

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH AT NEW DELHI**

Original Application No. 425/2019

In the matter of:

Vijay Kumar

.....Applicant(s)

Versus

State of HP & ors.

.....Respondent(s)

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Place: Shimla
Dated: 27/11/2019

Respondent
H.P. SPCB, Shimla.

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH AT NEW DELHI**

Original Application No. 425/2019

In the matter of:

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**COMPLIANCE REPORT ON BEHALF OF HP STATE
POLLUTION CONTROL BOARD IN COMPLIANCE TO
ORDER DATED 25-09-2019.**

MAY IT PLEASE YOUR LORDSHIPS :-

I, Aditya Negi, (IAS) son of Sh. S.K. Negi, aged 33 years, presently working as Member Secretary, H.P. State Pollution Control Board, Him Parivesh, Phase-III, BCS, New Shimla, Himachal Pradesh, do hereby solemnly declare and affirm on oath as under: -

1. That the afore-cited case relates to issue of 15-20% water release by the HEPs in the State of HP. The Hon'ble NGT vide order dated 25-09-2019 passed the following directions qua the respondent Board :-

".....In the light of an allegation that the minimum flow was not being maintained by the HEPs, a factual and action taken report was sought from the State PCB

..... Principle of Sustainable Development as well as Precautionary principle requires that environment norms are maintained irrespective of the fact whether the project is a white category and is exempted from 'consent' methodology. It is undisputed that requirement to maintain to discharge minimum flow has been duly laid down and is necessary for

maintaining riverine ecology which requirement cannot be dispensed with. The State PCB has to evolve a mechanism for enforcing such requirement. The status report does not cover

HEPs of more than 25 MW and projects operating prior to 09.09.2005.

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Member Secretary,
HP State Pollution Control Board

4. In view of the above, let further necessary action be taken. The Member Secretary, State PCB, may remain present with the compliance report on the next date.....".

2. That in reference to afore-cited directions it is submitted that State Government vide aforementioned notification 09-09-2005 had made it mandatory for all Hydro Electric Projects (HEPs) to release 15% water/maintain a minimum flow immediately downstream of diversion structures of Hydel projects. Copy of notification is already on record with previous affidavit dated 19-8-2019 filed before this Hon`ble Tribunal.

3. That as per afore-cited directions and with a view to evolve mechanism for enforcing 15% water release requirement it is submitted that the State Board constituted a Joint Committee comprising of Senior Environmental Engineer and two Assistant Environmental Engineers on 5-10-2019 (**Annexure R-1**) to inventorize all HEPs in the State of HP which are not releasing 15% water. The Joint Committee submitted its report on 4-11-2019. Copy of the Joint Committee's report is annexed as **Annexure R-2**. As per report of the Joint Committee dated 4-11-2019, there are 26 number of HEPs (below 25 MW and also including more than 25 MW) which are not complying the provision of 15 % water release, hence the Joint Committee made the following observations and recommendations which are reproduced below :-

- There are certain weir sites of hydroelectric projects where internet connectivity is not available and have not installed the real-time online monitoring device. In such cases for the release of 15% discharge of water manual flow measuring devices/structure (V Notch, Rectangular Notch, Orifice, etc) should be provided along with a flow meter to record the discharge. To monitor the same, it is recommended that CCTV cameras may be installed by the concerned HEPs and the CCTV recording should be submitted to the State Board on regular basis and also maintain the logbook for the discharge data. The State Pollution Control Board will also randomly check the same. The concerned unit will have to maintain power backup for the CCTV and will also keep

ATTESTED the video recording of one year in their system/computer.

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- In case where the real time online monitoring devices are installed but the online data is not being transmitted, the units may be directed by the concerned Regional Offices

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to make it operational. These units should submit the hard copy of discharge data on quarterly basis to the State Board.

- In case of new projects, the unit should make a mechanism by installing a pipe across the weir, for the continuous release of 15% discharge of water and for operational projects, the units should continuously maintain the 15% discharge of water from the gate along-with the diversion structure.
 - The condition to install CCTV cameras should be applicable to all the units except the one which already have or will be installing the realtime online monitoring device.
 - An undertaking from all the HEPs should be taken on an affidavit to maintain the continuous 15% discharge of water and stating that in case of non compliance, HEP will be liable to pay Environmental Compensation as per the rules.
 - It is suggested that the HEPs below 25 MW may also be included in green category keeping in view the environmental degradation caused by them due to excavation / muck disposal during construction phase and monitoring of 15% discharge of the lean season during operation phase would be mandatory.
4. That the Joint Committee has also submitted detail of units commissioned before 9-9-2005. The State Board has accepted the recommendations of the Joint Committee. Accordingly, State Board in furtherance to such recommendations has taken further action and issued directions dated 15-11-2019 to the non-complying units (below 25 MW and including those commissioned before 9-9-2005 above 25 MW) to comply with the recommendations of the Joint Committee to ensure release of 15% water from the HEP. Copy of directions are annexed as **Annexure R-3** for kind perusal of the Hon'ble Tribunal.
5. That it is pertinent to submit here that the release of 15% mandatory water by HEPs is regulated by the State Govt. notification dated 9-9-2005. However, it is submitted that old projects i.e. Punjab State Electricity Board (Shanan HEP), NHPC (Chamera power Station) and M/s JP (Baspa) HEP had challenged the applicability of notification dated 9-

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9-2005 on old projects vide OA No. 241/2013, 242/2013 and 243/2013 on the ground that this notification is not applicable to them as these are old projects commissioned before 09-09-2005 i.e. prior to issuance of this notification. In the meanwhile during the

pendency of the litigation the matter was considered by Council of Ministers Govt. of HP in its meeting held on 18-4-2012 wherein following decision was taken :-

