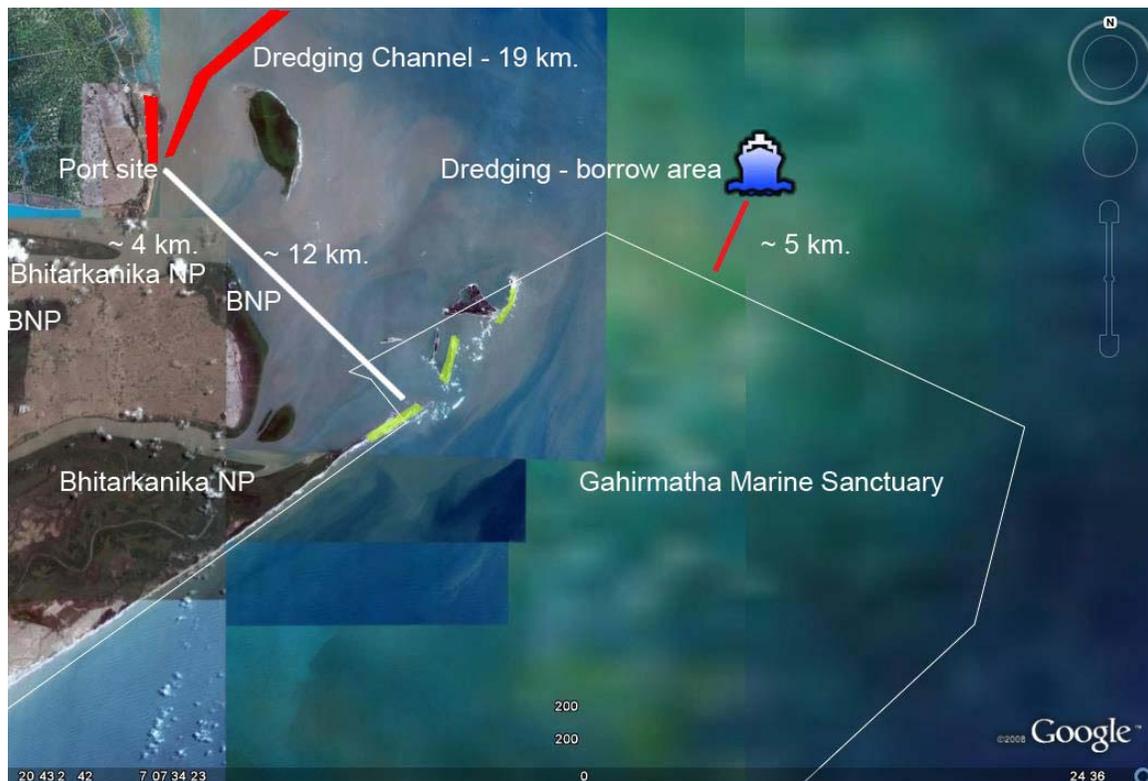


DHAMRA PORT PROJECT BACKGROUNDER

Orissa (a state in Eastern India) is probably the most significant habitat worldwide for the Olive Ridley Sea turtle, an endangered species and accorded Schedule I status in India, on par with the tiger. The nesting beaches at Gahirmatha in Orissa are among the world's largest and last mass-nesting grounds for the species. The upcoming Dhamra port in Orissa's Bhadrakh district is a 50:50 JV between Larsen & Toubro (L&T) and TATA Steel. It is located less than 5 km. from the Bhitarkanika Sanctuary (a Ramsar Wetland of International Importance) and less than 15 km. from the mass nesting beaches of the Gahirmatha Marine Sanctuary.

Gahirmatha in Orissa is one of the world's last and largest mass breeding and nesting sites of the Olive Ridley Turtles¹. Every year, between November and May, hundreds of thousands of Olive Ridley turtles congregate and mate in the coastal waters, before the females struggle up the beach in their tens of thousands to nest *en masse*, a phenomenon called the *arribada*.

The Bhitarkanika National Park (notified in 1998) is a hot-spot of biodiversity. Home to largest population of salt water crocodiles in India and more than 215 species of avifauna, it is also the second largest mangrove ecosystem in India and harbours more than 70 species of mangrove and its associates.



