

Sub: Diversion of 57.00 ha including 7.00 ha of forest land for safety zone of Mine closure plan of Metabodeli Iron ore deposit in Kanker District of Chhattisgarh under Section 2 (ii) and Section 2 (iii) of Forest Conservation Act, 1980 in favour of M/s Jayaswal Neco Industries Ltd.-regarding.

1. The State Government of Chhattisgarh vide their letter No. F 5-15/2010/10-2 dated 13.12.2016 was forwarded an application of M/s Jayaswal Neco Limited under **Section 2 (iii)** of Forest Conservation Act, 1980 over 57.00 ha including 7.00 ha forest land for safety zone of Metabodeli Iron Ore Mine in Kanker District of Chhattisgarh.
2. The proposal as mentioned at para (1) above was placed before Forest Advisory Committee (FAC) in its meeting held on 26th December, 2016. After thorough deliberation in the said FAC meeting, the FAC inter-alia recommended that:
 - (i) On analysis through Decision Support System (DSS) it is observed that there are some encroachment in the forest area proposed to be diverted. It is decided that Site Inspection shall be carried out by Regional office before any decision on the issue is taken by FAC. The matter stands deferred till such time.
 - (ii) State Government shall submit complete compliance of FRA.
3. Accordingly, the State Government/concerned Regional Office was requested vide this Ministry's letter dated 12th January,2017 to furnish the information documents as sought by FAC in its meeting held on 26.12.2016 for further necessary action in the matter.
4. It is also mentioned here that the State Government of Chhattisgarh vide their letter No.F-5-15/2010/10-2 dated 2.02.2013 has submitted a proposal seeking prior approval of the Central Government under Section-2(ii) of the Forest (Conservation) Act, 1980 for **diversion of 50 ha of protected forest** land in favour M/s Jayaswal Neco Limited for Iron Ore Mining in village Metabodeli in West Bhanupratappur Forest Division in North Bastar Kanker District of Chhattisgarh and this proposal was considered by **FAC** in its meeting held on **3rd to 4th April, 2013** and the Committee noted as under:

“The Committee noted that the proposal involves the State Government has proposed compensatory afforestation over degraded orange forest land double in extent to the area proposed for diversion. However, the Committee noted that such forest area may be treated as non-forest land provided declared as Reserved Forests subsequently. The Committee also noted that 7 ha forest land falling in safety zone has not been sought to be diverted whereas as per the latest guideline of the Ministry, this area is also to be diverted. Therefore, the total area to be diverted is 57 ha. There are no rare endangered or unique species of flora found in the area and it does not form part of any protected area. The proposal does not involve any displacement of persons. After considering the proposal, the FAC recommended the proposal subject to standard conditions applicable to such projects. However, the Ministry will process the proposal for approval after the relevant documents/information like compliance to FRA, DGPS map, etc. which has not been submitted till now are submitted by the State Government”.
5. The State Government vide its letter dated 16.08.2013 (Pg 394-404/c), had submitted the information i.e. documentary evidences in support of settlement of rights under the Scheduled Tribe and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006,DGPS maps etc. The compliance of FRA, 2006 was in accordance with the MoEF advisory dated 3.08.2006 (**Pg 397/c**) and Digital GPS maps may be seen at **Pg 401-404/c**. Accordingly, approval of Hon'ble MEF was solicited to accept the recommendations of the FAC, and to issue Stage-I approval for diversion of 57.0 ha of protected forest land including 7.0 ha of forest land for safety zone in favour of M/s Jayaswal Neco Limited for Iron Ore Mining in village Metabodeli in West Bhanupratappur Forest Division in North Bastar Kanker

District of Chhattisgarh and *in-principal approval/ Stage-I clearance* for diversion of 57.00 ha of forest land for Iron Ore Mining lease was granted vide this Ministry's letter no. F. No. 8-16/2013-FC dated 22.10.2013.

6. The Addl. PCCF/Nodal Officer (FCA), State Government of Chhattisgarh vide their letter No. Bhu-Prabandh/Khanij/331-08/45 dated 05.01.2017 (**p-462-755/c**) furnished the compliance report on the conditions as stipulated in the in-principle approval letter dated 22.10.2013. Summary of the compliance report is as under: -

S. N.	Conditions	Compliance
i.	Legal status of the diverted forest land shall remain unchanged;	In compliance to this condition the State Government has informed that this condition would be complied literally and an undertaking has been given . (Pg-472/c)
ii.	Compensatory afforestation over the non-forest land/orange forest land, equal in extent to the forest land being diverted, shall be raised and maintained by the State Forest Department at the cost of the User Agency;	The State Government has informed that the double orange forest land of 100.00 Ha has been identified for Compensatory Afforestation towards the proposed diverted area of 50.00 ha in village Budeli, Narangi forest division, Narharpur, Kanker. Chhatisgarh. The detail are as under: 1. Block No OA-452 – 15.00 ha (out of total area 81.69 ha) 2. Block No. OA-453 - 85.00 ha (out of total area 93.95 ha) The DGPS coordinate for the CA area is given and placed at (pg-518-524/c)
iii.	The land identified for the purpose of CA shall be clearly depicted on a Survey of India toposheet of 1:50,000 scale;	The State Government has submitted Survey of India topo-sheet of 1:50,000 scale. (pg-525/c)
iv.	The non-forest land identified for raising compensatory afforestation shall be transferred and mutated in favour of the State Forest Department before issue of the Stage-II clearance;	
v.	The non-forest land transferred and mutated in favour of the State Forest Department shall be notified by the State Government as RF under Section-4 or PF under Section-29 of the Indian Forest Act, 1927 or under the relevant Section(s) of the local Forest Act, 1927 latest within a period of six months from the date of issue of Stage--II approval. The Nodal Officer shall report compliance in this	The State Government has informed that the proposal for Notification has been sent vide letter no. Bhu-Praband/Khanij/331-08/43 dated 05.01.2017. (pg-471/c) to the State Government of Chhattisgarh for further action.

