

# State Level Environment Impact Assessment Authority, Uttar Pradesh

## Directorate of Environment, U.P.

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### Minutes of the 563<sup>rd</sup> Meeting of the State Level Environment Impact Assessment Authority, UP (SEIAA) held on 09.02.2022

The meeting of 563<sup>rd</sup> State Level Environment Impact Assessment Authority, UP (SEIAA) was held on-line on 09.02.2022 at the Directorate of Environment. The following were present in the meeting:-

- |                           |                              |
|---------------------------|------------------------------|
| 1. Dr. Rajiv Kumar Garg   | Chairman, SEIAA, U.P         |
| 2. Shri Paras Nath        | Member, SEIAA, U.P           |
| 3. Shri Ajay Kumar Sharma | Member Secretary, SEIAA, U.P |

Nodal Officer SEIAA informed that agenda is prepared by Secretariat and approved by MS SEIAA which is hereby put up for the consideration of SEIAA and placed files and documents related to below mentioned projects before SEIAA.

General Discussion:-OM dated 28.01.2021 regarding observation of Hon'ble Supreme Court with reference to the SOP dated 07.07.2021 for identification and handling of violation cases under EIA notification 2006.

MoEFCC, Gol vide OM no. 22-21/2020-IA.III dated 07.07.2021 has issued Standard Operating Procedure (SoP) for Identification and handling of violation cases under EIA Notification 2006. This OM was issued in light of Honourable NGT's judgments dated 03.06.2021 and 24.05.2021. Honourable Supreme Court vide their judgment dated 30.07.2021 has granted stay on the application of Honourable NGT order dated 03.06.2021. MoEFCC has taken a view that projects operating in violation cannot be considered under their OM dated 07.07.2021. MoEFCC has submitted affidavit, to this effect, on 17.09.2021 in Honourable Supreme Court in Civil Appeal No. 281 of 2021. All violation projects can be taken up only after OM dated 07.07.2021 (SOP) becomes effective.

A meeting was held on 12.11.2021 under the chairmanship of Additional Secretary, MoEFCC, Gol where Chairman, SEIAA of all the States & UTs participated and issue of taking up of violation cases was raised and guidance was sought. MoEFCC, Gol has circulated MoM of the said meeting through email dated 27.11.2021. Para 5(iv) of the MoM states "As on date the SEIAA may not process any violation cases as per the provisions of SoP dated 7th July 2021 as it has been interim stayed by the Madurai Bench of the High Court of Madras in the matter W.P.(MD) No. 11757 of 2021 titled Fatima Vs Union of India."

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MoEFCC, Gol vide OM F.No. 22-21/2020-IA.III [E 138949] dated 28.01.2022 has said as follows –

“3. Recently, in the Order dated 09<sup>th</sup> December 2021 in the matter of Civil Appeal Nos. 7576-7577 of 2021 in Electrosteel Steels Limited Vs Union of India and Ors. The Hon’ble Supreme Court of India has inter-alia observed the following:

*9.3 The interim order passed by the Madras High Court appears to be misconceived. However, this Court is not hearing an appeal from that interim order. The interim stay passed by the Madras High Court can have no application to operation of the Standard Operating Procedure to projects in territories beyond the territorial jurisdiction of Madras High Court. Moreover, final decision may have been taken in accordance with the Orders / Rules prevailing prior to 7th July 2021.”*

During the joint meeting of SEIAA and SEAC-1 & SEAC-2, one of the items for discussion was the above mentioned SoP and development taken place till this time and as to how to go about in handling violation cases. Director, Department of Environment / MS, SEAC-1 & SEAC-2, and Chairman, SEAC-1 expressed their opinion that they have been handling violation cases since the issuance of SoP by MoEFCC, Gol, modalities are clear to them and only SEIAA is not taking up such cases. Chairman, SEAC-2 and other members didn’t express their views. Director, Department of Environment / MS, SEAC-1 & SEAC-2, and Chairman, SEAC-1 said that there is no need of discussing this issue in joint meeting and this cannot be taken up as an agenda item for joint meeting. In case SEIAA needs to discuss this issue, they can take up in their meeting.

