



**BEFORE THE NATIONAL GREEN TRIBUNAL  
SOUTHERN ZONE, CHENNAI**

**Original Application No. 26/2013(SZ) (THC)**

with

**Original Application No. 27/2013 (SZ) (THC)**

with

**Original Application No. 28/2013 (SZ) (THC)**

with

**Appeal No. 51/2012 (SZ) (THC)**

with

**Appeal No. 86/2017 (SZ)**

**IN THE MATTER OF**

Janajagrithi Samithi

Applicant(s)

Versus

The Union of India & Ors.

Respondent(s)

**With**

CSI St. Luke's Church

Applicant(s)

Versus

The Union of India & Ors.

Respondent(s)

**With**

Ballibettu Alide Deasthana, Yellur & Ors.

Applicant(s)

Versus

The Union of India & Ors.

Respondent(s)

**With**

Janajagrithi Samithi

Appellant(s)

Versus

The Union of India & Ors.

Respondent(s)

**With**

Janajagrithi Samithi

Appellant(s)

Versus

The Union of India & Ors.

Respondent(s)



**ADDITIONAL RESPONSE / OBJECTION ON BEHALF OF UDUPI POWER CORPORATION LIMITED TO THE REPORT DATED 02.03.2021 OF THE RE-CONSTITUTED COMMITTEE OF EXPERTS**

I, Santosh Kumar Singh, son of Mr. Bhuwaneshwar Singh, aged about 50 years, Authorized Representative of Udupi Power Corporation Limited (herein referred to as “Answering Respondent” or “UPCL”) having office at Adani Corporate House, Shantigram, S.G. Highway, PIN-382421, Ahmedabad, Gujarat do hereby solemnly affirm and state as follows:

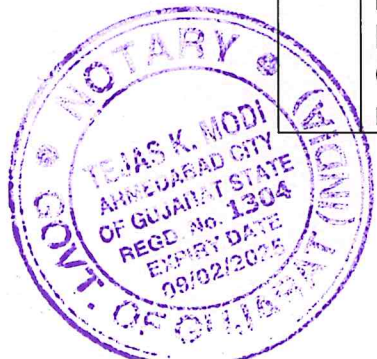
1. I state that I am the Authorised Representative of the Answering Respondent, Udupi Power Corporation Limited and I am fully conversant with the facts and circumstances of the above cases and I am, as such, competent to swear and sign this affidavit. I am duly authorised to file the present additional response / objection.
2. I state that we had filed our detailed response/objection to the report dated 02.03.2021 of the re-constituted committee of experts by way of an affidavit sworn on 05.07.2021. However, by inadvertence, we missed to include the complete table containing our response to the observations and recommendations of the reconstituted expert committee appearing at paragraph 21 of our response/objection dated 05.07.2021. In that view of the matter, by way of this additional response/objection we are providing the complete table containing our response to the observations and recommendations of the reconstituted expert committee as follows:



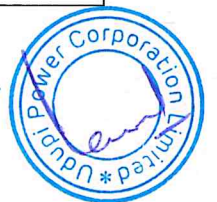
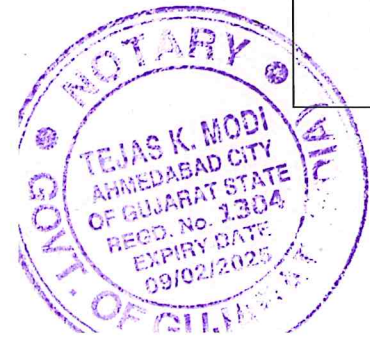
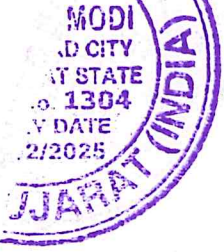
No.	OBSERVATIONS AND RECOMMENDATIONS BY RECONSTITUTED EXPERT COMMITTEE	RESPONSE OF THE ANSWERING RESPONDENT
1.	The environmental impact on ecology, environment, loss of fish, agricultural crop loss and cattle deaths, data are insufficient and also requires an independent study for estimation of environmental compensation.	Department of Agriculture, Horticulture and Animal Husbandry has already provided their data and there is no significant finding or remarkable change in the statistics over the last many years.
2.	M/s UPCL has started operating Plant Load Factor (PLF) of >70% of its installed capacity i.e. 2 X 600 MW from 2012-13 to 2016-17 and has been continuously declining from 2017 -2018 to till date due to lower-cost power is available in the state. The average PLF during 2019-2020 was just 31.10 % which has further declined to 21 percent during the first nine months (April-December 2020) of the current financial year.	The project proponent operates its thermal power plant as per schedule provided by SLDC. The average PLF during 2019-20 was less because of lesser number of days of operation of plant. But whenever the plant operates it operates on PLF more than 70% most of the times.
3.	The Ambient Air Quality Monitoring carried out in four villages i.e. R&R colony, Admar at 1.9 km towards NW, Mudurangadi at 2.8 km towards NE, Inna village at 4.8 km towards SE and Hejmady at 7.2 km towards SW from the UPCL stack at the Plant Load Factor ranging between 72.5% to 79.97% revealed that ambient air quality monitoring results of SO <sub>2</sub> , NO <sub>2</sub> , PM <sub>10</sub> and PM <sub>2.5</sub> are found well within the prescribed limits and complying with the ambient air quality standards (24 Hours average) of National Standards. This may be due to the improvements in the environmental management system of UPCL in recent years, though the local communities have undeniably suffered major health-related impacts in the past.	ESP and other pollution control system were installed right from the beginning of commissioning of the thermal power plant (and not recently) and are being maintained and operated to comply with all statutory standards. There is no basis to come to the conclusion that the local communities have undeniably suffered major health related impacts in the past



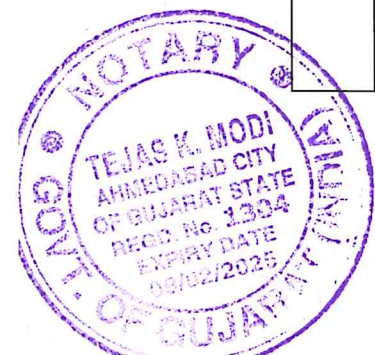
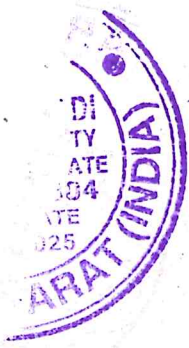
4.	<p>The ground water samples of Open Wells monitored in the villages of Yelluru revealed that the TDS, Chloride, Hardness levels. are high in the Open well located in the Agricultural field, whereas these levels are very low in the Open wells located near the houses. This may be due to entry of agricultural runoff in to the open well located in the agricultural field. However, there is no significant ground water contamination and the ground water quality samples collected from the open wells are conforming to the IS 10500: 2012 standards. This may be due to the improvements in the environmental management system of UPCL or due to the low operation level of the plant in recent years. Nevertheless, these improvements need to be sustained even when the plant generation increases in future.</p>	<p>The project proponent has been and shall continue to comply with statutory standards.</p>
5.	<p>As per the records of Agricultural Department, the area coverage of Kharif (Rain fed paddy) and Rabi (Black gram) was highest during 2009-10 i.e. 3211 ha and 268.64 ha respectively. But, thereafter under rain fed paddy during Kharif and black gram during Rabi has shown sharp declining trend till 2014-15. Later, area coverage of Kharif and Rabi increased during 2015 – 2017 and again started reducing. The exact reasons for declining area of cultivation are not evident in the information submitted by the District authorities. On the other hand, it is observed that there is no remarkable change in the productivity of Paddy &amp; Black gram over the last 11 years as per the yield statistics reported by the Department of Economics and Statistics of the Government of Karnataka. Also reported that the decline in the area of</p>	<p>Office of Joint Director of Agriculture, Rajathadri, Manipal, Udupi District has already provided their data and there are no significant finding and no remarkable change in average yield of paddy over last 11 years starting from 2008-2009 to 2019-2020 and also as per yield statistics information obtained from Department of Economics and Statistics. There is no drastic changes in the productivity of blackgram over a 11 years period of time.</p>



