

Chapter 2

Land Management in Indian Railways

2.1 Highlights

- Separate land management cells were not in existence in most of the zones and the divisions. Even in the zones/ divisions where such cells existed, the officials were entrusted with other duties. In some zones/divisions, no training was imparted to officials posted in these cells. Officials nominated as Estate Officers to decide the cases of encroachments under PPE Act were not given proper training.

(Para 2.9)

- Delays in acquisition of land had an adverse impact on railway projects. Mutation of land acquired was not done with the respective revenue authorities. In some cases, the land acquired for the projects were not handed over to the user departments. Forty one cases of land acquisition processed as far back as five to ten years were still not finalised.

(Para 2.10)

- Land records registers were not being maintained at zonal, divisional and field levels as per codal provisions and instructions issued by Railway Board. As such, the land holding position reported at various levels by different authorities was not susceptible to verification. Land boundary verification and encroachment inspection registers were not being maintained by 97 out of 212 SSEs offices checked.

(Paras 2.11.2 to 2.11.4)

- Inconsistencies prevailed in reporting facts and figures on various basic data pertaining to land holdings, vacant land, encroachments, land plans, verification of records with the State Revenue Authorities, construction of boundary walls etc at various levels of the zones. Instances of title disputes/forged sale of land by the private parties were noticed in some zones. In one case in WR, railway administration failed to take back timely possession of land measuring 159.91 hectares from the State government 32 years after closure of the narrow gauge line on Ujjain-Agar section as it could not prove its ownership.

(Para 2.11.5)

- There was shortfall in construction of boundary wall in various divisions of the zones. Shortfall in construction of boundary wall was attributed to shortage of funds, non-finalisation of estimates, non-finalisation of tenders, failure of contractors and non-availability of material.

(Para 2.11.8)

- There were 220152 encroachment cases as on 1 April 2004. Though an assurance was given in the Parliament during 1999 that there will be

no fresh encroachments, as many as 16109 new encroachments crept in. Encroachments observed in 46 locations during joint inspection conducted by the Audit and the Railway were not shown/ shown inaccurately in the railways records by the concerned SSEs/SEs. There were 26,108 encroachments in the safety zone at the end of the year 2006-07 out of which 1249 were new encroachments.

(Para 2.11.9)

- 45581 cases were pending under the PPE Act. Pendency of cases was attributed to non-production of required documents i.e. Khasra of land, Land plan & Title deed of land etc. In 21654 cases decided by the Estate Officers, orders to evict encroachers from the land were not implemented.

(Para 2.11.10)

- The policy of charging of license fee for the land given to CONCOR on the basis of TEUs handled instead of linking it with the market value of land resulted in loss of revenue to the extent of Rs.551.26 crore during the period 2004-07.

(Para 2.12.3)

- Out of 33504 cases under licensing, agreement is yet to be executed in respect of 14305 cases. There were delays in renewal/execution of license agreements ranging from 3 to 5 years in 90 cases, 5 to 10 years in 2427 cases and beyond 10 years in 16588 cases. A comparison of the land value based on 1985 valuation and the current market value in 55 cases in six zones and Metro Railway indicated that in 42 cases, the license fee fixed was lower than the current market value resulting in loss of revenue of Rs.15.69 crore during the period under review.

(Para 2.12.6.)

- There was no uniformity in levy of various charges among the zones and within the divisions in a zone. Railway Board has not issued any guidelines ensuring uniformity in recovery of way leave charges.

(Para 2.12.7)

2.2 Gist of Recommendations

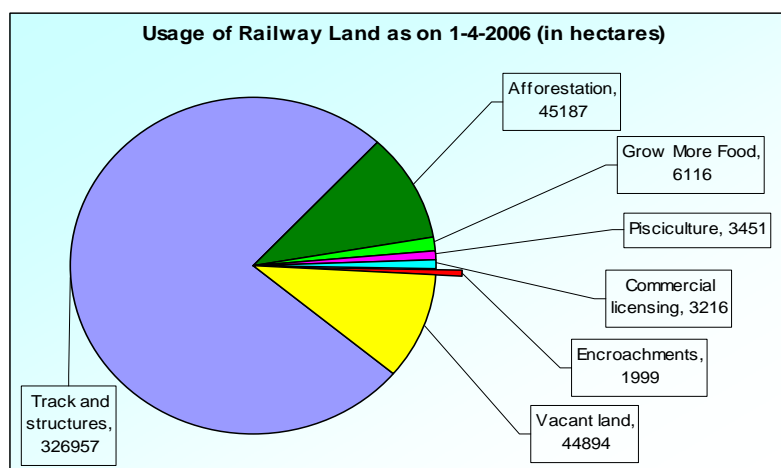
- IR needs to strengthen its land management organisation by paying greater attention to staffing and training related issues.
- Cases of delays in land acquisition should be dealt with through constant liaison with state revenue authorities etc in view of their adverse impact on projects. The procedure for mutation and handing over of land to the construction department should be streamlined in order to minimise delays.
- IR needs to address the issues of inconsistencies in data, deficiencies in maintenance of different registers and documents and differences vis-à-vis the records of state revenue authorities on priority basis.

- IR should make sustained efforts to settle the disputes related to title of land. Further, a review of all such cases should be done and dealt with on a fast track basis.
- Priority should be accorded to construction of boundary walls to prevent encroachment.
- The removal of existing as well as fresh encroachments, especially in the safety zone should be taken up on war footing. Systemic mechanisms such as regular inspection to prevent encroachment, joint inspection by SEs/SSEs at the time of handing over charge and coordination with RPF need to be strengthened.
- The issues of pendency and delays in the settlement of encroachment cases, non-implementation of orders, record keeping and training in the implementation of the PPE Act deserve special attention. The amendment of the PPE Act should also be expedited.
- IR should accord priority to the resumption of land licensed under Grow More Food scheme from state governments and others. The license fee should be determined in a scientific manner. The entire system of maintenance of records should be reviewed and deficiencies thereof be addressed.
- The practice of linking license fee to turnover in respect of depots leased before August 2005 should be dispensed with, especially in the context of the fact that IR is no longer the sole owner of CONCOR. Actual requirement of land for container operations should be assessed in a systematic manner before entering into lease agreements.
- The mechanism of levying license fee from Central Warehousing Corporation should be revisited to ensure a steady and market linked source of income for IR.
- Agreements should be executed before handing over of sites to IRCTC and sites identified should be handed over without any delay. The payment of license fee should be pursued with IRCTC.
- The issues of under recovery and non-recovery of license fee, non-revision of license fee and failure to execute agreements need to be monitored at Board level. Revision of decisions pertaining to rate of license fee should be minimised to avoid administrative complications.
- Railway Board should ensure uniformity in the levy of other charges related to way leave facilities and regular revision of these charges. Outstanding charges should be recovered from defaulters.
- Handing over of the balance sites identified should be completed early.

2.3 Introduction

Railway land has been defined under the Railway (Amendment) Act 2005 as “any land in which a Government Railway has any right, title or interest”. Indian Railways (IR) owned 4.32 lakh hectares of land as on 01 April 2006. IR

is the second largest owner of land in the country after the defence forces. 75.71 per cent of the land is used for operational and service infrastructure and the balance is licensed for various purposes such as afforestation, pisciculture, grow more food scheme etc. Land is also licensed for commercial purposes. A significant quantum of land (approximately 10.4 per cent) is vacant and thus not put to any use. The area of land under encroachments is considerable (1999 hectares). The need for effective acquisition, custody, utilisation and disposal of land is therefore essential in view of the implications for IRs operations, safeguarding of one of its most valuable assets and the potential for revenue generation. The break-up of the usage of railway land as on 1 April 2006 is as given below:



Given the vast expanse, location and value of railway land, it is imperative that IR manages both the custody of land and its utilisation to its best advantage.

2.4 Organisational Structure

Land management at the level of the Railway Board is the responsibility of the Land Management and Amenities Directorate, which works under the overall direction of the Member (Engineering). The primary responsibility of the Directorate is to lay down the policy in regard to land management and ensure/monitor its implementation at the Zones/Divisional level by calling for various reports. At the zonal level, the Principal Chief Engineer under the General Manager is the implementing and coordinating authority for the various policies/orders issued by the Railway Board. He is assisted by Chief General Engineer and Deputy Chief Engineer/Land Controlling Officer. The Sr. Divisional Engineer at the divisional level is responsible for execution of various instructions for regulating usage of land, prevention and removal of encroachments, execution of agreements for commercial licensing etc. In the field, the Assistant Engineer/Senior Section Engineer (Works/Permanent Way) is responsible for maintaining land records, demarcation of land boundaries and detection and prevention of encroachment etc. Commercial exploitation of Railway land from January 2007 is being pursued with the help of a newly formed organisation, the Rail Land Development Authority (RLDA).

2.5 Audit objectives

The performance audit of Land management in IR was undertaken with a view to assess:

- Whether the mechanism for acquisition of land was effective in facilitating the completion of projects for which land was to be acquired.
- Whether adequate safeguards were in place to prevent loss of land.
- Whether IR took prudent and effective measures for utilizing the available land (other than the land required for operational purpose) and ensuring optimum revenue generation from the same.

2.6 Audit scope, methodology and criteria

The term 'Land Management' covers a broad scope of activities which includes proper maintenance of land records, control of land use, detection, prevention and removal of encroachments, maintenance of land boundaries, utilisation of land for various purposes by licensing/leasing to other organisations/parties for commercial/ other uses including afforestation etc. The performance audit which covers a period of three years (2004-07) attempts to evaluate these activities through examination of records at various levels (Board, Zone, Division, Field units), cross verification of the records of IR with those of the state revenue authorities, joint inspection of certain aspects like encroachments and vacant land with railway officials and analysis and comparison of data collected. The relevant provisions of Indian Railway Act 1989, Land Acquisition Act, Public Premises (eviction of Unauthorized Occupation) Act 1971, Railway Protection Force Act 1957, Railways Amendment Act 2005, rules and provisions contained in the Indian Railway Code for Engineering Department, Indian Railway Works Manual (IRWM) and the guidelines and instructions issued by the Railway Board from time to time were used as criteria.