	regard along with a copy of the original notification declaring the non-forest land under Section 4 or Section 29 of the Indian Forest Act, 1927, as the case may be, within the stipulated period to the Central Government for information and record;	
vi.	The User Agency shall transfer the cost of raising and maintaining the compensatory afforestation, at the current wage rate, to the State Forest Department. The scheme may include appropriate provision for anticipated cost increase for works scheduled for subsequent years;	The State Government has informed that the user agency has deposited the cost of Compensatory Afforestation amounting to Rs. 5,45,65,600.00/ - (2,72,82,800 + 2,72,82,800) through RTGS UTR No. SBINR52017010400002850 on 04.01.2017 and RTGS UTR No. SBINR520161206000028201 dated 06.12.2016 in account of Adhoc CAMPA.
vii.	The State Government shall charge the Net Present Value (NPV) of the forest land being diverted under this proposal from the User Agency as per the orders of the Hon'ble Supreme Court of India dated 28.03.2008, 24.04.2008 and 09.05.2008 in Writ Petition (Civil) No. 202/1995 and the guidelines issued by this Ministry vide its letter No. 5-3/2007-FC dated 05.02.2009 in this regard;	In compliance to this condition the State Government has informed that user agency has deposited Rs. 40150000.00 through RTGS No. SBINR52016101835682015 dated 18.02.2016 and Rs. 13373000.00 through RTGS No. SBINR52016113000032650 dated 30.11.2016 toward NPV cost in Adhoc CAMPA account. Thus, Rs. 5,35,23,000.00 has been deposited towards NPV in account of Chhattisgarh Ad-hoc-CAMPA.
viii.	At the time of payment of the Net Present Value (NPV) at the then prevailing rate, the User Agency shall furnish an undertaking to pay the additional amount of NPV, if so determined, as per the final decision of the Hon'ble Supreme Court of India;	The State Government has informed that an undertaking has been given by the project proponent. (Pg-526/c)
ix.	All the funds received from the user agency under the project, except the funds realized for regeneration/ demarcation of safety zone, shall be transferred to Ad-hoc CAMPA in the Saving Bank Account pertaining to the State concerned;	The State Government has informed that the user agency has deposited amount in account of Adhoc - CAMPA.
x.	Wherever possible and technically feasible, the User Agency shall undertake by involving local community, the	In compliance to this condition the State Government has informed that an undertaking has been given by project proponent. (Pg-527/c)

	afforestation measures in the blanks within the lease area, as well as along the roads outside the lease area diverted under this approval, in consultation with the State Forest Department at the project cost;	
xi.	The period of diversion of the said forest land under this approval shall be for a period co-terminus with the period of the mining lease proposed to be granted under the Mines and Minerals (Development & Regulating) Act, 1957, or Rules framed there under, subject to a maximum period of 30 years;	In compliance to this condition the State Government has informed that an undertaking has been given by project proponent. (Pg-528/c)
xii.	User agency either himself or through the State Forest Department shall undertake gap planting and soil & moisture conservation activities to restock and rejuvenate the degraded open forests (having crown density less than 0.40), if any, located in the area within 100 m. from outer perimeter of the mining lease;	In compliance to this condition the State Government has informed that user agency has given a Bank Guarantee of Rs. 3,10,500.00 (Guarantee No. 0713616BG0000340) (pg- 609-616/c) In addition the User agency has given an undertaking for gap plantation through State Forest Department by project proponent (pg-529/c) .
xiii.	The user agency shall undertake mining in a phased manner after taking due care for reclamation of the mined over area. The concurrent reclamation plan as per the approved mining plan shall be executed by the User Agency from the very first year, and an annual report on implementation thereof shall be submitted to the Nodal Officer, Forest (Conservation) Act, 1980, in the concerned State Government and the concerned Regional Office of the Ministry. If it is found from the annual report that the activities indicated in the concurrent reclamation plan are not being executed by the User Agency, the Nodal Officer or the Chief Conservator of Forests (Central) may direct that the mining activities shall remain suspended till such time,	In compliance to this condition the State Government has informed that an undertaking has been given by project proponent (pg-540/c) .

