

Minutes of the Meeting of Forest Advisory Committee held on 11th June, 2020

Agenda No. 1

F. No. 8-94/2013-FC (Vol.) & F.No.8-102/2013-FC

Sub.: Proposal for diversion of additional forest area of 0.6 ha of forest land and re appropriation of 4.2 ha forest area from already diverted forest area for Pauk HEP (PH & Barrage Quarry of 0.5 ha and Muck Access road of 3.7 ha) and to surrender 0.6 ha forest area in respect of Heo Hydro Electric Project (240 MW) being developed by M/s Heo Hydro Power Private Limited in West Siang District of Arunachal Pradesh. (The *in principle* approval for Heo Hydro Electric Project (240 MW) after re appropriation of area may be read as 59.9 ha instead of 55.7 ha)

and

Diversion of 0.8 ha of forest land and to surrender equal forest land of 0.8 Ha from already diverted 52.8 ha forest area (surface forest land-47.1 ha, riverbed-2.3 ha & underground area-2.8 ha) for construction of Tato-I Hydro Electric Project (186 MW) in West Siang District of Arunachal Pradesh -change in location of PH quarry site of 0.5 ha. From Heyo to Padusa village and intake quarry of 0.3 ha from Gapo to Meying village. (The *in principle* approval for Heo Hydro Electric Project (240 MW) after re appropriation of area will remain same as 52.8 ha)

1. The above stated agenda item was discussed in FAC meeting held on 11.6.2020. The details agenda item can be seen at parivesh.nic.in.
2. During the deliberations, FAC observed that:
 - i. Govt. of Arunachal Pradesh had submitted the proposal on dt 21.11.2018 for re appropriation of the area among Heo Hydro Electric Project (240 MW), Tato-I Hydro Electric Project (186 MW) and of Pauk Hydro Electric Project (145 MW).
 - ii. All the above stated three projects were granted Stage I approval on 27.10.2015.
 - iii. The proposal for re appropriation was considered by the FAC in its meeting on 22.05.2019 and after thorough deliberation and discussion the FAC had decided that:
 - a. Regional Office, Shillong shall inspect the area and submit a detail report related to area required to be deleted or added to the forest land which has already been granted *In- Principle* approval.
 - b. The Status of quarry sites which the user agency had proposed to be abandoned due to geological studies, may be ascertained. Regional office may clearly give recommendation if that area can be taken out of the purview of *In- Principle* approval granted earlier to the project and managed under regular management of the forest department or the user agency has to keep the area within the project and maintain as a green belt. The requirement of CA area can be calculated accordingly.
 - c. Regional office may also see the option of approach roads to the newly proposed quarry sites. It may be checked if the area of approach road is also a part of the proposal.
 - d. Regional office may see all three HEPs of the same company. The user agency had proposed reappropriation of area of these projects. The requirement of CA need to reassessed and reported accordingly.
 - e. State government in consultation with Regional Office, Shillong may submit exact requirement of area along with shape files so that the *in- principle* approval granted to the project can be modified accordingly.
 - f. The area proposed to be added may also be analysed on DSS.
 - iv. Based on the above stated recommendation of FAC, the State Government was

requested to furnish the information on the point (e) above vide this Ministry's letter dated 19th June 2019, and the Regional Office of MoEF&CC, Shillong was requested to send SIR (Site Inspection Report) along with detailed report as sought by the FAC to this Division for further consideration.

- v. State Govt. vide their letter no. For.322/Cons/2010/300-07 dated 31.01.2020 forwarded their response to DDG,RO, Shillong.
- vi. The Regional Officer, Shillong had submitted the report, which can be accessed in parivesh.nic.in.
- vii. The recommendations made in the report are as follows:

Recommendations of Regional Office, Shillong:

Recommendation with respect to the area required to be deleted or added to the forest land which has already been granted *in-principle* approval.

The Regional Office having carried out the site visit as directed by the Ministry and having discussed with the local officers and the State Government recommends the following:

Tato HEP: No change in total area of 52.8 ha involved. Changes with regard to the two new quarries are recommended for approval.