2.7 Sample selection

At the macro level the data was collected for all the divisions, zonal headquarters and Metro Railway/ Kolkata. However, for review of specific issues viz. land holdings, land boundaries, encroachments, commercial licensing, way leave cases etc, a sample of one or two important divisions of the zones were selected. Within these selected divisions, 25 per cent of the Assistant Engineers (AENs) were selected for detailed review. Hundred per cent Senior Section Engineers (Sr.SEs/SEs) under these selected AENs were reviewed. The methodology of sample selection and zone wise details of divisions selected are given in **Annexure II**.

2.8 Acknowledgement

The audit plan including the audit objectives were discussed by Principal Directors of Zonal Audit Offices in meetings with the respective General Managers/ Chief Engineers/Financial Adviser and Chief Accounts Officer (FA&CAO) in entry and exit conferences. The co-operation of the Ministry of Railways as well as Zones during the meetings and in the course of audit is

acknowledged. Audit recommendations were discussed in January 2008 with Member (Engineering) after issue of the Report to the Ministry of Railways in December 2007.

2.9 Land Management Organisation

Land management is one of the important functions of the Engineering department. An Expert Committee on Commercial Exploitation of Railway Land (ECCEL), established in 1992, recommended (September 1995) setting up of a separate Land Management Organisation for preventing encroachments into railway land. Accordingly, Railway Board decided to set up a separate Land Management Organisation as Pilot Projects in Mumbai Division of Central and Western Railways. Encouraged by the satisfactory performance of the pilot projects, Railway Board decided to strengthen the land management organisation at Divisional and Zonal levels in the Chief Engineers' conference held in December 2000. Zones were requested to send their views in this regard. Based on the views of Zones, Director (Land Management) submitted a proposal for creation of Land Management Organisations at Zonal and Divisional levels. However, Advisor (Land and Amenities) opined (September 2001) that the Divisional Engineers with the assistance of Law Assistants and Draftsmen were effective in prevention and removal of encroachments, updating of land plans etc and suggested that the Zones adopt an organisation which they consider practical and appropriate as per prevailing situation. It was also stated that the posts of Chief General Engineers (CGEs) were already created in Zonal Headquarters. Audit observed that the decision to drop the proposal for setting up of a separate Land Management Organisation was not taken with the approval of Board (Member Engineering) which was the appropriate authority to do so. A review in audit revealed the following:

- In eight out of 16 zones (ER, SCR, NEFR, WCR, CR, NR, NER and WR), a separate land management cell exists at the zone level. There is no such separate cell in eight zones (SR, ECoR, SWR, SECR, NWR, SER, ECR and NCR).
- There was a separate land management cell in 23 divisions (eight zones) out of 67 divisions. In 44 divisions in 13 zones, such cells did not exist. In SCR, NEFR and ECR, such cells were created in all the divisions whereas in NR, NWR, ER, WCR and CR, such cells were created in some of the divisions¹⁷. Audit however observed that even in cases where such cells existed, the officials were entrusted with other duties.
- Though surplus staff bank exists in five zones (SR, ER, NEFR, SECR and WR) and one division each in WCR (Kota), NWR (Bikaner) and redeployment was done only in one division in WCR (Kota).
- Despite suggestions from zones for the creation of exclusive legal cells to deal with land related cases, such cells were not created at zonal and

¹⁷ Two (Ambala, Lucknow) out of five in NR, Two (Jaipur, Ajmer) out of four in NWR, One (Sealdah) out of four in ER, One (Kota) out of three in WCR, One (Mumbai) out of five in CR

divisional levels in any of the zones except in one division in NR (Ambala).

- Despite Railway Board's instructions to examine the feasibility of taking some Kanoongos/ Patwaris on deputation from the State governments, there were no tangible results in this direction.
- Training was imparted to officials posted in land management cells in 11 zones (SR, SWR, NCR, SER, SCR, NEFR, SECR, WR, NER, ECoR and CR). In three zones (WCR, NWR, NR) training was imparted in some of the divisions¹⁸. In some cases training was imparted only to officers (four zones-SR, NCR, SECR and WR and two divisions in WCR (Jabalpur, Bhopal). In ER and ECR, no training was imparted to the officials posted in land management cells.
- No training was given to Estate officers (EOs) in five zones (SR, ER, ECR, SECR, NCR) and in some of the divisions in WR, NR and CR¹⁹.
- Previously, a compendium of instructions regarding land matters was issued by the Railway Board to zones. After introduction of Railnet, this practice was discontinued. Audit observed that there was no set procedure in the zones for downloading these instructions. In SCR and NR, there was no mechanism to watch the receipt of circulars and maintain the codes and manuals up to date for reference at Divisional and field levels.

These weaknesses in the Land management organisation resulted in several deficiencies in the management of land which have been brought out in paragraphs 2.10 to 2.13.

Railways has stated that it will direct the zones to review and strengthen the land management organisation and also give emphasis to impart training to the officers and staff involved in land management.

Recommendation

IR needs to strengthen its land management organisation by paying greater attention to staffing and training related issues.

2.10 Land Acquisition

Railways acquire land for their requirements through the State Governments. Acquisition of land on Railways is regulated under Land Acquisition Act 1894. Notification, award enquiry, passing final award, disbursement of payments etc. are done by the District Collector/Special Land Acquisition Officer. In the process, approximate land acquisition cost including solatium and interest etc. as per statutory provisions is deposited in advance with the State Government by Railways. As per Para 807 (f) of IRWM, in case of construction projects involving land acquisition, it is the responsibility of the

¹⁸ Jabalpur, Bhopal divisions in WCR, Bikaner and Jodhpur divisions in NWR, Lucknow, Moradabad and Ambala divisions in NR.

¹⁹ Vadodara, Ratlam, Ahmedabad, Rajkot, Bhavanagar (WR), Firozpur (NR), Bhusawal, Mumbai and Nagpur (CR).

construction organisation to hand over the land acquired free of all encroachment and along with all specified records to the open line engineers. These records include Land record register duly filled in and original papers viz. Notification, awards, certificates of handing over and taking over of land, final land plan and schedule signed by the collector etc.

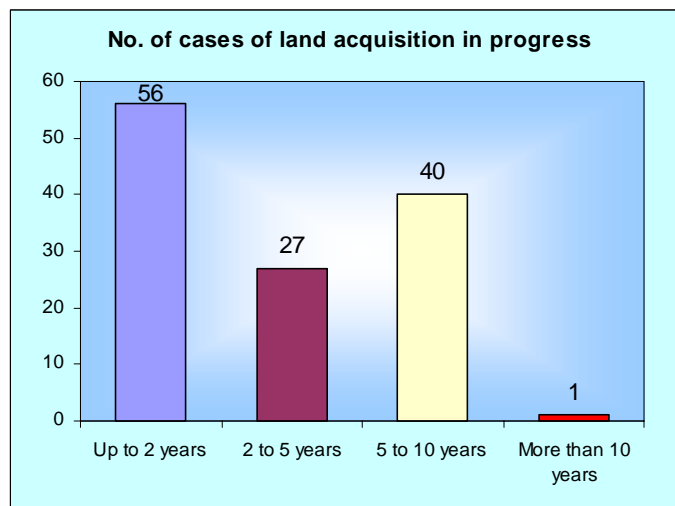
Completed cases

Audit review of 129 cases of land acquisition (completed cases) in 13 zones and Metro Railway revealed the following:

- There were delays of more than two years in 71 out of 129 cases of land acquisition.
- Delay in acquisition of land was attributed mainly to delayed submission of the estimate by State Governments, delay in obtaining sanction from Railway Board for payment of additional amount, non-cooperation from State Governments, delay in approval of the Ministry of Forest and Environment, removal of encroachment including religious structures, court cases and non-clearance from transport department etc.
- Out of 129 cases, in 60 cases, mutation of land was not done with the respective state revenue authorities. In 48 cases, mutation work was in process. In seven cases (SCR-6 and SER-1), status of mutation was not available. Mutation was done in 14 cases only.
- In 44 cases, the acquired land was not handed over to the construction department/open line. In seven cases, the status of handing over the land was not known. In two cases, handing over was in process.

Cases in progress

During review of 124 cases in progress in 14 zones and Metro Railway, it was observed that 56 cases were up to two years old, 27 cases were two to five years old and 41 cases were more than five years old. The main reasons for delay were court cases, delay on the part of state government, encroachments, commercial rate demanded by state governments, non disbursement of amount etc. (**Annexure III**).



Railways has stated that the delays are mainly on account of sanctions/clearances from local bodies/central government (MOE&F) and that a Railway (Amendment) ordinance 2008 has been promulgated to expedite the

process of land acquisition. It has also stated that details of cases where mutation of land has not been done and reasons thereof will be sought from the zones.

Recommendation

Cases of delays in land acquisition should be dealt with through constant liaison with state revenue authorities etc in view of their adverse impact on projects. The procedure for mutation and handing over of land to the construction department should be streamlined in order to minimise delays.

