



ବାଲେଶ୍ୱର ବନ୍ୟଜୀବ ବନଖଣ୍ଡ, ବାଲେଶ୍ୱର

OFFICE OF THE DIVISIONAL FOREST OFFICER BALASORE WILDLIFE DIVISION

At/PO : KURUDA, Dist : BALASORE, PIN – 756056, ODISHA

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dfo.balasorewl@odisha.gov.in



Memo No. 96964F (MISC.)-F. No.42/2023

Dated, Balasore, the 16th December, 2023

To

The Field Director, Similipal Tiger Reserve
-cum- Regional Chief Conservator of Forests
Baripada Circle, Baripada.

Sub: -

Proposal for diversion of 12.206 hectare forest land for Single Line Broad Gauge Railway Connectivity from Amarda Road to Subarnarekha Port in the district of Balasore coming under the jurisdiction of Balasore (WL) Division by Subarnarekha Port Pvt. Limited.- **Compliance - Reg.**

Ref:-

Your office Memo No. 5317 dt. 15.12.2023.

In inviting kind reference to the correspondence cited above on the captioned subject, this is to inform you that in compliance to the observations of the Dy. Inspector General of Forests (C) Govt. of India, MoEF & CC, the project proponent has submitted clarification on the proposed Rail project area falling under CRZ-IA (Mangrove, Horseshoe crab) category of CRZ Rules, 2019.

As per compliance, the project proponent has intimated that, there are no horseshoe crab habitat within the project area. However, a small portion of railway corridor falls on CRZ-IA which are mainly small patches of mangrove area.

In view of the above, 4(Four) copies of map alongwith copy of the Office Memorandum No. F. No. IA3-12/3/2023-IA.III (E-220190) dated 06.10.2023 of the MoEF & CC duly authenticated by the undersigned enclosed herewith for further course of action.

Encl.: As above.

Divisional Forest Officer

Balasore Wildlife Division, Balasore

Memo No. 9697 / dated the 16th December, 2023

Copy forwarded to the Chief Conservator of Forests (Forest Diversion & Nodal Officer) F.C. Act, O/o the Principal Chief Conservator of Forests, Odisha, Bhubaneswar for favour of kind information & necessary action with reference to the memo No. 5318 dt 15.12.2023 of the Field Director, Similipal Tiger Reserve- cum- Regional Chief Conservator of Forests, Baripada Circle, Baripada.

Divisional Forest Officer

Balasore Wildlife Division, Balasore

Memo No. 9698 / dated the 16th December, 2023

Copy forwarded to the Authorized Signatory, Subarnarekha Port Private Limited, DCB- 414-417, 4th Floor, DLF Cyber City, Chandaka Industrial Estate, Bhubaneswar for information & necessary action with reference to the memo No. 5319 dt 15.12.2023 of the Field Director, Similipal Tiger Reserve- cum- Regional Chief Conservator of Forests, Baripada Circle, Baripada.

Divisional Forest Officer

Balasore Wildlife Division, Balasore

Letter No.: SPPL/ENV/DFO/29/2023

Date: 27.10.2023

To

The Divisional Forest Officer,
Balasore Wildlife Division,
At/PO- Kuruda,
Dist-Balasore,
Odisha-756056



Sub: Diversion of 12.202 ha of Forest land for Single Line Broad Gauge Railway Connectivity from Amarda Road Station to Subarnarekha Port in the District of Balasore under Balasore (WL) Division by Subarnarekha Port Pvt. Ltd.-Gol observation regarding.

Ref: Your office Letter No.6301/4F-Misc. F.No.42/2023-Balasore, dated 1st September,2023.

Sir,

With reference to the subject cited above and referred letter, it is brought to your kind attention the following clarification on whether construction of proposed railway line is permissible in the proposed area under CRZ notification, 2019.

1. As per Office Memorandum No. F.No. IA3-12/3/2023-IA.III(E-220190) dated 06th October, 2023 of Ministry of Environment, Forest and Climate Change; the Railway Projects covered under Railways Act 1989, shall not attract CRZ clearance. (Copy enclosed as **Annexure-1**).
2. As per revised CZMP Map, Sheet No: F45P6/SW (Revised), Map No: OD 90 (Copy enclosed as **Annexure-2**), there are no horseshoe crab habitat (CRZ 1A) within the project area. However, a small portion of railway corridor falls on CRZ-1A which are mainly small patches of mangrove area. SPPL has applied for the CRZ clearance as a part of our fresh EC & CRZ clearance proposal submitted to MoEF&CC vide proposal no. IA/OR/INFRA1/444266/2023 dated 18th September-2023.

