

**MINUTES OF THE 131<sup>ST</sup> (SPECIAL MEETING ) MEETING OF THE  
GOA STATE POLLUTION CONTROL BOARD HELD ON 8<sup>TH</sup>  
JANUARY, 2018, AT 11.30 AM, IN THE CONFERENCE HALL OF THE  
GOA STATE POLLUTION CONTROL BOARD, PANAJI.**

1. The 131<sup>st</sup> meeting (Special meeting) of the Goa State Pollution Control Board was held on 8<sup>h</sup> January, 2018 at 11.30 a.m. in the Conference hall of the Goa State Pollution Control Board.

The following members / officials attended the meeting:

1.	Mr. Ganesh Budhu Shetgaonkar, Chairman
2.	Director, Dte. of Industries, Trade & Commerce was represented by Ms. Darshana Narulkar, G.M (DIC)
3.	Mr. S.T. Nadkarni, Chief Engineer, Water Resource Dept was represented by Shri N. Vaz, ASW, CPO
4.	Mr. Prasanna Acharya, Director, Dte. of Mines and Geology
5.	Mr. Shawn Brian Martins, Panch Member, Village Panchayat Calangute
6.	Mr. Shubham Chodankar, Corporator, Corporation of the City of Panaji
7.	Ms. Unnati Sahastrabhudhe, Panch Member, Village Panchayat Velgum
9.	Mr. Rajsingh Rane, Councillor, Mapusa Municipal Council
9.	Mr. Sanjay Naik, Panch Member, Village Panchayat Sanvordem
10.	Mr. Savio Messias, President, Travel and Tourism Association of Goa
11.	Managing Director, Goa Tourism Dev. Corpn. Was represented by Mr. Sachin A. Gore
12.	Mr. Levinson Martins, Member Secretary

Chairman, Confederation of Indian Industries (Goa Chapter) Mr. Atrey Sawant informed his inability to attend the meeting, He was granted leave of absence.

II. At the outset, Chairman welcomed the Board members for the meeting. Thereafter, agenda was taken up for deliberations, discussions and suitable decision in the matter.

**Agenda item no. 01**

Confirmation of the minutes of the 128<sup>th</sup> meeting of the Board held on 7<sup>th</sup> December, 2017, 129<sup>th</sup> meeting (Special meeting) held on 20/12/2017 and discussion on the minutes of the 130<sup>th</sup> meeting (Special meeting) of the Goa State Pollution Control Board held on 01/01/2018

The members perused the minutes of the minutes of the 128<sup>th</sup> meeting held on 07/12/2017 and minutes of the 129<sup>th</sup> meeting (Special meeting) held on 20/12/2017, and confirmed the same so as to enter in the minutes book.

Copy of the Draft minutes of the 130<sup>th</sup> meeting (Special meeting) of the Board held on 01/01/2017 were forwarded to the members vide this office letter no. 4/130/18-Admn/18777 dated 03/01/2018 and via e-mail, for comments and suggestions if any. Accordingly the minutes were deliberated during the meeting and necessary suggestions were incorporated to the extent of 25% reduction on production of Environmental clearance limits in the cluster and 25% reduction in transportation on inhabited portion of Soncshi village. The same were confirmed so as to enter in the minutes Book.

**Agenda item no. 02**

Renewal of applications of the mining units:

Member Secretary informed the members that there are 21 mining applications pending before the Board. It is seen that the Ambient air quality (AAQ) parameters exceed for the months of November and December, 2017, whereas the same are within the permissible limits at some places, through which the transportation routes for which monitoring is being conducted. It was noted that the transportation for all 21 mines has not commenced as yet. However, these exceedances are due to the fact that other transport is taking place through these routes and junctions. It was decided that in order to control the transport, the Board shall communicate with Government of Goa and especially with the Department of Transport.

The AAQ parameters exceed for the month of November and December, 2017 for PM10 were for the following mines which are to be considered for grant of Consent.

