

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
ORIGINAL APPLICATION NO. 158 OF 2024**

IN THE MATTER OF:

News Item titled “Soil dumping: Umiam river cries for help” appearing in the shillontimes.com dated 26.05.2024.

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Filed on: 20.11.2024
New Delhi

Filed by

Enatoli

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HON'BLE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
ORIGINAL APPLICATION NO. 158/2024

IN THE MATTER OF:-

News Item titled "Soil dumping: Umiam river cries for help" appearing in the shillongtimes.com dated 26.5.2024

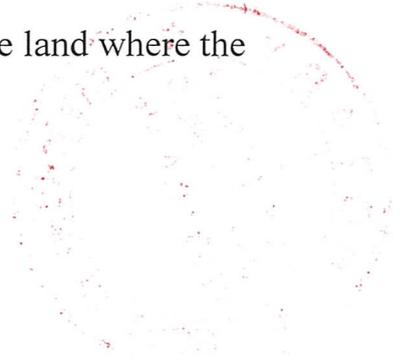
**REPLY AFFIDAVIT ON BEHALF OF RESPONDENT NO.1 -
MEGHALAYA STATE POLLUTION CONTROL BOARD**

I, Dr. George Hagi Chyrmang, S/o (Late) D. Kyndiah, Age 43 years, having office at Lumpyngngad, Shillong, Meghalaya, do hereby solemnly affirm and declare as under :-

1. That I am presently posted as the Member Secretary of the Meghalaya State Pollution Control Board, MSPCB, and as such in my official capacity I am conversant with the facts and records of the case and hence competent and authorized to swear this affidavit on behalf of MSPCB, hereinafter referred to as the 'Board'.
2. The Board is filing this instant Affidavit to place on record the steps taken by the Board after the news was reported in the media on 26.5.2024.
3. It is stated that a preliminary inspection was conducted immediately on 27.5.2024 for M/s Oriental Star Luxury Resort because the river/stream Wah Lwu flows along the stretch of the land where the

MEMBER SECRETARY
Meghalaya State Pollution Control Board
Shillong

SI./ Instrument No. 26
Date: 20/11/24



resort is being constructed. River Wah Lwu is a tributary of Umiam River.

A copy of the preliminary inspection report dated 27.05.2024 is marked and annexed as **Annexure R/1**.

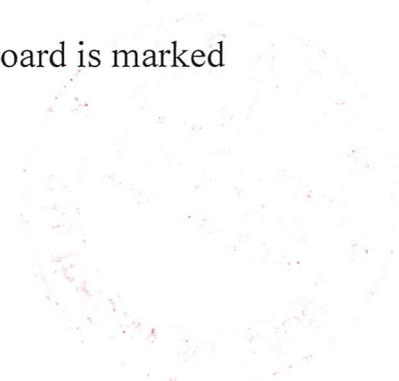
4. It is stated that a Prohibitory Order dated 28.5.2024 was issued by the Board based on the newspaper report which is the subject matter of the instant suo moto matter.

A copy of the Prohibitory Order dated 28.5.2024 is marked and annexed as **Annexure R/2**.

5. Pursuant to the inspection, the Board issued a show cause notice dated 24.6.2024 to M/s Oriental Star Luxury Resort. Consequently on 12.9.2024, the Board issued direction to close down the Unit as it failed to respond to the show cause notice which was issued on 24.6.2024. It is stated that it was only after the direction to close down was issued that the proprietor of the resort submitted its response which was received on 26.9.2024.

A copy of the show cause notice dated 24.6.2024 along with direction to close down on 12.9.2024 issued by the Board is marked and annexed as **Annexure R/3**.

MEMBER SECRETARY
Meghalaya State Pollution Control Board
Shillong



6. That another inspection was conducted in 3.10.2024 by the Board with regard to M/s Oriental Star Luxury Resort.

A copy of the inspection report dated 3.10.2024 is marked and annexed as **Annexure R/4**.

