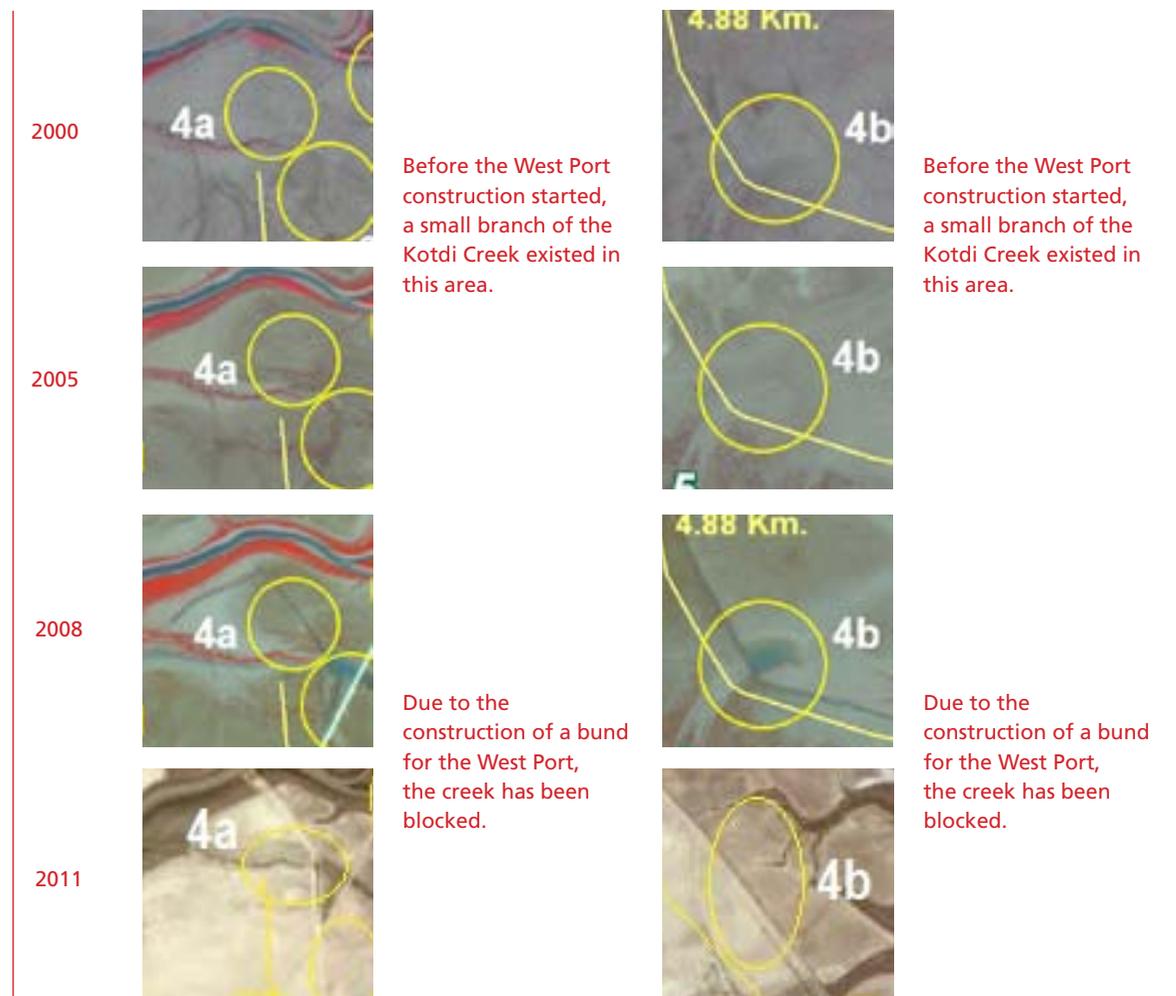
Photos of the bund, 26 January 2009

**AREA NO. 4A**

Location: 22°47'49.16"N , 69°34'41.81"E  
 Area between Kotdi Creek 1 and Kotdi Creek 2  
**VIOLATION:** Creek blocked by bund.

**AREA NO. 4B**

Location: 22°46'39.97"N, 69°35'19.88"E  
 Area between Kotdi Creek 1 and Kotdi Creek 2  
**VIOLATION:** Creek blocked by bund.





Bharadi Mata Creek and the adjacent area, 15 November 2000

### AREA NO. 5

Road from the Adani power plant to the Adani port near Mundra

**VIOLATION:** The road constructed by the MPSEZL, leading from the Adani power plant to the West Port, has led to several creeks being blocked. Before the WFDP started constructing here, several branches of the Bharadi Mata Creek existed in this area.



Approach road near the Bharadi Mata hill over forest land, 2009

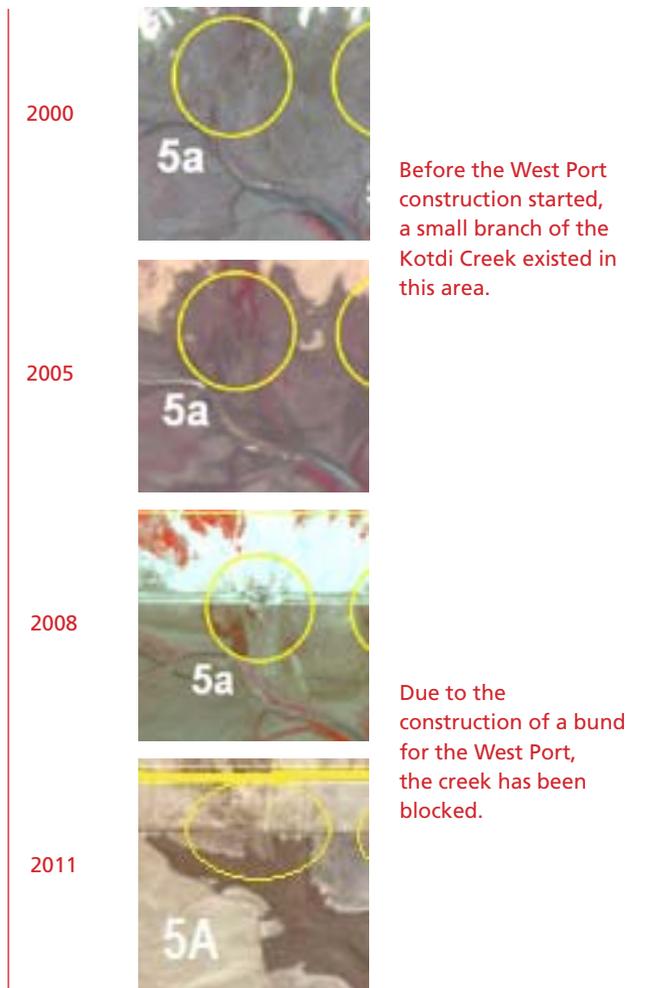
There are no recent photographs of this area as entry into the area is prohibited by the project authorities.

### AREA NO. 5A

Location: 22°48'17.33"N , 69°37'33.06"E

Road and railway track leading from the Adani power plant to the Adani port near Mundra

**VIOLATION:** Creek blocked by road.





Bharadi Mata Creek and the adjacent area, 15 November 2000

**AREA NO. 5B**

Location: 22°48'14.70"N, 69°37'59.18"E  
 Road and railway track leading from the Adani power plant to the Adani port near Mundra  
 VIOLATION: Creek blocked by road.

**AREA NO. 5C**

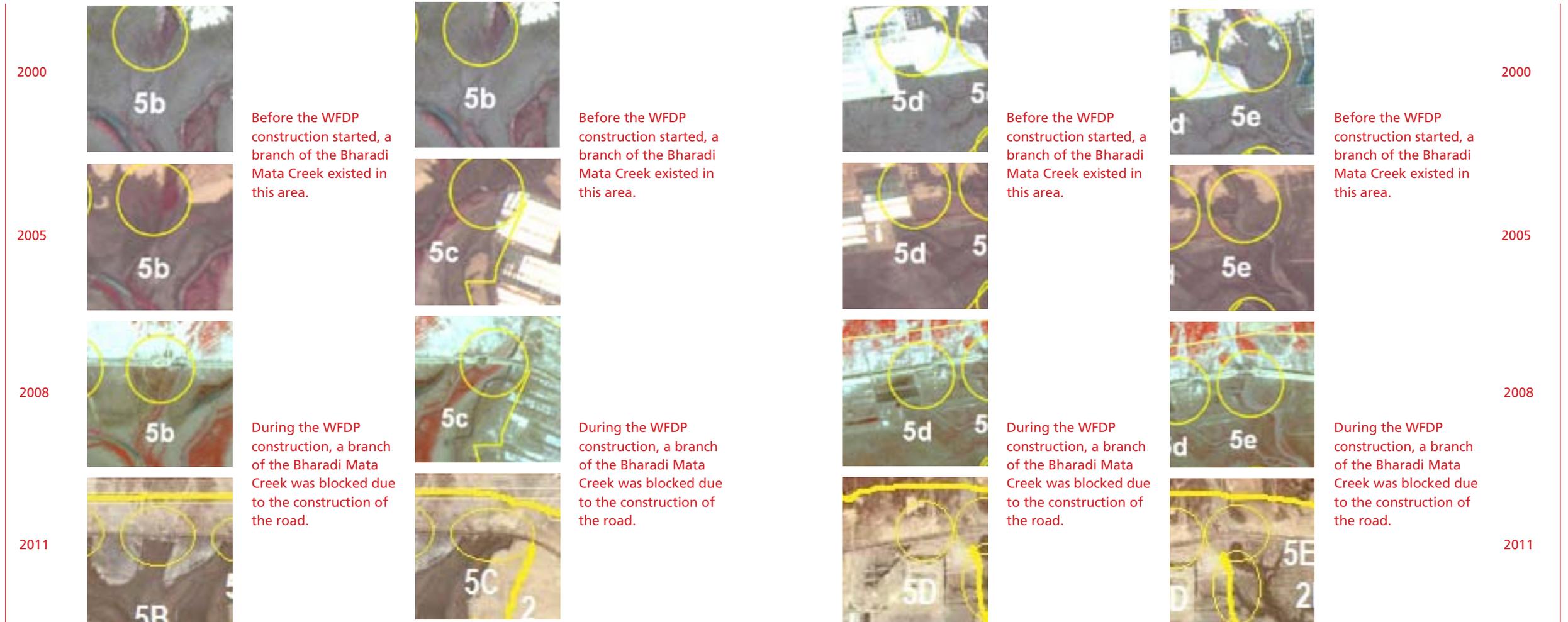
Location: Road and railway track leading from the Adani power plant to the Adani port near Mundra  
 VIOLATION: Creek blocked by road.

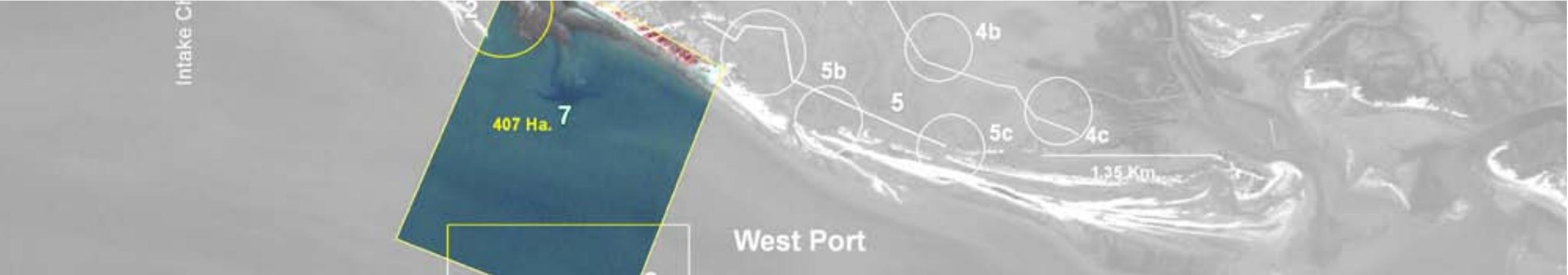
**AREA NO. 5D**

Location: 22°47'47.60"N, 69°39'53.01"E  
 Road and railway track leading from the Adani power plant to the Adani port near Mundra  
 VIOLATION: Creek blocked by road.

**AREA NO. 5E**

Location: 22°47'49.10"N, 69°40'10.96"E  
 Road and railway track leading from the Adani power plant to the Adani port near Mundra  
 VIOLATION: Creek blocked by road.

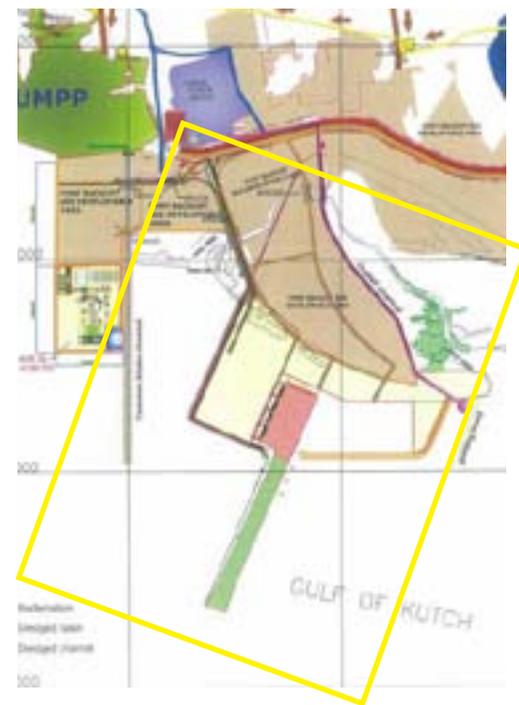




Kotdi Creek area, 15 November 2000

**AREA NO. 6**

Area adjacent to the West Port  
 22°46'28.02'N, 69°33'32.70'E  
 VIOLATION: The mouth of the Kotdi Creek is being filled up with dredged material. Before the West Port construction started, the Kotdi Creek used to flow east for nearly 500m before entering the sea (See satellite images of 2000 and 2005). With the construction, the mouth of the Kotdi Creek was blocked by an approach road to the port. Further, the surrounding area is being completely filled up with dredged material. This construction, which is part of the West Port plan, was started without environmental clearance (See satellite images of 2008 and 2011 and photographs), and continued thereafter.



West Port plan (relevant area marked in yellow)



Approach road to the West Port blocking the mouth of the Kotdi Creek



Area surrounding the West Port being reclaimed before environmental clearance



Kotdi Creek area, 15 November 2000

**AREA NO. 7**

Road and railway track leading from the Adani power plant to the Adani port near Mundra and the Kotdi Creek  
 VIOLATION: Several creeks in the Kotdi area have been blocked by the construction of the road and the railway track.



