Government of India
Ministry of Environment, Forests and Climate Change
(Forest Conservation Division)

Proceedings of the Forest Advisory Committee Meeting Held on
30th May 2014

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AIGF (HCC)

Agenda No. 1: Diversion of 65.00 ha. forest land in favour of SECL for Dhanpuri Underground Mining in Anuppur district in Madhya Pradesh (File No. 8-48/2010-FC)

FAC after examination of proposal observed as below:

1. Forest Advisory Committee (FAC) after examination of the said proposal in their meeting held on 26th - 27th November 2012 recommended that the State Government may be requested to provide following information/documents:
   (i) A copy of documentary evidence (along with soft copy in pdf format) in support of settlement of rights in accordance with the provisions of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forests Rights) Act, 2006 on the forest land proposed for diversion stipulated by this Ministry in its letter No. 11-9/98-FC (pt.) dated 03.08.2009;
   (ii) Complete Form A and additional documents such as Survey of India toposheets etc. submitted to this Ministry in soft copy in pdf format;
   (iii) Mining plan (along with numerical modeling in 3-Dimension for subsidence prediction and mitigation measures) along with its soft copy in pdf format, and
   (iv) A Survey of India Topo sheet in original, depicting boundary and status of mining in each of the mines located in vicinity of the forest land proposed for diversion along with its soft copy in pdf format.

   (i) Forest land proposed to be diverted is not located under a Gram Panchayat but is located under the Municipal Council, Dhanpuri. In such situation, Forest Rights Act, 2006 is not applicable to the project. User agency has obtained No Objection Certificate from the Municipal Council, Dhanpuri. A copy of the same is enclosed.
   (ii) Hard copy of Form A and additional documents such as Survey of India toposheets etc. submitted to this Ministry have been received from the user agency. Soft copy of the same will be provided, as and when the same is received from the user agency.
   (iii) Numerical modeling in 3-Dimension for subsidence prediction has been prepared by the Banaras Hindu University. A copy of the same is enclosed.
   (iv) A Survey of India Topo sheet in original, depicting boundary and status of mining in each of the mines located in vicinity of the forest land proposed for diversion is enclosed.

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3. Legal status of forest land proposed to be diverted is Reserved Forest;

4. Forest land proposed to be diverted contains Class-III and Class-IV Sal forests whose crown density varies from 0.00 to 0.10;

5. The forest area proposed to be diverted contains 194 standing trees. None of these trees are required to be felled as the forest land is proposed to be diverted for underground mining;

6. The forest land is proposed to be diverted for de-pillaring purpose;

7. The estimated outlay of the project is Rs. 34.02 crore;

8. Total 4.90 million tonne coal will be available during lease period. The coal extracted from the mine will be supplied to power houses in Madhya Pradesh, other industries and other consumers;

9. Project does not involve displacement of any human habitation;

10. It has been reported by the State Government that mining in the Dhanpuri underground coal mining Project for which the forest land proposed to be diverted, is required, started in the year 1978. Hence, Environment clearance is not required for the project;

11. Forest land proposed to be diverted is located within municipal limits of the Municipal Council, Dhanpuri. Certificate in respect of settlement of rights in accordance with the provisions of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 on the said forest land are not required to be submitted;

12. Original period of the lease in which the forest land proposed to be diverted is located was 30 years from 1st May 1973 to 30th April 2003. Ministry of Coal in their letter dated 25th April 2003, However clarified that in accordance with the provision of the Coal India (Regulation of Transfer and Validation) Act, 2000 since the SECL was formed in November 1985 as a subsidiary company of Coal India Limited, leases of the mines which came under their operational control with it formation i.e. on 29.11.1985, will be deemed to be fresh mining leases from dated 28.11.1985 and these leases are valid upto 28.11.2015 i.e. for a maximum period of 30 (thirty) years. Requisite approval under the FC Act to change the period of mining lease from a date after the FC Act came into force was not obtained. Change of the period of lease from 1985 to 2015 thus amounts to violation of the FC Act;

The FAC after detailed deliberations recommended grant of approval under the FC Act for renewal of mining lease for 65.00 hectares of the said forest land for a period of twenty years with effect from the 1st May 2003 subject to general conditions, standard conditions applicable to mining projects and the following additional conditions:

(i) The State Government shall raise penal compensatory afforestation from funds to be realized from the user agency, over degraded forest land double in extent to the forest land utilized for non-forest purpose without obtaining approval under the FC Act; and
The State Government shall realize from the user agency penal NPV @ 20% of the rates applicable on the date of grant of the stage-I approval, of forest land utilized for non forest purpose without obtaining approval under the FC Act after expiry of the mining lease on 30th April 2003, for each year or fraction thereof. (Explanation: In case a patch of forest land has been utilized for non-forest purpose without obtaining approval under the FC Act for 3 years, penal NPV to be realised in respect of such forest land will be at the rate of 60% of the rates applicable on the date of grant of stage-I approval.

**Agenda No. 2: Diversion of 66.671 hectares including 2.523 hectares of forest land located within the safety zone within the ML area of 67.586 hectares during 1st RML for a period, co-terminus with lease period to be granted by the State Government, not exceeding twenty years w.e.f. 02.07.2011 (File No. 8-37/ 2007-FC)**

FAC after examination of proposal observed as below:

(i) Government of Odisha un Department of Steel and Mines granted a mining lease over 67.586 hectares of land for iron ore mining in village Raikela of Bonai Tahasil in favour of Smt. Geetaran Mohanty, for 20 years with effect from 2nd July 1991 to 01.07.2011;

(ii) At the time of grant of lease legal status of the 66.671 hectares of the land was treated as non-forests and the remaining 0.915 hectares of the land was considered as Sarbasadhanram land.

(iii) Later on, 66.671 hectares of land located within the said lease was treated as forest land by a District Level Committee (DLC) constituted by the Government of Odisha in compliance with the Hon’ble Supreme Courts’ Order dated 12th December 1996 in the Writ Petition (Civil) No. 202 of 1995 in the matter of T.N. Godavarmman Thirumulpad versus Union of India and others, said order of the Hon’ble Supreme Court. Out of the 66.671 hectares of land identified as forest, 2.543 hectares is located in safety zone of the mining lease;

(iv) Accordingly, Government of Odisha vide their letter dated 5th May 2007 submitted a proposal to obtain prior approval of Central government under the FC Act for diversion of 64.148 hectares of the forest land located within the said mining lease. Keeping in view paragraph 4.7 (i) of guidelines issued under the FC Act (prior to amendment of the said paragraph in 2012), which provided that ‘forest area required for safety zone for mining operations should not be part of the forest area proposed for diversion’ Government of Odisha did not seek prior approval of Central Government under the FC Act for diversion of 2.523 hectares of forest land located within safety zone of the said mining lease;

(v) The 64.148 hectares of DLC forest land proposed to be diverted for non-forest purpose contains 633 trees;

(vi) Crown density of vegetation available in the said 64.148 hectares of forest land varies from 0.03 to 0.10;
(vii) MoEF after examination of the said proposal accorded in-principle approval under the FC Act for diversion of 64.148 hectares of forest land (excluding 2.523 hectares of forest land located in safety new) coming under safety zone) located in village Raikela of Bonai Tahasil in Sundargarh district of Odisha for iron ore mining by M/s. Geetaran Mohanty vide letter dated 26th August 2008, subject to fulfillment of conditions stipulated in the said in-principle approval. The said in-principle approval was valid for the period co-terminus with the period of the mining lease;

(viii) Before submission of the report on satisfactory compliance to conditions stipulated in the said in-principle approval and grant of stage-II/ final approval for diversion of the said forest land, period of the said original mining lease expired on 1st July 2011;

(ix) Clause (a) of sub-Rule (2) of Rule 3 of the Forest (Conservation) Rules, 2003 provides that in cases where compliance of conditions stipulated in the in-principle approval is awaited for more than five years from the State Government or the Union territory Administration, as the case may be, the in-principle approvals shall be summarily revoked. Similarly, clause (b) of Sub-rule (2) of Rule 3 of the Forest (Conservation) Rules, 2003 provides that if the User Agency or the State Government or the Union territory Administration, as the case may be, is still interested in the project, after its revocation, they may submit a fresh proposal which shall be considered de-novo;

(x) Government of Odisha while submitting the report on compliance to conditions stipulated in the in-principle approval vide their letter dated 22nd April 2014 informed that reasons for more than five years delay in submission of report on compliance to conditions stipulated in the said in-principle approval are as below:

(a) Although the compliance report from the Principal Chief Conservator of Forests, Odisha was received in the Forest and Environment Department vide his letter dated 30th June 2011, yet the clarification on the validity of lease and genuineness of lessee firm from the Steel & Mines Department and the Joint Director of Mines could be obtained vide their letters dated 12th September 2013 and dated 7th March 2014 respectively. Further this project also involved legal litigations vide W.P. (C) No. 110/2013 wherein the user agency has prayed before the Hon'ble High Court of Odisha to direct the opposite party No. 2 (Forest and Environment Department, Government of Odisha) to forward the application for Stage-II clearance to MoEF, Government of India. The said Writ Petition is yet to be disposed of. While filing counter in this case, the Forest and Environment Department had apprised the Hon'ble High Court that owing to non-submission of geo-referenced map of forest land proposed for diversion as per MoEF guidelines dated 8th July 2011 and clarification of Steel & Mines Department with reference to condition No. 14 of Stage-I order, detailed compliances could not be furnished; and

(b) Further the earlier compliance received from Principal Chief Conservator of Forests, Odisha included compliance on Forest Rights Act for 64.148 hectares of forest land. As per observation of Central Empowered Committee (CEC) constituted by the Hon'ble Supreme Court in IA. No. 2746-48 of 2009 in the Writ
Petition (Civil) No. 202 of 1995 in the matter of T.N. Godavarman Thirumulpad versus Union of India and others, no forest land can be leased / assigned without first obtaining the approval under the FC Act. Therefore, the forest area approved under FC Act should not be lesser than the total forest area included in the mining lease approved under MMDR Act, 1957. MoEF guidelines in this context vide letter No. 8-25/2010-FC dated 12th July 2012 also asks for obtaining diversion of entire forest land within the lease including forest land in the safety zone. This mining lease contains 66.671 hectares of forest land in all including, 2.523 hectares of forest land coming within the safety zone. For diversion of forest land coming within safety zone, compliance under Forest Rights Act, 2006 is also required. Required compliance on account of the Forest Rights Act, 2006 for 2.523 hectares of forest land in safety zone could be received in F&E Department from Principal Chief Conservator of Forests, Odisha vide his letter dated 24th February 2014.

(xii) Government of Odisha in their said letter dated 22nd April 2014 requested that considering the above position, the MoEF may consider to condone the period of delay in submitting the report on compliance to conditions stipulated in the in-principle approval to the MoEF, Government of India;

(xiii) Government of Odisha in their said letter dated 22nd April 2014 also requested the MoEF that taking note of the above position of compliances of stipulations of Stage-I approval of Government of India, MoEF and due to the constraints of State Government for sending compliances to subsequent guidelines prescribed pertaining to FRA and Geo-referenced map, the GoI, MoEF may consider condoning the delay in submitting the detailed compliances of Stage-I stipulations within the stipulated period of five years and consider the case in the light of guidelines issued vide their letter F. No. 11-285/2011-FC dated 5th November 2013 regarding simplified procedure for grant of approval in cases of Renewal of Mining leases, for according (i) final approval under FC Act, 1980 for diversion of 64.148 hectares of forest land for Iron Ore Mining in village Raikela by M/s. Geetaranji Mohanty of Bonai Forest Division in the district of Sundargarh, Odisha during the original Mining lease period which has already expired on 1st July 2011 and (ii) according final approval for entire forest land of 66.671 hectares including 2.523 hectares of forest land within the safety zone within the ML area of 67.586 hectares during 1st RML for a period, co-terminus with lease period to be granted by the State Government, not exceeding twenty years w.e.f. 02.07.2011;

(xiv) MoEF has recently notified the Forest (Conservation) Amendment Rules, 2014 to incorporate inter-alia guidelines issued by MoEF vide letter No. 11-285/2011-FC dated 5th November 2013 regarding simplified procedure for grant of approval in cases of Renewal of Mining leases in the Forest (Conservation) Rules, 2003 as Sub-Rule (3) of Rule 8 of the said Rules;

(xv) Sub-rule (3) of Rule 8 of the Forest (Conservation) Rules, 2003 as inserted vide Forest (Conservation) Amendment Rules, 2014 provides as below:

\[\text{signature}\]
“(a) In case, before submission of a report on compliance to conditions stipulated in the in-principle approval accorded under the Act for a mining project by the State Government or the Union territory Administration, as the case may be, and grant of final approval by the Central Government within five years from the date of grant of in-principle approval, validity of the mining lease expires, instead of submission of a de-novo proposal to obtain approval of Central Government under the Act for diversion of such forest land, for renewal of mining lease, the State Government or Union territory Administration, as the case may be, while submitting report on compliance to conditions stipulated in the in-principle approval may seek final approval of Central Government under the Act for diversion of such forest land for original period of the mining lease for which in-principle approval has already been accorded, and also for renewal of mining lease for a period, as specified by the State Government and Union territory Administration, as the case may be, not exceeding twenty years.

(b) Report on compliance to statutes, circulars or directives, as applicable to such proposals, which came into force after grant of in-principle approval, if any, shall also be submitted to the Central Government along with the report on compliance to conditions stipulated in the in-principle approval.

(c) In such cases, apart from grant of final approval under the Act for diversion of such forest land for original period of mining lease, the Central Government, shall, after considering advice of the Forest Advisory Committee or the State Advisory Group, as the case may be, and after further enquiry as it may consider necessary, grant final approval to the proposal of the State Government of Union territory Administration, as the case may be, for renewal of mining lease for a period, as may be specified by the Central Government, not exceeding twenty years, with appropriate conditions or reject the same.”

(xvi) MoEF vide letter dated 12th July 2012 amended para 4.7 (i) of guidelines issued under the FC Act to provide that the said paragraph which reads as “Forest area required for safety zone for mining operations should not be part of the forest area proposed for diversion. However, it should be indicated separately in the proposal. Such area will have to be fenced at the cost of the project authority. Further, project authority will have to deposit funds with the Forest Department for the protection and regeneration of such safety zone area and also will have to bear the cost of afforestation over one and a half times of the safety zone area in degraded forest elsewhere.” should read as below:

“Approval under the Act for diversion of entire forest land located within the mining lease, including the forest land located in safety zone, should be obtained before execution of mining lease in favour of the user agency. However, forest area required for safety zone should be indicated separately in the proposal. Such area will have to be fenced at the cost of the project authority. Further, project authority will have to deposit funds with the Forest Department for the protection and regeneration of such safety zone area and also will have to bear the cost of afforestation over one and a half times of the safety zone area in degraded forest elsewhere.”

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(xvii) Similarly, MoEF vide letter No. 11-73/2014-FC dated 13th May 2014 issued guidelines to stipulate simplified procedure to obtain approval under the Forest (Conservation) Act, 1980 for diversion of forest land located in safety zone of existing mines;

(xviii) The said guidelines dated 13th may 2014 provides that in case of mines where approval under the FC Act for diversion of the entire forest land, except the forest land located within safety zone has already been obtained and while submitting proposal for obtaining prior approval of Central Government under the FC Act for diversion of forest land located in such mines, prior approval of Central Government under the FC Act for diversion of forest land located within safety zone of the mining lease was not sought keeping in view that as per the para 4.7 (f) of guidelines issued under the FC Act approval under the FC Act for diversion of such forest land at that time was not required to be obtained, the following simplified procedure may be obtained:

(a) State Government should seek the prior permission of the Central Government for diversion of forest land located in safety zone giving details of the earlier approval in letter form rather than initiating a fresh proposal.

(b) While seeking prior permission of the Central Government for diversion of such forest land, report on compliance to a statute(s), circular(s) or directive(s), as applicable to the project, if any, which came into force after grant of earlier approval, shall also be submitted to the Central Government.

(c) In case of projects, where after placing full details of the project, including safety zone of the project, informed consent of all concerned gram sabha(s), as provided in clause (c) read with clause (b), (e) and (f) of the MoEF’s letter No. 11-9/98-FC (pt.) dated 3rd August 2009, has already been obtained while obtaining earlier approval, fresh consent of gram sabha(s) for diversion of forest land located in safety zone of the mining lease is not required to be obtained. However, certificate regarding completion of process for identification and settlement of rights under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, in respect of the forest land located within the safety zone, as provided in clause (a), (d), (g) and (h) of the MoEF’s said letter dated 3rd August 2009, which in case of majority of forest area in the country has already been completed, will be required to be provided by the State Government;

(d) Central Government shall after examination of the request and after such further enquiry as it may consider necessary, grant approval to the proposal of the State Government for diversion of forest land located within safety zone of the mining lease for a period coterminous with the period for which approval for diversion of the remaining forest land located within the mining lease has been accorded.