- (i) *The impugned notification has only prospective effect for projects commissioned after 09-09-2005.*
- (ii) *In case of projects which have entered into PPA/IA before the issuance of notification dated 09-09-2005 but not commissioned, a minimum discharge as agreed or accounted for as per TEC/MOU/IA/PPA (where no specific condition quantifying water discharge has been imposed) or as per any specific condition in MOU/IA/PPA shall be applicable till, based on a long term study, the minimum discharge in their case is determined."*

That the aforesaid decision taken by the Council of Ministers, Govt. of HP was placed before the Hon'ble NGT by Deptt. of MPP & Power vide affidavit dated 20-11-2014 (**Annexure R-4**). The Hon'ble NGT was pleased to dispose off the cases and vide order dated 20-11-2014 upheld the decision of State Govt.:-

"Learned Counsel appearing for the applicants submits that since the clarification has been issued and the same is stated to be prospective, their prayer in the application stands satisfied.

However, they reserve the right to take such other actions as may be permissible in accordance with law. Liberty granted.

All the application nos. 241/2013(The), 242/2013(The) and 243/2013(The) stand finally disposed of with no order as to costs."

Copy of order dated 20-11-2014 of Hon'ble NGT is annexed as **Annexure R-5**. It is submitted that though now Board has issued directions for release of 15 % water to aforementioned 5 non-complying old projects (i.e. BBMB-Pandoh, Shanan Power House, Chamera-I NHPC, Chamba, Chamera-II-NHPC, Chamba, Baira Siul Chamba) however these old projects have claimed that they are exempted by the State Govt. decision that notification dated 9-9-2005 has prospective effect and such decision was further upheld by this Hon'ble Tribunal vide order dated 20-11-2014. Moreover, they have also intimated that issue of 15%

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Jhunjhunwala vs Pushp Saini & ors. before the Hon'ble Supreme Court of India. Therefore, it is humbly prayed that the afore-cited order dated 20-11-2014 may be relooked into or

Member Secretary,
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modified keeping in view the situation mentioned above, so that release of 15% water from old projects could also be ensured.

- 6. It is submitted that the State Board has issued directions to 21 non-complying HEPs less than 25 MW to adopt the mechanism recommended by Joint Committee for release of 15% water from the HEP, so that it could be monitored by the State Pollution Control Board. In this regard some of the projects represented that though they are releasing 15% water from HEPs however, they require three months time for installation of necessary devices for measurement of 15% flow. Hence it is humbly prayed that three months time may kindly be granted to ensure implementation of recommendations of the Committee for installation of necessary devices for monitoring/measurement of 15% flow of water from HEPs.

The State Board shall ensure compliance of 15% release of water by HEPs and in this regard directions to concerned Regional Offices of the Board has been issued to conduct random surprise inspection of the HEPs to check the status of 15% release. Copy of directions dated 26-11-2019 annexed as **Annexure R-6**.

- 7. That the report of the Joint Committee (at **Annexure R-2**) may kindly be taken on record.

Identified by

That I, the above named deponent do hereby solemnly affirm and declare that the contents of my above affidavit paras 1-7 are correct to the best of my knowledge and belief based on information as derived from official record and nothing material has been concealed therefrom.

Verified at Shimla on 27th day of November, 2019.

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DEPONENT

Member Secretary,
HP State Pollution Control Board
Shimla

Certified that the above/overleaf was declared before me on solemn affirmation on this 27th day of Nov in the District of Shimla by Sh. [Name] who was identified by Sh. [Name] who is personally known to me and the contents of the above statement have been read over & explained to the deponent in vernacular who admitted them to be correct and true at the time of making thereof.



Oath Commissioner
HP High Court, Shimla

All Cuttings and Corrections are duly attested by me.

Oath Commissione

HP State Pollution Control Board
Below BCS, Phase-III, New Shimla-9

Annexure-R-1

No. PCB(DL-258)/OA No. 425/2019- 2/625-28 Dated:- 5-10-19

OFFICE ORDER

Whereas Hon'ble NGT vide order dated 25-09-2019 in OA No. 425/2019 titled Vijay Kumar V/s State of HP & ors. has observed that:-

"3.....environment norms are to be maintained irrespective of the fact whether the project is a white category and is exempted from 'consent' methodology. It is undisputed that requirement to maintain to discharge minimums flow has been duly laid down and is necessary for maintaining riverine ecology which requirement cannot be dispensed with. The State PCB has to evolve a mechanism for enforcing such requirement. The status report does not cover HEPs of more than 25 MW and projects operating prior to 09.09.2005.

4. In view of the above, let further necessary action be taken. The Member Secretary, State PCB, may remain present with the compliance report on the next date....."

Accordingly to comply aforesaid orders/directions dated 25-09-2019 passed by the Hon'ble NGT a Joint Committee comprising of following officers is hereby constituted:-

- i. Sh. Shrawan Kumar, SEE, HPSPCB, Parwanoo (Chairman)
- ii. Sh. Pradeep Modgil, AEE, HPSPCB, Kullu (Member)
- iii. Sh. Varun Gupta, AEE, HPSPCB, Dharamshala (Member)

The aforesaid committee will inventorise all data of HEPs in the State of HP (including all HEPs less than 25MW, more than 25 MW and those installed prior to 09-09-2005) which are not releasing 15% water and have not installed online flow measurement data logger within 15 days and shall initiate action for compliance in terms of above cited NGT order against violators.