2 (a)	M/s. Haider Kassim Khan (Vangi Bindi Advona Iron ore Mine) T.C. No.10/51
2(f)	M/s. Panduronga Timblo Industrias (Oiteiro Borga do Bairro Queri) T. C. No. 34/50
2(h)	M/s. Panduronga Timblo Industrias [Shigao (Advona Toleamati eGaliguro) Iron Ore Mine] T.C. No. 87/53
2(g)	M/s. Panduronga Timblo Industrias (Borga Dongrachim Fall Iron ore Mine, Rivona) T. C. No. 29/52
2(i)	M/s. Eyestar Finance And Leasing Pvt. Ltd., Huldool Dongor Bimbol Iron ore Mine, T. C. No. 8/41
2(j)	M/s. Panduronga Timblo Industrias (Sailetemi-Iron Ore Mine, Suctole ) T. C. No. 143/1953
2(l)	M/s. Timblo Pvt. Ltd, Gaotone, Dusrifal, Codli, T.C. No 14/58

2(p)	M/s R.S. Shetye (Deulem Pissurlem iron ore Mine) T.C. no. 70/51
2(s)	M/s. Kunda Gharse (Cazreachem Culna Iron ore Mine) T.C. No. 51/52
2(t)	M/s. Sociedade Timblo Irmaos Limitada (Dignem Iron ore Mine) T. C. No. 92/52
2(u)	M/s. V. G. Quenim- Sonshi Iron ore mine, T.C. 16/55

After deliberations the Board members decided to grant conditional Consent with monitoring of AAQ parameters till March, 2018. AAQ to be monitored thrice a week instead of twice, which is being presently conducted by the Board. The excess amount incurred towards the third monitoring to be borne by the mining units for that cluster for which monitoring is being conducted. The Board decided that with adequate measures to contain pollution on transportation routes to be adopted like water sprinkling on the routes, road cleaning, wheel washing mechanism, road shoulders to be tarred, whereby pollution will infarct reduce. Further it was decided that once Consent is granted, the Directorate of Mines and Geology will regulate the mining transport and act on the Boards inputs of exceedances if any. Further, Board resolved taht the Transport Department to also verify and check the pollution certificates of vehicles and violation under the Motor Vehicle Act.

The water analysis conducted by the Board show exceedances in the parameters such as e-coli present in the open wells which is attributed to local inhabitations, hence it was decided to forward this report to the Department of Health Services for necessary action.

2(b)	M/s. Sesa Resources Ltd (Curpem Iron Ore Mine) T.C. No 3/51,40/54
2(c)	M/s. Rajesh P. Timblo Godbaem Ou Cuttiem Curpem Iron ore Mine, Village Curpem, Sanguem, T.C. No. 63/51
2(d)	M/s. Polo Dongor Iron Ore Mine, T.C. No. 65/51
2(e)	M/s. Sesa Resources Ltd (Colomba Iron Ore mine) T.C.No.35/52
2(k)	M/s. M. S. Talaulikar & Sons (Saniem Iron Ore Mine) T.C. No.2/51
2(m)	M/s. Orasso Dongor Iron ore Mine, T.C. No. 76/52
2(n)	M/s. Chowgule & Company Ltd (Sirigao Iron Ore Mine) T.C. No. 5/49, 13/49
2(o)	M/s. Vedanta Ltd. ( Sanquelim Iron Ore Mine) T.C. No. 9/49,10/49,3/54
2(q)	M/s. Chowgule & Company Pvt. Ltd. (Onda Iron ore Mine) T.C No. 98/52
2(r)	M/s. Sesa Resources Ltd. (Surla-Sonshi Iron ore Mine) T.C. No. 5/54, 20/54, 21/54

The members noted that the AAQ parameters although within the limits from January to December, 2017, however it was noted that these mining units have

not complied with compliance to plan of action regarding short term measures and medium term measures as directed by the Board. Hence, it was decided to grant conditional Consent to this mining units with a time limit of three months to comply with the plan of action and submit a Bank guarantee as per the decision taken in the 124<sup>th</sup> (Special meeting) meeting held on 02/05/2017 in respect of the mining lease area, within 15 days from the date of issue of this conditional Consent, failing which the said Bank guarantee shall stand forfeited. Further, that no transportation to be carried out till the plan of action is complied.

Mr. Shawn B. Martins was concerned with the fact that the records of AAQ parameters for the month of November and December, 2017 exceeding the permissible limits even though mining is not in operation. However, the Director of Mines and Geology clarified that the mining units also take necessary precautionary measures such as cleaning of roads, sprinkling of water etc., through which mining transportation takes place which as of now is not adhered as there is no mining transportation and that the PM10 level thereafter will fall once measures are adopted.

