

December 23, 2011

Mr. B. K. Patnaik
Chief Secretary & Chief Development Commissioner
Government of Orissa
Bhubaneswar

Dear Mr. Patnaik:

***Orissa State Roads Project (Loan Number 7577-IN)
Interim Mission Notes on Civil Works and Safeguards***

First let me thank you for the support extended to the Bank team that undertook the interim missions during months of November-December 2011. Please find attached herewith, the 'Back to Office Report' of our consultant on engineering and contract management aspects, which highlights urgent needs to improve the quality of works, safety during construction and contract management practices. I would request you to make arrangements for undertaking appropriate quality tests to confirm his observations on quality of works and discuss the findings/proposed actions at the next SLEC meeting to address the highlighted issues. We also attached herewith the social and environment safeguard mission note, highlighting key issues and suggested actions to be taken by PMU.

We are extremely concerned regarding the persistence of shortfalls on two pending actions for lifting the suspension - namely, ensuring execution of civil works with due regard to quality, safety and environment safeguards and executing adequate contract management through application of appropriate legal/contractual remedies to ensure active participation by the lead JV partners in all three contracts. As you would appreciate, a credible turn around on these aspects will be critical for considering lifting of the suspension.

Accordingly, I have advised the task team to pay particular attention to these aspects in the next supervision mission, proposed to be held in the third week of January 2012. Depending on the findings of the coming supervision mission, a decision will be made by the Bank on either providing additional time to Government of Orissa to implement corrective measures or to proceed with the loan cancellation following the disbursement suspension, which is in effect since May 27, 2011

With regards,

Yours sincerely,



Roberto Zagha
Country Director, India

Enclosures: Three Interim Mission Notes

cc: Mr. J. K. Mohapatra, Principal Secretary Finance, Government of Orissa
Mr. S.K. Ray, Engineer-in-Chief-cum-Secretary, OWD, Government of Orissa
Mr. N.K. Pradhan, Chief Engineer, (World Bank Projects) Public Works
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INDIA
Orissa State Roads Project
Interim Implementation Support Mission, November 18-24, 2011

Mission Note – Environment Safeguards and Management

I. Introduction

1. A World Bank team¹ visited the State of Orissa to undertake an interim implementation support mission² for the Orissa State Roads Project during November 18-24, 2011. The primary purpose of this mission was to review the progress with regard to the implementation of safeguard related activities for Phase I works and help the OWD/PMU in over-coming gaps in the implementation process. Accordingly, the mission visited selected sites of on-going civil works contracts in Phase I and held discussions with the officers of the Project Management Unit (PMU).

2. In addition, at the behest of the PMU, the mission visited a few probable sites for Phase II and provided guidance on dealing with environment and social issues for such proposed works. The mission met and interacted with the Chief Engineer, World Bank Projects (Project Director) and briefed him on the mission's findings. This note summarizes assessment, findings and recommendations made during the mission on environment safeguard related aspects of the project.

II. ENVIRONMENTAL SAFEGUARDS AND MANAGEMENT

On the environment safeguards and management front, the following was undertaken by the mission:

1. **Phase I works:** Review of EMP implementation to ascertain the status on safety and environment safeguards on, one of the eight actions agreed as part of the action plan for lifting the suspension of loan disbursements.
2. **Phase II works:** This included extensive discussion and a visit to Jagatpur-Chandbali Road to: (a) understand additional environment safeguard requirements and issues (if any) in the backdrop of design changes that are being undertaken by the PMU and (b) to assess the status of pre-construction activities, which have been initiated on the said road corridor prior to invitation of bids.

Additionally, at PMU's behest, the mission visited Khuntuni-Narsinghpur road to understand the nature of rehabilitation works being proposed by OWD for this and other similar road corridors. The OWD/PMU primarily sought guidance on the approach/methodology to be adopted for dealing with the likely environmental issues for such works, which was provided by the mission.

A. PHASE I WORKS

(1) Implementation of Environment Management Plan by the Contractor

The mission assessed the adequacy and quality of EMP implementation in the project and ascertained the status on safety and environment safeguards, one of the eight actions agreed as part of the action plan related to the lifting the suspension of loan disbursements. In this context, the mission discussed the findings from the site visits made to contracts P01 (Khariar-Bhawanipatna) and P03 (Berhampur-Taptapani), which were visited between November 8 and 12, 2011 and held extensive discussions with the officers of the Project Management Unit (PMU) on the various outstanding actions/activities.

The assessment on EMP implementation included a review of: (i) deployment of qualified and experienced environment and safety officers by the contractors; (ii) compliance with regulatory

¹ Consisting of Satya N. Mishra (Social Development Specialist) and Neha Vyas (Environmental Specialist).

² The fourth implementation support mission was undertaken during September 26-30, 2011.

norms/requirements by the contractors; (iii) traffic and worker safety arrangements; (iv) first aid and emergency response arrangements; (v) debris/waste management; (vi) compliance with EMP stipulations related to identification and management of material sources; and (vii) pollution monitoring.

The mission noted no effort by the contractors to improve the situation on the ground. Some critical actions due since the beginning of the works were to be completed by the end of November 2011. The management representative from the Contractor’s team had made tall promises in September 2011 and assured the Bank that the required actions will be taken at the earliest. However, there is no evidence of any change in the situation since the last mission. Given the laxity on the contractors’ part to undertake even simple measures, a likelihood of change in environment safeguards rating seems a distant probability.

The mission continues to reiterate that it is possible to turn around the ‘unsatisfactory’ situation provided sufficient attention is given and simple measures are implemented without further delay as there has been limited physical progress on works even now. The contractors must demonstrate their commitment and seriousness to carry out works with due attention to worksite safety and environmental safeguard aspects. The attention and seriousness on part of the contractor so far has been less than optimal even though the PMU and the environmental officers are making efforts from their end.

If lapses/non-compliance/delays continue, the OWD/PMU needs to take effective steps including issuing of notices, non-conformance reports and application of appropriate contractual remedies to ensure that serious issues/lapses are checked/contained well in time. Such decisions/actions should be consistent with the contract conditions. The following key actions/activities to ensure adherence to environment, health and safety stipulations under the contract, remain outstanding and warrant action by the contractor:

- a) Deployment of Environment and Safety Officer on P01
- b) Identification, approval of Pollution Monitoring Agency and initiation of pollution monitoring
- c) Preparation and implementation of Traffic Safety Plans, including signage and barricading as per IRC SP:55 norms (specifically at diversions, transition zones, culvert construction sites, deep excavations etc.) and dust control measures.
- d) Provision and due enforcement of worker’s safety arrangements, including proper storage /handling of hazardous/inflammable materials.
- e) Pollution prevention measures at HMP and crusher sites (such as mist spray, screen/wind breaking wall, enclosures).
- f) Proper debris management, including preparation and approval of the Waste Disposal Plan.
- g) Preparation and implementation of Emergency Response Plan.