	such reclamation activities are satisfactorily executed.	
xiv.	The User Agency either himself or through the State Forest Department shall undertake fencing, protection and afforestation of the safety zone area (7.5 meter strip all along the outer boundary of the mining lease or mining cluster, as applicable, and such other areas as specified in the approved mining plan) at the project cost;	In compliance to this condition the State Government has informed that as per the demand, Rs. 17,09,075.00 has been deposited through in Chhattisgarh CAMPA account vide SBINR520161206000028201 on 06.12.2016
xv.	The User Agency either himself or through the State Forest Department shall undertake afforestation on degraded forest land, one and half time in extent to the area used for safety zone;	Rs. 57,29,388.00 has been deposited for afforestation in identified land of 10.50 ha in village sulangi (khasra no. 55), Tehsil Antagarh, dist. Kanker, Chhattisgarh towards one and half time in extent to the area used for safety zone.
xvi.	In case of under-ground mines, areas on surface shall be fenced and afforested from the funds to be provided by the user agency.	In compliance to this condition the State Government has informed that an undertaking has been given by project proponent (pg-603/c)
xvii.	The user Agency shall implement the R & R Plan as per the R & R Policy of State Government in consonance with National R&R Policy, Government of India before the commencement of the project work and implementation. The said R & R Plan will be monitored by the State Government/Regional Office of MoEF along with indicators for monitoring and expected observable milestones.	The State Government has informed that R&R plan is not necessary in the said proposal, there is not any case of displacement. However, user agency has given an undertaking in this regard. (pg-607/c)
xviii.	The user agency shall undertake de-silting of the village tanks and other water bodies located within five km from the mine lease boundary so as to mitigate the impact of siltation of such tanks/water bodies, whenever required;	In compliance to this condition, the State Government has informed that an undertaking is given by the project proponent. (Pg-608 /c)
xix.	Following activities shall be undertaken by the User Agency at the project cost:	
	(a) Preparation and implementation of a plan	In compliance to this condition, the State Government has informed that the user agency has

	containing appropriate mitigative measures to minimize soil erosion and choking of streams;	furnished Bank Guarantee of Rs. 3,10,500.00 (Guarantee No. 0713616BG0000340) (pg- 609-616/c) . In addition, the User agency has given an undertaking for gap plantation through State Forest Department by project proponent (pg-529)
	(b) Planting of adequate drought hardy plant species and sowing of seeds in the appropriate area within the mining lease to arrest soil erosion;	
	(c) Construction of check dams, retention /toe walls along the contour to arrest sliding down of the excavated material;	
	(d) Stabilize the overburden dumps by appropriate grading/benching so as to ensure that that angles of repose at any given place is less than 28°; and	
	(e) Strict adherence to the prescribed top soil management.	
xx.	The User Agency shall obtain the Environment Clearance as per the provisions of the Environmental (Protection) Act, 1986, if required;	The State Government has informed that the user agency has obtained Environment Clearance vide Ministry's letter no. J-11015/512/2008-IA. II (M) dated 25.02.2009 (Pg-627-629/c)
xxi.	No labour camp shall be established on the forest land;	In compliance to this condition, the State Government has informed that an undertaking is given by the project proponent. (Pg-630/c)
xxii.	The User Agency shall provide fuels preferably alternate fuels to the labourers and the staff working at the site so as to avoid any damage and pressure on the nearby forest areas;	In compliance to this condition, the State Government has informed that an undertaking is given by the project proponent. (Pg-631/c)
xxiii.	The boundary of the diverted forest land, mining lease and safety zone, as applicable, shall be demarcated on ground at the project cost, by erecting four feet high reinforced cement concrete pillars, each inscribed with its serial number, forward and back bearing and distance from pillar to pillar;	In compliance to this condition, the State Government has informed that an undertaking is given by the project proponent. (Pg-632/c)

xxiv.	The layout plan of the proposal shall not be changed without the prior approval of the Central Government.	In compliance to this condition, the State Government has informed that an undertaking is given by the project proponent. (Pg-633/c)
xxv.	The forest land shall not be used for any purpose other than that specified in the proposal;	In compliance to this condition, the State Government has informed that an undertaking is given by the project proponent. (Pg-634/c)
xxvi.	The forest land proposed to be diverted shall under no circumstances be transferred to any other agency, department or person without prior approval of the Central Government;	In compliance to this condition, the State Government has informed that an undertaking is given by the project proponent (Pg-635/c)
xxvii.	No damage to the flora and fauna of the adjoining area shall be caused;	In compliance to this condition, the State Government has informed that an undertaking is given by the project proponent (Pg-636/c)
xxviii.	Any tree felling shall be done only when it is unavoidable and that too under strict supervision of the State Forest Department;	In compliance to this condition, the State Government has informed that an undertaking is given by the project proponent. (Pg-637/c)
xxix.	The user agency in consultation with the State Government shall create and maintain alternate habitat/home for the avifauna, whose nesting trees are to be cleared in this project. Bird's nests artificially made out of eco-friendly material shall be used in the area, including forest area and human settlements, adjoining the forest area being diverted for the project;	The State Government has informed that M/s Chhattisgarh Wildlife Society has prepared a report in this regard and placed in file (pg. 687-726/c) and the user agency has agreed to implement the report. An undertaking is also given by the user agency placed in file (pg. 685/c) .
xxx.	The State Government shall complete settlement of rights, in terms of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, if any, on the forest land to be diverted and submit the documentary evidence as prescribed by this Ministry in its letter No. 11-9/1998-FC (pt.) dated 03.08.2009, in support thereof;	The State Government has informed that the user agency has already submitted the compliance on Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (pg. 347-349/c) . It is noticed that FRA compliance has been submitted for an area of 50 ha against the proposal of 57 ha.
xxxi.	The user agency shall submit the annual self-compliance report in respect of the above conditions to the State Government and to the	In compliance to this condition, the State Government has informed that an undertaking is given by the project proponent. (Pg-649/c)

	concerned Regional Office of the Ministry regularly.	
xxii.	Any other condition that the concerned Regional Office of this Ministry may stipulate, from time to time, in the interest of conservation, protection and development of forests & wildlife; and	The State Government has informed that user agency has deposited an amount of Rs. 3,45,00,000.00 in account of Chhattisgarh CAMPA by RTGS no. SBINR52016092134611123 dated 21.09.2016 for the purpose of wildlife conservation (Pg-650-683/c)
xxiii.	The User Agency and the State Government shall ensure compliance to provisions of the all Acts, Rules, Regulations and Guidelines, for the time being in force, as applicable to the project.	In compliance to this condition, the State Government has informed that an undertaking is given by the project proponent. (Pg-684/c)

