

Uttarakhand River Valley (Development and Management) Act, 2005

UTTARAKHAND

India

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Act 06 of 2005

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Uttarakhand River Valley (Development and Management) Act, 2005(Uttarakhand Act No. 06 of 2005)Last Updated 11th March, 2020An Act It is Hereby enacted by the Uttarakhand legislative Assembly in the Fifty-fifth year of the Republic of India as follow:-Chapter-I Preliminary

1. Short title, Extent and commencement.

(1)This Act may be called the Uttarakhand River Valley (Development and Management) Act, 2005.(2)In the First Instance it shall apply to the Bhagirathi River Valley in Tehri and Uttarkashi Districts of Uttaranchal and thereafter the State Government may by notification make all or any of the provisions of this Act applicable to such other River Valley as the State Government would deem fit and proper.(3)It shall come into force on such date as the State Government may, by notification, appoint in this behalf.

2. Definitions.

- In this Act,(a)"Authority" means the River Valley Development Authority established under section "3";(b)"Act" mean the Uttarakhand River Valley (Development and Management) Act, 2005;(c)"Bhagirathi River Valley" means the basin of the Bhagirathi, Bhilangana rivers and their tributaries up to Deoprayag, in downstream and Gangotri upto Gomukh in upstream in the Districts of Tehri and Uttarkashi of Uttarakhand and shall include such other areas adjacent thereto, as the State Government may, by notification, specify;(d)"Basin" means the entire catchments area of the Valley;(e)"Catchment area" means such area at a distance of 100 meters which may extend to 200 meters on either side of the River upstreams and down streams or Reservoir, from its bank at such length as may be deter-mind by the Executive Committee;(f)"Command area" means such area in a River Valley as may be determined by the Executive committee;(g)"Development Agency" means

any Government Department or Institution or other agency engaged in the work of the development of the River Valley;(h)"Executive Committee" means the committee constituted under sub section (5) of section 3 of this Act;(i)"Government" means the State Government of Uttarakhand;(j)"Member" means a member of the Authority and includes its Chairman and Vice Chairman;(k)"Sector" means Geographical and Functional areas to be undertaken for the purpose of development and includes-(a)"Geographical Area" means an area comprising municipal bodies and zila panchayats etc.(b)"Functional Area" means an item for development and includes agriculture, road, bridge, industry, irrigation, transport, watershed, communication, housing, tourism, health, boating, fishing and matters related thereto.(l)"River Valley" includes the basin of the rivers and their tributaries upstream and downstream including catchment area & command area of a "Dam or Reservoir"(m)Words and expressions used in this Act but not defined shall have the meanings respectively assigned to them in the Uttar Pradesh Urban planning and development Act, 1973.

3. Establishment and constitution of the Authority and Executive committee, Appointment of chief Executive officer.

(1)The State Government shall, by notification, establish, for the purposes of this act, an Authority to be called Bhagirathi River Valley Development Authority, which shall be a body corporate.(2)The State Government may constitute such other number of Authorities for other River Valleys of the State as and when so required or bring such River Valley under the existing River Valley Authority.(3)The Authority shall consist of the following members namely:-

(a) The Chief Minister of the State	- Ex-officio Chairman
(b) A person to be nominated by the State Government from River Valley region	- Vice Chairman
(c) M.L.A.s not exceeding six from the region whose constituencies fall within the River valley to be nominated by the State Government	- Ex-officio Members
(d) Chairman of Zila Panchayat from the region falling under the River Valley area as may be nominated by the Government	- Ex-officio Members
(e) Special Invitees from the Ministry of Water Resource, forest and Environment Government of India not below the rank of Deputy Secretary/Director	- Member
(f) Representative of the planning commission, Government of India not below the rank of Director	- Member
(g) Principal Secretaries/ Secretaries of the following Departments of the State Government or their duly Authorized nominees not below the rank of Addl. Secretary -	
(i) Finance department	- Ex-officio Member
(ii) Planning Department	- Ex-officio Member