SEIAA discussed the SoP and related developments and opined as follows –

1. In light of directions given by MoEFCC, Gol vide OM F.No. 22-21/2020-IA.III [E 138949] dated 28.01.2022, violation cases can now be processed as per the provisions of SoP dated 07.07.2021
2. **SoP Item no. 10 / Standard Operating Procedure – Guiding Principles:**
  - i. ***Without prejudice to any other consequences, action has to be initiated under section 15 read with section 19 of The Environment (Protection) Act, 1986 against all violators.***  
In compliance to above directive, all violation cases which have been either uploaded on the website of SEIAA-UP / MoEFCC portal related to State of Uttar Pradesh or have come to the notice of SEIAA-UP, action should be initiated as directed above. A list of such case to be put before SEIAA-UP in the next meeting along with action taken report.
3. **SoP Item no. 11 / SoP for dealing with the violation cases:**
  - Step 1: Closure or Revision**  
Order to this effect, as directed through said SoP, to be issued to violating projects / activities.
  - Step 2: Action under Environment (Protection) Act, 1986**  
Already detailed in 2 above
  - Step 3: Appraisal under EIA Notification, 2006 and as per OM 07.07.2021**  
**For permissible projects / activities** – following needs to be carried out-



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- a) Issuance of ToR with direction to complete EIA-EMP report in a time bound manner
- b) Damage Assessment due to violation
- c) Remedial Plan
- d) Community Augmentation Plan
- e) Directions to the project proponent, u/s-5 of the EPA, 1986 on case to case basis mandating payment of such amount (as may be determined on Polluters Pay Principle)

SEIAA opined that Standard ToR and model EIA-EMP are available but for damage assessment due to violation, and preparation of remedial plan and community augmentation plan, no guidelines have been issued by MoEFCC, Gol. Similarly guidelines on assessing payment based on Polluters Pay Principle have not been issued by MoEFCC, Gol. In the absence of these guidelines it is not possible to proceed ahead in this direction.

4. **SoP Item no. 12 / Penalty provisions for Violation cases and applications:**

**For new projects** – 1% of the total project cost incurred up to the date of filing of application along with EIA-EMP report + 0.25% of the total turnover during the period of violation

**For expansion project** – 1% of the project cost, attributed to the expansion, incurred up to the date of filing of application along with EIA-EMP report + 0.25% of the total turnover, attributed to the expanded activity / capacity, during the period of violation

SEIAA opined it is not clear as to who is the competent authority to assess incurred cost on project and turnover related to activities done in violation. There are variety of projects such as mining, real estate, infrastructure, industry, etc. PPs are submitting certificate obtained from CA to this effect. SEIAA opined that CA is not competent to assess violation related to environmental laws and associated costs. Guidelines from MoEFCC, Gol in this matter are needed.

**12.2 The percentage rates, as above, shall be halved if the PP suo-moto reports such violation without such violations coming to the knowledge of the Government either on inquiry or complaint.**

SEIAA opined that cases where documents exist proving that PP has come for regularization of violation cases after such violation came to the knowledge of the Government either on inquiry or complaints are easy to handle but cases where no such document is available in the files of Directorate of Environment / SEIAA / SEAC, an affidavit to this effect from PP should suffice.

Nodal Officer was directed to get a draft of such affidavit prepared by the advocate / lawyer engaged with SEIAA and put up the same for the perusal of SEIAA.

5. **SoP Item no. 13 / Identification of Violation cases:**

Through the SoP, directions have been given SPCB. Letter to this effect should be sent to UPSPCB.

Further, minutes of this meeting should be sent to Chairman, MS and Members of SEAC-1 and SEAC-2.

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Agenda:- A- Replies

- 1- Request to put up Environmental Clearance of my file no. 5896-5448 under abeyance with immediate effect in view of certain Hon'ble NGT order dated 20.01.2021 in appeal no. 37/2020-21.

SEIAA gone through the undated letter of Shri Nirmal Kant Tiwari M/S Mankameshwar Infrastructure Hamirpur regarding the above subject. SEIAA gone through the order dated 20.01.2022 which states that:-

" 3. Let Respondent No. 3, SEIAA, UP and Project proponents Respondent no. 6 M/S MPL Infra, Lucknow, UP and Respondent no.7 M/S Mankameshwar Infrastructure Hamirpur, UP be put to notice by the appellant for their response within two months by e-mail at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in) preferably in the form of searchable PDF/OCR support PDF and not in the form of Image PDF.

4. We are not inclined to entertain an application for ex parte interim stay, without considering the response of the affected parties. I.A. No. 247/2021 is accordingly disposed of.

List the main matter for further consideration on 22.04.2022".

Hence SEIAA opined that matter would be taken after receiving notice by applicant as stated above.

- 2- Proposed Sand Mining Project at Ganga River Bed at Gata no- 01, khnad- 02, lease area of 11.424 ha Village- UnchgaonKhadar, Tehsil- Dibai, District- Bulandshahar, U.P. (Leased Area-11.424 Ha) File No. 4181/Proposal No. SIA/UP/MIN/23043/2018 से सम्बन्धित शासन का पत्र दिनांक 23.11.2021 के सम्बन्ध में।

SEIAA gone through the letter of DOE FCC, UP letter no. 979/81-06-2021 dated 23.11.2021 regarding cancellation of EC. SEIAA gone through file and documents and found that LOI has been issued by DM, Bulandshahar. Hence letter shall be send to DM, Bulandshahar for review/comments.