The activity-wise status on the two contracts currently under execution is given in the table below:

Table 1 - Status of Critical EHS Actions/Activities on Worksites

S.No.	Action/Activity	P01	P02
1.	Deployment of Environment and Safety Officers	Pending	Done
2.	Identification/approval of Pollution Monitoring Agency	Pending	Pending
	Initiation of pollution monitoring	Pending	Pending
3.	Preparation of Traffic Safety Plans	Pending	Pending
	Implementation of Traffic Safety Plans	Very Poor	Poor
	Dust control measures	Partially Complied	Partially Complied
4.	Provision and due enforcement of worker’s safety	Partially Complied	Partially Complied

S.No.	Action/Activity	P01	P02
	Proper storage/handling of hazardous/inflammable	Partially Complied	Partially Complied
5.	Pollution prevention measures at HMP and crusher sites	Partially Complied	Pending
6.	Preparation and approval of the Waste Disposal Plan	Pending	Pending
	Proper debris management at site	Partially Complied	Substantially Complied
7.	Preparation of Emergency Response Plan	Pending	Pending
	Implementation of Emergency Response Plan	Partially Complied	Partially Complied
8.	Material Source Management		
	• Earth	Partially Complied	Partially Complied
	• Sand	Pending	Pending
	• GSB/Murom	Partially Complied	Partially Complied
	• Water	Pending	Pending

List of Pending Actions – Documentation Related to EMP

The following documents need to be submitted to Resident Engineers for review and approval in line with contractual requirement and should be readily available for reference in the concerned site offices:

- a) Camp/Plant Site Documentation
This should include (a) approval letter for location (including map showing the survey no. details); (b) approval letter for the lay-out (including lay-out plan and wind direction) and (c) submission of documents on land ownership and permission from local authority.
- b) Consent Orders from SPCB
This should include Consent to Establish and Consent to Operate Plants (HMP, Crusher, WMM, Batching Plant etc.), including subsequent consent renewal orders.
- c) License/permit for quarry and crusher operations (including transit permits and auction/lease agreements)
- d) License for Explosives (for use in quarry operation)
- e) NOC for HSD/Diesel Pump Installation
- f) License for petroleum product/s storage (under Petroleum Rules)
- g) Labour License
- h) Approval letters and documentation of earth, sand, murom and water sources in line with EMP stipulations (including location map and photographs).
- i) Permission for ground water extraction (as applicable).

Status of Documentation Availability

S.No.	Aspect	P01	P02
1.	Camp/Plant Site Documentation	Pending/Not Yet Shared	Pending/Not Yet Shared
2.	Consent Orders from SPCB		
	• Hot Mix Plant	Yes (valid till 31.3.2012)	Yes (valid till 31.3.2014)
	• Crusher	Yes (valid till 31.3.2012)	Pending/Not Yet Shared
	• WMM Plant	Yes (valid till 31.3.2012)	Yes (valid till 31.3.2014)

S.No.	Aspect	P01	P02
3.	License/permit for quarry operations	Yes (valid till 31.3.2012)	Pending/Not Yet Shared
4.	License for Explosives	Yes (validity to be checked)	Pending/Not Yet Shared
5.	NOC for HSD/Diesel Pump Installation	Yes	Yes
6.	License for petroleum product/s storage	Pending/Not Yet Shared	Yes
7.	Labour License	Pending/Not Yet Shared	Pending/Not Yet Shared
8.	Permission for ground water extraction	Pending/Not Yet Shared	-
9.	Material Sources related Documentation		
	• Earth	Partial Compliance	Partial Compliance
	• Sand	Pending/Not Yet Shared	Pending/Not Yet Shared
	• GSB/Murom	Pending/Not Yet Shared	Pending/Not Yet Shared
	• Water	Pending/Not Yet Shared	Pending/Not Yet Shared

The mission reiterated that the documentation should be compiled properly as it pertains to some key environment and safety regulations. These should be readily available for reference in the concerned site offices, including in the visits made by the PIU, PMU and Bank. Any pending/outstanding documentation should be submitted by the contractor to the PMU/PIU within the fixed deadlines, beyond which contractual remedies should be applied.

More so, timely action has to be taken by the contractor to renew any expired certificates to meet the country regulations, including those for which the deadlines are approaching in the near future (such plant and quarry permits on P01). The mission was informed that all such documents are being collected/filed and would be shared with the Bank prior to the next implementation support mission.

(2) Worksite Safety Management

While there have been some improvements on the environment management side (as observed and recorded in the September 2011 aide memoire), the mission found serious gaps on work site safety issues. There is laxity in preparing and implementing Traffic Safety and Management Plans following the Indian Roads Congress (IRC) guidelines, both on paper and in practice. The mission noted that signage and other safety measures required for this purpose were completely absent on P01. The same were found to be grossly deficient on P02 during the September 2011 visit. More so, improper planning of works apart from resulting in losses to the contractor is also causing inconvenience to the general public (road users as well as local residents). Leaving open long sections of GSB and/or WMM without execution of subsequent layer/s (DBM) for prolonged period forces public to face dusty conditions, creating both road safety and health issues.

(3) Contract 3

With the contractor for Berhampur-Taptapani (P03) having opted to terminate the contract, the review of EMP implementation was primarily restricted to the identification of outstanding activities/actions on part of the contractor, which may have health and/or safety implications on road users and/or local communities. The mission reminded OWD/PMU to complete the detailed list of such pending actions prior to the closure of the contract, including any final settlement of the payment. This includes issues related to: (a) tree felling and handing over of material to Forest Department in line with regulatory and EMP norms; (b) safety measures at incomplete civil work sites (such as deep excavations; half width culvert construction sites; single lane stretches, diversion points etc.); (c) rehabilitation of used material source sites (such as borrow areas used for earth, sand and murom extraction); (d) disposal of debris/waste materials; and (e) camp/plant site clean-up. The mission was assured that such a list of pending activities would be shared with the Bank at the earliest.

(4) Compensatory Afforestation

In order to continue the commendable effort made towards compensatory afforestation activities (mentioned in detail in the aide memoire for September 2011 mission) and to effectively make use of 2012 monsoon, the mission requested the OWD/PMU to finalize and release funds for the pending roads/stretchers. The mission was assured that the associated plans will be finalized by the December 31, 2011 and thereafter the required funds would be released within a month. Also, the mission reminded OWD/PMU about the installation of sign boards at carefully selected locations for Anandpur-Bhadrak-Chandbali Road (P02), which may include Panchayat Office, Health Centre) about the plantation WORK undertaken (target, achievement, area covered, client, money spent etc.)

