

**Recommendation of Forest Advisory Committee in its meeting held on  
17<sup>th</sup> September, 2021**

**Agenda No. 1**

**F. No. 8-63/2011-FC (Vol)**

**Sub: Proposal seeking prior approval of the Central Government under Section-2 of the Forest (Conservation) Act, 1980 for non-forestry use of 15.701 ha of revenue forest land in the villages of Dulanga, Ghumudasan and Manoharpur under Hemgiri Tahasil of Sundargarh district for Coal Mining in Manoharpur Coal Mine Project by M/s Odisha Coal and Power Ltd. (OCPL) under DFO, Sundargarh.**

The above stated agenda item was considered by FAC in its meeting on 17.09.2021. The corresponding details of the proposal may be seen at [www.parivesh.nic.in](http://www.parivesh.nic.in). FAC after through deliberation and discussion observed that:

1. This coal block was allotted to OPGC (Odisha Power Generation Corporation) in 2007. The land requirement envisaged was 808.575 ha for which the Mining plan was approved. This included 276.19 ha of forest land which was granted Stage II approval on 20.8.2014. Later this coal block was deallocated, based on Hon'ble Supreme Court of India order dated 25<sup>th</sup> August 2014.
2. The Coal block was reallocated to Odisha Coal & Power Ltd (OCPL) on 31.8.2015 and MoEFCC transferred the approval granted to OPGC to OCPL as per the existing procedure and provisions under FCA 1980 rule and guidelines.
3. In addition to 276.19 ha of forest land, 57.616 ha of additional forest land from other project of OPGC was also transferred to OCPL on 17.10.17. Thus it made the total forest area for the project as 333.434 (276.19 +57.616 ha).
4. It is reported that on allocation of coal block to new user agency and after a thorough technical scrutiny of the already approved Mining Plan obtained from OPGC, it is found that the land area acquired for outside waste dump are insufficient to accommodate the overburden produced from mine. The mining plan was thus revised and approved by Ministry of Coal, Govt. of India vide their letter F. No. 34011 4 2017 CPAM, dated 17 04 2018 in which the total land requirement was changed from 808.574 ha to 1064.402 ha. The forest patches over 15.701ha falling within proposed

out pit waste dump area which cannot be kept aside rather need to be included in the overburden dump area. This necessitates the diversion of 15.701 Ha over and above the 333.733Ha [276.655Ha + 57.078Ha] forestland already diverted and transferred in favour of OCPL so as to ensure a compact outside overburden dump.

5. The proposal was earlier discussed in FAC meeting held on 27.01.2021. FAC after thorough deliberation and discussion observed that that the State Government vide its communication no. 21809/9F (MG)- 64/2019 dated 14.12.2020 has informed that the total forest area within 1064.402 ha (total approved mining plan area) is 273.288 ha. Whereas on perusal of other data related to area as confirmed by the Regional Officer the forest area is reported to be 349.434 ha. Accordingly, FAC deferred the proposal to seek clarity on discrepancies in the area, from the State Government.
6. Now the State government has clarified that the total area as approved in Mining Plan (Rev-II) is 1064.402 ha. The discrepancy/confusion is due to 76.19 ha of non forest government land which was treated as forest as per dictionary meaning. This land was not a forest land as per revenue record and hence not parts of mining plan. However, considering the earlier approvals, the total forest land for Manoharpur coal mine project is 349.434 ha (including 76.19 ha of non-forest land treated as Forest as per dictionary meaning).

**Decision of FAC:**

After thorough deliberation and discussion with PCCF/Nodal Officer Odisha and IRO Bhubneshwar, the FAC recommended the proposal of diversion of 15.701 ha of forest land with General, Standard and following specific conditions.

1. State Government shall ensure that the CA area earmarked against earlier diversions of forest land under the provisions of FCA 1980 is mutated and notified as RF/PF as per the provisions of law. The compliance shall be submitted prior to Stage II approval.

Agenda No. 2

F. No. 8-22/2016-FC

**Sub: Request of State Government to issue clarification to approve adjustment of funds paid in excess by User Agency against the proposal for non-forestry use of 162.42 ha of forest land for Chromite ore mining in Sukarangi mining lease in favour of M/s Odisha Mining Corporation in villages Kamarda, Ostapal, Saruabil, Sukurangi, Tailangi in Sukinda Tehsil, Distrcit Jajpur (Odisha).**

The above stated agenda item was considered by FAC in its meeting on 17.09.2021. The corresponding details of the proposal may be seen at [www.parivesh.nic.in](http://www.parivesh.nic.in). FAC after through deliberation and discussion observed that:

1. The above-mentioned proposal was granted Stage-I approval vide this Ministry's letter of even number dated 14.09.2017 subject to fulfilment of certain conditions prescribed therein.
2. Subsequent to grant of Stage-I approval, the State Government requested the Ministry to adjust the excess amount deposited by the User Agency in the account of CAMPA.
3. Nodal Officer (FCA) informed that the total forest land involved in the total lease area of 382.709 ha is 267.21 ha and out of the total forest land, Stage-II approval for 104.79 ha has already been obtained by the User Agency on dated 21.07.2011 and for the balance area of 162.42 ha Stage-I approval was granted on 14.09.2017.
4. It was further clarified by the Nodal Officer that during the previous approval granted for 104.79 ha, the user agency has deposited an amount of Rs. 76,54,180/- @ ₹20,000/- towards the cost of Regional Wildlife Management Plan (RWMP) for the entire mining lease area of 382.709 ha.
5. Further in compliance of Stage-I approval dated 14.09.2019 for the balance forest area of 162.42 ha, the DFO again raised the demand for differential amount of RWMP on account of escalation in the cost @ ₹58000/- and the user agency paid an amount of ₹1,45,42,942/-.
6. At present the total amount paid by the user agency for the implementation of RWMP is ₹1,91,42,342/- for the entire lease area.
7. Nodal Officer in his letter dated 11.09.2019 has also informed that as per the

guidelines dated 15.02.2018 have been issued by the F&E Department, Government of Odisha, provides that *'the mining leases who have deposited the cost of RWLMP pertaining to the entire mining lease area as per rate applicable for that time period / on that date need not to deposit a further amount owing to revision of rate of RWLMP in subsequent occasion.*

Nodal Officer further mentioned that User Agency has requested to adjust the excess amount paid by them towards the cost of CA.