The FAC after detailed deliberations recommended grant of final approval under the FC Act for diversion of 64.148 ha. of forest land for Iron Ore Mining in village Raikela by M/s. Geetarani Mohanty of Bonai Forest Division in the district of Sundargarh, Odisha during the original Mining lease period which has already expired on 1.7.2011 and (ii) for entire forest land of 66.671 hectares including 2.523 hectares of forest land within the safety zone within the ML area.
of 67.586 hectares during 1st RML for a period, co-terminus with lease period to be granted by the State Government, not exceeding twenty years w.e.f. 02.07.2011, subject to general conditions and standard conditions applicable to renewal of mining leases and following additional condition

(i) User agency shall prepare a schedule of the surrender of the fully (biologically) reclaimed mined out forest land and submit the same to the Ministry of Environment and Forests before grant to stage-II approval under the FC Act;

Agenda No. 3: Proposal to obtain prior approval of the Central Government, in terms of Section-2 of the Forest (Conservation) Act, 1980 for drilling of 8 (eight) bore holes of 4 inch diameter in 125.00 hectares of forest land by M/s. Rashmi Metaliks Ltd. for prospecting of Manganese ore in district Balaghat, Madhya Pradesh (File No. 8-50/2012-FC)

FAC after examination of proposal observed as below:

(i) Legal status of forest land proposed to be utilised for prospecting is Reserved Forest;

(ii) Forest land proposed to be utilised for prospecting contains mixed forests of site quality IV A and IV B having crown density from 0.30 to 0.50;

(iii) Forest land proposed to be utilised for prospecting contains 10,997 trees. However, drilling of 8 bore holes of 4 inch diameter for prospecting of manganese ore does not involve felling of any tree;

(iv) Forest land proposed to be utilised for prospecting does not falls within any protected area. No protected area is located within 10 Kilometer distance from boundary of the forest land proposed to be utilised for prospecting. Forest land proposed to be utilised for prospecting is located at 21 kilometer distance from proposed buffer zone of the Kanha Tiger Reserve. Pench Tiger reserve is located at 26 kilometer from the forest land proposed to be utilised for prospecting;

(v) FAC after examination of the proposal in their meeting held on 26th-27th November 2013 recommended that the State Government may be requested to provide Survey of India Toposheet, in original, depicting boundary of the mining/prospecting blocks (along with status of mining/prospecting in each of these blocks) located in vicinity of the forest land identified for prospecting;

(vi) Government of Madhya Pradesh vide their letter dated 24th March 2014 submitted a Survey of India Toposheet as desired by the FAC and informed that only one mining lease involving 4.959 hectares of forest land for which stage-II approval under the FC Act has been accorded by the MoEF vide letter dated 19th May 2010 is located within 5 kilometer distance from boundary of forest land proposed to be diverted.

FAC after detailed deliberations recommended grant of approval under the FC act for drilling of 8 (eight) bore holes of 4 inch diameter in 125.00 hectares of forest land by M/s. Rashmi Metaliks Ltd. for prospecting of Manganese ore in district Balaghat, Madhya Pradesh subject to general conditions and standard conditions applicable to prospecting in forest areas.
Agenda No. 4:  Diversion of 43.091 hectares of forest land (including Safety Zone area of 2.080 ha.) in village Kundaposhi of Barbil Tahasil in Keonjhar District for mining of Iron Ore in mining lease area over 45.131 hectares by M/s. OCL Iron and Steel Ltd (File No. 8-30/2014-FC)

FAC after examination of proposal and interaction with representatives of the user agency observed as below:

(i) Legal status of 45.131 hectares of land located within the mining lease is 12.594 hectares of Revenue Forest land, 30.497 hectares of DLC Forest land and 2.040 hectares of non-forest land;

(ii) 41.011 hectares of forest land proposed to be utilised for mining and allied activities (excluding the 2.080 hectares of forest land located in safety zone) is 11.954 hectares of Revenue Forest and 29.057 hectares of DLC Forest;

(iii) Crown density of vegetation available in the forest land proposed to be diverted is 0.40;

(iv) Total 7,079 trees of above 30 cm girth and 1,054 poles below 30 cm girth are estimated standing in the 41.011 hectares of forest land proposed to be utilised for mining and allied activities;

(v) Forest land proposed to be diverted does not fall in any National Park, Wildlife Sanctuary or Biosphere Reserve. It also does not come under any wildlife corridor. Forest land proposed to be diverted is located in Elephant Habitat Zone-2 as per report of ORSAC. Movement of wild elephants has often been noticed in and around the forest land proposed to be diverted;

(vi) Compensatory afforestation is proposed to be raised over non-forest land equal in extent to the 41.011 hectares of forest land proposed to be utilised for mining and allied activities;

(vii) User agency is a Company incorporated under the provisions of the Companies Act, 1956 on 20th February 2006. User agency has DRI (Direct Reduce Iron) method manufacturing unit at village Lamlo of Rajgangpur in Sundargarh district;

(viii) The Govt. of Odisha in Department of Steel & Mines vide their letter dated 23rd December 2008 and dated 4th February 2009 have granted the conditional mining lease in favour of the user agency over 45.131 hectares for a period of 20 years subject to a condition that the user agency is required to submit forest clearance under the Forest (Conservation) Act, 1980 and Environmental clearance under the Environment (Protection) Act, 1986;

(ix) The project requires prior environmental clearance as per EIA Notification, 2006 issued under the Environment (Protection) Act, 1986. User agency has applied for Environmental Clearance from the State Environmental Impact Assessment authority (SEIAA). State Level Expert Appraisal Committee of the State of Odisha vide their letter dated 22nd January 2010 has prescribed Terms of References (ToR) for the project. The SEIAA has also recommended this project for grant of environmental clearance subject to grant of stage-I forest clearance;
The Justice M.B. Shah Commission of Enquiry for Illegal Mining of Iron Ore & Manganese in their first report on Illegal Mining of Iron and Manganese Ores in the State of Odisha recommended that iron ore production in Odisha shall be limited to 55 million tonnes per annum (MTPA). MoEF therefore, proposes to conduct a study of the carrying capacity of the area through an institute of repute which would also, inter alia, go into the issues of depletion of ground water level, pollution of Baitarni river and maximum permissible annual production taking into consideration environmental aspects, inter-generational equity, etc.

The FAC after detailed deliberations recommended that decision on the proposal involving diversion of large area of forest land for execution of a fresh mining lease, may be deferred till completion of the carrying capacity study proposed to be undertaken by the MoEF.

Agenda No. 5: Diversion of 73.697 hectares of forest land in Sukinda Chromite Mines of M/s TATA Steel Ltd. In Jajpur district during 3rd RML period [File No. 8-78/1996-FC (pt-I)]

FAC after examination of proposal and interaction with representatives of user agency observed as below:

(i) Legal status of forest land proposed to be diverted is 73.612 hectares of D.P.F. and 0.085 hectares of the Khesra Forest;

(ii) Forest land proposed to be diverted contains forest of Eco- Class-I having 0.40 crown density;

(iii) Entire forest land proposed to be diverted has already been broken prior to 25th October 1980. Presently there is no tree growth in the forest land proposed to be diverted;

(iv) State Government has also reported that since the entire mining lease area of 406 hectares, including 73.697 hectares of forest land forest land as per Hal (present) Record of Rights (RoR-1992) has been broken up prior to 25.10.1980, no compensatory afforestation is required for the proposed 3rd renewal of the mining lease;

(v) It has been stated by the State Government that proposal has been prepared on the basis of Hal (current) record of rights (RoR) as on 1992. Legal status of the project land as on 25th October 1980 has not been provided by the project proponent. User agency has submitted undertaking to submit the same after getting it duly authenticated by the Revenue authorities. It has been recommended by the concerned Divisional Forest Officer that if it is found that any portion of the land which is considered as non-forest as per the Hal (current) records is found to be recorded as forest land as per the Sabik (past ) record as on 25.10.1980, authorities may impose appropriate penalties/ take appropriate action, as deemed proper, on the project proponents;

(vi) Hon’ble Supreme Court in their Judgment dated 12th December 1996 in the Writ Petition (Civil) No. 202 of 1995 in the matter of T.N. Godavarmen Thirumulpad versus Union of India and Others directed that the word “forest” must be understood according to its dictionary meaning and this description covers all statutorily recognized forests, whether designated as reserved, protected or otherwise for the purpose of Section 2 (i) of
the Forest Conservation Act. In case status of any land located in the said mining lease which was recorded as forest in the Sabik (Past) Record of Rights as on date the FC Act came into force (i.e. 25.10.1980) has been changed to non-forest in the Hal (present) record of rights (RoR), same amounts to violation of the FC Act, provided it is confirmed that the Hon’ble Supreme Court’s said Judgment came into force retrospectively w.e.f. the date the FC Act came into force (i.e. 25th October 1980);

(vii) Out of 73.697 hectares of forest land proposed to be diverted, 4.11 hectares of broken up forest land has been reclaimed through plantations. Apart from the above, 4.05 hectares of broken up forest land has also been reclaimed through backfilling, a part of which is being used as a haul road;

(viii) Forest land proposed to be diverted is not located in any protected area. No protected area is located within 10 kilometer from boundary of the forest land proposed to be diverted;

(ix) As per the provisions of para 4.7(ii) of guidelines issued under the FC Act, the user agency is required to maintain, fence and afforest 7.50 meters wide strip all along the boundary of the mining lease as safety zone. It has however, been reported by the State Government that safety zone of 15 hectares has been kept within the adjoining forest land and outside the 406 hectares of lease hold area of the user agency. Maintenance of safety zone of 15 hectares away from the mining lease does not serve any purpose for which the safety zone is required to be maintained;

(x) M/s. TISCO Ltd. (now renamed as Tata Steel Limited) after prospecting the Chromite deposit in the Sukinda belt got mining lease over 1,812.00 hectares for a period of 20 years in 1952. After the abolition of Estate, the Govt. of Odisha ratified the mining lease obtained from the King of Sukinda with effect from 12th January 1953. Subsequently the 1st renewal of mining lease was granted for a further period of 20 years with effect from 12th January 1973 to 11th January 1993 over a reduced area of 1,261.476 hectares. Thereafter, the 2nd RML was granted over a further reduced area of 406 hectares and the lease deed was executed on 18th May 1998 for a period of 20 years with effect from 12th January 1993;

(xi) On the recommendation of the State Government during 2nd RML period, the Govt. of India, MoEF vide their letter dated 27th January 1998 had accorded final forest clearance for diversion of 73.697 hectares of forest land subject to fulfillment of conditions stipulated therein;

(xii) User agency has applied for 3rd renewal of mining lease within due time on i.e. one year before the schedule date of expiry for a further period of 20 years. The lease is under deemed extension in accordance with the provisions of the Rule 24A (6) of the Mineral Concession Rules, 1960. The present forest diversion proposal for the 3rd RML period is for an area of 73.697 hectares of forest land within the leasehold area of 406 hectares as per Hal settlement record of 1992;

(xiii) During 3rd RML period, the mining operation was undertaken on the strength of Temporary Working Permission (TWP) granted by the MoEF, Govt. of India, for a
period of 1 (One) year from the date of expiry of the 2nd Renewal of mining lease (i.e. 12.01.2013) vide their letter dated 6th March 2013. MoEF vide letter dated 9th January 2014 further extended the TWP period by another three months i.e. till 11.4.2014;

(xiv) The Hon’ble Supreme Court in their order dated 3rd May 2014 in L.A. No. 3763 in IA No. 3561-3562 in Writ Petition (Civil) No. 202 of 1995 directed that the Temporary Working Permit to operate 69.58 hectares of broken up forest land will stand extended upto 9th May, 2014;

(xv) Later on, the Hon’ble Supreme Court in their Judgment dated 28th April 2014 in L.A. No. 3763 in IA No. 3561-3562 in Writ Petition (Civil) No. 202 of 1995 directed as below:

"By our order dated 03.04.2014, we had directed that temporary working permit given to the applicant to operate 69.58 hectares of broken up forest land be extended up to 09.05.2014.

The temporary working permit be extended till we deliver the interim orders in Writ Petition (C) No. 114 of 2014”

(xvi) Hon’ble Supreme Court delivered their interim order in Writ Petition (C) No. 114 of 2014 on 16th May 2014. Supreme Court in their said order inter-alia directed as below:

"...... We have already taken a view in our judgment dated 21.4.2014 in Writ Petition (C) No. 435 of 2012 (Goa Foundation Vs. Union of India) that the provision of deemed renewal in Rule 24A (6) of the Mineral Concession Rule, 1960 is not available for the second and subsequent renewals of a mining lease considering the language of Section 8 (3) of the Mining and Minerals (Development and Regulation) Act, 1957. Hence, these 26 leases cannot be allowed to be operated until the State Government passes express orders in terms of Section 8(3) of the Mines and Minerals (Development and Regulation) Act, 1957 after it forms an opinion that in the interests of mineral development it is necessary to renew the leases and after it records reasons for renewal of the leases in respect of the minerals.”

(xvii) Hon’ble Supreme Court in paragraph 24 of their Judgment dated 21st April 2014 in Writ Petition (Civil) No. 435 of 2012 in Goa Foundation versus Union of India and others inter-alia directed as below:

"24. The MC Rules have been made under Section 13 of the MMDR Act by the Central Government and obviously could not have been made in a manner inconsistent with the provisions of the Act. Sub-rule (6) of Rule 24A of the MC Rules provides that if an application for the renewal of a mining lease made within the time referred to in sub-rule (1) is not disposed of by the State Government before the date of expiry of the lease, the period of the lease shall be deemed to have been extended by a further period till the State Government passes order thereon. This sub-rule cannot apply to a renewal under subsection (3) of Section 8 of the MMDR Act because the renewal under this provision cannot be made without express orders of the State Government recording reasons for renewal in the interest of mineral development. In other words, so long as there is a right of renewal in the lessee which in the case of a mining lease is
for a maximum period of twenty years, the provision regarding deemed extension of a lease can operate, but if the right of renewal of a mining lease is dependent upon the State Government forming an opinion that in the interest of mineral development it is necessary to do so and the State Government recording reasons therefor, a provision regarding deemed extension till orders are passed by the State Government on the application of renewal cannot apply. We are, therefore, of the opinion that sub-rule (6) of Rule 24A of the MC Rules will apply to a case of first renewal under sub-section (2) of Section 8 of the MMDR Act other than a case covered under sub-rule (9) of Rule 24A of the MC Rules, but will not apply to renewal under sub-section (3) of Section 8 of the MMDR Act...."

(xviii) FAC can satisfy itself that requirement of forest land proposed to be diverted is unavoidable and bare minimum for the project only after competent authority in the State Government in terms of section 8 (3) of the MMDR Act, 1958 forms an opinion that in the interest of mineral development it is necessary to renew the lease and agrees in-principle to renew the lease for the entire forest land;

FAC after detailed deliberations recommended diversion of the said forest land subject to general conditions, standard conditions applicable to mining projects and the following additional conditions:

(i) User agency shall maintain 7.50 meters wide strip all along the periphery of the mining lease as safety zone. No mining activity shall be undertaken in the safety zone;

(ii) State Government shall ascertain the status, as on 25th October 1980, of the area located in the mining lease which has been treated as 'non-forest' as per the Hal (present) record of rights and intimate the same to the Ministry of Environment and Forests, Government of India within a period of one month from the date of grant of stage-I approval;

(iii) User agency shall prepare a schedule of the surrender of the fully (biologically) reclaimed mined out forest land and submit the same to the Ministry of Environment and Forests before grant to stage-II approval under the FC Act;

(iv) The User Agency shall pay the proportionate cost of implementation of Regional Wildlife Management Plan at revised cost; and

(v) The user agency shall pay towards the cost of site specific conservation plan to be approved by the CWLW, Odisha for its implementation in leasehold as well as surrounding area.

FAC further recommended that approval of competent authority for grant of stage-I FC for diversion of the said forest land shall be sought only after competent authority in the State Government in terms of section 8 (3) of the MMDR Act, 1958 forms an opinion that in the interest of mineral development it is necessary to renew the lease, and agrees in-principle to renew the lease for the entire forest land. In case such competent authority decides to renew the lease for a part of the said forest land, approval of competent authority for diversion of such reduced area of forest land shall only be solicited.
FAC further recommended that the MoEF may seek opinion from the Ministry of Law and Justice whether Hon’ble Supreme Court’s Judgment dated 12th December 1996 wherein they directed as “.....the word ‘forest’ must be understood according to its dictionary meaning and this description covers all statutorily recognized forests, whether designated as reserved, protected or otherwise for the purpose of Section 2 (i) of the Forest Conservation Act. The term “forest land”, occurring in Section 2, will not only include “forest” as understood in the dictionary sense, but also any area recorded as forest in the Government record irrespective of the ownership...”, shall be applicable with effect from the date of the said judgment (i.e. 12.12.1996) or with effect from the date the FC Act came into force (i.e. 25.10.1980) and whether change in status of any land which was recorded as forest in the Sabik (Past) Record of Rights as on the date the FC Act came into force (i.e. 25.10.1980) to non-forest in the Hal (present) record of rights (RoR) on any date between 25.10.1980, the date the FC Act came into force, and 12th December 1996 the date of Hon’ble Supreme Court’s Judgment, is the violation of the FC Act 1980. In case the Ministry of Law and Justice is of the view that the said judgment of the Hon’ble Supreme Court will be applicable with effect from the date the FC Act came into force (i.e. 25.10.1980) and change in status of any land which was recorded as forest in the Sabik (Past) Record of Rights as on the date the FC Act came into force (i.e. 25.10.1980) to non-forest in the Hal (present) record of rights (RoR) on any date between 25.10.1980, the date the FC Act came into force, and 12th December 1996 the date of Hon’ble Supreme Court’s Judgment, is the violation of the FC Act 1980, and if the State Government reports that any portion of the land which is considered as non-forest, as per the Hal (present) records of rights was recorded forest land in the Sabik (past) record of rights, as on 25.10.1980, the MoEF shall direct the State Government and the user agency to stop all non-forest activities in such forest land till approval under the Forest (Conservation) Act, 1980 for diversion of such forest land is obtained.

FAC further recommended that as provided in para 4.18 of guidelines issued under the FC Act, MoEF, while according stage-I FC for diversion of the said forest land may stipulate that, pending receipt of report on satisfactory compliance to conditions stipulated in the in-principle approval and grant of final approval under the FC Act, user agency may be allowed to continue mining and allied activities non-forest activities, as per the approved land use plan, in the already broken up forest land for a period not exceeding one year from the date of the grant of the in-principle approval.