(5) Third Party Quality Review

OWD has engaged National Institute of Technology (NIT) Rourkela for carrying out the Third Party Quality Review. Among other aspects included in the scope of the assignment, the assignment also covers review of Environmental, Health and Safety (EHS) implementation aspects vis-à-vis the provisions/requirements of the EMPs. NIT Rourkela's team comprises of Environment and Safety specialists for this purpose. The detailed audit of P01 (Khariar-Bhawanipatna) has been completed and the draft report has been shared with Bank. Issues raised by the Bank on earlier occasions have also been reflected by the Third Party Auditors in their report. Similar reports for the two other Phase I contracts are now awaited in addition to the compliance on observations raised for Khariar-Bhawanipatna road.

B. PHASE II WORKS

(1) Jagatpur-Chandbali Road

Extensive discussion and a visit to Jagatpur-Chandbali Road was made to understand the additional environment safeguard requirements and issues (if any) in the backdrop of design changes that are being currently made by the PMU. In view of the flood situation in the project area during the 2011 monsoon, the OWD/PMU is making changes in the vertical profile of the road. This is likely to have a further impact on the drainage of the area, which is already constrained by the flat coastal/deltaic topography of the region. A design review, both from the drainage and safety perspective would be useful keeping in mind the changes that have occurred since the project road was initially designed in 2007-08 (ie growth in markets, colonies and other linear development along the road) and the vertical profile changes that are now being made in view of the flood situation and its impact on the road. The OWD/PMU has agreed to share the revised drawings for Bank's review by January 15, 2012.

In line with the changes in the engineering design, updating of EA and EMP document too will be necessary to reflect/incorporate the said modifications. These documents will also be made available by the OWD/PMU for Bank's review in January 2012. This revision will include updating of the Biodiversity (Wildlife) Management Plan.

Learning from Phase I experience and looking at the challenges the Jagatpur-Chandbali Road offers, it will be useful to strengthen dissemination of information to the key stakeholders and general public. In addition to the web based techniques, which the project is already using, the mission suggested preparation and distribution of Project Information Brochure in local language to reduce communication gaps and spread awareness about the proposed improvements. Additional consultations will also be required in the near future to prompt public memory about the project's design proposition, benefits, issues, mitigation measures and other key details due to the time gap in sub-project preparation and its proposed implementation.

The mission also used this opportunity to assess the status of pre-construction activities, which have been initiated on the said road corridor prior to invitation of bids. While tree cutting has been initiated in Aul Division, the mission during the site visit noted that the present blazing/marketing of trees doesn't reflect the 'tree savings' that had been originally planned and provided for in the design (and recorded in the EMP). The mission sought immediate attention of the OWD's design team on this issue. It was agreed that the details will be shared with the Bank and also reflected in the EMP. This should include a review

of the design to check savings of some large trees in congested settlements areas (like Kendrapara), the shade of which is extensively used by the locals throughout the year.

The mission also encouraged OWD/PMU to initiate a tree transplantation pilot (as was originally planned and mentioned in the EMP) to save some tree cover loss. This is specifically possible in some stretches that has relatively younger plantation (carried out post super cyclone) such as that between Kendrapara and Pattamundai.

(2) Khuntuni-Narsinghpur Road

Additionally, at PMU's behest, the mission visited Khuntuni-Narsinghpur road to understand the nature of rehabilitation works being proposed by OWD for this and other similar road corridors. The OWD/PMU primarily sought guidance on the approach/methodology to be adopted for dealing with the likely environmental issues for such works, which was provided by the mission.

The said road stretch is about 100 km in length with a general carriageway width of 5.5mt. (upto 7 mt. in some stretches). For this and other similar roads, the OWD proposes pavement strengthening and rehabilitation works all within the existing available Right of Way. The mission noted during the site visit that measures related to safety and drainage in particular are deficient and therefore could be included as part of rehabilitation works within the available RoW to ensure improved road function. Safety measures are necessary and need to be carefully addressed as the road passes through several large and small settlements with market areas, sensitive receptors, religious properties etc. abutting the road itself. The OWD/PMU agreed to the need for considering elements related to safety, drainage and other such local level improvement works within the ambit of proposed rehabilitation works.

In order to take this forward from an environment safeguards perspective, the following steps were proposed by the mission and agreed by the OWD/PMU:

- Step 1 - The OWD/PMU with identify/prepare a preliminary list of roads from the core network that could be considered for rehabilitation works under the project.
- Step 2 – An Environment Screening exercise will be conducted by OWD/PMU (the format for which is provided in Annex 1 of this note for reference/use) to short-list roads without any critical environment/wildlife issues. A report summarizing the results from this exercise will be shared with the Bank for safeguards clearance.
- Step 3 – Based on the field requirements, environmental considerations (such as safety, drainage etc.) will be incorporated into the engineering design.
- Step 4 – A generic EMP will be prepared and incorporated into the bidding document of the concerned road.

The mission also suggested OWD/PMU to closely look at cases where substantial road length passes through forest areas but land has not yet been transferred to the roads department, which may create a regulatory issue. In such situations, the mission suggested that it would better to identify the nature and scale of the issue clearly and resolving it in line with regulatory norms prior to undertaking road improvement works.

C. Institutional Aspects

Independent Environmental Committee: The mission once again discussed and re-iterated the need to establish an Independent Environmental Committee (constituting of officials/experts from Department of Forests, Wildlife Wing and State Pollution Control Board), which with the assistance of Environmental Management Cell (OWD/PMU) needs to assess site-specific EMP implementation once in six months. The formation of this independent committee has been agreed as part of the monitoring and evaluation mechanism for OSRP to ensure effective environment management, particularly during the construction of works. Even though the mission was assured that the committee will be put in place by February 2011, the requisite action is still awaited.

Training and Capacity Building: The mission emphasized that in order to develop specific knowledge about environmental responsibilities and capacity to drive the environment, health and safety agenda on behalf of the OWD, the EMC/PMU must interact with other state counterparts and site visits to states such as Gujarat, Himachal Pradesh and Karnataka should be arranged. A number of such ‘exposure’ visits should take place at the earliest, to strengthen the Cell’s internal ‘knowledge base’ and capacity to support OWD’s senior management in environment, health and safety matters.

D. Preparation for Mid Term Review

As the project is getting close to its mid-term stage, the mission and EMC/PMU agreed that it is now time to start collating information on various environmental matters including good practices and lessons learnt. A Terms of Reference will be put together to conduct a safeguards review, which will help in preparing for the up-coming mid-term review. The Bank will work with the EMC/PMU for developing the said ToR and the required format for the Mid Term Review Report for the project.

