

F. No. 8-99/2006-FC
Govt. of India
Ministry of Environment, Forests and Climate Change
(Forest Conservation)

Indira Paryavarn Bhawan,
Aliganj, Jor Bagh, Road
New Delhi - 110003

Dated: **05.01.2017**
~~December, 2016~~

To

The Principal Secretary (Forest)
Government of Odisha,
Bhubaneswar.

Sub: **Transfer of lease in respect of diversion of 137.02 ha of forest land for Coal Mining from the original user agency i.e. M/s Orissa Mining Corporation (OMC), in whose favour forest land was diverted, to new user agency i.e. M/s National Aluminium Company Limited (NALCO), in whose favour the coal block was auctioned/re-allotted by the Ministry of Coal- regarding.**

Sir,

I am directed to refer to the Ministry of Coal's letter no. 13016/38/2015 -III dated 22.07.2016 on the above subject requesting this Ministry to transfer its approval granted under the forest (Conservation) Act, 1980 for diversion of 137.02 ha of forest land for Coal Mining from the original user agency i.e. M/s Orissa Mining Corporation (OMC), in whose favour forest land was diverted, to new user agency i.e. M/s National Aluminium Company Limited (NALCO), in whose favour the coal block was auctioned/re-allotted by the Ministry of Coal in accordance with para 2.8 of the Guidelines issued under the Forest (Conservation) Act, 1980 read with the Guidelines dated 03.05.2010, 03.05.2013 and 31.03.2015.

In this connection, I am directed to say that after careful examination of the proposal for transfer of approval granted by the Central Government under the Forest (Conservation) Act, 1980 on the basis of recommendations of the Ministry of Coal, the Central Government hereby conveys its approval for transfer of Stage-I approval granted under the Forest (Conservation) Act, 1980 by the Ministry vide its letters of even number dated 20.10.2006 in respect of diversion of 137.02 ha of forest land for Coal Mining from the original user agency i.e. M/s Orissa Mining Corporation (OMC), in whose favour forest land was diverted, to new user agency i.e. M/s National Aluminium Company Limited (NALCO), in whose favour the coal block was auctioned/re-allotted by the Ministry of Coal subject to the conditions as given below:

- (i) Lease transfer charges @ 10% of the NPV or Rs. 1,00,000/- (1 Lakh) whichever is less will be realized from the new user agency and will be deposited in the account of Ad-hoc CAMPA before execution of lease in favour of the new user agency.
- (ii) Reimbursement of amount paid by the original user agency shall be dealt with in the manner, as provided in the Coal Mines (Special Provisions) Second Ordinance, 2014 and Rules framed there under.
- (iii) The new user agency shall pay the NPV as per the approval granted under FC Act if not paid earlier. The new user agency shall also furnish an undertaking to pay the additional NPV, if so determined by the Hon'ble Supreme Court of India.
- (iv) The new user agency shall abide the following conditions :
 1. Legal status of the diverted forest land shall remain unchanged;


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2. Compensatory afforestation over the non-forest land equal in extent to the forest land i.e., over 137.02 ha, being diverted shall be raised and maintained by the State Forest Department at the cost of the User Agency within three years of Stage-II Clearance;
3. The land identified for the purpose of CA shall be clearly depicted on a Survey of India topo-sheet of 1:50,000 scale;
4. The non-forest land identified for raising compensatory afforestation shall be transferred and mutated in favour of the State Forest Department before issue of the Stage-II clearance;
5. The non-forest land identified for raising Compensatory Afforestation shall be notified by the State Government as RF under Section-4 or PF under Section-20 of the Indian Forest Act, 1927 or under the relevant Section(s) of the local Forest Act, as the case may be, within a period of six months. The Nodal Officer (Forest Conservation) shall report compliance in this regard;
6. 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;
7. 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 CAMPAs account of the State Concerned;
8. At the time of payment of 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;
9. The Block-B should be worked at the end of the working in Block-A, however, surface area of the Block-B can be used for OB dumping and infrastructure works.
10. Following activities shall be undertaken by the User Agency under the supervision of the State Forest Department:
 - (a) Mitigative measures to minimize soil erosion and choking of stream shall be implemented within a period of three years with effect from the issue of Stage-II clearance in accordance with the approved Plan in consultation with the State Forest Department.
 - (b) Planting of adequate drought hardy plant species and sowing of seeds, in the appropriate area within the mining lease to arrest soil erosion in accordance with the approved scheme;
 - (c) Construction of check dams, retention / toe walls to arrest sliding down of the excavated material along the contour in accordance with the approved scheme;
 - (d) Stabilize the overburden dumps by appropriate grading/benching, in accordance with the approved scheme, so as to ensure that angles of repose at any given place is less than 28°; and
 - (e) No damage shall be caused to the top-soil and the user agency will follow the top soil management plan.
11. Fencing, protection and regeneration of the safety zone area [7.5 meters strip all along the outer boundary of the mining lease area as recommended by the state govt.] shall be done within three years at the project cost from the issue of Stage-II Clearance. Besides this afforestation on degraded forest land to be selected elsewhere measuring one & a half times the area under safety zone shall also be done at the project cost; The degraded forest land (DFL) so selected will be informed to the MoEF & CC with shape files and afforestation will be done within three years from the date of Stage-II clearance;


