

**Draft Minutes of the Meeting of Forest Advisory Committee held on
25th November 2020**

Agenda No-1

F. No. 8-118/2006 –FC (Vol.I)

Sub: Proposal for seeking prior approval of the Central Government under Section – 2(iii) of the Forest (Conservation) Act, 1980 for grant of petroleum mining lease (PML) over 75.0 sq km (7,500 ha) of forest land in favour of Chief Engineer, Oil India Limited, Duliajan in Ningru extension Block, Changlang District in the State of Arunachal Pradesh – regarding

1. The above stated agenda item was considered by the Forest Advisory Committee (FAC) in its meeting held on 25.11.2020. Corresponding agenda note may be seen at *parivesh.nic.in*. All information available with the division along with background material and fact-sheet, as required by the FAC, were made available to the Committee for their examination and deliberation.
2. This is a proposal for approval under Section – 2(iii) of the Forest (Conservation) Act, 1980(FCA 1980) for approval of assignment of lease in favour of Oil India Limited (OIL) in Arunachal Pradesh.
3. The said proposal has been discussed earlier in FAC on 31.12.2015, 03.05.2016 and 27.06.2019.
4. In the initial proposal, it was informed that legal status of the land proposed for assignment of the Petroleum Mining Lease (PML) was Reserve Forest (7500 ha). Density of the vegetation was conveyed to be 0.7, however, enumeration of the trees was not done on the ground as the proposal was exclusively for grant of PML and permission is being sought under section 2(iii) of FCA 1980. The proposed area does not form part of any National Park, wildlife sanctuary, biosphere reserve, tiger reserve, elephant corridor, etc. It is also, as stated that, it does not have any rare/endangered/unique species of flora and fauna. Compliance of Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 has not been submitted as the proposal does not involve physical diversion of forest land. It is also reported by the State Government that out of 75.00 sq km (7500 ha) of Ningru Extension PML area (for which actual proposal was submitted by the state on 18.12.2015), 16.45 sq km of the area has been awarded for other company viz (M/s Hindustan Oil Exploration Company Limited (HOECL), M/s Oil India Limited (OIL) & M/s Prize Petroleum Company Limited (PPCL)). Thus at present the area of Ningru Extension PML block(the present proposal) is reduced to 5855 ha. (7500 ha - 1645 ha)
5. Site inspection of the area was done by the Regional office(RO) on 4.3.2016 and it raised question on the status of land involved in the proposed mining lease area.
6. Since there was confusion on the status of area within the proposed lease, FAC in its meeting on 27th June 2019 again asked the State that “State Government shall give

the exact forest area (as per definition of 'forest' defined in Hon'ble Supreme Court order dated 12.12.1996) proposed to be a part of this PML".

7. The State government on dated 21.10.2020 informed that the actual area of the proposed PML is 5855 ha. i.e.58.55 Sq. Km. which includes
 - 55.838 Ha non-forest area
 - 252 ha Anchal Forest Reserve
 - 19.15 ha of forest area(in 12 different patches)

Decision of FAC:

FAC observed that the State government has not submitted KML files for 19.15 ha of forest area. As per the detail of the area submitted by the State Government it is clear that out of 7500 ha (proposal which was submitted earlier), only 271.15 ha is forest area. This fact was verified by the PCCF Arunachal Pradesh during discussion. With regards to non-submission of KML files of 19.15 ha of forest land, it was clarified by the PCCF Arunachal Pradesh that these areas are in small patches (not as notified forest areas) and considered 'forest' as per dictionary meaning. FAC members noted that despite repeated requests the State has failed to submit exact details of forest area. It is also not understood why the State Govt. submitted the initial proposal of 7500 ha and later on re-verification of the area by Government of India through site inspection, the area has been rectified. These are serious lapses on part of the state government. It was pointed out that the State shall do due diligence and submit biodiversity status on each proposal prior to its submission to the Government of India. The representative of user agency confirmed that the user agency, with all authority and approval of competent authority, wish to surrender 19.15 ha of identified forest area within the proposed lease. He further requested that FAC may consider to grant approval under section 2(iii) of FCA 1980 for only 252 ha Goju Anchal Forest Reserve (AFR) for which KML file has been submitted by the State Government.

