

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
O.A. NO. 620 / 2022**

IN THE MATTER OF:

KAUSHAL KISHORE VISHWAKARMA ...APPLICANT
VERSUS
STATE OF PUNJAB AND OTHERS ...RESPONDENTS

INDEX

NDOH : 22.02.2024

S.NO.	PARTICULARS	PAGE NO.
1.	Affidavit on behalf of Respondent No.7, containing the current status and action plan.	1-15
2.	DOCUMENT – 1 Copy of the Delivery Order, dated 15.12.2023, issued by the Respondent No.7 to Respondent No.5.	16
3.	DOCUMENT – 2 (COLLY) Copy of pictures / photographs showing constructed road for disposal of Carbon Slurry /Installation of CCTV Cameras	17-21

RESPONDENT NO. 7

THROUGH

Nikita

**(SUNIL TYAGI) (PANKHURI JAIN)
(NIKITA MAHESHWARI) (PARI BHARDWAJ)**

Counsels for the Respondent No.7

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Place: New Delhi

Date: 05.02.2024

[Signature]

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
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AFFIDAVIT

I, B.B. Grover, S/o Shri Lachhman Das, aged about 56 years, R/o Awanti Bungalow, NFL Panipat, do hereby solemnly affirm and state as under :

1. That I am the Chief General Manager of National Fertilizers Limited, Panipat -i.e., the Respondent No.7 in the present proceedings. I am fully conversant with the facts of the case and thus competent and authorised to swear this Affidavit.
2. This Hon'ble Tribunal vide Order, dated 04.10.2023, in the captioned Application, was pleased to direct the Respondent No.7 to file an (i) up to date status report; and (ii) action plan regarding the disposal of the carbon slurry stored at the Respondent No.7's Unit. The present Affidavit is being filed in compliance of the same.



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19 FEB 2024

3. A Reply, dated 22.11.2023, has also been filed on behalf of the Respondent No.7 in the present proceedings before this Hon'ble Tribunal. The contents thereof are not being repeated herein for the sake of brevity and the same may kindly be read as part and parcel of the present Affidavit.
4. For ease of perusal by this Hon'ble Tribunal, the present Affidavit has been divided into the following heads :

<u>HEAD</u>	<u>DESCRIPTION</u>
A	Generation of Carbon Slurry
B	Nature and composition of Carbon Slurry
C	Storage and management of Carbon Slurry
D	Disposal of Carbon Slurry
E	Current status and Action plan

HEAD A : GENERATION OF CARBON SLURRY

5. The Respondent No.7 started its commercial production in the year 1979 wherein it used Fuel Oil ("FO") / Low Sulphur Heavy Stock ("LSHS") as feedstock for production of Urea from 1979 up until November, 2012.
6. The Plant was based on partial oxidation of Fuel Oil by Shell Gasification process with the help of oxygen and steam at 55 kg/cm² at a temperature of 1350 degrees celsius. During the partial oxidation of Fuel Oil, which was energy intensive, carbon used to get generated due to inevitable thermal cracking. The carbon so generated was removed from the raw gas



6 FEB 2024

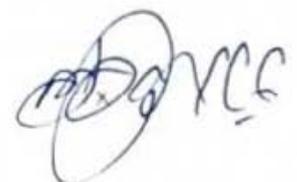
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by water and collected in a carbon separator in the form of the waste in question -i.e., carbon slurry (a mixture of carbon and water).

7. As per design, about 80% of the generated carbon was recycled back to the process in the form of carbon oil as feed through the carbon recovery unit while the balance quantity was sent as carbon slurry to the carbon slurry ponds.
8. In an endeavour to keep in pace with clean technology and with a commitment to sustainable development, the Plants of Respondent No.7 were restructured in November, 2012. The feedstock was replaced from LSHS to Natural Gas, which not only reduced the specific energy per metric tonnes of urea, but also lowered the carbon footprint.
9. The change of feedstock from Fuel Oil to Natural Gas also annulled the generation of carbon slurry as a by-product. As a result, there has been no generation of carbon slurry at the Respondent No.7's Unit since 2012 and the leftover carbon slurry was stored at two (2) designated carbon slurry ponds.