In this regard your necessary assistance is required for further processing of our Forest Diversion Proposal.

Thanking you,
Yours sincerely,


(Tanmay Kumar Sahu)
Authorized Signatory



Encl: a/a

L No. 1A3 12/2023 1A.IH (1-220190)
Government of India
Ministry of Environment, Forest and Climate Change
1A-III Section (CRZ)

Indira Parvatham Bhawan
100 Bapu Road,
New Delhi - 110001
Dated 06th October, 2023

OFFICE MEMORANDUM

Subject: Clarification on exemption of Railway Projects from the requirement of Environmental Clearance (EC) and Coastal Regulation Zone (CRZ) Clearance as per Section 11 of Railways Act 1989- regarding

The Ministry is in receipt of a request for clarification received from Ministry of Railways, regarding exemption from the application of the provisions of Environment Protection Act, 1986 including its sub-legislations to Railway Projects as per Section 11 of Railways Act, 1989.

2. Railway Projects are exempted from prior environmental clearance in term of Section 11 of Railway Act 1989 which overrides every other law in force with the phrase "Notwithstanding anything contained in any other law for the time being in force". The Ld. Attorney General of India has also inter-alia opined that the Section 11 of the Act overrides every other law in force.

3. In this context, Hon'ble High Court, Bombay in the Goa Foundation Vs Konkan Railway (Writ Petition No. 170 of 1992 decided on 29th April 1992) has inter-alia held that:

...the provisions of the Environment Act have no application in respect of work undertaken in exercise of powers conferred under Section 11 of the Railways Act, 1989. The wide ambit of the provisions of Section 11 and the non-obstante Clause makes it extremely clear that the provisions of the Environment Act do not bind the construction or maintenance of a railway line. The Railways Act (1989) is a legislation enacted subsequent to the Environment Act (1986) and the Corporation is right in claiming that for the purpose of providing railway line, clearance is not required even though the line passes over the railways, rivers, creeks, etc. in view of the specific provisions of Section 11 of the Railways Act.

4. Further, Hon'ble High Court of Bombay vide order dated 3rd August 2022, in WP No.15 of 2021 in the matter of Ganv Bhavanchi Ekvott & Ors vs South West Railways & Ors inter-alia stating that South Western Railway and Rail Vikas Nigam Limited (RVNL) are not under any statutory compulsion to obtain environmental clearance from the GCZMA or any building permissions or other permissions from any authority under the diverse legislation.

Declus




[Signature]
Divisional Forest Officer
Balasore (WL) Division
Balasore

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5. Ministry order OM 19-172/2018-IA III dated 28th May 2020 has also clarified the non-requirement of Environment Clearance for the Commercial development of the Railway Stations, subject to preparation of comprehensive Environmental Management Plan (EMP) by the Environment and Housekeeping Management (EnHM) Directorate of the Ministry of Railways and fulfilling the standard environmental safeguards as prescribed in the OM dated 28th May 2020.

6. The matter has been once again examined in the Ministry. Based on the facts mentioned above, it is clarified that Railway Projects, covered under Railways Act 1989, shall not attract CRZ Clearance. However, other statutory clearances, as applicable, need to be obtained.

7. This is issued with the approval of the Competent Authority.



(Dr. H. Kharkwal)
Scientist 'E'

To

1. Chairman/Member Secretary, CPCB.
2. Chairperson/Member Secretaries of all the State/UT, PCBs/PCCs
3. Chairperson/Member Secretaries of all the EACs.
4. Chairperson/Member Secretaries of all the SEIAAs/ SEACs.
5. All Officers of IA Division

Copy to:

1. PS to Hon'ble ME FCC
2. PS to Hon'ble MoS (EF&CC)
3. Sr PPS to Secretary (EF&CC)
4. Sr PPS to DGF&SS (EF&CC)
5. PPS to AS(TK)/Sr PPS to JS(SKB)
6. Website, MoEF&CC/Guard File


Divisional Forest Officer
Balasore (WL) Division
Balasore





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Annexure-2