After thorough deliberations and discussions with the PCCF Arunachal Pradesh and representatives of Oil India Ltd, FAC recommended the proposal for according approval for 252 ha Goju Anchal Forest Reserve under Section 2(iii) of FCA 1980 with General, Standard and following specific conditions

1. Twelve patches (19.15 ha) of forest area shall be excluded from the proposed lease area.
2. No physical diversion of forest land will be allowed and no breaking up of forest land shall be permitted until prior approval of relevant land is taken u/s 2(ii) of FCA 1980
3. The grant of permission under section 2(iii) of FCA 1980 will not confer any right on the project proponent for diversion of forest land under section 2(ii) of the Act 1980. All proposals under section 2(ii) of FCA 1980 will be dealt on case to case basis and on merits.
4. NPV @ 2 per cent will be charged for entire forest area within the PML.
5. The Forest Department will be free to manage the forest area as per normal management practices and Working Plan prescriptions.

6. The State Government shall ensure compliance of FRA as per Ministry of Tribal Affairs (MOTA) circular related to PML number 23011/31/2017- FRA dated 23rd Feb 2018.

FAC further observed that Site Inspection Report by Regional Office and DSS analysis has revealed massive encroachment over forest area. The State government shall take immediate legal action to evict the encroachment from the forest area. A separate correspondence in this regard shall be made to the State Government. Integrated Regional Office (IRO) Guwahati shall monitor the steps taken by the State Government in this regard.

Agenda No. 2

File No. 8-03/2020-FC

Sub: Revision of the specific condition no, (i) of the FAC meeting held on 21.09.2020: regarding proposal for seeking prior approval of the Central Government under FCA 1980 for non-forestry use of 54.668 ha. of forest land for extraction/collection of sand, stone and bajri from bed of river Yamuna mining project by Randeep Singh, Mauza and Mohal Bhagani, District Sirmour, within the jurisdiction of Paonta Forest Division, District, Sirmour Himachal Pradesh (Online Proposal No. FP/HP/MIN/34137/2018

1. The above proposal was considered in the FAC meeting held on 21.09.2020.
2. The minutes of the said FAC meeting were issued through PARIVESH portal.
3. After issuance of the FAC minutes, when file was under process for obtaining approval on the recommendation of the FAC from the competent authority, in the meantime a representation was received from the User Agency to modify the condition (i) under Para 4 of recommendations laid down by the FAC held on 21.09.2020 in respect of *the above* proposal.
4. The aforesaid condition (i) under Para 4 of the FAC recommendations was laid down as below:
"Extraction of minor mineral shall be carried out manually. Further, heavy vehicle and heavy machineries shall not be used for extraction and transportation of sand, stone and Bajri from the river-bed."
5. The representation of User Agency regarding modify the condition in order to allow the transportation of sand, stone and bajri by heavy vehicle from the riverbed was decided to place before the FAC. The representation of User agency was deliberated by FAC members and it was observed that the condition may be modified in view of guidelines under FC Act, 1980 and Enforcement & Guidelines for monitoring of Sand Mining.

Decision of FAC:

FAC, after thorough deliberation and discussion, has recommended to modify the condition (i) under Para 4 of its recommendations laid down in meeting held on 21.09.2020 as below:

"Extraction of minor minerals shall be carried out manually. Further, the State Government shall ensure that there is no erosion and change in river course due to extraction/collection of sand, stone and Bajri from the riverbed. All Guidelines of Ministry of Environment, Forest and Climate Change issued in respect of extraction/collection of sand, stone and Bajri from the river-bed shall also be followed."