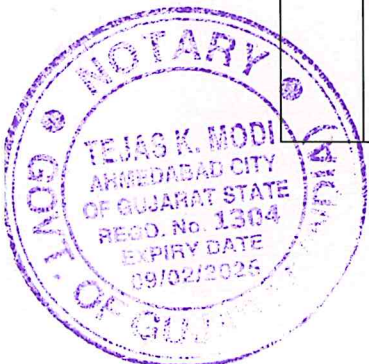
	<p>paddy and black gram was not only a trend in the surrounding village of UPCL but also this is a phenomenon noticed in the entire Udupi District. The limitation is that the department is not having yield statistics of individual farmers which may be ascertained from the panchayat or through plot-wise crop cutting surveys. Therefore, a separate study is required to assess the crop yield loss in the 10 km radius of the UPCL.</p>	
6.	<p>The soil characteristic of Electrical Conductivity (EC) in all 24 villages of Udupi Taluk and Karkala Taluk located in the surroundings of M/s UPCL is found <math>&lt; 2</math> dS/m, concluding that salinity effect is insignificant and complying with nonsaline Class. Hence, it can be concluded that Soil Electrical Conductivity of soil is found to be normal in villages around UPCL, and no noticeable impact due to sea water evaporation from the cooling tower which has been retrofitted with a drift eliminator to control the impact of sea water on the crops cultivated in the area around UPCL that was noticeable earlier.</p>	<p>The Answering Respondent do not offer any comment.</p>
7.	<p>As per the records of Horticultural Department, there is no crop loss reported in the surrounding areas between 2008-09 to 2019-20 and with the existing data, there is no drastic change in the cropping pattern before and after commencement of M/s UPCL. The limitation is that the Department is not having yield statistics of individual farmers which may be ascertained from the panchayat or through plot-wise crop-cutting surveys. Therefore, a separate study is required to assess the crop yield loss in the 10 km radius of the UPCL.</p>	<p>Office of Deputy Director of Horticulture (ZP), Udupi has already provided their data and there is no significant finding.</p>



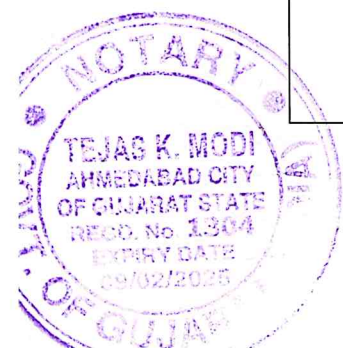
8.	The Department of Animal Husbandry & Veterinary Services, Udupi submitted that there was no record of Animal Death due to environmental pollution in the villages/ taluks of Udupi located in 10 km radius of UPCL.	Office of Deputy Director, Animal Husbandry & Veterinary Services, Udupi District has already stated in their letter dated 23.12.2020 that no animal deaths reported from the year 2008 to 2020 (upto 18.12.2020). So, there is no significant findings.
9.	As per the health records of the Government-owned Primary Health Centres in the 33 villages around the UPCL plant, air pollution-related diseases have increased significantly in the villages located within a 10 km radius from the UPCL. As per the Government records submitted to the Committee. The prevalence of air and water-borne diseases are decreasing with increasing distances from the UPCL which demonstrates the impact of UPCL operations on the health of the villagers living within 10 km of the UPCL plant.	There are other sources of pollution in the area of study that have not been considered by the reconstituted Committee of Experts and same cannot be denied. The reconstituted Committee of Experts has not considered source apportionment study of pollution in the 10 Km area of UPCL thermal power plant and the details on the cost of illness are not provided under the study referred by the committee (the working paper - <b>Vijayalakshmi and Krishna Raj 2020, "Economic Estimation of Health and Productivity Impacts of Traffic Congestion: A Case of Bengaluru City"</b> ) as referred by the reconstituted Committee of Experts.
10.	UCPCL has introduced Adani Aarogya Card / Health Insurance scheme to the Villagers of Yelluru and Mudarangadi / Santoor villages covering more than 9500 villagers for cashless medical treatment (up to a sum insured of Rs. 50,000 per year) in multispecialty hospitals. This was confirmed by a few villagers in one of the villages visited by the Expert Committee inspection.	This is being done under CSR programme of the Answering Respondent and is continuing.



