

F. No. 8-08/2016-FC
Government of India
Ministry of Environment, Forest and Climate Change
(Forest Conservation Division)

Indira Paryavaran Bhawan
Jorbagh Road, Aliganj
New Delhi – 110 003
Dated: 12th February, 2019

To,
The Principal Secretary (Forests)
Forest Department
Government of Madhya Pradesh
Bhopal.

Sub: Diversion of 968.24 hectares of forest land in favour of National Water Development Agency, Ashoknagar and Shivpuri District for construction of Lower Orr Major Irrigation Project (Ken- Betwa link project), Madhya Pradesh State (Online Proposal No. FP/MP/IRRIG/7403/2014) regarding.

Sir,

I am directed to refer to the Addl. Principal Chief conservator of Forests (Land Management) and Nodal Officer, Forest (Conservation) Act, 1980, State Government of Madhya Pradesh's letter No. F-3/50/2014/10-11/15/886 dated 25.04.2016 on the above cited subject, seeking prior approval of Central Government under Section-2 of the Forest (Conservation) Act, 1980, and to say that the said proposal has been examined by the Forest Advisory Committee constituted by the Central Government under Section-3 of the aforesaid Act.

2. After careful consideration of the proposal of the State Government of Madhya Pradesh and on the basis of the recommendations of the Forest Advisory Committee, the Central Government hereby agrees **to accord stage-I / In-principle** approval under Section 2 of the Forest (Conservation) Act, 1980 for the diversion of 968.24 hectares of forest land in favour of National Water Development Agency, Ashoknagar and Shivpuri District for construction of Lower Orr Major Irrigation Project (Ken- Betwa link project), Madhya Pradesh State, subject to the following conditions:-

- (i) Legal status of the diverted forest land shall remain unchanged;
- (ii) The Compensatory Afforestation shall be done over equal non-forest land (NFL) to the forest area proposed to be diverted within a period of three years with effect from the date of issue of Stage-II clearance and maintained thereafter in accordance with the approved Plan in consultation with the State Forest Department at the cost of the user agency. At least 1000 saplings per hectares shall be planted over 968.24 ha. (968240 plants). If this is not possible to plant these many seedlings in the identified NFL, the balance seedlings will be planted in degraded forest land as per the prescriptions of the Working Plan at the cost of the User agency. In such case CA cost will be revised and duly approved by competent authority and deposited online in the CAF managed by CAMPA;
- (iii) The user agency shall submit the revised cost benefit analysis, after considering the ecological cost of being diverted forest area;
- (iv) The State Government and the user agency shall ensure that the water flow downstream shall be regulated in line with the natural flow regime

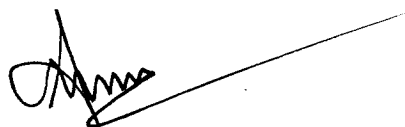


and, in the lean period, 100% of the existing flow regime should be maintained while in the non-lean period, the prescribed minimum flow of water by hydrology and aquatic biodiversity experts should be ensured. The minimum flow of water in the Ken River will be maintained till it joins the Yamuna to save wildlife including crocodiles and other aquatic animals. The user agency shall also construct a number of concrete dykes across smaller streams going off from the main reservoir which during FRL shall be over flown but which during lean season shall dam up small isolated water bodies for the benefit of the wildlife;