8. From the above facts it is ascertained that the State government has charged the amount twice for same purpose for entire lease area and now State Government had requested for adjustment of ₹1,45,42,942/- paid for the RWLMP twice.
9. The State Government vide their letter dated 06.03.2021, requested MoEF&CC to take necessary steps for adjustment of ₹1,45,42,942/- against the dues of ₹2,97,50,700/- of additional site specific Wildlife Management Plan approved by the PCCF (WL).
10. The request of the State Government was considered by the Forest Advisory Committee (FAC) in meeting held on 31.05.2021. FAC after thorough deliberation and discussion with the Nodal Officer Odisha, desired that:

I. *State Government may submit the status of Regional Wildlife Management Plan (RWLMP) formulation and its implementation. The State Government may also clarify whether the total amount which was levied from the user agency in the year 2011 for the purpose of RWLMP, has been utilized or not. If the amount has not been fully utilized and the resultant RWLMP has not been formulated and implemented fully, the reason for the same may be conveyed. The decision on the above request of the State Government for adjustment shall be taken after review of the clarification /additional details furnished by the State Government.*

II. *Separately, the State Government shall also submit a list of monies received towards different RWLMP, Integrated WL Management Plans and site specific WL Management Plans vide approvals under FCA 1980, and the present financial and physical achievement against each of these plans.*

11. Now, Government of Odisha vide their letter no. FE-DIV-FLD-0044-2021-14761/FE&CC dated 18.08.2021 informed that as per the information submitted by the PCCF (Wildlife) & Chief Wildlife Warden, Odisha, funds collected from the user agencies towards proportionate contribution to RWMP fund has not been utilized till date. The Wildlife Trust of India, Dehradun who was

entrusted with the preparation of odisha State Comprehensive Wildlife Management Guidance (OSCOW-MAG) on 13.12.2016 at cost of ₹3.65 crore within 15 months have finally delivered the complete documents on 25.01.2021. Action has been initiated by the PCCF (Wildlife) & Chief Wildlife Warden, Odisha to implement the guidance documents from the RWMP.

**Decision of FAC:**

After thorough deliberation and discussion with PCCF/Nodal Officer Odisha and IRO Bhubaneswar, FAC recommended that the issue regarding adjustment of the excess funds deposited may be settled at State level under the intimation to the MoEFCC. State shall ensure that all the conditions pertaining to the project, as specified in the Stage I approval, in the instant case are complied.

**Agenda No. 3**

**F. No. 8-68/2018-FC (Vol)**

**Sub: Non-compliance of condition regarding violation - Proposal for non-forestry use of 75.635 ha of forest land within the limits of Paradip Port Trust at Paradip coming under jurisdiction of Rajnagar mangrove Division/ Jagatsinghpur district, Odisha for development of Outer Harbour including Wester Dock & mechanization of existing operational berth by M/s Paradip Port Trust.**

The above stated agenda item was considered by FAC in its meeting on 17.09.2021. The corresponding details regarding the project may be seen at [www.parivesh.nic.in](http://www.parivesh.nic.in). FAC after through deliberation and discussion observed that:

1. The proposal in question has been granted Stage-I approval vide this Ministry's letter dated 31.12.2018.
2. Compliance of Stage-I approval was submitted by the State vide their letter dated 19.06.2020. However, on examination it was found that compliance of condition no. (iv) of Stage-I approval regarding action taken report by the District Collector on the violation of Forest (Conservation) Act, 1980 in the revenue forest land was not reported properly by the State Government Accordingly, shortcomings were conveyed

to the State Government vide this Ministry's letter dated 21.08.2020

3. Government of Odisha, vide their letter dated 13.07.2021 conveyed that the Collector & Magistrate, Jagatsinghpur, vide his letter dated 28.12.2020 reported that Aahar Kendra is an outlet for supply of food to poor and needy people at a nominal rate of Rs. 5/- in urban areas at places of public congregation such as near hospital bus stand, railway station, courts, collectorate etc., under a social welfare scheme "*Aahar Programme*" launched by Govt. of India. Beneficiaries of this programme are mostly patients, attendant of patients, construction workers, labourers, rickshaw pullers, auto drivers, street children, rag pickers etc. One such Aahar Kendra was set up by Govt. of Odisha near Paradip bus stand during 2016 over a small patch of vacant land having few remnant / relies of old structures of Paradip Port Trust constructed during its beginning period in 1970s under the impression that the land was already under non-forestry use by the Paradip Port Trust before the Forest (Conservation) Act, 1980 came into force. So, it is an inadvertent action. Moreover, the Paradip Port Trust has already paid Penal NPV as per direction of Govt. of India, MoEF&CC for the violation of Forest Conservation Act. Therefore, the Collector, Jagatsinghpur has proposed not to penalise Paradip Port Trust further for the same violation for a structure set up by Govt. of Odisha.
4. Accordingly, MoEFCC is requested to accord Stage-II clearance at the earliest for the project by the State Government.