2009



2010



2012



Kotdi Creek area, 15 November 2000

**AREA NO. 8A**

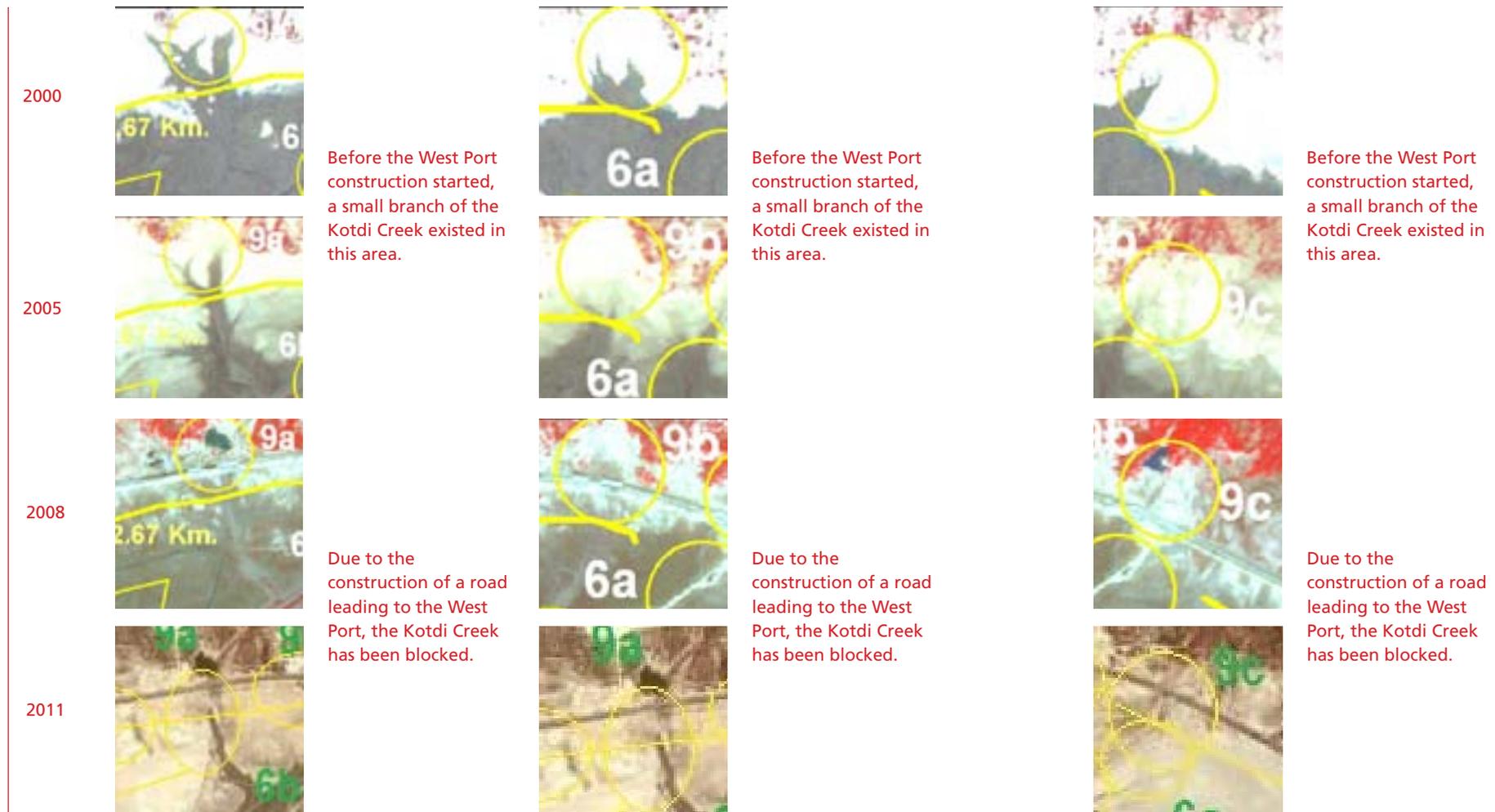
Location: 22°48'52.50"N, 69°34'49.00"E  
 Road and railway track leading from the Adani power plant to the Adani port near Mundra  
 VIOLATION: Creek blocked by road.

**AREA NO. 8B**

Location: 22°48'53.86"N, 69°35'16.81"E  
 Road and railway track leading from the Adani power plant to the Adani port near Mundra  
 VIOLATION: Creek blocked by road.

**AREA NO. 8C**

Location: 22°48'45.61"N, 69°35'36.18"E  
 Road and railway track leading from the Adani power plant to the Adani port near Mundra  
 VIOLATION: Creek blocked by road.



Specific Condition No. (viii)  
**IT SHALL BE ENSURED  
THAT DURING  
CONSTRUCTION AND  
POST CONSTRUCTION  
OF THE PROPOSED  
JETTY THE MOVEMENT  
OF THE FISHERMEN'S  
VESSELS OF THE LOCAL  
COMMUNITIES, ARE  
NOT INTERFERED WITH.**

WFDP construction activity blocking  
regular route to the fishing harbour

**Specific Condition No. (viii)  
IT SHALL BE ENSURED THAT  
DURING CONSTRUCTION  
AND POST CONSTRUCTION  
OF THE PROPOSED JETTY  
THE MOVEMENT OF THE  
FISHERMEN'S VESSELS OF THE  
LOCAL COMMUNITIES, ARE  
NOT INTERFERED WITH.**

The construction of the different components of the Adani Group's WFDP project has severely impacted the movement of fishermen to their existing fishing commons. While Specific Condition No. (viii) is limited to the movement of the fishermen's vessels, it is important to link it to the fact that ever since the project was proposed, the existence of pagadiya fishing in the area has been severely undermined. As mentioned in the section 'Judgement of the National Environment Appellate Authority', the EIA report of the WFDP project concealed information about the impact on the fishing communities using the fishing harbours in the area.

In this regard the submission by SETU—an organisation working with the Panchayat and local communities in the Kutch region including Mundra—in November 2008 highlighted that the construction of the WFDP project would have an irreplaceable impact on the access of fishing communities to the fishing harbours and would also affect the movement of fishing vessels in the area covered by the project.

The letter dated 11 November 2008 pointed out to the MoEF and its relevant Expert Appraisal Committee that

*Connected with the local mangrove ecosystem are more than 1000 fishing families of the area, who are suffering as a result of the loss of spawning grounds. These are fisherfolk who fish on small boats and on feet. Besides fishing in high seas, about 229 people are involved in direct vending; 73 people are involved in net making*

*& repairing; where as about 1037 people are involved in processing of fish. The port and SEZ have been blocking their traditional fishing routes apart from completely destroying their traditional fishing creeks and harbours. There are 11 fishing harbours in almost 12 villages, which will be affected as a result of the waterfront development plan and construction of 55 berths along the coast.*

*The marine fishing settlements are transient fishing villages, which are rehabilitated by the fishing communities for 8–10 months in a year. The transient villages are on sand dunes or mudflats. After the fishing season the fishing communities return back to their formal villages, which are usually 40 to 50 kilometers away from these transient villages. Usually, all the fishing households from a village migrate to a particular coastal settlement and stay together. This has been a tradition for hundreds of years.*

*Tuna Vandhi is one of the affected villages in the WFDP is a part of the Rampar Panchayat. 15 families of the vaghers who fish on Takra Bandhar will also be affected by the expansion by the KPT (Kandla Port Trust). 'We have written to the KPT that its new jetties will impact the fishing communities but we can't do more than ask for alternative livelihoods.' Say the locals from the area. Now the fishing communities of this village sandwiched between the Kandla Port and the Mundra SEZ are likely to be completely displaced.*

*The mangrove forests are also important for the local communities at different levels. At local or community level, it is used for fodder, fuelwood, timber, protection from strong winds and salinity ingress. With clearing of mangrove forest and setting up of SEZ, The destruction of mangrove cover is already leading to a decline in fish catch, as mangroves serve as an ideal place for fish breeding. As per estimation, just 100 cu m of mangrove area shelters 54,600 prawns. The total loss from the marine economy is estimated to be to the tune of several hundred crores a year if the SEZ and related projects come up in the area.*

Despite this and further contestations before the NEAA (discussed in the section 'Judgement of the National Environment Appellate Authority'), the project was granted approval and went ahead with the construction. The impacts and violation of the aforementioned condition gets clearer when one draws evidence from photographs and also refers

to the article by *Tehelka* that reported the impacts on the fishing communities. Titled 'Vibrant Gujarat? Your coast is not clear, Mr Adani' (26 February 2011), the article said:

*KHAMISA ALI Mohammad squints against the glare of the sea, inspecting his fishing net. For the third time this season, ships sailing down the Kutch coast to India's largest private port at Mundra have damaged his fishing net. His earnings are down by more than Rs. 45,000 per season...*

Khamisa Ali Mohammad is from Vandri in Bhadrashwar taluka. Earlier, in the 1990s, he used to fish at the Mundra bandar and had then moved to the Juna bandar. The Juna bandar was impacted by the combined intake channel of the Adani and the Coastal Gujarat Power Ltd's (CGPL) power plants. This channel as well as the outfall channel of the Adani power plant were approved as part of the WFDP project. The current access to the fishing harbours is through between the boundaries of the Tata Ultra Mega Power Project (UMPP) and the Adani thermal power plant.

The *Tehelka* article also quoted others from the local communities as well as the officials. Anwar Wagher, a fisherman from Navinal village, was quoted saying:

*Since Muharram they [the Adani Group] have been asking us to fill forms for their fishing nets. If creeks and our access to the sea are blocked, what use are the nets.*

Location of different Marine Fishing Villages (Bandars) in Mundra Coast superimposed on the map of the proposed MPSEZL (WFDP)



Figure 2.1.5. Information facilities in MPSEZL

Annual Fish Production in the area affected by the MPSEZL/WFDP

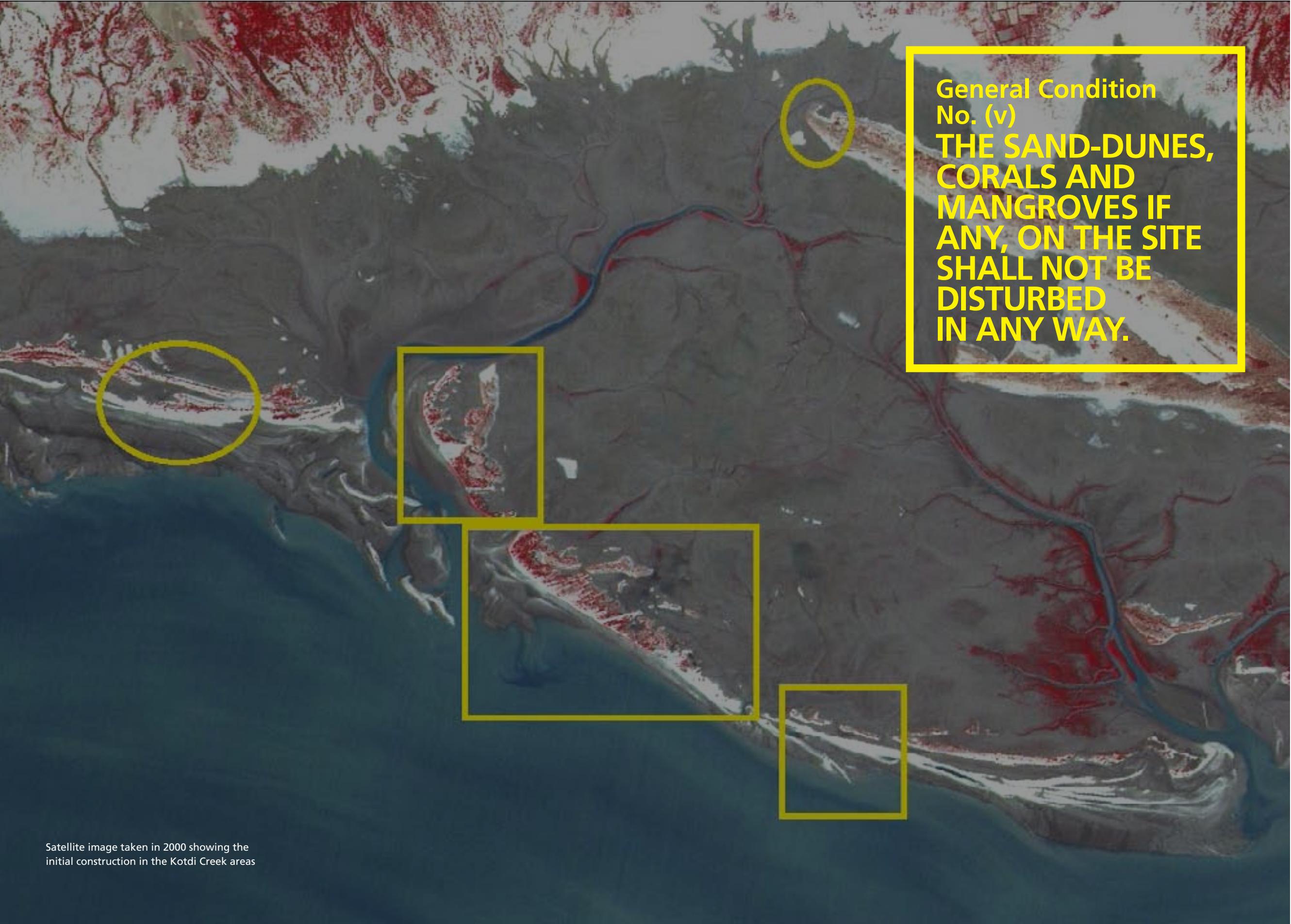
**12027 MT, Rs.60.8 Cr**

Source of data (Annual Fish Catch in MT): Fisheries Department Bhuj.

**Note:**

1. Average annual fish catch for the period 2000-05 has been mentioned.
2. Total Fish catch includes Fish catch by mechanized boat and Pagadia fishing.
3. Value of Fish catch has been calculated on basis of current Market Prices.

Source: MASS-Kutch



General Condition  
No. (v)  
**THE SAND-DUNES,  
CORALS AND  
MANGROVES IF  
ANY, ON THE SITE  
SHALL NOT BE  
DISTURBED  
IN ANY WAY.**

Satellite image taken in 2000 showing the initial construction in the Kotdi Creek areas

**General Condition No. (v)  
THE SAND-DUNES, CORALS  
AND MANGROVES IF ANY,  
ON THE SITE SHALL NOT BE  
DISTURBED IN ANY WAY.**

In the course of several discussions among the affected villages it was revealed that before the construction of the West Port the area did not have any bunds and had, instead, sand dunes and creeks in the area between Kotdi Creek 1 and Kotdi Creek 2. The bunding activity undertaken in the region without permission led to the destruction of several sand dunes and creeks.

A letter from the MoEF (Annexure 4) in 2006 states:

*The area shall be demarcated on ground by erecting 4 feet high RCC pillars with forward and backward bearing and distance from pillar to pillar. (Paragraph 6)*

The Writ Petition (PIL) No. 12 of 2011 by the Kheti Vikas Seva Trust, mentioned earlier in this report, pointed out that the Adani Group's activity was destroying sand dunes which were the identity of the area. The PIL stated that these sand dunes were situated in the area that fell within the jurisdiction of the Forest Department and were actually spread over nearly 3,000 acres of land, out of which—according to the best of the knowledge of the petitioners—nearly 1,800 acres had been handed over to Respondent No. 4 for the development of the SEZ. In its turn, Respondent No. 4, with a view to level the ground, was in the process of destroying these sand dunes, which were in some places 40 to 50 feet high. The petition also pointed out that sites of religious importance for the Hindu and Muslim communities were also located in these sand dunes, namely the temple of Khetar Pal Dada, Kakkarwado Peer, Kadi Peer, Gebi Peer, Bavdi Peer, Dhajawalo Peer and the temple of Bal Bhramani Maa.