2.11 Land Records

Basic land records such as Land Records Register, Land Boundary Verification Register and Encroachment Inspection Registers are required to be maintained in accordance with instructions contained in Para 850 of Indian Railways Code for Engineering Department and also as per Paras 806, 807 and 812 of Indian Railways Works Manual. The maintenance of these registers was also reiterated in the Joint Procedure Order (JPO) issued by Chief General Engineer/Zones during the year 2001 and 2002 as per instructions issued by the Railway Board in September 2001. Audit observations in respect of the maintenance of land records are detailed below:

2.11.1 Land Plans

In terms of Para 850 of Engineering code, a complete series of land plans for the whole line should be kept in the office of the Chief Engineer of Railways. Divisional/Executive Engineers shall be responsible to ensure that records are carefully preserved and kept up to date by noting all changes on the copies of the authorized land plans in their possession. Review of the availability, certification, mutation, scanning/digitations of land plans in various zones by audit {**Annexure-IV (a)**} revealed the following:

- As per the data made available to audit, as on 31-3-2007, the total land plans available with the zones were 45533 nos. However, area was not indicated in land plans of nine zones (WCR, WR, NER, SCR, ECoR, ER, NCR, SER and ECR). 1038 nos. land plans were missing in 11 zones (ECR, NCR, ECoR, NEFR, ER, NER, SCR, NWR, SWR, WCR, WR). WCR (298), ECR (222), NCR (115) and CR (105) accounted for more than 50 per cent of the missing land plans.
- Out of the available land plans, 37896 nos. land plans were verified/certified by the state revenue authorities with 100 per cent verification in NER and SER.
- Out of 16 zones, mutation was not done in five zones (SWR, NER, NR, SR and SECR) and position of mutation was not available in four zones (ER, WR, ECoR and NCR). In six zones (SER, NWR, WCR, SCR, NEFR, ECR), 8912 out of total available 18236 land plans were mutated with the state revenue authorities.
- Out of the total land plans available in 16 zones, only 63 per cent land plans (28726 nos.) were scanned/ digitised. Status of scanning of land

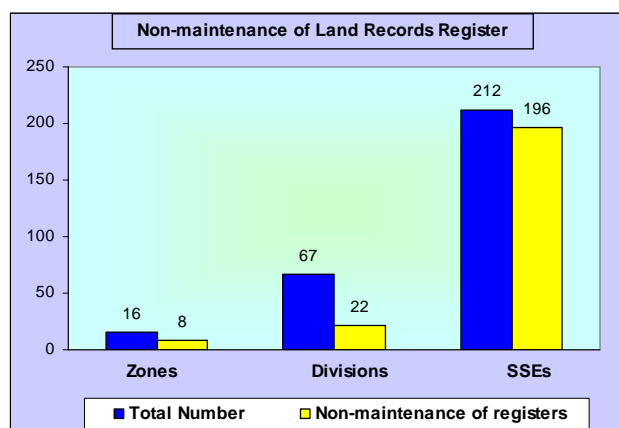
plans in SER and SECR was 100 per cent whereas in ER, no scanning was done. In two zones-WCR and NEFR, the progress of scanning was between 21 to 31 per cent only.

Detailed study of land plans revealed deficiencies such as non-retrieving of the missing land plans, railways being unaware of the missing land plans, non-availability of the land plans for the land acquired, plan numbers assigned by the revenue authorities not available in the land plans, non-preserving of the land plans in the form of micro films, non-availability of the land plans with the SSE/AEN levels etc. Details are given in **Annexure IV (b)**. In March 2007, the Railway Board, in their Action Taken Note on Audit Para No. 5.1 of C&AG of India's Report for the year 1997-98, admitted that effective pursuing and monitoring of certification of Land Plans was hampered as sufficient staff could not be provided.

2.11.2 Land Records Register

Land records Register should contain details of land plans, area, kilometrage, cost, description, reference to correspondence, government resolutions and date of sanctioning the transfer of land, etc. This register has to be maintained in Headquarters/Chief Engineer's office as well as in Divisional/Executive Engineers' office. As per the model JPO of September 2001, a register of total railway land with up to date entries shall be maintained by the Section Engineers (Works) of the Engineering Department. A review in audit revealed the following:

- Land Records Register was not being maintained in 8 out of 16 zonal headquarters (SR, SWR, ER, NR, WCR, ECR, NWR and NCR) and in CLW. In cases where these registers were maintained (NER, WR, SECR, SCR,



CR and NEFR), defects such as failure to adhere to the prescribed format (WR, SECR), incomplete data (WR, SECR, SCR and NEFR), entries/information not authenticated by the competent authority etc (WR, SCR, CR and NEFR) were observed. Position of maintenance of this register in ECoR and SER was not available. On CR, no entries were found in the register after 1996, the reason being non-availability of particulars of land acquisition from the construction department. Information filled in had not been authenticated by the competent authority.

- Out of 26 divisions test checked, in 22 divisions on 14 zones (NER, ER, SR, SWR, NR, WR, SER, SCR, ECoR, CR, NEFR, ECR, NWR and

NCR), these registers were not maintained. Of the balance, in four divisions on four zones (NR, WR, SECR and WCR), they were not in prescribed format (WR), data was incomplete (NR, WR and SECR) and entries/information were not authenticated by the competent authority (NR and WR).

- Out of 212 SSEs test checked, these registers were not maintained by 196 SSEs. Though these registers were maintained by 15 SSEs, deficiencies such as non-maintenance in the prescribed format (5 SSEs), incomplete data (7 SSEs), and entries/information not authenticated by the competent authority (8 SSEs) were observed. In ER, all the SSEs/SEs (Works) did not maintain these registers. In NER, no land was under possession of one SSE.
- Eastern Railway Administration, in its reply to the questionnaire issued by the Standing Committee on Railways for examination of the subject “Land Management”, claimed (October, 2004) that Land Registers were being maintained in all divisions and monitored in terms of the provisions as laid down in IRWM. In response to the questionnaire issued by audit, the Principal Chief Engineer stated that the subject register was being maintained by the Divisional/Executive Engineers who, in turn, stated that the registers were being maintained at the sub-divisional level. Detailed review of all the SSE/SE (Works) and all AENs of two selected divisions revealed that no such records were being maintained at the sub-divisional level also. It appears that either the Zonal as well as the Divisional authorities were not aware that these registers were not being maintained, or, though aware of the fact, they tried to shift responsibility.

From the above, it is evident that Land Records Registers were not being maintained at zonal, divisional and field levels as per codal provisions and instructions issued by Railway Board. As such, the land holding position reported at various levels by different authorities was not susceptible to verification.

2.11.3 Land Boundary Verification Register

As per the various provisions, all lands, permanently occupied for the purposes of Railway, shall have their boundaries demarcated in such a manner as to enable such boundaries to be readily ascertained and identified. For this purpose, the boundary of the railway land has to be defined by a continuous wall, fence or ditch or by detached marks, posts or pillars. Guidelines for demarcation of land boundaries, laying of boundary stones, boundary walls, fencing etc as enumerated in Paras 808 to 813 IRWM should also be followed. Land Boundary Verification Register should contain the details of Boundary stones available along the railway boundary on both right and left side of the track with location thereof, for the land under their control. A review in audit revealed that

- This register was not being maintained by 97 out of 212 SSEs offices checked. Out of 114 who maintained the register, 13 SSEs did not maintain it in a complete manner. Details furnished in the register were not

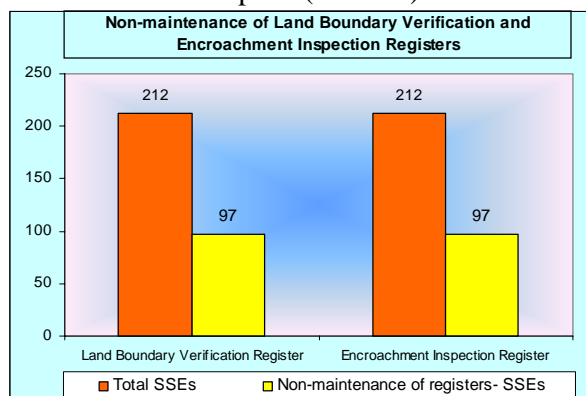
authenticated by 26 AENs/ DENs/Sr.DENs. In NER, no land was under possession of one SSE.

- In respect of SSE/KRBA/SECR, register was never verified by the competent authority. In respect of registers maintained by the SSEs/SEs test checked on BRC division (WR), authentication by respective ADENs (except register maintained by Sr.SE (W) PRTN, GDA and BH) and DEN for 2006-07 was due (except register maintained by Sr.SE (W) PRTN).
- Register maintained by SSE/Valsad/WR was stated as sent to division office for authentication in 2003 and not received back thereafter. The register was not verified since 2003.
- Further, a scrutiny of this register available with the SSEs revealed that in 6 SSEs of SR, out of 2358 boundary stones required to be maintained, 1025 boundary stones (constituting 43 per cent) were missing. Details of corrective action taken were not recorded.

2.11.4 Encroachment Inspection Register

In terms of Para 814(e) of IRWM, a register showing the encroachments on Railway land noticed during inspections by various officials has to be maintained by each SSE duly furnishing the location, name of the encroacher, area encroached, type of encroachment (commercial/residential/cultivation), date of commencement of unauthorized occupation, date on which the encroachment came to notice for the first time, action taken and date of removal of encroachment. The encroachment plan (to scale) shall also be pasted on the right side of the register. A review in Audit revealed that out of 212 SSEs, in 97 SSE offices on 11 zones (NWR, SECR, SER, CR, SCR, WR, NEFR, SR, SWR, NCR and ECR) this register was not being maintained. Though these registers were maintained in 114 SSEs, they were not prepared in prescribed format, data therein was incomplete and entries/information were not authenticated by the competent authority.

Thus, in spite of clear instructions for the maintenance of the above basic records in Engineering Code as well as in the IRWM and reiteration of the same in the JPO issued by the zones, these registers were not being maintained/maintained properly. Deficiencies in maintenance of these records resulted in non-availability of basic land particulars which are essential for effective monitoring.



2.11.5 Inconsistencies in reporting of data

A large number of discrepancies were noticed in the data provided which belied the authenticity of the information maintained at different levels of the Railway Administration. Inconsistencies prevailed in reporting facts and figures on basic data pertaining to land holdings, vacant land, encroachments, land plans, verification of records with the State Revenue Authorities, earnings, construction of boundary walls etc at various levels of the zones. **Annexure V** gives the details. In five zones out of 16 (ER, NR, SCR, ECR and SR), data of total land holdings and vacant lands were not available with all the SSEs. In SER and WR, this data was being maintained only by some SSEs. Therefore, the authenticity of the information furnished at higher levels could not be verified.

2.11.6 Comparison of records of Railway administration with that of the State Revenue department

A review conducted by audit to verify whether the extent of land as exhibited in the land plans available with railway administration tallies with that of the records of the respective State Revenue authorities revealed the following:

- Out of 458 surveys test checked in 16 zones, CLW and Metro Railway, the land area in respect of 43 surveys was greater by 26.985 acres in the records of state revenue authorities. The land area as indicated in the records of state revenue authorities was found short by 1046.5273 acres in 141 surveys. There was no variation with respect to the records of state revenue authorities in 227 surveys test checked. In 47 surveys (ER, ECoR, CR, NEFR, SER, SWR, WR, ECR, SECR and Metro Railway) complete data was not available.

