MINUTES OF THE 12TH MEETING OF THE INDIA-NEPAL JOINT TEAM OF EXPERTS ON SAPTAKOJI HIGH DAM MULTIPURPOSE PROJECT AND SUNKOSI STORAGE-CUM-DIVERSION SCHEME HELD ON 19-20 JUNE, 2012 IN NEW DELHI

The twelfth meeting of the Joint Team of Experts (JTE) between India and Nepal was held on 19-20 June, 2012 in New Delhi. The Indian Team was led by Mr. S.P. Kakran, Member (River Management), Central Water Commission (CWC), Government of India (GOI) and the Nepalese Team was led by Mr. D.B. Singh, Director General, Department of Electricity Development (DOED), Government of Nepal (GON). The composition of the Indian and Nepalese Teams is at Annex-I.

2. Mr. S.P. Kakran, the leader of the Indian Team, extended a warm welcome to the Nepalese delegation and wished that their stay at New Delhi would be pleasant and comfortable. He reiterated the Indo-Nepal Co-operation on Saptakosi High Dam Multipurpose Project and Sunkosi Storage-cum-Diversion Scheme and India’s commitment for timely completion of field surveys and investigation and preparation of Detailed Project Report (DPR), so that benefits envisaged from the project to both the countries can be assessed in realistic terms along with establishing techno-economic viability of the Project. He further stated that keeping this noble cause in view, both the countries had agreed to set up the JPO-SKSKI in August, 2004 by selecting the officers and staff from both sides to have complete transparency in formulation of the project parameters and assessment of benefits to either party. As a goodwill gesture, the Government of India had decided to provide necessary financial assistance as grant-in-aid, to bear the cost of investigations and preparation of DPR. However, since inception of the JPO-SKSKI in 2004, the field works at dam site could not take off at desired pace due to non-conducive environment due to local problems in the project area. The Ministry of Water Resources had to approach the GOI four times, for extension of tenure of JPO-SKSKI which had initially agreed to complete the works in 30 months by February, 2007. Even as of now, in June, 2012, more than 60% works are yet to be completed. All possible efforts have been made at the level of JPO-SKSKI, JTE, JCWR and at Government level in the past seven years to expedite survey and investigation work and preparation of DPR but these measures could not result in desired outcomes. The last administrative approval by the CPIB was accorded in February, 2011 and the tenure of JPO-SKSKI was extended upto February, 2013, with lot of stipulations, making it clear that this was the last extension granted by the competent authority.

3. The Indian team leader recalled that in the series of various measures taken for starting the survey and investigation works expeditiously, JTE in 11th meeting held in Kathmandu during 2-4 February, 2012, decided to award the drilling work at Saptakosi dam
site to Nepal Electricity Authority (NEA) on nomination basis at quite high cost, considering that the local agency would succeed in carrying out the drilling work as per the specified time schedule. Accordingly, JPO-SKSKI issued a letter of intent to NEA on 21.02.2012 with a direction to start the work immediately and sign the agreement. But Indian team leader was informed that, due to the opposition of local people in the project area, NEA could not even start the work and withdrew its personnel and the drilling machine and other equipment from site on 12.04.2012. NEA did not deposit Performance Guarantee to the JPO-SKSKI as per the contract agreement. Drilling at dam site is one of the most critical items of surveys and investigation without which technical viability of dam across the river cannot be established. NEA is yet to respond about the exact date by which the drilling work would be resumed. The Embassy of India in Nepal has expressed deep concern over this development. Under these circumstances, we are meeting today to find out ways and means on how to start the drilling and other surveys and investigation works by Nepalese as well as Indian agencies regarding which JTE has already taken decisions at 11th JTE meeting. In case it is not possible to resume the work because of local problems, it may be ensured that no infructuous expenditure on account of salaries and allowances of idle staff/officers and infrastructure is made. He hoped that today’s deliberation would be quite fruitful in this regard and requested the Nepalese team leader to express his frank opinion on the present situation in Nepal.

4. Mr. D.B. Singh, the leader of the Nepalese Team expressed his sincere thanks to the Indian Team Leader and his team for the warm hospitality and excellent arrangements made for the meeting. He recalled the decisions made during the last JTE meeting and reminded the list of activities which are yet to be accomplished. He made the team aware of the hindrances put up by the local people against the drilling works at site. He emphasized that the problem of political nature must be solved politically. He also informed about the hard efforts carried out to make consensus with the parties involved and talked about possible modalities which are more effective for preparing the DPR with the available data so that the government can give clear picture of the project to the local people about benefits sharing mechanism and issue of Resettlement and Rehabilitation.