Photo of the bund near the Kodki Creek area, 26 January 2009



New construction in the Kodki Creek area, 2011



Bharadi Mata Creek and the adjacent area, 15 November 2000

### Sand dunes impacted in the Bharadi Mata area (2000–2011)

Due to the construction of the WFDP project the sand dunes in the area adjoining the Bharadi Mata hill, which is in the project area, have been completely destroyed. Evidence of this is available in the current satellite image provided here. It is also visible in the satellite imagery from 2000 onwards where one can see that the sand dunes have gradually flattened and been built over. The yellow squares indicate those areas where sand dunes have been destroyed due to the construction of the WFDP project.



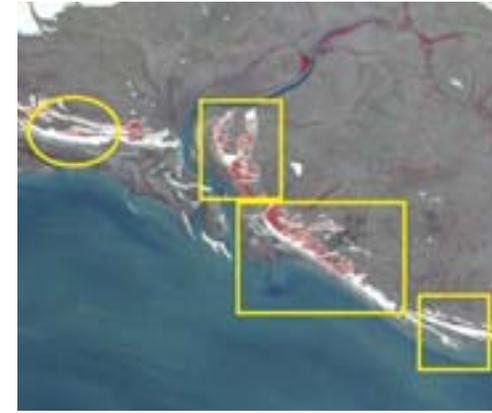


Kotdi Creek area, 15 November 2000

### Sand dunes impacted in the Kotdi Creek area (2000–2011)

Like the sand dunes in the Bharadi Mata area, the sand dunes in the Kotdi Creek area have also been completely destroyed because of the WFDP project. The current satellite image given here provides evidence to this fact. The gradual flattening of the sand dunes and their being built over is also visible in the satellite imagery from 2000 onwards. The yellow squares again indicate the areas where sand dunes have been destroyed by the WFDP project.

2000



2005



2008



2011



## THE ORGANISATIONS INVOLVED

**Mundra Hit Rakshak Manch** (Forum for Protection of Rights in Mundra) is an informal collective of villagers impacted by large-scale land use change due to extensive industrial expansion in the Mundra region. These persons and organisations have been regularly raising concerns about the social and environmental impacts of these projects through memorandums, direct confrontations, street actions as well as courts. The forum was organically formed in June 2012 during discussions related to the findings of the community-led ground-truthing exercise.

**Machimar Adhikar Sangharsh Sangathan** (MASS-Kutch) is a trade union of the fishing community in Kutch district, Gujarat. MASS is also associated with the National Fishworkers' Forum (NFF), a national-level collective of fisherfolk and support organisations.

**Kheti Vikas Seva Trust** is a grassroots group based in the Mundra region which has been highlighting concerns related to the impacts of indiscriminate industrialisation on farming and fishing communities in Kutch district. They are currently involved in several public interest litigations on these issues in the Gujarat High Court.

**Ujjas Mahila Sangathan** is a women's collective working on several advocacy issues with women at the core of their efforts and actions. In recent times they have also looked at issues of women and industrialisation in the Kutch region.

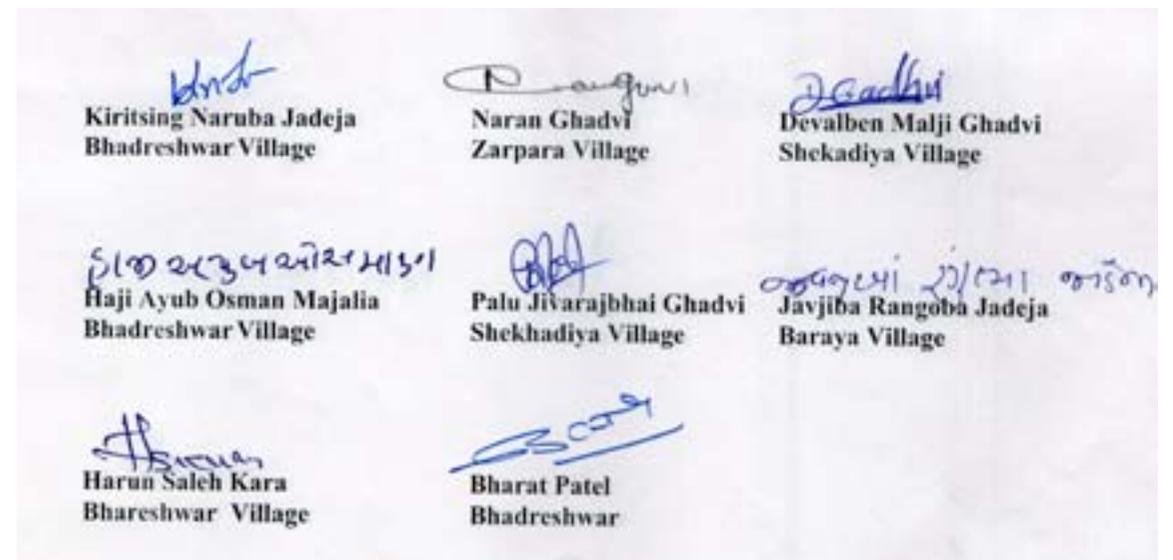
**SETU** in Bhadreshwar is an initiative of the Kutch Navnirman Abhiyan that works especially to strengthen local governance in the rural and least-developed areas of the Kutch district. The 18 SETUs help communities and local governments realise their development needs.

**Namati-CPR Environmental Justice Program** is the India chapter of Namati-Innovations for Legal Empowerment. In partnership with the Centre for Policy Research (CPR), New Delhi, Namati's India work concentrates on environment justice issues.

### *Roles of the Forum*

- 1. It will be responsible for the assessment of development issues in the Mundra area and will attempt to coordinate efforts to solve the problems.*
- 2. It will act as a local-level pressure group.*
- 3. It will try and regularly update information related to upcoming projects in the area.*
- 4. It will be directly responsible to the village community.*
- 5. It will help the community fight for their rights and establish linkages to their ecosystem-based livelihoods.*
- 6. It will take steps towards resolving the land issues in the Mundra area (There are about 5,000 pending applications to get land. On the one hand, the government is not taking any action on these, and on the other it is gifting Shree Sarkar Land to the industries)*
- 7. It will take the assistance of subject area experts to carry out and strengthen their activities.*

*~ Mundra Hit Rakshak Manch. Meeting 17 June 2012*



# ANNEXURES

**No.10-138/2008-IA-III**  
Government of India  
Ministry of Environment and Forests  
(IA-III Division)

Paryavaran Bhawan,  
CGO Complex, Lodhi Road,  
New Delhi-110003.

Dated the 15<sup>th</sup> December, 2010

To,

**M/s Mundra Port and Special Economic Zone Limited,**  
“Adani House”,  
C-105, Anand Niketan,  
New Delhi -110021.

**Sub: Show Cause Notice under Section 5 of Environment (Protection) Act, 1986 for violation of the provisions of the Coastal Regulation Zone Notification, 1991 by M/s Mundra Port & SEZ Limited - regarding.**

\*\*\*\*

Whereas, the Ministry of Environment and Forest (MoEF) had received a representation from Shri Bharat Patel, General Secretary, Machimar Adhikar Sangharsh Sangathan vide e-mail indicating gross violation of the Coastal Regulation Zone area for establishing various facilities of M/s Mundra Port & SEZ Limited, attached at Annexure-I of this notice; and

2. Whereas, the Ministry had directed Dr. A. Senthil Vel, Additional Director, Ministry of Environment and Forests (MoEF) to undertake site visit and submit a report; and

3. Whereas, a site visit was undertaken by Dr. A. Senthil Vel, Additional Director alongwith the officials of the Gujarat Pollution Control Board and Gujarat Ecological Commission on 6<sup>th</sup> and 7<sup>th</sup> December, 2010; and

4. Whereas, a site visit report has been submitted by Dr. A. Senthil Vel, Additional Director, MoEF on 14<sup>th</sup> December, 2010, a copy of which is at Annexure-II of this notice; and

5. Whereas, the site visit report indicates that large scale reclamation using dredged material is being carried out on mangrove area behind the West and North port site; and

6. Whereas, a dredging disposal pipeline has been laid in the intertidal area carrying the dredged material to the landward side of the port to reclaim the land area on the West and North port side and which pipeline has been obstructing the tidal flow due to which the mangroves stretches on the western and northern port side have been seriously affected and at several places the mangroves have dried up; and

7. Whereas, at several places there has been large scale destruction of mangrove areas, especially at the northern port side abutting the dredge disposal pipeline; and

8. Whereas, the creeks systems and the natural flow of seawater is being obstructed by reclamations along the creeks, with destruction of mangroves being observed at several stretches; and

9. Whereas, M/s Mundra Port & SEZ Limited have developed an airport the sign board at the site indicating “airport”, which is located close to the shore and it is noted that the clearance letter from Civil Aviation Department dated 30<sup>th</sup> October, 2008 provided by M/s Mundra Port & SEZ Limited *interalia* refers to development of a Mundra aerodrome while development of a aerodrome/airport requires prior environmental clearance under the Environmental Impact Assessment Notification, 2006; and

10. Whereas, a township named as “Samundra Township”, which has been accorded clearance under the EIA Notification, 2006 by Gujarat SEIAA on 20<sup>th</sup> February, 2010, is observed to be located in the Coastal Regulation Zone area of the creek and no clearance under the Coastal Regulation Zone Notification, 1991 has been obtained therefor; and

11. Whereas, a hospital named as “Sterling” has been constructed in the Coastal Regulation Zone area of the same creek thereby requiring a clearance under the Coastal Regulation Zone Notification, 1991, which clearance has not been obtained; and

12. Whereas, under the provisions of the CRZ Notification, 1991 as amended from time to time *interalia* stipulate the following:-

(a) In Para 6(1), sub-heading CRZ-I; the areas that are ecologically sensitive such as mangroves, areas close to breeding and spawning ground of fish and other marine life, areas of outstanding natural beauty, areas rich in genetic diversity are classified as CRZ-I(i), while, the area between Low Tide Line and High Tide Line are classified as CRZ-I(ii).

(b) Under Para 2(xi) and (xii), construction/developmental activities indicated therein, such as reclamation and destruction of mangroves, construction of path in the mangrove area, developmental activities in the mangrove area are prohibited.

(c) Under Para 2(viii), land reclamation, bunding or disturbing the natural course of seawater by undertaking such developments indicated above is a prohibited activity, further, under this para reclamation for commercial purposes such as shopping and housing complexes, hotels and entertainment activities are not permissible.

(d) Under Para 2, the projects with the investment more than Rs.5crores are to be accorded clearance under the Coastal Regulation Zone Notification, 1991 by the Ministry of Environment and Forests after obtaining necessary recommendations from the State Coastal Zone Management Authority.; and

13. Whereas, Ministry of Environment and Forests had accorded clearance to the Coastal Zone Management Plan of Gujarat with conditions and modifications on 27<sup>th</sup> September, 1996.

14. Whereas, the Ministry of Environment and Forests had issued environmental clearance vide letter No.10-47/2008-IA-III, dated 12<sup>th</sup> January, 2009 for “Coastal Regulation Zone clearance for proposed waterfront development project at Mundra district, Kachchh, Gujarat of M/s Mundra Port & SEZ Limited”; and

15. Whereas, the Specific Condition at item No.i) of the above clearance letter stipulated that, “No existing mangroves shall be destroyed during construction/operation of project; and

16. Whereas, the Specific Condition at item No.ii) of the above clearance letter stipulated that, “There shall be no filling up of the creek and reclamation of the creek”; and

17. Whereas, the General Condition at item No.(i) provides that, “Construction of the proposed structures, if any in the Coastal Regulation Zone area shall be undertaken meticulously conforming to the existing Central/local rules and regulations including the Coastal Regulation Zone Notification, 1991 & its amendments. All the construction designs/drawings relating to the proposed construction activities must have approvals of the concerned State Government Departments/Agencies”; and

18. Whereas, the General Condition at item No.(v) stipulates, “Sand dunes, corals and mangroves if any, on the site shall not be disturbed in anyway”;

19. Whereas, in view of the above foregoing paras, the Ministry is of the opinion that M/s Mundra Port & SEZ Limited have violated the Coastal Regulation Zone Notification, 1991, approved Coastal Zone Management Plan of Gujarat dated 27<sup>th</sup> September, 1996 and have not complied to the conditions listed in the environmental clearance letter issued by the Ministry vide letter No.10-47/2008-IA-III dated 12<sup>th</sup> January, 2009;

20. Now, therefore, under Section 5 of Environment (Protection) Act, 1986, you are hereby directed to show cause within fifteen days of the issue of this Notice as to why:-

- i. (a) the clearance accorded vide letter No.10-47/2008-IA-III dated 12<sup>th</sup> January, 2009 and an Addendum vide letter No.10-47/2008-IA-III, dated 19<sup>th</sup> January, 2009 for the West port and North port should not be cancelled;
- (b) the environmental clearance accorded to the Township Project by Gujarat SEIAA vide letter dated 20<sup>th</sup> February, 2010 should not be cancelled;
- (c) the pipeline carrying the dredged material for reclamation should not be dismantled and removed and the channels opened up for the in flow of the tidal water flow;
- (d) all reclamations that have been carried out in the mangrove area should not be dismantled and removed.
- (e) all channel/creek systems which have been reclaimed should not be opened up in order to provide for the natural flow of seawater.
- (f) a mangrove afforestation of additional 1000ha should not be undertaken in and around the project site in consultation with the organizations like Gujarat Ecological Commission and with provision necessary funds for this purpose by M/s Mundra Port & SEZ Limited.

21. It may be noted that if no response is received within fifteen days or receipt of these directions, appropriate orders as deemed fit will be passed under the circumstances of the case without any further notice to you. In case personal hearing is desired, it may be so indicated in your response.

22. The following directions are issued for compliance by the Gujarat Coastal Zone Management Authority:-

1. The Gujarat Coastal Zone Management Authority shall enquire into and submit a report to MoEF within four weeks regarding the construction of the Samudra

Township and the “Sterling” hospital in the Coastal Regulation Zone area without any clearance being obtained under the Coastal Regulation Zone Notification, 1991.

2. The Gujarat Coastal Zone Management Authority shall within four weeks have the revised Coastal Regulation Zone area prepared for the site and the layout plan with permissible activities will be superimposed, thereupon, whereafter those activities which have been undertaken or the structures which have been constructed or are in the process of being constructed in violation of the Coastal Regulation Zone notification, 1991 shall be removed/dismantled forthwith, following the due process.

23. These directions issue with the approval of the Competent Authority.

**Encl's:** As above

**Sd/-**  
**(Dr. A. Senthil Vel)**  
**Additional Director**

**Copy to:-**

1. Member Secretary, Gujarat Coastal Zone Management Authority, Forests & Environment Department, Government of Gujarat, Block No. 14/8, Sachivalaya, Gandhi Nagar – 382010.
2. Shri Bharat Bhushan, Director, IA Division, Ministry of Environment and Forests, New Delhi.