- 3- Hotel Project at Plot No.- TC-25 V & 26 V, VibhutiKhand, Gomti Nagar, District- Lucknow, U.P. M/s Luxus Hospitality Pvt.Ltd.File No. 6509 Proposal No. SIA/UP/MIS/66785/2021

SEIAA noted that the above project was taken in its 515<sup>th</sup> meeting in which SEIAA opined that the project needs in depth review hence it will be taken when meeting is held in person. SEIAA gone through file and documents and found that SEAC has recommended to issue ToR to the above project in its 575<sup>th</sup> meeting held on 24.09.2021.

SEIAA opined that in light of discussion held on SoP related to violation cases following decision are taken –

1. Action to be initiated under section 15 read with section 19 of The Environment (Protection) Act, 1986 against the violator.
2. Order to effect closure, as directed through said SoP, to be issued to violating project.



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3. A reference be sent to DM, Lucknow; MS, SPCB; VC, LDA and Nagar Nigam, Lucknow that no construction activity should take place without valid EC. Hence SEIAA opined to take up the project in next SEIAA meeting.

**4- Proposed IT ITES Offices Building at Plot No.- 04, Tech Zone-02, Greater Noida, U.P. File No. 6280 Proposal No. SIA/UP/MIS/62121/2021**

SEIAA agreed with the recommendation of the SEAC to issue the additional ToR to the title proposal for conducting EIA studies. The SEIAA also added the following points to ToR-

- 1- All pages of technical documents/EIA/EMP etc. should be signed by the consultant and project proponent both.
- 2- Copy of all the analysis reports duly signed by analyst approved by NABL or MoEF&CC shall be annexed with the EIA report and original analysis reports should be presented at the time of presentation.
- 3- MOU signed between the project proponent and the consultant should be submitted.
- 4- A certificate from Forest Department shall be obtained that no forest land is involved and if forest land is involved the project proponent shall obtain the forest clearance and permission of Central and State Government as per law under the provisions of Forest (conservation) Act, 1980 and submit along with EIA.
- 5- Public hearing shall be conducted as per EIA notification, 2006 (as amended).
- 6- Provision for charging of electric vehicles as per the guidelines of GoI / GoUP should be submitted.
- 7- SEIAA opined that the project proponent shall submit permission of CGWA or proposal for alternative source of fresh water.
- 8- PP / consultant should provide in tabular form how they have addressed the entire ToR while preparing EIA-EMP report.
- 9- PP / consultant should provide in tabular form how the issues raised during public hearing have been addressed while preparing final EIA-EMP report.

**5- Proposed Multistory Residential Buildings under Pradhan Mantri Awas Yojna (Urban) at Gata No.- 1672, 1684, 1686, 1689, 1691, 1696, 1766, 1767, 1770, 1771, 1772, Village- Para, District- Lucknow, U.P. File no- 4415 Proposal No. SIA/UP/NCP/75915/2018**

SEIAA noted that the above project was taken in its 497<sup>th</sup> meeting in which SEIAA opined that the project requires a detailed scrutiny which is not possible through video conferencing and hence SEIAA opined that this project shall be taken when the meeting is held in person at Directorate of Environment, Lucknow. SEIAA gone through file and documents and agreed with the recommendation of SEAC dated 05.10.2018 grant the prior Environmental Clearance to the proposed project along with all the general and specific conditions as suggested by the SEAC. In addition to the conditions imposed by SEAC the SEIAA added following additional specific conditions:-

- 1- The project proponent shall submit within the next 3 months the details of solar power plant and solar electrification details within the project.