Agenda No. 6: Amendment of conditions stipulated in the stage-I approval under the Forest (Conservation) Act, 1980 accorded by the MoEF vide letter dated 17th October 2012 for diversion of 276.655 hectares of forest land (including 76.19 hectares area which is to be treated as FOREST as per dictionary meaning) in Manoharpur Coal Block of IB-Valley Coalfields in Sundergarh district of Orissa by M/s. Orissa Power Generation Corp. Ltd. (File No. 8-63/2011-FC).

FAC after examination of proposal and interaction with representatives of user agency observed as below:

[Signature]
Government of Odisha vide their letter dated 8th June 2011 submitted a proposal to obtain prior approval of the Central Government under the Forest (Conservation) Act, 1980 for diversion of 200.465 hectares of forest land including 4.42 hectares for safety zone in Manoharpur Coal Block of IB-Valley Coalfields in Sundergarh district of Odisha by M/s. Odisha Power Generation Corp. Ltd;

Regional Office (Eastern Zone), Bhubaneswar after inspection of the said forest land recommended that the proposed site is in Manoharpur Coal block of Ib valley coalfields, where adjacent blocks are also allotted to other project proponents like NTPC, UMPP & MCL, which are likely to come up. Considering the possible longitudinal fragmentation of the existing virgin forest habitat by way of linear allotment of coal blocks, the MoEF may consider:

(a) Not to allot the link up block between Dulinga & Madhupur blocks which are presumed to be un-allotted; and

(b) If possible, cancel a few allotted blocks at 5-6 kms, gaps for leaving sufficient width of Corridor reserved for movement of elephant and other animals.

FAC after examination of the said proposal and the site inspection report received from the Regional Office (Eastern Zone), Bhubaneswar recommended grant of stage-I approval under the FC Act for diversion of the said forest land subject to fulfillment of inter-alia the above recommendation of the Regional Office;

MoEF accepted said recommendation of the FAC and accorded in-principle approval under the FC Act for diversion of the said forest land vide letter dated 17th October 2012;

Government of Odisha vide their letter dated 10th January 2014 and 6th May 2014 submitted reports on compliance to conditions stipulated in the in-principle approval under the Forest (Conservation) Act, 1980 for diversion of the said forest land and informed the MoEF inter-alia as below:

(a) Based on the report of Regional Chief Conservator of Forests, Rourkela, the Principal Chief Conservator of Forests, Odisha has reported that there does not exist any notified wildlife migratory corridor in this region. Further no well-defined migratory corridor for elephant and other wildlife has so far been identified. Although occasional movement of elephants is notified in Garjanpahar RF area, there is no fixed route of their movement nor do they maintain any periodicity of such movement. Therefore, in absence of any Notified and well defined migratory corridor, it is not possible to depict the same on the Survey of India toposheet; and

(b) Presence of coal blocks of IB valley coalfields clearly depicted on a Survey of India Toposheet is enclosed.

Later on, user agency vide their letter dated 9th May 2014 informed that as per clause 2(xv) of stage-I clearance issued by MoEF, diversion of forest land is for a period co-terminus with the period of mining lease proposed subject to a maximum period of 20 years. User agency in their said letter further stated that however, Government of Odisha vide their letter dated 28.12.2012 has proposed to Ministry of Coal, GoI to grant the mining lease for coal in favour of OPGC for a period of 30 years;
(vii) User agency in their said letter dated 9th May 2014 requested to grant diversion of forest land for a period of 30 years for Manoharpur Coal Block;

(viii) Para 4.16 of guidelines issued under the FC Act inter-alia provides that the approval under the Forest (Conservation) Act, 1980 for diversion of forest land for grant/renewal of mining leases shall normally be granted for a period co-terminus with the period of mining lease proposed to be granted under MMDR Act, 1957 or Rules framed thereunder, but not exceeding 30 years;

(ix) As per the information provided by the State Government for the Manoharpur Coal Block, period of mining lease proposed to be granted under MMDR Act, 1957 or Rules framed thereunder is 30 years;

(x) Representatives of the user agency, present during the meeting produced a copy of Steel and Mines Department, Government of Odisha’s letter No. 3336/ SM / III (B) SM-08/2012 dated 7th May 2014 wherein they intimated to the Ministry of Coal (MoC), the above-indicated conditions stipulated in the in principle approval under the FC Act for diversion of forest land located within the Manoharpur Coal Block and requested that the Ministry of Coal may consider to keep the allocation of the ‘Link up coal Block’ between Dulanga & Madhupur Blocks on hold for providing corridor for movement of elephants and other animals; and

(xi) The Steel and Mines Department, Government of Odisha in their said letter dated 7th May 2014 further suggested to the MoC that since allocation/de-allocation of coal blocks is a subject matter of MoC, the MoC may consider the issue, in consultation with the MoEF, for facilitating the processing of grant of stage-II FC for Manoharpur coal block of the user agency.

FAC after detailed deliberations recommended that since the State Government has already requested the MoC to consider the issue, in consultation with the MoEF the MoEF may accord stage-II approval under the FC Act for diversion of the said forest land by stipulating a condition that considering the possible longitudinal fragmentation of the existing virgin forest habitat by way of linear allotment of coal blocks, the MoC in consultation with the MoEF will consider:

(i) Not to allot the link up block between Dulinga & Madhupur blocks which are presumed to be un-allotted; and

(ii) If possible, cancel a few allotted blocks at 5-6 kms. gaps for leaving sufficient width of Corridor reserved for movement of elephant and other animals.

FAC further recommended that a copy of the Stage-II approval to the said coal block will also be endorsed to the MoC for their information and necessary action.

FAC also recommended that condition regarding period of validity of the approval accorded under the FC Act for diversion of the said forest land may be amended as below:

"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 & Regulation) Act, 1957, or Rules framed there under, subject to a maximum period of 30 years?

Agenda No. 7: Diversion of 95.3825 hectares of forest land in favour of M/s. Enercon (India) Ltd. For development of a Windfarm Project in Balagarh PF, Jaisingh Barkhada PF and Bardal PF of Mandsaur Forest Division, Madhya Pradesh (File No. 8-51/2014-FC)

FAC after examination of proposal and interaction with representatives of user agency observed as below:

(i) Legal status of forest land proposed to be diverted is Protected Forest;

(ii) Forest land proposed to be diverted contains mixed forest of class Vb whose crown density varies from 0.00 to 0.20;

(iii) Forest land proposed for diversion contains 1,249 trees, out of which 910 trees are of girth below 30 cm and the remaining 339 trees are of above 30 cm girth;

(iv) Forest land proposed to be diverted is not located in any protected area. No protected area is located within 10 kilometer distance from boundary of the forest land proposed to be diverted;

(v) Compensatory afforestation is proposed to be raised in 95.382 hectares of non-forest revenue land located in Hamantia village in Shamgarh Tehsil of Mandsaur district;

(vi) Item-wise break-up of forest land proposed to be utilised for non-forest purpose is as below:

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Activity</th>
<th>Dimensions</th>
<th>Forest land required (ha.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Wind Turbine</td>
<td>(55 m x 55 m) x 69 no.</td>
<td>20.8725</td>
</tr>
<tr>
<td>2</td>
<td>Wind Mast</td>
<td>(55 m x 55 m) X 1 + (80 m x 80 m) x 1</td>
<td>0.9420</td>
</tr>
<tr>
<td>3</td>
<td>Road</td>
<td>15 m x 5.714 Km</td>
<td>8.5710</td>
</tr>
<tr>
<td>4</td>
<td>Road and Transmission Line (33 KV)</td>
<td>(18 m x 16.970 km)</td>
<td>30.5465</td>
</tr>
<tr>
<td>5</td>
<td>Road and 2 Transmission line (33 KV)</td>
<td>(27 m x 7.355 km)</td>
<td>19.8585</td>
</tr>
<tr>
<td>6</td>
<td>Transmission line 33 KV</td>
<td>(15 m x 4.669 km)</td>
<td>7.0035</td>
</tr>
<tr>
<td>7</td>
<td>Transmission line</td>
<td>(27m x 1.250 km)</td>
<td>3.3750</td>
</tr>
<tr>
<td></td>
<td>132 KV</td>
<td></td>
<td></td>
</tr>
<tr>
<td>--------</td>
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<td>--------</td>
</tr>
<tr>
<td>8</td>
<td>Electric Support</td>
<td>Pole (5 m x 2 m) x 188 Nos.</td>
<td>0.1880</td>
</tr>
<tr>
<td>9</td>
<td>33 Kv VCB Yard/Building</td>
<td>(30 m x 30 m) x 10</td>
<td>0.9000</td>
</tr>
<tr>
<td>10</td>
<td>Submission/Building</td>
<td>(125 m x 125 m) x 2 Nos.</td>
<td>3.1250</td>
</tr>
<tr>
<td></td>
<td><strong>Total Forest Land</strong></td>
<td></td>
<td><strong>95.3825</strong></td>
</tr>
</tbody>
</table>

(vii) Apart from the 95.3825 hectares of forest land, project does not involve any other land;

(viii) Process for settlement of rights under the Forest Rights Act, 2006 on the forest land proposed to be diverted has been completed. In this regard a copy of certificate from the Gram Sabha and the certificate dated 25th January 2014 from the Addl. District Collector, Mandsaur in the old format has been submitted;

(ix) The MoEF has assigned a study to the Bombay Natural History Society (BNHS) to assess impacts of Wind Energy Projects on avifauna and bats and suggest appropriate mitigative measures; and

(x) The MoEF has also constituted a Committee under the Chairmanship of the Chief Conservator of Forests (Central), Southern Regional Office, Bangalore to formulate guidelines to assess and define the impact zone of the Wind Energy Projects.

FAC after detailed deliberations recommended grant of approval under the FC Act for diversion of 95.3825 hectares of forest land in favour of M/s. Enercon (India) Ltd. For development of a Wildfarm Project in Balagurha PF, Jaisingh Barkheda PF and Bardal PF of Mandsaur Forest Division, Madhya Pradesh subject to general conditions, standard conditions applicable to wind energy projects and the following additional conditions:

(i) The State Government and the user agency shall undertake to implement the mitigation measures, which may be suggested at the conclusion of the study assigned by this Ministry to the BNHS to assess impact of windmills of different capacity on avifauna and bats and the recommendations made by the Committee constituted by this Ministry under Chairmanship of the Chief Conservator of Forests (Central), Southern Regional Office, Bangalore to assess and define the impact zone of wind energy projects in forest areas for purpose of assigning NPV.

Agenda No. 8: Diversion of 204.356 hectares of forest land in favour of M/s. Power Grid Corporation of India Limited for construction of 765 KV Vindhyachal Poling Station to Satna Circuit -I and Circuit-II Transmission line in Satna, Singrauli, Katni and Sahdol districts, Madhya Pradesh. (File No. 8-63/2013-FC)

FAC after examination of proposal observed as below:
(i) Legal status of forest land proposed to be diverted is 41.889 hectares of protected forest and 162.467 hectares of reserve forest;

(ii) Crown density of vegetation available in the forest land proposed to be diverted varies from 0.10 to 0.50;

(iii) Total length of the transmission line is 265 Km, out of which 5.242 Km in Satna Forest Division, 2.320 Km in Katni Forest Division, 5.200 Km in North Sahdol Forest Division and 17.739 Km in Singrauli Forest Division within the forest land under administrative control of the State Forest Department. The remaining length of the transmission line falls in non-forest land. The proposed transmission line does not involve any revenue forest land;

(iv) Project involves felling of 53,396 trees, out of which 38,492 trees are of below 60 cm girth and the remaining 14,904 trees are of above 60 cm girth;

(v) Project does not involve displacement of any human habitation;

(vi) Forest land proposed to be diverted does not form part of any National Park, Wildlife Sanctuary, Biosphere Reserve, Tiger Reserve, Elephant Corridor etc. It is however, located between the Bandhavgarh Tiger Reserve and the Sanjay Tiger Reserve. Minimum distance of the forest land proposed to be diverted from buffer zone of the Bandhavgarh Tiger Reserve is 2.50 kilometers;

(vii) Apart from the extant proposal, several other proposals seeking prior approval of Central Government under the FC Act for diversion of forest land for construction of transmission lines in those districts have been received by the MoEF in the recent past;

(viii) FAC after detailed deliberations in their meeting held on 17th -18th October 2013 recommended that keeping in view that a part of the forest land proposed to be diverted is located between two important tiger reserves, comments of the National Tiger Conservation Authority (NTCA) on impact, if any, of the proposed transmission line on migration of Tigers and other Wild animals between these tiger reserves, along with appropriate measures to mitigate the identified impacts may be sought. State Government may also be requested to provide details viz. alignment, transmission voltage, number of circuits etc. of existing as well as proposed high voltage (400 KV and above) transmission lines in these districts;

(ix) Government of Madhya Pradesh vide their letter dated 7th February 2014 submitted a map indicating alignment of high voltage (400 KV and above) transmission lines in these district.

(x) Similarly, the NTCA vide their U.O. dated 25th April 2014 informed the MoEF as below:

(a) The above proposal as cited in the subject have been referred to this Authority for opinion from the FC Division of the Ministry as the proposed transmission line is located between the Bandhavgarh Tiger Reserve and the Sanjay-Dubri Tiger
Reserve (M.P.) and minimum distance of the Forest land proposed to be diverted from buffer zone of the Bandhavgarh Tiger Reserve is 2.5 kilometers.

(b) In this context, the GPS co-ordinates of the proposed transmission line passing between the said tiger reserves were sent to the Wildlife Institute of India for examining its probable impact on tiger and other wild animal conservation and for getting the location of the said proposed area examined vis-à-vis GIS map of the core and buffer area of Sanjay-Dubri and Bandhavgarh tiger reserves, Madhya Pradesh.

(c) Based on the recommendations of the Wildlife Institute of India, according approval in the instant case may be considered subject to fulfillment of following conditions:

- The proposed area falls in the areas linking two tiger reserves. Under section 38O(b) of the Wildlife (Protection) Act, 1972, mining, industry and other ecologically unsustainable projects within tiger reserves are not permitted and as per section 38O(g) of the said Act, it has to be ensured that tiger reserves and areas linking one protected area with another protected area or tiger reserves and areas linking one protected area with another protected area of tiger reserve are not diverted for unsustainable uses, except in public interest and with the approval of the National Board for wildlife on the advice of the Tiger Conservation Authority. However, since this is a transmission line, it may be permitted. In case, the area is within 10 km from core areas of either of the tiger reserves, the clearance from the Standing Committee of the NBWL should be taken;

- As the power line is traversing Bandhavgarh- Sanjay Dubri corridor, appropriate mitigation measures i.e. either putting it underground or reasonably high with minimal disturbance during its construction needs to be enforced.

- all other statutory clearances.

- height of transmission line should be kept in a manner so as to provide safe passage to elephants and to avoid their accidental electrocution.

- insulation of transmission wires besides bunch cabling should be ensured.

- regular monitoring of the transmission lines with respect to sagging/breaking etc. must be ensured.

- the State may enter into a MoU with the Power Grid Corporation in this regard.

FAC after detailed deliberations recommended grant of stage-I approval under the FC Act for diversion of the said forest land subject to general conditions, standard conditions applicable to transmission line projects and the following additional conditions:

[Signature]
(i) For the portion of transmission line falling in Bandhavgarh- Sanjay Dubri corridor, user agency shall explore feasibility to lay the transmission line underground. In case it is not feasible to lay the transmission line underground, height of transmission towers may be appropriately increased to ensure free movement of elephant and other wild animals;

(ii) For the portion of transmission line falling in Bandhavgarh- Sanjay Dubri corridor insulation of transmission wires besides bunch cabling should be ensured;

(iii) Sagging of conductors shall be regularly monitored so as to ensure that height of conductors in forest areas at any time is not less than the minimum height stipulated in guidelines issued under the FC Act;

(iv) No new road shall be constructed in the forest areas for transportation of materials and machines, etc.;

(v) The user agency shall organize environment awareness programs to create awareness among the employees as well as residents of adjoining areas on the need for better environmental management and its safeguards; and

(vi) The user agency shall take adequate measures to prevent soil erosion in the area identified for erection of transmission towers.

Additional Agenda No. 1: Amendment to conditions stipulated in the in-principle approval under the Forest (Conservation) Act, 1980 accorded by the MoEF vide letter dated 24th February 1999 for diversion of 465.64 hectares of forest land (160.72 hectares already broken up area + 37.25 hectares unbroken area to be worked during present renewal period + balance 267.64 hectares to be maintained as forest) for renewal of mining lease in favour of M/s. Steel Authority of India Ltd. (SAIL) in Bolani iron ore mines, Keonjhar district (File No. 8-87/96-FC)

The FAC after examination of proposal and interaction with the representatives of user agency observed as below:

(i) In consideration of a proposal received from the Government of Odisha, MoEF vide letter dated 24th February 1999 accorded in-principle approval under the FC Act for diversion of 465.64 hectares of forest land (160.72 hectares already broken up area + 37.25 hectares unbroken area to be worked during first renewal period + balance 267.64 hectares to be maintained as forest) in favour of M/s. Steel Authority of India Ltd. (SAIL) for first renewal of their Bolani iron ore mines;

(ii) In-principle approval accorded by the MoEF vide their said letter dated 24th February 1999 was subject to fulfillment of inter-alia the following condition:

"Immediate action should be taken for transfer and mutation of identified 304.89 hectares of non-forest land in favour of the State Forest Department."