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| (iii) P.W.D., Irrigation and power Department | - Ex-officio Member |
| (iv) Law Department | - Ex-officio Member |
| (v) Tourism Department | - Ex-officio Member |
| (vi) Environment, Forest, Rural Development | - Ex-officio Member; |
| (h) Divisional commissioner of the division | - Ex-officio member |
| (i) Chief Executive Officer of the authority | - Member Secretary |
| Technical advisors/institutions of Soil conservation, Geology, environment, law, | |
| (j) Sociologist and Management not exceeding six in numbers to be nominated by the State Government | - Member |

(4) The State Government may appoint a person not below the rank of Secretary serving under the State Government to be a chief Executive Officer. (5) The Authority shall constitute an Executive committee from amongst its members not exceeding six out of which two from (g) of subsection (3) of section -3, to be presided by the Vice Chairman of the Authority which shall be responsible for proper and timely implementation of the decisions, various resolutions of the Authority and will have executive control over the affairs of the Authority. Additional Chief executive officer will be Ex-officio Secretary of the Executive Committee. (6) The Authority shall meet at least twice a year. However, it may meet as and when required with the permission of the Chairman or Vice Chairman. (7) The Executive Committee shall meet once in every quarter of a calendar year. However, vice Chairman may call for such meeting as and when it may require provided further members of the Executive committee may require the Vice Chairman to convene a meeting of Executive Committee or the Authority for particular purpose. (8) No Act or proceeding of the Authority shall be invalidated merely because of-(a) any vacancy or any defect, in the constitution of the Authority; or (b) any defect in the appointment of a person acting as a member of the Authority; or (c) any irregularity in the procedure of the Authority not affecting the merits of the case. (9) The term of member other than Ex-officio members and Vice Chairman shall be of five years. Provided all or any of the members other than ex-officio members may be removed prior to the expiry of their term by the State Government or if such member is not willing to continue as member he may tender his resignation to, in case of member to the Vice Chairman and in case the Vice Chairman to the Chairman of the Authority.

4. Powers and duties of Chairman / Vice Chairman and chief Executive Officer.

(1) The Chairman or Vice Chairman and the Chief Executive Officer of the Authority shall exercise such powers and discharge such duties as may be assigned to them by this Act or the regulations made thereunder. (2) The member Secretary shall be the Chief Executive officer of the Authority; he

may be assisted by Additional Chief Executive Officer who shall be appointed by the Authority.

5. Staff of the Authority.

(1) Subject to such conditions as may be prescribed, the Authority may appoint such other officers and employees as it considers necessary for the efficient performance of its functions provided in making such appointment the Government orders in force at the time of such recruitment shall be complied with. (2) The terms and conditions of the service of the officers and employees referred to in sub-section (1) shall be such as may be determined by the regulations.

6. Technical Advisors/ institution.

(1) For the efficient discharge of its functions, the Authority may, appoint technical ad-visors/institutions from amongst of the fields, namely Environment Management, Geology, Eco-planning, Integrated Energy, Planning, Social Science, Forest Ecology, Law and others. (2) The powers duties and functions of the technical ad-visors/ institution and the terms and conditions of their appointment and honorarium shall be such as may be determined by the Executive committee.

7. Meeting.

(1) Meeting of the Authority shall be called by the chief Executive officer with the approval of the Chairman or Vice chairman and the business of the Authority shall be transacted in a meeting unless the chairman directs any business to be transacted by circulation of agenda among the members. Provided the Chairman may direct to include any other matter in the agenda at the time of meeting. (2) Meeting of the Authority shall ordinarily be held twice in a year on such date, at such time and at such place as the Chairman or Vice Chairman may direct. However the Chairman or the Executive Committee may call for such meetings at any time as it may direct. (3) At every meeting of the Authority, the chairman, or in his absence, the Vice chairman or such member as may be agreed to by the members present, shall preside. (4) No business shall be transacted at any meeting unless at least seven members, including four from amongst the members mentioned at clauses (a) to (d) of sub section (3) of section 3 and three from clauses (e) to (j) of the said sub section are present : Provided that no quorum shall be required for next meeting adjourned for want of quorum. (5) All questions arising at a meeting shall be decided by the majority of the members present and voting, and in case of equality of votes the chairperson presiding at the meeting shall have a deciding vote. (6) The Authority shall have an Annual General meeting ordinarily in the month of March every year in which Auditors report shall be placed and Annual Budget of the Authority is discussed and finalized.