**Sd/-**  
**(Dr. A. Senthil Vel)**  
**Additional Director**



BY SPEED POST

Appeal No. 7/2009 – NEAA

July 22, 2009

To

- |   |                                                                                                                                                                                           |   |                                                                                                                                                                                         |
|---|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1 | Shri Sanjay Upadhyay,<br>Shri Shripal Chohan,<br>Advocates for Appellants<br>274, Sector 15A, Noida,<br>Uttar Pradesh                                                                     | 4 | The Chairman,<br>Gujarat State Pollution Control Board<br>Parvatan Bhawan,<br>Sector 10-A, Gandhinagar,<br>Gujarat                                                                      |
| 2 | Shri Thirunavukarasu,<br>Deputy Director,<br>Representative for Respondents 1-2<br>Ministry of Environment & Forests,<br>Parvatan Bhawan 4-G O Complex,<br>Lodi Road, New Delhi - 110 003 | 5 | Gujarat Maritime Board,<br>Through its Chairman<br>Sector 10A, Opposite Air Force Station,<br>Gandhi Nagar,<br>Gujarat                                                                  |
| 3 | State of Gujarat,<br>Through Principal Secretary,<br>Forest and Environment Department,<br>Raj Bhavan, Sachinwala, Gandhinagar,<br>Gujarat                                                | 6 | Shri Karan Gulati,<br>Partner, Economic Laws Practice,<br>Advocate for Respondent 1-6<br>405-406, 4 <sup>th</sup> Floor,<br>World Trade Centre, Barakhamba Lane,<br>New Delhi - 110 001 |

Subj: Appeal No.7/2009 (Manjula Amud Hiyas Ishak and Others Vs. Union of India and Others)

As directed, the order dated 20<sup>th</sup> July, 2009 of the National Environment Appellate Authority in the above appeal is enclosed. Please acknowledge the receipt of the same.

Court Master  
NEAA

BEFORE THE NATIONAL ENVIRONMENT APPELLATE AUTHORITY  
NEW DELHI

DATED THE 20<sup>th</sup> JULY, 2009

APPEAL NO. 7 OF 2009

HON'BLE MEMBER DR. L.V. MANIVANNAN  
HON'BLE MEMBER SHRI J.C. KALA

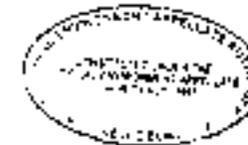
BETWEEN:

1. Manjula Amud Hiyas Ishak  
S/o. Sh. Manjula Hiyas Ishak, R/o. Luni Village,  
Mundra Taluk, Kutch District, Gujarat
2. Laxmi Anand Ben Haru  
W/o. Sh. Gadh Haru Beshik, R/o. Vandi Village,  
Post Luni, Amre Taluk, Kutch District, Gujarat
3. Manjula Anand Ben Ibrahim  
W/o. Sh. Manjula Ibrahim Saleemabad  
R/o. Near Wagher Masjid, Bhadeswar Village, Mundra Taluk,  
Kutch District, Gujarat.
4. Jan Jena Ben Ranu  
W/o. Sh. Jan Ramu, Asha, R/o. Shekadi Village,  
Mundra Taluk, Kutch District, Gujarat
5. Champiya Tale Osman 1-54  
S/o. Sh. Chantanya Osman Ishak, R/o. Sravadi Village,  
Mundra Taluk, Kutch District, Gujarat
6. Mansi Asher (U/S) Shri Kapil Asher  
C/o. Nidhi Agarwal, 62, Vishvakarma Apartments,  
Vasundhara Enclave, Delhi

APPELLANTS

AND:

1. Union of India,  
Through its Secretary, Ministry of Environment & Forests,  
Government of India, Parvatan Bhawan, U.G.O Complex,  
Lodi Road, New Delhi - 110 003.
2. Additional Director,  
IA-III Division, Ministry of Environment & Forests,  
Parvatan Bhawan 4-G O Complex, Lodi Road,  
New Delhi - 110 003



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3. State of Gujarat,  
Through Principal Secretary,  
Forest and Environment Department,  
R<sup>th</sup> Floor, Sakinaka, Gandhinagar, Gujarat
4. Gujarat State Pollution Control Board  
Through its Chairman, Paryavaran Bhawan,  
Sector 10-A, Gandhinagar, Gujarat
5. Gujarat Maritime Board, Through its Chairman,  
Sector 20-A Opposite Air Force Station,  
Gandhi Nagar, Gujarat
6. M/s. Mundra Port and Special Economic Zone Limited,  
Through its CEO, Adani House, C-108,  
Anand Niketan, New Delhi

**RESPONDENTS**

|                                                         |                                                                                                                                                                            |
|---------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Counsel for Appellant (A)</b>                        | Shri Sanjay Upadhyay, Advocate<br>Shri Shahzid Siddiqui, Advocate<br>for Fivino Legal Defence Firm                                                                         |
| <b>Counsel for Respondent(s)</b>                        |                                                                                                                                                                            |
| <b>Respondent No. 1 (Mol. I)</b>                        | Shri E. Thiruvakkarasu,<br>Dy. Director, Mol. I                                                                                                                            |
| <b>Respondent No. 2<br/>(Mol. Director, Mol. I)</b>     | Not Present                                                                                                                                                                |
| <b>Respondent No. 3<br/>(State of Gujarat, Mol. I)</b>  | Not Present                                                                                                                                                                |
| <b>Respondent-4 (GMB)</b>                               | Not Present                                                                                                                                                                |
| <b>Respondent-5<br/>(Gujarat Maritime Board)</b>        | Not Present                                                                                                                                                                |
| <b>Respondent-6<br/>(M/s. Mundra Port and SEZ Ltd.)</b> | Dr. Adhishank Man Singhvi, Sr. Advocate<br>Shri Faruk Gulati, Advocate<br>Shri Ravi D. Shah, Advocate<br>Shri Alok Pathak, Mundra Port<br>Shri B.S. Sodhi, GM, Mundra Port |

**ORDER**

This is an appeal filed under section 11(1) of the National Environment Appeals Authority Act, 1997 against Order No. 16-47/2005-A-III dated 12<sup>th</sup> January, 2009 and the addendum dated 19/01/2009 in Respondent: (Ministry of Environment and Forests) conveying "Environmental Clearance" under the provisions of Coastal Regulation Zone

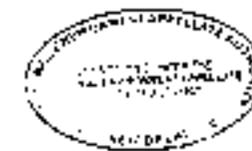
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Notification, 1991 and Environment Impact Assessment Notification, 2006 for waterfront development project at Mundra District, Kutch, Gujarat of M/s. Mundra Port and SEZ Limited. The Project proposes to develop waterfront facilities which include North Port, South Port, West Port and East Port, One shipyard, Jetty Channel, Container Terminals, LNG Terminals, Desalination Plants etc. at Mundra Port at Mundra District Kutch, Gujarat.

2. The National Environment Appellate Authority (NEAA) registered the Appeal on 25/07/2009 and notices were issued to the concerned parties by listing case on 18/03/2009 for hearing on admission. On 18/03/2009, the Authority admitted the Appeal. The Appeal was taken up for final hearing on 30/03/2009 and reserved for orders. One of the Members, NEAA, who heard the matter departed office on 31/05/2009 and the judgment could not be delivered before that date. Therefore, the matter was re-heard finally on 08/07/2009.

3.1 **Grounds of Appeal.** The Appellants have challenged the Environmental Clearance (EC) granted to the Project on the following grounds:

- (i) That the Coastal Regulation Zone (CRZ) Clearance and Environment Impact Assessment (EIA) Clearance are two different statutory processes under two different statutory notifications and they need to be treated as such. As per the EIA Notification 2006, there are specific projects or specific activities that require prior Environmental Clearance. Therefore, the clubbing of various seemingly unrelated activities into one to expedite clearance and circumvent the requirement of "Public hearing" required for all the sub-components is evidently designed to abuse the legal process as per the EIA Notification and hence the Environmental Clearance to WLDP is illegal and ultra vires the EIA Notification, 2006.
- (ii) That no separate application has been put forward by the Project Proponent for CRZ clearance and as the said matter involves CRZ Areas (including mangrove areas), it ought to have been examined by the National Coastal Zone Management Authority which is the highest body under the Ministry relating to the coastal areas. In the present case, the competent authority has combined both the legal processes under different notifications into one and has committed irregularity by not following the due process.



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(iii) The WHP itself seems to be an afterthought where several activities have been clubbed and is falsely being separated from the SZZ to avoid the ongoing cases in the High Court of Gujarat as well as the Hon'ble Supreme Court.

(iv) Even though MPOB has rejected 'Consent to Establish' for the project on 15<sup>th</sup> September, 2008 for want of adequate details, Respondent-6 has been carrying out the activities. This calls for urgent stay of implementation of EC.

(v) EC granted by Respondent-1 is based on that EIA Report which contains several discrepancies such as status of land, significance of mangroves, failure to describe how the baseline of impact zone was surveyed, impacts of dredging, failure to touch upon issues of Rehabilitation and Resettlement etc. and

(vi) Public Hearing was defective in the sense that the genuine grievances of the affected families were not incorporated in EIA Report.

3.7 **Prayer:** Based on the above grounds, the Appellants have requested this Authority to

(i) Quash the EC granted by the Respondent-2 vide the letter dated 22.01.2009 as well as the affidavit dated 19.01.2009.

(ii) Stay any ongoing construction to WHP and further direct the Respondent-3 and Respondent-4 to ensure that Respondent-6 does not carry out any further activity till pendency of this Appeal.

(iii) Direct the Respondent-3 to ensure that any proposed activities on the WHP does not hinder safe access to the sea for the fishermen through their traditional access including their use of bundies.

(iv) Direct the Respondent-3, 4 and 6 to initiate legal action against Respondent-6 for destruction of mangroves and carrying out illegal construction activities prior to statutory clearances; and

(v) pass any such order as the Hon'ble Authority may deem fit and proper in the facts and circumstances of the case.

4. The following issues arise out of the above grounds of Appeal filed through various documents as well as the arguments put forward by the counsels for the parties concerned:

- (i) Whether Rapid EIA Report prepared by Respondent-6 is defective?
- (ii) Whether the Public Hearing conducted on 11.11.2008 is defective?

- (iii) Whether livelihood security of vulnerable fisherman has been adequately taken care of? and
- (iv) Whether it was legal on the part of Respondent-3 to issue EC by clubbing different activities into a new category "Waterfront Development"?

The above issues are taken up for consideration in succeeding paragraphs.

**5. The first issue taken up for consideration is whether Rapid EIA Report prepared by Respondent-6 is defective.**

5.1 The Counsels for the Appellants have alleged that Rapid EIA Report prepared by Respondent-6 is defective in many respects indicated below:

(i) The EIA Report has not taken into account the ecological importance of the project area in particular and the Gulf of Kutch as a whole. Gulf of Kutch is one of the few coastal zones in the world having rich biodiversity. It comprises mangroves, corals, mudflats, seaweeds, Commercial Fishes and several rare marine species. In 1982, parts of the Gulf area were declared as a Sanctuary and Marine National Park. Recently, scientists have discovered patches of live corals near Mundra coast. Thus, the Mundra coast is an ecologically sensitive zone as it supports vast areas of Mangroves, Corals and associated ecosystems. Destruction of any of the above components of the fragile ecology will disrupt the entire ecosystem. The mangroves help the ecosystem by contributing to the oxygen budget and soil conservation. Mangroves and Corals are the nursing grounds for a variety of economically important fishes, exotic coral fishes and innumerable flora and fauna. The Gulf also abounds in more than 200 species of algae. Mangroves are critical to marine coastal conservation, breeding and nursery grounds for fish, crustaceans and other sea life, as well as vital habitat for birds and other wildlife. Although its ecological significance have been brought to the notice of the Respondent-3 during Public Hearing, such important factors have been ignored while granting the EC.

The ecological descriptions of the Rapid EIA Report are marked by inadequacy of scientific evidence necessitating an independent enquiry by a team consisting of marine biologists and other marine experts, and the ecological impact of the project has to be ascertained. The Impact Assessment Report



ignores inconsistencies of both the marine and terrestrial EIA Reports. A comprehensive EIA, instead of Rapid EIA Report, should have been insisted upon;

- (iv) Entire role of mangrove ecosystem and recorded area of 14.72 sq.kms consisting of 4.42 sq.kms of dense mangroves and 9.30 sq.kms of sparse mangroves have been underplayed in the EIA report;
- (v) The lack of contemporary data and excessive reliance on old and obsolete data make the entire exercise irrelevant for the purposes of granting EC by Respondent 1.
- (vi) The impact of dredging has been treated very lightly and in fact the ongoing illegal dredging based only on in-principle approvals has not been considered while granting the EC. Thus, for example, where would be the location of dumping sites, what would be the impact of dredging on a shallow bay such as Mundra, what would be the short term and long term mitigation measures, have been completely and conveniently ignored by Respondent-1 while granting the EC.
- (vii) There are several discrepancies in the draft EIA. The report inaccurately describes the project area as a non-agricultural land, waste land, weed infested or barren land, the development of which would not result in significant environmental impacts. This description is in direct contrast with satellite maps on marine ecology of the area.
- (viii) The Report does not describe how the Respondent 1 has surveyed environmental baseline of the project zone.
- (ix) It contains inadequate information about water balance diagram which is neither satisfactory nor scientific, and
- (x) The socio-economic data and the sample size are totally inadequate and misleading, based on which the EC has been granted. It is completely false to state that all the 52 villages have been considered and assessed for the survey of

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socio-economic status. The Report does not deal adequately with rehabilitation or resettlement issues of the affected people. The lack of adequate data and misleading information themselves should be the adequate grounds to reject the EC by this Hon'ble Authority.

5.2 Respondent-1 has repudiated the above allegations levelled by the Appellants and listed the following specific arguments in support of his contention:

- (i) Development of WHDP is in the northern part of the Gulf of Kutch, which is devoid of rich biodiversity. The Government of India has declared only some parts of the southern part of the Gulf of Kutch as Sanctuary and Marine National park being a rich biodiversity area. As regards the area where WHDP is being undertaken by the Company, the National Institute of Oceanography (NIO) has verified that there are no corals in the study area. NIO has been monitoring this area regularly since 1996 and all the reports of NIO for the last more than 30 years prove beyond doubt that there is no ecological damage to the area where WHDP is being undertaken by the Company. There are no hamlets or transient villages affected by WHDP.
- (ii) EIA Report has not underplayed the role of mangrove eco-system as well as the extent. There has been no loss of mangroves caused by the Project. The following specific steps taken by them would support this point:
  - (a) The Project Proponent has voluntarily undertaken a phased mangrove plantation scheme covering about 1200 ha in Gujarat coast. This undertaking has been actual open much prior to the directions given by Gujarat Coastal Zone Management (GCZM).
  - (b) GCZM had also acknowledged vigorous implementation of mangroves plantation indicated above and an area of 680 ha has already been covered.
  - (c) They have not only initiated efforts to increase the extent of mangrove plantation but also undertaken plantation of other varieties on experimental basis to enrich biodiversity of about 5 ha of the region.
  - (d) In addition, the Project Proponent is committed to conserve and maintain the existing mangroves in an extent of 1254 ha.



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It would therefore be very clear that the issue of mangroves has been sufficiently addressed in the EIA Report.