E. Key Agreed Actions

Phase I (P01 and P02)

- Deployment of Environment and Safety Officer on P01
- Identification, approval of Pollution Monitoring Agency and initiation of pollution monitoring
- Preparation and implementation of Traffic Safety and Management Plans.
- Provision and due enforcement of worker’s safety arrangements, including proper storage /handling of hazardous/inflammable materials.
- Pollution prevention measures at plant sites.
- Proper debris management, including preparation and approval of the Waste Disposal Plan.
- Preparation and implementation of Emergency Response Plan.
- Documentation (regulatory/statutory)

Phase I – Other Actions

- Preparation of pending task list for terminated contract P03
- Preparation/finalization of Compensatory Afforestation Plans for pending roads/stretches

Phase II – Upgrading Work (Jagatpur-Chandbali)

- Updating of EA and EMP (including the Wildlife Management Plan)
- Preparation of Project Information Brochure
- Organization of Public Consultations Sessions
- Tree transplantation pilot
- Completion of pre-construction activities for Milestone 1

Phase II – Rehabilitation Works

- Preliminary identification of roads (from core network) proposed for rehabilitation under OSRP
- Environment Screening and preparation of the report
- Incorporation of safety, drainage and other improvement propositions in the engineering design
- Preparation of Generic EMP and incorporation into Bidding Document

Annex 1

Suggested Format for Environment Screening Exercise

Part A: General Information

1. Name of the Road	
2. Location	
▪ Taluka/Block Traversed	
▪ District/s	
3. Length of the proposed sub-project	
4. RoW Availability (in mt.)	
▪ Maximum	
▪ Minimum	
5. Details about the Screening Exercise	
▪ Date	
▪ Name of the Person	
▪ Designation	
▪ Contact Number	
▪ E-mail Id	

Part B: Environment Screening

Question	Yes	No	Details
1. Is the sub-project located in whole or part within a radius of 10 kms from any of the following environmentally sensitive areas?			
a. Biosphere Reserve			If yes, mention name and distance.
b. National Park			If yes, mention name and distance.

Question	Yes	No	Details
c. Wildlife/Bird Sanctuary			If yes, mention name and distance.
d. Game Reserve			If yes, mention name and distance.
e. Tiger Reserve/Elephant Reserve			If yes, mention name and distance.
f. Wetland			If yes, mention name and distance.
g. Important Bird Areas (IBAs)			If yes, mention name and distance.
h. Coastal area with corals			If yes, mention name and distance.
i. Mangrove area			If yes, mention name and distance.
j. Estuary with mangroves			If yes, mention name and distance.
k. Natural Lake			If yes, mention name and distance.
l. Swamps/Mudflats			If yes, mention name and distance.
2. Is the sub-project located in whole or part within a radius of 500 mts. from any of the following sensitive features?			
a. World Heritage Sites			If yes, mention name and distance.
b. Archaeological monuments/sites (under ASI's central/state list)			If yes, mention name and distance.
c. Historic Places (not listed under ASI – central or state list)			If yes, mention name and distance.
d. Regionally Important Religious Places			If yes, mention name and distance.
e. Public Water Supply Areas from Rivers/Surface Water Bodies/ Ground Water Sources			If yes, mention name and distance.

Question	Yes	No	Details
f. Zoological Park /Botanical Garden			If yes, mention name and distance.
g. Reservoirs/Dams			If yes, mention name and distance.
3. Is the sub-project located in whole or part within a radius of 1 km from the following features?			
a. Estuaries or deltaic mouths			If yes, mention name/s and distance/s.
b. Reserved/Protected Forest			If yes, mention name and distance.
c. Area with threatened/rare/ endangered fauna (outside protected areas)			If yes, mention name and distance.
d. Area with threatened/rare/ endangered flora (outside protected areas)			If yes, mention name and distance.
e. Habitat of migratory birds (outside protected areas)			If yes, mention name and distance.
f. Migratory Route/Movement Zone of Wild Animals/Birds			If yes, mention name and distance.
4. Is the sub-project located in whole or part within the Coastal Regulation Zone?			If yes, specify the zone.

**Orissa State Roads Project
Social Safeguards Mission Note
November 17-21, 2011**

I. INTRODUCTION

1. A World Bank team comprising Satya N Mishra, Social Development Specialist and Neha Vyas, Environment Specialist undertook an interim mission to follow up on the safeguards actions discussed during the fourth implementation support mission of September 26-30, 2011. During the mission, the team visited work site of the Berhampur-Taptapani (Package-3) road of Phase-I; (b) Jagatpur-Chandbali Road of the Phase-II and carried out a reconnaissance tour of the proposed Khuntuni-Narasimghpur road to understand likely safeguards issues; met and discussed with the Revenue Secretary and the Director-Resettlement and Rehabilitation (R&R) about updating of the R&R Entitlements for the OSRP. A wrap-up meeting with the OSRP Project Director was held at the Bank office at 50 M, Shanti Path, New Delhi on December 6, 2011. This Mission Note summarizes findings, recommendations and actions required to improve social safeguards management of the project. The note on Environment Safeguard shall follow.

II. FINDINGS

Social

2. **Last Mission Findings:** The last mission had noted reasonable progress in land acquisition (LA) and resettlement and rehabilitation (R&R) activities for milestones 1 and 2 of Phase-I roads with minor gaps in some stretches. A areas were identified which required further attention including: (i) setting out clear guidelines for paying up R&R benefits such as site allowance; (ii) updating fixed value R&R benefits to adjust against inflation and to reflect the market values; (iii) strengthening information disclosure and grievance redress at local level, which is at present very weak; (iv) closer coordination of social and engineering surveys in order to minimize additional impacts due to divergence in alignments; (v) instituting independent monitoring/ review of the LA and R&R process for monitoring implementation quality; (vi) database management and reporting of LA and R&R on agreed formats; (vii) strengthening social management capacity at PMU and in the field including by hiring additional social development professionals, and with exposure visits, and training support for key implementing staff. The following section summarizes follow up discussions on these issues.

3. **Progress in LA and R&R:** The field visit to Berhampur-Taptapani roads indicated that LA process had been advanced except in villages such as Narayanpur where the Government's decision to issue land title to a number of hitherto squatters required fresh initiation of land acquisition in some stretches. The disbursement of R&R benefits such as site allowance to the residential/ commercial squatters and livelihood/ employment assistance to eligible PAPs had not started yet due to difficulties interpreting the R&R policy in the absence of actionable procedures. This applied to all the three Phase-I roads.