Thereafter, the Joint Committee will submit a Action Taken compliance Report to this office with all details by 1-11-2019 positively, so that same could be submitted to Hon'ble NGT well in time.

The committee shall ensure compliance from all HEPs.

q/c
(Aditya Negi, IAS)
Member Secretary,
HPSPCB, Shimla
Tel. No. 0177-2673766

Copy forwarded to the following alongwith NGT order dated 25-09-2019 for information and necessary action :-

1. The Sr. Environment Engineer, (HQ) Shimla, H.P.
2. The Sr. Environment Engineer, Regional Office Parwanoo, Distt. Solan, H.P.
3. The AEE, HPSPCB, Kullu, Distt. Kullu, H.P.
4. The AEE, HPSPCB, Dharamshala, Distt. Kangra, H.P.

q/c
(Aditya Negi, IAS)
Member Secretary,
HPSPCB, Shimla
Tel. No. 0177-2673766



H.P. STATE POLLUTION CONTROL BOARD

SCF - 6, 7, 8, Sector - 4, Parwanoo, Distt-Solan (HP), Pin-173220

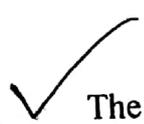
(Telefax: 01792-234081)

Website: <http://hppcb.nic.in> e-mail: pcbroparwanoo@gmail.com

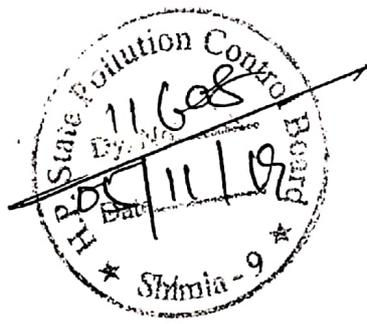
No- HPSPCB/RO PWN/SEE (Hydro Electric Project)/camp at Shimla/2019- 0)

Dated: 4/11/19

To



The Member Secretary,
H.P. State Pollution Control Board,
Phase-III, New Shimla-171009



Sub: Status Report on compliance of 15 % water discharge and installation of online flow measurement data logger.

Sir,

Please refer to your kind office letter vide no. PCB/OA No. 425/2019-23223-24, dated: 26/10/19 w.r.t compliance of 15 % water discharge and installation of online flow measurement data logger. In this regard the detailed report is enclosed herewith and it is requested that the non-complying units may be directed from head office for necessary compliance please.

Encl: As above

Yours faithfully,

Dr. Sharawan Kumar
Sr. Environmental Engineer

STATUS REPORT ON COMPLIANCE OF 15 % WATER DISCHARGE BY HYDRO ELECTRIC PROJECTS.

In compliance to the office order of the head office vide no. PCB (DL-258)/OA No. 425/2019-21625-28, dated: 5/10/19 w.r.t compliance of 15 % water discharge and installation of online flow measurement data logger by HEP's a meeting was conducted at Head office Shimla on dated: 04/11/2019 to inventories the data of hydroelectric projects (HEP's) in the State of HP.

As per the scrutiny of the data received from all the Regional Offices of HPSPCB, the status of HEP's is summarised in Table - 1.

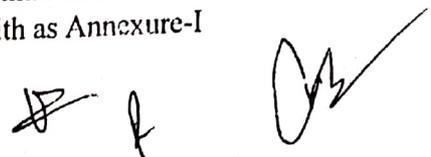
Table - 1 : Detail of HEP's in Himachal Pradesh

Sr. No.	Regional office	Total No of HEP	Below 25 MW	Above 25 MW	Operational below 25 MW	Operational above 25 MW	15 % real time installed	Not installed	15 % real time installed by HEP's below 25 MW	15 % real time installed by HEP's above 25 MW
1	Baddi	0	0	0	0	0	0	0	0	0
2	Bilaspur	10	4	6	3	5	4	3	2	2
3	Chamba	45	37	8	23	6	24	4	21	3
4	Kangra	35	35	0	30	0	26	4	26	0
5	Kullu	56	44	12	18	6	17	7	12	5
6	Paonta Sahib	6	4	2	4	1	5	0	4	1
7	Parwanoo	0	0	0	0	0	0	0	0	0
8	Rampur	53	44	9	25	7	25	7	18	7
9	Shimla	22	18	4	8	0	7	1	7	0
10	Una	0	0	0	0	0	0	0	0	0
	TOTAL	227	186	41	111	25	108	26	90	18

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There are total 227 number of hydroelectric projects in the State of Himachal Pradesh out of which only 41 number fall under consent mechanism (above 25 MW) and 186 number (below 25 MW) are under white category and exempted from the consent mechanism of the State Board.

Out of 227 number of hydroelectric projects, 136 number are operational and out of which 108 number have installed the real time online flow measurement data logger device. There are 26 number units which have not installed the real time online flow measurement data logger device. The list of these HEP's is enclosed herewith as Annexure-I

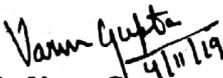


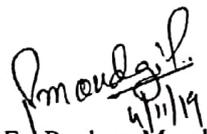
There are 41 number of operational hydroelectric projects which fall under consent mechanism and are above 25 MW. Out of these, 18 HEP's have installed the real time online flow measurement data logger device. 5 number HEP's have not installed the real time online flow measurement data logger device due to order dated 20/11/2014 of Hon'ble NGT passed in OA No. 241/2013, 242/2013 & 243/2013. Two number HEP's are using the discharge of tail race of other project (cascading system) which do not require the device for the measurement of 15 % water discharge as they are not diverting the water directly from the river.