(iii) State Government in their letter dated 18th April 2009 informed the MoEF that out of the total 304.89 hectares of non-forest land identified for creation of compensatory afforestation, 2.00 hectares of non-forest land was found to be under encroachment, and
requested the MoEF that the said condition stipulated in the in-principle approval may be partially amended to the effect that in lieu of 2 hectares of non-forest land found to be under encroachment, compensatory afforestation may be raised over degraded forest land twice in extent (i.e. 4 hectares of degraded forest land);

(iv) MoEF keeping in view para 3.2 (ix) of guideless issued under the FC Act, which provides that as a special provision for Central Government/Central Government Undertaking Projects, compensatory afforestation in lieu of forest land diverted for execution of such projects may be raised on degraded forest land twice in extent of forest area being diverted, accepted the said request and communicated the same to the Government of Odisha vide letter dated 14\textsuperscript{th} July 2009;

(v) State Government in their letter dated 31\textsuperscript{st} January 2014 informed the MoEF that the remaining 302.89 hectares of non-forest land identified for creation of compensatory afforestation has also been found to be under encroachment and requested the MoEF to further amend the said condition stipulated in the in-principle approval to the effect that compensatory afforestation in-lieu of the 302.89 hectares of non-forest land found to be under encroachment may be raised over degraded forest land twice in extent (i.e. 2 x 302.89 = 605.78 hectares);

(vi) Clause (a) of the sub-rule (2) of Rule 8 of the Forest (Conservation) Rules, 2003 provides that in cases where compliance of conditions stipulated in the in-principle approval is awaited for more than five years from the State Governments or the Union Territory Administration, as the case may be, the in-principle approvals shall summarily be revoked. Similarly, clause (b) of the sub-rule (2) of Rule 8 of the Forest (Conservation) Rules, 2003 provides that if the User agency or the State Government or Union Territory Administration, as the case may be, is still interested in the project, after its revocation, they may submit a fresh proposal which shall be considered de-novo. Compliance of conditions stipulated in the in-principle approval in this proposal is awaited from the State Government for more than fifteen (15) years;

(vii) In this proposal, State Government sought approval under the FC Act for diversion of the said forest land during first renewal of mining lease. First renewal of mining lease has already expired in 2002. In-principle approval under the FC Act for diversion of 465.64 hectares of forest land accorded by the MoEF vide their said letter dated 24\textsuperscript{th} February 1999 was therefore, for the period co-terminus with the period of first renewal of mining lease which has already expired in 2002. MoEF did not receive any proposal to obtain approval under the FC Act for second renewal of mining lease w.e.f the year 2002;

(viii) FAC in its meeting held on 29\textsuperscript{th} - 30\textsuperscript{th} April 2014 observed that the User agency, without waiting for grant of stage-II approval under the FC Act for diversion of the said forest land during first renewal of mining lease and without submitting an application to seek approval under the FC Act for second renewal of mining lease, is using forest land located within the said mining lease for processing, storage, and transportation of iron ore raised from their adjoining mining lease. The same amounts to violation of the FC Act and the Orissa Forest Act, 1972;
(ix) The said mining lease is presently working under deemed second renewal of mining lease in terms of Rule 24 (A) (6) of the Mineral Concession Rules, 1960;

(x) Hon'ble Supreme Court in paragraph 24 of their Judgment dated 21st April 2014 in Writ Petition (Civil) No. 435 of 2012 in Goa Foundation versus Union of India and others inter-alia directed as below:

"24. The MC Rules have been made under Section 13 of the MMDR Act by the Central Government and obviously could not have been made in a manner inconsistent with the provisions of the Act. Sub-rule (6) of Rule 24A of the MC Rules provides that if an application for the renewal of a mining lease made within the time referred to in sub-rule (1) is not disposed of by the State Government before the date of expiry of the lease, the period of the lease shall be deemed to have been extended by a further period till the State Government passes order thereon. This sub-rule cannot apply to a renewal under sub-section (3) of Section 8 of the MMDR Act because the renewal under this provision cannot be made without express orders of the State Government recording reasons for renewal in the interest of mineral development. In other words, so long as there is a right of renewal in the lessee which in the case of a mining lease is for a maximum period of twenty years, the provision regarding deemed extension of a lease can operate, but if the right of renewal of a mining lease is dependent upon the State Government forming an opinion that in the interest of mineral development it is necessary to do so and the State Government recording reasons therefor, a provision regarding deemed extension till orders are passed by the State Government on the application of renewal cannot apply. We are, therefore, of the opinion that sub-rule (6) of Rule 24A of the MC Rules will apply to a case of first renewal under sub-section (2) of Section 8 of the MMDR Act other than a case covered under sub-rule (9) of Rule 24A of the MC Rules, but will not apply to renewal under sub-section (3) of Section 8 of the MMDR Act....."

(xi) Keeping in view that second renewal of the said mining lease became due in 2002 as per the said direction of the Hon'ble Supreme Court the user agency does not have valid lease even under deemed extension, for the said forest land;

(xii) FAC after detailed examination of the matter in their meeting held on 29th - 30th April 2014 recommended that keeping in view that report on compliance to conditions stipulated in the in-principle approval is awaited for a period more than 15 years, the MoEF may revoke the said in-principle approval with immediate effect;

(xiii) The FAC in their said meeting further recommended that keeping in view that forest land located within the said mining lease is being utilised for non-forest purpose without obtaining requisite approval under the FC Act, the MoEF may advise the State Government to take following immediate action:

(a) Restrain the user agency from using the forest land located within the said mining lease for non-forest purpose till requisite approval under the FC Act is obtained;

(b) Realise from the user agency funds for creation of penal compensatory afforestation over degraded forest land, five times in extent to the area of forest land used for non-forest purpose without obtaining requisite approval under the FC Act;

\[\text{Signature}\]
(c) Realise from the user agency **penal NPV** of the forest land utilised for non-forest purpose without obtaining requisite approval under the FC Act, @ 20% of the rates applicable on the date of issue of letter by the MoEF in this regard, for each year or fraction thereof, of the use of such forest land for non-forest purpose without obtaining requisite approval under the FC Act. (Explanation: In case total period for which a patch of forest land has been utilized for non-forest purpose without obtaining requisite approval under the FC Act is six years, NPV to be realised in respect of such forest land will be at the rate of 1.2 times the rates applicable on the date of issue of letter by the MoEF in this regard;

(d) Initiate disciplinary proceedings against the officials who _prima facie_ failed to restrain the user agency to utilize the forest land for non-forest purpose without obtaining requisite approval under the FC Act; and

(e) Initiate action against the user agency in accordance with the provisions of the Orissa Forest Act, 1972 for use of forest land for non-forest purpose without obtaining requisite approvals.

(xiv) FAC in their meeting held on 29th-30th April 2014 also recommended that the MoEF may advise its Regional Office having jurisdiction over the said forest land to further investigate violations of the FC Act in respect of the said forest land and file complaints against persons _prima facie_ found guilty of such offence, in the court having jurisdiction in the matter.

(xv) User agency in their letter dated 22nd May 2014 drawn attention of the MoEF to minutes of the said meeting of FAC and informed as below:

(a) The FAC have observed that mine has been operated in violation of the provisions of FC Act. In this regard it is submitted that in the Stage-I clearance a condition was stipulated that State Govt. shall identify the non-forest land for afforestation at the cost of User Agency;

(b) In spite of vigorous efforts put in by SAIL, the State Government could not transfer the identified non-forest land as the said land was not later found to be suitable by the Forest Department. Further, somehow or the other though alternative non-forest lands were identified, however, due to encroachments same could not be transferred. As SAIL being a Central PSU and according to para 3.2(xi) of the guidelines issued under the FC Act, the SAIL has requested through State Government for modification of the said condition that in lieu of equivalent non-forest land afforestation on double the degraded land be raised; and

(c) In none of the reports of the State Govt. any violation of Forest (Conservation) Act, 1980 has been brought to the notice of MoEF. It is to bring to your kind notice, that no forest land within the lease has been used for taking up non-forest activities post 1977. In this regard an undertaking from GM Bolani Ores Mines is enclosed.

(xvi) User agency in their said letter dated 22nd May 2014 requested the MoEF that the proposals may be reviewed by the Forest Advisory Committee in its forthcoming
meeting scheduled for 30th May, 2014. Accordingly the proposal was again placed before the FAC for their examination and appropriate recommendations;

(xvii) Hon’ble Supreme Court in their interim order dated 16th May 2016 in Writ Petition (C) No. 114 of 2014 have again re-iterated as below the stand taken by them in their Judgment dated 21.04.2014 in Writ Petition (Civil) No. 435 of 2012:

"...... We have already taken a view in our judgment dated 21.4.2014 in Writ Petition (C) No. 435 of 2012 (Goa Foundation Vs. Union of India) that the provision of deemed renewal in Rule 24A (6) of the Mineral Concession Rule, 1960 is not available for the second and subsequent renewals of a mining lease considering the language of Section 8 (3) of the Mining and Minerals (Development and Regulation) Act, 1957. Hence, these 26 leases cannot be allowed to be operated until the State Government passes express orders in terms of Section 8(3) of the Mines and Minerals (Development and Regulation) Act, 1957 after it forms an opinion that in the interests of mineral development it is necessary to renew the leases and after it records reasons for renewal of the leases in respect of the minerals."

(xviii) Hon’ble Supreme Court in their said order dated 16th May 2016 also directed as below:

"We have considered the report dated 25.4.2014 of the CEC, and the submissions made by learned counsel appearing for different parties, and we find that 102 mining leases do not have requisite environmental clearances, approvals under the Forest (Conservation) Act, 1980, approved Mining Plan and/or Consent to Operate.

A list of these 102 mining leases is annexed to the report of the CEC as Annexure R-2. The CEC has, however, stated in the report that mining operations in these 102 mining leases have been suspended and these 102 mining leases have been classified as non-working leases. We direct that mining operations in these 102 mining leases listed in Annexure R-2 of the report of the CEC shall remain suspended, but it will be open to such lessees to move the concerned authorities for environmental clearances, approval under the Forest (Conservation) Act, 1980, approval of Mining Plan or Consent to Operate and as and when the mining lessees are able to obtain all the clearances/approval/consent, they may move this Court."

(xix) Out of the 102 mining leases listed in Annexure- R-2 of the Report of CEC referred to in the Hon’ble Supreme Court’s said Order dated 16th May 2014, many leases, including this lease of M/s. SAIL, express order of State Government in terms of Section 8 (3) of Mines and Mineral (Development and Regulation) Act, 1957 for second and subsequent renewal of mining leases after having formed an opinion that in the interest of mineral development it is necessary to renew the leases is not available.

(xx) FAC will be convinced that requirement of forest land proposed to be diverted is unavoidable and bare minimum for the project only after competent authority in the State Government in terms of section 8 (3) of the MMDR Act, 1958 forms an opinion
State Government in terms of section 8 (3) of the MMDR Act, 1958 forms an opinion that in the interest of mineral development it is necessary to renew the lease and agrees in-principle to renew the lease for the entire forest land; and

(xxi) Though, the user agency himself has admitted that a portion of land located within the this mining lease is utilised for processing, temporary storage and transportation of ore from their adjoining Bolani mining, CEC, for the reasons best known to them, in their report dated 25th April 2014 included the said lease in Annexure R-2, containing list of non-working mines of iron/manganese ore in Odisha;

(xxii) Representatives of the user agency present during the meeting re-iterated that forest land located within the mining lease has not been utilised for non-forest purpose since 1977. They also informed that infrastructure available on the non-forest land located within the lease is critical for evacuation of iron ore from their Bolani mine. Requisite approval under the FC Act for the Bolani mine has already been accorded by the MoEF. In case in-principle approval accorded under the FC Act for first renewal of the mining lease is revoked, they will be required to submit fresh proposals to obtain approval under the FC Act for first and second renewals of the mining lease. As the forest land located within the mining lease has not been utilised for non-forest purpose since 1977, details to be provided in the new proposals will not be substantially different than the same provided in the proposal already submitted to the MoEF. Processing of fresh proposals at State and Central Government will take substantial time and thus result in disruption in evacuation of ores to be raised from their Bolani mine;

(xxiii) Representatives of the user agency also drawn attention of the FAC to sub-rule (3) of Rule 8 of the Forest (Conservation) Rules, 2003 inserted vide Forest (Conservation) (Amendment) Rules, 2014 which reads as below:

"(3) (a) In case, before submission of a report on compliance to conditions stipulated in the in-principle approval accorded under the Act for a mining project by the State Government or the Union territory Administration, as the case may be, and grant of final approval by the Central Government within five years from the date of grant of in-principle approval, validity of the mining lease expires, instead of submission of a de-novo proposal to obtain approval of Central Government under the Act for diversion of such forest land, for renewal of mining lease, the State Government or Union territory Administration, as the case may be, while submitting report on compliance to conditions stipulated in the in-principle approval may seek final approval of Central Government under the Act for diversion of such forest land for original period of the mining lease for which in-principle approval has already been accorded, and also for renewal of mining lease for a period, as specified by the State Government and Union territory Administration, as the case may be, not exceeding twenty years.

(d) Report on compliance to statutes, circulars or directives, as applicable to such proposals, which came into force after grant of in-principle approval, if any, shall also be submitted to the Central Government along with the report on compliance to conditions stipulated in the in-principle approval."
(c) In such cases, apart from grant of final approval under the Act for diversion of such forest land for original period of mining lease, the Central Government, shall, after considering advice of the Forest Advisory Committee or the State Advisory Group, as the case may be, and after further enquiry as it may consider necessary, grant final approval to the proposal of the State Government of Union territory Administration, as the case may be, for renewal of mining lease for a period, as may be specified by the Central Government, not exceeding twenty years, with appropriate conditions or reject the same.

(xx) Representatives of the user agency requested that keeping in view the above special circumstances, and also keeping in view that the in-principle approval under the FC Act for first renewal of mining lease accorded by the MoEF vide letter dated 24th February 1999 has not been revoked, so far, the FAC may reconsider their decision to recommend revocation of the said in-principle approval and recommend amendment of the condition pertaining to compensatory afforestation stipulated in the said in-principle approval. They also requested that the said mine may also be extended the benefit of Rule 8 (3) of the Forest (Conservation) Rules, 2003 for grant of approval under the FC Act for second renewal of mining lease.

FAC after detailed deliberations recommended that keeping in view that forest land located within the mining lease has not been utilised for non-forest purpose since 1977 and also keeping in view that user agency is a Central PSU, conditions regarding compensatory afforestation stipulated in the in-principle approval accorded by the MoEF vide letter dated 24th February 1999 may be amended as below:

<table>
<thead>
<tr>
<th>Conditions stipulated</th>
<th>Modified/ amended conditions</th>
</tr>
</thead>
<tbody>
<tr>
<td>(i) Immediate action should be taken for</td>
<td>(i) Compensatory afforestation over the degraded forest land double in extent to the 304.89 hectares of unbroken forest land proposed to be diverted (i.e. $304.89 \times 2 = 609.78$ hectares) shall be raised and maintained by the State Forest Department from funds to be provided by the User Agency;</td>
</tr>
<tr>
<td>transfer and mutation of identified 304.89 ha.</td>
<td></td>
</tr>
<tr>
<td>of non-forest land in favour of the State</td>
<td></td>
</tr>
<tr>
<td>Forest Department.</td>
<td></td>
</tr>
<tr>
<td>(ii) The user agency will transfer the funds</td>
<td>(ii) The User Agency shall transfer the cost of raising and maintaining the compensatory afforestation, at the current wage rate, to the State Forest Department.</td>
</tr>
<tr>
<td>for compensatory afforestation (revised as on date to incorporate existing wage structure) over 304.89 hectares area in favour of the State Forest Department.</td>
<td></td>
</tr>
</tbody>
</table>

FAC further recommended as below:

(i) The concerned Regional Office of the MoEF and the Government of Odisha may be requested to verify the claim of the user agency that forest land located within the said
mining lease has not been utilised for non-forest purpose since 1977 and submit a report to the MoEF before grant of final approval under the FC Act for diversion of the said forest land. In case it is reported by the Regional Office or the State Forest Department that claim of the user agency that forest land located within the said mining lease has not been utilised since 1977, the matter shall again be placed before the FAC for their examination and appropriate recommendations. Till grant of final approval, in no circumstances the forest land located within the mining lease shall be used for non-forest purpose;

(ii) User agency and the State Government shall explore feasibility to surrender the entire or a part of the forest land located within the mining lease;

(iii) As an special case, the State Government while submitting report of compliance to conditions stipulated in the in-principle approval accorded by the MoEF vide letter dated 24th February 1999 may submit report on compliance to statutes including Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forests Rights) Act, 2006, circulars or directives, as applicable to such proposals, which came into force after grant of in-principle approval, and may seek final approval of Central Government under the FC Act for diversion of the said forest land for original period of the mining lease for which in-principle approval has already been accorded, and also for renewal of mining lease for such reduced area of forest land as may be decided by the State Government, for a period, as specified by the State Government not exceeding twenty years. On receipt, the report may be placed before the FAC for their examination and appropriate recommendations;

(iv) Report on compliance to conditions stipulated in the in-principle approval shall be submitted to the MoEF only after competent authority in the State Government in terms of section 8 (3) of the MMDR Act, 1958 forms an opinion that in the interest of mineral development it is necessary to allow second renewal of lease with effect from 2002. In case such competent authority decides to renew the lease for a part of the said forest land, approval under the FC Act for second renewal of the mining lease for such reduced area may only be solicited; and

Additional Agenda No. 2: Diversion of 77.940 hectares of forest land including 2.562 hectares of Safety Zone area for development of mining infrastructure in Toda RF in M.L. 162 Mining Lease of M/s. Steel Authority of India Limited (SAIL) under Bonai Forest Division in Sundargarh District, Odisha during 2nd RML period (File No. 8-18/2014-FC)

The FAC after examination of proposal and interaction with the representatives of the user agency observed as below:

(i) Legal status of forest land proposed to be diverted is Reserved Forest;