Agenda No. 3

File No. 8-16/2020-FC

Sub: Proposal for seeking prior approval of the Central Government under Forest (Conservation) Act, 1980 for non-forestry use of 127.6712 ha of forest land for construction of Song Dam Drinking Water Project under Forest Division Dehradun and Mussoorie and District Dehradun and Tehri Garhwal of the State of Uttarakhand (Online Proposal No. FP/UK/WATER/40701/2019)

1. The above stated agenda item was considered in the FAC meeting held on 25.11.2020. The corresponding agenda note may be seen at parivesh.nic.in. All information available with the division along with background material and fact-sheet, as required by the FAC, were made available to the Committee for their examination and deliberation.
2. During deliberations on the matter, FAC observed the following:
 - I. Total area of forest land proposed for diversion including Reserve Forest, Civil Soyam Forest and Village Forest is about 127.6712 ha. The drinking water from the proposed dam will be supplied to Dehradun City.
 - II. The total numbers of trees falling in project areas are 8781, which includes 8468 within forest area and 313 within private land. About 3857 trees will be felled in forest land at the time of construction and remaining 4611 number of trees will not be felled in the upstream of the Dam site.
 - III. The project area proposed for diversion falls within 8.70 Km of Mussoorie Wildlife Sanctuary. The proposal for Wildlife Clearances was sent to the Standing Committee of NBWL on 29th October, 2020. Further, the EC has been applied on 17th Jan, 2020.
 - IV. The User Agency has given an undertaking that the main residential colony for staff is located in non-forest land while only operation infrastructure will be located in proposed forest land.
 - V. Batching Plant will be set up on the vacant land and no felling of trees is required for the batching plant.
 - VI. Compensatory Afforestation is proposed on 257.322 ha of *Civil Soyam* forest lands i.e. double the forest land being diverted.

VII. As per DSS Analysis done in accordance with terms of standards followed in ISFR 2019 (interpretation of satellite data period 2016-2017), it is found that 1 ha area falls in Very Dense Forest (Canopy density 70% & above), 60 ha. in Moderately dense Forest (canopy density 40-70%), while remaining area falls in Open forest or Non-forest.

Decision of FAC:

FAC after thorough deliberation and discussion with DDGF (Central), Integrated Regional Office, Dehradun; Nodal Officer (FCA) Uttarakhand (through Video Conference) recommended the proposal with Standard, General and following specific conditions:

- i. Minimum number of trees shall be felled for construction of dam and trees on upstream of dam shall be left for bird perching.
- ii. The N.P.V shall be revised and re-calculated as per the density of the forest land derived in terms of standards followed in ISFR 2019 (interpretation of satellite data period 2016-2017) regarding density classes i.e. 1.0 ha Very Dense Forest, 60.0 ha Moderately Dense Forest and remaining forest land in Open Forest.
- iii. Catchment Area Treatment (CAT) Plan shall include Bamboo plantation in suitable catchment area. The approved Plan, from competent Authority in the State, shall be submitted prior to stage-II approval. The State Government may also coordinate with Ministry of Agriculture and Farmers Welfare to explore possibility for finding appropriate support for Bamboo plantation in the designated plan area.
- iv. The proposed forest land shall be used only for site specific activities. No residential building (temporary or permanent) shall be constructed on the forest land. Further, only operational infrastructure will be located in proposed forest land.

Agenda No. 4

Policy Issue No.1

A. Coal Mining leases involving forest and non-forest land: Commencement of mining operations in non-forest land without obtaining prior approval under the FCA 1980 – reg.

1. The above stated policy agenda item was considered by FAC in the meeting. Corresponding agenda note may be seen at parivesh.nic.in.
2. Ministry of Coal has requested the MoEF&CC to allow commencement of mining operations in non-forest area in the projects where Stage-I approval for forest area and environment clearance for the project has been obtained.

