

CHAPTER

3

Compliance to General Environment Clearance Conditions

3.1 Introduction

Environment Clearances (ECs) are granted for Category A projects by MoEF&CC after following the due processes as per EIA Notification 2006. EC is issued to the PP of the project and lays down conditions to be adhered to as per the commitments made by PP in EIA report. This chapter contains observations on non-compliance to 13 general EC conditions relating to projects spread across all States. The 13 general conditions are as under.

- i. Shortfall in expenditure and no time bound action plan for Environment Management Plan (EMP)
- ii. No separate head of account and earmarking of funds for EMP
- iii. Non/short depiction of Environment Management Plan cost in Environment Clearance letter
- iv. Non consultation with Forest Department for EMP activities
- v. Shortfall in development of green belt
- vi. Shortfall in activities relating to ESR
- vii. Variation in amount for activities under ESR mentioned in the Environment Impact Assessment Report and Environment Clearance letter
- viii. Non obtaining of permission of the competent authority for cutting of trees
- ix. Irregular use of Ground water
- x. Change in scope of work after obtaining the Environment Clearance from Ministry of Environment, Forest & Climate Change
- xi. Non submission of annual Environment Audit Report / Environment Statement
- xii. Commencement of construction/ operation before grant of Environment Clearance
- xiii. Non advertising of Environment Clearance in newspaper by the Project Proponent.

In order to assess whether PPs complied with the EC conditions, we examined records/information furnished by the PPs relating to 352 projects that were granted ECs by MoEF&CC between calendar years 2008-2012 in seven sectors. Result of audit findings are summarised in Chart 3.1.