7. From the examination of compliance report furnished by State Govt. for fulfilling the conditions stipulated in Stage-I Clearance, the following is observed:

- (a) The necessary undertakings to comply the conditions stipulated in Stage-I Clearance have been submitted.
- (b) The compensatory levies had been deposited through e-payment. The details are as under:

S. N.	Compensatory levies	Amount (Rs.)	Date of transaction	Remarks
1)	CA	27282800	06.12.2016	The screen shots for the amount deposited may kindly be seen at page 753- 757/c and photocopies of demand notices are available in file at pg. 758-761/c.
2)	CA	27282800	04.01.2017	
3)	NPV	40150000	18.10.2016	
4)	NPV	13373000	30.11.2016	
5)	Wild life plan	34500000	21.09.2016	
6)	Safty zone	7438463	06.12.2016	
	Total	150027463		

- (c) In-principal approval” for this proposal was granted on 22.10.2013 **(pg 405-408/c)** subject to certain conditions including the condition “*Compensatory afforestation over the non-forest land/orange forest land equal in extent to the forest land being diverted , shall be raised and maintained by the State Forest Department at the cost of the user agency.* The State Government vide their letter dated 16.12.2014 **(Pg. 409-410/c)** was requested to consider the land meant for compensatory afforestation as degraded forest land in place of non-forest land. The reason provided by them is deemed consideration of protected forest land as provided under clause 20(A)(4) of Indian Forest Act 1927. This issue has been specifically noted by the FAC meeting held on 4th April 2013**(P.387/c)** as detailed below:-

“ *The committee noted that the proposal involves the State Government has proposed compensatory afforestation over degraded orange forest land double in extent to the area*

proposed for diversion. However, the committee noted that such forest area may be treated as non-forest land provided declared as Reserved Forests subsequently.”

It is also mentioned that the issue of CA was discussed in the meeting chaired by the then Addl.DGF(FC) on 29.04.2015 and it was recommended in that meeting that the Central Govt. has no problem to undertake CA over double of these lands(chhote/ bade jhar ke jungle), however, at least equivalent such non-forest land has to be notified as RF under IFA,1927(pg.24-25/n). Now the State Government has identified 100.00 Ha (Block No OA-452 – 15.00 ha (out of total area 81.69 ha &2. Block No. OA-453 - 85.00 ha (out of total area 93.95 ha) for Compensatory Afforestation towards the proposed diverted area of 57.00 ha which includes 7 ha. of safety zone area.

(d) The compliance on **FRA is given for 50 ha.** instead of 57 ha. Thus, the complete compliance on Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 has not been submitted so far.

8. It is also imperative to mention that the **Site inspection** for this proposal was carried out by Shri Charan Jeet Singh, Scientist 'C', **Regional Officer (WCZ), Nagpur** with the officials of State Forest Department and representatives of the User Agency on **4.01.2017** . The detailed report of SIR is reproduced below:

i. Legal status of the forest land proposed for diversion.:

Legal status of the land proposed for diversion is Protected Forests.

The mining lease of the User Agency is contiguous to their mining lease of 25 ha for which approval of the Central Government under the Forest (Conservation) Act, 1980 has already been obtained by the User Agency on 23.11.2000.

ii. Item-wise break-up details of the forest land proposed for diversion:

S. No.	Particulars	Area (Ha)
i.	Mining activity including back and front quarry limit	40
ii.	Waste Dump	5
iii.	Sub Grade Stacking	2
iv.	Road	2
v.	Other activities (Maintenance area for vehicles and other facilities like first Aid, Blasting Shelter, Rest Shelter and urinal	1
vi.	Sub-Total	50
	Safety Zone	7
	Total	57

Following is worth mentioning here:

- i. Total area of 50 ha comprised of 48 ha lease area and 2 ha of road proposed for approach road connecting ha mining lease to the nearest village road. Further, an area of 2 ha of forest land bifurcating the lease area into two parts, constitutes the part of 25 ha of forest land approved by the Central Government in its approval dated 24.02.2003.
- ii. Further, area of safety zone area was not included in original proposal of the User Agency pertaining to diversion of 50 ha. However, FAC in its meeting held on 3rd to 4th April, 2013 noted that 7 ha forest land falling in safety zone had not been sought to be diverted whereas

as per the latest guideline of 12.07.2012 of the Ministry, this area is also to be diverted. Therefore, the total area of 57 ha was diverted vide 'in-principle' approval dated 22.10.2013.

iii. Whether proposal involves any construction of buildings (including residential) or not. If yes, details thereof: Same as given under para 2 above. The representative of the User Agency has informed that no construction of permanent structures or buildings is involved in the area proposed for mining lease.

iv. Total cost of the project at present rates: Total cost of project is Rs. 50.47 crores.

v. Wildlife:

Whether forest area proposed for diversion is important from wildlife point of view or not : It was informed that area does not have major wildlife. Important species reported in the area sloth bear, hyena, fox, deer, blue bull, jungle cat, common hare, etc. The area proposed for diversion does not form the part of any wildlife corridor, Protected Area and Wildlife Sanctuary.

vi. Vegetation:

i. Total number of trees to be felled: 23,800 trees of all girth classes

ii. Effect of removal of trees on the general ecosystem in the area.