(ii) Crown density of vegetation available in the unbroken and broken areas of forest land proposed to be diverted is 0.40 and 0.20 respectively;
(iii) Forest land proposed to be diverted (excluding 2.562 hectares of forest land located in safety zone of mining lease) contains 8998 trees out of which 5,237 trees are standing on the already broken forest area of 43.564 hectares and the remaining 3,761 trees are standing on the 34.376 hectares of unbroken forest land;

(iv) Out of the total 77.940 hectares of forest land located within the mining lease, 43.564 hectares of forest land is utilised for processing, temporary storage and transportation of ore from adjoining mining lease of the user agency (i.e. ML 130) to siding located in Barsuan valley. Installations like crushing plant, washing plant, jigging plant, screening plant, thickeners, and downhill conveyor, etc. have already been installed within the said 43.564 hectares of forest land within the mining lease;

(v) Out of the remaining 34.376 hectares of forest land located within the said mining lease, 2.562 hectares of forest land is located in safety zone of the mining lease and the balance 31.814 hectares of forest land is proposed to be utilised for installation of conveyor system of enhanced capacity, an iron ore beneficiation plant and as an intermediate area for movement of man & machines and space between the infrastructure installed in the said mining lease;

(vi) Though the lease involves forest land, first renewal of mining lease was granted by the Mining and Geology Department, Government of Odisha on 18th January 1984 with retrospective effect from 29th April 1980, without obtaining prior approval of Central Government under the FC Act. Same amounts to violation of the FC Act;

(vii) Even after expiry of first renewal of mining lease on 28th April 2000, user agency continued to use the installations like crushing plant, washing plant, jigging plant, screening plant, thickeners, and downhill conveyor etc. installed in the forest land located within the said mining lease. This also amounts to violation of the FC Act;

(viii) The said mining lease is presently working under deemed second renewal of mining lease in terms of Rule 24 (A) (6) of the Mineral Concession Rules, 1960;

(ix) Hon’ble Supreme Court in paragraph 24 of their Judgment dated 21st April 2014 in Writ Petition (Civil) No. 435 of 2012 in Goa Foundation versus Union of India and others inter alia directed as below:

"24. The MC Rules have been made under Section 13 of the MMDR Act by the Central Government and obviously could not have been made in a manner inconsistent with the provisions of the Act. Sub-rule (6) of Rule 24A of the MC Rules provides that if an application for the renewal of a mining lease made within the time referred to in sub-rule (1) is not disposed of by the State Government before the date of expiry of the lease, the period of the lease shall be deemed to have been extended by a further period till the State Government passes order thereon. This sub-rule cannot apply to a renewal under subsection (3) of Section 8 of the MMDR Act because the renewal under this provision cannot be made without express orders of the State Government recording reasons for renewal in the interest of mineral development. In other words, so long as there is a right of renewal
in the lessee which in the case of a mining lease is for a maximum period of twenty years, the provision regarding deemed extension of a lease can operate, but if the right of renewal of a mining lease is dependent upon the State Government forming an opinion that in the interest of mineral development it is necessary to do so and the State Government recording reasons therefor, a provision regarding deemed extension till orders are passed by the State Government on the application of renewal cannot apply. We are, therefore, of the opinion that sub-rule (6) of Rule 24A of the MC Rules will apply to a case of first renewal under sub-section (2) of Section 8 of the MMDR Act other than a case covered under sub-rule (9) of Rule 24A of the MC Rules, but will not apply to renewal under sub-section (3) of Section 8 of the MMDR Act....

(xix) Keeping in view the said direction of the Hon'ble Supreme Court, the user agency does not have right to operate the mining lease in accordance with the provisions of the section 24 A (6) of the Mineral Concession Rules, 1960;

(xx) FAC after examination of the proposal in their meeting held on 29th-30th April 2014 observed that the matter of several mines in Odisha working in accordance with the provisions of the Rule 24 (A) (6) of the Mineral Concession Rules, 1960, while decision on applications for their 2nd and subsequent renewals covered under sub-section (3) of Section 8 of MMDR Act has not been taken by the State Government, is presently pending before the Hon'ble Supreme Court. Hearings for passing interim order on the said matter have been concluded and the Hon'ble Supreme Court has reserved its judgment;

(xxi) After detailed deliberations, FAC in their said meeting held on 29th-30th April 2014 recommended that before taking any decision on the said proposal, MoEF may await interim decision of the Hon'ble Supreme Court on the matter of several mines in Odisha working in accordance with the provisions of the Rule 24 (A) (6) of the Mineral Concession Rules, 1960 while decision on applications for their 2nd and subsequent renewals covered under sub-section (3) of Section 8 of MMDR Act has not been taken by the State Government;

(xxii) FAC further recommended that meanwhile, keeping in view that forest land located within the said mining lease is being utilised for non-forest purpose without obtaining requisite approval under the FC Act, the MoEF may advise the State Government to take following immediate actions:

(a) Restrain the user agency from using the forest land located within the said mining lease for non-forest purpose till requisite approval under the FC Act is obtained;

(b) Realise from the user agency funds for creation of penal compensatory afforestation over degraded forest land, five times in extent to the area of forest land used for non-forest purpose without obtaining requisite approval under the FC Act;
(c) Realise from the user agency penal NPV of the forest land utilised for non-forest without obtaining requisite approval under the FC Act, @ 20% of the rates applicable on the date of issue of letter by the MoEF in this regard, for each year or fraction thereof, of the use of such forest land for non-forest purpose without obtaining requisite approval under the FC Act. (Explanation: In case total period for which a patch of forest land has been utilized for non-forest purpose without obtaining requisite approval under the FC Act is six years, NPV to be realised in respect of such forest land will be at the rate of 1.2 times the rates applicable on the date of issue of letter by the MoEF in this regard;

(d) Initiate disciplinary proceedings against the officials who prima facie failed to restrain the user agency to utilize the forest land for non-forest purpose without obtaining requisite approval under the FC Act; and

(e) Initiate action against the user agency in accordance with the provisions of the Orissa Forest Act, 1972 for use of forest land for non-forest purpose without obtaining requisite approvals.

(xxiii) The FAC further recommended that the MoEF may advise its Regional Office having jurisdiction over the said forest land to investigate violations of the FC Act in respect of the said forest land and file complaints against persons prima facie found guilty of such offence, in the court having jurisdiction in the matter;

(xxiv) Before the MoEF could communicate said recommendation of the FAC to the State Government, user agency in their letter dated 22nd May 2014 drawn attention to the minutes of the said meeting of FAC and informed the MoEF inter alia as below:

(a) The interim order in case of illegal mining in Odisha in writ petition (civil) No.114 of 2014 has been pronounced by Hon’ble Supreme Court on 16th May 2014;

(b) The above lease has been classified as non-working lease in list of 102 mining leases annexed (as annexure R2) to the report of Central Empowered Committee (CEC) dated 25th April 2014. Further the Hon’ble Supreme Court in para 3 (of their said order dated 16th May 2014) has directed that operations in these mining leases shall remain suspended, but it will be open to such leases to move the concerned authorities for environmental clearances, approval under Forest Conservation Act, 1980, approval of mining plan or consent to operate and as and when the mining leases are able to obtain all the clearances/approval/consent, they are at liberty to approach Hon’ble Supreme Court for modification of the interim order.

(xxv) User agency in their said letter dated 22nd May 2014 requested that as the FAC has deferred the decision in view of above reserved order, the proposal may be listed once again for the consideration of the FAC in accordance with the said interim order passed by the Hon’ble Supreme Court of India;
After examination of the Hon'ble Supreme Court's said order dated 16th May 2014 the following has been observed:

(a) Hon'ble Supreme Court in their said order dated 16th May 2014 have again reiterated the stand taken by them in their Judgment dated 21.04.2014 in Writ Petition (Civil) No. 435 of 2012 as below:

"...... We have already taken a view in our judgment dated 21.4.2014 in Writ Petition (C) No. 435 of 2012 (Goa Foundation Vs. Union of India) that the provision of deemed renewal in Rule 24A (6) of the Mineral Concession Rule, 1960 is not available for the second and subsequent renewals of a mining lease considering the language of Section 8 (3) of the Mining and Minerals (Development and Regulation) Act, 1957. Hence, these 26 leases cannot be allowed to be operated until the State Government passes express orders in terms of Section 8(3) of the Mines and Minerals (Development and Regulation) Act, 1957 after it forms an opinion that in the interests of mineral development it is necessary to renew the leases and after it records reasons for renewal of the leases in respect of the minerals."

(b) Hon'ble Supreme Court in their said order dated 16th May 2014 also directed as below:

"We have considered the report dated 25.4.2014 of the CEC, and the submissions made by learned counsel appearing for different parties, and we find that 102 mining leases do not have requisite environmental clearances, approvals under the Forest (Conservation) Act, 1980, approved Mining Plan and/or Consent to Operate.

A list of these 102 mining leases is annexed to the report of the CEC as Annexure R-2. The CEC has, however, stated in the report that mining operations in these 102 mining leases have been suspended and these 102 mining leases have been classified as non-working leases. We direct that mining operations in these 102 mining leases listed in Annexure R-2 of the report of the CEC shall remain suspended, but it will be open to such lessees to move the concerned authorities for environmental clearances, approval under the Forest (Conservation) Act, 1980, approval of Mining Plan or Consent to Operate and as and when the mining lessees are able to obtain all the clearances/approval/consent, they may move this Court."

(c) Out of the 102 mining leases listed in Annexure R-2 of the Report of CEC referred to in the Hon'ble Supreme Court's said Order dated 16th May 2014, many leases, including this lease of M/s. SAIL, express order of State Government in terms of Section 8 (3) of Mines and Mineral (Development and Regulation) Act, 1957 for second and subsequent renewal of mining leases after having formed an opinion that in the interest of mineral development it is necessary to renew the leases is not available

(d) FAC can satisfy itself that requirement of forest land proposed to be diverted is unavoidable and bare minimum for the project only after competent authority in
the State Government in terms of section 8 (3) of the MMDR Act, 1958 forms an opinion that in the interest of mineral development it is necessary to renew the lease and agrees in principle to renew the lease for the entire forest land.

FAC after detailed deliberations recommended grant of state-I approval under the FC Act for diversion of the forest land, not exceeding 77,940 hectares, for development of mining infrastructure in Toda RF in M.L. 162 Mining Lease of M/s. Steel Authority of India Limited (SAIL) under Bonai Forest Division in Sundargarh District, Odisha during 2nd RML period subject to general conditions, standard conditions applicable to mining projects and the following additional conditions as has been recommended by the FAC in their meeting held on 29th - 30th April 2014:

(i) State Government shall realise from the user agency funds for creation of penal compensatory afforestation over degraded forest land, five times in extent to the area of forest land used for non-forest purpose without obtaining requisite approval under the FC Act;

(ii) State Government shall realise from the user agency penal NPV of the forest land utilised for non-forest without obtaining requisite approval under the FC Act, @ 20% of the rates applicable on the date of issue of letter by the MoEF in this regard, for each year or fraction thereof, of the use of such forest land for non-forest purpose without obtaining requisite approval under the FC Act. (Explanation: In case total period for which a patch of forest land has been utilized for non-forest purpose without obtaining requisite approval under the FC Act is six years, NPV to be realised in respect of such forest land will be at the rate of 1.2 times the rates applicable on the date of issue of letter by the MoEF in this regard;

(iii) State Government shall initiate disciplinary proceedings against the officials who prima facie failed to restrain the user agency to utilize the forest land for non-forest purpose without obtaining requisite approval under the FC Act; and

(iv) State Government shall initiate action against the user agency in accordance with the provisions of the Orissa Forest Act, 1972 for use of forest land for non-forest purpose without obtaining requisite approvals.

FAC further reiterated the recommendation made in their earlier meeting held on 29th - 30th April 2014 that the MoEF may advise its Regional Office having jurisdiction over the said forest land to investigate violations of the FC Act in respect of the said forest land and file complaints against persons prima facie found guilty of such offence, in the court having jurisdiction in the matter.

FAC further recommended that approval of competent authority for grant of stage-I FC for diversion of the said forest land shall be sought only after competent authority in the State Government in terms of section 8 (3) of the MMDR Act, 1958 forms an opinion that in the interest of mineral development it is necessary to renew the lease, and agrees in principle to renew the lease for the entire forest land. In case such competent authority decides to renew the lease for a part of the said forest land, approval of competent authority for diversion of such reduced area of forest land shall only be solicited.
FAC further recommended that as provided in para 4.18 of guidelines issued under the FC Act, MoEF while according stage-I FC for diversion of the said forest land may stipulate that, subject to leave of the Hon'ble Supreme Court in term of their interim Order dated 16th May 2014 in Writ Petition (C) No. 114 of 2014, pending receipt of report on satisfactory compliance to conditions stipulated in the in-principle approval and grant of final approval under the FC Act, user agency may be allowed to continue mining and allied activities non-forest activities, as per the approved land use plan, in the already broken up forest land for a period not exceeding one year from the date of grant of the in-principle approval.

(Dr. Mohammad Firoz Ahmed)  
Member

(M.S. Negi)  
IGF (FC)  
Member-Secretary

(Prof. N.P. Todaria)  
Member

(A.K. Srivastava)  
ADG (FC)  
Member

(Dr. C.M. Pandey)  
Addl. Commissioner, MoA,  
Member

(Dr. S.S. Garbyal)  
(DGF&SS)  
Chairman
Draft FAC Minutes of HCC and BKS
8 messages

M. S. NEGI <negims84@hotmail.com>  Sun, Jun 8, 2014 at 4:56 PM
To: "ssgarbyal@yahoo.com" <ssgarbyal@yahoo.com>, srivastava ADG <aksmaef@gmail.com>
Sir, please find attached the draft minutes of the FAC meeting held on 30th May 2014 as prepared by Sir Harish Chaudhury and B K Singh with some amendments done by the undersigned for kind perusal before we send them to other member. Since Harish Chaudhury has been relieved from FC Divn Sri Rajkumar will be forwarding the Minutes to Other FAC members for confirmation.
M S Negi
IGF(FC)

2 attachments

- Minutes corrected(MOD) BKSas on 3.6.14 - Copy.docx 31K
- Draft Minutes FAC(Mod) 30 May 2014- AIGF HCC - Copy.doc 247K

Rajkumar Muthu <rajkumarmut@gmail.com>  Sun, Jun 8, 2014 at 8:47 PM
To: cmari1@hotmail.com, Mohd Firoz Ahmed <firoz@aaranyak.org>, nagendra todaria <nptf@yaho.com>
Sir
Please find attached herewith the fsc minutes for approval.
Regards
[Created text hidden]

2 attachments

- Minutes corrected(MOD) BKSas on 3.6.14 - Copy.docx 31K
- Draft Minutes FAC(Mod) 30 May 2014- AIGF HCC - Copy.doc 247K

M Firoz Ahmed <firoz@aaranyak.org>  Sun, Jun 8, 2014 at 10:57 PM
To: Rajkumar Muthu <rajkumarmut@gmail.com>, cmari1@hotmail.com, nagendra todaria <nptf@yaho.com>, Harish Choudhry <harishcc@yahoo.com>

Dear Sir,

Attached is the minutes and approved after reading it. No additional comment.

However, wrt minute of the BKS sir, I sent my comments already in an earlier email.
From: Rajkumar Muthu [mailto:rajkumarmut@gmail.com]
Sent: Sunday, June 8, 2014 20:48
To: cmani1@hotmail.com; Mohd Firoz Ahmed; nagendra todaria
Subject: Fwd: Draft FAC Minutes of HCC and BKS

[Ousted text hidden]

20140530_FAC_minutes_HCC.DOC
247K

Rajkumar Muthu <rajkumarmut@gmail.com>
To: "cmani1@hotmail.com" <cmani1@hotmail.com>

Mon, Jun 9, 2014 at 8:56 AM

Sir,

Please find attached herewith the minutes of the FAC meeting held on 30.05.2014 for concurrence and approval.

Regards

*M.Rajkumar, IFS*
Assistant Inspector General Of Forests
Ministry of Environment & Forests
Paryavaran Bhavan, Room No.537
CGO complex
New Delhi----110003
TELEFAX-011-24369133
[Ousted text hidden]

20140530_FAC_minutes_HCC.DOC
247K

Rajkumar Muthu <rajkumarmut@gmail.com>
To: rajkumarmut <rajkumarmut@outlook.com>

Mon, Jun 9, 2014 at 11:30 AM

Regards

*M.Rajkumar, IFS*
Assistant Inspector General Of Forests
Ministry of Environment & Forests
Paryavaran Bhavan. Room No.537
CGO complex
New Delhi---110003
TELEFAX-011-24369133

---------- Forwarded message ----------
From: M. S. NEG I <negims84@hotmail.com>
Date: Sun, Jun 8, 2014 at 4:55 PM
Subject: Draft FAC Minutes of HCC and BKS
To: "ssgarbyal@yahoo.com" <ssgarbyal@yahoo.com>, srivastava ADG <aksmoef@gmail.com>

[Quoted text hidden]

2 attachments

Draft Minutes FAC(Mod) 30 May 2014- AIGF HCC - Copy.doc
247K

CHINTAMANI PANDEY <cmani1@hotmail.com>
Mon, Jun 9, 2014 at 2.04 PM
To: Rajkumar Muthu <rajkumarmut@gmail.com>

I have gone through the contents of Minutes of HCC and BKS and agree to the points.

Yours,

Kind Regards

(C.M. Pandey)
Additional Commissioner(NRM)
Government of India,
Ministry of Agriculture
102, B-Wing, Shastri Bhawan,
Delhi-110001

Date: Sun, 8 Jun 2014 20:47:39 +0530
Subject: Fwd: Draft FAC Minutes of HCC and BKS
From: rajkumarmut@gmail.com
To: cmani1@hotmail.com; firoz@aaranyak.org; nptid@yahoo.com
[Quoted text hidden]

Rajkumar Muthu <rajkumarmut@gmail.com>
Tue, Jun 10, 2014 at 10:34 AM
To: nagendra todaria <nptid@yahoo.com>

Sir,
Please do the needful at the earliest.