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12. Period of diversion of the said forest land under this approval shall be for a period co-terminus with the period of the mining lease proposed to be granted under the Mines and Minerals (Development and Regulation) Act, 1957, as amended and the Rules framed thereunder;
13. 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;
14. The User Agency shall obtain the Environment Clearance as per the provisions of the Environmental (Protection) Act, 1986, if required;
15. No labour camp shall be established on the forest land;
16. The User Agency shall provide fuels preferably 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;
17. The boundary of the diverted forest land, mining lease and safety zone, as applicable, shall be demarcated on ground at the project cost, by erecting four feet high reinforced cement concrete pillars, each inscribed with its serial number, distance from pillar to pillar and GPS co-ordinates;
18. The User Agency shall undertake mining in a phased manner after taking due care for reclamation of the mined over area. The concurrent reclamation plan as per the approved mining plan shall be executed by the User Agency from the very first year, and an annual report on implementation thereof shall be submitted to the Nodal Officer, Forest (Conservation) Act, 1980, in the concerned State Government and the concerned Regional Office of the Ministry. If it is found from the annual report that the activities indicated in the concurrent reclamation plan are not being executed by the User Agency, the Nodal Officer or the Chief Conservator of Forests (Central) may direct that the mining activities shall remain suspended till such time, such reclamation activities area satisfactorily executed;
19. The layout plan of the mining plan/ proposal shall not be changed without the prior approval of the Central Government;
20. The forest land shall not be used for any purpose other than that specified in the proposal;
21. The forest land proposed to be diverted shall under no circumstances be transferred to any other agency, department or person without prior approval of the Central Government;
22. No damage to the flora and fauna of the adjoining area shall be caused;
23. Any tree felling shall be done only in a phased manner to coincide with the phasing of area to be put to mining with a view to minimizing clear felling. The felling will always be carried out under strict supervision of State Forest Department;
24. when it is unavoidable and that too under strict supervision of the State Forest Department;
25. The user agency will abide by the applicable recommendations of the State Government;
26. The 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;
27. User agency either himself or through the State Forest Department shall undertake gap planting and soil & moisture conservation activities to restock and rejuvenate the degraded open forests (having crown density less than 0.40), if any, located in the area within 100 m. from outer perimeter of the mining lease. The plan for plantation and SMC activities will be prepared and submitted to MoEF &CC before Stage-II Clearance;
28. The User Agency shall undertake mining in a phased manner after taking due care for reclamation of the mined over area. The concurrent reclamation plan as per the approved mining plan shall be executed by the User Agency from the very first year, and an annual report on implementation thereof shall be submitted to the Nodal Officer, Forest (Conservation) Act, 1980, in the concerned State Government and the concerned Regional Office of the Ministry. If it is found from the annual report that the activities indicated in the concurrent reclamation plan are not being executed by the User Agency, the Nodal Officer or the Chief Conservator of Forests (Central) may direct that the mining activities shall remain suspended till such time, such reclamation activities area satisfactorily executed.
29. The User Agency shall prepare a list of existing village tanks and other water bodies with GPS co-ordinates located within five km. from the mine lease boundary. This list is to be

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duly verified by the concerned Divisional Forest Officer. The User Agency shall regularly undertake desilting of these village tanks and other water bodies so as to mitigate the impact of siltation of such tanks/water bodies. A detailed plan for desilting of identified ponds and water bodies to be prepared in consultation with forest department and shall be submitted to MoEF & CC before Stage-II approval;

30. The User Agency shall submit the annual self compliance report in respect of the above stated conditions to the State Government, concerned Regional Office and to this Ministry by the end of March every year;
31. 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; and
32. The user agency shall comply all the provisions of the all Acts, Rules, Regulations, Guidelines & Hon'ble Court Order (s) pertaining to this project, if any, for the time being in force, as applicable to the project.

After receipt of the compliance report on above conditions from the State Government of Odisha, 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 to the said forest land to the user agency shall not be affected by the State Government of Odisha till final/stage-II approval for its diversion is issued by this Ministry.

Yours faithfully,


(Sandeep Sharma) 5.1.17.

Assistant inspector General of Forests (FC)

Copy to:

1. Secretary, Ministry of Coal, Shastri Bhawan, New Delhi.
2. Principal Chief Conservation of Forests, Government of Odisha, Bhubaneswar.
3. Addl. PCCF (Central), Regional Office (Eastern Zone), Bhubaneswar.
4. User Agencies
5. Monitoring Cell
6. Guard File


(Sandeep Sharma) 5.1.17.

Assistant inspector General of Forests (FC)