- (iv) The Marine EIA Report was prepared by NIO in July 2008 and Rapid EIA Report for terrestrial area, by TELUS Consultancy Service Pvt. Ltd. Both of these organisations are renowned in the field of preparation of EIA. The data collected and analysed by them are contemporaneous and based on actual site field visits. The claims of the Appellant is therefore contrary to fact.
- (v) As regards the issue of dredging and its impact, Chapter 8 of the EIA report prepared by NIO deals with all issues of dredging including the impact of dredging, how the marine sediment would be dredged, physical and biological characteristics of marine sediments and the place for dumping the dredged sediment. NIO has ruled out the presence of any coral reefs in the area covered by the Project and the reference to the study of B.Deshmukh is therefore irrelevant.
- (vi) The Appellants have misinterpreted and misconstrued portions of EIA out of context. Denying the claim of Appellants, Responders 5 has claimed that the EIA Report has correctly described the area that the land is not forest/agriculture land and that there is no growth except for degraded vegetation. There is no other growth in shallow waters or in tidal mud flats, except small patches of sparse mangrove. Para 2.14 of Marine EIA Report prepared by NIO, Goa indicates measures taken by them for interalia afforestation for plantation of mangroves.
- (vii) The method of survey of environmental baseline of the impact zone has been elaborately set out in the Comprehensive Marine EIA Report prepared by the NIO, Mumbai. This is in tune with the EIA Manual, 2001 issued by MoEF. In furtherance to the direction prescribed EIA Manual, each stage of the survey and data collection has been explained in the Marine EIA Report under the various heads. Similarly, the Rapid EIA (Terrestrial) prepared by Telus Consultancy Services lays out the method of survey of Environmental baseline by systematically analysing and determining Impact Boundary, Air Environment, Micro Meteorological Status, Water Environment, Noise Environment, Land Environment, Soil Classification, Biological Environment and Socio-Economic Environment. Thus, a comprehensive method of survey of the environment baseline has been indicated in EIA Reports.

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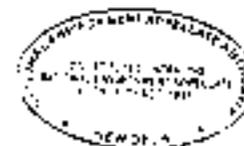
(viii) The allegation of the Appellants on water balance diagram is vague and unspecific. The Water Balance Diagram provided in Figure 2.10 of the EIA Report prepared by Telus Consultancy Services explain the processes of intake of sea water for industrial utilization and the effluent discharge (Percent) from Sea Water Intake Channel. 17946 Million litres per day quantity of Sea Water will be drawn and utilized as shown below.

- (a) Coastal Gigant Power Ltd. will take 15120 MLD Sea Water and discharge it after use through a separate effluent channel discharge system.
- (b) Acora Power Ltd will take 2076 MLD Sea Water and after use discharge it through outfall channel.
- (c) Desalination Plant will take 750 MLD Sea Water and after processing discharge 450 MLD and RO reject 45 MLD in the outfall channel. Desalination Plant will provide treated water to API, 50 MLD, Port clusters 1.15 MLD & Provisional demands of other potential users 249.5 MLD.

The Marine Outfall Channel will carry Cooling Tower reject of 18684 MLD from API, 450 MLD of waste water from the Desalination Plant and RO reject 45 MLD and

(ix) The EIA Reports deals with all the 52 villages for socio-economic survey as may be seen from pages 2.1 to pages 3.59 of the EIA Report prepared by Telus Consultancy (P) Ltd.

(x) Both the sides of the appeal have put forward their respective arguments in favour of their point of view on EIA Reports. A perusal of the EIA Report prepared by NIO takes us to the zone of truth. Chapter 3 of the said Report deals with various aspects of ecological significance of the Kachhli region including Land Environment, Marine Environment, Water quality including sediment quality, flora and fauna etc. The Report also gives a detailed account of the conditions of the project site. Para 11.10 deals with Management of Marine Environment and Para 11.9 deals with the current status of mangroves, and Mitigation measures to conserve the existing mangroves as well as further Mangrove Afforestation. Similarly, the various aspects of dredging involved in the project such as quality, quantity, disposal alternatives, physical, chemical and biological aspects have been discussed in para 8 of the Report. Chapter 3 of the Report prepared by Telus Consultancy (P) Ltd., Mumbai gives a detailed survey of socio-economic condition of 52 villages of the project area. While the Report of NIO concentrates on marine environment and its related components, the Report prepared by M/s. Telus Consultancy deals with aspects of the terrestrial environment of the project area. The alleged inconsistency between these two reports is not evident. It is thus



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seen that EIA reports prepared by both NCD and Teles Consultancy (P) Ltd. are quite comprehensive enough to make critical assessment of the impact of the project on the project area.

5.4 Coastal plain and seas include the most taxonomically rich and productive ecosystems on the earth. Although together occupying only 4% of the total surface, they account for 20-25% of global plant growth. Mangrove forests are over 20 times more productive than the average open ocean. Estuaries, salt marshes and coral reefs are 5-15 times higher and shelf seas and upwelling zones 2-3 times higher. These enhanced rates of primary production result in an abundance of other life forms, including many species of commercial importance. Coastal shelf seas yield 90% of the total marine catch of fish, crustaceans and edible molluscs. Further, the coastal zone is also a dynamic area with many cyclic and random processes owing to a variety of resources and habitats. Nearly three quarters of the world population lives on the coast and is found to be true in India also. India has a coastline of 7,500 km with many sprawling and still growing coastal sites. The coastal region is thus a place of hectic human activity, followed by intense urbanization, resulting in human interference of rapid development.

5.5 The Expert Appraisal Committee (Infrastructure Development & Miscellaneous Projects) has critically examined the project in their meetings held on 23-25 April, 2008, 25-26 November, 2008 and 19-20 December, 2008. There is adequate material in the minutes of their meetings to testify their critical examination of the impact of the Project on the fragile ecology of the area including the conservation of existing mangroves and Afforestation of mangroves in additional areas. In fact, the proposed expansion of the existing channel of the Northern Port has been stopped on this count. The contention of the Appellants that ecological significance of the area have been ignored by Respondent 1 (granting EC) does not have any force. The First Issue is **therefore answered in negative.**

6. **The SECOND ISSUE, is whether the Public Hearing conducted on 11.11.2008 is defective.**

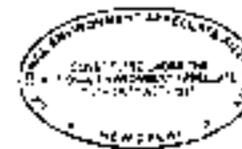
6.1 The Appellants have claimed that the Public Hearing was based on Rapid EIA Reports of both marine and terrestrial components, and it should have taken into account the genuine grievances of the affected communities. The genuine grievances relate to the ground reality on commercial fishing, misleading and false descriptions of the area

constituting WHDP, adverse impact of diversion of river Kevdi into river Bhakha resulting in flooding of Mundra town, ground water pollution etc. Their grievances should have been incorporated in revised EMP but it was not done. The Appellants have produced a true copy of a Google image, a map depicting the various 'Bunkars' used by the fishing community and which will be adversely affected by the project, copies of satellite images including the legend of Kevdi creek, as well as associated construction including West Port.

6.2 The above contentions of the Appellants have been disputed by Respondent 1 and Respondent 6.

- i) Respondent 1 has clarified that
- ii) The EAC (Infrastructure Development and Miscellaneous Projects) considered the project on 23<sup>rd</sup> and 24<sup>th</sup> April, 2008 and the Committee prescribed additional Terms of Reference for preparing draft EIA report for the project. These terms including various technical data on fisheries in the area and the impact of the project on fishing and details of water requirement, recycling and water conservation measures. The Committee also suggested conduct of Public Hearing as the Project is an "A" Category one. Respondent 1 has further suggested in their letter No.11947/2008-IA-III of MoEF dated 01.05.2008 that the objections/suggestions made in Public Hearing along with the response of Project Proponent should be incorporated in the final EIA/EMP and submitted to the Ministry for consideration and
- iii) The Environmental Clearance Order has imposed necessary condition essential for preservation of mangroves (condition no. 3), plantation of mangroves in 200 ha (condition no. 4), prohibition of reclamation of creeks (condition No. 6) and non-interference with movement of fish up vessels of the local community (condition no. 5). Relocation of Fishermen community strictly in accordance with the norms of the State Government (condition no. 8). Development of green belt along the rivers of the West premises (condition no. etc). Thus the views expressed by the participants of Public Hearing have been addressed while deciding the grant of Environmental Clearance for the project.

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Respondent 6. Further, it is pertinent to note, that Respondent 1 has also imposed necessary conditions as indicated in clause (ii) of the para 7.2.1 above, keeping in view of the vital interests of the fishermen of the project area. These conditions, when strictly and completely implemented by all the concerned parties would, no doubt, protect the interests of these local fisher folk. In as much as the issues raised by the participants of Public Hearing and others have already been taken care of by Respondent 6 in the EIA + EMP reports, the question of re-consideration again therein does not arise. The allegation of the Appellants does not have any force. The Second Issue is accordingly answered in negative.

7. The THIRD ISSUE taken up for consideration is whether livelihood security of vulnerable fisherman has been adequately taken care of.

7.1 The Appellants have contended that the livelihood security of the vulnerable fisherman has not been taken into account while granting the Environmental Clearance.

(i) In the final written submission, the counsels for the Appellants have submitted that the fishing in the area comprises Boat fishing and traditional fishing known as 'Pagadiya Fishing'. The modus operandi of these fishermen consists of using the creeks in the area for navigation and also for fishing. There were 873 fishermen households in 2006 (Boat owners - 508 and Pagadiya Families - 371). These numbers are likely to increase to 960 in 2007 and 1056 in 2008. Both men and women wade through water with different types of nets to catch fish in the intertidal zone, which is known for rich fishery resources. These fishermen reside in temporary shelters on the 'Bandars' for a period of 2-10 months in a year, as their villages are located at distant places. In order to carry out these activities, access to sea through creeks and preservation of intertidal zone and the 'Bandars' are essential. The proposed WEP will adversely affect about 1000 fishermen families. They have also filed a detailed statement indicating how each component of WEP Project would affect the specific villages, banks and creeks.

(ii) The so called Fisheries development proposal for the fishermen in cooperation with the Fisheries Department is in the realm of conjecture. Respondent 1 should have first evaluated the said proposal before granting EC.

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(iii) They have also demanded that the following specific needs have to be incorporated in EMP:

- (a) Free and unrestricted access to the inter tidal zones and the Bandars for traditional fish workers;
- (b) At least a rectangular area which 5.7 km wide and 4 km long (measured from shore to sea) of inter tidal zone in front of each Bandar should be declared as fishing zone;
- (c) Pagadiya fishing should not be hindered in any manner;
- (d) Unrestricted access from main road to the Bandars;
- (e) Creeks in the Mundra coast shall not be filled or blocked which are used to navigate to fishing grounds;
- (f) Sea Routes to the Fishing grounds should be unrestricted and shall not be obstructed by anchored ships or otherwise;
- (g) Hazardous wastes and oil shall not be dumped near the coast;
- (h) Highly saline discharge from the proposed desalination plants should not be disposed in the sea near the shore as it will adversely impact fishing. Further, as desalination plants leads to ground water contamination, adequate measures should be a precondition to such clearance;
- (i) No desalination plant or shipyard should be allowed near the fishing enclaves and;
- (j) Mangroves should be preserved at all costs as they are integral part not only of the livelihood of the appellant fisher folks but also of the environmental security of the coast.

(iv) The proposed Rehabilitation and Resettlement must not only compensate in terms of physical relocation but also compensate for sustainable livelihood for the future.

7.2 Respondent 6 has vehemently opposed the above contentions of the Appellants and asserted that the interests of the fisher folk have not been or will not be compromised with, as the allegations are completely contrary to the fact. Claiming themselves to be responsible



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corporate citizen fully aware of the social responsibilities, Project Proponent has submitted that:-

- (i) There is no displacement of fisher folk and therefore there are no issues relating to rehabilitation. As the Appellants are located far away from the area of development, they are not affected by the project at all. Further, many of the representatives of the fishermen who participated in the Public Hearing have welcomed the project, as it will lead to overall development of region and particularly benefit fisher folk both economically and socially.
- (ii) Unrestricted movement in the area is a security risk and issues of National Security demand that the movement in this area be monitored and regulated. Apprehension of breach of security have been noted by the Hon. Ex. Gujarat High Court in its order dated 07.05.2007 while rejecting a petition filed by the Fisher Folk, Umerkoti seeking unrestricted access to sea. In order to keep a balance between security concerns of the State and interests of the fishermen, the Project Proponent is in the process of developing a concrete plan to ensure that proper facilities are created for fishing communities which will lead to their better and organised access to sea and also meet the security needs of the State. These efforts are being undertaken in coordination with various governmental authorities. Some amount of regulation to the hitherto unrestricted access to the coastal area has become inevitable on account of increased security threat perception.
- (iii) There will be no Stacking of creeks during the course of development and access to open sea will remain available to fishermen.
- (iv) Respondent-6 has already provided substantial financial support to the local community and he will carry out appropriate programme in consultation with the relevant statutory authorities for addressing all the issues relating to fishermen.
- (v) In this regard conditions 8 and 9 of Special Conditions of Part-A of the impugned order are also relevant; and
- (vi) The issues relating to filling up of creeks, alleged destruction of mangroves, livelihood of fishermen etc., have been raised by the Appellants on numerous

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occasions and they have been decided by the High Courts and Supreme Court in the following cases:-

- (a) SCA No. 8249/2003 in the Gujarat High Court
- (b) Civil Suit No. 78/1998 by Civil Court, Bhuj
- (c) SCA No. 249/2004 by High Court of Gujarat
- (d) CA No. 8642/2008 or SCA No. 97 of 2008 by Gujarat High Court
- (e) CA No. 13684/2008 by Orissa High Court

7.3 Respondent-1 has submitted that some of the specific conditions incorporated in Environmental Clearance have a direct bearing on the local community. Such conditions include prohibition of destruction of mangroves during the construction of the Project, ban on filling up of creeks, saving of mangroves in 200 ha of the coastal area, non interference with the movement of fishermen vessels during construction and post construction of the proposed jetty, disposal of sewage generated in port area in accordance with standards prescribed by Gujarat State Pollution Control Board, creation of green belt etc. It would be very clear that the issues concerning the fishermen and their livelihood have been adequately addressed and then only EC has been granted to the Project.

7.4 The Counsel of the Appellants have highlighted the apprehensions of the Appellants perhaps to the best of their ability. As is obvious, the fishermen have strong feelings about their right to fishing operations, and the area of the sea where they operate, and they would not brook any interference with their rights from any source. In fact, they strongly feel that their seafree is their property handed over to them from generation to generation. In fact they assert that even the State has no jurisdiction right to interfere with their right over the sea front areas.

7.5 But the development process undertaken by our country over the past 6 decades has had its own impact on various sections of the Indian Society including the fishermen. The primitive fishing methods, fishing gear are gradually disappearing, yielding place to modern fishing methods and gears, though even now both these systems co-exist in many parts of the Indian coast. In addition to the internal threat from within the profession, the fishermen have to face the external threats posed by developmental projects. The apprehensions raised by the Appellants are the true manifestation of these dilemmas in development.