4. **Updating R&R Entitlements:** The mission discussed with the Revenue Secretary and the Director-R&R regarding the need to update the OSRP R&R Policy setting out clear guidelines for paying up R&R benefits such as site allowance; and updating fixed value R&R benefits to adjust against inflation. Specifically, these include: (i) providing site allowances to the squatters, (ii) paying site allowance to displaced commercial property owners for the approved size (100 sq.mt.) at market value, or paying fixed site allowance at par with residential property owners; (iii) updating any other fixed cost R&R benefits under OSRP not updated since 2009; (iv) disbursing employment / livelihood assistance to eligible PAPs including tribal families. It was discussed that the PMU will submit a proposal addressing the above issues for consideration and approval of the Revenue Department. The payment of site and livelihood allowance is a priority and needs urgent attention.

5. **Information Dissemination:** OSRP has disclosed all relevant safeguard documents on its website. However, interactions with the people during field visits indicated gaps in public awareness of project impacts and resettlement issues. The people along the Berhampur-Taptapani road were relatively informed whereas people affected by the Jagatpur-Chandbali road were not well informed. The PMU will prepare a Project Information Brochure (PIB) summarizing project details, impacts, mitigation plans, grievance mechanisms, and contact details and disseminate these among people in the corridor of impact. PMU is also advised to establish information display boards in each village (in the market or in the Panchayat office). The implementing NGOs should play a stronger role in information dissemination; the list of eligible PAPs should be disclosed on OSRP website and at the village level.

6. **Grievance Redress Mechanism.** OSRP has established a multi-layered GRM including (i) village level committee, (ii) district level compensation advisory committees (DCAC), (iii) Rehabilitation and Periphery Advisory Committee (RPDAC) (iv) state level advisory committee R (SLAC and SLCRR). In practice, people are not aware of the GRCs; OSRP project engineers and NGOs remain the only respondents to people's queries. DCAC and RPDACs have met only a few times to approve LA proposals and beneficiary lists, and do not play any role in grievance redress. VLCs are not active; OSRP forwards it receives to the Collector for resolution. In this context, PMU is advised to simplify the GRM and disclose information about its working with contact details on its website and at the Panchayat offices for providing easy access to the people.

7. **Preparation of RAP for Jagatpur-Chandbali Road:** The impact survey for the Jagatpur-Chandbali road was prepared in 2006-2007 and needs to be updated. To update the RAP, the PMU can explore various options including seeking service of previous consultants, hiring fresh consultants, or seeking service of the NNGO to update the SIA and finalize the RAP through resurvey and consultations. The widening work will displace a large number of shopkeepers, who may suffer irreversible business losses. The PMU will explore the option of resettling the shopkeepers in situ through consultations to be held for updating the RAP. The OSRP RR Policy allows establishing local markets for resettling shopkeepers, which can be piloted.

8. **External Review, Database Management, and Capacity Building:** As discussed and agreed during the last mission, the PMU is advised to hire a consultant to undertake an interim external review of the quality of LA and R&R implementation and outcomes thereof. A ToR is attached in Annex-I for the purpose of reference. As discussed during the last mission, PMU is advised to take steps to improve the database management at the PMU for documentation and monitoring of the LA and R&R process. The PMU needs to enhance its safeguards capacity by hiring an additional professional staff. The Bank team is willing to assist with organizing exposure visits, training programs for the key SEMU staff. The PMU has freed one of the NGOs from service following investigation and to bridge the capacity gaps plans to expand the services of NNGO with clear guidelines on requirements, which is agreeable. The PMU is advised to prepare the progress report on LA and R&R using the formats shared during the last mission.

9. **Safeguards Approach for New Phase-II Roads:** The PMU proposes to undertake rehabilitation and strengthening of some key existing roads under Phase-II, including the 96 km stretch of Khurntuni-Narsanghpur road. The bank team undertook a reconnaissance visit of the road and noticed that the proposed work may not have any major adverse impact. The PMU is advised to undertake Social Screening for all such works using the social screening format attached in the Annex-II, based on which the bank will review the safeguards planning required for these works.

List of Actions

Sl	Action
1	Update OSRP entitlement matrix with required revisions in fixed cost benefits and procedure on payment of site and livelihood allowance (PMU to send proposal discussed with Bank to the Secretary Revenue)
2	Strengthen information dissemination (PIB, display boards, NGO role)
3	Simplify GRM; disclose information about its working with contact details
4.	Hire consultant to update RAP for Jagatpur-Chandbali Road
5.	Hire consultant for external quality review of social safeguards (see attached TOR)
6.	Prepare a capacity building plan with dated actions
7.	Prepare plan of action for database management
8.	Complete social screening for the first three Phase-II roads
9.	Hire new NGO, expand role of NNGO

ORISSA STATE ROADS PROJECT

Draft ToR for External (Social) Safeguards Review and Monitoring

Introduction

1. The Works Department (OWD), Government of Orissa (GoO), India has planned to improve its core network of about 900 km of state highways under the Orissa State Road Project (OSRP) with the proceeds of a loan of USD 250 from the World Bank (IBRD). The Project aims to remove transport bottlenecks in targeted transport corridors for greater investment and economic and social development activities in Orissa. The Project has two components: (i) **Road Corridor Improvement Component** improving the performance, safety, and carrying capacity of priority roads in the state in an environmentally and socially sustainable manner (widening, strengthening and realignment of about 461 km of important existing roads); and (ii) **PPP Enabling Support, Sector Policy and Institutional Development, and Implementation Support** for attracting private sector participation in the road sector and helping the state Government to establish a conducive policy, institutional and governance framework to improve road sector management, financing and safety.

2. An R&R Entitlement Policy in line with the Orissa R&R Policy of 2006 and compliant with the Bank Operational Policy 4.12 has been established for mitigating involuntary resettlement impacts of the Project. Procedures and mechanisms have been established for preparing and implementing Social Management Plans including Resettlement Action Plan (RAP), Tribal Development Plan, HIV/AIDS Action Plan, and Road Safety Awareness Plan for each road package. The OWD has established a Social Management Cell with land acquisition officers and social/environmental professionals for planning and implementing these social management plans. The Project has engaged a Nodal NGO (NNGO) at PMU level with road work implementation support NGOs (INGO) at the package level to assist with planning, implementation and monitoring support for each road.

3. Social safeguard monitoring is agreed to be carried out through internal and external mechanisms. Internal monitoring of safeguard issues is done by the Package Manager and the facilitating NGO and the Social Management Cell of the PMU. External monitoring is aimed to be carried out by the Rehabilitation & Periphery Development Advisory Committee (RPDAC) with the objective of providing feedback to Project management, which would help them identify and address constraints and challenges during implementation, with remedial measures including timely adjustment of implementation arrangements.