Chart 3.1: Evaluation of Non-Compliance of General EC Conditions

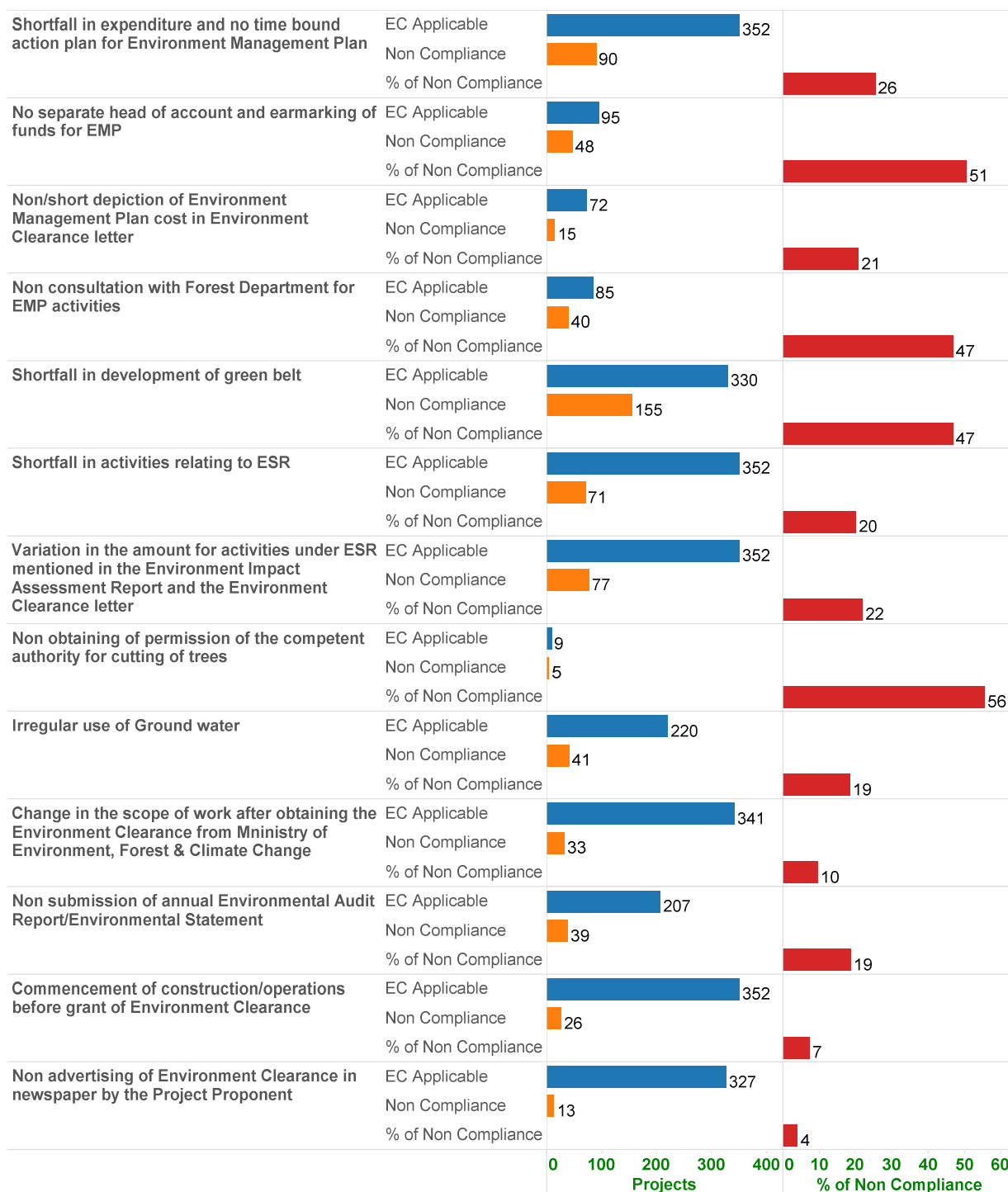


Chart 3.1 shows that that percentage of non-compliance by sampled projects to general conditions ranged from four to 56 *per cent*. Projects in which non-compliance is more than 25 *per cent* relate to five out of 13 general EC conditions. They are as follows:

- (i) Non obtaining of permission of the Competent Authority for cutting of trees;
- (ii) No separate head of account and earmarking of funds for EMP;
- (iii) Shortfall in development of green belt;
- (iv) Non consultation with Forest Department for EMP activities; and

(v) Shortfall in expenditure and no time bound action plan for EMP.

Out of the 352 projects test checked in audit, ten projects which exhibited maximum number of non-compliance of general EC conditions are as indicated in Table 3.1 below.

Table 3.1: 10 projects with maximum number of non-compliance of general EC conditions

State	Project	Proponents	Non-Compliance
1. Bihar	Upgradation of Patna-Gaya-Dobhi section on NH-83	National Highway Authority of India	Shortfall in actual expenditure relating to EMP, 100 % short fall in Green Belt development, Short fall in activities under ESR, Variation in amount in activities under ESR, Use of Ground Water without permission, Advertisement not done in two newspapers.
2. Bihar	3x60 MW Nabimagar STPP	M/s Nabinagar Power Generation Company	100 % short fall in Green Belt, Short fall in activities under ESR, Variation in amount in activities under ESR, Non-submission of EA Report, Construction prior to grant of EC, No extension of EC after expiry, Change in scope of work.
3. Bihar	Rehabilitation, Upgradation and Strengthening of SH-87	M/s Bihar State Road Development Corporation	100 % short fall in Green Belt, Short fall in activities under ESR, Variation in amount in activities under ESR, No permission to cut trees, Use of Ground Water without permission.
4. Uttarakhand	225 MW Gas bases combined power plant	M/s Gama Infracorp Pvt. Ltd.	Non consultation with Forest Department, Variation in amount in activities under ESR, Non-submission of EA Report.
5. Andaman & Nicobar Islands	Development of harbor facilities at Katchal	M/s Port Management Board	100 % short fall in Green Belt development, Change in scope of work, Advertisement not done in two newspapers, Non-submission of EA Report.
6. Uttarakhand	Shopping Mall cum multiplex and hotel at Haridwar	M/s Lotus Infra Project Pvt. Ltd.	Development of Green Belt, No extension of EC after expiry, Change in scope of work.
7. Telangana	Grain based Distilleries	M/s Empee Distilleries Ltd.	Non-consultation with Forest Department, Development of Green Belt, Non-submission of EA Report, Construction prior to grant of EC.
8. Punjab	Orchard Country at Sante Majra	M/s Ansal Lotus Melange Project Pvt. Ltd	Development of Green Belt, Use of Ground Water without permission, Non-submission of EA Report, No extension of EC after expiry.
9. Meghalaya	Construction phase of Ferro Silicon Plant with 10 MW CPP at Riwiang	M/s Shree Shakambari Ferro Alloys Pvt Ltd.	100 % short fall in Green Belt development, Use of Ground Water without permission, Advertisement not done in two newspapers, Short fall in activities under ESR.
10. Chhattisgarh	Expansion of Steel Plant at Rajnandgaon	M/s Crest Steel and Power Pvt. Ltd.	Development of Green Belt, Short fall in activities under ESR, Variation in amount in activities under ESR, Variation in amount in EMP

Detailed audit findings relating to 13 general EC conditions are in succeeding paragraphs.