Member Secretary stated that the Board should give a fair chance to the mining units to carry out transportation with limited trucks and observe the AAQ parameters so that the transportation carrying capacity can be reviewed from time to time.

After deliberations Chairman agreed to these suggestions and observed that the Board will monitor and review from time to time the exceedance in these parameters and also suggested that the Board will take up this issue with the Transport department to check the fuel emissions, control of transport so that these parameters do not exceed beyond the permissible limits. Further that the Board will monitor thrice a week with additional cost to be borne by the mining companies jointly for that cluster

**Agenda No 2.1:**

Member Secretary informed the Board that the following mining units have submitted letters to the Board stating that their mines are not in operation and Consent compliance will be done before resumption of the mining activity.

a.	M/s. Madachem Bat Mines Pvt. Ltd, Madachem Iron ore Mine, T.C. No. 8/61
b.	M/s. Bandekar Brothers Private Limited - Jaquela Oujacadevicho Mollo Iron Ore Mines, TC No.84/1952.
c.	M/s. Kashinath Talaulikar (Carmolachem Mol iron ore mine) T. C. No. 48/58

The members deliberated and taking note that since these mines were under 1994 Notification and were in doubt regarding the issue of Consent and also regarding apprehensions regarding market conditions, the members decided to grant time limit of three months to comply with the plan of action issued by the Board and submit a Bank guarantee amounting to Rs. 25 laksh each within 15 days of the issue of Consent. The Bank guarantee shall stand forfeited in the event of failure to comply with the conditions within the stipulated time limit.

**Agenda No 2.2:**

The members deliberated on the issue of amendment sought by the following mining units seeking enhancement in capping as approved by Directorate of Mines and Geology upto 31/03/2018.

a.	M/s. Vedanta Ltd.: enhancement in capping from <b>3.155 MMT to 5.55 MMT.</b>
b.	M/s. Chowgule & Company Pvt. Ltd. (Costi Iron Ore Mine), T.C. No. 22/50 38/51 12/57: Enhancement in capping from <b>0189 MMT to 0.314 MMT</b>

Member Secretary explained to the members that last year the same issue was faced by the Board due to the fact that capping of mines was enhanced in Sonshi area due to which the Board had to suspend the Consents and issue show cause notices due to enormous increase in the AAQ parameters due to enhanced capping suggested by the Mining department, the locality was submitted to enormous rise in AAQ levels and subsequent pollution levels and the local people suffered. Subsequently, the Court of Law also took cognisance of these facts and transportation had to be reduced subsequently resulting in closure of these mines.

In order to avoid such a situation the Board decided to grant these amendments subject to the condition that AAQ along the transportation route is to be monitored by the Board and the same shall be conveyed to the Department of Mines and Geology from time to time if there is exceedance based on which the Mines Dept. which regulates the transport will act.

Member Secretary stressed the need to have real time monitoring data, the expenses of which have to be borne by the mining units in the particular cluster. Director of Mines and Geology stated that within such a short period it is not possible to set up the real time monitoring system for which a substantial amount is required to be shelled out by the mining units. Hence it was suggested and agreed by the members that AAQ monitoring data be collected thrice a week instead of two times a week which is presently being done by the Board.

It was also suggested by the Member Secretary that in case the AAQ parameters exceed on the transportation routes only extraction of ore will be permitted. Further the ore will have to be stored properly within the lease area to which Director of Mines and Geology agreed.

**Agenda No 2.3:**

Member Secretary informed the members that 23 mining units granted Environmental Clearance under EIA Notification of 1994 were issued Show cause Notices for rejection of application/revocation of Consent, however, Legal opinion has been sought by the Board from its Legal Advisors, who have advised that the said Notification does not pertain to these mining units, hence this issue was deliberated and unanimously agreed by the members to drop these show cause notices.

**Agenda item no. 03**

Hearing on the Show Cause Notice issued to M/s South West Port Ltd.

The Board had issued a Show Cause notice dated 30/11/2017 to M/s South West Port Ltd (SWP) to show cause as to why the renewed Consent to Operate Order dated 21/07/2017, granted by the Board to the unit, for handling of coaking coal/coal, limestone and steel slabs, should not be revoked for handling excess amount of coaking coal in violation of the conditions as contained in the said Consent to operate order and further, for submitting false data in form V.