Dhamra Port – An ecological threat

Dhamra is proposed to be a deep water port, one of the largest in South Asia, handling over 80 million tonnes per annum and vessels up to 180,000 DWT. The port and its accompanying industrial and residential development, dredging, artificial lighting, the shipping traffic, pollution, accidental oil and

¹ All species of marine turtles, including the Olive Ridelys are protected under the Schedule I Listing, on par with the Tiger, of the Indian Wildlife Protection Act, 1972. Marine turtles are also protected under CITES and CMS and as India is a signatory to all these conventions it is a national responsibility to protect these turtles. Additionally, the Government of India has reinforced its commitment to protect its turtles, by becoming a signatory to the Indian Oceans and South East Asian Marine Turtle Memorandum of Understanding in 2006.

chemical spills, invasive species transported in bilge water etc. are some of the potential problems it poses for the turtles and the wider environment.

The impacts of dredging on the beach, on tidal patterns, and on local marine food web etc. have never been analyzed. Erosion of the nesting beaches has also been unusually severe this year.

Long and controversial history (Chronology)

- The area of the present port site was originally notified for inclusion in the 367 sq. km. Bhitarkanika National Park in October 1988
- 1997 – Dhamra port proposal first begins to be talked about
- In June 1997, the Orissa state government officially instructed that the Dhamra area be excluded from the proposed Gahirmatha Marine Sanctuary
- In December 1997, a fresh draft notification was issued for Bhitarkanika National Park, which excluded the port area
- The Environment Impact Assessment study was undertaken by Kirloskar Consultants in 1997, with L&T and Singapore based International Seaports Ltd as the major stakeholders in the project
- April 1998: Orissa government asks the Ministry of Surface Transport (MoST)² to clear the port
- Five months later, the Orissa state government issued the final notification for the 145 sq. km. Bhitarkanika National Park, with the proposed port site now excluded from the park boundaries
- January 2000: MoST grants environmental clearance to the port
- March 2000: The International Sea Turtle Symposium expresses its concern about the port being built so close to a major turtle nesting and feeding ground.
- In 2000, the National Environment Appellate Authority (NEAA) upholds the port's clearance, dismissing a petition filed by the Orissa Beach Protection Council which erroneously stated that the port was on a nesting ground. The NEAA only looked at the fact that the site was not a nesting ground, and did not consider any other issues, such as turtle presence offshore, impacts on Gahirmatha and Bhitarkanika and on the ecology of the port site itself, as these issues were not raised by the petition
- In 2001, in a study conducted by the Wildlife Institute of India, 4 turtles were fitted with satellite transmitters. One was reported off the Dhamra Port. A later study in 2007 reinforced these findings, with 6 of 11 turtles fitted with transmitters at Gahirmatha moving through the port's impact zone.
- There is prima facie evidence that construction at the Dhamra port commenced in violation of the Forest Conservation Act, as detailed in letter dated 5-5-2000 from Eastern Regional Office, MoEF to the PCCF (WL), Orissa. These violations have never been investigated or penalized.
- A guideline in the Ministry of Environment's own "Manual on Eco (Turtle) Friendly Coastal Development" produced together with the United Nations Development Fund, Wildlife Institute of India and the Madras Crocodile Bank Trust in 2003 states that *"No ports, harbours and jetties should be planned within a range of 25 km from any important nesting and congregating site."*³ Dhamra port is in violation of this guideline
- February 2004: Tata Steel expresses interest in a joint venture with L&T
- Shortly after, several NGOs and turtle researchers has series of meetings with Tata Steel expressing their concern
- July 2004: Supreme Court-appointed Central Empowered Committee report recommends, "The present site (Dhamra) will seriously impact Gahirmatha's nesting turtles and could lead to the beach being abandoned by the marine creatures. It is therefore necessary that an alternative site is located for this port."
- October 2004: Tata Steel and L&T sign an agreement for construction of Dhamra port
- April 2005: Tata Steel agrees to a study to assess turtle presence in the area of the port site, to be conducted under the aegis of the Bombay Natural History Society (BNHS), incidentally an IUCN

² July 1997, the MoEF amended the 1991 Coastal Zone Regulation (CRZ) notification under the Environment Protection Act (EPA), 1986 and handed over power to the MoST to grant environmental clearance to port projects. The MoST's clearance powers were finally taken back three years later in 2000, but the Dhamra port was cleared by the MoST before this, on May 7, 2000.