HEAD B: NATURE AND COMPOSITION OF CARBON SLURRY

10. Carbon slurry is a waste product generated during partial oxidation of hydrocarbons during the manufacturing of urea. In fertilizer plants during partial oxidation of heavy fuel oils, the fine carbon particles produced in the reaction are scrubbed from the gas stream, and aqueous carbon slurry containing 2 to 3 percent carbon is produced.



11. The carbon slurry generated at the Respondent No.7's Unit up until 2012 was in a soft solid / solid form. The slurry mainly contains carbon, moisture and some residue. At ambient conditions, the carbon slurry does not react with environmental factors.
12. At this point, it is imperative to mention that carbon slurry was categorised as "hazardous waste" only after the notification of the Hazardous Waste (Management and Transboundary Movement) Rules, 2016 (hereinafter referred to as "**said Rules**") on 04.04.2016.

HEAD C : STORAGE AND MANAGEMENT OF CARBON SLURRY

13. Since the notification of the said Rules, the Respondent No.7 has been following the required rules, regulations, etc. for safe and environmentally sound management of carbon slurry at its Unit.
14. Rule 4 of the said Rules lays down the responsibilities of the occupier for management of hazardous and other wastes. Rule 3 (21) defines occupier as "*...a person who has control over the affairs of the factory or the premises and includes in relation to any hazardous and other wastes, the person in possession of the hazardous or other waste.*"
15. Thus, in the present case, the Respondent No.7 is the "occupier" of the carbon slurry and its duties are envisaged under the Rule 4, which is produced hereinbelow for ready reference by this Hon'ble Tribunal :



5 FEB 2024

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“4. Responsibilities of the occupier for management of hazardous and other wastes.-

1) For the management of hazardous and other wastes, an occupier shall follow the following steps, namely:-

- (a) prevention;*
- (b) minimization;*
- (c) reuse,*
- (d) recycling;*
- (e) recovery, utilisation including co-processing;*
- (f) safe disposal.*

2) The occupier shall be responsible for safe and environmentally sound management of hazardous and other wastes.

3) The hazardous and other wastes generated in the establishment of an occupier shall be sent or sold to an authorised actual user or shall be disposed of in an authorised disposal facility.

4) The hazardous and other wastes shall be transported from an occupier's establishment to an authorised actual user or to an authorised disposal facility in accordance with the provisions of these rules.

5) The occupier who intends to get its hazardous and other wastes treated and disposed of by the operator of a treatment, storage and disposal facility shall give to the operator of that facility, such specific information as may be needed for safe storage and disposal.



6) *The occupier shall take all the steps while managing hazardous and other wastes to-*

(a) contain contaminants and prevent accidents and limit their consequences on human beings and the environment; and

(b) provide persons working in the site with appropriate training, equipment and the information necessary to ensure their safety."

16. The carbon slurry generated till 2012, amounting to approximately 1,22,600 metric tonnes (MT), as evaluated by Projects and Development India Limited (hereinafter referred to as "PDIL") – a Government of India undertaking, was stored by the Respondent No.7 at two (2) separate designated ponds. The details of the 2 carbon slurry ponds located at the Respondent No.7's premises are as follows :

Pond	Size	Quantity Stored
Part – A Area	33,150 square metres	56,285 metric tonnes
Part – B Area	9000 square metres	66,316 metric tonnes
Total size	42,150 square metres	1,22,600 metric tonnes

17. The carbon slurry ponds are brick lined with High-Density Polyethylene (HDPE) which is excellent in its durability, flexibility, im-permeability. HDPE is highly resistant to environment conditions and is widely used for the manufacture of chemical tanks.



18. To prevent any leaks or spillage from the ponds, the dyke walls / earthen embankments are raised by 2.4 metres from the carbon slurry storage level, and the average depth of the carbon slurry ponds is approximately 6 metres. Furthermore, the dyke walls around the carbon slurry ponds are surrounded by trees.
19. The aforementioned carbon slurry ponds are built at a considerable distance from human settlement to prevent any hazards while loading and unloading. To ensure further safety, fencing has been done by the Respondent No.7 around the carbon slurry ponds and security guard(s) with proper gear and training have been posted.
20. As an added precaution, a committee has been constituted by the Respondent No.7 for regular monitoring of the carbon slurry while it is being lifted, to ensure that the said Rules are complied with and no environmental harm or damage is caused during the process. The Respondent No.7 has also installed CCTV cameras around the carbon slurry ponds to aid the monitoring process.
21. Improper slurry management can harm water sources and negatively affect soil quality through contamination. As evident from the above, the Respondent No.7 has assumed all responsibility to guarantee that the carbon slurry stored at its Unit does not have negative environmental impact.