Important Species: - Important species found in the area include *Terminalia tomentosa*, *Anogeissus latifolia*, *Tectona grandis*, *Madhuca indica*, *Schleichera oleosa*, *Terminalia belerica*, *Diospyrus melanoxylon* and *Mitrgyna parviflora* etc in top canopy, *Cleistanthus collinus*, *Embllica officinalis*, *Cassia fistula*, *Terminalia chebula* and *Buchanania latifolia* and bamboo etc. in middle canopy. **Density of the area proposed for is between 0.5 to 0.7.**

Removal of such a large number of trees over an area will certainly impact on the local environment.

vii. Background note on the proposal:

Mining lease of the User Agency is located in the Metabodeli in West Bhanupratappur. It is informed by the User Agency that mining lease is among the 10 mining lease allotted by the State Government of Chhattisgarh to private companies in the year 2008-09. The Lol for the extant mining lease was accorded by the State Government on 28.07.2008.

Total reserve in the area have been estimated to 6.15 MT out of which mineable reserves have been estimated to 5.70 MT comprising of 0.19 MT of float ore and 1.75 MT of probable reserve. The capacity of the mine is to produce iron ore of 1 Lakh ton per annum.

The Stage-I approval to the mining lease of the User Agency has already been accorded by the Central Government on 22.10.2013. The User Agency has informed that compliance of Stage-I approval has also been submitted and the same is under consideration in the MoEF&CC.

It is further informed by the User Agency that instant proposal seeking prior approval of the Central Government under Section-2(iii) of the Forest (Conservation) Act, 1980 has been submitted in accordance with Rule 8 of the Mineral Concession Rules, 2016 which came into force on 4.03.2015, wherein it is inter-alia provided that the applicant in whose favour the State Government has issued Letter of Intent in writing before January 12, 2015 for grant of a mining lease for minerals, the mining lease shall be executed and registered

on or before 11.01.2017 failing which rights of such an applicant for grant of mining lease shall be forfeited.

Pending the execution of lease in favour of the applicant, the applicant approached the Hon'ble High Court of Chhattisgarh at Bilaspur at Nagpur by way of filing a W. P. (C) No. 91 of 2017 and the Hon'ble High Court vide its order dated 12.01.2017 directed that 'it is ordered that notwithstanding anything contained in Rule 8(4) of the Minerals (Other than Atomic and Hydro Carbon Energy Minerals) Concession Rules, 2016, the Petitioner shall not be treated ineligible and its application shall remain alive for consideration. However, it is clarified that treating the application alive shall not be construed to mean that the Petitioner is entitled to involve in mining activities over the subject'

viii. Compensatory afforestation: The compensatory afforestation has been proposed over orange forest land, double in extent to the forest land being diverted. The DCF, Kanker has certified that the land identified for raising CA is suitable for afforestation. The User Agency has informed that compensatory levies for raising CA over the identified orange forest land have already been deposited by them into the account of Ad-hoc CAMPA and the same has been reported to the MoEF&CC, New Delhi by the State Government along with the compliance report.

ix. Whether proposal involves violation of Forest (Conservation) Act, 1980 or not. If yes, a detailed report on violation including action taken against the concerned officials:

No violations of the Forest (Conservation) Act, 1980 were reported in the original proposal submitted for approval under Section — 2 (ii) and Section 2 — (iii) of the Forest (Conservation) Act, 1980. However, FAC in its meeting held on 26.12.2016, after examination of the proposal inter-alia recommended that there are certain encroachments in the area proposed for diversion and accordingly, it was decided that site inspection will be carried out by the Regional Office before any decision on the issue is taken by the FAC. The matter stands deferred till that time. During the inspection of the area conducted by the Regional Office, following is observed:

With regard to the issue of using road passing through the forest land unauthorizedly, following is submitted:

- i.** The User Agency has two mining leases in the area contiguous to each other. Lease -I has an area of 23 ha (mining) + 2 ha (road) = 25 ha for which approval of the Central Government has already been obtained on 24.02.2003. The lease-II of the User Agency has an area of 48 ha (mining) + 2 ha (road). 50 ha for which Stage-I approval has been accorded by the Central Government on 22.10.2013.
- ii.** Lease —II and Lease-I area of the User Agency are located stands at national 2 Km milestone and 3 Km milestone, respectively on the same approach road from the Chargaon village/boundary of forests i.e. Lease —I is located deep into the forest at a distance of around 3 km from the outer boundary of forest area and entire approach road of 3 km passes through the forest land.
- iii.** The User Agency has informed that proposal pertaining to the diversion of 25 ha, which was submitted to the Central Government for approval under the Forest (Conservation) Act, 1980 in the year 1995, includes an area of 2.0 earmarked for approach road while remaining area of 23 ha has been proposed for mining and other ancillary activities. A copy of the relevant documents i.e. recommendations of the then State Government of Madhya Pradesh, the then PCCF, and then DFO categorically recording that to an approach road of 2.0 ha will be required to ensure approach to the area proposed for diversion and the land for approach road is included

in the diversion proposal have been obtained from the office of the Principal Secretary (Forests), Government of Chhattisgarh. A copy of the documents containing the recommendation of the then authorities in the State Government and State Forest Department is enclosed as Annexure-I. It is also to mention that approval of the Central Government for diversion of 25 ha was accorded in two phases i.e. in first phase an area of 6.60 ha was approved vide letter no. 8-116/1995-FC dated 23.11.2000 while remaining area of 18.40 was accorded approval on 24.02.2003. A copy of the approval accorded by the Central Government is enclosed at **Annexure-II**.