3.2 Issues relating to Environmental Management Plan

Preparation of Environmental Management Plan (EMP) is required for formulation, implementation and monitoring of environmental protection measures during and after commissioning of projects. EMP of the projects is formulated with an aim to avoid, reduce, mitigate, or compensate for adverse environmental impacts/risks and propose enhancement measures.

The plan should indicate the details as to how various measures have been or are proposed to be taken including cost components as may be required. The cost of measures for environmental safeguards should be treated as an integral component of the project cost and environmental aspects should be taken into account at various stages of the projects viz:

- a. Conceptualization: preliminary environmental assessment
- b. Planning: detailed studies of environmental impacts and design of safeguards.
- c. Execution: implementation of environmental safety measures
- d. Operation: monitoring of effectiveness of built-in safeguards

The EMP should be necessarily based on considerations of resource conservation and pollution abatement, some of which are: liquid effluents, air pollution, solid wastes, noise and vibration, occupational safety and health, prevention, maintenance and operation of environment control systems, house-keeping, human settlements, transport systems, recovery-reuse of waste products, vegetal cover, disaster planning and environment management cell.

3.2.1 Shortfall in expenditure and no time bound action plan for EMP

The EMP included in the EIA report submitted to the EAC when applying for EC for projects should clearly depict the cost (initial as well as recurring costs) required for carrying out environmental protection measures and should also include the basis for deriving such costs along with time bound action plan for implementation of the EMP. Such clarity in the EIA Report was necessary for monitoring the adequacy of activity wise and cost wise compliance by the PP.

We observed that out of the 352 sampled projects pertaining to various sectors, in 90 projects (26 per cent), there was a shortfall in expenditure towards EMP as depicted in Table 3.2.

Table 3.2: Shortfall in expenditure towards EMP

Percentage of shortfall	1 to 20 %	More than 20 to 40 %	More than 40 to 60 %	More than 60 to 80 %	More than 80 to 100 %
Number of projects	12	17	14	20	27
Percentage of sampled projects	3	5	4	6	8

Thus, the objective of pollution mitigation, water conservation, green belt development, proper waste management, effluent treatments, environment parameter monitoring, dust suppression, etc was not achieved as per the commitments made by the PPs and MoEF&CC did not monitor the same.

Besides this, in respect of 64 projects, the PPs did not furnish the details of expenditure on EMP and as such proper implementation of EMP could not be determined. Further, in 226 projects of the sample cases examined, time bound action plan for fulfilling the EMP commitment was not mentioned in the EIA report or the EC letter.

A few illustrative cases are given below:

In case of, **Phase I of Special Economic Zone of M/s Mangalore Special Economic Zone Ltd, Karnataka**, we observed that there was provision of ₹ 660 crore and ₹ 100 crore per annum for capital and revenue expenditure respectively under EMP. The money was to be spent on pollution control monitoring system, green belt and social welfare. However, the PP had incurred a capital expenditure of ₹ 186.71 crore and no revenue expenditure on EMP. Thus, there was a shortfall of 72 *per cent*.

In another case of **Collection of Minor Minerals from river Jakhan-2 of M/s Uttarakhand Forest Development Corporation**, an amount of ₹ 11.45 lakh per annum was specified in EIA report to mitigate the adverse impact which might be caused due to mining operation and over all scientific development of local habitat. The areas for which funds were earmarked were for monitoring of air, water, ambient noise, soil quality, inventory of flora, socio economic condition of local population, physical survey and manpower cost for environmental cell. No time bound action plan for fulfilling the EMP commitments was mentioned in EIA report. We observed that there was a shortfall of 88 *per cent* and most of the expenditure was made only towards monitoring of air, water and noise through outsourced agency hired for the purpose

As the EMP activities are envisaged to mitigate the adverse effects caused to the environment, the shortfall in EMP expenditure indicates that PPs were not committed towards sustainable development. Further, the efforts from MoEF&CC and SPCBs/UTPCCs to ensure strict compliance were by PPs were also lacking.

3.2.2 No separate head of account and earmarking of funds for EMP

In addition to the shortfall in actual expenditure on EMP by PPs, we evaluated EC letters issued by MoEF&CC to check the earmarking of funds for EMP and maintenance of separate account for such earmarked funds.