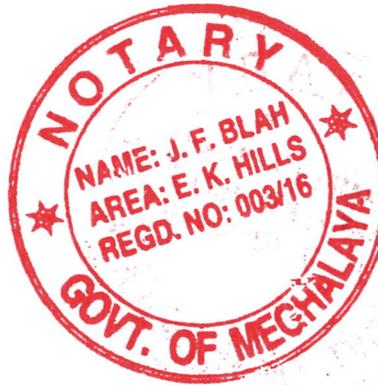
7. I say that the facts stated in the above paras are true and correct to the best of my knowledge and information.

Identified by:

Miss. P. S. Barch



(Advocate)




DEPONENT
MEMBER SECRETARY
Meghalaya State Pollution Control Board
Shillong

SOLEMNLY AFFIRMED BEFORE ME THIS DAY
ON 20/11/24 THE DEPONENT IS IDENTIFIED BY P.S. Barch
I CERTIFY THAT THE CONTENTS OF THE AFFIDAVIT
ARE READ ORDER AND EXPLAINED TO THE
DEPONENT WHO VERIFIED THE SAME BEFORE ME
J. F. BLAH
NOTARY
East Khasi Hills District
Government of Meghalaya

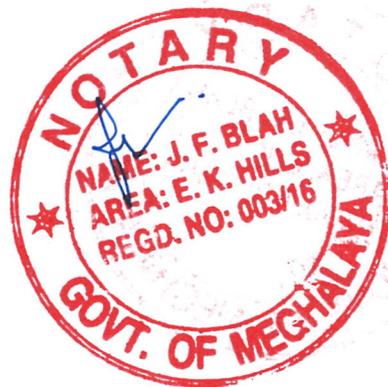
VERIFICATION

Verified at *Shillong* on this the *20th* day of November, 2024 that the contents of the above affidavit are true and correct to the best of my knowledge and belief. No part of it is false and nothing material has been concealed there from.



DEPONENT

MEMBER SECRETARY
Meghalaya State Pollution Control Board
Shillong



MEGHALAYA STATE POLLUTION CONTROL BOARD, SHILLONG

Inspection Report

In pursuance of matter that flashed in the media, an inspection on 27th May 2024 an inspection was carried out for M/s Oriental Star Luxury Resort located at Umsaw, Mawjynrong, Dongumladew, East Khasi Hills District.

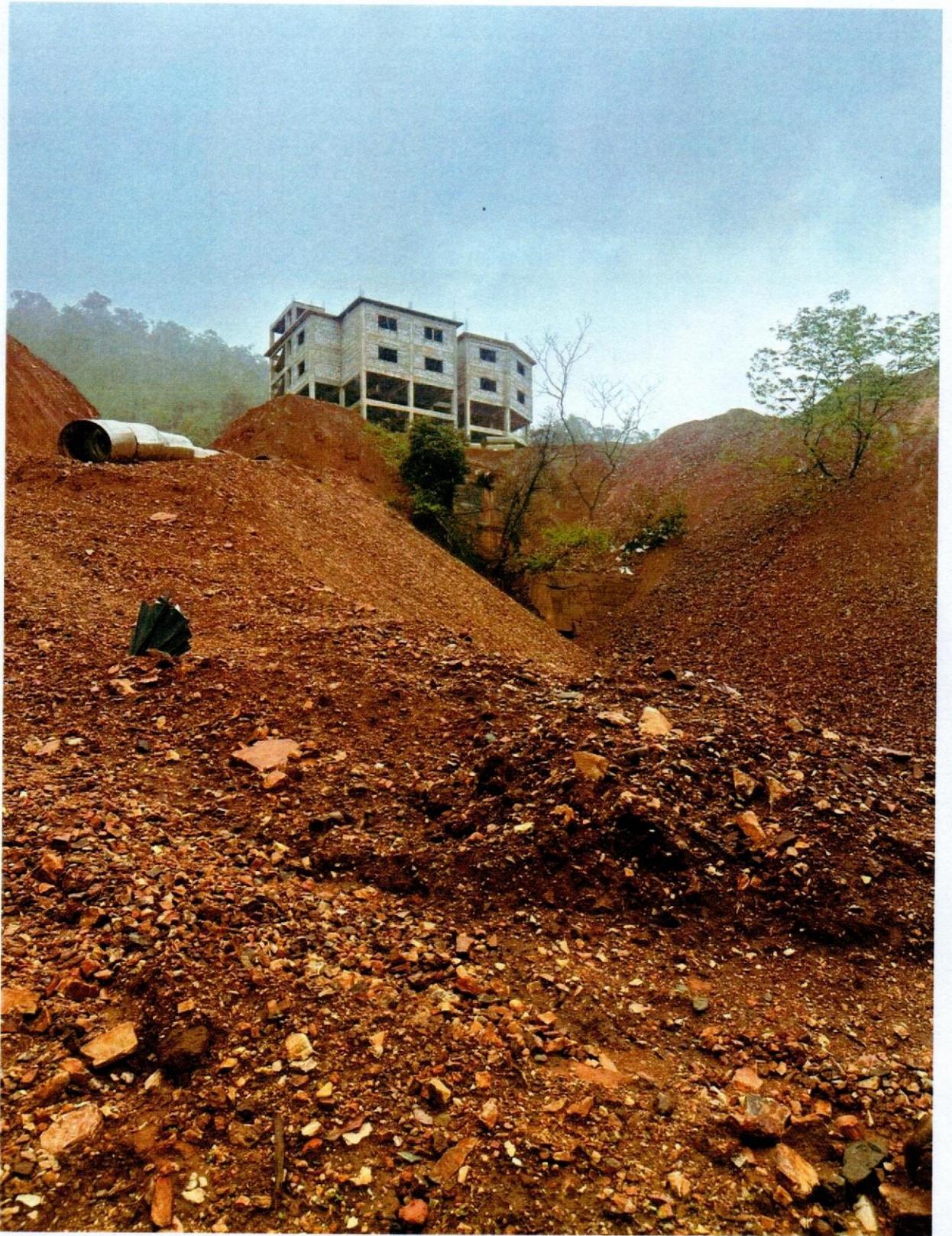
The unit has been granted CTE but has not renewed the CTE. There was no construction activity observed at the time of inspection but the following observations were made:

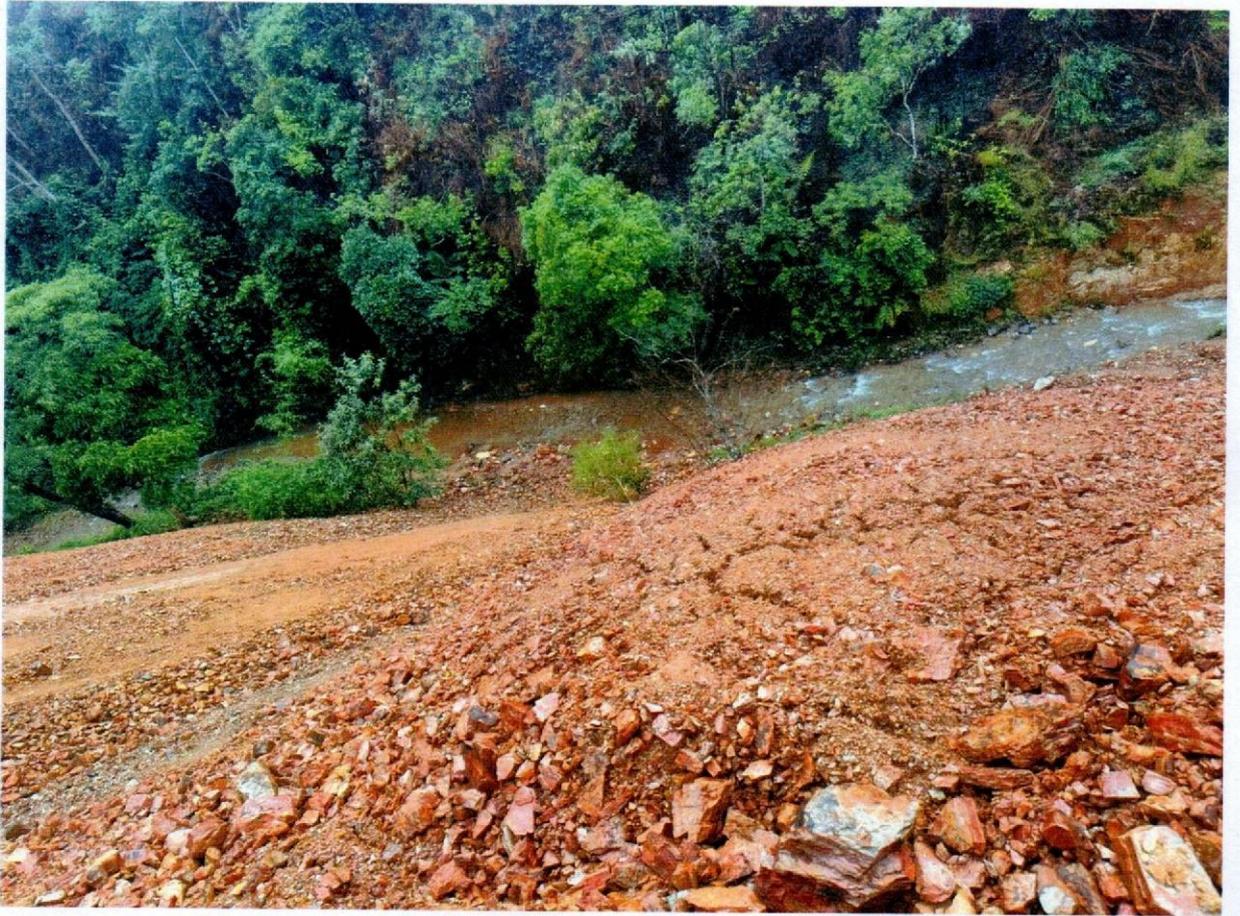
1. The river/stream Wah Lwu flows along the stretch of the land where the resort is being constructed. (as indicated in the Google Map Image)
2. One retaining wall at GPS location 25°39'23.82"N 91°54'0.37"E has been constructed which is not sufficient.
3. As depicted from the photograph attached herewith, there has been dumping of soil and boulder almost reaching the river all along the stretch.
4. No retaining wall is constructed along the stretch except the one as reported at point 2 of this report.
5. Further no garland drains were observed to have been constructed during the inspection and concrete pipes were observed to be kept on the site.
6. Further during heavy monsoon there is a possibility that the dump with over flow into the stream/river which joins uniam river after the tail gate of the dam.
7. Google image and photograph of the activity is attached herewith.