- **Change of site-1:** A new quarry area of 0.5 Ha in Padusa village to be added and 0.5 ha site at Heyo village to be deleted from the IPA
- **Change of site 2:** A new quarry area of 0.3 ha in Meying village to be added and 0.3 ha site in Gapo village to be deleted.

The new quarries are accessible from existing road and road under proposal.

Heo HEP: Change in total area involved is addition of 4.2 ha by way of re-appropriation, so total area proposed is changed from 57.7 to 61.9 ha and also change of sites for two quarries are recommended.

- **Change of site 1:** A new quarry of 0.3 ha area at Lipusi village to be added and 0.3 ha quarry site in Hiri village to be deleted from the *in-principle approval*
- **Change of site 2:** A new quarry of 0.3 ha area in Meying village to be added and 0.3 ha quarry site in Gapo village to be deleted from the *in-principle approval*.
- **Addition of area 1:** A part of 0.5 ha from Pauk HEP Dam quarry site at Chengrong Village to be re-appropriated to Heo HEP.
- **Addition of area 2:** Proposed access road to 3.70 ha of muck dumping area (out of 12.6 ha proposed under roads in Pauk HEP) for providing accessibility to both Pauk HEP and Heo HEP proposed under Pauk HEP proposal is to be re-appropriated to Heo HEP (As Pauk DPR has been delayed).
- **Thus, an area of 4.2 ha (0.5 + 3.7 ha) is to be added to the area under *in-principle approval*.**

The new quarries are accessible from existing road and road under proposal.

Therefore, the above changes in respect of Tato-I HEP and Heo HEP as detailed above are recommended for necessary modifications in the *in-principle approvals*. With regard to Pauk HEP, in view of the reason that there is a likelihood of change in the total area to be required after approval of DPR, it is suggested that the *in-principle approval* of this HEP may be considered as and when their final requirement as per DPR is submitted by the User Agency.

- II. **Recommendation with regard to Green zone: The sites proposed to be abandoned are recommended to be taken out of the purview of the *in-principle***

approvals and the abandoned quarries which are currently with the community will continue to be with them and managed by them.

III. Recommendation with regard to CA area:

- The CA area with respect to Tato-I remains same as given in the *in principle approval*, i.e. 100 ha
- With regard to Heo HEP, in view of addition of 4.2 ha, the proposal area has increased from 53 ha to 57.2 ha (surface + riverbed area) and subsequently CA area is to be increased by 8.4 ha i.e. from 106 ha to 114.4 ha. The additional area of 8.4 ha (being twice the 4.2 ha additional land added to Heo HEP from Pauk HEP) has been identified at KasinPuttu (Ago) VFR, has been verified in the DSS in the Regional Office and found to be acceptable.
- CA proposed by the State Government with regard to Tato-I and Heo HEP are recommended for acceptance. The area with respect to Pauk HEP can be finalized only after approval of DPR of Pauk HEP.

3. FAC also noted that a representation has been made by BNHS to reject the project as the area is rich in biodiversity. FAC observed that the instant proposal is for a small modification of main proposals which have already been accorded *in-principle approval* by Government of India. FAC further observed that such request is acceptable only when such new knowledge about biodiversity value of the area, etc. that has been missed in the earlier decision-making process, is brought before the present FAC. Hence, a reanalysis of the proposal is not called for at this stage.

Decision of FAC:

FAC after detailed deliberation and discussion with DDG, RO Shillong and Nodal officer Arunachal Pradesh observed that the proposal relates to projects that had already received *in-principle approvals* and the total area in the *in-principle approvals* for all the three project remains unchanged.

In the given facts and circumstances, the FAC recommended the proposal for approval of re-appropriation along with the general and standard conditions of forest clearance applicable in such cases.

Agenda No. 2

File No. 8-48/2018-FC Vol.

Sub: Proposal for seeking prior approval under Forest (Conservation) Act, 1980 for use of additional area of 0.9486 ha (in addition to the already diverted 98.1004 ha) of forest land in favour of SJVN Ltd. for Luhri HEP Stage-I for approach road under the jurisdiction of Ani at Luhri Forest Division and District Kullu, Himachal Pradesh (Online Proposal No. FP/HP/HYD/39709/2019)-reg.