We observed that out of the 352 sampled projects, the EC letter had stipulated the condition for maintenance of separate account for funds for environmental protection measures in only 95 (27 per cent) projects. The condition for separate account was not mentioned in 244 projects.

We found that in 48 projects, PPs had not maintained separate account for such funds and therefore it was difficult to determine actual expenditure on EMP.

3.2.3 Non/short depiction of EMP cost in EC letter

The PP provides the cost estimates relating to EMP in the EIA Report. While appraising the project, the EAC considers these figures and gives its recommendations, which are approved by MoEF&CC.

We noticed that MoEF&CC did not follow a uniform practice of mentioning the amount approved in the EC letter, hence it was difficult to ensure that the compliance of expenditure on EMP could be watched through six monthly progress reports submitted by the PP.

It was observed that out of the 352 sampled projects, in 202 projects the EC letter did not stipulate the EMP amount, as a result proper monitoring of EMP expenditure could not be done. Further, in 72 projects, the EMP cost was mentioned in both EIA report and the EC letter but in 15 of cases the EMP cost mentioned in EC letter was less than the cost estimated by the PP in the EIA report, for which no justification was provided by MoEF&CC in its reply given to Audit in October 2016.

A few illustrative cases are given below:

In case of, **Expansion of Steel Plant at Rajnandgaon of M/s Crest Steel and Power Pvt. Ltd, Chhattisgarh**, we observed that an amount of ₹ 7.50 crore was proposed by the PP for EMP measures in the EIA report. However, the EC letter mentioned an amount of ₹ 1.50 crore for EMP measures. No justification was given by MoEF&CC for such variation.

Similarly, in case of **Expansion and modernization of foundry unit at Solapur of M/s Kirlosker Ferrous Industries Ltd, Maharashtra**, we observed that an amount of ₹ 2.65 crore and ₹ 0.78 crore per annum towards capital and recurring expenditure was proposed by the PP for EMP measures in the EIA report. However, the EC letter mentioned an amount of ₹ 5.00 crore for EMP measures, without depicting the capital and recurring expenditure separately.

3.2.4 Non consultation with the Forest Department for EMP activities

Consultations with State Forest Department are required for proper implementation of the plantation, conservation of flora and fauna and several other activities mentioned in the EMP

We observed that out of the 352 sampled projects pertaining to various sectors, in 191 projects the EC letter did not stipulate condition for consultations with forest department. Out of 85 projects where such condition was stipulated, we found that PPs did not comply with EC condition in 40 projects (47 per cent).

A few illustrative cases are given below:

In case of, **Tiroda Iron Ore Mine of M/s Gogte Minerals Ltd, Maharashtra** the EC condition required that adequate plantation should be raised in the Mining Lease (ML) area, haul roads, Over Burden (OB) dump sites etc. green belt development should be carried out considering CPCB guidelines including selection of plant species and in consultation with the local District Forest Officer/ Agriculture Department. During field visit, thick plantation on the OB dumps between the school and the ML area and haul roads was observed. The PP, however, accepted that the plantation plan was prepared by them on their own without consultation with the State Forest Department.

In case of, **Gas based combined power plant of M/s Gama Infraprop Pvt. Ltd, Uttarakhand**, the EC condition required that in addition to development of green belt social forestry measure should be taken up in consultation with the District Forest Department. However, it was observed that no social forestry measures or any block of degraded forest was identified or action plan in this regard was found to have been under taken by the PP.

3.3 Shortfall in development of green belt

Green belt is an important sink for air pollutants. Trees also absorb noise and by enhancing the green cover, improve the ecology and aesthetics and affect the local micrometeorology. Trees also have major long term impacts on soil quality and the ground water table. By using suitable plant species, green belts can be developed in strategic zones to provide protection from emitted pollutants and noise.

We observed that out of the 352 sampled cases, the condition in respect of development of green belt was stipulated in respect of 330 projects. Compliance to this condition was reported in 133 projects. The condition in respect of development of green belt was not applicable in 18 projects as they were under construction and in 22 projects, records were not furnished by PP. In two projects, shortfall could not be ascertained due to non-specificity of EC in respect of area/number of trees for plantation.

We observed shortfall in development of green belt in 155 (47 per cent) projects. In respect of 139 projects where the percentage range of shortfall is quantifiable the details are given in Table 3.3. Shortfall could not be quantified in case of 16 projects since measurable parameters such as area to be developed under green belt and number of trees to be planted were not mentioned in the EC.