In 184 out of 458 surveys test checked, there were variations in land area to the extent of 1073 acres vis-à-vis the records of the state revenue authorities.
- Detailed comparison of land plans revealed deficiencies such as no action taken by the railways for changing the ownership of the railways in the revenue records, non availability of complete details of land holding/land plans with the SSEs for comparison with the respective revenue authorities etc. Details are given in **Annexure VI**. Thus, failure of the Administration to ensure consistency of the records with those of Revenue Authorities had an adverse impact on the railway administration's rights over their land.

Railways has stated that the zones will be directed to take up the work of reconciliation, certification and computerisation of land plans in a time bound manner. The reply is silent on other deficiencies pointed in respect of various registers. The issue of inconsistency between its records and the records of the state government has also not been addressed.

Recommendation

IR needs to address the issues of inconsistencies in data, deficiencies in maintenance of different registers and documents and differences vis-à-vis

the records of state revenue authorities on priority basis. Computerisation of the registers should be taken up.

2.11.7 Disputes in title/forged sale of railway land

As per para 1004 and 1008 of the Engineering code, it is the duty of railway administration to preserve unimpaired title to all land in its occupation. Audit noticed the following cases of forged sale of railway land, title dispute etc:

- In NEFR, railway land (ditches/pond) measuring 33.3 bighas (480008 sqft) in Alipurduar division, was licensed to a fisherman cooperative society in March 1995 for pisciculture. However, the said society unscrupulously grabbed 12.06 bighas (173666 sqft) railway land (in December 1999) through an ex-parte decree issued by a Civil Judge on production of fraudulent records and also got the ownership changed in his name in the records of Director of Land Records and Survey. Railway administration after noticing this, cancelled the license in September 2001. Despite advice from the Standing counsel for filing an application for setting aside the ex-parte decree (June 2003), no case was filed in the Court of Law to retrieve the land and re-establish the right over the land.
- In NEFR, railway land measuring 735.44 sqm was unauthorisedly occupied by a private party since November 2005. The encroacher constructed a permanent boundary wall on the strength of a sale deed from State Revenue authority of Assam. Though the Railway Administration made efforts to evict the encroacher, it could not succeed due to non-cooperation by the State Administration.
- In WR, Railway Administration failed to take back timely possession of land measuring 159.91 hectares from the State government 32 years after closure of the narrow gauge line on Ujjain-Agar section as it could not prove its ownership. Failure to effectively maintain its records and establish the title of the land resulted in non-exploitation of an asset valuing Rs.85.47 crore.
- In SR, an area of 30 cents of land in Kanjicode, Kerala was encroached by an individual with bogus records obtained with the help of village officers. The report from the State authorities indicated that the property changed hands and the present occupier is the third person. No action has been taken for cancellation of the illegally registered document and repossession of the Railway land.
- In ER, railway land in Mouza Jagdishpur near Dankuni station was being sold by private parties illegally. On investigation, the Railway

Due to failure to take back possession of 159.91 hectares of land from the state government 32 years after closure of a narrow gauge line, WR could not establish its title to the land. Despite SWR making full payment for acquisition of 3.28 acres of land valued at Rs.21.4 crore in Bangalore, land was still in possession of private parties.

Administration discovered that they did not have the original Possession Certificate, without which the land could not be mutated in their favour. The original Possession Certificate of land at Jagdishpur and Baigachi

supplied by CAO/Construction was misplaced and was also not available in the State Government Office. Searching of records in the Land Revenue Office revealed that seven deeds were registered (before April 2001) in connection with sale of Railway land at Jagdishpur Mouza. Although the BL & LRO office was approached several times for mutation, nothing has been done till date and no action could be initiated against the illegal sellers. It was repeatedly reported by the local people that at Baigachi, Jaipurbil, and Chamrail Mouzas, the previous owners were selling the railway land illegally taking advantage of the Railways' inability to legalise the ownership through mutation.

- In SWR, land measuring 3.28 acres in front of the station building acquired in Bangalore for yard expansion was not included in the new station plan. Review of records revealed that after the land was acquired by the Railways, the same land had changed hands six times in different parties' names. The acquired land was still in the possession of private parties, despite railway having paid the full amount for acquisition of this land. The value of the land so lost due failure to take follow up action after the acquisition was assessed at Rs.21.4 crore at present market value.

Recommendation

IR should make sustained efforts to settle the disputes related to title of land. Further, a review of all such cases should be done and dealt with on a fast track basis.

Railways has stated that the details in respect of specific cases are being collected by the zones. However, the recommendation has been noted and zonal railways shall be directed to implement the same in a time bound manner.

2.11.8 Land boundaries

Proper maintenance of land boundary is the first and effective step towards prevention of encroachment. Guidelines for demarcation of land boundaries, laying of boundary stones, boundary walls, fencing etc have been explicitly enumerated in paras 808 to 813 IRWM. All land permanently occupied for the purposes of Railway, should have its boundaries demarcated in such a manner as to enable such boundaries to be readily ascertained and identified. For this purpose, the boundary of the railway land has to be defined by a continuous wall, fence or ditch or by detached marks, posts or pillars. Railway Board stated (July 2002) that the boundary walls needed at approaches to stations in all major cities should be assessed, prioritized, programmed and constructed under revenue expenditure and progress should be monitored. Further, repairs of the boundary walls should be a regular exercise and implementation should be watched by the headquarters. Due to unsatisfactory progress of the construction/maintenance of land boundary, Railway Board in May 2004 ordered that railways should sanction works for construction of boundary walls in the areas vulnerable to encroachment at GMs level and complete the work expeditiously.

Review of the programmed and actual construction of boundary wall in the various divisions of the zones revealed that there was shortfall in construction of boundary as per table given below. {Annexure VII (a)}

Year	No. of zones	No. of divisions	Shortfall up to 50 per cent	Shortfall between 50 and 80 per cent	Shortfall between 80 and 99 per cent
2004-05	14	28	13	10	5
2005-06	14	30	12	8	10
2006-07	14	25	10	3	12

Shortfall in construction of boundary wall was attributed to shortage of funds, non-finalisation of estimates, non-finalisation of tenders, failure of contractors and non-availability of material. In some cases, the reasons for shortfall were not on record. Audit also observed deficiencies such as non-availability of records related with the identification of land boundaries in the divisions, non-assessment of requirement of land boundaries at the field levels, construction of land boundaries in excess of the assessed requirements, non demarcation of railway land etc. Details are given in Annexure VII (b).

As per Para 1048 of the Indian Railways Code for Engineering Department, the zone is responsible for the demarcation and periodic verification of the boundaries. In terms of Para 813 and 814 of IRWM, periodical verification of land boundaries is to be done by the concerned Sr. Section Engineer/Section Engineer (SSE/SE) and a certificate to that effect in the prescribed proforma should be recorded in the relevant register once in a year which is to be verified and countersigned by the respective Assistant Engineer, DEN/Sr.DEN. Audit scrutiny in the selected divisions revealed that periodical verification was not conducted at any level (SSE/AEN/DEN) in five zones (ECOR, ER, NEFR, SER and SWR) and Delhi division of NR.

Recommendation

Priority should be accorded to construction of boundary walls to prevent encroachment.

2.11.9 Encroachments

Railway Board has, from time to time, issued detailed instructions to the Zones regarding the steps to be taken to prevent encroachments and remove existing encroachments on Railway Land. As per the Joint Procedure Orders issued by the railways and also as per Para 813 (d) of IRWM, each Section Engineer should have a list of encroachments, location-wise, and copy of the same is to be furnished to the local police station and also the concerned GRP station. This list should be updated as of 1st April every year and circulated. The responsibility for prevention/reporting of



Encroachment on Railway land at Virar, Mumbai in Western Railway

new encroachments lies jointly with the concerned SSE/SE and the RPF officials in that area. Cases of encroachments should be brought to the notice of divisional authorities/local police/civil authorities. If necessary, an FIR under Section 147 of Railway Act 1989 should be lodged by the Engineering department with the police. Trespassing and soft encroachments should be removed without recourse to the PPE Act. In case of hard encroachments, SSE/SEs, should file cases in the court of Estate officers (EOs) against the encroachers. A joint field check on the existing encroachments is mandatory on the



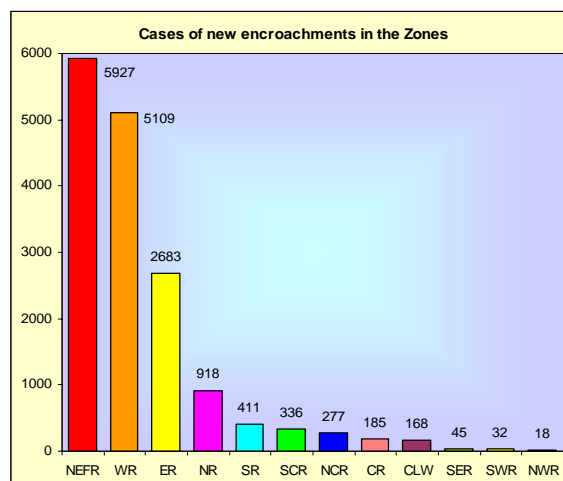
Encroachment in Railway colony, Mazgaon, Mumbai in Central Railway

part of the SSE/SE (Permanent way/Works) while handing over/taking over during their transfer. This should be followed by a joint signing at the end of the encroachment register on the number of the encroachments in the jurisdiction duly bringing out the steps taken so far.

Action can be initiated against an SSE who does not report new encroachments to the AEN concerned. Monthly progress regarding additions and removal of encroachments, filing of eviction cases and their progress in the courts of EOs, in Civil Courts etc. should be submitted by divisions to headquarters. Further, encroachment plans to scale shall be made for every encroachment. These encroachment plans along with details of encroachment should be checked and signed by SSE/SE (Works)/AENs and a copy of such encroachment plans should be available with divisional authorities. A review in audit revealed that:

Railway Board in its Action Taken Note on "Land Management on Indian Railways for the year 1997-98" stated that it had taken remedial action (March 2007) to detect/prevent/remove encroachments. However these measures proved inadequate to prevent new encroachments including encroachments in the safety zone.