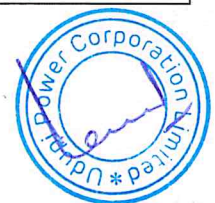
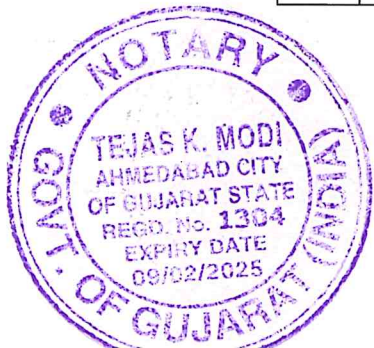
11.	<p>The earlier expert committee estimated the Environmental Compensation (EC) of Rs. 4.89 crores to be paid by UPCL considering the documented violations of consent conditions and noncompliance to the directions and notices issued by KSPCB and/or other Authorities to UPCL. The re-constituted Expert Committee adopted the CPCB methodology and has assessed the Environmental Compensation on the basis of any damage inflicted on Agricultural / Horticultural Crops and the health of the people in the 10 km surrounding villages from UPCL in addition to the EC estimated by the earlier expert committee. Since there is no noticeable loss of Agricultural / Horticultural Crops as per the District Authorities, the committee estimated the EC based on the Health Status of the people in the surrounding villages located within a 10 km distance from UPCL as per the Authorities.</p>	<p>The Environmental Compensation of Rs. 4.89 Crores was estimated on the basis of time taken to comply with the directions / observations from the date of direction / observation by the KSPCB. These observation and direction were not a part of Environmental Clearances and Consent for Operation. Hence, directions were issued for improvement in environmental management rather than non-compliance as alleged by the reconstituted Committee of Experts.</p> <p>The reconstituted Committee of Experts has estimated the Environmental Compensation on the basis of health status of the people without source apportionment and using reference from a study (the working paper - <b>Vijayalakshmi and Krishna Raj 2020, "Economic Estimation of Health and Productivity Impacts of Traffic Congestion: A Case of Bengaluru City"</b>) where details are not available in the referred study.</p>
12.	<p>Accordingly, considering cost of illness related to air borne diseases, the estimated EC is Rs. 70,04,10,828 (Rupees Seventy Crores, Four Lakhs, Ten Thousand and Eight hundred Twenty Eight only). To this amount, the Committee has added the EC of Rs. 4.89 Crores assessed by the earlier Committee on account of recorded</p>	<p>The Environmental Compensation estimated by the reconstituted committee of experts of Rs. 70,04,10,828 is being challenged through this affidavit on the grounds inter-alia (1) source apportionment study of</p>



	<p>non-compliance of consents/clearances by UPCL in the past which may have resulted in crop damages to the local communities in the past. Therefore, the total Environmental Compensation to be paid by UPCL is estimated to be Rs. 74.93 Crores (Rupees Seventy Four Crores and Ninety Three Lakhs only).</p>	<p>pollution is not considered or conducted in the 10 Km area of UPCL thermal power plant and (2) the details as the cost of illness are not provided under the study (the working paper - <b>Vijayalakshmi and Krishna Raj 2020, "Economic Estimation of Health and Productivity Impacts of Traffic Congestion: A Case of Bengaluru City"</b>) as referred by the reconstituted Committee of Experts. (3) The formula applied to illegally run stone crushers cannot be applied to legally established thermal power plant complying with norms laid down in EC and CFP.</p>
<p>The re-constituted Expert Committee suggest the following for the improvement and better co-ordination of people, department and the industry for the sustainable development of the people living in the area surrounding UPCL:</p>		
13.	<p>All the Environmental Monitoring Data of UPCL shall be made available to the Village panchayats located in the surroundings of UPCL at monthly intervals. This will enable the concerned panchayat to review and discuss these results with the villagers. In case any villager has a specific issue with the data or the pollution impact of the plant, the concerned panchayat shall communicate the same to UPCL, KSPCB, and the concerned Government department.</p>	<p>The project proponent has been putting the Environmental Monitoring Data on the Website as part of environmental compliance and is already available in public domain.</p> <p>The Answering Respondent has no objection in providing such data to the village panchayat.</p>
14.	<p>On receipt of disagreement from the village panchayat, UPCL has to clear such issues involving KSPCB and the concerned department as well as the village panchayat.</p>	<p>The Answering Respondent has no objection in providing such data to the village panchayat.</p>