- (v) The State Government and the user agency shall ensure that the canal should be realigned to minimize the use of forest land for construction of canal;
- (vi) Along the canal alignment, structural interventions, shall be carried out at wildlife cross over points, which are duly camouflaged and mimic nature, at cost to the user agency, so that dispersal is not hindered;
- (vii) The land identified for the purpose of CA shall be clearly depicted on a Survey of India toposheet of 1:50,000 scale;
- (viii) The identified non-forest land to be transferred and mutated in favour of the State Forest Department for raising Compensatory Afforestation shall be notified as reserved Forest under Section-4 or Protected Forest under Section-29 of the Indian Forest Act, 1927 or under the relevant Section(s) of the local Forest Act. The Nodal officer must report compliance within a period of 6 month from the date of grant of final approval and send a copy of the notification declaring the non-forest land under Section 4 or Section 29 of the Indian Forest Act, 1927, or under the relevant section of the local Forest Act as the case may be, to this Ministry for information and record;
- (ix) The User Agency shall transfer the cost of raising and maintaining the compensatory afforestation at the current wage rate in consultation with State Forest Department in the account of Ad-hoc CAMPA of the concerned State through online portal. The scheme may include appropriate provision for anticipated cost increase for works scheduled for subsequent years;
- (x) The User Agency shall provide additionally 25% of the CA cost towards Soil and Moisture Conservation measures in the proposed CA area as per site requirement and the said amount may be deposited in the account of Ad-hoc CAMPA of the concerned State through online e-portal only;
- (xi) The User Agency shall transfer online, the Net Present Value (NPV) of the forest land being diverted under this proposal, as per the orders of the Hon'ble Supreme Court of India dated 28.03.2008, 24.04.2008 and 09.05.2008 in Writ Petition (Civil) No. 202/1995 and the guidelines issued by this Ministry vide its letter No. 5-3/2007-FC dated 05.02.2009. The requisite funds shall be transferred through online portal into Ad-hoc CAMPA account of the State Concerned;
- (xii) Any fund received from the user agency under the project and deposited in the State Forest Department account, except the funds realized for regeneration/ demarcation of safety zone, shall be transferred through online portal into Ad-hoc CAMPA account of the State Concerned;
- (xiii) The user agency should ensure that the compensatory levies (CA cost, NPV etc.) are deposited through challan generated online on web portal and

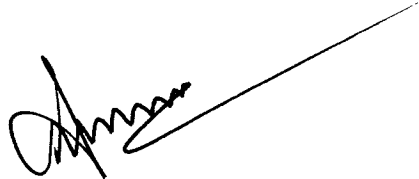


- deposited in appropriate bank online only. Amount deposited through other mode will not be accepted as compliance of the Stage –I clearance;
- (xiv) At the time of payment on the Net Present Value (NPV) at the then prevailing rate, the User Agency shall furnish an undertaking to pay the additional amount of NPV, if so determined, as per the final decision of the Hon'ble Supreme Court of India;
 - (xv) The approved Catchment Area Treatment (CAT) Plan shall be implemented at the cost of user agency. The commensurate cost of CAT plan will be deposited in Compensatory Afforestation Fund of the State;
 - (xvi) The State Govt. shall submit a certificate, that site for CA is suitable and free from all encroachments and other encumbrances, under the signature not below the rank of Nodal Officer (FCA) in the State Government;
 - (xvii) User agency shall obtain the Environment Clearance as per the provisions of the Environment (Protection) Act, 1986, if required;
 - (xviii) The State Government shall ensure that the forest land located between FRL and the FRL-4 meters may be afforested by planting appropriate indigenous tree species;
 - (xix) The User Agency shall undertake afforestation along the periphery of the reservoir;
 - (xx) User agency shall provide free water for the forestry related projects;
 - (xxi) Layout plan of the proposal shall not be changed without the prior approval of the Central Government;
 - (xxii) No labour camp/huts shall be established on the forest land;
 - (xxiii) The forest land shall not be used for any purpose other than that specified in the proposal and under no circumstances be transferred to any other agency, department or person;
 - (xxiv) Felling of trees, if unavoidable on the forest land being diverted shall be reduced to the bare minimum and trees should be felled under strict supervision of the State Forest Department. Moreover it shall be ensure that wherever possible maximum marked trees for felling should be translocated in the consultation of the State Forest Department;
 - (xxv) The State Government ensure that the user agency shall implement the R&R Plan as per the R&R Policy of State Government in consonance with National R&R Policy, Government of India before the commencement of the project work. The said R&R Plan will be monitored by the State Government / Regional Office of MoEF&CC along with indicators for monitoring and expected observable milestones;
 - (xxvi) To prevent illegal occupation /encroachment of the forest land by the families to be displaced from the project site, the user agency shall ensure that each family being displaced from the project site actually acquires and settles on non-forest land. Apart from taking other measures to achieve the said objective, as a measure to discourage the project affected families from encroachment on the forest land, payment of annuity for a period of atleast five years at the rate of the minimum wages payable to the unskilled person for 200 person –days per annum to each adult member of the project affected families, on receipt of a certificate signed by a forest officer not below the rank of a Range Officer having jurisdiction over the area where such person has settled after displacement from the project site,



should be incorporated in the R & R plan. Payment of the said annuity should be an additionality and not in replacement of any of the benefits to be accrued to the project affected persons, as per the approved R&R plan;