- iv. The area of 2.0 ha, earmarked for approach road in the proposal pertaining to Lease-I corresponds to a length of 988 meters with a width of 20 meters. The representatives of the User Agency have also informed that beyond the length of proposed approach road, existing road of the Forest Development Corporation over a length of 2 km i.e. upto village Chargaon/outer boundary of forest land, has been proposed to be used by the User Agency.
- v. The said length of 988 meters of approach road for Lease-I, passes through the forest area sought to be diverted in Lease-II. The representative of the User Agency have also informed that owing the severe naxalism problem in the area, mining operation could not be resumed in the Lease-I (23 ha) till 2015. The mining operations resumed fully from October, 2016 onwards

Further, with regards to issue of felling of trees in the 25 ha and surrounding forest area, the following is submitted: The DFO, West Bhanupratappur Forest Division, during discussion on the issue held telephonically on 4.02.2016 informed that upto 2015, the area was severely affected from naxalism and there was strong protest from the naxals against the proposed mining in the area. It was also informed that during the past incidences of naxal attacks trees were felled and forest was set on fire. The DFO, West Bhanupratappur has also informed that Protected Forests of the area have been handed over the Forest Development Corporation by the State Forest Department and they have been managing the area including the approach road. To add to above, the representative of the User Agency has also informed that after obtaining approval of the Central Government in the year 2003 for 25 ha of forest land, initially attempts were made to start the mining operation in the year 2003. However, due to severe naxal problem, the mining operations could not be resumed and their machinery was set on ablaze by the naxals. Thereafter, the User Agency has made efforts to start mining operations in the year 2007 and 2010 and 2015. However, due to strong objection of the mining in the area from naxals, the mining activities could not be resumed and machinery employed by the User Agency for the commencement of mining operation was set on ablaze. It was further informed that a total of 7 incidences of naxal attacks have taken place in the area since 2003 to 2015. During such incidences trees were felled and forest, trucks of the User Agency and other machinery were set on fire. It is further informed that no felling of trees outside their lease area was undertaken by the User Agency. A copy of the supporting documents i.e. FIRs containing detailed information of the aforementioned incidences, as provided by the User Agency is enclosed at Annexure . From the examination of the above facts, it may be concluded that mining operations of the User Agency have been resumed in the area since October, 2016 and use of the road managed by the Forest Development Corporation beyond 988 meters length (2.0 ha area included in 57 ha) by the User Agency amount to violation of the Forest (Conservation) Act, 1980. Said road of the FDC has now been included in the proposal of 57 ha by the User Agency i.e. now total area under road component in both the leases is 4 ha. The User Agency has informed that though they have proposed to use the road of FDC, however, the mining activity could not be resumed due to naxal problem. The said road of 2.0 i.e. over a length of 1970 meters is being used by the User Agency currently. Use of the road over a stretch of **1970 meters without prior approval of the Central Government amounts of violation of the Forest (Conservation) Act, 1980.**

- x. **Whether proposal involves rehabilitation of displaced persons. If yes, whether rehabilitation plan has been prepared by the State Government or not. Detail be**

furnished specifically if rehabilitation plan would affect any other forest area by translocating outstees in and around the said forest:No rehabilitation is involved in the proposal.

xi. Reclamation Plan: Not applicable

Details and financial allocation. NA

xii. Details on catchment and command area under the project:NA

xiii. Cost benefit ratio: 1:14.22.

xiv. Recommendations of the Principal Conservator of Forests/State Government: The Principal Chief Conservator of Forest, Government of Chhattisgarh has recommended the proposal for grant of approval under Section 2 of the Forest (Conservation) Act, 1980 without any specific conditions.

xv. Recommendations of Regional Chief Conservator of Forests along with detail reasons.: Recommendations of the Addl. PCCF (Central) have been appended separately.

xvi. Addl. Principal Chief Conservator of Forests (Central) shall give detailed comments on whether there are any alternatives routes/alignments for locating the project on the non-forest land.

Comments of the Addl. PCCF (Central) have been amended separately.

xvii. Utility of the project. Numbers of Scheduled Castes/Scheduled Tribes to be benefited by the project.

It is informed that the proposal will enhance the socio-economic development in the region. The population of approximately 200 people residing in the nearby villages will be benefited. In addition to generating employment opportunities in the region and revenue for the State Government, the project will provide an opportunity for the tribal population to associate themselves with the mainstream of development.

xviii. Whether land being diverted has any socio-cultural /religious value. Whether any sacred grove or very old grown trees/forests exists in the areas proposed for diversion: No. As per information provided the area is not important from the socio cultural/religious view point.

xix. Situation w.r.t. any P.A.: It is indicated in the proposal, that land proposed for diversion is located beyond a distance of 10 km from the boundary of any PAs. It is also reported that area proposed for diversion does not form the part any Tiger/Reserve/Wildlife Corridor, etc.

xx. Any other information relating to the project:

a. Compliance of Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 has been submitted by the State Government along with the supporting documents.

b. Given the fact that the mining operations are ongoing now and use of the road managed by the Forest Development Corporation beyond 988 meters length (2 ha annexed to 57 ha

area of Lease-II) by the User Agency amount to violation of the Forest (Conservation) Act, 1980. Said road of the FDC has now been included in the proposal of 57 ha by the User Agency i.e. now total area under road component in both the leases is 4 ha. The User Agency has informed that though they have proposed to use the road of FDC, however, the mining activity could not be resumed due to naxal problem. The said road of 2.0 i.e. over a length of 1970 meters is being used by the User Agency currently. **Use of the road over a stretch of 1970 meters without prior approval of the Central Government amounts of violation of the Forest (Conservation) Act, 1980.**