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22. It is reiterated that no carbon slurry has been generated at the Respondent No.7's Unit after the notification of the said Rules. Further, the Respondent No.7 has been undertaking all the steps from its end to ensure safe storage, management and disposal of the leftover carbon slurry at its Unit, as provided under the said Rules and other regulations as notified by the Government of India from time to time.

HEAD D : DISPOSAL OF CARBON SLURRY

23. For the safe disposal and lifting of the carbon slurry from its Ponds, the Respondent No.7 ensures that the carbon slurry is transported / disposed of by the authorised contractor(s) in closed trucks and containers, affixed with labels containing the emergency numbers in case of any spillage of the hazardous waste material, in accordance with the said Rules. Rule 18 is produced hereinbelow for ready reference :

"18. Transportation of hazardous and other wastes.- (1) The transport of the hazardous and other waste shall be in accordance with the provisions of these rules and the rules made by the Central Government under the Motor Vehicles Act, 1988 and the guidelines issued by the Central Pollution Control Board from time to time in this regard.

(2) The occupier shall provide the transporter with the relevant information in Form 9, regarding the hazardous nature of the wastes and measures to be taken in case of an emergency and shall label the hazardous and other wastes containers as per Form 8.



(3) In case of transportation of hazardous and other waste for final disposal to a facility existing in a State other than the State where the waste is generated, the sender shall obtain 'No Objection Certificate' from the State Pollution Control Board of both the States.

(4) In case of transportation of hazardous and other waste for recycling or utilisation including coprocessing, the sender shall intimate both the State Pollution Control Boards before handing over the waste to the transporter.

(5) In case of transit of hazardous and other waste for recycling, utilisation including coprocessing or disposal through a State other than the States of origin and destination, the sender shall give prior intimation to the concerned State Pollution Control Board of the States of transit before handing over the wastes to the transporter.

(6) In case of transportation of hazardous and other waste, the responsibility of safe transport shall be either of the sender or the receiver whosoever arranges the transport and has the necessary authorisation for transport from the concerned State Pollution Control Board. This responsibility should be clearly indicated in the manifest.

(7) The authorisation for transport shall be obtained either by the sender or the receiver on whose behalf the transport is being arranged."



24. The Respondent No.7 also ensures that the hazardous waste is packaged and labelled in accordance with Rule 17 of the said Rules, which reads as follows:

“17. Packaging and Labelling. - (1) Any occupier handling hazardous or other wastes and operator of the treatment, storage and disposal facility shall ensure that the hazardous and other wastes are packaged in a manner suitable for safe handling, storage and transport as per the guidelines issued by the Central Pollution Control Board from time to time. The labelling shall be done as per Form 8 under HWM Rules, 2016.

(2) The label shall be of non-washable material, weather proof and easily visible.”

25. The Respondent No.7 also ensures that any such contractor(s) have all the necessary and valid approvals, authorisations and permissions from the concerned Pollution Board(s), in terms of Rule 9 :

“9. Utilisation of hazardous and other wastes.- (1) The utilisation of hazardous and other wastes as a resource or after pre-processing either for co-processing or for any other use, including within the premises of the generator (if it is not part of process), shall be carried out only after obtaining authorisation from the State Pollution Control Board in respect of waste on the basis of standard operating procedures or guidelines provided by the Central Pollution Control Board.



(2) Where standard operating procedures or guidelines are not available for specific utilisation, the approval has to be sought from Central Pollution Control Board which shall be granting approval on the basis of trial runs and thereafter, standard operating procedures or guidelines shall be prepared by Central Pollution Control Board:

Provided, if trial run has been conducted for particular waste with respect to particular utilisation and compliance to the environmental standards has been demonstrated, authorisation may be granted by the State Pollution Control Board with respect to the same waste and utilisation, without need of separate trial run by Central Pollution Control Board and such cases of successful trial run, Central Pollution Control Board shall intimate all the State Pollution Control Board regarding the same.