- (xxvii) The User Agency shall track location of each displaced family and ensure none of them encroach/occupy forest land. In support of compliance to the said condition at least for five years from the date of taking possession of the forest land, the user agency shall submit an annual certificate to the PCCF, Madhya Pradesh that none of the persons displaced from the project land has encroached / settled on the forest land during the year;
- (xxviii) The Forest Department shall prepare a plan of Action to utilize the water potential available nearby for the benefit of forest crop and also to the Wild animals at the cost of user agency;
- (xxix) A plan for conservation of Wildlife will be made by the user agency in consultation with the PCCF (Wildlife) to be implemented at the cost of user agency;
- (xxx) User agency in consultation with the State Forest Department shall create and maintain alternate habitat/home for the avifauna, whose nesting tress are to be cleared in this project. Bird nests artificially made out of eco-friendly materials shall be used in the area, including forest area and human settlements, adjoining the forest area being diverted for the project;
- (xxxi) State Government shall complete settlement of rights, in terms of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, if any, on the forest land to be diverted and submit the documentary evidence as prescribed by this Ministry in its letter No. 11-9/1998-FC (pt.) dated 03.08.2009 read with 05.07.2013 in support thereof;
- (xxxii) The user agency shall provide alternate fuels to the labourers and the staff working at the site so as to avoid any damage and pressure on the nearby forest areas;
- (xxxiii) Boundary of the forest land proposed to be diverted shall be demarcated on ground at the project cost, by erecting four feet high reinforced cement concrete pillars, each inscribed with its serial number, forward and back bearing, distance from pillar to pillar and GPS co-ordinates;
- (xxxiv) The State Government shall maintain the character of the projects as an irrigation project and to ensure continued benefit to the farmers in the command area, no more diversion of water from the project for industrial projects will be permitted in future;
- (xxxv) Any other condition that the concerned Regional Office of this Ministry may stipulate, from time to time, in the interest of conservation, protection and development of forests & wildlife with the approval of the competent authority;
- (xxxvi) The user agency shall submit the annual self-compliance report in respect of the above conditions to the State Government, concerned Regional Office and this Ministry by the end of March of every year regularly; and
- (xxxvii) The user agency and the State Government shall ensure compliance to provisions of the all Acts, Rules, Regulations, Guidelines, relevant Hon'ble Court Order (s) and National Green Tribunal (NGT) Order(s), if any;



pertaining to this project for the time being in force, as applicable to the project.

3. After receipt of the report on compliance to the conditions stipulated in the paragraph-2 above, from the State Government of Madhya Pradesh, final / stage-II approval for diversion of the said forest under Section-2 of the Forest (Conservation) Act, 1980 will be issued by this Ministry. Transfer of the said forest land to the user agency shall not be effected by the State Government of Madhya Pradesh till final/stage-II approval for its diversion is issued by this Ministry.

Yours faithfully,


(Shrawan Kumar Verma)

Dy. Inspector General of Forests

Copy to:-

1. The Principal Chief Conservator of Forests, Government of Madhya Pradesh, Bhopal.
2. The Addl. Principal Chief Conservator of Forests (Central), Regional Office (Western Zone), Bhopal.
3. The Nodal Officer, under the forest (Conservation) Act, 1980, Forest Department, Government of Madhya Pradesh, Bhopal.
4. User Agency.
5. Monitoring Cell, FC Division, MoEF & CC, New Delhi, for uploading.
6. Guard File.


Shrawan Kumar Verma

Dy. Inspector General of Forests