The list of 12 number HEP's above 25 MW which are being operated before 9/9/2005 is enclosed as Annexure-II. The list of 15 number HEP's below 25 MW which are being operated before 9/9/2005 is enclosed as Annexure-III.

Recommendations:

1. There are certain weir sites of hydroelectric projects where internet connectivity is not available and have also not installed the realtime online monitoring device, in such cases for the release of 15 % discharge of water manual flow measuring devices/structures (V Notch, Rectangular Notch, Orifice, etc) should be provided along with a flow meter to record the discharge. To monitor the same, it is recommended that CCTV cameras may be installed by the HEP and the CCTV recording should be submitted to the State Board on regular basis and also maintain the logbook for the discharge data. The State Pollution Control Board will also randomly check the same. The concerned unit will have to maintain power backup for the CCTV and will also keep the video recording of one year in their system/computer.
2. In case where the devices are installed but the online data is not being transmitted, the units may be directed by the concerned regional offices to make it operational. These units should submit the hard copy of discharge data on quarterly basis to the State Board.
3. In case of new projects, the unit should make a mechanism by installing a pipe across the weir for the continuous release of 15 % discharge of water and for operational projects, the units should continuously maintain the 15 % discharge of water from the gate along with the diversion structure.
4. The condition to install CCTV cameras should be applicable to all the units except the one which have/will be installing the realtime online monitoring device.
5. An undertaking from all the HEP's should be taken on an affidavit to maintain the continuous 15 % discharge of water and stating that in case of non-compliance, HEP will be liable to pay the Environmental Compensation as per the rules.
6. It is suggested that the HEP's below 25 MW may also be included in green category keeping in view the environmental degradation caused by them due to excavation and muck disposal during construction phase and monitoring of 15 % discharge of the lean season during operation phase.


Er. Varun Gupta
Asstt. Environmental Engineer


Er. Pradeep Moudgil
Asstt. Environmental Engineer


Dr. Sharawan Kumar
Sr. Environmental Engineer

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List of non complying units below 25 MW		
Sr. No.	Name of Unit and address	Capacity
1	Gurahan Small HEP, C/o Sarabhai Enterprises Pvt. Ltd., Distt. Mandi (HP).	1.5 MW
2	Manjhal SHEP M/s Virender Dogra Power Project Pvt. Ltd.315/16, Sahil Plaza, Dalhousie Road Pathankot-145001	1.0 MW
3	Bhuri Singh Power House Chamba Tehsil & Distt. Chamba	0.45 MW
4	M/s Binwa-II Power Co. (P) Ltd., Palampur, C/o Nirmal Kumari, Near Maharaja Palace,	4.5 MW
5	M/s Changer Vidyut Kranti (P) Ltd, Village Sahel, Tehsil Baijnath, Distt. Kangra, H.P.	1.00 MW
6	M/s Dharamshala Hydro Power Limited (Maujhi-I) VPO Khanyara, Tehsil Dharamshala,	4.5 MW
7	M/s Bhavani renewable Energy Pvt. Ltd., VPO Sungal Tehsil Palampur, Distt. Kangra,	5.00 MW
8	Puri Oil Mills Ltd. [Chakshi Mini HEP -2.0 MW], Site Address-Village-Pulga, PO-Barshaini, Tehsil-Bhunter, Distt. Kullu-175105	2 MW
9	Chevron Hydel Pvt. Ltd. [Jiwa SHEP -1.0 MW], Site address- Village-Siund, Sub Tehsil-Sainj, Distt. Kullu-175134(HP)	1 MW
10	Marhi Mini Hydel Power Project (5 MW), Kullu Office- Village-Kothi, Po-Palchan, Tehsil-Manali, Distt. Kullu-175103 (HP)	5 MW
11	A Power Himalayas Ltd., [Solang Power House -1.5 MW], Kullu Office: Village-Solang Nalla, PO-Palchan, Tehsil-Manali, Distt. Kullu-175103 (HP)	1.5 MW
12	Indusree Power Pvt. Ltd. [Raskat Hydel Power Project-0.8 MW], Site Address: Village-Raskat, PO- Manikaran, Tehsil-Bhunter, Distt. Kullu-175105(HP)	0.8 MW
13	Siri Ram Siyal Hydro Power Pvt. Ltd. [Kotlu SHEP -1.8 MW], [On Kotlu Nallah], Near Village-Neuli, Sub Tehsil- Sainj, Distt. Kullu-175123(HP)	1.8 MW
14	M/s Titang SHEP Titang Pooh,Kinnaur, Sai Engineering foundation, Sai Bhawan Sector-4 New Shimla (HP).	0.8 MW
15	M/s Lingti MHEP (400 KW) HIMURJA, Urja Bhawan, Kasumpti, Shimla (HP)	400 KW
16	M/s Brua MHEP Kinnaur (9 MW) Brua Hydrowatt Pvt Ltd., Sai Bhawan, Sector-IV New Shimla (HP).	9 MW
17	M/s Ganvi Power House St-II Ganvi Power House Division HPSEB Jeori, Tehsil Rampur, Distt. Shimla (HP).	10 MW
18	M/s Gee Cee Pvt Ltd., (Jogini-II HEP, Village & PO Saraha, Tehsil Rampur, Distt. Shimla H.P.	5 MW
19	M/s Shaung MHEP, (Darjeeling Power Limited), Empire House, 3rd Floor, Dr. D.N. Road Rort, Mumbai	3 MW
20	M/s Rongtong SHEP, Kaza, Distt Kinnour	2 MW
21	M/s Hateshwari Om Power Enterprises Pvt. Ltd., Ching Hydro Power Projects, Project at Ramnu Nallah, P.O. Anti, Tehsil Jubbal, District Shimla, H.P.	1 MW