(3) No trial runs shall be required for co-processing of waste in cement plants for which guidelines by the Central Pollution Control Board are already available; however, the actual users shall ensure compliance to the standards notified under the Environment (Protection) Act, 1986 (29 of 1986), for cement plant with respect to co-processing of waste:

Provided that till the time the standards are notified, the procedure as applicable to other kind of utilisation of hazardous and other waste, as enumerated above shall be followed."



26. The Respondent No.7 appointed Metal Scrap Trade Corporation Limited - a public sector undertaking under the Ministry of Steel, Government of India (hereinafter referred to as "MSTC") for the disposal of carbon slurry through tendering process. It is pertinent to point out that disposal of all hazardous waste material is to be done through the MSTC Online Portal only.
27. Thereafter, the E-auction No. MSTC/NRO/NATIONAL FERTILIZERS LIMITED/9/GOHANA ROAD/19-20/32756, dated 02.03.2020, was conducted on behalf of Respondent No.7 and only two (2) bidders participated for the lifting of carbon slurry stored at the Unit.
28. The bid placed by Respondent No.5 herein -i.e., Shubham Sales Co., Rohtak, was accepted by the Respondent No.7 and subsequently the Acceptance Letter, dated 30.11.2020, was issued to the Respondent No.5 through MSTC.
29. Before the issuance of the Acceptance Letter, dated 30.11.2020, the Respondent No.7 fulfilled all the compliances as mandated under the said Rules for disposal of 'hazardous waste'. The Respondent No.7 had obtained the following documents from the Respondent No.5 and Haryana State Pollution Control Board (hereinafter referred to as "HSPCB") and verified their authenticity -
- i. authorisation cum passbook from the Haryana SPCB;
 - ii. authorisation for collection, transportation and utilisation of carbon slurry from Respondent No.7's Unit from the HSPCB;



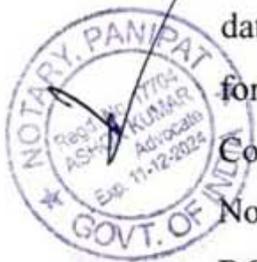
iii. valid Consent to Operate ("CTO") for both air and water, from the HSPCB.

30. The following measures have been adopted by the Respondent No. 7 to ensure the safe lifting of carbon slurry from its Ponds by Respondent No.5, in compliance with the said Rules :

- Before loading of the carbon slurry, the Respondent No.7 ensures that only closed container type vehicles shall be deputed by the Respondent No.5 for transporting the slurry.
- The Respondent No.7 also ensures that the suitable sticker or label containing the emergency numbers in case of spillage of Hazardous Waste Material shall be affixed to the above vehicle.
- The Respondent No 7 has completed the construction of Entry and Exit Gates, the area have been covered with fencing along with the installation of CCTV cameras around loading area keeping in view of the safety concerns for smooth lifting and transportation of the Carbon Slurry.

31. Thereafter, after several delay(s) due to the outbreak of the Covid-19 pandemic and settlement of litigation disputes, a Fresh Delivery Order, dated 15.12.2023, was issued by the Respondent No.7 to Respondent No.5 for lifting of carbon slurry from its ponds.

Copy of the Delivery Order, dated 15.12.2023, issued by the Respondent No.7 to Respondent No.5, is attached herewith and marked as **DOCUMENT – 1.**



HEAD E : CURRENT STATUS AND ACTION PLAN

32. It is pertinent to mention that the Respondent No.7 has completed the construction of Entry and Exit Gates from the Ponds, the area has been covered with fencing along with the installation of CCTV cameras around loading area keeping in view the safety concerns for smooth lifting and transportation of the Carbon Slurry. The Respondent No. 5 is in the process of lifting the slurry from the Respondent No.7's Unit, in furtherance of the Fresh Delivery Order, dated 15.12.2023.

Copies of pictures / photographs showing construction of roads around the ponds, entry and exit points, installation of CCTV camera, etc., are annexed herewith and collectively marked as **DOCUMENT – 2 (COLLY)**.