Objective of this Assignment

4. The Project Authority wants to carry out an independent review of the social management plans and their implementation for the phase-I and phase-II roads. These include: Berhampur-Taptapani (41 kms); Bhawanipatna-Khariyar- (68 kms), Anandpur-Chandbali (95 kms) and Jagatpur-Chandbali 106 kms. This review is intended to help the Project authorities assess and ensure that safeguard measures are properly implemented with living standards of affected people restored or improved. Independent evaluation of OSRP-social management plans including RAP, TDP, and HIV/AIDS Plan are to be carried out at the mid- and end-term. OSRP was approved in 2008 and has completed 3 years of implementation, therefore a mid-term review is being proposed.

Scope of Work

5. In this context, the OWD is looking for an external social development consultant to carry out an independent review of social safeguards management including of RAP, TDP, and HIV/AIDS and Road Safety plan implementation and determine whether stated goals were achieved, and suggest corrective measures if necessary. The Consultant will review and verify the following aspects:

- a. Progress in LA and R&R implementation as outlined in the RAP with regard to payment of compensation and R&R assistance and transfer of contiguous road stretches for civil work;
- b. Resettlement of the displaced residential households with focus on payment of entitlements including alternative sites/site allowances for re-establishing shelter;
- c. Effectiveness of entitlements offered and measures taken to enable the affected commercial units to re-establish their business/incomes (in both squatter and owner categories) with data on number and percent of businesses affected and re-established;
- d. Extent to which affected livelihoods and living standards have been restored or improved as per the R&R objectives;
- e. Quality and progress of measures taken to sustainably relocate the affected community assets, and cultural properties including religious structures;
- f. Institutional capacity and effectiveness for social management including survey, RAP preparation, PAP consultation, grievance redress, provision of entitlements, site clearance, NGO management, data base management and reporting, inter-agency coordination, and internal and external monitoring systems; document and assess adequacy of steps taken to build the capacity of the social management unit to improve performance;
- g. Role of NGOs appointed in the areas of community awareness and mobilization; R&R benefit distribution and site clearance, utilization of the R&R assistance for shelter and livelihood rehabilitation, role in grievance redress; planning and implementation of road safety and HIV/AIDS awareness plans; and overall monitoring and reporting;
- h. Disclosure, public information, consultation and grievance redress strategies with focus on mechanisms established for raising awareness about PAP entitlements and social management plans; functioning of grievance redress system, especially at the field level; people's participation and stakeholder consultation in planning and implementing social management plans;
- i. Quality of R&R outcomes through field interaction with affected people and stakeholders;
- j. Preparation and implementation of HIV/AIDS awareness and Road Safety plans in consultation with the local stakeholders and communities;
- k. Assess status and effectiveness of safeguards monitoring and reporting in OSRP, including preparedness check before contract award and site handover for civil work; functioning of the multiple oversight committees such as district compensation advisory committee, RPDAC, state level compensation advisory committee, and state level committee on R&R with information about meetings held, subjects discussed and actions taken;
- l. Identify strengths and weaknesses of the LA and RR policy and practice; difficulties encountered, lessons learnt with suggestions for corrective measures;

Method and Process:

6. While performing above tasks, following activities shall be conducted by the consultant.
 - a. Review relevant policies and action plans including feasibility studies and RAPs for road packages;
 - b. Interactions with PMU and package level staffs of OWD including NGOs.
 - c. Interactions with relevant state departments, agencies and stakeholders including the World Bank;
 - d. Conduct field visit and focus group discussions with people in villages where houses and shops have been displaced; check and verify field level activities; key informant interviews.
 - e. Prepare and submit review report after the completion of the assignment with recommendation for further interventions in continuing the skill enhancement of internal monitoring team in carrying out monitoring of resettlement activities to district and PCU.

Consultant Qualifications

7. The Consultant should have at least five years of relevant experience in monitoring and evaluation of social dimensions of infrastructure/development projects and significant experience in resettlement policy and implementation aspects. Further, work experience and familiarity with all aspects of resettlement operations would be desirable. The consulting firm or NGO or any agency involved in any aspect of the project will not be eligible for the application.

8. The consultant should have a higher degree in sociology, anthropology, political science, development studies, human geography, planning, or other relevant social sciences with practical experience in resettlement and in monitoring and evaluation. Preference shall be given to a candidate experienced in infrastructure project with social mobilization aspects with intensive field visits. Previous experience of work with ADB or WB projects will be a plus. Women candidates are encouraged to apply.

9. The consultant shall commence the work from the date of signing agreement. It is estimated that approximately 40 working days will be required for carrying out the services. Responsibilities of the consultant shall continue until the approval of the report by World Bank.

Payment

10. The payment shall be made on the lump sum basis for the assignment as follows:

- a. First payment after the approval of inception report: 20%
- b. Second payment against draft report and presentation for discussion: 25%
- c. Third payment submission of final draft report incorporating comments: 25%
- d. Final payment after approval of the report from the World bank: 30%

Data and Assistance to be provided by the client

11. The PMU will provide the following to the Consultant: (a) relevant reports available with OWD; (b) access to necessary documents and data available with OWD or any other department, required for the performance of the consultant's services. The Consultant will be responsible for all other necessary facilities and logistical support, including accommodation, vehicle, transportation, office equipment, communications, utilities, office supplies and other miscellaneous requirements.

Reporting Arrangements

12. The consultant shall keep complete records relating to all aspects of the work covered by his staff or service contract if any, which shall be available for inspection by PMU. The reporting format shall be discussed with PMU and finalized. External safeguard review reports will be submitted directly to PMU-OWD with copies to the funding agency (World Bank). The Consultant shall submit at least 5 (five) copies of Reports. The consultant is also required to incorporate comments obtained through disclosure, consultation and World Bank. Upon approval of these documents; the Consultant is required to submit additional 5 (five) copies the DOR.

13. The Consultant will prepare PPT presentation on the alongside Draft Report in order to invoke active feedback from the PMU and other stakeholders before the report is finalized. Hence, the Consultant will make a presentation on the findings at the OWD-PMU. The findings of the external safeguard review will be public disclosed on the website and through a public consultation meeting before being finalized.