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7.6 Any development process would be meaningful only if it takes care of the genuine needs of local population. Notwithstanding the assertion of the Project Proponent that there is no displacement of any fishermen population, it should be ensured that the traditional fishing profession is not adversely affected, throwing the fishermen out of their source of livelihood. Respondent-1 has emphatically stipulated many conditions so as to ensure this objective as indicated in para 7.3 above. Respondent-6 has also elaborated a series of steps in this regard as explained in 7.5 above. The need and justification for this massive Waterfront Development Project coupled with increased security threat perception on the western coast of India would call for certain adjustments in the sphere of traditional methods of the fishermen of this area. This changed reality has to be appreciated by the fishermen community of the project area.

7.7 But this process should undoubtedly require a judicious balance between the livelihood interest of the local fishermen and the needs of the WFDP. The most feasible approach would be to formulate a concrete plan to ensure creation of proper facilities for fishing communities which will lead to their better and organised access to the sea, satisfying the developmental needs as well as security considerations of the State. Respondent-6 have clearly committed themselves on this aspect in para 7.2(a) above. Thus, with a set of rigorous regulations imposed by Respondent-1 protecting the interests of the fishing community and positive readiness of Project Proponent to formulate a concrete programme in co-ordination of the concerned agencies, the apprehension of the fishing community should drastically reduce, if not disappear, over the project period extending over next 5 years.

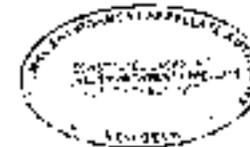
7.8 It is thus clear that the livelihood security of the fishermen of the Project area has been adequately taken care of by the Project Proponent. Accordingly, this issue is answered in affirmative.

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8. The FOURTH AND LAST ISSUE is whether it was legal on the part of Respondent-1 to issue EC by clubbing different activities into a new category "Waterfront Development".

8.1 The Counsel for the Appellants have argued that it was illegal on the part of MoEF (Respondent-1) to have granted Environmental Clearance for the Project under the banner "Water Front Development Project (WFDP) by amalgamating different activities into a nebulous category of WFDP and therefore violates EIA Notification, 2006. The following arguments have been placed in support of their contention:

- (i) The CRZ Clearance and Environmental Clearance are two different statutory processes under two different statutory Notifications i.e. CRZ Notification, 1989 and EIA Notification 2006. These clearances have to be treated as such. As per the EIA Notification, 2006 there are specific project activities that required prior EC. By clubbing the seemingly unrelated activities into one nebulous categorisation called WFDP, the Respondent-6 has tried to circumvent the requirement of the Public Hearing in respect of all the sub-components with a view to abuse the legal process under EIA Notification, 2006. By combining the legal process under two different Notifications, into one, Respondent-1 committed irregularity by not following the due process. Hence, EC granted for WFDP is illegal and ultra vires the EIA Notification, 2006 in force.
- (ii) The WFDP Project itself seems to be an ad hoc thought where several activities have been clubbed and separated from SEZ to avoid the ongoing cases in Gujarat High Court as well as Supreme Court of India. Without waiting for the outcome of these cases Respondent-1 has shown unnecessary expediency in the matter and cleared the WFDP Project so as to subvert the ongoing cases in respect of the project.
- (iii) The clubbing of different activities into new category "Waterfront Development" at the behest of the Principal Secretary of the State Government sets precedent which is not only illegal but also fraught with eminent danger of clubbing several activities for administrative convenience which will defeat the very purpose for which the EIA Notification was issued.



(v) No support application has been put forward by the Project Proponent for CRZ Clearance. As the project area is covered under CRZ-I, it should have been examined by National Coastal Zone Management Authority; and

(vi) The Gujarat Pollution Control Board has rejected the consent to establish the WFDP on 19.09.2008 for want of certain details. The issue of 'Consent to Establish' the project is still pending and there is no urgency for grant of EC for the WFD Project.

8.2. MoEF (Respondent-1) and the Project Proponent (Respondent-6) have rebutted the above arguments of the Appellants and sought to establish the legality of the decision of the Respondent-1. Respondent-1 has vehemently rebutted the contentions of the Appellants and put forward the following points in his favour:-

(i) The proposal was considered under Coastal Regulation Zone Notification, 1991 and Environmental Impact Assessment Notification, 2006. Accordingly, the proposal was placed before the Expert Appraisal Committee (Infrastructure Development and Miscellaneous Projects) on 23<sup>rd</sup> & 24<sup>th</sup> April, 2008. The Committee after examining the proposal suggested additional Terms of Reference including conduct of the Public Hearing.

(ii) The Project Proponent submitted Rapid EIA Report, Environmental Management Plan, recommendations from the Gujarat State Coastal Zone Management Authority, High Tide Line and Low Tide Line demarcation carried out by SAC, Ahmednagar including Public Hearing Report incorporating all the additional Terms of Reference.

(iii) The Project Proponent while making presentation before the Expert Appraisal Committee had mentioned all the components of the Project, which includes North Port, South Port, West Port, East Port and other facilities. The Proposal was again considered by the said Expert Appraisal Committee on 18<sup>th</sup> and 16<sup>th</sup> November, 2008 and 19<sup>th</sup> & 20<sup>th</sup> December, 2008. Accordingly, Environmental Clearance under Coastal Regulation Zone Notification, 1991 and Environmental

Impact Assessment Notification, 2006 was issued on 17<sup>th</sup> January, 2009. An addendum to the order was issued on 19<sup>th</sup> January, 2009 incorporating certain additional information accepting the request of the Project Proponent; and

(iv) All the necessary due diligence has been followed in accordance with the procedures laid under Coastal Regulation Zone Notification, 1991 and Environmental Impact Assessment Notification, 2006 for the purpose of securing clearance to the said project.

The issue of clearances under EIA Notification 2006 and CRZ Notification 1991 as amended upto date, in single clearance order for the project "WFD" is not illegal, and the contentions of the Appellants may therefore be rejected straightaway.

8.3. Rebutting the above arguments of Respondent-1, Respondent-6 has put forward the following arguments:-

(i) The Project Proponent has submitted two separate applications – one for CRZ Clearance and the other for EC. The Application for EC under EIA Notification 2006, was made on 29.03.2008 to the Additional Director – Member Secretary, Expert Appraisal Committee, Infrastructure Development and Miscellaneous Projects MoEF, and the application for CRZ Clearance was made on 5.04.2008 to the Principal Secretary, Government of Gujarat. The State Government recommended CRZ Clearance in their letter dated 13.10.2008, as MoEF. As both the applications are read and decided by the same Authority i.e. MoEF, clearance under EIA Notification, 2006 and CRZ Notification 1991 has been accorded in one single order on 17.01.2009 read with Addendum dated 19.01.2009. The Project undertaken by them has been granted clearance for the development of "Ports, Harbours" which are listed as 'Type A' in the schedule to the EIA Notification 2006. The Clearance covers all activities directly related to the development of ports, and there has been no clubbing of activities or departure from the provisions of the EIA Notification 2006. Further, there is no need for clearance for activities such as construction of railway tracks and internal roads under this Notification. For the development of LNG Terminal, EC has been obtained under EIA-CRZ Notification for the development of Water Front



related activities like jetty's etc. Therefore, there is no question of clubbing the two Clearances. Further, all the conditions including the conduct of Public Hearing have been complied with in respect of both these regulations and therefore the clearance accorded in the present case is therefore both legal and valid.

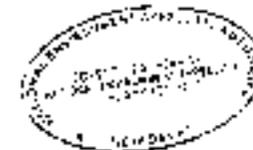
- (ii) It is clear that WFD Project is an afterthought. In fact, the Principal Secretary, Government of Gujarat suggested in his letter dated 04.05.2008 for preparation of a Master Plan for development of Mundra Port including activities likely to come up in the next 25 years, prepare EIA Report for these activities, and obtain a single clearance instead of piecemeal applications. Accordingly the matter was discussed with the State Government and as a follow up, Project Proponent has filed two applications for the purpose. Such an integrated approach was well appreciated by the Gujarat Coastal Zone Management Authority as it would enable the Port Authority to assess the environmental impact in a comprehensive and cumulative way and help preparing a better EMP ultimately leading to sustainable development. As the Government of Gujarat required integrated development of the Coastal areas, the Company has obtained LC for WFDP. It is, further, denied that the Company has misled the Competent Authority in this regard. Further, there is no detaching of the Project from MZ as alleged by the Appellants. Nor has there been any design to subvert the ongoing cases in Hon'ble High Court and Supreme Court.
- (iii) The Project Proponent has not sought for relaxation of any conditions other than those permissible which require examination by National Coastal Zone Management Authority. As LC granted to the Project is subject to the condition that no existing mangroves shall be destroyed during the construction or operation of the Project and that Project shall undertake mangrove plantation of about 200 ha and the Company has accepted these conditions, the question of re-examination of the proposal by the National Coastal Zone Management Authority does not arise. No irregularity has therefore been committed.
- (iv) It is true that C.O.B in their letter dated 16<sup>th</sup> September, 2008 has pointed out certain deficiencies in the application for issue of CTF. The Project Proponent

has replied to the queries of the Board in their letter dated 24<sup>th</sup> December, 2008. The Company has submitted copy of the clearance to them. No activity is being carried out by the Project Proponent. Despite the rejection of CTF as alleged. But it is clarified that the activities carried out by Project Proponent in respect of the intake channel are covered by the LC order dated 13<sup>th</sup> August, 2007 issued in their favour.

**8.4 Discussion and Findings:** The Water Front Development Project covers a planning horizon of 28-29 years. The Project proposes to construct 4 piers, one shipyard, Intake Channel, Desalination Plants, road network, Mangrove conservation etc. comprising 55 berths (including existing 22), covering waterfront length of about 40 km, with a total quay length of about 22,000 metres, over a port back up area of 3200 ha. The Cargo handling capacity is likely to go up to 225 MMT in 2025 from the existing level of 29 MMT in 2008. The activities forming part of Phase-I of the Development include 4 Piers, Two shipyards and port terminals such as Dry Bulk Terminals, Container Terminals, Liquid Terminals and LNG Terminals. The Plan attempts to simultaneously cater to the regional demands of environmental security, landscape diversity, transportation, infrastructure and allied developments. Increased cargo intensive activities in the immediate vicinity of Mundra Port such as power plants, STPs, increase in cargo due to increased economic activities in the northern hinterland and the catalysing effect of the proposed Delhi-Mumbai, Railway Freight Corridor both on industry as well as logistics outflows coming to Mundra Port appear to justify the need for this Water Front Project.

8.5 As the components of Water Front Development Project are sector oriented ones, it is essential to scrutinise whether the clearance granted to the Project satisfies the various crucial regulations of CRZ Notification, 1991 as amended till date.

- (i) Para 2 of this Notification lists activities prohibited within the CRZ. Para 2(i) prohibits setting up of new industries and expansion of existing industries except those directly related to water front or directly needing foreshore facilities.
- (ii) All other activities, except expressly prohibited in para 2 above, will be permissible activities but subject to regulation by MoEF. In a positive sense, sub para (1) of para 3 states that "clearance shall be given for any activity



within the CRZ only if it requires Water Front and Erosion facilities." Further, under para 3.2.2 (v), "operational constructions for ports, harbours and light houses and constructions for activities of jetties, wharves, quays and slipways, pipelines, conveying system including transmission" are permissible activities subject to Environmental Clearance granted by MoEF.

- (ii) Under proviso to para 2(i) the facilities for receipt and storage of petroleum products and LNG as specified in Annexure III of the Notification and facilities for reclassification of LNG are permitted within the said Zone in the area not classified as CRZ-1 (ii) subject to implementation of safety regulations prescribed by the concerned authorities.
- (iv) Conservation and development of mangroves area in CRZ is one of the major objectives of the said Notification. The Project has planned to create and manage mangrove plantation in about 290 Ha.
- (v) A Green Belt plan is proposed to be taken up along the periphery of the proposed ports, road side and in vacant sites so as to reduce pollution as well as improve aesthetic value within the port area. Plant species satisfying certain well designed criteria are proposed to be planted for the purpose.

It is thus clear that all the components of the WFD Plan Project proposed by Project Proponent are permissible activities satisfying the criteria laid in CRZ Notification 1991 as amended up to date.

8.6 As regards the contention of the Appellants that the proposal should have been examined by National Coastal Zone Management Authority, a reference to the Notification dated 8<sup>th</sup> January, 2001 constituting the National Coastal Zone Authority and defining their powers and functions, is essential. Under para III (a) of this Notification, National Coastal Zone Authority shall have the power to review cases involving violations of the provisions of the Environment Act, 1986 and the rules made thereunder or any other law which is relating to the objectives of the said notification. In this case, no exemption has been sought for by the Project Proponent and there is no need to get the recommendation of the National CZM Authority. The Authority accedes with the contention of the Respondent 6 in this respect.

8.7 As regards the contention of the Appellants that as the issue of "Consent to Establish" is still pending with Respondent-2, Respondent-1 should have waited for the decision of Respondent-2 and thereafter should have taken a final decision on the application for EC. Para 8(v) of EIA Notification 2006 makes it very clear that process involved in issue of EC is independent of the requirements of all other statutory requirements. The claim of the Appellants fails on merit.

8.8 The other test is whether the Project satisfies a) the provisions of EIA Notification 2006 or not, as EC has been granted by Respondent-1 under this Notification.

(i) The EIA Notification 2006, which is an improvement over its predecessor Notification 1991, mandates the following stages:

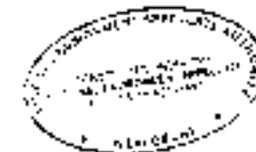
|     |         |                                                |
|-----|---------|------------------------------------------------|
| (a) | Stage 1 | Screening (only for 'B' projects & activities) |
| (b) | Stage 2 | Scoping                                        |
| (c) | Stage 3 | Public Consultations                           |
| (d) | Stage 4 | Appraisal                                      |

(ii) The first stage of screening does not apply to the Project as it belongs to category 'A'. Under the second stage, the West Port was considered by the Committee and the TORs were suggested on 01/08/2007. The South Port was considered by the Expert Appraisal Committee and additional Terms of Reference were suggested on 09/10/2007. The North Port, East Port and a shipyard were considered on 27<sup>th</sup> and 24<sup>th</sup> April, 2008, and 20 additional TORs were suggested for preparing draft EIA Report. The suggestions / objections raised at the Public Hearing / Public Consultation along with the response of Project Proponent should be incorporated in the final EIA, EMP and submitted for consideration of the MoEF, for IAC added.

(iii) At the request of Project Proponent, GPRB (Respondent-2) has conducted the Public Hearing at village Jari on 01/11/2008 and recorded its views / opinion expressed by the participants. The response of the Project Proponent to these views were also recorded in the minutes of the Public Hearing. The written letters of various organisations, gram panchayats including the representation of MLA of Rajah Taluk and Kanchi District were taken on record and forwarded to MoEF. The Project Proponent (Respondent 6) confirmed that the issues raised during the Public Hearing consultation process have already been incorporated in the EIA Report and EMP submitted by them.

(iv) Finally, the FAC (Infrastructure and Miscellaneous Projects) considered the Project in their meeting held on 25<sup>th</sup> November, 2008 and 19<sup>th</sup> and 20<sup>th</sup> December, 2008 and recommended it for Environmental Clearance subject to the following conditions:-

- (a) No existing mangroves shall be destroyed;
- (b) Mangrove plantation shall be carried out in an area of 290 Ha and the project proponent shall submit a detailed plan of the mangroves.