M S Tewson, AEE











No. MPCB/TB-7(A)/Vol-II/2020/2024-2025/137

Dtd. Shillong, the 8th May, 2024

PROHIBITORY ORDER

Whereas, as per the Newspaper clipping appeared in "The Shillong Times" under the caption "Soil dumping: Umiam river cries for help" for immediate action to tackle and prevent the pollution of the river in and around Umiam Lake, Ri Bhoi District, officials of the Board were deputed to inspect and assess activities that cause disposal of polluting matter to the Streams/ River making it unfit for human consumption and aquatic lives as well.

Now, therefore, the Meghalaya State Pollution Control Board in exercise of powers conferred upon it under the Water (Prevention and Control of Pollution) Act 1974 and the Air (Prevention and Control of Pollution) Act 1981 do hereby direct –

Prohibition on use of stream or well for disposal of polluting matter, etc. along the catchment/ tributaries of Umiam Lake etc.

1. Section 24 1(a) of the Water (Prevention and Control of Pollution) Act, 1974 prohibit on use of stream or well for disposal of polluting matter, etc. subject to the provision of this section that no person shall knowingly cause or permit any poisonous, noxious or polluting matter determined in accordance with such standards as may be laid down by the State Board to enter (whether directly or indirectly) into any 3 [stream or well or sewer or on land]:
2. Section 24 1(b) of the Water (Prevention and Control of Pollution) Act, 1974 prohibit on use of stream or well for disposal of polluting matter, etc. subject to the provision of this section that no person shall knowingly cause or permit to enter into any stream any other matter which may tend, either directly or in combination with similar matters, to impede the proper flow of the water of the stream in a manner leading or likely to lead to a substantial aggravation of pollution due to other causes or of its consequences
3. Section 43 of the Water (Prevention and Control of Pollution) Act, 1974 penalty for contravention of provisions of section 24 that whoever contravenes the provisions of section 24 shall be punishable with imprisonment for a term which shall not be less than (one year and six months) but which may extend to six years and with fine.