³ Choudhury, B.C., Pandav, B., Tripathy, B. & Andrews, H.A. (2003) Sea turtle conservation: Eco (turtle) friendly coastal development. A GOI UNDP Project Manual. Centre for Herpetology/Madras Crocodile Bank Trust, Tamil Nadu, India. http://ces.iisc.ernet.in/kartik/coastal_manual.pdf

member. BNHS asks that Tata Steel commit to keeping the project's construction on hold pending completion of the study and release of the results, to avoid a 'fait accompli' situation, and interference with the study results. Tata Steel agrees to 'no project work on the seaward side' till March 2006. This being unacceptable, BNHS refuses to undertake the study in November 2005, citing commencement of other aspects of the port work as the reason

- December 2006: An IUCN team makes a preparatory scoping visit to Dhamra and later, in 2007, Dhamra Port Company Limited (DPCL) announces the signing of a formal deal with the IUCN to undertake preparation of a mitigation plan and design environmental standards for the project
- March 2007: Acting on a Supreme Court order, the Orissa Forest Department proposes an eco-sensitive buffer zone with a 10 km. radius around Bhitarkanika and Gahirmatha. The Dhamra port site falls within this area
- December 2007: Dredging commences at port site by Belgian firm Dredging International
- December 2007-April 2008: Mass nesting failure at Gahirmatha, allegations that dredging activity is responsible
- 2007-2008: International petition against the port signed by leading scientists and researchers, including over 25 members of the IUCN's Marine Turtle Specialist Group
- May 2008: Individual and organisational IUCN members in India write to the Director General, protesting over the lack of consultation and the nature of IUCN's involvement in the Dhamra project
- October 2008: A coalition of groups including Greenpeace, Conservation Action Trust, Wildlife Society of Orissa, Sanctuary Asia, Reefwatch, Wildlife Protection Society of India and the National Fishworkers Forum meet TATA, demanding a halt to construction and the commissioning of an independent biodiversity threat assessment

Since then, this process of "negotiation and dialogue" has been ongoing *.

Lack of a comprehensive Environment Impact Analysis

No comprehensive Environment Impact Analysis has ever been conducted for the project. There are serious and acknowledged flaws in the environment impact analysis conducted for the port in 1997. The main flaws relate to poor baseline ecological data, a complete omission of the impacts on turtles, impacts of noise and chemical pollution and a poor hazard analysis and emergency plan.

Further, the EIA done in 1997 considers a port with significantly different specifications from the project currently being built.

Significant differences

- a. Considered the port site on Kanika Sands, whereas the site is now on the mainland
- b. Initial proposed capacity was 20 million tonnes per annum (mtpa) where as the proposed capacity is now 83 mtpa
- c. Original project plan was to handle bulk carriers up to 120,000 deadweight tons (dwt); the revised plan proposes handling ships up to 180,000 dwt.
- d. The depth of the shipping channel was for a vessel draft of 14 m. but this has now been changed to cater to vessels of 18.5 m draft, hence substantially greater dredging is required to be done

Visit <http://www.greenpeace.org/india/press/reports/critique-of-the-environmental> for more information.

Independent biodiversity assessment

In 2007, Greenpeace commissioned a rapid biodiversity assessment of the Dhamra port site and its surrounding areas. The survey threw up several interesting findings, indicating presence of:

- Horseshoe crabs which use the area as a nesting ground in large numbers
- Rare species of snakes, including *Fordonia leucobalia* was recorded in Orissa for the first time
- Rare species of amphibians, including the Crab-eating frog *F. cancrivora* that has never before been recorded in mainland India

Also, over 2,000 turtle carcasses were recorded on and near the port site, probably victims of mechanised fishing in offshore waters

The full report is available at <http://www.greenpeace.org/india/press/reports/greenpeace-biodiversity>

This report was made public through the media, in a conference jointly addressed by Dr. S.K.Dutta, the principal investigator from the North Orissa University and Greenpeace Indian representatives. Three weeks after the joint release of the assessment by Dr. S.K. Dutta and Greenpeace, the North Orissa University, reportedly under pressure from the state government and DPCL, alleged that Greenpeace had tampered with the report. However, the findings even as per the University are exactly the same as the report released by Dr. Dutta. For a detailed rebuttal of the allegations against Greenpeace, refer to <http://www.greenpeace.org/india/press/reports/email-exchange-on-report/summary-of-greenpeace-response>

And <http://www.greenpeace.org/india/press/reports/link> which shows the link between TATA and the allegations levelled at Greenpeace.