**Decision of FAC:**

After thorough deliberation and discussion with PCCF/Nodal Officer Odisha and IRO Bhubaneswar observed that the violation has been recorded and the same was reported by different authorities at the time of decision taken for grant of Stage I approval for the project. As per the provisions of FCA 1980 there is no scope to condone the penalty against the grant of unauthorised permission to use forest land for any non forestry purpose. There is no new material fact before FAC that suggest that the permission for use of forest land without approval under FCA 1980 was not a violation. The request of State Government, therefore, cannot be accepted. Further State government is requested to submit the compliance of the conditions specified in the Stage I approval so that the proposal can be granted Stage II approval as per the procedure.

Agenda No. -4

F. No. 8-07/2021-FC

**Sub: Proposal for seeking prior approval of the Central Government under Section 2 of the Forest(Conservation) Act,1980 for diversion of 397.8863 ha forest land in favour of SJVN Ltd for the construction of Sunni Dam Hydroelectric Project(382 MW) within the jurisdiction of Shimla, Kotgarh and Karsog Forest Divisions, in District Shimla and Mandi, Himachal Pradesh(ONLINE PROPOSAL NO.FP/HP/HUD/31019/2017)-regarding.**

1. The above stated agenda was considered by the FAC in its meeting dated 17.09.2021. The corresponding details regarding the project may be seen at [www.parivesh.nic.in](http://www.parivesh.nic.in).
2. The Himachal Pradesh Government submitted the instant proposal seeking prior approval of the Central Government under the Forest (Conservation) Act, 1980.
3. The FAC during deliberations inter-alia observed that:
  - i. Proposal is for diversion of 397.8863 ha. of forest land in Mandi and Shimla districts of Himachal Pradesh, in favour of SJVNL Ltd. for the construction Sunni Dam Hydroelectric Project(382MW) on Satluj river.
  - ii. The project involves both forest and non-forest land. A dam will be constructed on the river Satluj and a forest area of 336.8974 ha. is required for the reservoir. The remaining forest land is proposed for other components of the project.
  - iii. Compensatory Afforestation has been proposed over 798.2642 ha degraded forest land in total 62 patches. The IRO has reported in the site inspection report that CA sites are suitable for plantation with some minor issues in 09 CA patches.
  - iv. The user agency has intimated a Cost-Benefit ratio of 1:486.501. The representative of the user agency clarified that the Cost-Benefit analysis has been done as per the guidelines of the Ministry by keeping in view the cost of forest diversion only. It was however observed that there is a need to relook into the Cost-benefit analysis by taking into account the actual cost of the project.
  - v. An area of 10.3264 ha. has been proposed for quarry sites. The locations earmarked for quarry sites appear to be sensitive keeping in view the slope and fragility of the

landscape. The FAC members raised concern over the safety measures as well as on the impact of mining in this area. The representative of the user agency clarified that the mining in the quarry sites will be undertaken as per the approved mining plan and after seeking all requisite clearances from the state government authorities. It was however observed that there is a need to look into the impact of mining and identify adequate mitigation measures before proceeding further.

- vi. The IRO while recommending the proposal has mentioned in the SIR that no forest land is proposed to provide housing to affected families of the diversion area. However the total number of families affected as reported in the Part-1 are at variance with the number reported in the Site Inspection report submitted by the IRO.
- vii. The height of the dam has been mentioned as 95 meters in the Part-1, whereas the IRO in the site inspection report has mentioned it to be 71 meters. The representative of the user agency however clarified that the height of 95 meters is from the deepest foundation level.

**Decision of FAC:**

The FAC after thorough deliberation and discussion with Nodal officer Himachal Pradesh, IRO Shimla and the User Agency, deferred the proposal with following observations:

- i. The Cost-Benefit analysis will be re-submitted by the User agency after taking into account all factors.
- ii. The impact of mining in the proposed quarry sites and the need for specific mitigation measures will be examined by a third party agency and a report shall be submitted to the Ministry. Once the report is submitted, a Sub-committee of the FAC comprising following members will visit the area:
  - I. Dr. Sanjay Deshmukh
  - II. Sh. Pankaj Aggarwal, IRO Dehradun
  - III. Sh. Dharmdeo Rai DIG (ROHQ/FC)
- iii. The State Govt. will take corrective measures to address the minor issues in Compensatory afforestation sites as reported by IRO Shimla in the Site inspection report.
- iv. The variation in the number of families being affected as reported by the User agency in Part-1 with those mentioned in the Site Inspection report shall be clarified and the exact detail of the families/people to be affected will be submitted.

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Agenda No. 5

File No. 8-64/2007-FC

**Sub: Diversion of 116.589 hectare of forest land in favour of M/s. Lafarge Umiam Mining Private Limited for limestone mining and other Ancillary activities in Sohra Tehsil, East Khasi Hills District of Meghalaya.**

The above stated agenda item was considered by FAC in its meeting on 17.09.2021. The corresponding details regarding the project may be seen at [www.parivesh.nic.in](http://www.parivesh.nic.in). FAC after through deliberation and discussion observed that:

1. The proposal in consideration was considered by Forest Advisory Committee (FAC) in its meeting held on 09.08.2007 and the FAC recommended the proposal
2. In-principle approval was accorded to the project by MoEF and CC on 22.04.2010 and, Stage-II approval was accorded on 29.02.2012 subject to certain conditions. The conditions pertaining to CA was stipulated in the Stage I approval that are as follows;

**Condition No.2:** *Compensatory Afforestation shall be raised and maintained over double the degraded forest land (i.e. over  $116.589 \times 2 = 233.178$  ha) at the cost of the User Agency. The cost of the CA shall be transferred to the State Forest Department by the User Agency.*

**Condition No.3:** *Penal CA shall be raised and maintained over an area 5 (five) times in extent to the forest land worked in violation of the Forest (Conservation) Act,1980 i.e. 5 (five) times of the broken up area or  $38.089 \times 5 = 190.445$  ha of degraded forest land. The User Agency shall transfer the cost of the Penal CA and its maintenance to the State Forest Department*