In view of the above, violators of this order shall be penalized as per above provisions.

o/c



(R. NAINAMALAI, IFS)
CHAIRMAN

Meghalaya State Pollution Control Board,
Shillong.

Memo: No. MPCB/TB-7(A)/Vol-II/2020/2024-2025/137-A

Dtd. Shillong, the 28th May, 2024

Copy to: -

1. The Deputy Commissioner, Ri Bhoi District for information with a request to promulgate Prohibitory Order under Section 144 CrPC.
2. The Secretary, Khasi Hills Autonomous District Council, Shillong, East Khasi Hills District, Meghalaya for information.
3. The Divisional Forest Officer, East Khasi Hills & Ri Bhoi (T) Division, Shillong for information.
4. Official Website of the Board.


CHAIRMAN

Meghalaya State Pollution Control Board

Forests & Environment Department, Government of Meghalaya

'ARDEN' Lumpyngngad, Shillong - 793016

Website : <http://megspcb.gov.in>



ANNEXURE- R/3

No. MPCB/TB-7A /Volume-II/2020/2024-25/141

Dtd Shillong the 24th June 2024

To

M/s Oriental Star Luxury Resort
C/o Phillossopher lawphniaw,
Mawiong Rim, Shillong-793016
Meghalaya

Sub: Directions (as empowered) by Section 33 (A) of the (Water Prevention & Control of Pollution) Act 1974 & Sec 31 (A) of the Air (Prevention & Control of Pollution) Act 1981- SHOW CAUSE

- Whereas, Consent to Establish was granted under Section 25/26 of the Water (Prevention and Control of Pollution) Act 1974 and- Section 21 (A) of the Air (Prevention & Control of Pollution Act), 1981 as amended to M/s Oriental Star Luxury Resort vide T.O No. MPCB/CTE (G-1)/EKHD/2021/2021-2022/7 dated Shillong, the 17th November 2021 for establishing a hotel and Restaurant cum Bar at Umsaw, Mawjynrong, Dongumladew, East Khasi Hills District;
- Whereas, the terms and conditions of the Consent to Establish states the following:
 - No air, water and soil pollution shall be created by the Industry/Unit beyond the prescribed permissible limits;
 - The natural drain system should be maintained for ensuring unrestricted flow of water. No construction shall be allowed to obstruct the natural drainage through the site. No construction is allowed on wetland and water bodies. Check dams, bioswales, landspace and other sustainable urban drainage system are allowed for maintaining the drainage pattern and to harvest rain water;
- Whereas, as per the inspection carried out by the Board's Official on the 27th May 2024 it was observed as follows:
 - The river/stream Wah Lwu flows along the stretch of the land where the resort is being constructed.
 - One retaining wall at GPS location 25°39'23.82"N 91°54'0.37"E has been constructed which is not sufficient.
 - There has been dumping of soil and boulder almost reaching the river all along the stretch.
 - No retaining wall is constructed along the stretch except at GPS location 25°39'23.82"N 91°54'0.37"E.
 - Further no garland drains were observed to have been constructed during the inspection and concrete pipes were observed to be kept on the site.
 - Further during heavy monsoon there is a possibility that the dump with over flow into the stream/river which joins umiam river after the tail gate of the dam;

Now, therefore, in exercise of the power conferred upon by **Section 33 (A) of the Water (Prevention and Control of Pollution) Act, 1974 and Section 31 (A) of the Air (Prevention & Control of Pollution) Act 1981**, M/s Oriental Star Luxury Resort, is hereby directed to **Show Cause** as to 'why' action shall not be taken against the industry for failure to comply to the terms and conditions of the Consent to Operate under the relevant Acts and Rules.

Compliance Report to this **Show Cause Notice** should reach this office within **10(Ten) days** from the date of receipt of the Notice failing which action shall be taken *exparte*.