TATA has yet to respond to the significant findings of the assessment.

TATA and the Precautionary Principle

Tata Steel is a member of the UN's Global Compact and as such professes to abide by the Precautionary Principle, which according to the *Convention on Biological Diversity 1992, Preamble* is explained as: "[W]here there is a threat of *significant reduction or loss* of biological diversity, lack of full scientific certainty should not be used as a reason for postponing measures to avoid or minimize such a threat."

As a member of the Global Compact, and the representative of India in its board, Tata Steel is honour bound to adopt the precautionary approach to environmental challenges (Principle 7 of the Compact) "*Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.*"

Further, the onus of providing evidence of no threat is always on the proponent and beneficiary of an activity. However, not only have the port promoters not bothered to get an independent, impartial and comprehensive assessment of environmental impacts done, they are now proceeding with construction, threatening the fragile biodiversity of the state of Orissa.

Mitigation vs. Precaution

The port authorities have engaged the IUCN to prepare a mitigation plan and are claiming this as proof that they are doing everything possible to protect turtles. However, the IUCN itself is of the opinion that "no port" in that area would be the best option. In the newsletter of the Marine Turtle Specialist Group it says, "It is IUCN's viewpoint that no port would be a great option, but if the port is to be developed, IUCN would much rather it be developed while taking on board the very best mitigation measures...."

<http://www.seaturtle.org/mtn/PDF/MTN118.pdf>

Further, in the absence of a comprehensive EIA and proper baseline ecological data, a fact acknowledged by the IUCN as well,⁴ any mitigation plan is likely to be inadequate at best. Further, the impacts of ancillary development that will accompany construction of such a major port have not and can not be taken into account or mitigated against. For example, the Paradeep port, built in the 1960s has led to the establishment of an entire township, with fertilizer factories and other industries, some of them very polluting. While turtles are still seen in offshore waters not far from Paradeep, there is no mass nesting that occurs anywhere close to Paradeep.

Opposition to Dhamra

Several constituencies have expressed their concerns on the Dhamra Port Project, including

⁴ http://www.dhamraport.com/download/dhamraport_iucnreport.pdf

- The National Fishworkers Forum (the apex body for over a million traditional fish workers in India) and the Orissa Traditional Fish Workers' Union (OTFWU, representing the interests of over 100,000 traditional fishermen in the state) have stated their public opposition to the port. Please refer to
- <http://www.mangroveactionproject.org/news/action-alerts/stop-port-construction-save-ridley-sea-turtles-sept-oct-2007/> for the OTFWU's expression on this project.
- Over 200 leading scientists, including over 25 members of the IUCN's Marine Turtle Specialist Group have raised their concerns on this project and have asked for the relocation of the port. Please refer to http://salsa.democracyinaction.org/o/1541/t/4058/petition.jsp?petition_KEY=835 for further details on this.
- Several national and local environmental and conservation organizations, have at various points of time, publicly stated their concerns and opposition to this project. These include Ashoka Trust for Research in Ecology and the Environment (ATREE), Kalpavriksh, Wildlife Protection Society of India, Conservation Action Trust, Wildlife Society of Orissa, Orissa Marine Resources Conservation Consortium and the Bombay Natural History Society, besides Greenpeace India.

Through an online Greenpeace campaign, over 100,000 concerned individuals have added their voice of support, calling for the port to be relocated. www.greenpeace.org/turtles

Alternatives to Dhamra exist

The TATAs are looking at Dhamra to provide 20 mtpa in the initial phase (by 2010) and an eventual capacity of 83 mtpa.

Paradeep is the largest port in Orissa with a current capacity of 55 mtpa; and is now undergoing an expansion programme that will double capacity to 110 mtpa by 2011, which is when Dhamra is slated to be operational.

Gopalpur, south of Rushikulya, is also being expanded to handle 10 mtpa by 2010. Kirtania, further north of Dhamra, will handle 14 mtpa.

