

Sub: Diversion of 64.119 ha. of Sabik Kisam forest land as on 25.10.1980 within total mining lease area of 64.463 ha. for Chromite mining in their Kaliapani Chromite Mines by M/s Balasore Alloys Ltd. in Jajpur District, Odisha.

1. The above mentioned proposal was considered by the FAC in its meeting held on 24.8.2016 and the FAC, after examination of the proposal and discussion with user agency, observed as below
2. The State Government of Odisha, Department of Environment, Forests & Climate Change, vide his letter No. 10F (Cons) 381/2015-12027 /F&E, Bhubaneshwar, dated 29.06.16 submitted a fresh proposal to obtain prior approval of the Central Government, in terms of the Section-2 of the Forest (Conservation) Act, 1980 for diversion of 64.119 ha. of Sabik Kisam forest land as on 25.10.1980 within total mining lease area of 64.463 ha. for Chromite mining in their Kaliapani Chromite Mines by M/s Balasore Alloys Ltd. in Jajpur District, Odisha .
3. The project is located in Cuttack Forest Division.of Jajpur district of Odisha.
4. It is reported that Legal Status of Forest land is revenue forest with density below 0.4 and fall in eco class I
5. In total 244 numbers of trees and 400 numbers of poles under 30 cm girth have been enumerated in the proposed area.
6. It is reported that the area is not vulnerable to erosion
7. The proposed site is adjoining to Mahagiri DPF and about 2.5 Km from Daitary DPF
8. The proposed area does not form part of National Park, Wildlife Sanctuary, Biosphere Reserve, Tiger Reserve etc. It is further reported that the project area proposed for diversion comes within a distance of 8.94 Kms from the proposed tiger corridor in Daitari DPF of Sukinda Range in Jajpur District, Odisha.
9. Main fauna reported from the area are Ratel, sloth Bear, Elephant, king Cobra, pangolin where as floral species reported from the area are Sal, Piasal, Sisoo, Kangada
10. No protected archaeological/ heritage site/ defense establishment or any other important monument is located in the area is reported.
11. It is reported that the requirement of forest land as proposed by the User agency is unavoidable and barest minimum for the Mining Purpose.
12. No violation of the Act has been carried out
13. The non-Forest govt. land over 63.949 ha. has been identified in village Rahadpur for compensatory afforestation.
14. CA scheme for Rs. 2,39,79,700 has been prepared ,approved and submitted.
15. Out of 64.119 ha sabik forest land 0.17 ha sabik lan will be part of safety zone area.
16. This mine is located with cluster of mines.Sukinda chromite mines of M/S IMFA on Eastern Side, Jindal Chromite Mines on Western Side and Ispat Sukind minesists towards south.
17. Benefit cost ratio is worked out to be 1:136
18. It is reported that the project is likely to generate employment for 3450 individuals.
19. The project does not involve displacement of human habitation. Hence Rehabilitation and Resettlement plan has not been prepared.
20. The land Suitability Certificate of CA is given by DCF, Cuttack Forest Division.
21. The Environment Clearance has already been obtained by the user agency vide Ministry's letter No. J11015/139/2012-IA.II (M) & J11015/307/2015-IA.II (M) dated 22.08.2014 & 05.11.2015 of MoEF & CC, Govt. of India.
22. The project is recommended by DFO, RCCF, PCCF and State government
23. It is reported by the State Govt. that M/s. Balasre Alloys Limited (BAL) formerly known as Ispat Alloys Limited has its Registered Office at Balgopalpur, District Balasore, Odisha.
24. This mining lease area was comprised of 64.463 ha. of non-forest land and 35.6 of Forest land.

25. The Govt. of Odisha granted the mining lease over 64.463 ha. of non-forest Govt. land vide their letter No. 5279 dated 22.05.2000 in favour of M/s Ispat Alloys Ltd. for a period of 30 years.
26. The Mining lease deed pertaining to ML of 64.463 ha. Area was duly executed between M/s Ispat Alloys Ltd. and Collector, Jajpur on 15.07.2000 with validity of lease up to 14.07.2030.
27. The Collector, Jajpur has also granted surface right over non-forest land of 64.120 ha vide letter No. 3479/2000 dated 31.07.2000 and over 0.344 ha vide order No. 8273 dated 03.08.2011 (total over 64.463 ha) .
28. In Pursuant to MoEF&CC guidelines bearing No. 8-78/1996-FC(Pt.) dated 10.3.2015, out of the total ML area of 64.463 ha. which was non-forest land as per Hal record, was found to be having 64.119 ha. of sabik kisam forest land as on 25.10.1980 and remaining 0.344 ha. of non-forest land. Land schedule of mining lease in Hal as well as Sabik record duly authenticated by Tehsildar, Sukinda .
29. **The applied area comes within a distance of 8.54 km from the proposed Tiger Corridor in Daitary DPF of Sukinda Range of Cuttack Division.** Project area is adjoining to Mahagiri DPF and is about 2.5 km distance from Daitari DPF.
30. This project will generate direct employment opportunity for 1050 persons during operation and 300 persons during construction. Similarly, 600 persons will have employment temporarily during construction and 1500 persons will have temporary employment during operation as well.
31. The proposed land use pattern furnished in part A Form of the Diversion Proposal is as follows.