8. Functions of the Authority.

- The functions of the Authority shall be to - (a) oversee the formulation and execution of development plan to achieve optimum utilization of natural resources for integrated and sustainable development of the basin, the development plan shall include water resources, land use and

development of agriculture, sector development and related matters.(b)ensure effective and timely action for maintenance of ecological balance in the basin including rehabilitation of damaged ecological system;(c)carryout a forestation including planting such species in the valley that may provide sufficient fodder and income to the local residents and such species of plant useful in controlling soil erosion in the River Valley and to provide better and healthy living conditions to local inhabitants;(d)establish and maintain Botanical Garden in the Valley, so that flora and fauna of the area is preserved and protected;(e)Setup and maintain water quality monitoring system and offer community facilities at various rural rehabilitation centers;(f)Setup and maintain disaster management cell/crises groups and disaster fund in the catchments area.(g)Setup and maintain the effective grievances redressal cells at suitable places in the River Valley.

9. Power of the Authority.

(1)Subject to the provisions of this Act and the rules or regulations made thereunder, the Authority shall exercise such powers as are necessary or incidental to, the performance of its functions and discharge of its duties under this Act.(2)Without prejudice to the generality of the provisions of sub-section (1) such powers shall include the powers-(a)to call for information about any development scheme from the development agency executing the same;(b)to approve or disapprove any developmental scheme in the command area of the Valley outlined in the master plan of the Authority and till its finalization to regulate the development in the Fiver Valley undertaken by the other development agency as per sub section (3) to (5) of section-11;(c)to direct any other development agency to conform to the policies of this Authority in respect of any sector;(d)to take assistance of any organization of the Central Government or State Government or any other agency for implementation of its policies and programmes;(e)to form sub-committees of its members for the purpose of accomplishment of its objects, and(f)to delegate any of its functions to any member or officer of the Authority.(3)No work, whether preliminary or otherwise, or, any development scheme outlined in the master plan, shall be initiated in the Valley without prior approval of the Authority.(4)Any changes in the master plan shall be made by the permission of the Authority.(5)All concerned departments including boards/through their Heads in the State shall co-ordinate with the Authority in implementation of its works and policies. And it shall be lawful for the Authority or Executive committee to requisition the services of any departments of the Government on such terms and conditions and on such payment as it may desire.(6)The Authority may delegate such powers to the Executive committee or the chief Executive officer as it may deem fit for effecting proper and timely implementation of the work, orders or directions.Chapter-III Master Plan and Sectoral Plan for Development

10. Preparation of master plan.

(1)The Authority shall, as soon as my be, prepare or cause to be prepared a master plan for the integrated sustainable development of the River Valley on the basis of sectoral development Plan to be ascertained by the Authority before preparation of master plan.(2)The Master Plan shall-(a)define the carrying capacity of the basin;(b)define the various sectors into which the development schemes may be divided and indicate the manner in which each sector is proposed to be developed and the stages by which such development schemes shall be carried out;(c)outline the

development schemes with alternative schemes for the development of the basin;(d)demarcate the land for various uses and purposes; and(e)serve as basic pattern of framework within which the development schemes may be prepared.(3)The Master Plan may provide for such other matters as may be considered necessary for the sustainable development of the River Valley.