Mr. Singh also stressed that this meeting should review the progress made by JPO-SKSKI so far, provide approvals as required and decide on future course of action. He further assured of full support from the Nepalese side to assist the JPO-SKSKI.

5. Thereafter, the Indian side proposed the following points for detailed discussion as a part of agenda for the 12th meeting of JTE which was agreed to by the Nepalese side and adopted for discussion:
i. Who is responsible for non-resumption of drilling works at site – NEA, JPO-SKSKI, GOI, GON or none?

ii. What is financial liability arising out of non-start of drilling works at Dam site? Who is to bear the cost of time overrun of non-start of work at site?

iii. Should we start sharing the cost of investigations henceforth equally, if there is no time schedule for completion of investigations in the field?

iv. What should be our approach/recommendations to the other pending works?

v. Should we award remaining works also to the Government owned agencies without taking into view the status of drilling work at Saptakosi dam site awarded to NEA?

6. The leader of the Nepalese delegation stated that they have come to the meeting with the understanding of discussing on an agenda on early resumption of drilling work. He also stressed that the points for discussion proposed by the leader of the Indian delegation as question and answer format could rather have come as standard bullet points well in advance so that necessary internal preparation could have been done and appropriate mandate could have been obtained from higher authorities. It was also mentioned that the agenda communicated through JPO-SKSKI should have been circulated with the opening of the meeting. However, the leader of the Nepalese delegation expressed his readiness to discuss those points proposed by the Team Leader of India in frank and friendly manner. With regard to the non-resumption of drilling work, he said that some factors beyond technical level were hindering the process, particularly the pressure from local people with some of their demands and concerns which required time to address at the political level as well. On the point of financial liability, he clarified that the JPO-SKSKI was formed as per the decision made at the level of the Prime Ministers of both the countries and that is beyond our purview.

The leader of the Nepalese side also said that the security arrangement at the project site is adequate. It was suggested that using police force at the first instance could deteriorate the situation. Rather making political move for gaining consensus amongst political parties, opposing forces and other stakeholders could provide sustainable solution. It would further help during the construction work also. NEA has informed by a letter dated 15.06.2012 that “they are trying to negotiate with the opposing parties and will return to drilling works when conducive environment is made”. To make conducive environment at the project site, it is also necessary to address the concerns raised by local people and it is necessary that the concerned political leaders take initiatives. Previous ministers had showed their commitment to it. Above all, the GON is in its fullest extent shall support the resumption of all pending works.
7. Project Manager (I) informed the JTE that JPO-SKSKI awarded the drilling work at Saptakosi dam site to NEA vide letter of intent dated 21.02.2012 with direction to start the work immediately. In response to JPO-SKSKI letter dated 27.03.2012 NEA informed that they require at least two months to prepare logistics and to construct the floating platform as they have to follow Nepal Government procedures. NEA was asked to mobilize two set of drill machines as per contract conditions and provide detailed specifications of machines and equipment to JPO-SKSKI vide letter dated 03.04.2012. NEA did not follow contractual stipulations and continued with their earlier programme conveyed vide their fax dated 29.03.2012 to start the work by mobilizing one set of drilling crew only. No engineer has been posted from NEA at site till date and a junior official from NEA held a meeting at Simley village (located upstream of Barahkshetra site near Triveni) on 07.04.2012 which decided against carrying out of drilling works at dam site. Meanwhile, Project Manager (N), JPO-SKSKI planned to visit Triveni (Simley village) for holding discussions with the upstream stakeholders but that also did not materialize. NEA thereafter concluded and conveyed to JPO-SKSKI that they are not in position to resolve this deadlock and accordingly, starting drilling work at dam site was not possible. NEA wanted JPO-SKSKI to take necessary action to create conducive working environment. Till date, NEA has failed to deposit the performance guarantee (5% of contract amount) in spite of JPO’s letters dated 12.03.2012 and 03.04.2012. The JPO-SKSKI had kept all records ready to hand over the site and drill hole locations to NEA and asked them to take over the site. Two JEs were also posted at Barahkshetra for the drilling works. However, JPO-SKSKI efforts became futile because of reluctance of NEA to unload the drilling machine and carry them at the drill holes' locations. In addition two machines from CWC, Faridabad division were also ready for transportation to Nepal for the drilling works. The Project Manager (N) was requested to arrange for custom clearances for import of the Government machines from CWC, Faridabad. However, the machines could not be transported for want of custom clearances from GON.