Table 3.3: Shortfall in development of Green Belt

Range of short fall in %	Projects	Percentage of Projects
1-20	16	12
21-40	17	12
41-60	27	19
61-80	30	22
81-100	49	35
Total	139	

We also found that in 20 cases, the PPs had not planted a single tree (100 per cent shortfall) to mitigate the negative effects of the project. Five cases of 100 per cent shortfall are given in Table 3.4.

Table 3.4: 100 per cent shortfall in development of Green Belt

State	Project
1. Bihar	Expansion of M S Ingot Production of M/s Balajee Ingot India Pvt. Ltd
2. Madhya Pradesh	Lower Goi Irrigation Project of M/s NVDA Barwani
3. Maharashtra	Widening of existing two lane to four/six lane of NH 17 (Panvel to Indapur Section) of National Highway Authority of India
4. Meghalaya	Mawmluh Limestone Mine of M/s Mawmluh Cherra Cement Ltd.
5. Odisha	Bhubaneswari open cast coal mining project of M/s Mahanadi Coalfields Ltd

A few illustrative cases are given below:

The EC letter of a non-coal mining project in Jharkhand, namely, **Hisri Bauxite Mining Project of M/s Hindalco Industries Ltd** entailed plantation in 2.98 hectares. A total of 12,700 trees had to be planted. However, only 85 trees were planted. There was a shortfall of 12,615 trees i.e. 99 per cent.

The EC letter of an infrastructure project in Mizoram, namely, **Construction of new 2 lane highway of M/s Public Works Department (Highway)** entailed plantation of a minimum of three times the number of trees cut. A total of 3,084 trees were felled. So, there was a requirement to plant 9,252 trees. However, only 200 trees were planted. There was a shortfall of 9,052 trees i.e. 98 per cent.

The objectives to mitigate the adverse effects on environment to restore the land, maintain ambient air quality and ecological balance through plantation stood defeated in absence of plantation/ shortage of plantation by the PPs.

3.4 Enterprise Social Responsibility issues

MoEF&CC had prescribed public consultation, social impact assessment and Relief & Rehabilitation (R&R) action plan besides EMP in the generic structure of EIA report. The PPs had to clearly state the activity-wise costs involved (both capital as well as recurring costs), the phasing of these activities in EIA report.

The EIA reports envisage to carry out Enterprise Social Responsibility (ESR) activities such as protection of flora and fauna, animal welfare, agroforestry, conservation of natural resources and maintaining quality of soil, air and water, protection of national heritage, art and culture, eradicating hunger, poverty and malnutrition, promoting preventive health care and sanitation and promoting education etc.

3.4.1 Shortfall in activities relating to ESR

EIA report submitted by PP to the EAC when applying for EC for projects should clearly depict the activity-wise costs involved (both capital as well as recurring costs) and the phasing of these activities under ESR. Such clarity in the EIA Report was necessary for monitoring the cost wise compliance by the PP during the operational phase of the project.

We observed that out of 352 projects, no funds were earmarked for activities under ESR in 178 projects in the EIA report/EC. In 103 projects, either ESR amount was not mentioned in EIA report / EC or expenditure was not available. There was a partial shortfall of six *per cent* to 99 *per cent* in 57 projects and 100 *per cent* shortfall in 14 projects.

A few illustrative cases are given below:

In case of **Expansion of Paper Mill & Captive Power Plant, Balasore of M/s Emami Paper Mills Ltd, Odisha** we observed that there was no time bound action plan for activities under ESR (literacy, education and training, healthcare and medical relief, community service, natural calamities and disaster relief, infrastructure development and maintenance, alternative and renewal energy, renovation and maintenance of heritage and historical site and structure, poverty alleviation and employment creation, protection and welfare of cows and other milk cattle, social security and empowerment, rural development, environment and ecology, research activities, promotion of national integration, women empowerment, other activities) in EIA report/EC. Moreover, against the total funds of ₹ 95 crore committed for activities under ESR, expenditure of ₹ 4.09 crore was incurred during 2012-13 to 2015-16 by the PP leading to an overall shortfall of 95 *per cent*.