Involuntary Resettlement Social Impact Screening & Categorization Form

A. Sub-Project Title and Details: Origin and Destination

Present condition:

Existing carriage waymts, proposed carriage way.....mts

Original RoW.....mts, Available (unencumbered) RoW.....mts, Proposed RoW.....mts

Existing height.....mts, proposed height.....mts

Proposed road work:

Proposed Structure works:

Any other allied activities:

B. Justification of Project Design and Alternative Analysis:

Importance of this road and why it is taken up:

Scenario if the work is not taken up:

If it is taken up with greater scope of work:

What kind of natural disasters this corridor is vulnerable to?:

Is the proposed work disaster resilient?

C: Corridor of Impact:

Impact Area: What the road passes through: villages, towns that will be covered, or connected;

What is the physical and human environment of the area which the road passes through?

(residences, kind of commercial units, religious or cultural properties, water bodies, vendors, kiosks, forests, agricultural fields, etc.

Brief socio-economic profile of the road-side beneficiary/affected communities: businesses, livelihoods;

Who will the road benefit and are likely to welcome the work?:

Who may oppose the proposed work?:

D. Social Screening Questions for Resettlement Categorization

Social Impacts	Yes	No	May be	Quantity/ Magnitude	Brief Details
What is the average width of carriage way and RoW available in free stretches and in stretches having habitations and markets?					Give details
Is RoW required for civil work available free from encumbrances in stretches with and without habitations?					Describe
Will the work require some land beyond the RoW?					
Is the land required public land? If so, what is the land use category?					
Are there habitations alongside the road? How many?					Describe
Is the land required for civil work within available RoW, free from encumbrances in stretches with habitations?					Describe
Are the proposed works likely damage any residential houses partially or fully?					Provide details
Are there some non-title holders or squatters living or doing business alongside the road?					
Is the RoW encroached at some places? Are some of the encroachers or squatters likely to be affected partially or fully?					Mention locations, type of squatters likely to be affected with tentative numbers
Does the road pass through market places, bazaars?					Location names
Does your preliminary survey indicate that some businesses may be affected? What are the categories of commercial units affected?					Give details: hotels, eateries, shops, services, manufacturing units
Are some kiosks, roadside vendors going to be affected?					
Are there any cultural/community facilities likely to be affected?					Religious structures, tanks, water sources, any other
Are there any public service facilities likely to be affected?					Such as schools, offices, etc.
If the area is flood prone, will the road work cause submergence of agricultural fields, habitations? Are right facilities proposed to allow cross drainage?					
If land has to be acquired, is the actual plot size and ownership status known?					
Is land for material mobilization or transport for the civil work available					

within the existing RoW?					
Will there be loss of agricultural land/ damage to crops, trees?					
Will there be loss of incomes and livelihoods?					
Will people lose access to facilities, services, or natural resources?					
Are any cowsheds affected?					
Are any artisans, wage workers affected?					
If the affected land/structure owners likely to lose less than 10% of their land/structure area.					
Are any temporary impacts are likely?					Please describe.

C. Estimates of Specific Impacts

Work - Components	Private land required (Sq Mt)	No of land owners affected	Govt. land required in Sq. mts.	Forest land required in Sq mts	No of residential houses affected	No of commercial units affected	No of other structures affected	No of Squatters affected	Public utilities affected

E. Information on Affected Persons

Any estimate of the likely number of households that will be affected by the sub-project?

No. Yes. If yes, approximately how many? _____

No. of HHs losing less than 10% of their productive assets (land/ cowshed/shops/economic units)_____

No. of HHs losing 10% or more of their productive assets?.....

Are there any poor and vulnerable households including female-headed households whose livelihoods are affected?

No. Yes.

If yes, please briefly describe their situation with estimated numbers of HHs?

Are any tribal households affected? No.

Yes. If yes, please briefly describe their situation with estimated numbers of HHs?

What are the needs and priorities for social and economic betterment of the tribak communities living alongside the road?

F. Decision on Categorization

After reviewing the answers above, it is determined that the sub-project is:

- Categorized as an A project, a full Resettlement Plan is required
- Categorized as a B project, a short Resettlement Plan is required
- Categorized as a C project, no RP is required

Prepared and Endorsed by:

Staff Name, NGO:	Signature with date
Executive Engineer	Signature with date
Reviewed by	
Head, Social and Environment Unit:	Signature with date
Approved by: Chief Engineer	Signature with date

OSRP

I have visited all the project roads from 8th to 13th of December 2011 in the presence of the concerned PMUs, Project Managers and other concerned staff.

The Project wise observations are:

i) P-01 : Bhawanipatna-Khariar Road :

- The commencement date of the project road is 20th February, 2009 with Date of Completion as per contract is 19th August, 2011 with a time period of 30 months. The extension of time has been granted up to 28th October, 2013. The total length of project road is 68 Kms. (2/0 Km to 70/0 Km of SH-16).
- The physical progress as on 08.12.2011 on the three milestones is :

i. Road Works :

○ Embankment	:	31.40 Kms.
○ Sub-grade	:	30.435 Kms.
○ GSB	:	29.235 Kms.
○ WMM	:	25.627 Kms.
○ DBM	:	25.017 Kms.
○ BC	:	4.48 Kms.

It has been observed that the surface of DBM is wavy at certain portions which were pointed out to the EE and the PM, and the roughness index of the BC is not within the acceptable norms. EE has been advised to get the RI of the BC checked immediately and ensure that the roughness index of the BC is as per the requirement.

ii. Structures :

○ Minor Bridges (New Construction)	=	2 Nos.
○ Minor Bridges (Rehabilitation)	=	Nil
○ Box Culverts	=	26 Nos.
○ Hume Pipe Culverts	=	25 Nos.

The quality of concrete in all the structures is deplorable. Some of the Box culverts were randomly checked and the concrete work of the box culverts at chainages 60/567, 59/915, 56/625, 56/270 cannot be accepted and should be rejected and the work should be redone at the risk and cost of the contractor.

- There are absolutely no traffic management, road signs, cautionary/mandatory signs at the work fronts.
- The contractor is not maintaining the existing road and the stretch between km. 27 to km. 32 is full of deep pot holes and is not traffic worthy.

ii) P-02 : Anandpur-Bhadrak-Chandabali Road :

- The commencement date of the project road is 3rd February, 2009 with Date of Completion as per contract is 2nd August, 2011 with a time period of 30 months. The extension of time has been granted up to 28th May, 2013. The total length of project road is 95 Kms. (0/0 Km to 45/0 Km of SH-09 and 0/0 Km. to 50 Km. of SH-53).

- The physical progress as on 08.12.2011 on the first milestones is :

i. Road Works :

- Sub-grade Level : 34.125 Kms.
- DBM Level : 22.6 Kms.