S.N.	Component	Forest Land (Ha)	Non- Forest Land (ha)	Total land in ha.
1	Area under mining	22.022	0.000	22.022
2	Waste dump site	35.173	0.000	35.173
3	Mineral storage	2.249	0.000	2.249
4	Infrastructure (workshop, Administrative Building,)	1.071	0.000	1.071
5	Hauling Road for mining	0.342	0.000	0.342
6	Roads	0.000	0.344	0.344
7	Tailing pond	0.020	0.000	0.020
8	Effluent Treatment Plant	0.240	0.000	0.240
9	Mineral Separation Plant	0.702	0.000	0.702
10	Safety Zone	0.170	0.000	0.170
11	Others (to specify) – Area towards South East side of Dump -3 and areas where Green Belt and garland drain has already been developed.	2.130	0.000	2.130
		64.119	0.344	64.463

32. As per Site Inspection Report of DFO, Cuttack Forest Division and RCCF, Angul, dry deciduous forest growth with mixed vegetation is found in the area. The floral species like Sal, Sisoo, Piasal, Rai, Kangada etc. are found in and around the M.L. area. The faunal species noticed in the area includes Mongoose, Rhesus Monkey, Squirrel, Porcupine, barking Deer, Wild Boar, Bengal Monitor Lizard, Common Cobra, Chameleon, Common Krait, Vipers, jungle Cat, Indian Fox, Myna, Spotted Dove, parrot, Cuckoo, Hyena, Wolf, Jungle Fowl, Peacock et. Movement of elephants in the nearby forest area has also been recorded. Schedule I species like Pangolin, Python, Ratel, Sloth bear are also seen in the area.
33. It is reported that due care is to be taken for conservation of wildlife available in the area. The User Agency has paid the proportionate cost of wildlife management plan @ Rs. 43,000 /- per ha. over the lease hold area of 64.463 ha. amounting to Rs. 27,71,965/- only

34. it has also been mentioned by the lessee that their Kaliapni Chromite Mines is located within cluster of mines such as lease of Sukinda Chromite Mines of M/s IMFA on the eastern side, Jindal Chromite Mines of M/s Jindal Stainless Ltd. on the western side and Ispat Sukinda Chromite Mines of M/s Balasore Alloys Ltd. Exist on the south respectively.
35. As per para 4.7 of guidelines of F.C Act 1980, the safety zone of 7.5 m width all along the lease boundaries should be maintained. Further Para 4.7(ii) of FC Act guidelines says that in case of cluster of mines, the outer boundaries of cluster should be taken as safety zone and its maintenance cost has to be borne proportionately by the lessees operating the cluster.
36. Since the north side of the instant M.L. area is vacant area with tree growth, is therefore maintained as safety zone with 7.5 m width. This area under safety zone comes to 0.17 ha. which has been indicated in the land use pattern.
- 37. Degraded forest land to the extent of 1.5 times of safety zone has not been identified This land is to be covered under afforestation at the project cost .**
- 38. The Reclamation and afforestation scheme and biological reclamation for this Mining project has not been provided by the user agency.**
39. The lessees has deposited an amount of Rs. 4,68,06,870/- towards NPV for 64.119 ha. of forest land (as per Sabik record) in Adhoc-CAMPA Account .
40. FRA certificate in prescribed format for entire land of the ML area including sabik kisam forest land of 64.119 ha. of Collector, Jajpur along with copy of Gram sabha resolution dated 30.9.2015 of village Kaliapni have been furnished It is pointed out by the State Govt. that the Gram Sabha resolutions are without signatures of all the members present. Also English version of Gram Sabha resolution has not been furnished. However, copy of minutes of meeting of District Level Committee held on 9.2.2016 and Sub-Divisional Level Committee held on 31.12.2015 on this subject area submitted.
41. The State Govt. of Odisha had requested to examine this proposal for diversion of 64.119 ha. of sabik kisam forest land of M/s Balasore Alloys Ltd. In Jajpur District, Odisha subject to the following stipulation:
- A) The User Agency shall pay the approved cost of duly approved Site Specific Conservation Plan with Adhoc-CAMPA Account for execution of activities by DFO, Cuttack in project impact area. The lessee shall also undertake that they will implement the approved components of Plan within the leasehold area.
 - B) The user agency shall undertake demarcation of the lease area on the ground posting four feet high cement concrete pillars embedded two feet inside the soil with serial number, forward and backward bearings, and distance from pillar to pillar. The user agency shall also submit the map of lease area showing different kinds of forest land using DGPS survey data and latitude and longitude of each pillar to the Divisional Forest Officer, Cuttack for his reference before commencement of work on final forest clearance.
 - C) User Agency shall maintain and protect the safety zone as per para 4.7 of FC Act guidelines.
 - D) Gram Sabha resolution dated 30.9.2015 of Kaliapni village in Odia language with signature of all the members present duly certified by competent authority and English version of Gram Sabha resolution shall be furnished.
 - E) Reclamation and afforestation scheme and biological reclamation for this Mining project shall be provided by the user agency.
 - F) Memorandum of Association, Articles of Association of the Company along with certificate of incorporation shall be provided by the user agency.
 - G) Authenticated maps of existing and proposed land use plan shall be furnished.