Similarly, in another project **Expansion of Coal Based Thermal Power Plant at Gondia of M/s Adani Power Maharashtra Pvt Ltd** we observed that there was no time bound action plan for activities under ESR (medical facilities, education, rural development, charitable works, etc.) in EIA report/EC. Moreover, against the total funds of ₹ 105.60

crore committed for activities under ESR, expenditure of ₹ 11.97 crore was incurred during 2012-13 to 2014-15 by the PP leading to a shortfall of 89 per cent.

3.4.2 Variation in the amount for activities under ESR mentioned in EIA Reports and EC letters

The PPs should provide cost estimates relating to activities under ESR in the EIA Report. While appraising the project, the EAC considers these estimates and gives its recommendations. Ideally, MoEF&CC should mention the amount approved in the EC letter, so that the compliance of activities under ESR can be watched through six monthly progress reports submitted by the PP.

We observed that out of 352 projects, in 77 projects there was variation in the amount of activities under ESR committed in the EIA Report and that mentioned in the EC letter.

A few illustrative cases are given below:

In case of **Six laning road of Chilakaluripet to Nellore section of M/s NHAI, Andhra Pradesh**, we found that the amount of activities under ESR specified in EIA report was ₹ 2.5 crore but the same was not mentioned in EC.

In another case of **Installation of Emulsion Styrene Rubber at Panipat Refinery of M/s IOCL, Haryana** we found that the amount of activities under ESR as specified in EIA report was ₹ 4.50 crore but the same was not mentioned in EC.

3.5 Non-obtaining of permission of Competent Authority for cutting of trees

The ECs of projects in respect of upgradation of highways stipulate that the PP shall obtain necessary prior permission for cutting of trees from the Competent Authority. Compensatory afforestation shall be carried out as per stipulated conditions of MoEF&CC and State Forest Division.

We observed that out of the 352 sampled cases, in only nine projects it was stipulated that prior permission of the Competent Authority had to be taken for cutting of trees. Non-inclusion of the provision for obtaining permission prior to cutting trees poses the risk of indiscriminate cutting of trees by the PPs. In two out of these nine projects, the PPs had cut same number of trees as approved by the Competent Authority and in another two projects information was not furnished by the PPs.

We observed that in the remaining five (56 per cent) of the nine projects the trees cut were in excess of the number of trees permitted for cutting by the Competent Authority. Thus, PPs did not take prior permission of the Competent Authority for the actual number of trees cut by them. These five cases are given in the Table 3.5.

Table 3.5: Trees cut in excess of sanctioned numbers

States	Name of Project	Observation arising from Joint Site Visits	
		Trees for which cutting permission obtained	Trees actually cut
1. Bihar	Rehabilitation Upgradation and strengthening of SH-87 of M/s Bihar State Road Development Corporation Ltd	482	15,765
2. Chhattisgarh	Upgrading to 4 lane of NH 6 from Aurang to Saraipali of M/s NHAI	18,621	34,679
3. Karnataka	4/6 laning of Kundapura/Surathkal stretch of NH-17 of NHAI	14,956	18,400
4. Madhya Pradesh	Rehabilitation & Upgrading of 2 lanes of Amarwara – Umrana of NHAI, Chhindwara	2,815	11,031
5.	Upgradation of Chhindwara/Chourai/Seoni section of NHAI, Chhindwara	1,066	1,455

3.6 Irregular use of Ground water

The EC letters of some of the projects stipulate that the PP shall obtain necessary prior permission from the Central Ground Water Authority (CGWA) for drawl of requisite quantity of ground water required for the project.

We observed that out of the 352 sampled cases, the condition in respect of permission of the Competent Authority for use of ground water was stipulated in respect of 220 projects. Compliance to this condition was found in 102 projects. In case of 16 projects, the records were not furnished to Audit and in case of 61 projects, this condition was not applicable as the projects were not using groundwater.

We observed that in 41 out of the 220 projects, there was violation of EC conditions, as prior permission of CGWA was not taken by PPs for drawl of ground water.

Illustrative cases are given below:

In two projects namely, **Up gradation of Patna-Gaya-Dobhi section on NH-83 of M/s NHAI and Construction of AIIMS, Apex Health Care Institute Phulwari Sharif, Patna of Department of Health, Government of Bihar**, the ECs stipulated that either no groundwater shall be used for the project or permission of competent authority would have to be taken for its drawl. We observed that groundwater was being used without permission of the competent authority i.e. CGWA.

Thus, in 19 *per cent* cases, prior permission from the Competent Authorities for drawl of requisite quantity of ground water was not taken by the PPs.