3. The State Government was to comply the conditions that is to raise CA over double the degraded forest land over 233.178 ha from the funds realized from the user agency.
4. Secondly to raise Penal Compensatory Afforestation over an area of 190.445 ha of degraded forest land from the funds realized from the user agency.
5. Thus, it was expected that the State government would raise the total CA which includes Penal Compensatory Afforestation over 423.623 ha of degraded forest area.
6. On perusal of the compliance report of M/s Lafarge Umiam Mining Pvt Ltd vide

their letter dated 29.05.2018 for the period of 1<sup>st</sup> April, 2017 to 31<sup>st</sup> March, 2018, the Regional Office, Shillong observed that in compliance to conditions stipulated in the approval, following amounts have been deposited with State Government: -

- i. ₹1,31,62,115 (towards the cost of Compensatory Afforestation).
- ii. ₹1,07,48,652 (towards cost of Penal Compensatory Afforestation in 5 times of broken up area).
- iii. ₹4,39,00,000 (towards cost of Comprehensive Biodiversity Management Plan).
- iv. ₹4,54,148 (towards cost of Regeneration of safety Zone area in 11/2 times the area of safety zone).
- v. ₹50,00,000 (Towards cost of CAT Plan).

7. The Regional Office, Shillong on 13.06.2018, 09.08.2018 and 27.08.2018 asked the State Government to clarify the reason for not taking up CA and Penal CA in time bound manner.
8. In reply, the PCCF & HoFF, Meghalaya 11.09.2018 informed that the matter has been already taken up with MoEFCC and opinion of the State Government is that M/s Lafarge Umiam Pvt. Ltd. shall be asked to pay for acquisition of requisite non forest land required for Compensatory Afforestation.
9. Later Ministry, since ideally NFL is preferred over DFL, vide its letter 28.02.2019 informed the Regional Office that *if degraded forest land is not available for CA then the CA may be raised over non forest land as proposed, provided non-forest land is transferred to State Forest Department and notified as 'forest' under Indian Forest Act*. The same was endorsed to PCCF & HoFF, Govt of Meghalaya vide RO's letter dated 13.03.2019.
10. The issue related to allowing CA over degraded forest land or non forest land remained under discussion for a long time. To sort it out MoEF&CC vide its letter dated 08.05.2019 requested the Regional Office to examine the issue keeping in view the user agency is a private agency which was allowed to take up CA over double degraded forest land. After examination this issue on the provisions of the Forest (Conservation) Act, 1980 and guidelines, the detailed report may be submitted to this Ministry, after which same will be deliberated in FAC.
11. Further, a meeting with the officials of State Govt., Regional Office, Shillong and User Agency was convened on 06.08.2020 through Video Conference (VC) to discuss the issue for raising compensatory afforestation. It was intimated to State Govt., if State Government wants to deviate from conditions specified in the approval granted

then it may submit a proposal for the same, with justification for the same and consent of user agency to the Ministry for necessary action.

12.M/s Lafarge Umiam Mining Private Limited in its representation has mentioned that LUMPL complied with the conditions confirmed by the Hon'ble Supreme Court and made all relevant payment under the FCA Approvals, keeping in mind the long history in this matter and in the interest of the collective obligation to protect the environment, without prejudice to the rights and remedies of LUMPL in this respect, LUMPL is agreeable to pay for 116.589 ha of non-forest land for compensatory afforestation provided, the conditions are changed by the competent authority to the effect that LUMPL would only have to provide funds for 116.589 ha of non-forest land and the Government of Meghalaya would undertake to ensure compliance of CA of the project with the funds already deposited by LUMPL.

13.State Government submitted its reply to the Regional office for not able to carry out CA over degraded forest area which is as follows:

- i. Initially 233 ha of CA over degraded forest land was earmarked in the Reserved Forest under Garo Hills Territorial Division. The CA could not be implemented on the said land as the State Govt. has to implement the provisions specified in the ST & TFD (R & FR) Act, 2006, as there are forest dwellers in the area earmarked for implementation of CA and difficult to undertake the activity without settling the forest rights vested on them.
- ii. In the meeting (video conference) held on 6<sup>th</sup> August, 2020 with IGF (FC), MoEFCC, New Delhi, Principal Secretary, Govt of Meghalaya, PCCF & HoFF, Meghalaya and officer of Regional Office, NER, MoEFCC, Shillong along with user agency, the issue of an alternative area of 116.589 ha (equivalent to the forest land diverted) non-forest land to be provided by User Agency was discussed. The NFL is to be obtained from the land Bank created by a Land Bank Committee of the Forest Department, amounting 400 ha in West Garo District.

14.The State Govt has submitted the KML / Shape file of the area of CA for 116.589 ha NFL.

15.Initially 190.445 ha PCA over degraded forest land was earmarked in the Reserved Forest under Garo Hills. The Penal CA could not be implemented in the said land for the same reason as mentioned at (i) above. In the VC meeting, it was approved in-principle that State Govt will take up 190.445 ha for Penal CA in the other degraded

Reserved Forest of the State. The Department has identified following areas for Penal CA.

	<b>Penal CA</b>	<b>Ha.</b>
a.	East & North Garo Hills Territorial Division's Reserved Forest	45 ha
b.	West Garo Hills Territorial Division's Reserved Forest	15 ha.
c.	Jaintia Hills Territorial Division's Reserved Forest	40 ha.
d.	Jaintia Hills Autonomous District Council's Reserved Forest	91 ha.
	<b>Total</b>	<b>191 ha.</b>

16.The Compensatory Afforestation over an area of 116.589 ha of non-forest land has been proposed and identified by the State Govt at a Non-Forest land contiguous to Nongumniang Reserved Forest.