Regards
nagendra todaria <nptfd@yahoo.com> Tue, Jun 10, 2014 at 6:56 PM

Reply-To: nagendra todaria <nptfd@yahoo.com>
To: Rajkumar Muthu <rajkumar.muthu@gmail.com>

Dear Rajkumar:
I have already sent the corrected minutes of yours and B.K.Singh. Please find attached the corrected minutes of HCC

Prof. N.P. Todaria
Head, Department of Forestry
H.N.B Garhwal University (a Central University),
Chauras Campus, Post Office- Kilkleshwar,
Pin- 249161, Tehri Garhwal,
Uttarakhand (INDIA)

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Government of India
Ministry of Environment & Forests
FC Division

MINUTES OF THE FOREST ADVISORY COMMITTEE (FAC) MEETING
HELD ON 30th MAY, 2014

[T.C. Nautiyal, AIGF (FC)]
(Total . 6 Pages )

Agenda item No.1

Diversion of 44.8595 ha of forest land in favour of National Thermal Power Corporation of India (NTPC) for the construction of Koldam HEP under the jurisdiction of DFO Wild Life Division, Shimla, in the State of Himachal Pradesh –regarding.(F. No. 8-48/2014-FC)

The FAC discussed the above proposal and noted as below:

1. Forest land of 44.8595 ha for diversion of which current proposal is submitted by the State Government is additional area required for Koldam HEP in Himachal Pradesh for which diversion of 954.69 ha of forest land has already been accorded approval by the Ministry vide its no. 8-277/1987-FC dated 11.06.1990 under the Forest (Conservation) Act, 1980. The project is already under construction. The forest area proposed for diversion is part of Majatham Wildlife Sanctuary.

2. The State Government has informed that proposal for diversion of 124.0541 ha of forest land (involving 44.8595 ha of current proposal) in Majatham Wildlife Sanctuary has been approved by the Hon’ble Supreme Court of India vide its order dated 9.12.2013. Out of the 124.0541 ha of forest land, an area of 79.1946 ha of forest land falling in the Majatham Wildlife Sanctuary already stands diverted in favour of the NTPC under the Forest (Conservation) Act, 1980, as a part of initial diversion proposal which was approved by the Government of India for diversion of 954.69 ha of forest land for construction of Koldam HEP in HP vide letter no. 8-277/1987-FC dated 11.06.1990. Now the remaining area measuring 44.8595 ha of forest land falling in the Majatham Wildlife Sanctuary has been proposed to be diverted under the Forest (Conservation) Act, 1980.

3. The proposal has been recommended by the Standing Committee of the NBWL and Hon’ble Supreme Court of India vide its order dated 9.12.2013 has approved the recommendation of the Standing Committee of NBWL subject to the conditions as given under:

i. For use of forest land falling within the sanctuary, approval under the Forest (Conservation) Act, 1980 will be obtained and the NPV at the rates decided by this Hon’ble Court for use of forest land falling within the Wildlife Sanctuary (5 times the normal rates of NPV) will be deposited in the Compensatory Afforestation Fund;

ii. The conditions on which the project has been cleared by the Standing Committee of the National Board for Wildlife will be strictly complied with. This will inter alia imply that the impounding of the reservoir and consequent submergence of
124.054 ha of forest land falling within the Sanctuary will be permissible only after about 500 ha of Cheer pheasant habitat is purchased/acquired, and handed over to the State government and notified as Sanctuary under Wildlife(Protection) Act 1972.

iii. Any other condition(s) stipulated by the Chief Wildlife Warden, Himachal Pradesh Forest Department will be complied with.

iv. 5% of the approved project cost of Rs. 4527 crore (i.e. Rs. 226.35 crore) will be deposited with the Compensatory Afforestation Fund for undertaking conservation and protection of the protected area in the State of Himachal Pradesh. The expenditure involved for purchasing/acquiring about 500 ha of area under Cheer pheasant habitat and carrying out habitat improvement works therein (as per the condition stipulated) by the Standing Committee of the National Board for Wildlife and as recommended by the Wildlife Institute of India) will be met out of the above mentioned amount. For this purpose over and above the amounts being released in the normal course, additional amount will be released by the Ad-hoc CAMPA to the State CAMPA.

4. In compliance with the condition NO. (iv) of the Hon’ble Supreme Court, the project proponent has deposited Rs. 226.35 crores in the account of Ad-hoc CAMPA on 24.12.2013 on account of acquiring 500 ha of area to be brought under Cheer Pheasant habitat, cost of carrying out habitat improvement works therein, and cost of carrying out conservation works in the other protected areas of the State.

5. The legal status of the forest land is UPF( Madhrech, Chilla, Kiari) & DPF( Harsang and DPF Majathal)

6. The density of vegetation in the area proposed for diversion is 0.7.

7. DGPS Map of the area to be diverted, Land use Map and Forest Cover Map are not enclosed.

8. A total of 51,262 (49662 trees + 1600 saplings)are to be felled. (girth of trees not specified).

9. The proposed area is on the left bank of river Satluj which is a part of Majathal Wildlife Sanctuary. The proposed area will be submerged in the reservoir of the Kol Dam.

10. Catchment Area Treatment Plan which was already approved at the time of approval of diversion of 954.69 ha of forest land is under implementation from the year 2003-04 at a cost of Rs. 65.23 crore. It aims to ensure the soil and water conservation in the catchment area of the reservoir, covering 34,000 hectares approx.

11. No protected archaeological/ heritage site/defence establishment or any other important monuments is located in the area.

12. Compensatory afforestation has been proposed to be raised over 90.00 ha degraded forest land in UPF Kiari, D-12 Harsang & D-11 Majathal in an identified land banks. 1100 plants per ha will be planted. The total cost of CA is projected as Rs. 1,09,52,550/-. 

13. Suitability certificate of the land identified for CA has been submitted by the Divisional Forest Officer concerned.

14. Current proposal do not involve project affected families. However, earlier proposal involves 477 project affected families and R&R Plan is under implementation.

15. The District Collector, Solan has certified that no claims under the Scheduled Tribe and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 exists or pending in respect of forest land to be diverted in favour of Koldam HEP. The compliance is in accordance with the MoEF’s Guidelines dated 20.09.2012.
16. The project proponent has submitted undertaking to bear the cost of CA and NPV.

17. The proposal has been recommended by the State Government.

After detailed discussion on the proposal, the FAC recommended the proposal with general standard and following additional conditions.

i. Penal Compensatory afforestation over degraded forest land twice in extent of 44.8595ha of forest land as penalty for initiating construction of the project without seeking approval for diversion of entire forest land involved in the project.

ii. The condition stipulated by the Hon'ble Supreme Court of India vide its order dated 9.12.2013 and as per the recommendations of NBWL.

The committee also recommended that only after receipt of the following information from State Government the above recommendation of the FAC will be submitted for approval of the competent authority in the Ministry.

i. Differential GPS map showing Geo-referenced boundary in shape file of the forest land proposed for diversion and identified for Compensatory Afforestation duly authenticated by the competent authority in the State Government.

ii. Land use Map and Forest Cover Map of the area being diverted under FC Act.


Agenda Item No.2

Diversion of 119.6524 ha of forest land in favour of Dogra Scouts for creating Military infrastructure in district Lahul-Spiti under Wildlife Division Spiti, Himachal Pradesh.

(F. No. 8-96/2011-FC).

The FAC after examination of the proposal observed as below:

1. Legal status of the proposed area is UPF/Charand.
2. The area has no vegetation except grass and few bushes. As such no trees are to be felled.
3. Map on SOI toposheet, DGPS map Forest Cover map and 10 km radius map enclosed.
4. As per information provided in the Part-II Snow leopard is found in the area.
5. The area is not part of protected archaeological / heritage site / or any other important monument is located in the area.
6. The proposed land is (GR No 427149) 103 kms away from Kibber Wildlife Sanctuary (GR No. 853415) and 95 kms away from Pin Valley National Park (GR No 873012) marked maps is attached.
7. Defence establishment of DOGRA SCOUTS and other Army units are located in the nearby areas.
8. No violation of the Forest (Conservation) Act, 1980 has been reported by user agency. However, site inspection report by the Regional Office, Chandigarh revealed that it is a case of regularization of encroachment on forest land.
9. The requirement of forest land as proposed by the user agency is unavoidable and barest minimum for the project. Compensatory Afforestation has been proposed over double degraded forest land near Sumdo, Lahaul & Spiti at a total cost of Rs. 10,04,76,000.00. Species willow and popular has been proposed for plantation.

[Signature]
Revised CA scheme has been provided for ten years maintenance as required under the Guidelines issued by the MoEF in this regard.

10. Compliance of the Scheduled Tribe and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006(FRA) in accordance with the MoEF’s guideline dated 3rd August 2009 and 20 September 2012 has not been submitted.

11. The proposal has been recommended by the State Government.

12. The proposal was examined by the Forest Advisory Committee in its meeting held on 16th July, 2013 and the Committee noted that the area is already under the possession of the user agency since 2005 and therefore, it is a case of violation of the Forest (Conservation) Act, 1980. The Forest Advisory Committee, after detailed deliberations, recommended that:

a) A detailed report on violations along with clarification in this regard and whether this was a case of encroachment may be obtained from the State Government.

b) Following information/documents may also be sought from the State Government:

i. Survey of India topo-sheet, on 1:50,000 scale, depicting the area proposed for diversion.

ii. Authenticated Differential GPS (Geo-referenced) map showing boundary of the area proposed for diversion and map showing details of the protected area in 10 KM radius from the boundary of the area proposed for diversion.

iii. A revised CA scheme for the degraded forest area twice in extent to the forest land proposed to be diverted with provision of maintenance of 7 to 10 years.


13. The above recommendations of FAC were communicated to the State Government vide this Ministry’s letter of even number dated 25.07.2013.


a) Regarding report of violation of FC Act, it has been indicated that encroachment already stands reported in the site inspection report carried out by Sh. S.K. Sehrawat I/C Addl. Chief Conservator of forests (Central) on dated 14 June 2012 and stands reported to MoEF vide his No. II 15/2012-ROC/1653 dated 30 August 2012. Although user agency has encroached the land, the DFO has reported that there was no alternative to fulfill the operational requirement because old location of DOGRA SCOUTS near Sumdo was washed away in flash floods during the year 2005.

b) The point wise information/documents as required is sent herewith as under:-

i. Survey of India topo-sheet, on 1:50,000 duly depicting the forest area proposed for diversion is enclosed as Annexure-A.

ii. Authenticated differential GPS (Geo-referenced) map showing boundary of the area proposed for diversion has been also marked on the map as Annexure-A. Map showing the details of the protected area in 10 km radius from the boundary of the area to be diverted already enclosed in the proposal folder at page 17. Hence the copy of same is enclosed herewith as Annexure-B.
iii. A revised CA Scheme for the degraded forest area twice in extent to the forest land proposed to be diverted with provision of 10 years maintains is also enclosed as Annexure-C.

iv. The requisite information is still awaited from the user agency and they are being reminded.

After detailed discussion on the proposal it was observed by the FAC that the instant case is the case of violation of FC Act1980 which was done by Dogra Scouts, a unit of the Indian Army deployed on the frontier in Sundo in Lahaul and Spiti district in 2005 in emergent situation when the old establishment of the Dogra Scouts near river Parechu was washed away due to flash floods in the river. The new site was required for establishment of headquarter of the battalion and this site was occupied as the battalion could not have moved out of their position in the interest of national security.

After detailed discussion on the proposal the FAC recommended the proposal for diversion of the forest land subject to general, standard and following additional conditions.

i. Penal compensatory afforestation shall be taken up by the State Forest Department over degraded forest land twice in extent to the forest land used without prior approval of the Government of India.

ii. The state Government may enquire into the issue to find out the involvement of any government servant/user agency in the encroachment and take suitable action.

The committee also recommended that the above recommendations of the committee should be placed before competent authority only after receipt of Compliance of the Scheduled Tribe and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006(FRA) in accordance with the MoEF’s guideline dated 3rd August 2009 and 20 September 2012 as communicated vide letter dated 20 May 1014 from the State Government.

Agenda Item No.3 (Supplementary agenda)

Diversion of 133.379ha (123.769 ha+9.63ha Sikar+Churu 14.205ha + Bikaner 23.550 ha) in favor of PWD (NH Division), Churu, Rajasthan for upgradation & strengthening of existing 2-lane road to 2-lane with paved shoulder of National Highway (NH-11) from Sikar to Bikaner Section in the State of Rajasthan. File No 8-19/2013 FC

The FAC after examination of the proposal observed as below:

1. The proposal has been accorded Stage-I approval vide this Ministry’s letter of even number dated 18.11.2013 subject to certain conditions prescribed therein.

2. The proposal was considered by the FAC in its meeting held on 10.06.2013 and Committee, after discussion on the proposal and with the representatives of the user agency, recommended the proposal for diversion of forest land in favour of National Highway Authority of India (NHAI) which is a Govt of India Undertaking. It was however seen that though it was a National Highway, the proposal was submitted by the State PWD as per MOU signed between the ministry of Road Transport and Highways and the Government of Rajasthan, and therefore the user agency name has to be corrected as Public Works Department Government of Rajasthan and not NHAI.
3. Accordingly the stipulations of the compensatory afforestation will have to be changed as per the provisions of para 3.2 of the FC guidelines.

After detailed discussion on the proposal, the FAC recommended that the name of the user agency be corrected from National Highway Authority of India (NHAI) to PWD (NH Division), Churu, Government of Rajasthan.

The committee further recommended that the State Government will submit the revised Compensatory Afforestation plan thereby providing non forest land against 9.63 ha forest land which was under the control of the forest department as per the site inspection report. Against the balance area of 123.769 ha which was within the ROW of the existing road, degraded forest land twice in extent of the area being diverted (123.769ha X 2 = 247.498ha) has already been provided.

(C.M. Pandey)  
Additional Commissioner (NRM)  
(Ministry of Agriculture)  
Member

(Prof. N.P. Todaria)  
Member

(Dr. Mohammad Firoz Ahmed)  
Member

(M. S. Negi)  
IGF (FC)  
Member-Secretary

(A.K. Srivastava)  
ADGF(FC)  
Member

(S.S. Garhwal)  
Chairman

(DGF & SS)
Dear Mr. Nautiyal,

I have gone through the content of the minutes and noted that all the points/decisions of FAC have been duly incorporated in the minutes. I have nothing much to add and support the minutes.

With Regards

Yours,

(C.M. Pandey)
Additional Commissioner(NRM)
Government of India,
Ministry of Agriculture
102, B-Wing, Shastri Bhawan,
Delhi-110001

Agenda items pertaining to AIGF(M. Rajkumar)

AGENDA ITEM NO. 1

F. No. 8-77/2013-FC

Sub: Diversion of 109.17 ha of forest land for renewal of Mining Lease No. 2346 to an extent of 103.73 ha for mining and other allied activities and 5.44 ha for approach rods outside the Mining Lease area located at bedara Bommanahalli and other Villages in Nirthadi reserve Forest, Holalkere Range, Chitradurga Division, chitradurga District, Karnataka State in favour of M/s. Mineral enterprises Limited, Bengaluru.

The Committee discussed the above mentioned proposal, went through the presentation made by the project proponents and noted as below.

1. This is the case of violation of conditions of agreement, as well as KFA 1963 and KFR 1969 and also FC Act, 1980 by encroachment of forest land in the form of others 3.13 ha. The M.I. is kept in category-A. the CEC approved lease draft sketch.

2. The State Government has submitted the approval for considering the in-principle approval for diversion of 109.17 ha of forest land as (103.373 ha for mining and other allied activities for renewal of ML no. 2346 and 5.44 ha for approach road outside the mining lease in view of the R&R plan for mining lease no. 2346, the Hon’ble Supreme Court order dated 13.04.2012, 20.04.2012, 4.05.2012 and 3.09.2012 and CEC’s letter dated 6.08.2012.

3. This is the 3rd renewal of the mining lease. The Mining lease was first granted in the year 1952 as M.I. No 256. The lease has been transferred to M/s Mineral Enterprises (P) Ltd. from M/s Jyothi Brothers on 9.09.1969. Thereafter 1st renewal was granted on 6th October 1972 as ML no. 1074 and 2nd renewal was granted on 7th October 1992 as ML No 2346 which was valid till 6th October.

4. The legal status of the forest land proposed for diversion is Reserve Forest.

5. The density of the area proposed for diversion is Eco class-III(Dense Forest). Number of trees to be felled are 2184 (inclusive of all girth classes)

6. The proposed area does not form part of National Park, Wildlife Sanctuary, Biosphere Reserve, Tiger Reserve, etc.

AIGF(RK)
13. The user agency has submitted an undertaking regarding payment of NPV for diversion of forest land, as per the Hon’ble Supreme Court of India in feature or by any competent authority.