(Dr. G H Chyrnang, MFS)

MEMBER SECRETARY

Meghalaya State Pollution Control Board

Memo No. MPCB/TB-7A /Volume-II/2020/2024-25/141-11

Dtd Shillong the 24th June 2024

Copy to:-

The Deputy Commissioner, East Khasi Hills District, Shillong for favour of information and necessary action.

MEMBER SECRETARY

Meghalaya State Pollution Control Board

Forests & Environment Department, Government of Meghalaya

'ARDEN' Lumpyngngad, Shillong - 793014

Website : <http://megspcb.gov.in>



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No. MPCB/TB-7A /Volume-II/2020/2024-25/ 160

Dtd Shillong the 12th September 2024

To

M/s Oriental Star Luxury Resort
C/o Phillossopher lawphniaw,
Mawiong Rim, Shillong-793016
Meghalaya

Sub: Direction under Section 33 (A) of the Water (Prevention and Control of Pollution) Act 1974 and- Section 31 (A) of the Air (Prevention & Control of Pollution Act), 1981: CLOSURE NOTICE

- Whereas, Consent to Establish was granted under Section 25/26 of the Water (Prevention and Control of Pollution) Act 1974 and- Section 21 (A) of the Air (Prevention & Control of Pollution Act), 1981 as amended to M/s Oriental Star Luxury Resort vide T.O No. MPCB/CTE (G-1)/EKHD/2021/2021-2022/7 dated Shillong, the 17th November 2021 for establishing a hotel and Restaurant cum Bar at Umsaw, Mawjynrong, Dongumladew, East Khasi Hills District;
- Whereas, the terms and conditions of the Consent to Establish states the following:
 - No air, water and soil pollution shall be created by the Industry/Unit beyond the prescribed permissible limits;
 - The natural drain system should be maintained for ensuring unrestricted flow of water. No construction shall be allowed to obstruct the natural drainage through the site. No construction is allowed on wetland and water bodies. Check dams, bioswales, landspace and other sustainable urban drainage system are allowed for maintaining the drainage pattern and to harvest rain water;
- Whereas, as per the inspection carried out by the Board's Official on the 27th May 2024 it was observed as follows:
 - The river/stream Wah Lwu flows along the stretch of the land where the resort is being constructed.
 - One retaining wall at GPS location 25°39'23.82"N 91°54'0.37"E has been constructed which is not sufficient.
 - There has been dumping of soil and boukder almost reaching the river all along the stretch.
 - No retaining wall is constructed along the stretch except at GPS location 25°39'23.82"N 91°54'0.37"E.
 - Further no garland drains were observed to have been constructed during the inspection and concrete pipes were observed to be kept on the site.
 - Further during heavy monsoon there is a possibility that the dump with over flow into the stream/river which joins umiam river after the tail gate of the dam;
- Whereas, a Show Cause Notice was issued to your unit vide T.O letter No. MPCB/TB-7A /Volume-II/2020/2024-25/141 dated Shillong, the 24th June 20024;
- Whereas, you have failed to submit a reply as to 'why' action shall not be taken against the industry for failure to comply to the terms and conditions of the Consent to Operate under the relevant Acts and Rules.

Now, therefore, in exercise of the power conferred upon by *Section 33 (A) of the Water (Prevention and Control of Pollution) Act, 1974 and Section 31 (A) of the Air (Prevention & Control of Pollution) Act 1981*, M/s Oriental Star Luxury Resort is hereby directed to **CLOSE DOWN** the unit and stop all construction activities forthwith until further orders. Failure to comply with the Direction, further legal action will be taken by the Board against the Unit as empowered under the relevant provision of the Air (Prevention & Control of Pollution) Act 1981 and Water (Prevention and Control of Pollution) Act, 1974.

(Dr. G H CHYRMANG, MFS)

MEMBER SECRETARY

Meghalaya State Pollution Control Board

Meghalaya State Pollution Control Board

Forests & Environment Department, Government of Meghalaya

'ARDEN' Lumpyngngad, Shillong - 793014

Website : <http://megspcb.gov.in>



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Memo No. MPCB/TB-7A /Volume-II/2020/2024-25/

Dtd Shillong the _____ September 2024

Copy to:-

The Deputy Commissioner, East Khasi Hills District, Shillong for favour of information and necessary action to ensure closure of the unit and stop construction activities.