17.The recommendation of the state government has been analysed by the regional office, which has recommended for change in the condition of the stage I related to CA.

18.During the deliberations in the meeting, the following issues related to the proposal were highlighted and it was requested that the same needs to be looked into while taking a final view.

- i. The Stage-I approval (with conditions incl. plantation over DFL) were filed through an affidavit in the Hon'ble Supreme Court. Whether the change in conditions after a lapse of 8-9 years would be tenable?
- ii. Whether such a decision would have any implication over other proposals.
- iii.Reasons for inordinate delay in taking up CA has not been clarified.

**Decision of FAC:**

After thorough deliberation and discussion with PCCF/Nodal Officer Meghalaya and IRO Shillong, FAC observed that at first instance IRO Shillong and the State Government in consultation with Ministry may verify, besides others, if the change in the condition of CA from degraded forest to Non-forest land has any implication on the Stage-I approval (particularly the conditions) by the Ministry, that was filed by way of affidavit in IA no.s .1868, 2091, 2225-2227, 2380, 2568 and 2937 in the WP (C) No. 202 of 1995 Lafarge Umiam Mining Pvt. Ltd. vs Union of India & Ors. in the Hon'ble Supreme court of India which was decided in 2011.

Agenda No. 6

File No. 8-12/2018-FC (Vol.)

**Sub: Proposal for diversion of 0.604 hectare of forest area proposed for Downhill Pipe Conveyor (DHPC) for Bhadra Iron Ore Mine (ML No. 2365) and Tunga iron Ore Mine M.L. No. 2366 in favour of M/s. JSW Steel Ltd in Ballari District of Karnataka (Proposal No. FP/KA/Others/27706/2017). regarding.**

The above stated agenda item was considered by FAC in its meeting on 17.09.2021. The corresponding details regarding the project may be seen at [www.parivesh.nic.in](http://www.parivesh.nic.in). FAC after through deliberation and discussion observed that:

1. The proposal was accorded Stage-I approval by the Ministry vide its letter of even number dated 31.12.2018 subject to certain conditions.
2. The Government of Karnataka, Department of Forest and Environment vide their letter No. dated 18.11.2020 submitted/uploaded a report on compliance to conditions stipulated in the in-principle/Stage-I approval under the Forest (Conservation) Act, 1980 accorded by this Ministry vide letter dated 31.12.2018 on the PARIVESH portal of this Ministry.
3. The State Government has informed that the CA land, as proposed earlier has been changed by the DFO and now the user agency has given 0.960 ha non forest land in the Great Indian Bustard habitat area which is not suitable for plantation and in such a scenario the compensatory afforestation scheme has been prepared as per guideline and the plantation will be raised in the degraded forest area as per the prescription of the working plan.

**Decision of FAC:**

FAC After thorough deliberation and discussion with PCCF/Nodal Officer Karnataka and IRO Bengaluru observed that the CA land has been changed after Stage I approval and it is reported that the new area is a Great Indian Bustard habitat and planting on this land is not advisable. Accordingly, the CA planting will have to be done in degraded forest area of the Ballad Division in accordance with Working Plan prescriptions. It is learnt that the user agency is giving around 0.960 ha of non forest land in lieu of 0.604 ha of forest land. During discussion it is reported by the nodal officer Karnataka that the area is contiguous

to the CA areas which have been given against different proposals under FCA 1980 earlier. FAC agreed to the justification of the State Government and recommend to accept the changed CA area as proposed by the State Government.

Agenda No. 7

Policy issue 1

File No. 5-3/2007-FC

**Sub: D.O letter dt 18.05.2021 received from Secretary, Ministry of Mines wrt revision in requirement towards compensatory afforestation from 20 tall trees per borehole to 110 trees per borehole in case of mineral exploration projects, where no felling of trees is involved, is very high-Reg**

1. The above stated policy issue was discussed in the FAC meeting held on 17.9.2021.
2. DO letter dt 18.05.2021 was received from Secretary, Ministry of Mines referring to this Ministry's guideline dt 17.11.2020. The content of the DO letter is reproduced below:-

*"It is heartening to note that through mutual consultation and discussions, many issues faced by User Agencies in the mineral sector in taking up exploration and mining in the forest area are getting resolved.*

*The Ministry of Mines has constantly maintained the view that mineral exploration is only a temporary scientific activity in the forest area with little or no change in land use. Whatever little changes occur due to exploration in forest areas is restored back by Nature within a few months. Therefore, Exploration, which is a scientific activity by which possibility of existence of natural resources within a land parcel is evaluated, should not be equated with mining activity.*

*It may also be noted that in addition to being of short duration, such exploration activities are less invasive and no permanent damage is done to the flora and fauna. Moreover, to obtain one economically mineable block, exploration in around 100 blocks is to be conducted. The average area for a reconnaissance stage exploration block is about 100 sq. km., whereas the average area for the actual mining block, if the mineral is discovered, is about few hectares to a few square kms. Thus, all the forest areas where exploration projects are taken up are not converted into mines.*

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*Revision in guidelines for charging NPV in case of mineral exploration projects has been done and the revised guidelines have been issued in November 2020. As per the revised guidelines, NPV will be charged on borehole basis taking 0.1 hectare of area impacted per borehole into consideration instead of the entire forest area falling in a mineral block. With the implementation of these guidelines, the total NPV amount in case of mineral exploration projects is expected to reduce substantially. However, as per the new formula, User Agency is required to plant 110 plant trees per borehole. This is a substantial increase. As per the earlier formula, in addition to the NPV charges, the User Agency was required to plan 20 tall trees per borehole.*

*It appears that the revision in requirement towards compensatory afforestation from 20 tall trees per borehole to 110 trees per borehole in case of mineral exploration projects, where no felling of trees is involved, is very high. I would request that the FAC may consider the matter and earlier requirement of planting 20 tall trees per borehole may be restored.*