14. Compliance report to the conditions stipulated by the Government of India for FC approval of 105.00 ha granted on 4-4-97 and agreement condition of FC approval have been submitted by user agency. The remarks of deputy conservator of forests, Chitradurga on the status of the compliance is given as under:

<table>
<thead>
<tr>
<th>Agreement condition No.</th>
<th>Agreement Conditions</th>
<th>Compliance</th>
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<tbody>
<tr>
<td>4.</td>
<td>The User Agency shall open a fuel depot at the project site for supply of free fuel wood to staff and labourers working in the project. The quantity of fuel wood to be supplied will be prescribed by the Conservator of forests / deputy conservator of forests concerned.</td>
<td>User Agency informed that no camp opened in the lease area. However, the existing canteen uses gas.</td>
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<td>5.</td>
<td>Mine area reclamation (including targets of back filling) soil conservation measures and green belt development will be carried out concurrently to the maximum possible extent. The lessee shall take up planting work on the static dumps during the advance mining operations, and shall also under take afforestation measures in the area proposed for afforestation measures in the area proposed for afforestation and also in other blank areas in the leased area, as per directions of the conservator of Forests and Deputy Conservator of Forests concerned.</td>
<td>Concurrent development not done. Soil conservation works carried out are negligible. Static dumps planting taken up in the past 2-3 years. Not all blank areas planted. Green belt by and large not developed concurrently. Some plantations were raised during the initial years. Grassy blanks in the lease area are seen. For this User Agency informed that the grassy blanks are the future mining areas, hence planting was not done. In this regard it was informed that 15 years elapsed since the lease agreement was signed. If there was a will to comply, then short duration plant would have been planted in the beginning itself.</td>
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<td>6.</td>
<td>No new construction of building for any purpose will be taken up in the lease forest area.</td>
<td>The balance areas should be planted up. Deputy Conservator of Forests has been asked to verify this aspect.</td>
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<td>7.</td>
<td>Necessary soil conservation measures shall be taken at the project cost to prevent erosion in the catchment of Bheemasamudra Tank</td>
<td>Comprehensive catchment area treatment plan covering the slopes of the hills supporting the lease area at least up to the base should have been prepared and implemented. But not carried out. Only eleven, check dams have been constructed, which is not at all enough. It appears, specific directions have not been issued by DCF/CCF in this regard. SMC management plan shall immediately be prepared and issued to the User Agency to implement immediately. At least short duration trees / shrubs grass slips etc., should have been planted on the temporary / low grade dumps in the interest of arresting erosion and protecting the environment.</td>
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<td>10.</td>
<td>Check dam have to be constructed by the project authority to arrest the flow of suspended solids. The project proponents should provide for adequate arrangements for removing the accumulated material from behind these dams.</td>
<td>As claimed by User Agency only 2 check dams are constructed inside lease area. Not enough for the leased area. Deputy Conservator of Forests has to give a comprehensive soil &amp; moisture conservation plan to the user agency if not already covered by the CEC sanctioned R&amp;R Plan.</td>
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<td>12.</td>
<td>No waste material should be allowed to roll down the hill slopes (if any).</td>
<td>Retaining wall being constructed as per R&amp;R Plan approved by</td>
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<td><strong>13.</strong></td>
<td>Mechanical and biological reclamation and mined areas shall be carried out at the project cost before handing over the land to the forest department.</td>
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<td>CEC approved R&amp;R plan being implemented now after a lapse of 15 years.</td>
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<td><strong>14.</strong></td>
<td>Effective steps for control of air pollution causing dust should be taken. No sorting and crushing facilities should be provided at the project site.</td>
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<td>Fogging machines and rain gears seen.</td>
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<td><strong>17.</strong></td>
<td>Green belt around the dust generating points should be provided by the projects proponent. The cost towards environmental control measures should be made available to Government of India, Ministry of Environment and forests, within a period of three months from the sanction of the renewal of lease.</td>
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<td>This work not satisfactorily carried out. Some dust generating areas and dust generating road sides not planted up.</td>
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<td><strong>21.</strong></td>
<td>The lessee shall carry out the rigid soil and water conservation measures as suggested by forest department.</td>
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<td>It is learnt that forest Department has not suggested the required soil &amp; water conservation measures to the user agency for implementation. Therefore comprehensive soil and water conservation measures not carried out.</td>
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<td><strong>22.</strong></td>
<td>The lessee shall protect and nurture the natural tree growth in the mind</td>
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<td>Gap planting in the natural tree growth area carried out.</td>
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<td>23.</td>
<td>The lessee shall rigidly undertake protective measures in the leased area and area surrounding it up to one Km., against any fire incidents. However, nurturing of natural tree growth not done. Fire watchers provided by user Agency. But fire lines clearance not done i.e. comprehensive fire protection measures not taken up either in the lease area or in the forest area surrounding it up to 1 Km. No fire lines seen at all.</td>
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<td>25.</td>
<td>The lessee shall pay royalty, forest Development Tax and other taxes, etc. as per prevailing rates to the forest Department without fail. User Agency informed that FDT 50% paid as per court order, which means this condition is not complied with in full. Deputy Conservator of Forests to ascertain if the lease rent has been paid up-to-date.</td>
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<td>27.</td>
<td>The balance 154 Ha. Forest land will be surrendered to the Forest Department (The said balance area of 154 ha. is already surrendered to the forest department and the department has taken the land in their possession). The User Agency informed that the area has been surrendered to the forest Department.</td>
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<td>28.</td>
<td>Demarcation of mining lease area will be done on the ground at project cost using 4 feet high concrete pillars with serial numbers, bearing and distance from pillar to pillar. This work carried out.</td>
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<td>29.</td>
<td>Fencing, protection and regeneration of safety zone area will be done at the project cost. In addition afforestation over one and half times of safety zone area will be done in degraded forest elsewhere at project cost. Safety zone not fenced. But mostly planted in past 2 years.</td>
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<td>30.</td>
<td>The area proposed for dumping over burden should be set apart for afforestation and should be planted at the cost of user agency. Masonry retaining walls should be provided all around the over burden dumps and minerals stock yard area. Slopes of the over burden should be maintained around 25 degree of less than the natural slope of the area prior to the Planting carried out during recent years. The retaining wall being completed now, as per R&amp;R plan. The slopes of the over burden is around 35-40° and the slope length is around 25-30 mtrs. As per prescription there should have been benches of not more than 10 mtrs height for the dumps.</td>
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<td>31.</td>
<td>All along the roads either a retention wall or a sand bag support should be</td>
<td>By and large this work not required. Hence not done. However, few areas which are found to be vulnerable need to be immediately treated.</td>
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<td>provided to avoid soil erosion from the mine approach road.</td>
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<td>32.</td>
<td>Possibility of harvesting rain water for utilizing in the mine should be</td>
<td>Being done now as per R&amp;R Plan.</td>
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<td>explored and reported to the Regional Office of the ministry of Environment</td>
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<td>and forests at Bangalore.</td>
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<td>35.</td>
<td>The lessee should take up planting work on the static dup during the advance</td>
<td>Being done now. The User Agency to expedite.</td>
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<td>mining operations.</td>
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<td>36.</td>
<td>They should undertake the afforestation measures in the area proposed for</td>
<td>Being done now. But, other blank areas need to be immediately planted up.</td>
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<td>afforestation and also in other blank area of the leased area.</td>
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<td>39.</td>
<td>The lessee should take up community welfare measures in the peripheral</td>
<td>User Agency informed that some works were done but no villages have been adopted. They were asked to submit the details. They shall also adopt two villages &amp; submit compliance.</td>
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<td>villages in this regard One or two villages could be adopted.</td>
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<td>45.</td>
<td>The lessee shall pay compensation to the workmen for any injury, death,</td>
<td>This needs to be verified by the Deputy conservator of forests.</td>
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<td>disability etc, caused or occurred during the time of execution of work</td>
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<td>under workmen’s compensatory Act or any Act in force from time to time.</td>
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<td>The lessee is responsible for any commission’s and is omissions of his</td>
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<td>workmen.</td>
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<td>50.</td>
<td>The lessee should pay Rs. 6.75 (including all tax) or any higher rate that</td>
<td>It has been informed that the permit fee is being paid.</td>
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<td>will be prevailing at the time of transportation of forest produce (Mineral</td>
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<td>/ Ore) for each Lorry/vehicle as per clarification issued in letter No. A6/</td>
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<td>LND-28/83-84 dated 13-3-1985 of the Principal Chief Conservator of forests,</td>
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<td>Bangalore. The lessee should</td>
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<td><strong>59.</strong></td>
<td>The lessee shall take up comprehensive soil and water Conservation measures like gully plugging, Nala treatment construction of retaining wall, check dams R.C.S. etc. to effectively control soil erosion from the mining area to the non mining area. Necessary vegetative check dams shall also be taken up as a preventive measure of soil erosion other than the mined area.</td>
<td>As observed by undersigned, except constructing 11 Check dams no other work required to be done for comprehensive treatment, carried out. If not covered by the R&amp;R Plan, then comprehensive plan to be prepared in consultation with DCF and implemented immediately.</td>
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<td><strong>61.</strong></td>
<td>The lease will do the fire line clearance to a width of 5 Mtrs on either side of the forest roads be used for transportation of the ore outside the forest leased area.</td>
<td>Fire line clearance not done. Comprehensive fire protection plan to be prepared in consultation with DCF, and implemented immediately.</td>
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<td><strong>64.</strong></td>
<td>The lessee should provide services of fire watchers during the fire season to the forest department on the request of the deputy Conservator of forests / Assistant Conservator of Forests / Range Forest Officers / Forest Guards from February to June of every year.</td>
<td>Fire watchers being provided.</td>
</tr>
<tr>
<td><strong>67.</strong></td>
<td>The lessee should work and when suggested by the forest Department in the mining area and as agreed to in the proposals submitted for sanction of mining lease/ renewal under forest Conservation Act 1980.</td>
<td>It is learnt that the forest Department has not made any suggestion. Deputy conservator of forests, to immediately suggest and the user agency to comply.</td>
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</tbody>
</table>
15. The user agency has submitted an undertaking for carrying out fencing and plantation of safety zone area and also for payment to raise plantation in 1.5 times the safety zone area in degraded forest else were as per the cost fixed by Govt. from time to time.

16. **Important observations of the PCCF, Karnataka with regard to the proposal:**

   (i) **Mining in un-broken area and Land use Plan:**
   The PCCF has observed that no mining should be permitted in the un-broken 19.05 ha and the mining should be restricted to 32.59 ha, as mentioned in the “present land use plan” as per mining plan approved for the years 2012-13 to 2016/17. He has also observed that opinion in this regard may be sought by the Government of India from the CEC, in case it is felt necessary. The PCCF has observed that the user agency has proposed for mining in the presently unbroken area. The unbroken area shall not be worked in view of the Hon’ble Supreme Court of India order dated 20.4.2012, wherein it was ordered that “mining which is to resume in Category A however shall not extend to unbroken forest areas”. The approved RR plan also stipulates that mining should not be carried out beyond the existing pit limits.

   (ii) **Surrender of 0.50 ha of forest land:**
   The User Agency should be asked to pay the Net Present Value for the 0.50 ha area propose to be surrendered also and should carry out the reclamation and rehabilitation work at their own cost as proposed by the Forest Department.

   (iii) **Encroachment found by the Joint Team:**
   The User Agency has encroached 3.13 ha of forest land in the form of “Others” as per the survey carried out by the Joint Team and as reported by the CEC in its report dated 3.2.2012. PCCF ha observed that Ministry may take appropriate decision as deemed fit with regard to compensatory payment for the encroachments and opinion of CEC may be sought in case felt necessary.

   (iv) **Approach road earlier used by the user agency without FC approval:**
   The PCCF has recommended that the user Agency should be asked to pay NPV. Further compensatory afforestation area of 5.44 ha of non-forest land in lieu of the approach roads shall be identified by the User Agency, demarcated and get it mutated and handed over to the Karnataka Forest Department and pay the CA charges. MoEF may also take additional necessary action it deems fit with regard to the violation.

   (v) **Non-payment of Forest Development Tax (FDT) dues:**
   There is a writ petition with regard to payment of FDT is pending (WP No. 13654 of 2008). In the Government of India guidelines, it has been advised not to consider/process cases which are pending in Courts and are sub-judice. Since this case
regarding payment of FDI is pending in the Hon’ble High Court appropriate decision needs to be taken by the Government of India.

(vi) Non-submission of notification/Letter of intent regarding renewal:-

The User Agency has not submitted Notification issued by Government of Karnataka as per the provisions of the MMRD Act, 1957 or a Letter of Intent for renewal of the Mining lease and in view of this the lease should not be renewed unless the user agency submits the requisite notification.

(vii) Safety Zone

Clarification is needed from the MoEF regarding whether the user agency should deposit funds with regard to the protection and regeneration of Safety zone with the Forest Department or the user agency may be given the responsibility and be exempted from depositing the funds.

(viii) Non-compliance of the stipulated conditions

Based on the reports of Addl PCCF (FCA) and DCF, Chitradurga, PCCF has observed that user agency has failed to comply with the stipulated conditions of the earlier FC and agreement lease condition despite the fact that they had 16 years of lease period to comply, which fact may have to be viewed seriously. Lease may be considered for renewal only if the user agency complies with the above state conditions and Government of India may also take appropriate penal action as deemed fit for non-compliance of the conditions stipulated in the earlier approval.

(ix) Payment of NPV

The UA shall have to pay NPV for the entire forest land sought for diversion of 109.17 ha since the same was not paid earlier. The use agency shall also have to pay any additional amount of NPV as per the directions of the Hon’ble Supreme Court/Ministry of Environment and Forests.

(x) Compliance to stipulation regarding Compensatory afforestation

The user agency shall have to get the 20 ha of CA land of the previous FC clearance, mutated in favour of the Forest Dept in order to get it notified as PF/RF.

17. Regarding renewal of the mining leases Hon’ble Supreme Court of India in its judgement dated 21st April 2014 in Writ Petition no.435 of 2012 in case of Goa Foundation V’s Union of India has opined as below.

".....This sub-rule (sub-rule (6) of Rule 24A of the MC Rules) cannot apply to a renewal under sub-section (3) of Section 8 of the MMDR Act because the renewal under this provision cannot be made without express orders of the State Government recording reasons for renewal in the interest of mineral development......

".....We are, therefore, of the opinion that sub-rule (6) of Rule 24A of the MC Rules will apply to a case of first renewal under sub-section (2) of Section 8 of the MMDR Act other than a case covered under sub-rule (9) of Rule 24A of the MC
Rules but will not apply to renewal under sub-section (3) of Section 8 of the MMDR Act...."

No such express order of the State Government recording reasons for renewal in the interest of mineral development has been received by the Ministry.

After detailed discussion the committee has recommended that following information may be sought from the State Government.

(i) Express order of the State Government for renewal of the mining lease clearly recording reasons for renewal in the interest of mineral development.

(ii) Compliance of the Scheduled Tribe and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 in accordance with the MoEF’s guideline dated 3rd August 2009.

(iii) Compliances of the Stage II approval complete in all respect after removing all shortcomings as pointed out by the Deputy Conservator of Forests, Chitradurga should be submitted through proper channel to this ministry.
AGENDA ITEM NO. 2

Sub: Diversion of 72.272 ha of protected forest land in favor of PWD, National Highway Division, Lucknow for upgradation of NH-28C from km 35.400 to 93.000 (Barabanki to Bahraich) to two lanes with paved shoulders under NHDP-IV in the State of Uttar Pradesh

The Committee discussed the above mentioned proposal and noted as below.

1. The legal status of the forest land is protected forest land within the Right Of Way of the PWD NH Division.

2. The density of the area proposed for diversion is 0.1 to 0.4. Number of trees to be felled are 20289. (inclusive of all girth classes)

3. The proposed area does not form part of National Park, Wildlife Sanctuary, Biosphere Reserve, Tiger Reserve, etc.

4. No rare/endangered/unique species of flora and fauna have been found/recorded in the area.

5. Compensatory Afforestation has been proposed over degraded forest land twice in extent to the forest land proposed for diversion.

6. Duly authenticated DGPS map have not been submitted. However, the project proponent has submitted an undertaking to submit the DGPS map as soon as it is received from the Remote Sensing Application Center, Lucknow.

7. The suitability of land identified for CA has been certified by the User agency and not by the concerned DCF. A certificate from the DCF, Bahraich is required regarding suitability of the land identified for CA.

8. Compliance of the Scheduled Tribe and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 in accordance with the MoEF’s guideline dated 3rd August 2009, 5th Feb 2013 and 5th July 2013 has not been submitted. An undertaking has been submitted by the project proponent to the State Forest Department stating that neither rights of Scheduled Tribes or Other Traditional Forest Dwellers are pending in the area proposed for diversion nor they are affected from the project. Compliance of Scheduled Tribe and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 is not in accordance with the MoEF’s Guidelines issued in this regard.

9. ROW. Existing – the ROW of project road is 30 m. Proposed – Proposed ROW is 30 m
After detailed discussion FAC recommended that following information may be sought from the State Government.

i. Compliance of the Scheduled Tribe and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 in accordance with the MoEF’s guideline dated 3rd August 2009, 5th Feb 2013 and 5th July 2013.

ii. Duly authenticated DGPS maps of the forestland proposed for diversion.

iii. Revised Compensatory Afforestation scheme after identifying non-forest land for CA along with land suitability certificate and duly authenticated DGPS maps.

(C M Pandey)  
Additional Commissioner(NRM)  
(Ministry of Agriculture)  
Member

(Prof. N.P. Todaria)  
Member

(Dr. Mohammad Firoz Ahmed)  
Member

(M. S. Negi)  
IGF (FC)  
Member-Secretary

(A.K. Srivastava)  
ADGF(FC)  
Member

(S.S. Garbyal)  
DGFF & SS  
Chairman
Rajkumar Muthu <rajkumarmuth@gmail.com>  
To: "cmani1@hotmail.com" <cmani1@hotmail.com>  

Mon, Jun 9, 2014 at 8:56 AM

Sir,

Please find attached herewith the minutes of the FAC meeting held on 30.05.2014 for concurrence and approval.