(c) There shall be no filling up of the creek and reclamation, affecting it, and

(d) Project Proponent shall comply with the aforesaid directions of the Hon'ble High Court of Gujarat and Supreme Court.

Thus the Authority finds that all the requirements of EIA Notification, 2006 have been fully met and that based on the recommendations of the EAC concerned, Respondent-1 has issued Environmental Clearance for the Project.

8.9 This brings us to the crucial claim of the Appellants that it is illegal on the part of Respondent-1 to have combined the clearance required under the above two separate Notifications and issued a single order. The claim of the Appellants is that issue of a combined order has been done with a view to circumvent the conduct of Public Hearing. The records produced by the parties prove that the Public Hearing was conducted by Respondent-2 on 01.11.2008 providing ample opportunity for expression of the grievances of the participants. These grievances along with the details of response of the Project Proponent were forwarded to Respondent-1. The issues raised during the Public Hearing have been incorporated in the EIA Report and Environmental Management Plan already submitted. The EAC (Infrastructure and Miscellaneous Project) has done detailed examination of these issues and thereafter recommended issue of EC for the Project. It is seen that none of the rights normally available under these Notifications has been curtailed or denied. The claim of the Appellants that combining of two decisions has been done with a view to circumvent the process of conducting Public Hearing does not stand a detailed scrutiny of this Authority, and it is hereby fails. The recommendation of the Ministry of Government of Gujarat is backed by broad vision and impelled by administrative desire to get redress for expeditiously decision on developmental projects. The MoEF has decided to issue both the clearances in a single order in order to save time and energy and cut the avoidable delay in decision making process. Such a decision by MoEF is bound to encourage dynamic and positive approach on the part of the authorities of the State Governments. The eagerness of the MoEF to encourage such positive approach on the part of State Government has resulted in issue of EC both under EIA Notification 2006 and CRZ Notification 1991 as amended up to date in a single order and this is in right direction of developmental administration without sacrificing the essential elements of fragile ecology of the coastal area of the Kutchch. The Authority does not find anything wrong on the part of Respondent-1 in issuing both the

clearances in a single order, as the statutory requirements of both these Notifications are satisfied. This order is neither illegal nor invalid from the angle of these two Notifications.

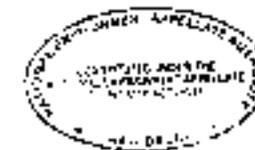
**The Fourth and last issue is therefore answered in affirmative.**

9. In their rejoinder to the counter affidavit filed by Respondent-6, the Appellants have produced certain super imposed maps with a view to establish the apprehension that some of the creeks are closed by the access roads to some of the parts planned in this Project. As discussed above, Respondent-1 has stipulated a series of conditions aiming to protect the interests of the local fishermen including the ban on closure of the existing creek. **If the appellants are really aggrieved with the alleged violation of the conditions prescribed by Respondent-1, they are free to approach Respondent-1 at any time for appropriate remedial action and relief.**

10. Thus all the four issues indicated in para 4 above have been thoroughly examined, and answered accordingly. In the light of the above discussion and decisions of the Authority on these issues, the following specific orders are passed:

- (i) The request of the Appellants for grant of stay against ongoing constructions in the project was already rejected during the course of initial hearing of the Appeal;
- (ii) In the light of the apprehension raised by the Appellants over the possible hindrance by the project activities over fishing activities of local fishermen, Respondent-3 is directed to ensure that any proposed activities of WDP do not hinder safe access of fishermen to the sea through the traditional access including their use of handbars.
- (iii) If the Appellants are aggrieved that the Respondent-6 has destroyed any part of mangroves and he is carrying out illegal construction activities prior to statutory clearances, they are at liberty to approach the concerned statutory authorities for necessary relief.
- (iv) The Appeal filed by the Appellants is therefore disallowed for the reasons mentioned above.

No orders on cost  
(J.C. Koth) Member



(Dr. L. Y. Manivannan) Member

9 June 2014  
14.11.14  
17

has sought clarification on a number of issues. It would therefore be appropriate that before approving the project, (a) a view is taken on the final alignment of the transmission line; (b) exact area requirement and number of trees to be felled is worked out; and (c) the clarification sought from the Himachal Pradesh Forest Department by the Regional Office of the MoEF is considered.

**VIII. (i) RECONSIDERATION OF DIVERSION OF 1850 HA (APPROVED AREA 1840 HA.) OF FOREST LAND FOR HIGH PURITY SALT WORKS IN FAVOUR OF M/S ADANI CHEMICALS LIMITED IN KUTCH DISTRICT OF GUJARAT FOR DEVELOPMENT OF MUNDRA SPECIAL ECONOMIC ZONE (File No. 8-149/97-FC)**

And

**(ii) RECONSIDERATION OF DIVERSION OF ONE CONSOLIDATED PATCH IN SURVEY NO. 169/36 ADMEASURING 168.41 HA OF FOREST LAND FOR THE SALT WASHERY. DESALINATION PLANT AND CONTAINER DEPOT NEAR DHRUB VILLAGE IN KUTCH DISTRICT OF GUJARAT FOR DEVELOPMENT OF MUNDRA SPECIAL ECONOMIC ZONE (File No. 8-2/99-FC).**

11. The proposal for diversion of 2400 ha of forest land in favour of Adani Chemicals Limited for high purity salt works in District Kutch, Gujarat was recommended for rejection by the FAC in its meeting held on 26.6.1998 after observing that the area contains about 19.42 lakh mangrove trees.

12. Further as per the then existing CRZ Notification the project was not permissible as the area falls in CRZ I. However, the project remained under examination between 1998 to 2002. On 21.5.2002 the CRZ Notification was amended whereby the project became a permissible activity under CRZ-I. In the meanwhile the original proposal was modified by reducing the forest area from 2400 ha. to 1850 ha. excluding 530 ha. of mangrove forest.

13. The project was discussed by the FAC in its meeting held on 17.7.2002 when the following recommendation was made :

*"..... the Committee is of the view that the proposed project site is situated in eco fragile area and the project would adversely affect the marine flora and fauna including the mangrove eco system. The user agency should be asked to revise the proposal to exclude the bio diversity rich eco fragile area and take other suitable measures to contain the adverse impacts of the project....."*

14. The project was again examined by the FAC in its meeting held on 26.9.2002 after considering the fresh site inspection report of the Regional Office, Bhopal. The FAC recommended diversion of 1840 ha. of forest land for the project after excluding 10 ha. of interspersed mangrove forest.

The proposal was granted in principle approval by the MoEF on 13.5.2004 along with another proposal of the same user agency for diversion of 168.41 ha. of forest land for salt washing, desalination plant and container depot by the MoEF.

15. Before grant of the in principle approval, the Ministry of Commerce and Industries, Government of India vide letter 12.2.2004 approved the proposal of M/s Mundra Special Economic Zone Limited for setting up of a Special Economic Zone at Mundra, Gujarat over an area of 10,000 ha out of which 2500 ha. land was to be developed in the first phase. As per the approval letter the zone would provide industrial, commercial and social infrastructure facilities and at least 25% of the SEZ area will be used for developing industrial area for setting up of units.

16. The applicant company filed a letter dated 26.4.2004 addressed to the Inspector General of Forests, MoEF stating that the project area falls within the boundary of Mundra SEZ being set up by its group company viz., M/s Mundra SEZ Limited and requested MoEF to make a mention in the approval letter that the diversion thus permitted will apply to related land use permitted in SEZ area.

17. While issuing the in principle approval letter, the MoEF permitted M/s Adani Chemicals Ltd. to include the diverted

forest land in the Special Economic Zone. The decision to include the diverted forest land in the Special Economic Zone was taken without placing the matter before the FAC and the MEF.

18. On 23.6.2004, the MoEF accorded approval for change of name of user agency from M/s Adani Chemicals Ltd. to M/s Mundra Special Economic Zone Limited. This permission was accorded by the MoEF on a letter No. Nil dated 17.6.2004 from M/s Adani Chemicals Limited without placing the matter before the FAC or seeking approval of the MEF.

19. After the grant of the in principle approval by the MoEF, the Mundra Port and Special Economic Zone Limited, more than three years later, vide its letter dated 5<sup>th</sup> September, 2007 requested the MoEF to amend the in principle approval to include the following specific provisions :

- i) approval for change in land use as per Master Plan for Mundra Port and Special Economic Zone Ltd;
- ii) phasing out of payment of the NPV;
- iii) change in the name of the user agency from M/s Mundra Special Economic Zone Limited to M/s Mundra Port and Special Economic Zone Limited.

20. The proposal was considered by the FAC in its meeting held on 27<sup>th</sup> March, 2008 when the following observation was made whereby the proposal was to be treated as closed:

*"The Committee considered the proposal and noted that the present proposal is for change of land use for which in principle approvals were accorded on 13.05.2004 subject to certain conditions. The original proposals were for diversion of 1840 ha of forest land for high purity salt works and 168.41 ha. of forest land for Salt Washery and Desalination Plant and container depot in favour of M/s Adani Chemicals Limited, in Kutch District of Gujarat. The Committee also noted that the Ministry vide its letter dated 23.06.2004 has accorded the approval for change of name of user agency from M/s Adani Chemicals Limited to M/s Mundra Special Economic Zone Limited.*

*After examining the proposal, the Committee observed that the proposed changed land use completely changes the scope and purpose of the original diversion approvals accorded by the Ministry thereby rendering the entire EIA study and other special reports considered at the time of granting in principle approvals meaningless and desired that this proposal may be treated as closed and the State Government may be advised to submit the proposal afresh."*

21. However, following a representation dated 3.4.2008 addressed to the Minister of State for Forests and Wildlife by M/s Mundra Port and Special Economic Zone Limited, the proposal was reconsidered by the FAC in its meeting held on 17<sup>th</sup> April, 2008 and the following was recommended :

*"The Committee reconsidered the proposal and noted that the present proposal is for change of land use for which in principle approvals were accorded on 13.05.2004 subject to certain conditions. The original proposals were for diversion of 1840 ha of forest land for high purity salt works and 168.41 ha of forest land for Salt Washery and Desalination Plant and container depot in favour of M/s Adani Chemicals Limited in Kutch district of Gujarat. The Committee also noted that the Ministry vide its letter dated 23.06.2004 had accorded approval for change of name of user agency from M/s Adani Chemicals Limited to M/s Mundra Special Economic Zone Limited with the condition that for the purpose of development of Mundra Special Economic Zone, deviation from the sanctioned land use shall be included in the detailed Master Plan for the exclusive Economic Zone as per norms fixed by the Ministry of Commerce for which a consolidated proposal be sent for approval in due course.*

*After examining the proposal, the Committee recommended the proposal for in principle approval on*

*standard terms and conditions. The Committee also recommended the change in name from M/s Mundra Special Economic Zone Limited to M/s Mundra Port and Special Economic Zone Limited.\**

22. From the above it may be seen that at the time of the submission of the original proposal, the proposed activity was not permissible as the area was in CRZ-I and the FAC had recommended for rejection of the proposal. The proposal remained pending with the MoEF between 1998 to 2002. In the meanwhile the amendment of the CRZ Notification took place and the proposed activity became permissible in CRZ I. The FAC, after considering the revised site inspection report recommended the proposal for approval. Based on the representations from the user agency, the forest area was allowed to be included in the Special Economic Zone without considering whether the implementation of the project within the SEZ is feasible or otherwise. After grant of the approval in principle, on a representation received from the user agency, the approval was modified in favour of another company without examination by the FAC or approval of the MEF. Though the original proposal was for a salt project and was approved for the same, however, at a later stage on a request made by the user agency the setting up of a SEZ by a sister concern of the original applicant has been permitted. What is

more this has been done without seeking a formal proposal under the F.C. Act. It is also imperative to note that the FAC initially on 27.3.2008 recommended for the rejection of the modified land use of the forest land and thereafter on 17.4.2008 completely reversed its own decision. No reason for the change in the stand of the FAC has been recorded in the minutes of the meeting.

23. Thus initially the user agency had requested for forest land in an ecologically sensitive area for a site specific activity, namely salt project. Since this site specific salt project has been given up and keeping in view all the facts and circumstances as brought out above, the CEC is of the view that the recommendations of the FAC in the present case may not be accepted and the present request by the user agency for the diversion of forest land in a phased manner as a part of expansion of Mundra Port and Special Economic Zone Limited may be rejected.

(M.K. Jiwrajka)  
Member Secretary

Dated: 16.7.2008

more this has been done without seeking a formal proposal under the F.C. Act. It is also imperative to note that the FAC initially on 27.3.2008 recommended for the rejection of the modified land use of the forest land and thereafter on 17.4.2008 completely reversed its own decision. No reason for the change in the stand of the FAC has been recorded in the minutes of the meeting.

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(M.K. Jiwrajka)  
Member Secretary

Dated: 16.7.2008

F.No.8-2/99-FC  
Government of India  
Ministry of Environment & Forests  
(FC Division)

Paryavaran Bhawan, CGO Complex  
Lodi Road, New Delhi-110004  
Dated the 13<sup>th</sup> May, 2008

657  
2012/09/19

To  
The Secretary (Forests),  
Government of Gujarat,  
Gandhinagar.

**Sub:** Diversion of 250 ha. (approved area 168.41 ha.) of forest land for Salt Washery and Desalination Plant (Salt Washery, Desalination plant & Crystallizer- 66.8 ha.; Container Freight Station- 61.76 ha.; office, roads & other buildings- 25 ha. and Green Belt Development- 14.85 ha.) near Dhrub Village in favour of M/s. Adani Chemicals Ltd., in district Kutch, Gujarat.

Sir,

I am directed to refer your letter No.FCA/1097-2050-K dated 6-10-1998 on the above-mentioned subject seeking prior approval of the Central Government under Section-2 of the Forest (Conservation) Act, 1980 and to say that the proposal has been examined by the Advisory Committee constituted by the Central Government under Section 3 of the aforesaid Act.

After careful examination of the proposal of the State Government and on the recommendation of the above-mentioned Advisory Committee, the Central Government hereby agrees **in-principle** for diversion of only one consolidated patch in survey no.169/36 admeasuring 168.41 ha. of forest land for Salt Washery and Desalination Plant (Salt Washery, Desalination plant & Crystallizer- 66.8 ha.; Container Freight Station- 61.76 ha.; office, roads & other buildings- 25 ha. and Green Belt Development- 14.85 ha.) near Dhrub Village in favour of M/s. Adani Chemicals Ltd., in district Kutch, Gujarat, subject to fulfillment of following conditions:

1. The User Agency will transfer and mutate equivalent non-forest land to the State Forest Department.
2. The non-forest land for compensatory afforestation shall be notified by the State Government as RF under section - 4 or PF under section-29 of the Indian Forest Act, 1927 or the State Forest Act within a period of 6 months and Nodal Officer (Forest Conservation) shall report the compliance.
3. The User Agency will transfer the cost of Compensatory Afforestation and its maintenance over equivalent non-forest land, to the State Forest Department.
4. The area shall be demarcated on ground by erecting 4 feet high RCC Pillars with forward and back bearing and distance from pillar to pillar.