The unit was further directed to show cause as to why a Bank guarantee of Rs. 5 lakhs for shifting a CAAQMS station should not be forfeited by the Board on account of delaying and disobeying of the Boards directions to shift the station, by the unit.

Vide the said show cause notice, the unit was directed to show cause as above by 06/12/2017. The unit was further put to notice that failure to show cause satisfactorily as above would result in forfeiture of the Bank guarantee and issue of directions of suspension/closure of all operations including cargo handling at Berth no. 5A & 6A.

M/s South West Port Ltd approached the High Court of Bombay at Goa vide WP/1092/2017 seeking a direction to the GSPCB to extend the time granted by it for replying to the Show Cause Notice.

The High Court vide order dated 13/12/2017 has recorded the statement of the GSPCB that it had decided to grant two weeks time more to the Petitioner to file its reply. It also noted that the GSPCB would give a personal hearing to SWPL.

This issue was earlier discussed before the Board at its 128<sup>th</sup> Meeting held on 07/12/2017. In terms of the decision taken by the Board at its 128<sup>th</sup> meeting and in terms of the order of the Hon'ble High Court dated 13/12/2017, the Board vide letter dated 15/12/2017 informed SWPL that they were granted a further period of two weeks time to file a reply to show cause notice dated 30/11/2017. In terms of the decision taken by the Board at the 128<sup>th</sup> meeting, SWPL was further directed to submit a bank guarantee of Rs. One Crore to the Board.

SWPL filed WP/1143/217 opposing the imposition of Rs. One Crore Bank guarantee on it by the GSPCB vide its letter dated 15/12/2017. The High Court vide order dated 27/12/2017 passed in the matter accepted the statement of GSPCB that until it disposes off the show cause notice issued to the Petitioner, GSPCB will not insist upon the Petitioners providing the Bank Guarantee of Rs. One crore. In reference to SWPL's request that if GSPCB's final order is adverse the same may not be given effect for a period of at least two weeks from the date of communication; the GSPCB statement that it is open to the Petitioners to make such a request during the course of the personal hearing and the GSPCB will make suitable orders thereon has been recorded.

The Board is now in receipt of a reply dated 28/12/2017 from SWPL, to the SCN dated 30/11/2017. In brief SWPL has submitted as follows:

a.	SWPL has adequate pollution control measures to prevent/avoid any pollution and the readings establish that their operations are well within the prescribed permissible limits of pollution.
b.	It is fundamental to establish that their operations are causing pollution beyond the permissible prescribed limits of pollution and not merely on the basis that the output is beyond the permitted capacity. Any operations carried out beyond the purported permissible limits of handling Coking Coal / Coke does not ipso facto determine that the same is causing pollution beyond the prescribed permissible pollution limits
c.	Section 33(A) of the Water Act and 31(A) of the Air Act and the entire scheme of both the Air Act and Water Act mandates that the Board is under the obligation to take all such necessary steps and issue directions from time to time <u>in case of erring industry causing pollution</u> . Unless the operations/industry causes pollution, the directions of closure/ revocation of the consent to operate would be shockingly disproportionate and excessively severe. Without a finding that there has been emission of air pollutant would not clothe the jurisdiction of the Board to issue any direction under the aforesaid section 31 A.
d.	It is necessary for the Board to reach to the conclusion based on material / evidence that their operations have been emitting any air pollutant into the atmosphere. If no such finding is arrived at (with proof), the exercise of powers under Sec.31A of the Air Act is without jurisdiction and authority.
e.	For exercising powers under section 33A of the Water Act, it is necessary for the Board to arrive at a conclusion that their operations are polluting the environment