11. Preparation of Sectoral plan and regulation of Development in the river Valley.

(1)As soon as may be, after the preparation of the Master Plan under section 10, the development agencies shall proceed with the preparation of the sectoral development plan in accordance with the Master Plan.(2)A Plan for the sector prepared under sub section (1) shall conform to the stipulations and norms lay down by the State Government and the Central Government.(3)After the establishment of the Authority for the River Valley no development of land shall be undertaken or carried out or continued in that area by any person or body including a department of Government or any undertaking in public or private sector, unless permission for such development has been obtained in writing from the Authority in accordance with the provisions of this Act.(4)After the coming into operation of any of the plans in any such area no development shall be undertaken or carried out or continues in that area unless such development is also in accordance with such plans.(5)Notwithstanding anything contained in sub-section (1) and (2), the following provisions shall apply in relation to development of land in that area by any department of the State Government of the Central Government or any local Authority or persons or body corporate-(a)When any such department or local Authority intends to carry out any development of land it shall inform the Executive Committee in writing of its intention to do so giving full particulars thereof, including any plans and documents, at least 90 days before undertaking such development;(b)In the case of a department of any State Government or the Central Government or persons or body corporate if the Executive committee has any objection shall inform such department of the same within six weeks from the date of receipt by him under clause(a) of the department's intention, and if the said committee does not make any objection within the said period the department shall be free to carry out the proposed development;(c)Where the Executive committee raises any objection to the proposed development on the ground that the development is not in conformity with any Master plan or sectoral plan prepared or intended to be prepared by it under this Act or on other ground, such department or the local Authority, as the case may be, shall-(i)either make necessary modifications in the proposal for development to meet the objections raised by the Executive Committee; or(ii)submit the proposals for development together with the objections raised by the Executive Committee or the Authority for decision under clause (d);(d)the Authority on receipt of proposals for development together with the objections of the Executive Committee may either approve the proposals with or without modifications or direct the department or the local Authority, as the case may be, to make such modifications as it considers necessary and he decision of the Authority shall be final.

Chapter-IV Finance, Account and Audit

12. Fund of the Authority.

(1)The Authority shall have and maintain its own fund and all receipts of the Authority, including any money receivable from the State Government or the Central Government by way of grant or

otherwise, shall be credited thereto and all payments by the Authority shall be made therefrom.(2)The Authority shall be provided by the State Government with such finances as may be necessary for carrying out the purposes of this Act.(3)The fund shall be applied towards meeting the expenses incurred by the Authority for carrying out the purposes of this Act and for no other purpose.(4)All money lying for the maintenance of Bhagirathi River Valley or its development with any other Authority, Department, corporation or with the Government shall be credited to the fund of the Authority provided further the State Government may give the 20% out of the power share revenue received or receivable by it from the Tehri Dam or such other body or corporation, generating electricity in the same River Valley or such other Corporation engaged in the like activity at other places of the River Valley in the State, to the Authority provided further the amount so received from such power share may be invested in the development work in or around the may be invested in the development work in or around the River Valley.

13. Opening of Account, Budget and AGM.

(1)The fund of the Authority shall be deposited with the Nationalized bank or other reputed bank approved by Reserve Bank of India, by opening a account as the Authority or Executive Committee may determine and shall be operated by the Chief Executive officer or Additional Chief Executive officer and the finance Officer or such other Officer as the Authority may authorize in this behalf.(2)Authority may open such number of Bank Accounts of the Authority at such places as it may deem necessary.(3)The Authority shall prepare in such form and at such time, as may be prescribed, its budget for the next financial year showing the estimated income and expenditure and shall forward a copy thereof to the State Government before February 15 every year such budget be laid before the Authority in the annual general meeting for approval.

14. Accounts and Audit.

(1)The Member-Secretary of the Authority shall maintain proper accounts and other relevant records of the Authority and prepare an annual statement at the close of each financial year and shall place it before the Authority and a copy thereof shall be sent to the State Government..(2)The Annual accounts of the Authority shall be audited by an experiences Chartered Accountant or equivalent person as may be appointed by the Authority.(3)The audited accounts of the Authority shall be placed every year before the Authority for approval on or before such date as the Authority may direct.

15. Annual Report.

- The Authority shall prepare an annual report of its activities during the year and submit the report to the State Government and a copy thereof to the Central Government in such form and before such date as the State Government may specify.

Chapter-V Other powers of the Authority

16. Power of entry.

- Any officer or employee of the Authority specially authorized by the Authority, may, at all reasonable times, enter upon any land or premises and do such things as may be reasonably necessary for the purpose of lawfully carrying out any of its work, or, making any survey, exploration and prospecting, preliminary or incidental to the exercise of powers or the performance of functions by the Authority under this Act.

17. Power to issue directions.

- The State Government and the Central Government may, from time to time, issue to the Authority such directions as in its opinion may be necessary or expedient for carrying out the purposes of this Act, and it shall be the duty of the Authority to comply with such directions.