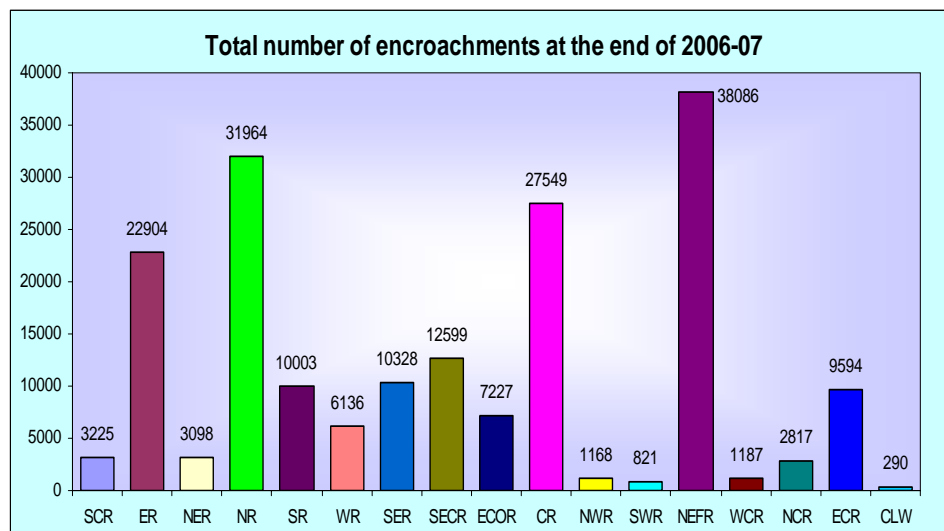
- There were 220152 encroachment cases²⁰ as on 1 April 2004. Though an assurance was given in the Parliament during 1999 that there will be no fresh encroachments, as many as 16109 new encroachments crept in during the period 2004-05 to 2006-07 in the zones and CLW{Annexure (VIII(a))}.



²⁰ Excluding the data of encroachments of Alipurduar division/NEFR for 2004-05

- Though 54984 cases of encroachments were removed during the period under review, a large number of cases of encroachments i.e. 188996 cases (involving land area of 1594 hectares approx.) existed at the end of the year 2006-07. More than 50 per cent of these encroachments were accounted for by four zones (NEFR, NR, CR and ER).

NEFR, WR and ER accounted for about 85 per cent of the new encroachments which crept in during 2004-05 to 2006-07.



- The range for the period of encroachments was between one year (minimum) and 68 years (maximum). The encroachment cases aging more than ten years at the end of year 2006-07 were in the following divisions:

Range (Years)	No. of divisions	Name of divisions/Railway
10-20	10	Moradabad (NR), Delhi (NR), Ahmedabad (WR), Bhavnagar (WR), Sambhalpur (ECoR), Jabalpur (WCR), Bhopal (WCR), Bangalore (SWR), Mysore (SWR), Hubli (SWR)
20-30	9	Chennai (SR), Palghat (SR), Trichy (SR), Madurai (SR), Khurda Road (ECoR), Sealdah (ER), Howrah (ER), Bilaspur (SECR), Allahabad (NCR)
30-40	3	Ambala (NR), Raipur (SECR), Waltair (ECOR)
40-50	2	Nagpur (SECR), Mumbai Central (WR)
50-60	1	Kota (WCR)
More than 60	3	Asansol (ER), Firozpur (NR) and Jhansi (NCR)

- Encroachments observed in 46 locations (30 locations-CLW, 5 locations-WR, 3 locations-ECoR, 4 locations-NEFR and 4 locations-SER) during joint inspection conducted by Audit and Railway were not shown/less shown in the railway's records by the concerned SSEs/SEs.
- It was observed during joint inspections that the encroachments were mostly in the form of residences with both soft and hard types (i.e. pucca - RCC buildings), commercial use etc. In some of the encroachments, basic

amenities like, water, street light, Panchayat roads, electricity connections were provided and in one area even public transport buses were plying (SR, SCR,SWR,CR, WR).

- The JPO specifies that while handing over the charge in the case of transfer of SSEs/SEs, a joint inspection is to be conducted and a specific mention of the existing encroachments are to be indicated in the handing over/taking over notes of the respective officials. Audit observed that these instructions were not being adhered to. (SR)
- As the responsibility for prevention/reporting of new encroachments lies jointly with the SE and the RPF officials, copies of land plans and the details of the encroachments prevailing in their jurisdiction were to be furnished to the RPF officials of that area. However, this practice was not being followed.(SR)
- Regular inspections were not carried out as prescribed to remove/prevent encroachments. (NEFR)
- Detailed review of 17 cases of encroachment by private parties and government departments accounting for an area of 197 hectares {Annexure VIII (b)} across zones revealed inaction for periods as long as 55 years.
- In the following cases, completion of projects was delayed due to encroachments:

Zone	Work	Impact
WR	Quadrupling of line between Borivali and Vasai road	Loss of earnings of Rs.66 crore and cost escalation of Rs. 35.13 crore
ER	Extension of Goods Wharf at Barasat	Against the target date of completion by August 2006, only 65 per cent of the work was completed till March 2007.
SR	Construction of third line between Attipattu and Korukkupet	Railway bridge could not be extended and the formation work of the targeted third line could not be taken up, resulting in blocking of capital of Rs.61.33 crore
SR	Yard remodeling work in Coimbatore Junction	Work could not taken up and is pending for the past 2 years

- Railway Board instructed (August 2002) all Zones to take immediate steps to remove encroachments within Safety Zone, i.e., land within 15 meters from the center line of the nearest track. A quarterly return regarding progress of removal of encroachment was to be sent to Railway Board. Review of encroachments in safety zone across zones revealed that at the beginning of 2006-07, there were 27408 nos. encroachments in the safety zone in 15 zones. During the year, 1249 new encroachments were observed and 2549 encroachments were removed leaving a balance of



Encroachment in the Safety Zone at Yeshwanthpur Station Yard, Bangalore, South Western Railway

26108 at the end of the year. These new encroachments were noticed in ER only. {Annexure- VIII (c)}. The new encroachments in safety zone were, however, not reported to the Railway Board by the zone. Review of position in zones revealed the following:

Zone	Observations
ECoR	The monthly reports (month of March) for 2004-05 to 2006-07 sent by the zonal Headquarters to the Railway Board indicated that ECoR was free from encroachments in the safety zone. Audit check of the records maintained in Khurda Road Division revealed that there were 285 encroachments in the safety zone at the Bhubaneswar station area involving an area of 0.4912 hectare. Further, during joint inspection in safety zone in Waltair Division, three stretches of encroachments in safety zone were noticed. On a verification of records available in Waltair division, it was seen that these three cases of encroachments were not recorded in the list of encroachments maintained by the division.
NEFR	During joint inspection at certain locations in Greater Guwahati agglomeration area, encroachments were noticed in the safety zone. The railway land was being used as residential, commercial shops, shopping complex, schools and clubs etc by 161 encroachers. It also came to notice that in Guwahati-Kamakhya section, a large number of encroachers were occupying Railway Land for years together. Though the Railway Administration initiated action for removal of encroachments at the vulnerable locations and concrete pillars/fencing were constructed to stop re-encroachment, the fencing was broken and land was re-encroached by unauthorized occupants.
SCR	There were 85 encroachments including 56 under safety zone in Ramavarappadu gate area with all civic amenities, shops and other establishments including temples with pucca structures. Form A and B were issued under PPE Act but the Railway administration failed to evict the encroachers.

In spite of the availability of sufficient codal provisions and reiteration of the same in the JPO issued during January 2002, railway administration could not detect and prevent encroachment which is a clear indication of system failure in the management of land.

Railways has stated that encroachment of land is a socio-economic issue due to large scale migration and urbanization. All possible efforts are made for expeditious removal of encroachments. In this process they are dependent on the assistance of state governments. Zones have been directed to remove encroachments in safety zones on priority basis. The reply does not address the issue of failure on the part of Railways to comply with the assurance given to Parliament regarding non occurrence of fresh encroachments, the procedural lapses such as failure to record all the encroachments, failure to carry out joint inspections at the time of handing/taking over of charge, non-intimation of encroachment details to RPF and the adverse impact of encroachments on completion of projects.

Recommendation

The removal of existing as well as fresh encroachments, especially in the safety zone should be taken up on war footing. Systemic mechanisms such as regular inspection to prevent encroachment, joint inspection by SEs/SSEs at the time of handing over charge and coordination with RPF need to be strengthened.

2.11.10	Ineffective pursuance of action under PPE Act
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The provisions of Section 147 of the Railway Act 1989 require that new encroachments should be removed promptly. Similarly, under the provisions of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 action should be taken for removal for old encroachments where parties are not amenable to persuasion. When this is not possible, encroachments may be removed with the assistance of local civil authorities. Para 815 (h) of IRWM stipulates that whenever encroachments are taken up under PPE Act, the concerned officials from the engineering branch would act as the presenting officer, and pro actively help expeditious finalisation of the proceedings. Adequate training may be provided by IRICEN, Pune, to make them fully conversant with the provisions of the PPE Act, 1971.

- Position of removal of cases under PPE Act during the year 2006-07 across the zones {**Annexure-VIII (d)**} revealed that 48442 cases were pending at the beginning of the year. During the year, 2611 new cases were filed and 5472 cases decided by the EOs leaving a balance of 45581 cases pending at the end of the year. Pendency of cases for long periods was attributed to non-production of required documents i.e. Khasra of land, Land plan & Title deed of land etc as desired by Estate Officer, improper monitoring of the cases, non-posting of separate EO, non-assistance from police, political interference, non-availability of exclusive post of Chief Law Assistant, non-cooperation from State Government officials to provide Magistrate & Police Force, opposition from encroachers, stay order from courts etc.
- In as many as 21654 cases decided by the EOs, orders to evict encroachers from the land were not implemented. In 1058 cases, the parties moved the civil courts against the decision of EOs.
- In SR, none of the divisions as well as Chief Engineers office were maintaining the correct position of the number of cases pending under PPE Act. In NEFR and SR, though Form “A” has been issued, no action has been taken to issue Form “B” and finally evict the encroachers.
- In NR, in Firozpur division, 70 cases filed during 1990-91 under PPE Act were decided by the EO after a period of 10 years (in 2001). Despite issue of eviction orders, the railway administration could not remove the encroachments on these lands. Another 157 cases of encroachments which took place during the period 1941 to 1996, were lying undecided with the EO due to delay in demarcating the land by the respective revenue authorities, non-production of required documents and non-availability of time with the EO. In another 121 cases, railway administration failed to initiate eviction proceedings after expiry of more than 5 years.
- Railway Board, in their reply to the Standing Committee on Railways (2006-07) stated that under the PPE Act, 1971, the EO, a quasi-judicial authority, is not vested with adequate powers to deal with encroachment cases effectively. The orders of eviction passed by him under the Act do not have the sanctity of a decree of a court of law. At times, in the absence of any assistance from the State Government, the Railways are unable to

execute the orders of the EO. A suggestion to amend the PPE Act to vest more powers in the EO was made to the Ministry of Urban Development in the year 2003, but a final reply is still awaited.