List of non complying units above 25 MW		
Sr. No.	Name of Unit and address	Capacity
1	B.B.M.B. Pandoh, Distt Mandi	990 MW
2	Shanan Power House, Distt Mandi	100 MW
3	Chamera-I, (NHPC) Village & Post office Khairi Tehsil Distt. Chamba	540 MW
4	Chamera-II, (NHPC) Village & Post office Karian Tehsil & Distt. Chamba	300 MW
5	Baira Siul HEP Village & Post office Surgani Tehsil Churah Distt. Chamba.	180 MW

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List of units above 25 MW Operational before 9/9/2005		
Sr. No.	Name of Unit and address	Capacity
1	B.B.M.B. Panch, District Mandi	990 MW
2	Sitanan Power House, District Mandi	100 MW
3	Chamara-I (NHPC) Village & Post office Khairi Tehsil Distt. Chamba	540 MW
4	Baira Sool HEP Village & Post office Surgani Tehsil Churah Distt. Chamba.	180 MW
5	M/s Nathpa Jhakri Power Corporation (SJVNL) , Distt. Kinnour H.P.	1500 MW
6	M/s Bhaba Power House BhabaNagar , Distt. Kinnour	120 MW
7	M/s Kashang HEP R-Peo, Distt. Kinnour	243 MW
8	M/s Himachal Baspa Power Co. Ltd., Baspa-II	300 MW
9	Malana Power Company Ltd. [MPCL- 86 MW (Malana-I)], Village & Post Office- -Jari, Tehsil-Bhunter, Distt. Kullu-175105 (H.P)	86 MW
10	Larji Power House Division, (H.P.S.E.B.L.), Thalout, Distt. Mandi	126 MW
11	Bassi Hydroelectric Project, District Bilaspur	60 MW
12	M/s Giri Power House, District Sirmour	60 MW

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List of units below 25 MW Operational before 9/9/2005		
Sr. No.	Name of Unit and address	Capacity
1	Dehar HEP, M/s Astha Projest Pvt. Ltd. Vill Bithal Samot, Tehsil Sihunte, Distt. Chamba.	5.0 MW
2	M/s The Assistant Engineer Binwa Power Company (P) Ltd. Binwa, Nagar Uttarala, Baijnath, Tehsil Baijnath, Distt. Kangra, H.P.	6.00 MW
3	M/s Resident Engineer Baner Hydro Electric Power Project Jia, Tehsil Palampur, Distt. Kangra, H.P.	12 MW
4	M/s Resident Engineer Gaj Power House at Gharo, Tehsil Dharamshala, Distt. Kangra, H.P.	10.5 MW
5	M/s Dharamshala Hydro Power Limited (Maajhi-I) VPO Khanyara, Tehsil Dharamshala, Distt. Kangra, H.P.	4.5 MW
6	K.K.K. Hydro Power Ltd. (3MW+1.9MW=4.9MW) [Baragran SHEP], Site Address-Baragran Road, VPO-Patlikulh, Tehsil-Manali, Distt.-Kullu -175129(HP)	4.9 MW
7	A Power Himalayas Ltd., [Solang Power House -1.5 MW], Kullu Office: Village-Solang Nalla, PO-Palchan, Tehsil-Manali, Distt. Kullu-175103 (HP)	1.5 MW
8	Indusree Power Pvt. Ltd. [Raskat Hydel Power Project-0.8 MW], Site Address: Village-Raskat, PO- Manikaran, Tehsil-Bhunter, Distt. Kullu-175105(HP)	0.8 MW
9	M/s Bhaba Augmentation Bhabanagar(4.5MW) Power House Division, HPSEB Ltd., Bhabanagar, Tehsil Nichar, Distt. Kinnaur H.P.	4.5 MW
10	M/s Rongtong SHEP Kaza (2 MW), Power Hosue Elect. Mtc. Division Bhabanagar, Distt. Kinnaur H.P.	2 MW
11	M/s Rukti Power House Rukti, Electrical Division HPSEB Reckong Poe, Distt. Kinnaur (HP).	1.5 MW
12	M/s Sumaz HEP (Ranga Raju) (14 MW)Ranga Raju Warehousing Pvt Ltd., 3rd Floor Road No.2, Banjara Hill Hydrabad (AP).	14 MW
13	M/s Titang SHEP Titang Pooh, Kinnaur, Sai Engineering foundation, Sai Bhawan Sector-4 New Shimla (HP).	800 KW
14	M/s Lingti MHEP (400 KW) HIMURJA, Urja Bhawan, Kasumpti, Shimla (HP)	400 KW
15	M/s Andhra HPSEB Stage-I, Chirgaon Rohru, District Shimla, H.P.	16.5 MW



-13- ANNEXURE-R3
H.P. STATE POLLUTION CONTROL BOARD
HIM PARIVESH, PHASE-III
NEW SHIMLA-171009

No. PCB/OA No.425/2019/Consent Branch/2019-24263-96

Dated 15-11-2019

To As per list

Subject: Directions under Water (Prevention and Control of Pollution) Act, 1974.

Whereas, State Govt. vide notification dated 16-07-2005 and 09-09-2005 made it mandatory for all HEPs to release 15% water/ maintain a minimum flow immediately downstream of diversion structure of Hydel project.

Whereas, State Board vide office order no. PCB(59th Bd Mtg.) Engg. Consent Branch/2009-6202-210 dated 04-07-2009 made it mandatory for all HEPs to install real time online continuous flow measurement and data logging devices(s).