15.	The Department of Health has to take up community based cross sectional study to estimate the health burden on villagers residing within a distance of 10 km from UPCL. The Adani Arogya Bima scheme must be extended to all villagers residing within 10 km of the UPCL plant to minimise the future health costs (and loss of livelihood) of the local communities.	The Answering Respondent shall take up the health status study periodically through reputed institute. The Answering Respondent will help the villagers avail the health insurance schemes provided by the Government such as Ayushman Bharat (PMJAY).
16.	The Department of Agriculture and Horticulture must collect the yield statistics and crop cutting data of individual and shall inform the area coverage, soil study results, crop yield /loss, ground water quality etc. to the local village panchayat for dissemination of information to the villagers.	The Answering Respondent is already complying with the relevant statutory compliances.  The Answering Respondent has no objection in providing data to village panchayat by the Department.
17.	KSPCB shall itself carryout monitoring of Ambient Air Quality of Villages located in the surroundings within 10 km as per CPCB norms to cross verify the data of UPCL and also the Ground Water monitoring of open wells located in the villages and share the same to the concern panchayat. A part of the EC paid by UPCL may be used by CPCB (or KSPCB) to set up a continuous Ambient Air Quality (AAQ) monitoring station in a strategic location downwind of the stack. Since this location may vary from season to season, this continuous AAQ monitoring station may be fitted in a mobile van. KSPCB can also identify fugitive dust emission sources and prescribe the standard for the same by amending the consent granted to UPCL under the Air Act and Water Act.	The Answering Respondent is already complying with the relevant statutory compliances.  The Answering Respondent has no objection monitoring of Ambient Air Quality of Villages by KSPCB.





- 3. I state that this additional response/objection may kindly be taken on record and read as part and parcel of our earlier response/objection dated 05.07.2021.
- 4. It is most respectfully prayed that as the report dated 02.03.2021 of the re-constituted Committee of Experts filed on 03.03.2021, suffers from various irregularities, unfairness and arbitrariness and conceived with predisposed mindset of the committee members and fully devoid of merits, may be rejected by this Hon'ble Tribunal in the interest of justice.

Ahmedabad  
Dated: 22/11/2021

Udupi Power Corporation Limited  
*[Signature]*  
Authorized Signatory

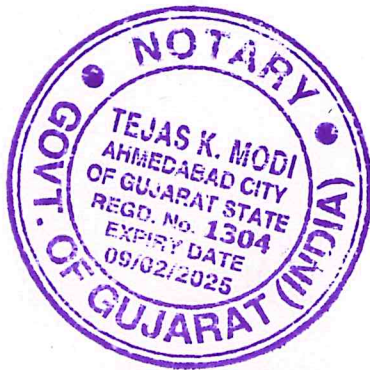
DEPONENT

VERIFICATION

Verified at Ahmedabad on this 22<sup>nd</sup> day of November, 2021 that the contents of my above affidavit are true and correct to the best of my knowledge, information and belief and nothing material has been concealed therefrom.

S.R. No. 1741 Dt. 22/11/2021

*T.K.M.*  
**T. K. MODI**  
NOTARY  
GOVT. OF GUJARAT  
22 NOV 2021



Udupi Power Corporation Limited  
*[Signature]*  
Authorized Signatory

DEPONENT  
SOLEMNLY AFFIRMED  
BEFORE ME

*T.K.M.*  
**T. K. MODI**  
NOTARY  
GOVT. OF GUJARAT  
22 NOV 2021