Decision of FAC:

FAC after due deliberation, observed that agreeing to the request as such may create *fait accompli* situations and cannot be agreed as a general principle. For specific cases in which the forest land/non forest land is already broken within an area having approved mining plan, permission for commencement of mining operation only in non forest area may be considered by the State government after Stage I approval, subject to compliance of the following conditions

1. All the compensatory levies stipulated in Stage I approval have been deposited.
2. Environment clearances for the total area have been obtained.
3. Such permission in the non forest area shall not create any obligation of *fait accompli* with regard to Stage II clearance for the proposed forest area

Policy Issue No.2

Sub: Clarification on matter related to treating deemed forest land under the Punjab Land Preservation Act, 1900 (PLPA, 1900) as Non-Forestland for the purpose of Compensatory Afforestation-reg

1. The above stated policy agenda item was considered by the FAC in the meeting. Corresponding agenda note may be seen at parivesh.nic.in.
2. A clarification has been sought by DDGF, MoEF&CC, Regional Office, Chandigarh on 27.05.2020 regarding treating deemed forest land under the PLPA, 1900 as Non-Forest land (NFL) for the purpose of CA.
3. Regional Office, Chandigarh has referred a proposal of the Government of Punjab for irrigation purpose, in which Stage I approval was accorded for diversion of 2.248 ha of forest land as per the provisions of the FCA 1980. In lieu of diversion of forest land, the State Government has been asked to provide equivalent NFL for the purpose of

carrying out CA. In compliance of the stipulation of Stage I, the Government of Punjab has proposed to raise CA over a land parcel which was closed under PLPA 1900.

4. The matter was discussed in the FAC, on 11.06.2020 and committee observed that with the direction of Hon'ble Supreme Court, this Ministry had de-listed a large chunk of area closed under PLPA, 1900, for bonafide agricultural purpose in the State of Punjab. All those areas are being referred as "de-listed areas". To consider such area as "non-forest land" for the purpose of CA, needs appropriate interpretation of Hon'ble Supreme Court orders from the Law Officer. Accordingly, FAC desired that legal opinion from Law officer may be obtained, before placing the matter again in FAC meeting.
5. The recommendation of FAC was examined and it was opined that the basic purpose of the request made by the Government of Punjab through Regional Office, Chandigarh is to use the delisted land for CA and declare it as protected forest. The Ministry vide its letter dated 24.07.2009 has allowed de-listing of 55,339.95 ha of cultivated and habitation area closed under PLPA, 1900 from the list of forest areas in districts of Ropar, Nawansahar, Hoshiarpur and Gurdaspur in the State. Consequently, this parcel of land has become NFL subject to certain conditions that no commercial activities are permitted on such de-listed land and the land shall be used for bonafide use of agriculture. Therefore, there should be no objection to allow land de-listed under PLPA, 1900 as NFL for CA. It was also opined that there is no specific point of law involved in the matter which merits for a referral to M/O Law & Justice for their legal opinion.

Decision of FAC:

FAC deliberated on the issue in detail. The Hon'ble Supreme Court's decision with respect to delisting of PLPA land in I. A. No. 976 in I. A. No. 727 was also perused again. FAC recommended that a clarification may be issued that there is no bar in the Hon'ble supreme Court order for using de-listed land for the purpose of reforestation subject to the condition that the same is transferred, mutated and declared as RF/PF under the IFA 1927/local Forest Act.

(Confirmed through email)

(Sh S. D. Vora)

Member

(Confirmed)

(A.K. Mohanty)

Inspector General of Forests (FC)

(Confirmed through email)

(Sh Anmol Kumar)

Member

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(Dr Sanjay Deshmukh)

Member

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(Sisir Kumar Ratho)

Additional Director General of
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Conservation)*

Ministry of Agriculture (Member)

(Approved)

(Dr. Sanjay Kumar)

Director General of Forests & Special Secretary