Whereas Hon'ble NGT vide order dated 25-09-2019 in OA No. 425/2019 titled Vijay Kumar V/s State of HP & ors. has observed that:-
"3.....environment norms are to be maintained irrespective of the fact whether the project is a white category and is exempted from 'consent' methodology. It is undisputed that requirement to maintain to discharge minimums flow has been duly laid down and is necessary for maintaining riverine ecology which requirement cannot be dispensed with. The State PCB has to evolve a mechanism for enforcing such requirement. The status report does not cover HEPs of more than 25 MW and projects operating prior to 09.09.2005.

Whereas to comply aforesaid orders/directions dated 25-09-2019 passed by the Hon'ble NGT a Joint Committee vide Office Order No. PCB (DL-258).OA No.425/2019-21625-28 dated 5.10.2019 has been constituted to inventorize all data of HEPs in the State of HP (including all HEPs less than 25MW, more than 25 MW and those installed prior to 09-09-2005) which are not releasing 15% water and have not installed online flow measurement data logger and shall initiate action for compliance in terms of above cited NGT order against violators; and

Whereas Committee submitted its report vide letter No.01 dated 4.11.2019 wherein it has been recommended that directions to 26 non-complying units may be issued as these projects are not releasing 15% water as per State Govt. Notification dated 16-07-2005, dated 09-09-2005, and directions of Hon'ble NGT.

Whereas the Committee observed and recommended that (i) there are certain weir sites of hydroelectric projects where internet connectivity is not available and have also not installed the real time online monitoring device, in such cases for the release of 15 % discharge of water manual flow measuring devices/structures (V Notch, Rectangular Notch, Orifice, etc) should be provided along with a flow meter to record the discharge. To monitor the same, it is recommended that CCTV cameras may be installed by the HEP and the CCTV recording should be submitted to the State Board on regular basis and also maintain the logbook for the discharge data. The State Pollution Control Board will also randomly check the same. The concerned unit will have to maintain power backup for the CCTV and will also keep the video recording of one year in their system/computer (ii) In case where the devices are installed but the online data is not being transmitted, the units may be directed by the concerned regional offices to make it operational. These units should submit the hard copy of discharge data on quarterly basis to the State Board (iii) In case of new projects, the unit should make a mechanism by installing a pipe across the weir for the continuous release of 15 % discharge of water and for operational projects, the units should continuously maintain the 15 % discharge of water from the gate along with the diversion structure (iv) the condition to install CCTV cameras should be applicable to all the units except the one which have/will be installing the real time online monitoring device (iv) An undertaking from all the HEP's should be taken on an affidavit to maintain the continuous 15 % discharge of water and stating that in case of non-compliance, HEP will be liable to pay the Environmental Compensation as per the rules.

Whereas the facts stated above tantamount to violation of the provisions of the Water (Prevention and Control of Pollution) Act, 1974 / Environmental (Protection) Act, 1986 rendering you liable for action under these acts.

Now, therefore, in consideration of the facts stated above, the H.P. State Pollution Control Board hereby directs you to comply the aforesaid recommendations of Committee for release of 15% water from HEP within 15 days positively.

Please note that in the event of failure to comply above, the State Board shall be constrained to take further action as per provisions of law at your own risk and cost.

1. The Sr. Environmental Engineer, Environmental Engineer/Assistant Env. Engineer, HPSPCB, Poanta, Bilaspur, Dharamshala, Kullu, Chamba, Shimla and Rampur for necessary action/compliance alongwith copy of recommendations of Committee.
2. Concerned files/Case File.