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2. The Ministry vide its letter dt 17.11.2020 issued a Guidelines wrt the provisions of the Forest (Conservation) Act, 1980 for further streamlining the procedure for undertaking prospecting/exploration/Seismic survey in forest areas. The para 3, 6.8 (v) (h) states that:

*"6.8 (v)(h) User agency, shall prepare a plan to plant 110 tall trees per borehole / 2 tall plants per shot hole as the case may be. The cost of preparation of plan and plantation shall be borne by the user agency. State government shall ensure that the plants are planted on abandoned bore-hole area or degraded forest land, as per prescription of working plan."*

3. In this DO letter Secretary, Ministry of Mines has stated that the revised norms regarding requirement towards compensatory afforestation from 20 tall trees per borehole to 110 trees per borehole where no felling of trees is involved, is very high. In this regard it was requested that the FAC may consider the matter and earlier

requirement of planting 20 tall trees per borehole may be restored.

**Decision of FAC:**

FAC after thorough deliberation observed that the Ministry has issued specific guidelines to regulate prospecting in the forest area. As per provisions of para 6.8 (iv) of comprehensive guidelines which states that:

*Prospecting of any mineral, done under prospecting license granted under MMDR Act, including collection, removal of samples and seismic survey in the forest land, would be a stage between survey & investigation and grant of mining lease and as such permission under the Forest (Conservation) Act, 1980 would be required. However, for drilling up to 25 boreholes of maximum 4” diameter per 10 sq. km for prospecting, exploration or reconnaissance operations, without felling of trees, shall not attract the provisions of the Act.*

FAC further recalled its discussion on the matter related to charging the NPV on bore hole basis in its meeting held on 18.8.2020. In the meeting it was informed that for each borehole an area of approximately 0.1 ha is impacted from activities that are undertaken during prospecting/ exploration. Taking the impact area into consideration it is recommended that if the number of bore holes for prospecting in the forest area is beyond the above specified limit, then the CA scheme shall be prepared @ 110 trees per bore hole (for 0.1 ha area) as conveyed by the ministry vide guideline dated 17.11.2020.

**Policy issue 2**

**Sub: Exempting laying of slurry pipelines in the RoW of existing roads from obtaining approval under the Forest Conservation) Act, 1980 – reg.**

1. The above stated policy issue was discussed in the FAC meeting held on 17.9.2021
2. Addl. Secy, Ministry of Steel vide his DO letter, the Federation of Indian Mineral Industries and the Utkal Chamber of Commerce & industry Ltd through their representation have sought for modification of the MoEFCC guideline given at para 4.2. of the handbook of FCA 1980.
3. As per para 4.2 of the handbook of FCA, 1980, General Approval is accorded for laying of slurry pipelines along the roads within existing right of way (ROW) with maximum trench size of 2m deep and 1m wide, similar to underground optical fiber cables (OFC), telephones lines, drinking water supply pipelines, electricity cables and CNG/PNG pipelines. The guideline is presented as below:

***4.2 Laying of Under Ground Optical Fiber Cables (OFC), telephone lines, drinking water supply pipelines, electricity cables, CNG/PNG and Slurry pipelines.***



*General approval is accorded for the above listed projects along the roads within existing RoWs (trench size not more than two meter in depth and one meter in width) not falling in National Parks and Wildlife Sanctuaries' without felling of trees. Approval, in addition to general conditions mentioned above under para 4.1, is subject to the following specific conditions:*

- *No tree felling is involved for the proposed work*
- *After completion of the project the area under RoW should be reclaimed suitably.*
- *UA agrees to make good any loss to Forest/Environment.*
- *The UA will seek permission from the local FD for carrying out any maintenance.*
- *In case, the proposed area falls in the RoW of the road passing through National Parks and Wildlife Sanctuaries, General Approval is subject to requisite permissions from the State Board for Wildlife shall be obtained.*
- *In case, the proposed area falls in the RoW of the road passing through Tiger Reserves, General Approval is subject to requisite permissions from the National Board for Wildlife/NTCA shall be obtained.*

4. It is informed that slurry pipelines cannot be accommodated in 1m space, as these are comparatively wider and involve two parallel pipelines - one for carrying slurry and other for returning huge volumes of recycled water to reduce freshwater intake. Usually slurry pipeline diameters vary from 0.4 - 0.8 meter and two parallel pipelines have to be laid side-by-side with some spacing for technical and maintenance purposes. Therefore, General approval for slurry pipeline projects along roads may be relaxed from 1 metre to the entire width of ROWs in already diverted forest land being currently used for non-forest purposes like roads.

5. Further in the representations it is clarified that as per provision 5.6 (b) of Handbook of FCA, 1980, laying of slurry pipeline within the existing ROW will be considered as re-diversion and the secondary user agency has to pay NPV and cost of Compensatory Afforestation, in case if not already recovered from primary user agency.

"5.6 (b).

*While permitting re-diversion, Central Government may, if considered necessary modify original conditions or impose additional conditions to be fulfilled by the primary User Agency and conditions (including rights and responsibilities) to be*

*fulfilled by the secondary User Agency along payment for (i) NPV at the applicable rates; and (ii) if not already recovered from primary user agency the cost of Compensatory Afforestation, in respect of the forest land proposed to be re-diverted in favor of the secondary User Agency."*

6. In its justification for the modification the organisations have informed that the forest clearance is obtained and forest land gets diverted for construction of road by Primary User Agency after payment of all requisite charges such as Net Present Value (NPV) and Compensatory Afforestation charges etc. Hence, payment of both NPV and CA charges may be exempted for the Secondary User Agency, in case Primary User Agency has already paid/pays the same.
7. The Slurry pipelines also offer an environmental advantage over both road and rail transport and have less environment impact such as dust, noise and wildlife mortality due to accidents etc. Slurry pipeline is an environment friendly system with minimal impact on forest ecology and aesthetics of the surrounding area.
8. The similar issues were also highlighted in the 3rd Inter-Ministerial Steering Committee (IMSC) was held on 05.07.2021 and and D.O. letter dated 09.09.2021 received from Secretary, Ministry of Steel.