Inchuri, to the north of Dhamra, was identified as a potential port site at the same time as Dhamra, with a possible capacity of 15 mtpa.

Clearly, the existing and already under creation capacity is certainly able to handle traffic meant for Dhamra. However, since Dhamra confers some financial advantages to the TATAs over other sites, it is a question of being ready to accept a reduced profit margin in the interests of environmental protection.

Today

The TATA stance on this issue, right from its involvement in 2004 to date, does not befit an entity that professes to follow high environmental and social standards.

In 2004-2005, the TATAs repeatedly voiced the opinion that turtles are not found near the port site, hence it poses no threat. They had even stated that would reconsider their involvement if there was evidence of environmental or ecological significance of the area. Now that the evidence of turtle movement and the ecological significance of the port site have grown, the stance has shifted to mitigation, with earlier promises forgotten.

If the TATA group is genuine about its commitment to the environment, it needs to immediately halt dredging at Dhamra and commission an independent assessment of the port's potential impacts, which should dictate the future of the port.

**** Negotiation and dialogue process with the Port promoters***

From October 2008 to February 2009, four meetings were held between a coalition of conservation groups and the port promoters – TATA Steel and L&T, as well as the implementing company, DPCL. Over the course of these four months, the following groups and individuals were part of this dialogue process: Conservation Action Trust (Debi Goenka), Wildlife Society of Orissa (Biswajit Mohanty) Wildlife Protection Society of India (Belinda Wright), National Fishworkers' Forum (ND Koli) Sanctuary Asia (Bittu Sahgal), Reefwatch Marine Conservation (Prahlad Kakar), Greenpeace India (Ashish Fernandes and Divya Raghunandan), Janaki Lenin, Regional Chair of

the IUCN's Crocodile Specialist Group and WWF India (Ravi Singh). Further, over the course of this dialogue process, this collective of groups was constantly coordinating, consulting and updating other individuals and groups involved in the issue, including scientists concerned about the development of the port at its current location.

At these meetings, the need to conduct a comprehensive, credible and independent impact assessment given the very obvious gaps in the 1997 EIA was stressed. It was also stressed that a proper assessment should have been done prior to the commencement of construction work for the project. Bearing this in mind, and with due respect for the precautionary principle, the port promoters were urged repeatedly to suspend construction pending the completion of the new assessment (for a period of one year), since the first meeting on October 23rd, 2008. This was refused. As a compromise, it was suggested that at the minimum dredging be suspended as this was feared to be causing the most direct disturbance. The fact that the turtle season had commenced was repeatedly stressed. At the third meeting on February 10 at Dhamra, the TATAs did offer to consider 'rescheduling' elements of construction so that it did not interfere with any fresh impact assessment, as suggested by the scientists conducting the said assessment. When asked to elaborate on what this meant, Mr. Sengupta, Vice President, TS, said that if the researchers wanted to conduct studies or collect samples in a particular area for a few days, then dredging or construction in that area on those days could be halted, however there was no question of suspending construction or dredging completely.

The dialogue process came to a dead end on February 20, 2009, when the port promoters refused to consider any suspension of dredging for the remainder of the turtle season, prior to the commencement of any assessment. The conservationists present at this meeting considered this option to involve an unacceptable compromise and a poor demonstration of good will and the Precautionary Approach on the part of the port promoters.

This was not acceptable to Greenpeace and the other groups that were part of the dialogue for the following reasons:

- i. Ongoing construction of the port while the study is simultaneously conducted implies prejudging the results of such an assessment and will result in a *fait accompli* – the port will be wholly or nearly built by the time the assessment is completed.
- ii. Continuation of these destructive activities could also interfere with the scientific accuracy of the assessment.
- iii. Irreversible changes to the habitat could be brought about by the time the assessment is completed.

After acknowledging the need for a fresh assessment, and committing to withdraw from the project if such a study were to demonstrate environmental threats from the port, TATAs reluctance to suspend dredging left this coalition of groups and individuals with no option but to disengage from the dialogue process.

Links to Important reports

1. <http://www.greenpeace.org/india/press/reports/critique-of-the-environmental>
Critique of the Environment Impact Assessment Study conducted in 1997
2. <http://www.greenpeace.org/india/press/reports/greenpeace-biodiversity>
Independent Bio-diversity assessment study

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