	by discharging contaminated water.
f.	Operations at berth Nos. 5A and 6A;
	i. do not cause any air pollution;
	ii. do not cause any water pollution
	iii. does not endanger public life.
	iv. are earned out well within the prescribed pollution limits.
g.	Substantial cargo of SWPL is handled directly without discharging or offloading at the berths /stockyard. Thus, the said cargo is transported / conveyed from the mother vessels by way of closed conveyor belts to the railway wagons as against the handling at berths / stockyard. A 'Short Film' (CD) is enclosed with the reply detailing their operations at the facility in form of and the activity of handling of coal
h.	With reference to Form V and the submissions made by MPT to the Board, SWPL states that substantial part of SWPL's cargo is handled directly without discharging or offloading at the berths /stockyard. Thus, the said cargo is transported / conveyed from the mother vessels by way of closed conveyor belts to the railway wagons as against the handling at berths / stockyard. They sincerely believe that there is no misrepresentation and that their operations have not caused any pollution and therefore they are not in violation of the scheme or object of the Air and Water Act.
i.	SCN is based on a wrong premise in as much as the same is issued in relation to financial year where as their consent to operate is for the period commencing from 7/12/2016. They further submit that without prejudice to the above, with respect to the quantum taken into account by the Board, they put the Board to strict proof thereof.
j.	They are entitled for the benefit of deemed Consent as stipulated under the said Acts.
k.	The carrying capacity of the Mormugao Port Trust ('MPT') as can be seen from the letter dated 30/10/2013 of the Ministry of Environment & Forests (MOEF) granting Environment Clearance is 50 MMTPA, and in the least can be said to be 25 MMTPA.
l.	With reference to shifting of the CAAQMS station they had by their letters dated 28 <sup>th</sup> July 2017, 4 <sup>th</sup> and 8 <sup>th</sup> August 2017 and 11 <sup>th</sup> September 2017 clarified that the suggested location for installing the CAAQMS will capture source emissions from various other sites and sources viz. pollution from adjacent berths, emissions due to road traffic etc and this would lead to wrong readings. Nevertheless, in order to comply with the directions under the said SCN, SWPL have shifted the CAAQMS at the new location suggested by GSPCB. This has been conveyed to GSPCB by letter dated 7 <sup>th</sup> December 2017. It is however stated that installation of the CAAQMS at the said new location is contrary to the standard norms and practices, and does not confirm with the relevant Indian Standards.
m.	As per the directions of the Goa High Court in its orders dated 6 <sup>th</sup> and 13 <sup>th</sup> December 2017, prior to passing any order it is requested that they be granted a personal hearing as it is imperative for them to elucidate their submissions personally.
n.	If any adverse order of revocation / suspension of the consent to operate would not only cause grave and irreparable loss, harm and injury to SWPL but would

	also have adverse repercussions on the steel industry causing a deficit of the steel in the market.
o.	Referring to the order dated 27 <sup>th</sup> December 2017 passed by the High Court of Bombay at Goa in the Writ Petition No.1143 of 2017, SWPL requested the Board not to pass any adverse orders against them. In the event of any adverse order, they humbly request the Board to defer the effect, operation and implementation of such an order for a period of four (4) weeks
p.	SWPL Reserves their rights to file any additional reply, to add or elaborate any contents herein and produce further documents/ material to deal with the said SCN and respond to the Board at all times. They crave leave to examine expert witness in support of their defence and contentions raised by them as and when necessary.

Records with the office regarding this issue along with the relevant files etc shall be placed before the Board at the meeting.

Vide letter dated 3/1/2018 the Board has directed the authorized representatives of SWPL to remain present before it on 08/1/2017 at 12:00 pm to submit their say on the Show cause notice dated 30/11/2017.

On hearing the authorized representatives of SWPL and considering their submissions as detailed in the enclosed proceedings of the personal hearing, the members of the Board after detailed deliberations have resolved to pass the following order;-

### **ORDER**

The Goa State Pollution Control Board has, vide Order bearing no. 5/2580/04-PCB/C1-3090 dated 21/07/2017, granted M/s South West Port Ltd. (Berth no. 5A and 6A ) located at Mormugao harbour, Mormugao, Goa, Renewal of Consent to Operate in respect of handling of 4.125 MMT/annum of Coaking Coal /Coke, 1 MMT/annum of Limestone and 1 MMT/annum of Steel Slab at Berth no. 5A and 6A . This Renewed Consent to Operate order has been issued under section 25 of the Water Act and under section 21 of the Air Act.

The Board is in receipt of an email message from Mormugao Port Trust (MPT) dated 25/7/2017 wherein they have submitted the details regarding the 'Berth/Position wise traffic handled from April 2016 to March 2017' in respect of all the operational berths at MPT, including Berth no. 5A and 6A operated by the M/s South West Port Ltd.