Regards

*M. Rajkumar, IFS*
Assistant Inspector General Of Forests
Ministry of Environment & Forests
Paryavaran Bhavan, Room No.537
CGO complex
New Delhi-110003
TELEFAX-011-24369133

CHINTAMANI PANDEY <cmani1@hotmail.com>  
To: Rajkumar Muthu <rajkumarmuth@gmail.com>  

Mon, Jun 9, 2014 at 2:05 PM

I too have gone through the minutes of meeting held on 30-05-2014 and agree to the decisions.

Yours,

Kind Regards

(C.M. Pandey)
Additional Commissioner (NRM)
Government of India,
Ministry of Agriculture
102, B-Wing, Shastri Bhawan,
Delhi-110001

Date: Wed, 4 Jun 2014 12:03:21 +0530
Subject: Minutes of the FAC meeting held on 30.05.2014
From: rajkumarmuth@gmail.com
To: cmani1@hotmail.com; froz@aaranyak.org; nptfd@yahoo.com
CC: aksmoe@char@gmail.com; dgfindia@nic.in; negims84@hotmail.com

https://mail.google.com/mail/u/0/?ui=2&ik=a2967a27a6&view=pt&search=inbox&th... 10-06-2014
Proceedings of the Forest Advisory Committee Meeting held on 30th May, 2014

(Agenda pertaining to-B.K. Singh, Director (FC))

Agenda Item no. 01: Diversion of 679.44 ha of forest land for renewal of Salt lease for manufacture of salt in favour of M/s Saurashtra Salt Industries Limited in Jamnagar Marine National Park Forest Division in Jamnagar District of Gujarat.

The Committee discussed the proposal, heard the project proponents and noted as below.

1) The proposal is for diversion of 679.44 ha of forest land for renewal of salt lease for manufacture of salt in favour of M/s Saurashtra Salt Industries, Village Chudeshwar, Jamnagar district of Gujarat.

2) The lease has been in operation since 01.08.1963 i.e. prior to enactment of Forest (Conservation) Act, 1980.

In 1976 the area of this lease along with other 14 other leases was notified as Reserved Forest under Section-4 of the Indian Forest Act, 1927 with an intention to declare these areas as Reserved Forest under Section-20 of the Indian Forest Act, 1927. Forest settlement process is yet to be completed. Out of 15 leases only in case of two salt leases i.e. M/s Ballarpur Industries Limited, Singach, and M/s Saurashtra Chemicals Salt Works, Vadinar, the Forest Settlement Officer had submitted its report in 1997 where it recommended for deletion of these areas from Reserve Forest and the final notification under Section-20 was issued in 1983 deleting these areas from Reserve Forests but the rest of the lease areas under different leases is yet to be notified as RF under Section-20 of the IFA, 1927.

In its meeting on 19.11.95 and 20.03.96, the FAC had considered 15 leases including present one and has observed that these 15 leases fall in three categories, Category ‘A’ were those leases which were granted leases for salt manufacturing after enactment of the Forest (Conservation) Act, 1980 (6 leases having area of 639.18

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ha). Category 'B' category leases were those leases in which renewal of old leases were granted in violation of the Forest (Conservation) Act, 1980 (5 leases having area of 3133.95 ha) and, wherein in category 'C' were those leases in which work is going on without renewal of lease (4 leases with area of 2346.74 ha). Thus, out of 15 leases, 9 leases including the present one, have been granted lease prior to the enactment of the Forest (Conservation) Act, 1980 by the State Authorities and were in operation for manufacturing of salt at the time of enactment of the Forest (Conservation) Act, 1980.

The present lease along with other 14 leases was granted approval o10.12.1997 with the following conditions:

i. 640 ha of non forest land transferred to Forest Department will be mutated in name of State Forest Department and will be declared as Protected Forest / Reserved Forests under the Indian Forest Act, 1927.

ii. Compensatory Afforestation over 640 ha of non forest land and Penal Compensatory Afforestation over 1240 ha of degraded forest land will be carried out in a phased manner over 5 years. The fund for compensatory afforestation will be realized in 5 equal instalments over 5 years. It has been accorded as one time exception in these cases only. The annual progress report of realisation of compensatory afforestation fund and plantation in the degraded forest land will be submitted periodically to the Government of India and State Government as well as to the Regional Office, Bhopal, failing which the sanction may be withdrawn.

iii. This sanction is subject to environmental/CRZ clearance from the State Govt. In case investment exceeds Rs. 5 crore, environmental/CRZ clearance may be obtained from the Ministry of Environment and Forests, New Delhi.

iv. The forest land shall not be used for any purpose other than that specified in the proposal, for which all the lease-holders shall give a fresh undertaking abiding by the condition.
The present lessee / user agency has already paid all the amount for penal compensatory afforestation over 1358.88 ha of degraded forest land, which is double in extent to the area of proposed lease i.e. 679.44 ha and also paid the interest amount as prescribed in the GoI letter dated 10.12.1997, during the first renewal. The Compensatory Afforestation work and penal afforestation work has been completed as reported in the Site Inspection Report of the Regional Office, Bhopal in its report dated 05.05.2011. It has also been reported that these non-forest land has been declared as Protected Forest.

1. In the meantime, the lease expired in 2003 and, subsequently, fresh lease for 2003-2023 has to be granted on the application of User Agency. The current salt manufacturing is going on without renewal of salt lease. The proposal was considered by the FAC in its meeting held on 26th August, 2011 and the Committee recommended as follows:-

   a. The committee was of the view that the proposals of salt production involve large tracts of the land. There is a need to assess these cases in totality from the angle of avian faunal and floral diversity which could be done by referring all the cases to National Board of wild life. Since most of the cases that the matter may be referred to the National Board as they are in the vicinity of Jamnagar Marine National Park.

   b. The committee also felt that there is also need to get the process assessed from socio-ecological angle as a large population has been traditionally dependent on these salt production units for their livelihood. The committee suggested the name of Sri Satyakam Joshi, Director, Centre for Social Studies for this assessment.

   c. The committee also felt there is a need to assess the impact of salt panning on the overall biodiversity of the area, including the mangrove that have come up in defunct salt pans. There is also a need to get the opinion of Impact Assessment Division of the MoEF on requirement of Environment Impact Assessment and CRZ notification.
of these projects so that overall impact of salt manufacture can be gauged.

2. The above recommendations of the committee was placed before the Hon'ble Minister for Environment and Forest who observed as under:-

"FAC should reconsider the practice of directly constituting the sub-committees consisting of non-members of FAC. It is not possible for MoEF to give clearance for these committees unless the names and backgrounds are verified by us. In this case too background details of the persons suggested may be put up please."

3. Accordingly following action was taken
   a. Case was referred to the IA Division of the Ministry for getting the opinion of Impact Assessment Division on requirement of Environment Impact Assessment and CRZ notification and to Wildlife Division for their opinion about requirement of referring the case to National Board of Wildlife.
   b. About the engagement of Sri Satyakam Joshi, Director, Centre for Social Studies for Socio ecological study it was decided to refer the case to FAC.

4. Impact Assessment Division of the MoEF has opined that Salt works are not covered under EIA Notification, 2006. Under CRZ notification, 2011, salt harvesting by solar of sea water evaporation is permissible activity with prior approval of State Coastal Zone Management Authority. The Wildlife Division has opined that the guidelines refer to the requirement of reference to Standing Committee of NBWL for the activities requiring EC under EIA Notification, which it seems, is not the case, as clarified by Impact Assessment Division and, accordingly, approval of the Standing Committee of NBWL would not be mandatory.
5. The proposed site does not form part of any National Park, Wildlife Sanctuary, Biosphere Reserve, and also, it is outside the Eco Sensitive Zone which has been notified vide notification dated 22nd August, 2013.

6. The salt manufacturing as a process does not qualify as a mining activity, as it is product of natural process wherein through solar evaporation of brine water, salt is manufactured. It is also an essential commodity and does not adversely impact the environment. At the same time it contributes significantly towards the socio-economic development of the poor people of the area as the process is labour intensive one and thousands of family depend on this activity for livelihood.

7. The Nodal Officer, Gujarat informed the Committee that the approval issued on 10.12.1997 for 15 cases included the present one did not specify any time period for these leases. However, the user agency has been given 20 years lease at the time of second renewal.

8. The User agency stressed that the NPV should not be charged as land is being used for salt manufacturing since 1962, when the leases were granted to them, well before its being notified as Reserve Forest under Section-4 of Indian Forest Act 1927 in 1976. Wherever the settlement process has been completed, the Forest Settlement Officer has deleted those areas from notification under Section-20 of IFA, 1927. In this case and other 12 no of leases the settlement process has not been completed even after the lapse of 40 years.

9. The User Agency has not submitted any undertaking regarding deposition of NPV however State Government of Gujarat has submitted that as this is a case of renewal of old operational lease, NPV is not required to be deposited but also stated that the conditions stipulated by MoEF with regard to deposition of NPV will be final.

10. The forest land has no vegetation except some patches of mangroves at different places as these areas are under Salt Manufacturing for last 50 years. The Site Inspection Report of the RO office has mentioned that the area is largely blank as the area is divided into ponds. The water is of varying salt concentrations and the ponds having higher concentration of salt do not
promote the growth of vegetation. However, mangrove species are found in areas used as reservoir (preliminary stage of salt manufacturing). The main plant species area Avicenia marina, A. Alba, Rhizophora sp. Ceriops tagal, etc. Halophytes include Salvadoria sp., Sueda sp. Salicornia and Prosopis juliflora. No felling is proposed in the project.

11. The Regional Office, Bhopal (RO) office has recommended that the proposal is site specific in nature and question of realigning or relocating it elsewhere does not arise.

12. The RO office also recommended for issuance of individual approval order for a period of 20 years w.e.f. 10.12.1997 for streamlining these leases. RO office has also informed that some structures have been constructed which are permanent in nature and, as such, these are in violation of FCA, 1980.

13. Regional Office has proposed that nearly 60-80 ha of land is not being used by the user agency and regeneration of mangrove species was observed in this area. This area can be surveyed and handed over back to Forest Department.

14. The committee was of the opinion that though the approval order issued by the MoEF on 10th December, 1997 did not specify the period yet approvals under FC Act are co-terminous with the period of lease. User Agency/State Government should have sought clarification on this matter.

15. This is a case of violation of the FCA, however, considering the circumstances under which this happened, the quantum of penal afforestation requires to be decided. It is also pertinent to note that the penal afforestation in double the lease area has also already been complied with in time at the time of granting of approval on 10th December, 1997. This is also a fact that the approval under FC Act for renewal of the lease from 2003 onwards has not been obtained. The proposals were not submitted by the State Government in 2003, however, the State Government has recommended for the approval without any penal compensatory afforestation.

After detailed deliberations, the Committee recommended that the proposal be approved with general and standard conditions and with following additional conditions:-

\[Signature\]
i. The 60-80 ha of land which is not being used by the user agency and having regeneration of mangrove species as per site inspection by the regional office and other areas having mangrove vegetation shall demarcated, and shall be maintained and developed as green/mangrove area under management of the State Forest Department.

ii. Penal Compensatory afforestation shall be raised by the State Forest Department over degraded forest land equal in extent to the forest land used for non-forestry activity after the expiry of the lease and the approval under FC Act in 2003 at the cost of the project.

iii. The state government is at liberty to identify the area within the lease having potential for mangrove growth for penal Compensatory Afforestation provided such areas are brought under management of the State Forest Department.

iv. The State Government shall commission a study for impact of salt manufacturing on local community and report shall be submitted within one year. The mitigative measures suggested by the study shall be binding on the user agency and will be complied at the cost of the user agency.

v. All conditions imposed by the State Coastal Zone Management Authority during approval under CRZ Notification will be binding on user agency and will be complied at their cost.

vi. All conditions suggested by the State Government as below may be complied with.

a. Plastic garbage should not be thrown in lease area and if found in and around the lease area, it should be collected and disposed of appropriately from time to time.

b. No digging shall be done from the surrounding area of the lease and no damage shall be caused to it.

c. Maintenance of survey demarcation of lease areas shall be carried out at the cost of the user agency.
d. The brine water released from salt works should not be discharged in the rivers, stream, creek, so that this brine water does not get mixed in sea water and damage marine life.

e. While loading of salt is to be carried out for transportation, it shall be carried out with prior permission of the concerned office of the Conservator of Forests by earmarking the route on the maps.

vii. State Government shall enquire about involvement of any government officials/user agency in violation of the Forest Conservation Act and take suitable action against the defaulters in accordance with provisions of the relevant law.

The committee further recommended that the above recommendations should be placed before the competent authority only after receipt of "Schedule Tribe & Other Forest Dwellers (Recognition of Forest Rights) Act, 2006, as per MOEF's guidelines dated 03.08.2009 and 5th February 2013 from State Government.

Agenda Item no. 02: Diversion of 164.563 ha of forest land for upgrading to 2/4 lane of NH-15 (Amritsar-Bathinda-Ferozepur-Faridkot) in favour of M/s Executive Engineer, Central Works Division, PWD, Punjab.

The Committee discussed the above proposal of diversion of 164.563 ha of forest land for upgrading to 2/4 lane of NH-15 (Amritsar-Bathinda-Ferozepur-Faridkot) in favour of M/s Executive Engineer, Central Works Division, PWD, Punjab. The Committee noted that the above said proposal has been considered by FAC in its meeting on 29th & 30th April, 2014 and had noted as follows:-

1. The legal status of the 52.0485 ha of the forest land in Ferozepur Forest Division, 39.7619 ha of forest land in Amritsar Forest Division, 30.90 ha of forest land in Bathinda Forest Division and 41.8526 ha in Faridkot Forest are Protected Forest. The density of vegetation for Bathinda and Faridkot is mentioned as 0.4, in Amritsar as 0.1 but it is not mentioned in case of Ferozepur.
2. The forest area proposed for diversion does not form part of any national park, wildlife sanctuary, biosphere reserve, tiger reserve.

3. Compensatory afforestation has been planned on double degraded forest land.

4. No. of trees to be felled- 30,586 trees and 831 poles (666 in Amritsar and 165 in Faridkot)

5. No violation of the Forest (Conservation) Act, 1980 has been reported.

6. No alternative alignment has been considered by the user agency to ensure that minimum forest land has been proposed for diversion. Addl. PCCF, Regional Office, Chandigarh in his Inspection Note has commented that it is a case of widening of the existing National Highway and there are no other alternatives for locating the project on the non-forest land.

7. DGPS map of the area proposed for diversion is enclosed.

8. DGPS coordinates of the area proposed for compensatory afforestation is enclosed.

9. Distance of the project from Harike Wildlife Sanctuary is 1.5 km. Map showing location of Protected Areas in 10 Km radius of the project has been submitted.

10. The user agency has given an undertaking to deposit the amount of compensatory afforestation and Net Present Value.

11. The Committee had examined this proposal during its meeting on 29th and 30th April 2014 and had recommended for seeking following additional information/document from the state government:-

   (i) Requisite documents for compliance under Scheduled Tribe & other Forest Dwellers (Recognition of Forest Rights) Act, 2006, as per MoEF’s guidelines dated 03.08.2009 and 05th February, 2013.

   (ii) The status of approval by the Standing Committee of National Board for Wildlife and also approval under the Environmental (Protection) Act, 1986.

   (iii) It shall be ensured by the State Government that plantation along both sides and central verge is carried out by User Agency in accordance with the IRC specifications, with maintenance of 7-10 years. The user agency shall also submit design for providing at least 2-3 rows of long rotation indigenous trees, as per provision of IRC-SP-21-2009 (Guidelines on
landscaping & tree plantation), on either side of the road before final clearance.

(iv) Compensatory afforestation shall be carried out over double the degraded forest land in blocks instead of linear form along the roads and if required a revised CA Scheme shall be submitted.

12. These documents / information have been submitted by the user agency on 23.05.2014. The Committee noted as follows in this regard:-

(i) Required FRA Certificate issued by District Collectors' along with Gram/Nagar Sabha Panchayat in compliance under “Schedule Tribe & Other Forest Dwellers (Recognition of Forest Rights) Act, 2006, as per MOEF's guidelines dated 03.08.2009 and 5th February, 2013 for the Division have been submitted.

(ii) The proposal has been recommended by the State Wildlife Board and is under consideration of Standing Committee of the National Board for Wildlife and it was considered in its meeting on 4th September, 2013. The existing road is just abutting “Harika Wildlife Sanctuary” and the expansion of road involves construction of new bypass to Harika Wildlife Sanctuary which is at a distance of 1.5 Km from the project site.

(iii) User Agency has given an undertaking that it shall raise strip plantation, with maintenance of 7-10 years. It's also undertake that User Agency shall submit design for providing at least 2-3 rows of long rotation indigenous trees, as per provision of IRC SP-21-2009 (Guidelines on landscaping & tree plantation) on either side of the road before final clearance.

(iv) User Agency has also given an undertaking that it shall carry out Compensatory Afforestation over double the degraded forest land in blocks instead of linear from along the roads and if required a revised CA scheme shall be submitted.

(v) MoEF has been provided Environmental Clearance under the Environmental (Protection) Act 1986 vide memo no. F. No. 10-7/2011-IA-III dated 10th December, 2013.
After detailed discussions, the Committee recommended the proposal with general and standard conditions and following additional conditions:-

(1) Compensatory afforestation shall be carried out over double the degraded forest land in blocks instead of linear form along the roads. Accordingly a revised CA Scheme shall be submitted along with land suitability certificate from competent authority, DGPS maps of the areas identified for CA.

(2) All conditions imposed by the Standing Committee on National Board for Wildlife will be binding on the user agency at their cost.

(Dr. Mohammad Firoz)  (Prof. N.P. Todaria)  (Dr. Chintamani Pandey)
Ahmed)  Member  Additional Commissioner

(M. S. Negi)  (A. K. Srivastava)
IG(FC) & Member Secretary  Addl. Director General of Forests (FC)

(Dr. S.S. Garbyal)
Director General Of Forests and Special Secretary) Chairman