(Aditya Negi, IAS)
Member Secretary, HPSPCB

(Aditya Negi, IAS)
Member Secretary, HPSPCB

List of non complying units below 25 MW

No.	Name of Unit and address	Capacity
	Gurahan Small HEP, C/o Sarabhai Enterprises Pvt. Ltd., Distt. Mandi (HP).	1.5 MW
2	Manjhal SHEP M/s Virender Dogra Power Project Pvt. Ltd.315/16, Sahil Plaza, Dalhousie Road Pathankot-145001	1.0 MW
3	Bhuri Singh Power House Chamba Tehsil & Distt. Chamba	0.45 MW
4	M/s Binwa-II Power Co. (P) Ltd., Palampur, C/o Nirmal Kumari, Near Maharaja Palace, Village Gehar, PO Sapru, tehsil Baijnath, Distt. Kangra, H.P.	4.5 MW
5	M/s Changer Vidyut Kranti (P) Ltd, Village Sahel, Tehsil Baijnath, Distt. Kangra, H.P.	1.00 MW
6	M/s Dharamshala Hydro Power Limited (Maujhi-I) VPO Khanyara, Tehsil Dharamshala, Distt. Kangra, H.P.	4.5 MW
7	M/s Bhavani renewable Energy Pvt. Ltd., VPO Sungal Tehsil Palampur, Distt. Kangra, H.P.	5.00 MW
8	Puri Oil Mills Ltd. [Chakshi Mini HEP -2.0 MW], Site Address-Village-Pulga, PO-Barshaini, Tehsil-Bhunter, Distt. Kullu-175105	2 MW
9	Chevron Hydel Pvt. Ltd. [Jiwa SHEP -1.0 MW], Site address- Village-Siund, Sub Tehsil-Sainj, Distt. Kullu-175134(HP)	1 MW
10	Marhi Mini Hydel Power Project (5 MW), Kullu Office- Village-Kothi, Po=Palchan, Tehsil-Manali, Distt. Kullu-175103 (HP)	5 MW
11	A Power Himalayas Ltd., [Solang Power House -1.5 MW], Kullu Office: Village-Solang Nalla, PO-Palchan, Tehsil-Manali, Distt. Kullu-175103 (HP)	1.5 MW
12	Indusree Power Pvt. Ltd. [Raskat Hydel Power Project-0.8 MW], Site Address: Village-Raskat, PO- Manikaran, Tehsil-Bhunter, Distt. Kullu-175105(HP)	0.8 MW
13	Siri Ram Siyal Hydro Power Pvt. Ltd. [Kotlu SHEP -1.8 MW], [On Kotlu Nallah], Near Village-Neuli, Sub Tehsil- Sainj, Distt. Kullu-175123(HP)	1.8 MW
14	M/s Titang SHEP Titang Pooh,Kinnaur, Sai Engineering foundation, Sai Bhawan Sector-4 New Shimla (HP).	0.8 MW
15	M/s Lingti MHEP (400 KW) HIMURJA, Urja Bhawan, Kasumpti, Shimla (HP)	400 KW
16	M/s Brua MHEP Kinnaur (9 MW) Brua Hydrowatt Pvt Ltd., Sai Bhawan, Sector-IV New Shimla (HP).	9 MW
17	M/s Ganvi Power House St-II Ganvi Power House Division HPSEB Jeori, Tehsil Rampur, Distt. Shimla (HP).	10 MW
18	M/s Gee Cee Pvt Ltd., (Jogini-II HEP, Village & PO Saraha, Tehsil Rampur, Distt. Shimla H.P.	5 MW
19	M/s Shaung MHEP, (Darjeeling Power Limited), Empire House, 3rd Floor, Dr. D.N. Road Rort, Mumbai	3 MW
20	M/s Rongtong SHEP, Kaza	2 MW
21	M/s Hateshwari Om Power Enterprises Pvt. Ltd., Ching Hydro Power Projects, Project at Ramnu Nallah, P.O. Anti, Tehsil Jubbal, District Shimla, H.P.	1 MW

List of non complying units above 25 MW

Sr. No.	Name of Unit and address	Capacity
1	B.B.M.B. Pandoh (Reservoir)	990 MW
2	Shanan Power House	100 MW
3	Chamera-I, (NHPC) Village & Post office Khairi Tehsil Distt. Chamba	540 MW
4	Chamera-II, (NHPC) Village & Post office Karian Tehsil & Distt. Chamba	300 MW
5	Baira Siul HEP Village & Post office Surgani Tehsil Churah Distt. Chamba.	180 MW

**BEFORE THE HON'BLE PRINCIPAL BENCH
NATIONAL GREEN TRIBUNAL
NEW DELHI
CIRCUIT BENCH AT SHIMLA, H.P.**

**Application No.- 241(THC)/2013
CWP No. 843 of 2011**

Jai Prakash Power Limited

....Petitioner

Versus

State of H.P. and others

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2	Annexure A-1, Copy of letter dated 21-04-2012	3.

Respondent No. 1

Through

Addl. Advocate General

Shimla

H.P. Shimla

Dated:20-11-20174

-16-
BEFORE THE HON'BLE PRINCIPAL BENCH
NATIONAL GREEN TRIBUNAL
NEW DELHI
CIRCUIT BENCH AT SHIMLA, H.P.

Application No. 241(THC)/2013
CWP No. 843 of 2011

In the Matter of:

M/s Jai Prakash Power Limited

...Petitioner

Versus

State of H.P. and others

...Respondents

Compliance affidavit on behalf of State of H.P., in compliance of order dated 13-08-2014, passed by this Hon'ble Tribunal.

I, Kameshwar Singh Dhaulta S/O Shri P.R. Dhaulta, aged about 54 years presently posted as Joint Secretary (Power) to the Government of Himachal, Shimla-171002, do hereby solemnly affirm and declare as under:-

1. That I am well conversant with the facts of the above mentioned application. It is further submitted that I am competent and authorized to sworn in the present affidavit.
2. That the applicant has challenged the applicability of Department of Pollution Control notification No. PC-F(2)-1/2005 dated 09-09-2005 regarding the 15% of minimum flow of water to be released and maintained immediately downstream of the rivers during lean seasons. The Hon'ble High Court was pleased to constitute a committee, to look into the issue of minimum discharge. The said committee had concluded that there is a need to determine the amount of water, on Project to Project basis, after a long term study.
3. That the matter of application of notification dated 09-09-2005 to existing power projects was considered by the Govt. of H.P. and decided

James D. Edlin
Adv. 26/11/2014

Asweller

T T S Y B D
Joint Commissioner,

and held meeting of Council of Ministers on 18-04-2012 and decided as under:

- (i) "The impugned notification has only prospective effect for projects commissioned after 09-09-2005.
- (ii) In case of projects which have entered into PPA/IA before the issuance of notification dated 09-09-2005 but not commissioned a minimum discharge as agreed or accounted for as per TEC/MOU/IA/PPA shall be applicable till, based on a long term study, the minimum discharge in their case is determined."

The above decision dated 18-04-2012 was conveyed to the Chairman cum Managing Director HPSEBL Kumar House Shimla-4 vide letter dated 21-04-2012, copy of this communication is enclosed as Annexure A-1

It is submitted that the decision of CMM dated 18.04.2012, as detailed in Para supra, shall remain in force and be treated applicable to all Projects falling within the ambit of said decision dated 18.04.2012, for all intents and purposes, till the decision otherwise, is taken by the State Government.