18. Power to make regulations.

(1)The Authority may, with the previous approval of the State Government, make regulations not inconsistent with the provisions of this Act for the administration of the affairs of the Authority.(2)In particular and without prejudice to the generality of the foregoing powers, the Authority may make regulation providing for-(a)the procedure in regard to the transaction of business of the Authority or its committees.(b)the appointment, service conditions, functions, and duties of the officers and employees of the Authority.(c)the constitution, powers, duties and functions of the committees of the Authority.(d)the powers and functions of the technical experts.(e)any other matter for which provision is to be, or may be, made in the regulations for fulfilling the objects of the Act.

19. Borrowing powers of Authority.

- Authority may with the consent of or in accordance with the terms of any general or special authority given to it by, the Central Government or as the case may be by the State Government, borrow money from any source by way of loans, issue of Bonds, Debentures or such other Instruments, as it may deem fit for discharging all or any of its functions under this Act.

20. Establishment of Head office and Branch office of the Authority.

- Authority may open its Head Office at such suitable place in the River Valley of Tehri district and may further open such of its branch offices at such place or place as it may require.
Chapter-VI
Protection and prohibition of certain activities

21. Requirement of permission for major developmental, constructional and mining activities in the River Valley.

(1) No Major constructional or Major Developmental activity in contravention of master plan or sectoral plan shall be carried out in the River Valley provided if any person or body intends to carry out activities other than mentioned in sub section one of this section, he shall inform in writing to the Authority with its complete plan and if the Authority does not raise any objection within sixty days from the receipt thereof the no objection shall be deemed to have been granted. (2) No construction or development shall be permitted in the catchment area of River Valley or near the Reservoir/Dam in contravention of the master Plan or Sectoral Development plan. Except for public purpose like construction of the Bridges, preventing floods, control of soil erosion, construction of hydel projects etc. or any work incidental thereto. (3) No commercial mining activity shall be carried out in the catchment area of River Valley without the permission of the Authority provided no such permission shall be granted for any mining activity on the banks of the Rivers or Dam/Reservoir which may cause soil erosion. Explanation. - (a) for the purpose of this section the major developmental or constructional activity means the activity requiring excavation of soil upto the depth of three feet or more in an area comprised in the Master Plan or Sectoral Plan and having an plinth area of more than seventy five square metres in a double storey. Provided no such permission or NOC is required for the following activities - (i) Temporary structure and thatched house to be used as cattle-shed; or (ii) establishment of small water mills; or (iii) extension of existing house subject to the condition mentioned in sub section (2) of section 21 and its explanation; or (iv) construction of retaining walls or boundary walls used for the protection of existing house or agricultural fields or for maintenance of Roads and Pathways; or (v) emergency construction raised after having natural calamities and disasters in the area : Provided further the Executive committee or its duly Authorized officer may see that ecology of the area is not affected by the construction referred as above. (b) the local inhabitants may take minor minerals for their household requirement without obtaining permission of the Authority if such mining does not come within the preview of sub-section (3) of this section and subject to the fulfillment of conditions specified in other laws and rules prevailing for the time being in force.

22. Overriding effect.

(1) Provisions contained in any other Act, Rules or regulation made or notification issued by the Government which are inconsistent with the provisions of this Act and as applicable to the area of the River Valley shall cease to apply from coming into force of the Act. (2) The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other Act, law, custom, usage or contract. (3) Save as otherwise provided in sub-section (1) the provisions of this Act shall be in addition to and not in derogation of any other Act. Chapter-VII Offences and penalties etc.

23. Offences.

(1) Any person or director in relation to a firm who at the time when the offence was committed was in charge of and was responsible for the affairs of the company or for the conduct of the business of the company who undertakes or carried out major development on the land in contravention of the Master Plan or Sectoral Plan as mentioned in section 10 and 11 or contravenes the provisions of section 21 of this act shall be punishable with fine which may extend to twenty thousand rupees and in case of continuing offences with further fine which may extend to one thousand rupees for