1. The above stated agenda item was discussed in FAC meeting held on 11.6.2020. The detail agenda note can be seen at parivesh.nic.in.

2. During deliberations, FAC observed that:

- i. The Government of Himachal Pradesh vide letter No. 48-3920/2019(FCA) dated 18.05.2020 has submitted the above mentioned proposal.
- ii. This proposal relates to already approved 98.1004 ha of forest land in favour of SJVN Limited for construction of Luhri HEP Stage-I (219.0 MW) in Ani, Kotgarh and

Rampur Forest Division, Himachal Pradesh. The approval was granted on 28.03.2019.

- iii. Now the user agency intends to construct the proposed approach road to the quarry site. It is informed that earlier a road was to be constructed by the State PWD department which has since been abandoned by the department

Decision of FAC:

After thorough deliberation and discussion with Nodal Officer Himachal Pradesh and Deputy Director General of Forests, Regional Office, Dehradun, FAC observed that the State Government has examined only one option (alternative) to the present proposal. During the discussion, it was also learnt that the option was discarded on the basis of techno-economic reasons and biodiversity / vegetation/ forest issues were not considered. It was decided that the State government may examine at least three alternatives, and the one which causes minimum biodiversity loss and requires minimum forest area may be selected and proposal may be placed before FAC for further consideration. State government shall also submit a compliance report of conditions imposed at the time of past approval of the project.

Agenda No. 3

F. No. 8-81/2005-FC(Vol)

Sub: Proposal for extension of approval under Forest (Conservation) Act 1980 to make them co terminus with the mining lease of government agencies as per provisions provided in sub section 8 of section 8 of MMDR Amendment Act 2015. The proposal under consideration is *'Diversion of balance forest land of 1177.2110 ha including 25.1070 ha for safety zone in addition to 232.438 ha of forest land already diverted within total mining lease area of 1590.8673 ha for Iron Ore mining in Gandhamardan (Block-B) mining lease in Keonjhar District in the State of Odisha in favour of M/s Odisha Mining Corporation Ltd.'*

1. The above stated agenda item was discussed in FAC meeting held on 11.6.2020. The detail agenda note can be seen at parivesh.nic.in.
2. During deliberations, FAC observed that the cases for extension of approvals under Forest (Conservation) Act 1980 to make them co-terminus with the mining lease of government agencies was discussed in FAC meeting on 30.03.2020.

i. FAC on 30.03.2020 recommended the following:

MoEF&CC, in view of the recent emergency situation (lockdown due to outbreak of Corona-19 virus), may consider the approval granted under FCA-1980, to Government mines, making those co-terminus with the valid lease period granted under the provisions of section 8(8) of MMDR-2015 with following conditions:

The extension may be approved. However, the status of compliance of conditions of the previous approval and the requirement for additional mitigation measures, if any, shall be reviewed by the FAC after three months. For this purpose, the Regional Office will provide information and make recommendation on the following based on existing information/monitoring reports, decision support system, inputs from the States Government, etc. and necessary field visit/s:

- (a) Status of compliance of conditions of the previous forest clearance;
- (b) Additional mitigation measures that have become necessary in view of new facts on the

ground and considering that the extension of approval has been given for another 20 years i.e. till 2037; and

(c) Comprehensive status of reclamation of mined-over/ abandoned portions of the forest area as per approved mining plan.

(d) All the additional stipulations, if any, imposed by FAC after the said review meeting, shall be complied by the user agency.

3. Based on the above recommendations, the approval of Government of India was communicated to the State Government on 20.04.2020.
4. In response to Ministry's letter no. FC-11/201/2019-FC (part-I) dt. 20.04.2020, the Regional Office, Bhubaneswar vide its letter no. 5-ORA014/2005-BHU dt 29.05.2020 had earlier informed that 1177.21 ha of non-forest land diverted for Gandhamardan Block-B was not declared as PF under Section 33 of Orissa Forest Act. Thereafter, and prior to this FAC meeting, however, the User agency submitted the details of the area declared as PF. The information submitted by the User Agency was validated by the Nodal officer Odisha and DDG regional office Bhuvneshwar during the meeting.
5. In compliance of the direction of the Ministry dated 20.4.2020, the Regional Office has submitted its inspection report which may be accessed in Parivesh.nic.in. The suggestions in the report are:
 - i. CA has not been raised over 72.469 ha of forest land which was part of first approval. (for 232.438 ha of forest land vide dt 17.8.2007)
 - ii. Penal CA prescribed over 0.85 ha must be carried out.