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- 2- The project proponent shall ensure to plant broad leaf trees and their maintenance. The CPCB guidelines in this regard shall be followed.
  - 3- The project proponent shall submit within the next 3 months the details on quantification of year wise CER activities along with cost and other details. CER activities must not be less 2% of the project cost. The CER activities should be related to mitigation of Environmental Pollution and awareness for the same.
  - 4- The project proponent shall submit within the next 3 months the details of estimated construction waste generated during the construction period and its management plan.
  - 5- The project proponent shall submit within the next 3 months the details of segregation plan of MSW.
  - 6- The project proponent shall ensure that waste water is properly treated in STP and maximum amount should be reused for gardening flushing system and washing etc. For reuse of water for irrigation sprinkler and drip irrigation system shall be installed and maintained for proper function. Part of the treated sewage, if discharged to sewer line, shall meet the prescribed standards for the discharge.
  - 7- Under any circumstances untreated sewage shall not be discharged to municipal sewer line.
  - 8- The project proponent will ensure that proper dust control arrangements are made during construction and proper display board is installed at the site to inform the public the steps taken to control air pollution as per the Construction and Demolition Waste Management Rules.
  - 9- The project proponent shall install micro solar power plants, toilets in nearby villages, public place or school from CER fund of the project for which E.C is granted in addition to and water harvesting pits and carbon sequestration parks / designed ecosystems.
  - 10- A certificate from Forest Department shall be obtained that no forest land is involved and if forest land is involved the project proponent shall obtain forest clearance and permission of Central and State Government as per the provisions of Forest (conservation) Act, 1980 and submit before the start of work.
  - 11- If the proposed project is situated in notified area of ground water extraction, where creation of new wells for ground water extraction is not allowed, requirement of fresh water shall be met from alternate water sources other than ground water or legally valid source and permission from the competent authority shall be obtained to use it.
  - 12- Provision for charging of electric vehicles as per the guidelines of GoI / GoUP should be submitted within the next 3 months.
- 6- Proposed of "New Suncity Integrated Township" at Arazi No.- 828, 859, 862, 864, 865, 866, 867, 869, 878, 879, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969 Ka, 969 Kh, 970, 971 Ka, 9, Village- Mauja Andawa Mauja Bandhwa Tahirpur, Tehsil- Phulpur, District- Prayaganj, U.P. File no- 5821 proposal no. SIA/UP/MIS/172474/2020



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SEIAA noted that the above project was taken in its 485<sup>th</sup> meeting in which SEIAA opined that the project proponent shall submit the details of drain required like its location and the distance from the proposed project, carrying capacity of the drain and if it is a irrigation drain NOC from Irrigation Department is required. The project proponent has submitted his reply vide letter dated 30.12.2021. After reviewing the reply SEIAA agreed with the recommendation of SEAC 494<sup>th</sup> meeting dated 25.09.2020 to grant the prior Environmental Clearance to the proposed project along with all the general and specific conditions as suggested by the SEAC. In addition to the conditions imposed by SEAC the SEIAA added following additional specific conditions:-

- 1- The project proponent shall submit within the next 3 months the details of solar power plant and solar electrification details within the project.
- 2- The project proponent shall ensure to plant broad leaf trees and their maintenance. The CPCB guidelines in this regard shall be followed.
- 3- The project proponent shall submit within the next 3 months the details on quantification of year wise CER activities along with cost and other details. CER activities must not be less 2% of the project cost. The CER activities should be related to mitigation of Environmental Pollution and awareness for the same.
- 4- The project proponent shall submit within the next 3 months the details of estimated construction waste generated during the construction period and its management plan.
- 5- The project proponent shall submit within the next 3 months the details of segregation plan of MSW.
- 6- The project proponent shall ensure that waste water is properly treated in STP and maximum amount should be reused for gardening flushing system and washing etc. For reuse of water for irrigation sprinkler and drip irrigation system shall be installed and maintained for proper function. Part of the treated sewage, if discharged to sewer line, shall meet the prescribed standards for the discharge.
- 7- Under any circumstances untreated sewage shall not be discharged to municipal sewer line.
- 8- The project proponent will ensure that proper dust control arrangements are made during construction and proper display board is installed at the site to inform the public the steps taken to control air pollution as per the Construction and Demolition Waste Management Rules.
- 9- The project proponent shall install micro solar power plants, toilets in nearby villages, public place or school from CER fund of the project for which E.C is granted in addition to and water harvesting pits and carbon sequestration parks / designed ecosystems.
- 10- A certificate from Forest Department shall be obtained that no forest land is involved and if forest land is involved the project proponent shall obtain forest clearance and permission of Central and State Government as per the provisions of Forest (conservation) Act, 1980 and submit before the start of work.
- 11- If the proposed project is situated in notified area of ground water extraction, where creation of new wells for ground water extraction is not allowed, requirement of

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fresh water shall be met from alternate water sources other than ground water or legally valid source and permission from the competent authority shall be obtained to use it.

- 12- Provision for charging of electric vehicles as per the guidelines of GoI / GoUP should be submitted within the next 3 months.

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signed  
Assistant Nodal/Nodal Officer  
SEIAA, UP  
↓  
(Ajay Kumar Sharma)  
Member-Secretary  
SEIAA

  
(Paras Nath)  
Member  
SEIAA

  
(Dr. Rajiv Kumar Garg)  
Chairman  
SEIAA