In their monthly PCDOs, Zonal Authorities furnished the position relating to cases under the PPE Act through Annexure 26 to Railway Board. This practice was discontinued from 2005-06. Since then, record keeping in this respect also stopped.

Recommendation

The issues of pendency and delays in the settlement of cases, non-implementation of orders, record keeping and training in the implementation of the PPE Act deserve special attention. The amendment of the PPE Act should also be expedited.

2.12 Licensing of land

Land which is not in active use is licensed for several purposes such as Grow More Food scheme, Pisciculture, for commercial use to oil companies, steel yards etc and for welfare purposes. Land has also been licensed to PSUs such as Container Corporation of India (CONCOR), Indian Railway Catering and Tourism Corporation (IRCTC), Central Warehousing Corporation (CWC) etc. Audit observations in respect of leasing and licensing are detailed in the following paragraphs.

2.12.1 Grow More Food scheme



Excess railway land given under GMF scheme not retrieved from farmers at Rayanapadu SCR

In the context of acute shortage of food in the country, a decision was taken to license vacant railway land in the station yards to Railway employees and State Government for growing food crops under Grow More Food (GMF) scheme. Due to problems such as non-payment of dues, large quantum of work involved in licensing, retrieval of land etc, Railway Board decided in 1984 to stop licensing of Railway land for cultivation and take back the land except from those belonging to SC/STs and weaker sections. The matter was re-considered by Railway Board in March 2000 and it was decided to revive the licensing of railway land to railway employees in identified urban areas as an anti-encroachment measure and revenue earning measure. Review of position of licensing of land under GMF revealed the following:

- Land measuring 6963.9326 hectares was under GMF in the Zones and CLW as on 31-1-2000. Out of this, about 5151.459 hectares land was to be taken back from State governments and private parties/railway employees other than SC/ST and weaker sections as per decision of 1984. It was observed that only 1612.715 hectares of land was taken back by the railways upto 31-1-2000 from the licensees leaving a balance of 3538.744

hectares to be taken back. In the Action Taken Note dated March 2007, the Railway Board admitted that it was vigorously pursuing the matter with the state governments. During 1-2-2000 to 31-3-2007 about 1221.22 hectares of land was licensed afresh to the railway employees. Thus, as on 31-3-2007, area under the GMF scheme was 6572.4397 hectares. **(Annexure-IX)**

- Railway Board in their letter of March 2000 stated that while the main purpose of this licensing is to protect a valuable resource, i.e., Railway land in a hostile urban environment, a quantum of return should be ensured. In respect of lands licensed to state governments, 95 per cent of revenue earned was to be recovered and in the case of employees, the license fee was to be fixed by the DRM with the concurrence of Accounts every year on the basis of the potential for revenue generation of the land at a level of 1/4th to 1/3rd of the annual revenue expected to be earned by the employee. Audit observed that there was no mechanism to assess the revenue generating potential of the land before fixing the license fee. Thus, license fee could not be fixed in a scientific manner. In ER, the rate of license fee was not revised and kept very much on the lower side.
- Records pertaining to land licensed under GMF scheme to various parties/state governments were not maintained properly in NR, SCR, CR, NER and WR. There were inconsistencies in respect of data on land under this scheme in NR, WR and NER. In NR, as per GM's Annual Narrative Report for the year 2004-05, there were 12.24 hectares of land under GMF whereas in Firozpur division, land measuring 1047.84 hectares was licensed to outsiders (620.36 hectares) and railway employees (427.48 hectares) under GMF scheme. In WR, 66.44 hectare land of Ransipur-Vijapur section of Rajkot Division (under Ahmedabad Division after re-organisation of zones) which was licensed to Gujarat State Government in 1960 was not shown in the total land under GMF. Sr. DEN admitted that this land was erroneously left out while reporting to Dy. CE, which would be rectified in the next report. In NER, in the quarterly PCDO sent to Railway Board as on 31.03.07, land under GMF Scheme was shown as 151.58 hectares. However, Varanasi division reported only 6.07 hectares area of land under this scheme and the other 2 divisions (Lucknow and Izzatnagar) reported NIL position. In view of these deficiencies the amount of license fee reported to be due across the zones (Rs.3.32 crore) could not be considered reliable.
- Instances of non recovery of license fee from the licensees were noticed. In SCR, the parties (farmers) stopped the payment of license fee since 1998-99. In WR, land was licensed to state governments in 1960 but no recovery has been made so far.

Railways has stated that since the main purpose of licensing is to protect valuable lands from encroachment, the license fee is based on the revenue generating potential of land. The reply does not address observations on early resumption of lands from state governments and parties other than its own Group 'C' and 'D' employees, evolving an objective mechanism for assessing

revenue earning potential and inconsistencies in respect of land licensed under GMF.

Recommendation

IR should accord priority to the resumption of land from state governments and others. The license fee should be determined in a scientific manner. The entire system of maintenance of records should be reviewed and deficiencies thereof be addressed.

2.12.2 Licensing of land for Pisciculture

Under this scheme, Railways could license borrow pits/tanks for Pisciculture to co-operative societies formed by Railway employees and registered fishermen co-operative societies on the basis of limited tenders, public auction/open tenders in the same order of priority. In the case of cooperative societies, the license fee was to be fixed on the merits of each case in consultation with the FA & CAO. While doing so financial return commensurate with the prevailing market situation as well as Railway's overall situation were to be factored in. Annual earning during the year under this scheme was Rs.0.64 crore. Audit observed the following during review of licensing under this scheme in the zones, Metro Railway and CLW

- In NER and ER, maintenance of records was poor. In NER, there were variations in the data pertaining to licensing of land under the scheme. The land licensed under this scheme as per zone records was 14.366 hectares whereas as per divisional records, only 2.186 hectares land was licensed under the scheme. In ER, 253.289 hectares of Railway land was under pisciculture as on 1 April 2006. However, the data such as number of tanks/borrow pits identified for pisciculture, numbers so licensed and earnings there from were not available at the zone and division levels.
- In CR, ER and NEFR, the potential for revenue generation was not fully exploited. In CR, five water reservoirs were under the control of Mumbai Division viz. Ambarnath Dam, Palasdhari Dam, Bushi Dam, Igatpuri dam and Digha dam but the earning from licensing of fishing rights was Nil. In ER, Howrah division, with the largest number of tanks/borrow pits licensed (98) could not furnish the figures for earnings on this score. In NEFR, as per zone records, 429.518 hectares land was under use for pisciculture. As per divisional records, only 16.2098 hectares land was licensed under this scheme. This indicates that only four per cent of the available in the divisions in NEFR was utilized for revenue generation.
- During the year 2006-27, 2358.71 hectares of land was licensed under this scheme to 320 licensees. Out of 320 cases, in 39 cases in four railways (ECR-10, NEFR-21 and NCR- 6, ER-2), agreements were not entered into with the licensees.
- In SER, in Kharagpur division, it was noticed that although in all cases co-operative societies, approved by the State Government, were given licenses at license fee of Rs.775 per hectare for every half yearly period, in one case under SSE/SRC an area of 1.1 hectares of water body was given to one railway staff under the name of "Fishery Club" at a nominal license

fee of Rs.20 per annum. Reasons for this allotment could not be obtained, either from divisional level or SSE's level.

Recommendation

Maintenance of records, utilisation of land earmarked for this scheme, execution of agreements and tendering system need to be strengthened.

2.12.3 Licensing of land to CONCOR

Indian Railways licenses railway land to Container Corporation of India (CONCOR) for setting up Inland Container Depots. In May 1990, the Railway Board formulated policy guidelines for allotment of Railway land to CONCOR and instructed all Zones to fix the License Fee at the rate of six per cent of the book value of the land per annum. In September 1991, the license fee was revised to three per cent of the market value of land instead of book value of land. In 1994, the matter of fixation of license fee was again reviewed and the Railway Board instructed all Zones that the charges of land leased out to CONCOR would be linked with the turnover (no. of containers (TEUs) handled) of CONCOR in various depots, instead of being linked with the value of the land, so as to give CONCOR an incentive to achieve a higher turnover. In December 2001, the Railway Board appointed a Committee comprising of three officers from Railway Board and one from CONCOR to examine the issues such as land requirement for container handled, remaining area of land under possession, additional land reserved for future use and levying of license fee etc. The Committee recommended (in February 2002) that land given to CONCOR in the future should be charged at 6 per cent of market value of land or as per extant rate or TEUs basis, whichever is higher and land given for existing depots should be charged on TEUs basis. Review of the position of licensing of land to CONCOR, revealed the following:

- Railway Board adopted two sets of rates for recovery of license fee i.e. for existing depots on the basis of TEUs and for the new depots (commissioned after 24.8.2005) at 6 per cent of market value of land or on TEUs basis whichever is higher. Audit observed that the decision to introduce the practice of charging license fee on the basis of market rate was delayed by 41 months.
- The policy of charging license fee on the basis of TEUs handled resulted in considerable loss of revenue to IR (**Annexure-X**). Table below gives the details of the incremental revenue that would have been earned if license fee had been linked to market value of land rather than TEUs.

The policy of charging of license fee for the land given to CONCOR on the basis of TEUs handled instead of linking it with the market value of land resulted in considerable loss of revenue to the extent of Rs.551.26 crore during the period 2004-07.