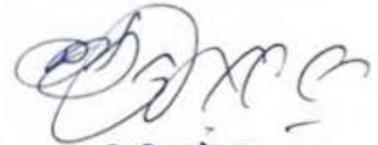
33. It is submitted that there are a lot of intricacies involved in the lifting and disposal of the carbon slurry under the said Rules which must be complied with. As stated above, the slurry can be lifted only by contractors authorised by the State or Central Pollution Control Board. Furthermore, the carbon slurry cannot be sold directly to its end users in the open market and must be lifted with utmost care and precaution.

34. Thus, as can be seen, the Respondent No.7 has left no stone unturned to ensure safe storage and management of the carbon slurry and its efficient disposal. The carbon slurry, last generated by the Respondent No.7 in 2012, is kept in isolated ponds specifically designated for the storage of hazardous waste. It is further reiterated that the carbon Ponds at



Respondent No.7's Units are built at a considerable distance from human settlement to prevent any hazards while loading and unloading.

35. It is further submitted that the Respondent No.7 shall take all steps necessary to support the Respondent No.5 in its endeavour and expedite the disposal of the carbon slurry from its ponds.
36. I state that contents of this Affidavit, except the legal averments, are true and correct to the best of my knowledge and belief. The legal averments contained herein are true and correct on the basis of the legal advice received by me and believed by me to be true and correct.
37. I state that no part of this Affidavit is false and no material facts have been concealed therefrom.



DEPONENT
B.B. GROVER
 मुख्य महाप्रबंधक
 Chief General Manager
 नेशनल फर्टिलाइजर्स लि०, पानीपत
 National Fertilizers Ltd., PANIPAT

VERIFICATION:



I, B.B. Grover, the above named Dependent, do hereby verify that the contents of this Affidavit are true and correct and no material facts have been concealed therefrom.

Verified at Panipat on this ____ day of ____, 2024.

Attested

Notary. PANIPAT



DEPONENT
B.B. GROVER
 मुख्य महाप्रबंधक
 Chief General Manager
 नेशनल फर्टिलाइजर्स लि०, पानीपत
 National Fertilizers Ltd., PANIPAT

5 FEB 2024



नेशनल फर्टिलाइजर्स लिमिटेड

(भारत सरकार का उपक्रम)

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(A Government of India Undertaking)

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CIN: L74899DL1974GOI007417
website: www.nationalfertilizers.com

Ref. No.: NFP/ST/D-209/19-20/32756

Speed Post

Dated: 15.12.2023

M/s Shubham Sales Co.,
5.30 K.M Mile Stone,
Bhiwani Road,
Rohtak-124001, Haryana

GST: 06AEBFS9696F1ZJ

Sub: Sale of Carbon Slurry Lying in Ponds at NFL, Panipat.

Dear Sir,

In reference to your bid against MSTC e-Auction No. MSTC/NRO/NATIONAL FERTILIZERS LIMITED/9/GOHANA ROAD/19-20/32756 Dated 02.03.2020, we are pleased to permit you to lift the "Carbon Slurry on 'As is Where is and No Complaint basis", under HWM Rules 2016-Cat. 18.2 Schd.-I, from designated two numbers of Ponds at NFL's Panipat Unit, at the tender rate of Rs. 1500/- per MT, plus applicable taxes on the following conditions:

1. You will be required to lift the entire quantity of carbon slurry lying in the ponds at NFL, Panipat Unit, at the tender rate of Rs. 1500/- per MT, plus applicable taxes.
2. Initially, NFL will permit you to lift the quantity of carbon slurry against the advance amount of Rs. 6,48,52,289/- already deposited with NFL.
3. Daily Delivery Instructions shall be issued by NFL to you in this regard.
4. Thereafter, you will be required to deposit security amount for lifting the quantity of carbon slurry equivalent to that amount.
5. NFL will retain Security Deposit of Rs. 91,95,000/- already deposited with NFL as performance security till successful contract completion.

Kindly acknowledge the receipt of the same.

For & on behalf of
National Fertilizers Ltd.,

(Mahesh Patil)
Chief Manager (Mtls.)

महेश पाटिल
मुख्य प्रबंधक (सामग्री)

Road for Entry of trucks



Entry gate with Fencing



Truck loading area



CCTV Camera and monitoring room