Decision of FAC:

FAC after thorough deliberation and discussion with the DDG, Regional Office, Bhubaneswar and Nodal officer (FCA), Odisha, recommended that the following details shall be submitted by the User Agency/State Government within two months. The case will be processed for approval of the competent authority after receipt of the above details:-

1. User agency shall identify 72.469 ha of Non forest land for raising Compensatory Afforestation and KML file of same shall be submitted
2. The CA amount shall be deposited in CAMPA

It was also decided to recommend the proposal subject to submission of above stated information and imposition of following conditions in addition to the conditions in the approval granted to user agency dt 20.4.2020:-

- i. Planting operation in the CA area (72.469 ha of identified non-forest land) shall be completed within three years from this approval, and maintenance shall be carried out as per prescribed schedule.
- ii. Penal CA as prescribed in the original approval over 0.85 ha shall be arranged to be carried out immediately but planting operations must be completed within two years of approval.

Agenda No. 4

File No. 8-19/2006-FC (Pt.)

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

Compensatory Afforestation-reg.

1. The above stated agenda item was discussed in FAC meeting held on 11.6.2020. The detail agenda note can be seen at parivesh.nic.in.
2. During deliberations, FAC observed that:
 - i. A clarification has been sought by DDGF, RO Chandigarh on 27.05.2020 regarding treating deemed forest land under Punjab Land Preservation Act, 1900 (PLPA, 1900) as Non-Forest land for the purpose of Compensatory Afforestation.
 - ii. Regional Office Chandigarh has referred a proposal of the Government of Punjab for irrigation purpose, bearing no FP/PB/IRRIG/40663/2019 for diversion of 2.248 ha of forest land. Stage-I approval has been accorded. As per one of the conditions of approval, the state Government has been asked to provide equivalent NFL (Non forest land) for the purpose of carrying out Compensatory Afforestation (CA) and same to be mutated in favour of state Forest Department and notified as Protected Forest.
 - iii. The state of Punjab in its compliance report has proposed mutation and notification of parcel of land closed under PLPA 1900 for CA. As reported, the land proposed for CA has both closed as well as 'de-listed' areas under PLPA, 1900.
 - iv. It was informed that the PLPA, 1900 is a Special Act enforced in the hilly tracts of the states of Punjab, Haryana and Himachal Pradesh primarily for conservation of subsoil water and to prevent soil erosion in vulnerable areas.
 - v. The Hon'ble Supreme Court, in its various judgements/directions, reiterated that areas closed under PLPA, 1900 to be treated as forest land. Areas closed under PLPA 1900 are '**deemed forests**' for the purpose of Forest (Conservation) Act 1980. The ownership of such forests vests with the individuals or communities.
 - vi. In the year 2009, the Ministry vide its letter no F.No**8-19/2006-FC** dated 24/07/2009 permitted for de-listing of 55,339.95 ha of cultivated and habitation area (Out of 65,670.26 ha) closed under PLPA, 1900 from the list of forest areas subject to certain conditions.3. The analysis of the facts at Regional Office reveals that the matter hinges on differences in legal status and ownership of land in question. The issue is about legal interpretation on whether areas closed as well as 'de-listed' under PLPA 1900 can be accepted as Non-Forest Land (NFL) for the purpose of CA, for their onwards mutation in favour of State Forest Department and notification as Protected forest under appropriate act.

Decision of FAC

FAC after thorough deliberation and discussion with DDG Regional Office, Chandigarh, PCCF (Punjab) and DDGs of other Regional Offices observed that with the direction of Hon'ble Supreme Court, this ministry had delisted a large chunk of area closed under PLPA, 1900, for bonafide agricultural purpose in Punjab. 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

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Additional Commissioner (Soil Conservation)
Ministry of Agriculture

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(Dr. Sanjay Kumar)

Director General of Forests and Special Secretary