5. User Agency shall deposit the Net Present Value (NPV) of the diverted forest land with the State Forest Department as per the orders of the Hon'ble Supreme Court dated 30-10-2002 & 1-8-2003 in LA No.566 in WP (C) No.202/1999 and the guidelines issued by this Ministry vide letter No.5-1/98-FC(Pt-II) dated 22-9-2003 and 22-9-2003 in this regard.
6. The State Government shall deposit all the above-mentioned funds with Compensatory Afforestation Fund Management and Planning Authority (CAMPA), which has already been constituted and notified by the Central Government on 23-4-2004. Till such times the CAMPA intimates the Head of Accounts for deposition of funds, the funds will be maintained in the form of fixed deposits in the name of CAMPA by the State Government.
7. Other standard conditions.

After receipt of compliance report on the fulfillment of the condition no.1, 3, 4 & 5 from the State Government, formal approval will be issued in this regard under Section 2 of the Forest (Conservation) Act, 1980. Transfer of forest land to user agency should not be effected by the State Government till the formal orders are issued by the Central Government. Further, the diverted area could be included in the Special Economic Zone. However, deviation from the sanctioned land use shall be got approved by the user agency from the Central Government under the Forest (Conservation) Act, 1980.

Yours faithfully,

Sd/-

(ANURAG BAJPAI)  
Asstt. Inspector General of Forests

Copy to:

1. The Principal Chief Conservator of Forests, Government of Gujarat, Gandhinagar.
2. The Nodal Officer, Forest Department, Government of Gujarat, Gandhinagar.
3. The Chief Conservator of Forests (Central), Regional Office, Bhopal.
4. M/s Adani Chemicals Ltd, Corporate Office, New Delhi.
5. PS to IGF (FC).
6. Monitoring Cell of FC Division.
7. Guard File.

(ANURAG BAJPAI)  
Asstt. Inspector General of Forests

No.10-47/2008-IA-III  
Government of India  
Ministry of Environment and Forests  
(IA-III Division)

Parvatham Bhavan,  
C.G.O. Complex, Lodi Road,  
New Delhi-110003

Dated the 12<sup>th</sup> January, 2009

Sub: Coastal Regulation Zone clearance for proposed waterfront development project at Mundra District Kutch, Gujarat of M/s Mundra Port and SEZ Limited - Environmental clearance - regarding.

Reference is invited to the letter No.ENV-10-2008-843-P, dated 13.10.2008 from Forest and Environment Department, Government of Gujarat and letters No.MPSEZ/Ping/WDP/EC/MoEF01, dated 29.3.2008, No.MPSEZ/Ping/waterfrontdevelopment/MoEF01, dated 10.4.2008, No.MPSEZL/WFD/PMoEF08, dated 7.11.2008, No.MPSEZL/WFD/PMoEF08, dated 18.11.2008 and No.MPSEZ/PL/NG/EC/UGZ/WFD/12, dated 14.12.2008 from M/s Mundra Port and Special Economic Zone Limited and letter No.GPCB/PH-2008-09/Kutch-19/26769, dated 18.11.2008 from Gujarat State Pollution Control Board regarding the subject mentioned above.

2. The project is for developing waterfront development which includes North Port, South Port, West Port and East at Port, Mundra District Kutch, Gujarat. The North Port, approach channel will be dredged to a uniform depth of -17.5m CD. The proposed expansion of the existing channel affecting mangroves has been dropped. Further, two turning circles of diameter about 550m at 17.5m below CD. Five container berths, Ro-Ro terminal (600m wide), railway line, backup area of 350 ha, back up facilities like rail sidings, rail truck loading facility, open paved areas, associated buildings, utilities, amenities etc. and connectivity to rail and road corridor are proposed. With regard to the East Port channel will be channel dredged to a uniform depth of -17.5m CD. For the project three turning circles of diameter about 800m dredged and maintained at -17.5m below CD, further two container terminals of total cumulative quay length of 2000m, light and heavy engineering berth-2, liquid berth-1, multipurpose berth-2, back up area 640 ha, backup facilities like rail sidings, rail and truck loading facility, open paved areas and associated buildings, utilities, amenities etc., and connectivity to the rail and road corridor are proposed. Two potential sites have been identified for shipyard development (one on eastern end and other on western end of the existing port). Both the shipyards are identical. Major facilities to be developed are, two drydocks with single position intermediate gate, block assembly area at the head of both docks for final blocking of ship sections, commissioning and outfitting quay and associated facilities. The West port shipyard area will be 281 ha and East yard shipyard area will be 320 ha. Total dredging involved for the project is 210MM<sup>3</sup>. Dredged spoil is suitable for reclamation. Dredging, reclamation and level raising activities will be carried out. Seawater intake channel is planned for Power plants, desalination plant and other industrial requirements. Further, Bocha Island (88ha), East of Bocha Island (155ha), Kotal Mouth (981ha), Mouth of Basadimata (30ha) have been identified for conservation as a potential mangrove area, which is to be maintained by the Horticulture Department of Mundra Port. The project proponent have already undertaken 1000 ha of mangrove afforestation along the coastal areas of Gujarat and have committed a additional afforestation of 200 ha of mangroves in the coastal areas of Gujarat. Creeks will be kept open to maintain the hydrology of the region.

3. The project was considered in the Expert Committee meeting held on 23<sup>rd</sup> & 24<sup>th</sup> April, 2008, 25<sup>th</sup> & 26<sup>th</sup> November, 2008 and 19<sup>th</sup> & 20<sup>th</sup> December, 2008 and recommended the project. Keeping in view the above facts, the proposal has been examined in the Ministry of Environment & Forests and environmental clearance from Environmental Impact Assessment Notification, 2006 and Coastal Regulation Zone Notification, 1991 is hereby accorded to this project subject to effective implementation of the following conditions:-

(A) Specific Conditions:

- i) No existing mangroves shall be destroyed during construction/operation of the project.
- ii) There shall be no filling up of the creek and reclamation of the creeks.

- iii) The project proponent shall comply with all the Orders/directions of the Hon'ble High Court of Gujarat and Supreme Court in the matter.
  - iv) Adequate safety measures for the offshore structure and ship navigation shall be taken in view of the high current in the area.
  - v) The shore line changes in the area shall be monitored periodically and the report submitted every 6 months to Regional Office Bhopal.
  - vi) The recommendations of the risk assessment shall be implemented. Any change in the design the project shall come before the committee for seeking necessary approval.
  - vii) Mangrove plantation of 200 ha to be done in consultation with the GEERAGEC of Forest Department, a detailed plan shall be submitted within six months from the date of receipt of this letter.
  - viii) It shall be ensured that during construction and post construction of the proposed jetty the movement fisheries vessels of the local communities are not interfered with.
  - ix) Relocation of the fishermen community if any, shall be done strictly in accordance with the norms prescribed by the State Government.
  - x) Marine ecology monitoring shall be done regularly during construction of Breakwater and dredging/disposal operation.
  - xi) Regular monitoring of air quality shall be done in the settlement areas around the project site and appropriate safeguard measures shall be taken.
  - xii) Sewage arising in the port area shall be disposed off after adequate treatment to conform to the standards stipulated by Gujarat State Pollution Control Board and shall be utilized/re-cycled for gardening, plantation and irrigation.
  - xiii) Adequate plantation shall be carried out along the roads of the Port premises and a green belt shall be developed.
  - xiv) There shall be no withdrawal of ground water in CRZ area, for this project.
  - xv) Specific arrangements for rain water harvesting shall be made in the project design and the rain water so harvested shall be optimally utilised. Details in this regard shall be furnished to this Ministry's Regional Office at Bhopal within 3 months.
  - xvi) Land reclamation shall be carried out only to the extent that it is essential for this project.
  - xvii) No product other than those permissible in the Coastal Regulation Zone Notification, 1991 shall be stored in the Coastal Regulation Zone area.
- B. General Conditions:**
- (i) Construction of the proposed structure, if any in the Coastal Regulation Zone area shall be undertaken meticulously conforming to the existing Central/Local rules and regulations including Coastal Regulation Zone Notification 1991 & its amendments. All the construction designs / drawings relating to the proposed construction activities must have approvals of the concerned State Government Departments / Agencies.
  - (ii) Adequate provisions for infrastructure facilities such as water supply, fuel, sanitation etc. shall be ensured for construction workers during the construction phase of the project so as to avoid felling of trees/mangroves and pollution of water and the surroundings.

- (iii) The project authorities must make necessary arrangements for disposal of solid wastes and for the treatment of effluents by providing a proper wastewater treatment plant outside the CRZ area. The quality of treated effluents, solid wastes and noise level etc. must conform to the standards laid down by the competent authorities including the Central/State Pollution Control Board and the Union Ministry of Environment and Forests under the Environment (Protection) Act, 1986, whichever are more stringent.
  - (iv) The proponent shall obtain the requisite consents for discharge of effluents and emissions under the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981 from the Gujarat Pollution Control Board before commissioning of the project and a copy of each of these shall be sent to this Ministry.
  - (v) The mud dunes, corals and mangroves, if any, on the site shall not be disturbed in any way.
  - (vi) A copy of the clearance letter will be marked to the concerned Panchayat/local NGO, if any, from whom any suggestion/representation has been received while processing the proposal.
  - (vii) The funds earmarked for environment protection measures shall be maintained, in a separate account and there shall be no diversion of these funds for any other purpose. A year-wise expenditure on environmental safeguards shall be reported to this Ministry's Regional Office at Bhopal and the State Pollution Control Board.
  - (viii) Full support shall be extended to the officers of this Ministry's Regional Office at Bhopal and the officers of the Central and State Pollution Control Boards by the project proponents during their inspection for monitoring purposes, by furnishing full details and action plans including the action taken reports in respect of mitigative measures and other environmental protection activities.
  - (ix) In case of deviation or alteration in the project including the implementing agency, a fresh reference shall be made to this Ministry for modification in the clearance conditions or imposition of new ones for ensuring environmental protection.
  - (x) This Ministry reserve the right to revoke this clearance, if any of the conditions stipulated are not complied with to the satisfaction of this Ministry.
  - (xi) This Ministry or any other competent authority may stipulate any other additional conditions subsequently, if deemed necessary, for environmental protection, which shall be complied with.
  - (xii) The project proponent shall advertise at least in two local newspaper widely circulated in the region around the project, one of which shall be in the vernacular language of the locality concerned informing that the project has been accorded environmental clearance and copies of clearance letters are available with the State Pollution Control Board and may also be seen at Website of the Ministry of Environment & Forests at <http://www.mef.gov.in>. The advertisement shall be made within 7 days from the date of issue of the clearance letter and a copy of the same shall be forwarded to the Regional Office of this Ministry at Bhopal.
  - (xiii) The Project proponents shall inform the Regional Office at Bhopal as well as the Ministry the date of financial closure and final approval of the project by the concerned authorities and the date of start of Land Development Work.
  - (xiv) Any appeal against this environmental clearance shall lie with the National Environment Appellate Authority, if preferred, within a period of 90 days as prescribed under Section 11 of the National Environment Appellate Act, 1997.
4. The above mentioned stipulations will be enforced among others under the Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981, the Environment (protection) Act, 1986, the Hazardous Chemicals (Manufacture, Storage and Import) Rules, 1989, the Coastal Regulation Zone Notification, 1991 and its subsequent amendments and the Public Liability Insurance Act, 1991 and the Rules

made thereunder from time to time. The project proponents shall also ensure that the proposal complies with the provisions of the approved Coastal Zone Management Plan of Gujarat State and the Supreme Court's order dated 18<sup>th</sup> April, 1996 in the Writ Petition No.664 of 1993 to the extent the same are applicable to this proposal.

(Dr. A. Senthil Vel)  
Additional Director

To  
Director (Environment),  
Forests & Environment Department,  
Government of Gujarat, Block No.14,  
8<sup>th</sup> Floor, Sachivalaya, Gandhinagar - 382 010.

**Copy to:**

1. The Chief Conservator of Forests, Ministry of Environment & Forests, Ministry of Environment & Forests, Regional Office (Western Region), Kendriya Paryavaran Bhavan, Link Road No.3, Ravi Shankar Nagar, Bhopal - 4620 16.
2. The Chairman, Central Pollution Control Board, Parivesh Bhavan, CBD-cum-Office Complex, East Arjun Nagar, Delhi - 110032.
3. The Chairman, Gujarat State Pollution Control Board, Paryavaran Bhavan, Sector 10-A, Gandhinagar - 382 010, Gujarat.
4. M/s Mundra Port and Special Economic Zone Limited, "Adani House", C-105, Anand Niketan, New Delhi - 110021.
5. DIO (SU), Regional Office Cell, Ministry of Environment & Forests, New Delhi.
6. Guard File.
7. Monitoring Cell.
8. Direct (EI), Ministry of Environment & Forests, New Delhi.

(Dr. A. Senthil Vel)  
Additional Director

No.10-47/2008-1A-III  
Government of India  
Ministry of Environment and Forests  
(A-III Division)

Paryavaran Bhavan,  
C.G.O. Complex, Lodi Road,  
New Delhi-110003

Dated the 15<sup>th</sup> January, 2009

**ADDENDUM**

**Subj:** Coastal Regulation Zone clearance for proposed waterfront development project at Mundra District Kachchh, Gujarat of M/s Mundra Port and SEZ Limited - Environmental clearance - regarding.

The Ministry had earlier accorded clearance to the above project vide Ministry's letter of even number dated 12.1.2009 under the provisions of Coastal Regulation Zone Notification, 1991 and Environment Impact Assessment Notification, 2006 for undertaking the above activity. Now, vide letter No.961, dated 14.1.2009 from M/s Mundra Port and SEZ Limited, the project proponents have requested for inclusion of the description of South Port and West Port which has not been spell out in the above environmental clearance dated 12.1.2009.

South Port is located to the south of the existing port. An artificially created basin of approximately 503 ha area, dredged to a uniform depth of -17.5m CD with a turning basin of diameter about 700m dredged and maintained at 17.5m below CD. Two breakwaters, one on the west side and another on east and three container terminals having total length of 2680m approximately, multi purpose terminal having total quay length of 550m, liquid berths, Ro-Ro cum service terminal, port crabs terminal of approximately 350m, two deep water berths of LNG terminal with storage facilities, back up facilities like container yard, rail sidings, rail and truck loading facility, open paved area and associated buildings, utilities, amenities etc. (approx. 700ha) is proposed. West Port is being design to handle vessel of 275,000 DWT, which requires draft of -23m CD. Six berths with mechanized handling of coal and iron ore, five berths for dry bulk cargo, six berths for liquid cargo, approach channel of 500m width, western breakwater (4.91km), eastern breakwater (4.4km), backup area (920ha) and back-up infrastructure facilities (920ha) is proposed. The project also involves laying of intake and outfall system for the thermal power plant, desalination plant and other treated effluents which is located outside the Coastal Regulation Zone area. Further, a 300 MLD desalination plant is also proposed to meet the water requirement.

All other conditions shall remain unchanged.

(Dr. A. Senthil Vel)  
Additional Director

To  
Director (Environment),  
Forests & Environment Department,  
Government of Gujarat, Block No.14,  
8<sup>th</sup> Floor, Sachivalaya, Gandhinagar - 382 010.

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