8. Project Manager (N) stated that following steps were taken to commence drilling work at Saptakosi dam site area:

i. A police post with strength of 21 policemen was already established at Barahkshetra especially for field investigation work of Saptakosi High Dam. Beside that a mobile armed police based at Chatara was also deployed to back up Barahkshetra police post.

ii. Before commencing the drilling works at Saptakosi dam site area by NEA, following officers were officially and personally requested for security arrangement at the project area:
a. Chief District Officers of Sunsari, Dhankuta and Udaypur districts.
b. Superintendent of Police of aforementioned districts.
c. Deputy Inspector General of Armed Police Force (Sunsari District) and Nepal Police of Eastern Regional Office, Biratnagar.

iii. A meeting was convened on 08.04.2012 with Regional Administrator of Eastern Development Region in Dhankuta to brief about the stoppage of drilling work at Saptakosi dam area and to suggest further course of action required to be taken for security arrangement.

iv. Local people and other stakeholders submitted memorandums to NEA for the stoppage of work. NEA has already communicated these entire memos to JPO-SKSKI.

v. Team Leader of JTE (N) was informed about the field situation in presence of representative of NEA and subsequently the Secretary, Ministry of Energy was briefed by the Team Leader of JTE (N).

vi. A meeting was held with Hon. Minister of Energy, and Hon. State Minister of Energy in presence of Team Leader of JTE (N) and briefing was done regarding the stoppage of drilling work due to non-conducive environment created by local people and other stakeholders at project area and best effort made by Project Manager (N) to start the drilling works. The Ministers assured that they would hold all political party meeting for reaching consensus about resumption of drilling works at the Project area.

vii. Necessary action for custom clearance for import of drilling equipment from CWC has already been initiated.

viii. NEA, on 29.05.2012, was directed to convene the meeting with JPO-SKSKI to start drilling works at the Saptakosi dam site at the earliest. NEA vide their letter dated 15.06.2012 informed that they were trying their best to negotiate with the local people to create working environment at the dam site. But the working environment could not be established yet due to different opinion of the different people about the project. NEA also requested the JPO-SKSKI to help in this matter so that working environment can be established as soon as possible. NEA, in their letter, also assured that they would start the drilling work immediately, once the local problem is solved.

He also mentioned that the statement made by Project Manager (I) regarding the correspondences with NEA was actually carried out by JPO-SKSKI with consent of both the Project Managers.

9. The Indian side further informed JTE that NEA was awarded the drilling work after having them satisfied with prevailing law and order conditions in the project area and on the assurance from GON to
provide them requisite security against any untoward incidence at site. Due to non-adhering to the time schedule stipulated for various field works in the MOWR Order dated 18.02.2011, the preparation of DPR of Saptakosi High Dam Project including Sunkosi-storage-cum-diversion scheme would not be completed by February 2013 and it is running behind the schedule at least by 24 months. Further, the project management is incurring expenditure on pay and allowances of the officers and staff, rented residential accommodation, hiring of office buildings and vehicles, etc. @ Indian Rupees five crore per annum. Besides, the cost over-run on account of price escalation for field works is estimated to IRs ten crore per annum. As such, an amount of IRs 15 crore is being added every year to the cost estimates of field investigations and preparation of DPR. This cost and time over-run cannot be justified any more by the Ministry of Water Resources, Government of India, unless a political consensus in Nepal is reached amongst the various political groups in favour of the Project and all pending works are resumed at sites with full commitment from the project management. As on date, due to delay in completion of the field works, the cost of the investigations has further increased at least by IRs 30 crore. Thereafter, the Indian side proposed as under:

i) Both the Project Managers would ensure that drilling works at Saptakosi dam site are resumed by Nepal Electricity Authority (NEA) immediately without any further loss of time. In case, the Project Managers fail to resume the works at dam site, the Bilateral Project Investigation Allowance (BPIA) to the project staff shall be stopped after 30th June, 2012.