Identified deponent

Verified at Shimla on this 20th day of November, 2014

ATTEST
Oath Commissioner,
H.P. High Court

Deponer
Deponer

I, the undersigned, being a Justice of the Peace, do hereby certify that the above is a true and correct copy of the original as shown to me on this 20th day of November 2014 at Shimla by Sh. *Kamaljit Singh* who is personally known to me and the contents of the above document have been read over & explained to the deponent in his presence who admits them to be correct and true at the time of signing thereof.

20/11/14

Singh Dhaulta
Ar.

All cuttings & corrections are duly attested by me.
20/11/14
Oath Commissioner

-18-

No- MPP- E (1) 3/2011
Government of Himachal Pradesh
Department of MPP & Power

From

Principal Secretary (Power) to the
Government of Himachal Pradesh

To

The Chairman- Cum- Managing Director
HPSEBL
Kumar House,
Shimla- 4

Sub:-

Dated- Shimla-2----- 21-4-2012
15% mandatory release of water and increase in tariff on this
account to the IPPs who have signed PPAs with HPSEBL up
to 1st July, 2006.

Sir,

I am to refer to your letter No. HPSEBL/ CE- Comm/SHP/ 2010-11-
12698 dated 19-10-2010 on the subject cited above and to say that the matter of
applicability of Department of Pollution Control Notification dated 09-09-2005
regarding 15% mandatory release of water downstream of power projects has been
engaging the attention of the government for some time past. The matter was
considered by the Council of Minister in its meeting held on 18-04-2012 and the
following has been approved:-

- (i) "The impugned notification has only prospective effect for projects commissioned after 09-09-2005.
- (ii) In case of projects which have entered into PPA/IA before the issuance of notification dated 09-09-2005 but not commissioned, a minimum discharge as agreed or accounted for as per TEC/MOU/IA/PPA (where no specific condition quantifying water discharge has been imposed) or as per any specific condition in MOU/IA/PPA shall be applicable till, based on a long term study, the minimum discharge in their case is determined."

In view of the above, you are requested to approach HPERC for review of the orders passed in the tariff petitions with respect to various PPAs where enhancement has been granted due to retrospective imposition of the lean period discharge. Necessary action in the matter may be taken accordingly under intimation to this department.

Yours faithfully

9/15

Principal Secretary (Power) to the
Government of Himachal Pradesh

**BEFORE THE PRINCIPAL BENCH
NATIONAL GREEN TRIBUNAL
NEW DELHI
CIRCUIT BENCH AT SHIMLA**

**Application No. 241(T_{HC})/2013
And
Application No. 242(T_{HC})/2013
And
Application No. 243(T_{HC})/2013**

IN THE MATTERS OF

**M/s Jaiprakash Power Ltd. Vs. State of HP & Ors.
And
NHPC Ltd. Vs. State of HP & Ors.
And
PSEB Vs. State of HP & Ors.**

**CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE (Dr.) P. JYOTHIMANI, JUDICIAL MEMBER
HON'BLE DR. D.K. AGRAWAL, EXPERT MEMBER
HON'BLE PROF. A.R. YOUSUF, EXPERT MEMBER**

**Present: Petitioner: Mr. Anand Sharma, Adv.
State of H.P: Mr. Anup Rattan, AAG and Mr. Vivek Singh
Attri, DAG
Respondents: Mr. Satish Sharma, Advocate HP SEB
Mr. Vivek Thakur Adv. For PCB
Mr. K.D. Shreedhar, Sr. Adv. And Ms. Shreya
Chuhan**

		Orders of the Tribunal
	Date and Remarks	
	Item Nos. 12 to 14 November 20, 2014	<p>Learned Counsel appearing for the State files an affidavit of the Secretary. The same is taken on record. Let copies of the affidavit be furnished to all the Counsel appearing in this case who may file reply to the said affidavit, if any, within three weeks from today.</p> <p>Learned Counsel appearing for the applicants submits that since the clarification has been issued and the same is stated to be prospective, their prayer in the application stands satisfied.</p> <p>However, they reserve the right to take such other actions as may be permissible in accordance with law. Liberty granted.</p> <p>All the application nos. 241/2013(The),</p>

242/2013(Thc) and 243/2013(Thc) stand finally disposed
of with no order as to costs.

.....,CP
(Swatanter Kumar)

.....,JM
(Dr. P. Jyothimani)

.....,EM
(Dr. D.K. Agrawal)

.....,EM
(Prof. A.R. Yousuf)

**HP STATE POLLUTION CONTROL BOARD,
BELOW BCS, PHASE-III, NEW SHIMLA**

No. PCB/Consent Branch HEPs/-

25543-A

Dated:- 26-11-19

From: The Member Secretary

To

The Regional Officers,
HP State Pollution Control Board
Shimla, Rampur, Dharamshala, Kullu, Poanta Sahib, Chamba

Subject:- Directions under Water (Prevention and Control of Pollution) Act 1974.

This has reference to the directions issued by this office vide letter No. PCB/OA No. 425/2019 / Consent Branch/2019-24363-96 dated 15-11-2019 to the non-complying HEPs in HP to comply with the recommendations of the Committee for release of 15 % water and copy of which was also endorsed to you to ensure compliance.

In this connection, you are hereby directed to conduct random surprise inspections of the HEPs in your respective areas at least once in a month to check the status of 15% release of water by HEPs. In case any HEP found non-complying to the mandatory 15% release of water action as per Water Act 1974 and Environment Protection Act 1986 be taken against the units.

Strict compliance to the afore-said directions is solicited from all concerned.

(Aditya Negi, IAS)
Member Secretary
HPSPCB, Shimla-9,

AC