Perusal of the aforesaid data submitted by the MPT indicates that M/s South West Port has handled a total quantity 10.112 MMT/annum of Coaking Cola /Coke though, the Board vide Consent Order dated 21/07/2017 has permitted the unit to handle 4.125 MMT/annum of Coaking Cola /Coke, during the year 2016-2017. This prima facie indicates that M/s South West Port has

handled an excess amount of 5.987 MMT/annum of Coaking Cola /Coke, during the year 2016-2017 in gross violation of the conditions as stipulated in the Consent to Operate order dated 21/7/2017.

Condition number 6(viii) of the aforesaid Consent order states as follows;

*6 (viii). The unit shall submit to this office, the Environmental Statement Report I Form V for the financial year ending April to May March by 30<sup>th</sup> September of the succeeding year as per the provisions of the rule 14 of the Environment (Protection) (Second Amendment) Rules, 1992*

The Board is in receipt Form V dated 21/09/2017, from the unit for the year 2016-2017 stating that the unit has handled a cumulative total of 6012000 (6.01 MMT) during the said year which runs contrary to the data submitted by the MPT to the Board as referred to above.

This prima facie misrepresentation as well as the factual excess handling of Coaking Cola /Coke, during the year 2016-2017 amounts to a gross violation of the conditions as stipulated in the Consent to Operate order dated 21/7/2017 thereby violating the provisions of the Air Act and the Water Act.

Condition number 6(xvii) of the Consent order dated 21/7/2017 states as follows;

*6 (xvii). The unit shall submit a bank guarantee of Rs.5 Lac with a validity period of one year, within 15 days from the date of issue of this Consent as an assurance for shifting CAAQMS station installed at canteen building to a new location as suggested by GSPCB within 45 days from the date of issue of this consent, failing which the Bank guarantee shall be forfeited and further action taken.*

Subsequent to the issue of the consent order dated 21/7/2017, the Board was in receipt of letter dated 8/8/2017 from SWPL requesting the Board to reconsider the decision of the Board (as contained in the consent order) to on the location/siting of the Continuous Ambient Air Quality Monitoring System (CAAQMS). Upon considering the aforesaid letter, the Board is of the opinion that the unit is consistently delaying and disobeying the Boards directions to install the CAAQMS.

Hence in exercise of powers vested under section 31(A) of the Air (Prevention and Control of Pollution) Act, 1981 and under section 33(A) of the Water(Prevention and Control of Pollution) Act, 1974, the management of M/s South West Port Ltd. (Berth no. 5A and 6A ) located at Mormugao harbour, Mormugao, Goa, was directed to Show cause as to why the Renewed Consent to Operate order bearing no. 5/2580/04-PCB/C1-3090 dated 21/07/2017, granted to your unit by this Board should not be revoked for handling an excess amount of

5.987 MMT/annum of Coaking Cola /Coke, during the year 2016-2017 in gross violation of the conditions as stipulated in the said Consent to Operate order and for submitting false data in the Form V as submitted by SWPL to the Board as afore stated.

M/s South West Port Ltd approached the High Court of Bombay at Goa vide WP/1092/2017 seeking a direction to the GSPCB to extend the time granted by it for replying to the Show Cause Notice.

The High Court vide order dated 13/12/2017 has recorded the statement of the GSPCB that it had decided to grant two weeks time more to the Petitioner to file its reply. It also noted that the GSPCB would give a personal hearing to SWPL.

This issue was earlier discussed before the Board at its 128<sup>th</sup> Meeting held on 07/12/2017. In terms of the decision taken by the Board at its 128<sup>th</sup> meeting and in terms of the order of the Hon'ble High Court dated 13/12/2017, the Board vide letter dated 15/12/2017 informed SWPL that they were granted a further period of two weeks time to file a reply to SCN dated 30/11/2017. In terms of the decision taken by the Board at the 128<sup>th</sup> meeting, SWPL was further directed to submit a bank guarantee of One Crore to the Board.