- c. Further, an area of 7.0 ha along the outer boundary of the mining lease of the User Agency has been earmarked for the safety zone in accordance with the then prevailing Guidelines of the MoEF&CC and the same was also included in the area agreed by the Central Government for 'in-principle' approval i.e. Stage-I approval was accorded for an area of 57 ha. However, as per the Guideline dated 27.05.2015, safety zone is required to be maintained within the mining lease area. Therefore, area of 7 ha earmarked to maintained as safety zone should be deleted from the area and Stage-I approval dated 22.10.2013 may accordingly be amended for diversion of 50 ha of forest land and safety zone is to be maintained within the forest area of 50 ha.
- d. Road, involving 2 ha of forest land in Lease-I, appears to be constructed unauthorizedly, constitutes the part of area of 25 ha for which approval under the Forest (Conservation) Act, 1980 was accorded by the Central Government vide letter no. 8-116/1995-FC dated 24.02.2003.
- e. Clear felled area, located contiguous to the mining lease of 25 ha, as visible in the Google Satellite imagery of the area, is outcome of the forest fire and felling of trees during past naxal attacks in the area as corroborated by the FIRs provided by the User Agency.
- f. Examination of the area proposed for diversion using DSS tools in light of draft parameters for identification of inviolate forest area, it is revealed that area does not fall into the category of inviolate forest areas.
- g. Lease-I and Lease-II of the User Agency should be amalgamated into a single lease by the State Government at the time of execution of lease.
- h. Pending the execution of lease in favour of the applicant, the applicant approached the Hon'ble High Court of Chhattisgarh at Bilaspur at Nagpur by way of filling a W. P. (C) No. 91 of 2017 and the Hon'ble High Court vide its order dated 12.01.2017 directed that *“it is ordered that notwithstanding anything contained in Rule 8(4) of the Minerals (Other than Atomic and Hydro Carbon Energy Minerals) Concession Rules, 2016, the Petitioner shall not be treated ineligible and its application shall remain alive for consideration. However, it is clarified that treating the application alive shall not be construed to mean that the Petitioner is entitled to involve in mining activities over the subject”*.

xxi. COMMENTS AND RECOMMENDATIONS OF THE ADDITIONAL PRINCIPAL CHIEF CONSERVATOR OF FORESTS (CENTRAL):

The User Agency has two mining leases, one signed and other one proposed, in the area contiguous to each other. Forest area of 25 ha, including 2 ha of road has already been diverted by the Central Government for Lease —I on 24.02.2003. Similarly, Stage-I approval over an area of 57 ha for Lease —II, including 2 ha of forest land for road, and 7 ha of safety zone has already been accorded by the Central Government on 22.10.2013 and compliance of the Stage-I approval is under consideration in the MoEF&CC. From the examination of the facts and relevant records, it is established that 2.0 ha of forest land, earmarked for road in the extant

proposal of 57 ha is currently being used by the User Agency in violation of the Forest (Conservation) Act, 1980 while there appears to be no violation of Forest (Conservation) Act, 1980 for use of 988 meters of approach road involving forest area of 2.0 ha, annexed to 23 ha area of Lease-I of the User Agency. The approval dated 24.02.2003 accorded for 25 ha include 2.0 ha of forest land for construction of road. **The Central Government may consider following, in case proposal is considered for approval under the Forest (Conservation) Act, 1980 Forest area of Lease-II involving 7.0 ha along the outer boundary of the mining lease on three Sides, earmarked for the safety zone, should be deleted from the area and Stage-I approval dated 22.10.2013 may accordingly be amended for diversion of 50 ha of forest land and safety zone is to be maintained within the forest area of 50 ha.**

9. It is also point out here that the APCCF& Nodal Officer, Govt. of Chhattisgarh vide their letter No./LM/Mining/331-08/109 dated 10.01.2017 clarified that:
- (i) The safety zone outside the mining lease area was proposed as per earlier norms. Now it shall be done inside the lease area as per existing guidelines.
 - (ii) The Mining Plan shall be amended by the user agency in the next 3 months if required and then only permission for actual mining shall be accorded.
 - (iii) The user agency has already an approved mining lease of 25 ha. adjacent to the area and from there extracted Iron Ore is being transported through the pre-existing cart road through this area as informed by DFA, West Bhaupratppur telephonically.
10. It is worth mentioning here that the user agency vide their letter No. JNIL/Metabodeli 50 Ha/2017/29 dated 31.01.2017 forwarded a copy of Mining Plan duly approved by Indian Bureau of Mines, Ministry of Mines vide their letter No. 314(3)/2011-MCCM(CZ)/MP- 30 Nagpur, Dated 10/01/201230, whereby the Indian Bureau of Mines conveying the approval of the modification in approved Mining Plan of Metabodeli Iron ore deposit over an area of 50.00 ha.in Kanker District of Chhattisgarh, in exercise of the powers conferred by Proviso of Rule 22(6) of Mineral Concession Rules, 1960, subject to **certain conditions in addition to the conditions imposed while approving the Mining Plan vide letter no. 314(3)/2009-MCCM(CZ)/MP-15, dated 31.08.2009** which include the following:-
- i) This approval of modification in the approved Mining Plan is without prejudice to any other laws applicable to the mine/area from time to time whether made by the Central Government, State Government or any other authority.
 - ii) It is clarified that this approval of the modification in the approved Mining Plan does not in any way imply the approval of the Government in terms of any other provisions of the Mines and Minerals (Development & Regulation) Act, 1957 or the Mineral Concession Rules, 1960 and any other laws including the Forest (Conservation) Act, 1980, Environment (Protection) Act, 1986 and the rules made there under.
 - iii) **It is further clarified that this approval of modification in the approved Mining Plan is subject to the provisions of Forest (Conservation) Act 1980, Forest Conservation Rules 1981 and other relevant statues, orders and guidelines as may be applicable to the lease area from time to time.**
 - iv) The modification in the approved Mining Plan is approved without prejudice to any other order or direction from the court of competent jurisdiction.
 - v) The approval of modification in the approved Mining Plan is subject to the compliance of CCOM's Circular No. 2/2010 regarding Geo-referenced cadastral map within 6 months from the date of approval failing which the approval of the document shall be deemed to have been withdrawn with immediate effect.