MEMBER SECRETARY

INSPECTION REPORT

Name of Unit: M/s Oriental Star Luxury Resort
Date of Inspection: 3rd October 2024
Location: Umsaw, Mawjynrong, Dongumladew, East Khasi Hills District
Coordinates: 25° 39' 22.932" N, 91° 54' 1.9476" E

Introduction:

An inspection was conducted at the construction site of M/s Oriental Star Luxury Resort on 3rd October 2024. The resort is situated in Umsaw, Mawjynrong, Dongumladew in the East Khasi Hills District, and the site lies adjacent to a river/stream known as **Wah Lwu**. Although the unit had been granted a CTE, it was noted during the inspection that this approval had not been renewed. The construction activity was found to be on hold at the time of the inspection; however, several concerns relating to environmental degradation and non-compliance with construction safety standards were observed.

Observations:**1. Proximity to Watercourse (Wah Lwu River/Stream):**

The project site is located adjacent to the Wah Lwu stream, which runs along the stretch of land where the resort is being constructed. According to Google Maps the river/stream flows dangerously close to the land in question, creating potential for soil erosion and contamination of the water body. This proximity increases the importance of robust environmental safety measures, which were found lacking during the inspection.

2. Inadequate Retaining Wall Construction:

A single retaining wall was found to have been constructed at GPS coordinates **25°39'22.9314"N, 91°54'1.9476"E**. However, this structure was deemed inadequate to prevent soil erosion and safeguard against landslides, particularly given the site's topography and the proximity to the river. The wall provides only partial protection along the land, and a more comprehensive retaining structure is required to prevent damage during heavy rainfall or flooding.

3. Dumping of Soil and Boulders:

The inspection revealed that large amounts of soil and boulders have been dumped along the stretch of the riverbank. This material is close to encroaching into the waterbody, posing a risk of it being carried into the river during heavy rains. The photograph provided shows that the dumped material is nearly at the edge of the river, a situation that could cause significant decrease in width of the river, environmental damage to the river ecosystem, including increased sedimentation and blockage of water flow.

4. Absence of Additional Retaining Walls:

Aside from the one retaining wall mentioned above, no further retaining walls were observed along the remainder of the riverbank. This leaves large portions of the project

site vulnerable to soil erosion, landslides, and sediment runoff, all of which could adversely affect the river and surrounding areas, especially during monsoon season.

5. **Lack of Garland Drains:**

No garland drains were observed at the site. Garland drains are essential to control surface water runoff, particularly in sloped or hilly terrain such as this. Their absence creates the risk of unchecked water flow during rainfall, which could lead to erosion, flooding, and further dumping of material into the river. While concrete pipes were seen at the site, they had not been installed and did not serve any immediate drainage purpose.

6. **Risk of Environmental Contamination During Monsoon:**

The report highlights the significant risk posed by the site's unprotected state, especially during the heavy monsoon rains. Without proper retaining walls and drainage systems, the soil, boulders, and other materials dumped at the site are likely to overflow into the Wah Lwu stream. This stream flows into the **Umiam River**, downstream of the Umiam Dam, raising concerns about siltation, pollution, and potential contamination of water resources that serve downstream communities.

Conclusion:

The inspection of M/s Oriental Star Luxury Resort has identified multiple areas of concern related to environmental compliance and construction safety. Although construction activity is currently on hold, the site's present state poses a risk of environmental degradation, particularly in relation to the adjacent Wah Lwu river/stream. The following key concerns need to be addressed immediately to ensure compliance and protect the surrounding environment:

1. **Immediate Construction of Retaining Walls:**

The management of the Oriental Star Luxury Resort should prioritize constructing retaining walls along the entire riverbank to prevent soil erosion and contamination of the water body.

2. **Installation of Garland Drains:**

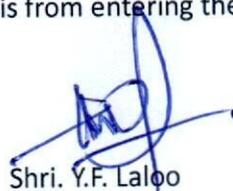
Garland drains should be installed to manage water runoff and protect the site from uncontrolled erosion during rains.

3. **Removal of Dumped Soil and Boulders:**

Immediate removal or stabilization of the soil and boulders dumped near the riverbank should be undertaken to prevent debris from entering the water.