SWPL filed WP/1143/217 opposing the imposition of 1 Crore bank guarantee on it by the GSPCB vide its letter dated 15/12/2017. The High Court vide order dated 27/12/2017 passed in the matter accepted the statement of GSPCB that until it disposes off the SCN issued to the petitioner, GSPCB will not insist upon the Petitioners providing the Bank Guarantee of Rs. 1 Crore. In reference to SWPL's request that if GSPCB's final order is adverse the same may not be given effect for a period of at least two weeks from the date of communication; the GSPCB statement that it is open to the Petitioners to make such a request during the course of the personal hearing and the GSPCB will make suitable orders thereon has been recorded.

The Board was then in receipt of a reply dated 28/12/2017 from SWPL, to the SCN dated 30/11/2017.

The Board has afforded the authorized representatives of SWPL a personal hearing before it at its 130<sup>th</sup> meeting (Special Meeting) in the matter of the show cause dated 30/11/2017. The proceedings of the personal hearing are enclosed herewith.

On considering the submissions of SWPL as contained in their reply dated 28/12/2017 and as put forth during the personal hearing held on 8/1/2017 (

and as recorded in the enclosed minutes of personal hearing) the Board after detailed deliberation has concluded as follows;

1. SWPL has failed to establish/dispute the submission of MPT (vide its letter/email dated 25/7/2017) that it has handled a total quantity of 10.112 MMT/annum of Coaking Coal/Coke though the Boards Consent to Operate order dated 21/7/2017 has permitted the unit to handle 4.125 MMT/annum of coaking coal/Coke during the year 2016-2017.

2. SWPL has not established that it has handled coaking coal/Coke during the year 2016-2017 within the limits as stipulated in the Consent Orders issued by the Board. Neither has it established that has handled coaking coal/coke in terms of the limit stipulated in the renewed consent to operate order dated 21/7/2017.

3. SWPL merely states that any handling of coal/coke in excess or otherwise in the absence of scientific data indicating that such excess handling would have an adverse impact on the environment would not render it liable to action by the Board or for revocation of the consent to operate issued to it by the Board.

4. In light of the above the Board has arrived at a clear finding that SWPL has committed a gross breach of the consent condition no. 2(1) of the Consent order bearing no. 5/2580/04-PCB/CI-3090 dated 21/07/2017, granted to it by the Board, by virtue of the fact that it has handled a total quantity 10.112 MMT/annum of Coaking Coal /Coke though, the Board vide Consent Order dated 21/07/2017 has permitted the unit to handle 4.125 MMT/annum of Coaking Coal /Coke, during the year 2016-2017.

5. Section 21 (4) of the Air (Prevention and Control of Pollution) Act, 1981 states as follows;

*' (4) Within a period of four months after the receipt of the application for Consent referred to in sub-section (1), the State Board shall, by order in writing, and for reasons to be recorded in order, grant the consent applied for subject to such conditions and for such period as may be specified in the order, or refuse such Consent:*

*Provided that it shall be open to the State Board to cancel such consent before expiry of the period for which it is granted or refuse further consent after such expiry if the conditions subject to which such consent has been granted are not fulfilled:*

*Provided further that before cancelling consent or refusing a further consent under the first proviso, a reasonable opportunity of being heard shall be given to the person concerned. '*

6. Section 27 of the Water (Prevention and Control of Pollution) Act, 1974 states as follows;

*27. Refusal or Withdrawal of Consent by the State Board.*

7. In this regard the Board has after providing SWPL a reasonable opportunity of being heard, has come to the conclusion that the condition no 2(1) of Consent to Operate order bearing no. 5/2580/04-PCB/C1-3090 dated 21/07/2017 has not been fulfilled and has infact been grossly violated.

**The Board in light of the above and in exercise of the power vested in it under section 21(4) of the Air (Prevention and Control of Pollution) Act, 1981 and in light of what is stated hereinabove decides as follows;**

*a. Consent order bearing no. 5/2580/04-PCB/C1-3090 dated 21/07/2017 issued by the Board to SWPL under the Air (Prevention and Control of Pollution) Act, 1981 stands cancelled/revoked with immediate effect.*

**The Board in exercise of the power vested in it under section 27 read with section 25 of the Water (Prevention and Control of Pollution) Act, 1974 and in light of what is stated herein above decides as follows;**

*b. Consent order bearing no. 5/2580/04-PCB/C1-3090 dated 21/07/2017 issued by the Board to SWPL under the Water (Prevention and Control of Pollution) Act, 1981 also stands cancelled/revoked with immediate effect.*