- vi) The department does not undertake any responsibility regarding correctness of the boundaries of the lease area shown on the ground with reference to lease map & other plans furnished by the applicant/lessee.
- vii) Your attention is invited to the supreme Court interim order in W.P.(C) No. 202 dated 12-12-96 for compliance. The approval of modification in the approved Mining Plan is, therefore, issued without prejudice to and is subject to the said directions of the Supreme Court as applicable.
- viii) Yearly report as required under rule 23E(2) of MCDR'88 setting forth the extent of protection and rehabilitation works carried out as envisaged in the approved progressive mine closure plan and if there as any deviations, reasons thereof shall be submitted before 1st July of every year.
- ix) **A copy of Environment Impact Assessment-Environment Management Plan (EIA-EMP) as approved by MOEF (Ministry of Environment & Forest) shall be submitted to IBM immediately after approval by MOEF.**

11. It is also imperative to mention here that the user agency filed a W. P. (C) No. 91 of 2017 before the Hon'ble High Court of Chhattisgarh at Bilaspur in connection with pending execution of lease and the Hon'ble High Court vide its order dated 12.01.2017 directed that **“it is ordered that notwithstanding anything contained in Rule 8(4) of the Minerals (Other than Atomic and Hydro Carbon Energy Minerals) Concession Rules, 2016, the Petitioner shall not be treated ineligible and its application shall remain alive for consideration. However, it is clarified that treating the application alive shall not be construed to mean that the Petitioner is entitled to involve in mining activities over the subject”**.

12. After examining the above proposal in detail, the following is concluded:

- (i) the State Government of Chhattisgarh was submitted the proposal for diversion of 50 ha of protected forest land in 2013.
- (ii) The FAC in its meeting held on 3rd to 4th April, 2013 recommended that the Committee noted that 7 ha forest land falling in safety zone has not been sought to be diverted whereas as per the latest guideline of the Ministry, this area is also to be diverted. Therefore, the total area to be diverted is 57 ha. and accordingly, approval of Hon'ble MEF was solicited to accept the recommendations of the FAC, and to issue Stage-I approval for diversion of 57.0 ha of protected forest land including 7.0 ha of forest land for safety zone.
- (iii) In-principal approval/ Stage-I clearance for diversion of 57.00 ha of forest land for Iron Ore Mining lease was granted vide this Ministry's letter no. F. No. 8-16/2013-FC dated 22.10.2013.
- (iv) The Government of Chhattisgarh vide their letter No. Bhu-Prabandh/Khanij/331-08/45 dated 05.01.2017 furnished the compliance report on the conditions as stipulated in the in-principle approval letter dated 22.10.2013.
- (v) The necessary compliance to fulfil the conditions stipulated in Stage-I Clearance have been submitted and the compensatory levies has been deposited through e-payment. In this regard, the details are given in para (6&7) above.
- (vi) An application made by the user agency through State Govt. for seeking approval under **Section 2 (iii) of Forest Conservation Act, 1980** over 57.00 ha including 7.00 ha forest land for safety zone of Metabodeli Iron Ore Mine in Kanker District of Chhattisgarh. This application was placed before FAC on 26.12.2016 and the FAC recommended that “on analysis through Decision Support System (DSS) it is observed that there are some encroachment in the forest area proposed to be diverted. It is decided that Site Inspection shall be carried out by Regional office before any decision on the issue is taken by FAC. The matter stands deferred till such time”.
- (vii) The complete compliance on FRA for 50 ha. has been received.

- (viii) The Regional Office, Nagpur has been carried out SIR and the detailed report has been explained in para (8) above. The detailed report on violation of Forest (Conservation) Act, 1980 under this project has been given in Sir and available in above note at para 8 (9) above. **In his specific comments by the Addl. PCCF, RO, Nagpur** stated that the Central Government may consider following, in case proposal is considered for approval under the Forest (Conservation) Act, 1980 Forest area of Lease-II involving 7.0 ha along the outer boundary of the mining lease on three Sides, earmarked for the safety zone, should be deleted from the area and Stage-I approval dated 22.10.2013 may accordingly be amended for diversion of 50 ha of forest land and safety zone is to be maintained within the forest area of 50 ha.

The facts of the above proposal seeking prior approval for diversion of 57.00 ha including 7.00 ha of forest land for safety zone of Mine closure plan of Metabodeli Iron ore deposit in Kanker District of Chhattisgarh under Section 2 (ii) and Section 2 (iii) of Forest Conservation Act, 1980 in favour of M/s Jayaswal Neco Industries Ltd. is proposed to be placed before the Forest Advisory Committee (FAC) during its meeting scheduled to be held on 25.04.2017 for its examination and appropriate recommendations.