everyday during which such offence continues or three times the assessed value of construction so raises, which ever is greater. Provided further if any material is seized from the offender the same shall stands forfeited in favour of the Authority.(2)Any person who obstructs the entry of a person Authorized under section 16 to entry into or upon any land or building or molests such person after such entry shall be punishable with imprisonment for a term which may extend to six months or fine of one thousand rupees or both.(3)Whosoever-(a)Whoever destroys, pulls down, makes injuries or defaces any pillar, post or stake fixed in the ground or any notice or other matter put up, inscribed or placed by or under the directions of the Authority; or(b)Damages any works, property, belonging to the Authority; or(c)Fails to furnish to the Authority or any other officer of the Authority any information required by the Authority or such officer for the purpose of this Act; or(d)For the purpose of obtaining any permission or NOC under section 21 of the Act makes a statement which is false in any material particular or in any way pollutes the River Valley or otherwise contravenes the provisions of this Act shall be punishable with imprisonment for a term which may extend to one months or with fine which may extend to five thousand rupees or both.Explanation. - in this section director in relation to a firm also means a partner of the firm.

24. Jurisdiction of court.

- No court inferior to that of Judicial magistrate of first class shall try offence punishable under this Act.

25. Cognizance of offences.

- No court shall take cognizance of any offence under this Act except on a complaint in writing made under the signature of an officer duly authorized by the Authority in this behalf.

26. Sanction of prosecution.

- No prosecution for any offence punishable under this Act shall be instituted except with the previous sanction of the Chief Executive Officer or such other officer of the Authority not below the rank of Additional Chief Executive officer.

27. Fines when realized to be paid to the Authority.

- All fines realized in connection with the prosecutions under this Act shall be paid and credited to the fund of the Authority.

28. Compounding of offences.

(1)Any offence made punishable under this Act may either before or after the institution of proceedings be compounded by the Authority or any officer authorized by it in that behalf by general or special order on such terms including any term as regards to payment of the composition fees, as the Authority or such officer may think fit.(2)Where an offence has been compounded the offender if

in custody shall be discharged and no further proceeding shall taken against him in respect of the offence compounded. Chapter-VIII Supplemental and miscellaneous provisions

29. Finality of orders made under this Act.

(1) Any order passed or decision taken by the Authority or officer in respect of matters to be determined for the purposes of this Act shall, subject only to revision if any provided under this Act, be final. (2) No such order or decision shall be liable to be questioned in any court of law.

30. Revision.

(1) Any person or body aggrieved by the order of the Authority may file revision before the Chief Secretary of the State Government which may pass such order in relation to as it may think fit. (2) No order sub-section (1) shall be made to the prejudice of any person unless he has had a reasonable opportunity or making his representation. (3) Every application to the Chief Secretary of the State Government for the exercise of its powers under this section shall be made with in one month from the date on which the order, decision or direction to which the application related was communicated to the applicant. Such application as far as possible be disposed of within three months.

31. Imposition of cess & fee.

(1) Notwithstanding in any other law and subject to any limitation imposed by parliament by law relating to mineral development, the Authority may impose a cess on mineral rights in the River Valley at such rates as may be prescribed. (2) Any cess imposed under this section shall be subject to confirmation by the State Government and shall be leviable with effect from such date as may be appointed in this behalf by the State Government. (3) The Authority may take such fees for giving NOC or permission for the activities mentioned in section 21 of this Act or for other activities as may be prescribed.

32. Member and other officers to be public servant.

- All members, the officers and employees of the Authority shall be deemed to be public servant with in the meaning of section 21 of the IPC.

33. Protection of action taken in good faith.

- No suit, prosecution or other legal proceeding shall lie against the Authority or any member or officer thereof in respect of anything which is in good faith done or intended to be done in pursuance of this Act and regulations made thereunder.

34. Repeal and savings.

- The Uttar Pradesh Bhagirathi River Valley act, 1999 (U.P. Act No.14 of 1999) is hereby repealed. Notwithstanding such repeal any thing done or proceeding taken, notification issued, order passed and decision made by any Authority or officer under the repealed Act shall in so far as they are not inconsistent, with the provision of this Act be deemed to have been made, issued, passed or done by the Authority or Officer under the corresponding provision of this Act and shall have effect accordingly until they are modified, cancelled or superseded under the provision of this Act. Any asset acquired or money received under the repealed Act or by the like Authorities or the Boards constituted under other Acts applicable in the area to which its Act apply shall stand transferred to the Authority under this Act.