3.7 Change in the scope of work after obtaining EC from MoEF&CC

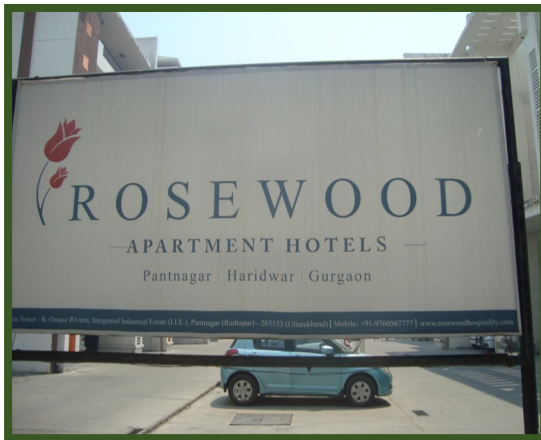
One of the general conditions stipulated in EC of MoEF&CC was that in the case of any change(s) in the scope of the project, the project would require a fresh appraisal by the MoEF&CC.

It was observed that out of 352 sampled projects, in 11 projects, this condition was not stipulated in the concerned EC letter. Out of remaining 341 projects, in 33 cases no fresh appraisal was done/revised EC issued by the MoEF&CC although there was change in scope of work by the PP.

Out of these 33 projects, in eight projects the production/storage capacity was enhanced, in 14 projects the limits like build-up area, floors, pockets, etc were increased, in two projects the land/forest area was increased/diverted, in four projects the project profile of vessels/dock was changed, in four projects fuel/source mode of transport was changed and in one case Captive Power Plant was not installed.

A few illustrative cases are given below:

In a project of **Residential complex of Omaxe Riveria, Uttarakhand**, we observed that the PP was to build a structure of three pockets having Ground plus four floors as per EC. The PP constructed four pockets in contravention to the EC conditions. An apartment block consisting of 64 rooms was found leased to Rose Wood Serviced Apartment Hotels. Further, an under-construction structure was also coming up within the project site where the sign boards suggested opening of bar, restaurant and hotel which was against the provisions of the EC letter. Thus, the scope of EC was changed without getting prior approval of the MoEF&CC.



Service Apartment with 64 rooms in OMAXE Riveria Infrastructure, Rudrapur, Uttarakhand

Proposed Hotel and Bar restaurant coming up within OMAXE Riveria Infrastructure, Rudrapur, Uttarakhand

Similarly, in another case, EC for township project **Ashiana Amarbagh, Jodhpur**, was awarded for construction of only 345 units and total built up area of 44,664.34 sq. meters. We observed that there were 413 units constructed and the area of construction was also enhanced to 55,019 sq. meters. Fresh appraisal from the MoEF&CC was not obtained by the PP.

In case of, **Mata No Madh Lignite Mine of M/s GMDC Ltd, Gujarat**, EC was granted for production of 2.40 Million Ton Per Annum (MTPA) of lignite. However, it was observed that the actual production was 3.19, 3.07 and 3.28 MTPA during 2012-2015.

The EC was issued by the Competent Authority keeping in view various factors which affect the environment. These conditions should be strictly followed by PPs in letter and spirit. However, their violation adversely affects the environment and puts additional burden on the local surrounding, local population and resources there of.

3.8 Non submission of annual Environmental Audit Report/Environmental Statement

As per MoEF&CC circular dated 30 June, 2009, environmental statement for each financial year ending 31st March, in Form-V, was to be submitted by the PP as prescribed under the Environment (Protection) Rules, 1986. This was also to be put on the website of the company along with the status of compliance of EC conditions and the same shall also be sent to the Regional Office, MoEF&CC by e-mail.

Out of 352 sampled projects, in 145 projects (41.19 *per cent*) this condition was not separately specified in the EC letter. As such, out of 207 projects, 150 projects had submitted the environmental statement in Form V and non-compliance of this condition was observed in 39 projects (18.89 *per cent*). In remaining 18 cases, either information was not available or not applicable.

In the absence of environmental statement, the SPCB/MOEF&CC/RO could not keep an effective watch over the various aspects of the construction/operation of the project like probable compromise in the quality of environmental parameters, discharge of pollutants, management of hazardous as well as solid wastes, consumption of water, raw material, etc.