It has been observed that the surface of DBM is wavy at certain portions and **DBM in Km. 39 (RHS) has settled at a number of places thus indicating poor quality of work.** The PMU was asked to get the tests done and also to get this portion specifically examined by the Technical Audit Team and the get the damaged portion dismantled and relayed at the risk and cost of the contractor.

ii. Structures :

- Minor Bridges (New Construction) = 2 Nos.
- Minor Bridges (Rehabilitation) = Nil
- Box Culverts = 15 Nos.
- Hume Pipe Culverts = 35 Nos.
- Slab culvert = 1 No.

On the project road also, the quality of concrete in all the structures is deplorable. Some of the Box culverts were randomly checked and the concrete work of the box culverts at chainages 36/430, 35/590, and the minor bridge at 3/241 in these structures even the reinforcement steel is visible at many places as such the works cannot be accepted and should be rejected and the work should be redone at the risk and cost of the contractor.

The conditions of the structures were also brought to the notice of the Chief Engineer during discussions.

- There is absolutely no traffic management, road signs, cautionary/mandatory signs at the work fronts.
- The contractor is not maintaining the existing road. which is full of deep pot holes, the pavement is not existing in many stretches and the travelling speed is around 10-12 kms/hr.

iii) P-03 : Berhampur-Taptapani Road :

- This work stands terminated by the Employer.
 - Work up to DBM has been carried out in 8 Kms. in different stretches.
-

In view of the physical progress of the project roads, as given above, I have the following specific observations pertaining to the project:

- **Extension of time :**

We have been regularly pointing out the lack of performance, non-compliance of the provisions in the project, non-mobilization of machinery and manpower, maintenance of existing road, work sites safety etc. by the contractors on all the three project roads. It is not understood why the road user is made to suffer on account of poor maintenance of roads. And surprisingly, these issues have been ignored by the Employer while granting the extension of time in P-01 and P-02 on the reasons of delay on the part of the department submitted by the Contractors. Under these circumstances, the

contractor is likely to raise huge financial claims on account of admitted delay by the Department.

- **Quality of works :**

The quality of DBM and BC is not conforming to the specified limits. The poor quality of the CD structures has already been highlighted in various Mission notes and during the visit of the Mission in January, 2011 the issue of poor concreting was brought to the notice of the Chief Engineer and was also highlighted in the meeting with the EIC-cum-Secretary, OWD and both of them had ensured that suitable steps shall be taken to ensure the proper quality of the concrete in the structures and no substandard works shall be accepted. But unfortunately, the quality has gone from bad to worse.

Since the agency for Technical Audit is already in place and is working on the project sites the findings of the Technical Audit must be considered before accepting the work and making payment for the same. In case of the CD structures, particularly the Technical Audit Agency should be requested to conduct strength tests (core cutter) on all the structures of the three project roads to ensure the desired strength of the structures and if need be the structure be got demolished.

I would further suggest that in addition to the penalty to the contractor, **deductions in payments to Theme Engineers, agency for providing man power, for deficient services for approving RFIs and accepting sub standard works.** Theme Engineers is being replaced by another agency, the action must be taken before the agency runs away.

- **Dismantled Material:**

In the earlier Mission Notes the issue of accountability of scarified material of the existing road was brought to the notice of the OWD but it has been observed that this serious issue is still being ignored. There is no record of the quantity of material retrieved and its subsequent consumption either by the Engineer or the Contractor. Under these circumstances the pilferage of material cannot be ruled out and it can result in huge financial loss to the Government.

- **Technical Audit :**

I have interacted with the Technical Audit team which was working on P-03 and brought to their notice that the reports submitted by them for P-01 does not serve any purpose since their findings regarding the tests conducted / verified were not available. They informed that they had conducted the tests at various locations and would be submitting the results to the Chief Engineer soon. I had requested that this should be done at top priority so that the deficiencies could be rectified at this stage itself, when the work is in progress, as per their recommendations. The report of P-02 is awaited.

COMMENTS ON THE GSB CASE FILED BY THE CONTRACTORS TO THE DISPUTE BOARD (DB):

- The Contractors, Patel-ARSS (P-01), Somdatt Builders-ARSS(P-02), Backbone-ARSS (P-03) have approached the DB for claims on account of dispute of payment for GSB Materials on 2nd Sept., 2010, 2nd Sept., 2010 and 23rd Dec., 2010 respectively.

- As per clause 20.4 of the contract agreement *the DB shall be deemed to have received a reference on the date when it is received by the chairman of the DB.*

*Both parties shall promptly make available to the DB all such additional information, further access to the site, and appropriate facilities, as the DB may require for the purposes of making a decision on such dispute. **The DB shall be deemed to be not acting as arbitrator(s).***

***Within 84 days** after receiving such reference, or within such other period as may be proposed by the DB and approved by both parties, the DB shall give its decision, which shall be reasoned and shall state that it is given under this Sub-Clause. The decision shall be binding on both the parties.....*

- Now in this case the case is with the DB for the last more than one year but no decision of the DB has been received with the result that the spirit with which the DB is constituted is lost. The immediate decision is all the more important since this item of work is in progress and a delayed decision can cause serious implications if one of the parties decides to go to the arbitration against the decision of the DB.

DB must not act as an Arbitration Tribunal, Chief Engineer should raise the issue with DB and request for an early decision.

- I have gone through the claim filed by the Contractors to the DB and find it to be devoid of merit but unfortunately the defense of the Department as very weak.

- The Contractor himself admits in his Claim statements of having written to the Engineer, extract reproduced (Page 8 & 9 – P-03):

“1. As per your own letter BACKBONE/ARSS-JV/TL/SMEC/09-10/93, Dtd. 24.04.09, you had confirmed that before tendering you had inspected the quarry and had found the availability of the material for preparing GSB.

2. Again in your letter BACKBONE-ARSS-JV/TL/SMEC/09-10/492, Dtd. 07.07.09, you had confirmed the availability of required material within a lead of to 14 kms from the work site.”

- The Contractor has not explained the circumstances under which these letters were written by him to the Engineer wherein he admits the availability of suitable material. But the Department in its defense fails to nail this point.
- Again, I am shocked to see reference No. Pr-5061103/RE/P03/261 dated 21st April, 2010 from Engineer to the Contractor in which the Engineer sends **a sample copy of undertaking** *to be submitted by you in view of pending decision as regards to GSB materials. You are advised to submit the undertaking on your letter head duly signed by you at the earliest.*

Now the stand by the Contractor shall be that this undertaking was given under duress and coercion and the Department will not be able to take any stand against this statement.

- The Contractor in his claim statement has appended a number of relevant documents but the Department in its defense has not filed any document nor has given detailed parawise replies to the claim statement.

I am disappointed with the defense submitted by the Department; no efforts have been made to safe guard the interests of the State!

Amrit Inder Singh