**Decision of FAC:**

FAC after thorough deliberation and discussion observed that the MoEFCC considers a proposal for non forest use of forest land under the provisions of FCA 1980 for different road projects. If the area is already allowed for the construction of road under the provisions of FCA 1980 and all compensatory levies for the entire forest area involved has been paid by the user agency then laying of underground slurry pipelines within the diverted forest area in existing RoWs, trenches of two metre width and two metre depth may be allowed, subject to other conditions given under para-4.2 of the Handbook of Comprehensive Guidelines.

Moreover, if NPV has been charged for the entire forest area already diverted under the Forest (Conservation) Act, 1980, same shall not be charged again for laying underground slurry pipelines within the RoW.

**Policy issue 3**

**Sub: To Facilitate all Government exploration agencies including GSI to carry out the mineral exploration works in the Forest area at the earliest within the stipulated time frame to meet the target setup by Government of India to produce 300 MMT of steel by 2030 (F. No. 11-159/2021-FC).**

1. The above stated policy issue was discussed in the FAC meeting held on 17.9.2021
2. A DO letter dated 11.08.2021 has been received from Secretary, Ministry of Commerce and Industries Department (MSME & Mines), Government of Karnataka requesting intervention from the Ministry on the matters related to explorations in the forest area and issue necessary guidelines to enable achievement of 300 MMT target of Steel Production by 2030.
3. Intervention sought by the Secretary, MSME, Govt of Karnataka are summarized as under:
  - a. Surveys in the forest areas involving data collections (1 kg sample) using STM, NGCM and NGPM and reconnaissance surveys (G-4 level) without any impact on forest should be exempted from the purview of the FCA 1980.
  - b. 'Breaking of land' regarded as non-forest land under the 'Explanation' in Section -2 of the Act. This should be amended not to exclude temporary excavation in forest land for surveys.
  - c. Existing dispensation of drilling of 25 boreholes of 4 inch dia per 10 sq km should be enhanced to 30 bore boreholes per 10 sq km.
4. During discussion, it was submitted before FAC that, the Ministry vide its guidelines given under para 6.4 and 6.8 in the Handbook of FCA, read with guidelines dated 17.11.2020 has already streamlined the procedure for undertaking surveys/prospecting in the forest areas. This was made in consultation with Ministry of Mines, Government of India. As per the provisions of the said guidelines, following activities do not require approval under the FCA 1980:
  - a. Surveys undertaken in the forest without felling of trees, involving only clearing of bushes, for various developmental projects including mining.
  - b. Proposals of prospecting involving drilling of up to 25 boreholes of 4 inch dia per 10 Sq Km without felling of trees and permanent change in the land use.
  - c. Drilling of upto 80 shot holes per sq km of maximum size of 6.5 inch for seismic surveys in case of Hydrocarbons, coal and non-coal sectors.
5. In a separate communication from the PCCF (HoFF), Government of Andhra Pradesh, vide their letter dated 30.11.2020, a similar issue has been raised. He has sought clarification regarding the competent authority to issue permission for allowing

collection and removal of samples from the forest areas.

6. The issue was deliberated in the ministry with the Nodal Officer (FCA), Govt. of Andhra Pradesh and Maharashtra and the Regional Officers of IRO, Chennai and Dehradun on 18.05.2021 through Video Conferencing
7. Pursuant to deliberation on the issue, the comments submitted by the IRO Dehradun and Chennai are as under:
  - i. Provisions provided for undertaking surveys in forest area without felling of trees exempt prior approval under the FCA 1980. However, the provisions provided under paras 6.3 and 6.4 of the Handbook are apparently contradictory i.e. para 6.4 provides exemption to mining while para 6.3 does not exempt mining projects.
  - ii. IROs adverting to provisions of para 6.8(iv) exempting prospecting involving drilling of 25 boreholes of 4 inches diameter per 10 sq km mentioned that such provision implies that if no boreholes are drilled, even surveying in the forest land would attract the provisions of the FC Act.
  - iii. It has been further suggested that material excavated from prescribed drilling of 25 boreholes may be worked out which may be extrapolated to 1 ha of area to arrive at a quantity in terms of tonnes per ha. Such quantity may be standardized and based on such standardized estimate of quantity; the surveys may also be exempted if the quantity extracted is less than standardized estimate.
8. Matter has been examined in the FC division of the Ministry and it revealed that:
  - i. The contradictory provisions of surveys in the forest areas provided under para 6.4 exempting mining and para 6.3 not exempting mining projects, as reported by the IROs needs consideration for their rectification. As per the guidelines, issued under the FCA 1980 from time to time, prior approval for undertaking surveys/prospecting in the forest area is required in case the drilling of bore hole exceeds the specified numbers while general reconnaissance surveys without felling of trees has always remained an exempted category. Further, provisions provided under para 6.4 takes care of the intention of ministry. Therefore, the para 6.3 of the Handbook may be considered for deletion.
  - ii. Similarly, provisions of para 6.8(iv) also mandates the prior permission for surveys and investigation under the FCA 1980 except drilling of 25 boreholes of 4 inches dia per 10 sq km. Intention of the said para appears to be

streamlining the procedure of prospecting which follows the reconnaissance and preliminary surveys. Ministry vide its guidelines dated 17.11.2020 has further refined the procedure for undertaking surveys/exploration in the forest areas and accordingly substituted the para 6.8(v) of the Handbook.