Year	License fee to be realised on TEUs basis (Rs. in crore)	License fee to be realised on 6 per cent of market value of land (Rs. in crore)	Difference (Rs. in crore)
2004-05	35.16	195.61	160.45
2005-06	35.81	222.68	186.87
2006-07	37.49	241.43	203.94
Total	108.46	659.72	551.26

- Further, the license fee is being calculated based on the number of TEUs handled as advised by CONCOR and there is no mechanism in IR to verify the figures independently. A review by the railway administration as to the number of TEUs handled by CONCOR as per their website and that furnished to Southern Railway for the purpose of calculation of land license fee revealed that there is understatement of the figures furnished to Railway administration from the year 1998, which has resulted in short realisation of license fee to the extent of Rs.3.69 crore for the period from 1998-99 to 2005-06.
- The linking of license fee to the number of TEUs handled carried the risk of license fee not being leviable on certain occasions. In respect of land leased out at Wadibunder in Mumbai division/CR, it was seen that no payments were made by CONCOR towards license fee since March 2004 on the grounds that there were no loading and unloading operations. The land is still retained by CONCOR. Cases have also been noticed where land has been given to CONCOR (July 2003), but CONCOR has not paid license fee on the ground that no TEU was handled. In respect of ICD/Guntur (SCR) also, no license fee was paid for the year 2006-07 on the ground that no TEU was handled during the period. Thus for the period between handing over the land to commissioning of depot, no license fee was recoverable from CONCOR.
- As per extant instructions, no land should be given by the railways without signing an agreement. In four zones (WR, CR, SR and NCR), 38 hectares of land was licensed to CONCOR at six locations between March 1997 and May 2003, but no agreement was signed by the railways as yet. Year of licensing of land in three locations on WR (Sabarmati, Ankleshwar and Gandhidham) was not available.
- There was no system of assessing the actual requirement of land for setting up CONCOR Depots. Railway land was given to CONCOR liberally without assessment of actual requirement and this led to unauthorized use of land by CONCOR even for purposes such as construction of residential quarters on Railway Land e.g. Tughlakabad (NR) and Whitefield/ Bangalore (SWR).

Railways has stated that the requirement of land for depots is examined at various levels of division and zone headquarters. It has also stated that the issue of linking license fee to turnover in respect of existing depots is under consideration. The reply is silent on audit's specific observations regarding the use of depot land for residential purposes and not having an independent mechanism for verifying the actual quantum of TEUs handled.

Recommendation

The practice of linking license fee to turnover in respect of depots leased before August 2005 should be dispensed with, especially in the context of the fact that IR is no longer the sole owner of CONCOR. Actual requirement of land should be assessed in a systematic manner before entering into lease agreements.

2.12.4 Licensing of land for Central Warehousing Corporation (CWC)

In December 2003, Ministry of Railways entered into a Memorandum of Understanding (MoU) with CWC for development of warehousing facilities on railway land. Indian Railways and CWC jointly identified 22 complexes at different locations in nine zones. As per the MoU, CWC was to construct, develop and maintain the warehousing complexes at their own cost on leased railway land. So far, land at 12 locations in six zones (NR-4, WR-1, CR-3, SR-1, WCR-1 and SWR-2) have been handed over to CWC during October 2004 to January 2007. Out of these, the work has started in 4 locations and in the remaining locations, warehouses are under construction/have not commenced operations.

- As per the MoU, the Railway Administration was to charge a nominal lease rent at the rate of Re.1 per sqm per annum for the lands leased to CWC. Lease rentals were to be paid by CWC for the warehousing structures as well as any open areas around the built up warehousing structures used for commercial purposes. From the third year onwards or from the date of operation of the warehousing complex, whichever is earlier, CWC, in addition to the payment of lease rental, was to pay 5 per cent of the gross receipts from all the warehousing operations conducted in railway premises, subject to a minimum 6 per cent of the market value of the land leased to CWC. The option of charging the land license fee at the rate of six per cent was dropped from the clauses of MoU in February 2005. The delinking of license fee from market rate would deny IR a steady source of income.
- The MoU was silent on creating a mechanism to assess the gross receipts of the CWC for correct realisation of lease charges from CWC.
- In four locations, one location each in NR (Shakurbasti), WCR (Nishatpura), and two locations in SWR (Satellite Goods Terminal, Whitefield-Phase I and Phase-II), where the warehousing operations were started, CWC made payment of Rs.0.37 crore only towards license fee (computed as percentage of Gross receipts of CWC) whereas as per the original decision (linking it with land value) the license fee would have worked out to Rs.3.56 crore. Thus, delinking the license fee from the value of land resulted in loss of revenue of Rs.3.19 crore in four cases alone.

Railways has replied that the primary objective of the MoU was to capture additional traffic and not exploit land commercially. Audit observed that the pace of implementation of this MoU was sluggish. Out of 22 sites identified in 2003, only 12 have been handed over and operations have commenced only

in 4. Further, CWC is not a PSU under the Ministry of Railways and hence the MoU should have been drawn up on an “Arms length” principle.

Recommendation

The mechanism of levying license fee should be revisited to ensure a steady and market linked source of income for IR.

2.12.5 Licensing of land to Indian Railway Catering and Tourism Corporation Limited (IRCTC)

As per MoU signed between Ministry of Railways and IRCTC, Railway land and buildings may be leased to IRCTC on nominal license fee/lease charges for setting up budget hotels, food plazas etc. The license fee payable by IRCTC to IR (November 2005) included nominal annual land license fee at the rate of Rs.5 per sqm per annum and share of revenue to the extent of 40 per cent of total revenue subject to minimum of 2.5 per cent of the market value of land. License fee for establishment of Rail Neer plant initially fixed at the rate of 7.5 per cent of the market value of land was also reduced to 2.5 per cent of market value of land. Review of fixation of license fee and position of recovery of license fee for land licensed for food plazas and budget hotels in the zones revealed the following:

- Review of Railway Board files revealed that despite having set up about 40 food plazas (upto February 2004), IRCTC was not paying any license fee/lease charges to the railways. It has also observed that a number of plots of railway land have already been occupied by IRCTC or at their instance by a third party without entering into formal and legal agreement with railways.
- Review of records in selected divisions²¹ revealed the following:

Zone	Audit observations
SR	Railway Board (October 2006) identified 18 places for setting up Budget Hotels. Out of this, sites were identified only in respect of 8 places. However the proposals are yet to be finalised. Potential loss of revenue on account of license fee in four locations alone amounted to Rs.0.61 crore.
SECR	No record was available in connection with licensing of Railway land to IRCTC with Engineering as well as Commercial Departments of Bilaspur Division. However, the Commercial Department intimated that a plot having area of 0.2925 hectare at Bilaspur was given to IRCTC on license basis by Railway Board and no particulars regarding agreements, market value, license fee etc. were available.
NR	Land for Rail Neer project has been allotted at Nangloi, but no record in this regard is available with the division. As per Divisional authorities, the matter is being dealt with by the Zonal Headquarters office with Railway Board level. The Headquarters office also could not make available any record in respect of licensing of land to IRCTC.
CR	Land has been handed over to IRCTC at Pune and Nagpur divisions for setting up food plazas. Records did not indicate whether any separate agreements have been entered into with IRCTC. In Nagpur division, an amount of Rs.21.06 lakh was outstanding towards license fee for the structures handed over to IRCTC including food plaza. In Pune

²¹ No data regarding lands given to IRCTC for food plazas and budget hotels was available in the selected divisions of ER, NR, SE and SCR.

	division, an amount of Rs.17.93 lakh was outstanding towards license fee from November 2005 to March 2006 for setting up catering units at various stations. Office accommodation was allotted IRCTC in the railway building. Based on the market value of land, the rates were revised in 2006 and the arrears worked out to Rs.1.55 crore. IRCTC refused to pay the amount stating that Western Railway had not increased the rates for MRVC and RITES offices situated in their premises. The rent payable for the year 2006-07 is also outstanding.
ECR, SWR and NCR	Five sites were handed over to IRCTC without executing any agreements.

Railways has replied that all the dues have been recovered from IRCTC in respect of food plazas for the period upto September 2007 and efforts are being made to expedite the execution of agreements. However, it did not furnish documentary proof of having received the dues from IRCTC.

Recommendation

Agreements should be executed before handing over of sites and sites identified should be handed over without any delay. The payment of license fee should be pursued with IRCTC.

2.12.6 Licensing of Railway land for commercial purposes

Leasing of land for commercial purposes is not permitted except in cases where the Railway Board specifically approves it. Land for the purpose of commercial use should be given on licensing basis only. Railway Board in February 2005 issued, in supersession of the earlier policy directives, a Master Circular enunciating the comprehensive policy guidelines for licensing of land to various users. Temporary licensing of Railway land to private individuals, for setting up shops, commercial offices, vending stalls etc. not connected with railways' working, was stopped by the Railway Board (June 1984). While continuing this ban, in exceptional cases, where such licensing may have to be done, the same was to be permitted with prior approval of the Railway Board and the license fee was to be fixed by resorting to public auction/open tender for getting maximum revenue. Licensing of ordinary commercial plots connected with railway working was to be done with the personal approval of the General Manager in consultation with FA&CAO. The Master Circular specified the rates of license fee for different types of plots. For fixation of land value, the rates prevailing as on 1 January 1985 as determined by the local revenue authorities was to be taken into account and the land value had to be increased every year on the 1 of April starting from 1986 at the rate of 10 per cent over the previous year's land value and seven per cent from 1 April 2004. For fresh cases of licensing after 1 April 2004, the prevailing market value of land shall be taken for arriving at the license fee to be recovered. The minimum license fee should be fixed at Rs.1000 per annum for 100 sqm land. Review of cases of licensing of land for commercial purposes during the year 2006-07 {Annexure- XI (a)} revealed the following deficiencies:

- As on 31 March 2007, an amount of Rs.328.16 crore was pending recovery due to various reasons such as dispute in the area of land, court case, non-payment etc.
- Out of 33504 cases under licensing, agreement is yet to be executed in respect of 14305 cases. There were delays in renewal/execution of license agreements ranging from three to five years in 90 cases, five to ten years in 2427 cases and beyond 10 years in 16588 cases.
- A comparison of the land value arrived at based on 1985 valuation (duly updated by the prescribed percentages) and the current market value in 55 cases in six zones (NEFR, NR, NWR, SCR, SER, SR) and Metro Railway indicated that in 42 cases, the license fee fixed based on land value in 1 January 1985 with prescribed escalation of ten or seven per cent per annum was lower than the current market value resulting in loss of revenue of Rs.15.69 crore during the period under review.
- Detailed review of records revealed under recovery of license fee to the extent of Rs.167.52 crore in respect of 132 cases.{ **Annexure-XI (b)**}
- Railway Board in August 1995 issued revised instructions for commercial licensing of railway land. As per this instruction, the market value of land was to be updated at 10 per cent over the previous years land value (with base land value as on 1 January 1985) and minimum license fee of Rs.1000 per annum. The rates of licensing of land for different categories of plots were reduced. These orders were brought into force with retrospective effect from 1 April 1986. Railway Board also clarified that in the event of a downward revision of fees and where a large amount has already been deposited by the licensee, the excess amount with the railway shall be adjusted against fee accruals of subsequent years. In 2004, a decision was taken to make the instruction prospective with effect from 1995-96. Audit noticed the following cases of non-recovery/adjustment of license fee cases in the zones:
 - In Palghat Division of SR, an amount of Rs.1.54 crore refunded to certain parties based on August 1995 order became recoverable and Rs.0.43 crore was to be paid to certain other parties. The amounts payable were yet to be adjusted and the amounts due had not been recovered nor any intimation given to the respective parties.
 - In Mysore Division of SWR, non-recovery of Rs.1.54 crore towards the refund made to various parties due to implementation of 1995 orders was highlighted in Audit Report No. 6 of 2006. The railway administration has not taken action to recover the amount refunded.
- Audit of records pertaining to lease of land to the Defence department revealed that dues of Rs.36.49 crore were pending recovery in respect of 107.12 acres of land (94.30 acres at Kanchrapara and 12.82 acres at Bagzola & Digla Mouza of Dum Dum Cantonment) area in ER.

Railways has stated that the issue of realization of arrears of license fee is being pursued with the zonal railways on a priority basis. Annual target for wiping out pending agreements has been fixed and the position thereof is being monitored.

Recommendation

The issues of under recovery and non-recovery of license fee, non-revision of license fee and failure to execute agreements need to be monitored at Board level. Revision of decisions pertaining to rate of license fee should be minimised to avoid administrative complications.

2.12.7 Way leave facilities/Easement rights

Sections 16 and 17 of the Railways Act 1989 enjoin upon the Railways to make and maintain specified works for the accommodation of the owners and occupiers of lands adjoining the Railway, for the purpose of making good any interruption caused by the Railway to the use of the land through which the Railway is made. Such works include crossings, passages, drains etc. Apart from these, requests are often received for provision of way leave/easement on railway land in the form of passage/access to private houses and establishments, underground pipelines for water supply and sewage, electrical and telecommunication lines and Optic Fiber Cables, Cable TV lines etc. Railway Board issued detailed guidelines (November 2001) for granting way leave facilities/easement rights and fixed the rates to be levied for way leave facilities/easement rights on railway land for different purposes in genuine and unavoidable cases.

- The position of recovery of way leave charges showed that there is no uniformity in charges being recovered by the different Zones and within the divisions of the zone.

There was no uniformity in levy of various charges among the zones and within the divisions in a zone. Railway Board has not issued any guidelines for uniformity in recovery of way leave charges.

Railway Board has not issued any guidelines in this regard to Zones as yet and the matter is still under consideration at Railway Board. Some of the differences noticed were as follows:

- In ECoR, 'other charges' are not being recovered from the parties availing way leave facilities on Railway land.
- In NEFR, review of records of CGE/MLG revealed that no joint procedure order in compliance with the orders issued by the Railway Board from time to time was issued till 31 March 2007 for recovery of various charges such as supervision charges, departmental charges, centage charges, maintenance charges over and above the way leave charges recovered from the parties.
- In SWR, plan charges were being recovered at the rate of Rs.80 per case instead of two per cent of the estimated cost in violation of the codal provisions. In the absence of estimated cost, exact amount of short recovery could not be assessed. Instead of recovering departmental charges at the rate of 6.25 per cent of the total cost of the work, one day staff cost towards supervision charges was being recovered. The

recovery of maintenance charges on deposit works was not uniform within the zone. In Bangalore Division, the percentage being adopted was 2.5 per cent per annum whereas Mysore Division has been adopting 4.5 per cent per annum.

- In CR, no JPO was issued regarding recovery of various charges in cases of way leave permission. Thus, there is no uniform practice of levying of charges viz. Special Supervision charges, Misc. charges, Departmental charges etc.
- The total amount of way leave charges outstanding was Rs 6.36 crore which accounted for 64.47 per cent of the total amount due. Division-wise data of earnings and amount outstanding from various users under different categories viz Water pipe line crossings, Electric line crossings, Road Over Bridges (ROBs)/ Road Under Bridges (RUBs), under ground/OHE crossings, erection of dish antenna and cable network including under ground/over ground crossings of cables by cable operators, laying of OFC cables crossings under railway tracks etc in the zones during the year 2006-07 is given in the table below:-

(Figures in Rs.)

Division	Way leave charges due	Way leave charges collected	Way leave charges outstanding	Way leave charges outstanding (in percentage terms)
Jhansi (NCR)	358438	40350	318088	88.74
Khurda Road (ECOR)	1361889	540600	821289	60.31
Bhopal (WCR)	200000	100000	100000	50.00
All divisions (NEFR)	3443835	2738566	705269	20.48
Jodhpur, Ajmer (NWR)	20717975	18586158	2131817	10.29
Vijayawada, Hyderabad (SCR)	5097213	2298226	2798987	54.91
Raipur, Nagpur, Bilaspur (SECR)	1213087	974361	238726	19.68
Trivandrum, Palghat (SR)	18671497	1406545	17264952	92.47
Rajkot, Vadodara, Ahmedabad (WR)	47549439	8364115	39185324	82.41
Chittaranjan Locomotives Works	22512	0	22512	100.00

- In CLW, 1.733 acres of Railway land at Chittaranjan was licensed to M/s Indian Oil Company Limited by CLW based on occupancy of a 10' wide street for laying out pipe line in the year 1964. CLW Administration could not produce the agreement between IOC and CLW to audit. No revision of the license fee was made as per Railway Board's order dated 29.8.1995 to fix the license fee at the rate of 6 per cent of the land cost as on 1 January 1985 to be determined by the Revenue Authority.
- As per Railway Board's letter dated 13 November 2001, overground laying of cables either across or parallel to tracks should not be permitted to cable T.V. operators. Further, in terms of Railway Board's letter dated 11 December 2001 the length of cable parallel to track should not exceed

500 metres in case of way leave facilities for underground laying of cables of Cable T.V. Review of the records of Sr.DEN/MLG/NEFR revealed that one private Cable T.V. operator, M/s Biswa Darshan, Pandu, Guwahati was permitted (21 July 2006) way leave facilities for drawal of T.V. cable line of 1340 metres by the side of the footpath in contravention of the Railway Board's orders.

- In SCR, it was observed that a private residential complex was constructed by private builders near the General Managers' bungalow and was surrounded by Railway land on all sides. Review of the records revealed that the builders have applied for Way leave facilities for laying underground electrical cable which is under process. Audit observed that the builders have already laid the underground cables, water and sewage pipes on the Railway land for a length of 120 mts without obtaining the permission of Railway Administration. Secondly, as per Board's guidelines, the way leave facilities can be permitted by DRM with the concurrence of Divisional Associate Finance up to a length of 100 mts only and beyond 100 mts by the General Manager in consultation with FA&CAO. In the instant case, the way leave proposal for underground electric cables was processed taking the length as 85 mts at Divisional level instead of the actual length of 120 mts in contravention of the rules.
- Detailed review of records pertaining to 275 cases in the zones revealed short levy of way leave charges to the extent of Rs.4.28 crore. **(Annexure-XII)**

Railways has stated that there is a uniform policy for charges to be levied and that the position is monitored by the Board on a monthly basis. Audit's observations regarding lack of uniformity in levy of other charges related with way leave facilities, contravention of rules/orders and short levy of charges have not been addressed.

Recommendation

Railway Board should ensure uniformity in the levy of other charges related to way leave facilities and regular revision of these charges. Outstanding charges should be recovered from defaulters.

2.13 Property Development

The Railways have a large number of sites where commercial use of land and air space is feasible. In March 2001, zones were asked to identify vacant sites with high revenue earning potential for providing commercial facilities to passengers and public in the form of shopping complexes, offices, parking and other associated facilities. Ministry of Railways constituted (January 2007) a separate authority Rail Land Development Authority (RLDA) to undertake identification of potential sites of railway land for commercial utilization and development, carry out market survey to assess the potential and work out the best mode of commercial development from the angle of revenue returns and accordingly proceed with the bidding process etc. During 2005-06 and 2006-07, 107 locations (sites above 1000 sqm) and 114 locations (smaller sites below 1000 sqm) were identified by the ten zones and Metro Railway for

commercial development. Out of these identified locations, 35 locations (sites having land area above 1000 sqm) and 14 locations (sites having land area below 1000 sqm) have been handed over by the railways to RLDA/licensed to the parties. The balance 172 identified locations were yet to be handed over to RLDA/licensed to parties.

Railways has stated that 108 sites have been handed over as on date.

Recommendation

Handing over of the balance sites identified should be completed early.

2.14 Conclusion

IR has not created a robust and effective land management organisation. Acquisition of land was plagued by delays. The activities of acquisition, mutation and handing over of land were not synchronised with the execution of projects. Inconsistencies in data at various levels, poor maintenance of records and failure to attain the target for construction of boundary walls which serve as a deterrent against encroachment, inability to prevent fresh encroachments, laxity in removal of existing encroachments, ineffective pursuance under the PPE Act, disputes in title etc are symptomatic of poor performance in safeguarding of assets. The schemes for licensing of land under “Grow more food” and “Pisciculture” schemes were fraught with administrative deficiencies such as poor maintenance of records, failure to resume land after closure of the scheme etc. The mechanism for recovery of license fee from CONCOR and CWC was not to IR’s advantage since it did not result in a steady flow of income at market related rates. Implementation of the MoU with IRCTC was slack. The system of levy of way-leave charges was not efficient as is evident from the lack of uniformity across zones. The system of commercial licensing was beset with deficiencies such as under/non recovery of license fee, non-revision of license fee and failure to execute agreements. IR has thus failed to harness its considerable land resources through quick and result oriented development of its properties.