**As in the absence of valid consent to operate under the Air Act and the Water Act, SWPL cannot continue operation, the Board in exercise of the power vested in it under section 31(A) of the Air Act and under section 33(A) of the Water Act directs the management of M/s South West Port Ltd to suspend the handling of Coaking Coal /Coke at Berth nos. 5A and 6A at Mormugao Port except to handle/transport the existing cargo at Berth nos. 5A and 6A within 15 days from the date of receipt of this order.**

The 15 day period is being granted in order to enable SWPL to handle/transport the existing cargo lying at Berth nos.5A and 6A i.e. Coaking Coal /Coke in a phased manner. The handling/transporting of all existing cargo i.e. coaking coal/coke at Berth nos. 5A and 6A during the 15 day period shall be done under supervision of a nominated official of the Board who shall ensure that adequate pollution control measures are adopted by the SWPL during the said period. SWPL will intimate the Board in respect of

excavation/transportation of existing cargo i.e. coaking coal/coke at least 3 days prior in order to depute the Boards official.

**In exercise of the power vested in it under section 31(A) of the Air Act and under section 33(A) of the Water Act the Board directs the MPT to ensure that after the expiry of the 15 day period as aforesated SWPL is not permitted to handle any cargo particularly Coaking Coal /Coke at Berth nos. 5A and 6A.**

**The Member Secretary of the Board shall communicate this order of the Board to SWPL immediately.**

**Agenda item no. 4**

Review of decision taken at the 128<sup>th</sup> Board meeting in respect of operation of Mooring dolphin facility at the MPT without the Consent to Operate of the Board.

Member Secretary informed the members that the management of Mormugao Port Trust (MPT) was directed to show cause as to why stringent legal action under the relevant provisions of the Water Act and Air Act, that include initiation of criminal prosecution and suspension of all operation of coal and dusty cargo handling activities at the Port area, should not be directed to be suspended till such time as MPT obtains the Consent to Operate of the Board for the operation of Mooring Dolphins, trans shippers or / and any other activity carried out by the Port up to the territorial limits off shore. MPT was also directed to submit details of the cargo handling activity that is being carried out at the Mooring Dolphin, transhippers etc. by the Port upto the territorial limits off shore, to the Board.

He further informed that the Board at its 128<sup>th</sup> meeting the Board after detailed deliberation on the matter approved to engage the services of any Institutes of Centre of Excellence (*i.e. NEERI / IIT / MoEF & CC empanelled environmental consultant*) to conduct air-pollution modelling to ascertain likelihood impact of dusty-cargo at the mooring dolphin as well as prescribe remedial pollution control measures / technological interventions for such types of cargo-handling within a period of three months. In addition, the Board also approved to seek Rs. 1 crore in the form of 'Bank Guarantee' and defer the consent application accordingly. The Bank Guarantee to be forfeited for failure to submit within three months.

The Board also noted that till that time, source apportionment studies through Indian Institute of Technology (IIT), Powai - Mumbai will also be commenced from first-week of March, 2018.

After deliberations, the Board decided that as MPT continued operation of the facility without the Consent of the Board as mandated under the Water Act and the Air Act, cannot be permitted more so as there is at present absolutely no pollution control measures being adopted and that since MPT has itself submitted that they have no pollution control measures at the site, it was decided to direct MPT to first suspend operation of coal handling activity at the mooring dolphin facility with immediate effect and thereafter the Board will carry out the studies as stipulated in the 128<sup>th</sup> meeting.

The meeting ended with thanks to the Chair.

Chairman

~~Signature~~ 3/11/2018

Member Secretary

Signature

Board Members:

Mr SAUJO MESSIAS TRAC.

~~Signature~~ PRASADNA A. ACHARVA

~~Signature~~ RASSINGH. F. RANE

~~Signature~~ Sochin Gore

~~Signature~~ Unnati A. Sahayrabudhe

~~Signature~~ Dushant S. Narulkar  
GM(DIE) for Directorate of Industries  
Nizamnagar, Pune  
Maharashtra (S.T. Narulkar)

~~Signature~~ Shubham Chodankar

~~Signature~~ SHAWN MARTINS

~~Signature~~ Sanjay G. Naik