ii) The Nepalese side would make the last effort to create political consensus on the investigation of the project and preparation of DPR in next three months. If it could not be achieved by 30th September, 2012; the project office at Biratnagar would be closed on 30th September, 2012 and Indian officials will be withdrawn and shifted to Patna in order to save infructuous expenditure on account of Nepal Compensatory Allowance, rented residential accommodations and the rent of office buildings etc.

iii) As and when a conducive political and security environment in favour of Saptakosi High Dam is created, the Indian and Nepalese officials would be sent on deputation in the field to execute specific tasks assigned to them and they would be paid per-diem as per the financial rules by the Government of India and Government of Nepal to respective officials.

iv) Based upon the field data available, Project Manager (I) would attempt to prepare a draft DPR in consultations with designers/experts from Central Water Commission, Central Electricity Authority, Central Soil and Material Research Station,

10. The Nepalese side noted the financial constraints and agreed that the proposals at para No. (9) would be conveyed to higher authorities of the Government of Nepal for further actions/directions. After having discussed with the higher authorities, next JTE meeting would be convened at Kathmandu at the earliest. The Nepalese side further stated that the aforesaid proposals shall be implemented only after the approval by the respective Governments.

The meeting was held in cordial and friendly atmosphere.

Signed on 20th June, 2012 at New Delhi.

(D. B. Singh)
Director General
Department of Electricity Development
Government of Nepal

(S. P. Kakran)
Member (River Management), Central Water Commission & Ex-Officio Additional Secretary to the Government of India
LIST OF PARTICIPANTS OF 12TH JTE MEETING HELD IN NEW DELHI DURING 19-20 JUNE 2012

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Indian side</th>
<th>Nepalese side</th>
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<tbody>
<tr>
<td>1.</td>
<td>Mr. S.P. Kakran, Team Leader &amp; Member (RM), CWC &amp; Ex-Officio Additional</td>
<td>Mr. D.B. Singh, Team Leader &amp; Director General, Department of Electricity</td>
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<td>Secretary to the Government of India</td>
<td>Development</td>
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<td>2.</td>
<td>Mr. Devendra Sharma, Commissioner (Ganga), MOWR, New Delhi</td>
<td>Dr. Ravi Sharma Aryal, Joint Secretary, Ministry of Energy</td>
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<td>3.</td>
<td>Mr. Sunil Kohli, Joint Secretary &amp; Financial Advisor, MOWR, New Delhi</td>
<td>Mr. Dinesh Kumar Ghimire, Superintending Engineer, Department of Electricity</td>
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<td>4.</td>
<td>Mr. S.K. Sahu, Chief Engineer (LGBO), CWC, Patna.</td>
<td>Mr. Subarn Lal Shrestha, Senior Divisional Engineer, Department of Electricity</td>
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<td>5.</td>
<td>Mr. Puneet R Kupadal, Director (N), Ministry of External Affairs, New Delhi</td>
<td>Ms. Rita Dhital, Under Secretary, South Asia Division, Ministry of Foreign</td>
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<td>Affairs</td>
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<td>6.</td>
<td>Mr. M.K. Sinha, Chief Engineer (YBO), CWC, New Delhi &amp; Member-Secretary</td>
<td>Mr. Gopal Basnet, Sr. Divisional Engineer, Saptakosi High Dam Multipurpose</td>
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<td>JTE (I)</td>
<td>Project &amp; Sunkosi Storage cum Diversion</td>
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<td>7.</td>
<td>Ms. Anju Ranjan, First Secretary (C), Embassy of India, Kathmandu</td>
<td>Mr. S.P. Rijal, Sr. Divisional Engineer, Saptakosi High Dam Multipurpose</td>
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<td>Project &amp; Sunkosi Storage cum Diversion Scheme</td>
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<td>8.</td>
<td>Mr. A.K. Pal, Project Manager (I), JPO-SKSKI, Biratnagar, Nepal</td>
<td>Mr. S.M. Bajracharya, Project Manager, Saptakosi High Dam Multipurpose Project</td>
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<td>&amp; Sunkosi Storage cum Diversion Scheme &amp; Member-Secretary JTE (N)</td>
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<td>9.</td>
<td>Mr. A.K. Kharya, Director, N&amp;BC Dte., CWC, New Delhi</td>
<td>Mr. T.R. Wagle, Counselor, Embassy of Nepal, New Delhi</td>
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<td>10.</td>
<td>Mr. D.P. Mathuria, Director, RMCD, CWC, New Delhi</td>
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