3.9 Commencement of construction/operations before grant of EC

Para 9 of the EIA Notification, 2006 provides that prior EC granted for a project or activity shall be valid for a period of 10 years in the case of river valley projects, 30 years in the case of mining projects and five years in the case of all other projects. The period of validity may be extended by the concerned regulatory authority by a maximum period of five years, provided an application is made within the validity period.

We observed that out of 352 sampled projects pertaining to different sectors which were granted ECs during the year 2008 to 2012, construction/operation commenced before grant of EC in 18 projects. Moreover, extension in validity of EC was not obtained by the PPs after the expiry of EC in eight projects.

A few illustrative cases are given below:

In case of **Construction of City Emporia Mall, Chandigarh of M/s Real Tech Constructions Pvt Ltd** we observed that the Regional Office of MOEF&CC found (August 2008) that the built-up area of commercial complex was more than 2,00,000 sq ft hence EC was required to be obtained by the PP. Chandigarh Pollution Control Committee issued (August 2009) show cause notice under section 27 of Water (Prevention and Control of Pollution) Act 1974. PP in reply stated that the additional area was to be used

only for parking purpose and not for any commercial use and that there would be no additional water requirement/waste water generation, etc. MoEF&CC renewed the EC (November 2009) without imposing any penalty.

Similarly, in another construction sector project **Metropolitan Mall, Jalandhar, Punjab of M/s MGF Developments Ltd** we observed that the EC issued to the earlier PP expired in February 2013 and the incomplete work was taken over (January 2015) by new PP without obtaining fresh EC. No penal action was taken against the PP for violation.



Metropolitan Mall, Jalandhar, Punjab

Commencement of construction/operations before grant of EC and existence of projects without extension of validity of EC shows that there were serious deficiencies in monitoring of projects by the MoEF&CC leading to adverse impacts on the environment.

3.10 Non-advertising of EC in newspapers by the Project Proponent

As per General Condition of EC letter issued by MoEF&CC, the PP shall advertise the EC in at least two local newspapers widely circulated in the region, one of which shall be in the vernacular language informing that the project has been accorded EC and that copies of clearance letter were with the SPCB and could also be seen on the website of the MoEF&CC.

It was observed that out of 352 sampled projects, in case of 211 projects, the advertisements were given in two newspapers. In 25 projects, this condition was not stipulated in the concerned EC letter. In 92 cases, the relevant records was not available.

Out of remaining 24 cases, we observed that in 11 projects the advertisement was given only in one newspaper and in 13 projects the advertisement was not given in any newspaper.

Thus, the PP failed to make the stake holders/general public aware about the EC given to the project by the MoEF&CC. In 25 projects, this condition was not stipulated in the concerned EC letter. As such the MoEF&CC was not uniform in stipulating this necessary condition in EC letter.

3.11 Conclusion

Environment Management Plan is a commitment made by the PP with regards to pollution mitigation, water conservation, green belt development, proper waste

management, effluent treatments, environment parameter monitoring, dust suppression etc. We observed that the PPs were not fulfilling the EMP commitments. MoEF&CC also did not ensure that there was a time bound action plan for fulfilling EMP commitments.

The requirement of maintaining sufficient greenbelt as committed in the EIA reports were not met by the PPs. The activities under ESR were either not carried out or were at variance with the commitments spelt out in the EIA reports.

MoEF&CC and its Regional Offices were not able to ensure that the PPs take prior permission from the competent authorities for drawl of requisite quantity of ground water.

The PPs had changed the scope of the projects without requisite approvals or had commenced construction/operations before grant of EC. This indicated that MoEF&CC was not able to ensure that the PPs follow the EC condition in letter and spirit.

The PPs had not regularly submitted the annual Environmental Audit Report/Environmental Statement to the concerned SPCBs. The requirement of publishing the EC in two local newspapers was also not complied with by the PPs, thereby failing to make the stake holders/general public aware about the EC given to them.

3.12 Recommendations

We recommend that,

- i. The EIA reports/EC letters should clearly mention cost of activities under EMP and ESR along with the timelines for their implementation.
(Paragraph 3.2 and 3.4)
- ii. MoEF&CC may consider making EMP/EC condition(s) more specific for the area to be developed under green belt and species to be planted in consultation with Forest/Agriculture Department along with post EC Third Party evaluation.
(Paragraph 3.3)
- iii. MoEF&CC may consider endorsing copy of EC letter issued to each project to the Central Ground Water Board/State Agencies to ensure monitoring of Ground Water extraction.
(Paragraph 3.6)