- iii. As the preliminary and reconnaissance surveys, which generally do not involve felling of trees, has already been taken care of under para 6.4 and a separate procedure has been stipulated for prospecting under para 6.8 (v) of the Chapter -6 (substituted vide guidelines dated 17.11.2020). So, the para 6.8(iv) now stands redundant and hence may be considered for deletion from the Handbook.
- iv. With regards to submission of IROs regarding standardising the quality of sample excavated from the forest area, it may be mentioned here that suggestion needs some more consultation and examination, since exploration of different minerals may require different quantity of samples which may further vary based on the level of exploration.
- v. Permission for surveys/prospecting/exploration are considered by the Ministry with the understanding that samples collected will be used for the estimation of mineral reserves and pattern of their distribution. Based on the requirement of such analysis, the requisite quantity, as per standards prescribed is collected/excavated from the forest area. Likewise, permission granted for non-forestry use of forest land for mining is restricted to the forest area only and is independent of quantity of mineral excavated. Permission of drilling of borehole granted in the forest area, is also independent of quantity of sample collected. It also appears that samples so collected could not be used commercially owing to their miniscule quantity as compared to material excavated during regular mining operations. Therefore, requirement of prescribing such limits needs further deliberations in consultation with relevant organizations.

**Decision of FAC:**

FAC after thorough deliberation and discussion decided that a concept note which includes the view of IROs and FC division may be made and presented before FAC for further decision. A consultation in this regard may be held by IGF(FC) with officials of Ministry of Mines, expert form GSI and government owned exploration agencies.

**Policy Issue 4**

**Sub: Clarification on the guidelines issued under FCA, 1980 Comprehensive Guidelines Handbook under Para 1.15, 11.1 and 11.9.**

1. The above stated policy issue was discussed in the FAC meeting held on 17.9.2021.
2. The matter was raised by the IRO, Dehradun, that there exists inconformity in the following three provisions made under separate paras in the Handbook of FCA and the same need clarity for their unambiguous implementation.

**A. Para 1.15 says that:**

*Diversion of forest land for non-site-specific projects: A number of proposals for diversion of forest land for non-site-specific projects like industries, construction of residential colonies, institutes, disposal of fly ash, rehabilitation of displaced persons, etc. are received by the Central Government. Attention is drawn to items 1(iv) and 8 of the Form 'A' in which the proposal is to be submitted by the State Government. In these columns, justification for locating the project in the forest area giving details of the alternatives examined and reasons for their rejection has to be furnished. Normally, there should not be any justification for locating non-site-specific projects on forest land. Therefore, the State Government should scrutinize the alternatives in more details and must give complete justification establishing its inescapability for locating the project in forest area.*

**This guideline is not clear, on whether if all the possible alternatives are provided then residential projects will be allowed in the forest area.**

**B. Para 11.1 reads as:**

*Infrastructure projects requiring diversion of forest land under the FCA, 1980 fall under following categories, (in addition to the General Approval granted by the Central government for the specified public utility services and critical/strategic defence infrastructure for the specified periods):*

- i. Road Widening and construction, including widening in existing RoW.
- ii. Construction of railway lines including conversion of meter gauge railway line to broad gauge including widening within RoW of existing meter gauge.
- iii. Repair and maintenance of roads constructed on forest lands prior to 25<sup>th</sup> October

1980

- iv. *Approach/exit roads to petrol pumps etc.*
- v. ***Residential projects in forest lands.***
- vi. *Construction of residential buildings in private forests*
- vii. *Non-site-specific projects like: Industries, residential colonies, institutes, disposal of fly ash and rehabilitation of displaced persons*
- viii. *Ecotourism in Forest Areas*
- ix. *School in hilly areas*
- x. *Passenger Ropeways*

**This guideline is not clear whether the above activities are allowed or not.**

**C. Para 11.9 reads as:**

*Residential Projects: The Central Government will not entertain any proposal for diversion of forest land for construction of residential or dwelling houses. However, the Central Government has accorded permission for construction of residential houses in their private forests land for construction of residential or dwelling houses in the MDDA areas of Uttarakhand subject to fulfilment of following conditions:*

- a. *Construction activity for residential purpose in private forest shall be allowed only for domestic purpose and shall not be extended to any institutional buildings or commercial development*
- b. *The construction activities shall be restricted to a maximum of 250 square meter of built up area in each case.*
- c. *The construction of residential building in private forest is permitted in MDDA areas and other parts of Uttarakhand State only in order to alleviate hardship of homestead owners for constructing/completing their bonafide residential buildings.*

*Above stipulation is strictly restricted to construction of residential or dwelling houses in private forest land in MDDA areas of Uttarakhand, where non-forest land is not available.*

**This guideline is contradictory to the guidelines 1.15.**

**Decision of FAC:**

FAC after thorough deliberation decided that utilisation of forest area for the residential

purpose is a non-site-specific activity and cannot be considered on forest land as a rule. For that matter, no non-site-specific proposal can be entertained for considering approval under the FCA 1980. In exceptional circumstances, residential projects upto one ha, can be considered for approval under FCA 1980 subject to appropriate justification and recommendation by the concerned State Government and the Regional Officer of the IRO of MoEFCC. Accordingly, all the apparent contradictions in the guidelines made under FCA 1980 may be amended.

\*\*\*\*\*

**(Confirmed through email)**

*(Sh S. D. Vora)*

*Member*

**(Confirmed)**

*(A.K. Mohanty)*

Inspector General of Forests (FC)

**(Confirmed through email)**

*(Sh Anmol Kumar)*

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Additional Commissioner (Soil Conservation)

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*(Subhash Chandra)*

Director General of Forests & Special Secretary