- 42. Recommendation of FAC:** FAC recommended the proposal for clearance under Forest (Conservation) Act 1980 with general, standard and following specific conditions
- i. The User agency shall pay NPV at the rate 20 per cent for each year since the violation of Forest (Conservation) Act 1980 has commenced

- ii. User agency shall raise penal CA equivalent to the land utilised in violation of the provision of Forest (Conservation) Act 1980
43. However FAC further observed that the proposal file shall be put before the competent authority after receipt of following documents from the state.
- 1) Complete compliance of FRA certificate as per the latest guidelines issued by the ministry.
44. A copy of the minutes of the FAC meeting is placed in file at **pg. 418-424/c**.
45. The recommendation of FAC has been communicate vide this Ministry's letter dated 20.09.2016 (**pg. 426/c**) to State Govt. for compliance.
46. The Government of Odisha vide their letter no. 10F (Cons) 381/2015-17449/F&E dated 20.09.2016 (**Pg.427-702/c**) intimated that Addl. PCCF (Forest Diversion) and Nodal Officer, FCA has furnished the present status of compliance of all conditions (**Pg. 9/c**) as stipulated while forwarding the instant proposal vide letter dated 29.06.2016.

With regard to FRA, the State Government was earlier reported that FRA Certificate has been furnished along with a copy of Gram Sabha resolution submitted without without signatures of all the members present in the Gram Sabha (**pg. 8/c**). Moreover, an English version of Gram Sabha resolution was also not furnished. It has now been stated by the State Govt. (**Pg.430/c**) that the gram sabha resolution dated 30.09.2015 of Kaliapani village in Odia language with signature of all members present certified by competent authority has been enclosed along-with English version (**Pg.438-504/c**).

47. Taking in to consideration the recommendation of FAC as mentioned in para (42 & 43) above and compliance with regard to FRA as mentioned in para 46 above, the proposal was submitted for the approval of competent authority subject to certain conditions including following specific conditions as detailed below:-

- (i) **The User agency shall pay NPV at the rate 20 per cent for each year since the violation of Forest (Conservation) Act 1980 has commenced;**
- (ii) **User agency shall raise penal CA equivalent to the land utilised in violation of the provision of Forest (Conservation) Act 1980;**

48. Accordingly, the in-principle approval for the above subject proposal was granted vide this Ministry's letter dated 18.11.2016 subject to certain conditions which includes the above two stated conditions in the order at S.No. (ix) and (x).

49. Now the State Government of Odisha vide their letter No. 10F(Cons)381/2015-20394/F&E dated 05.11.2016(**Pg.707-708/c**) has forwarded a representation dated 07.10.2016 (**Pg.709-711/c**) of user agency whereby the user agency stated that no violation is done by them during last 16 years of mines operation and moreover the said lease was granted as per Government published Records of Rights (ROR) and we are no way connected in changing the land kisam from Forest to non-forest and the same was under TISCO lease since 1952 and we were granted the lease in 2000 after long legal procedure and Supreme Court's verdict. The user agency further stated that vide letter No 17551 dated 05.10.2005, Govt. of Odisha in Deptt. of Forest & Environment while forwarding diversion proposal over 35.60 ha. has critically analyzed the issue over 64.463 ha. land status and confirmed that the said land is non-forest both in Sabik as well Hal settlement. They are always abided by the law of land as applicable and **this penalty is illogical and irrational and will put us under severe financial crunch as Steel market in general and Ferro Alloys industries in particular recently are facing a global melt down, and requested not to impose penalty for such alleged violation of FC Act 1980 which we did not violate at all.**

50. The State Govt. of Odisha also mentioned that while forwarding this diversion proposal vide its letter dt, 29.6.2016, the State Government had indicated clearly that out of the total ML area of 64.463 ha. which was non-forest land as per Hal record, 64,119 ha. was found to be of sabik

kisant forest land as on 25.10.1980 and remaining 0.344 ha. of non-forest land. In view of this, State Government had not reported any violation in this mining lease.

In view of above, the above facts for review of penalty conditions as stated in para (47) above may be placed before FAC in its meeting to be held on 25.04.2017 for examination and appropriate recommendation please.