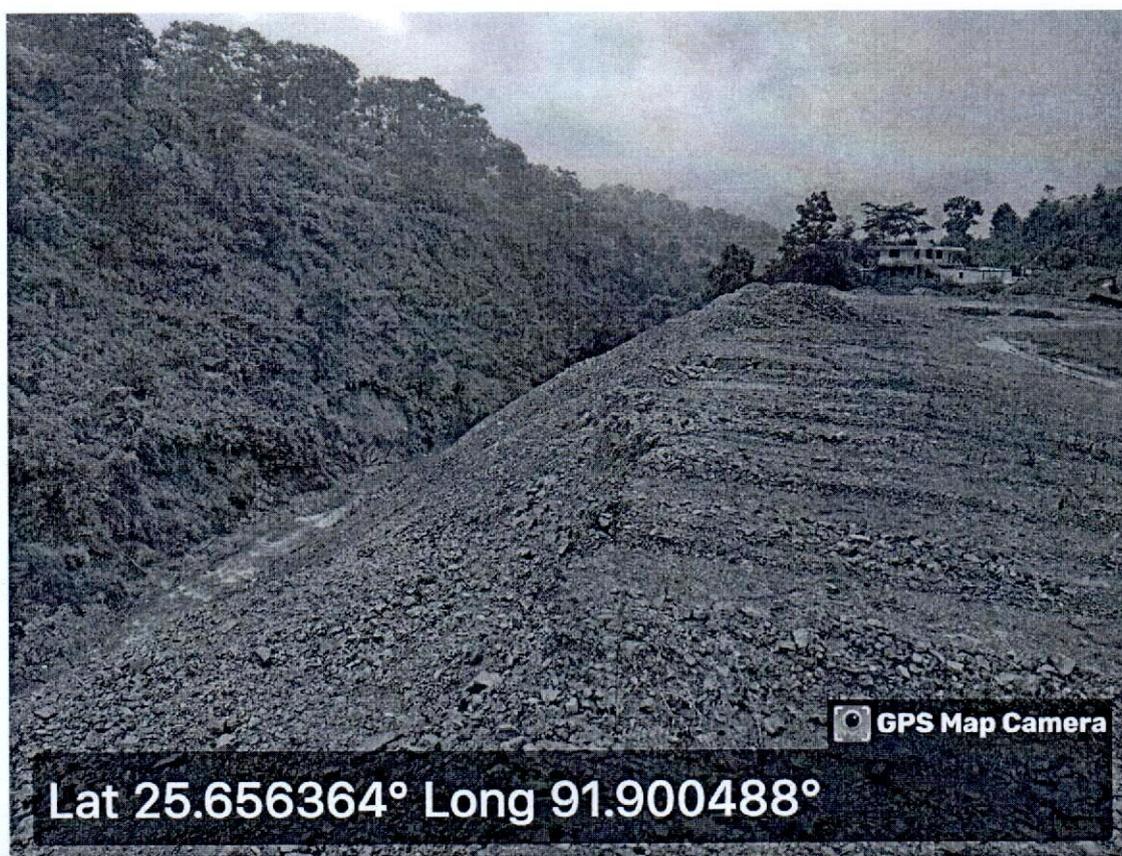
Shri. S. Syiem
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Shri. Y.F. Laloo
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Shri. M.N. Warbah
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Original Application No. 158/2024/EZ (Earlier O.A. No. 731/2024/PB) News Item titled "Soil dumping: Umiam river cries for help" appearing in thehillongtimes.com dated 26.05.2024

1 message

amit singh <semasingh.office@gmail.com>

Wed, Nov 20, 2024 at 7:17 PM

To: moef@nic.in, malika.cpcb@sappportgov.in, ngtjudicial-kolkata@gov.in

Dear Sir, /Madam

Kindly Find attached scanned copy Affidavit being e- filed on behalf of Meghalaya State Pollution Control Board, which is being served in advance copy as proof of service.

Thanking you.
Best Regards,
Ms.K.Enatoli Sema

(Clerk)
Rahul Mo. 7503630697

--

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