

F. No. 8-37/2017-FC
Government of India
Ministry of Environment, Forest and Climate Change
(Forest Conservation Division)

Indira Paryavaran Bhawan
Aliganj, Jorbagh Road
New Delhi - 110 003
Dated: 03rd May, 2018

To,

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

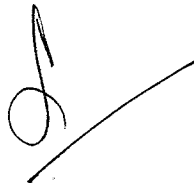
Sub: Diversion of 426.763 ha. of forest land in favour of Water Resources Department, Panna District for construction of Majhagaon Medium Irrigation project Panna district in the State of Madhya Pradesh.

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-3/45/2014/10-11/5/1049 dated 22.04.2017 on the above mentioned 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 the Forest (Conservation) Act, 1980 for the diversion of 426.763 ha. of forest land in favour of Water Resources Department, Panna District for construction of Majhagaon Medium Irrigation project Panna district in the State of Madhya Pradesh, subject to the following conditions:-

- (i) Legal status of the diverted forest land shall remain unchanged;
- (ii) The proposed dam is 8 km long & C-shaped earthen dam at Panna District. In 2016 monsoon there were two (2) dam burst cases at Panna. Looking in to length of dam, shape of dam, earthen dam, pre 2015 design and act of violation is also reported. So a study from reputed national institute for required structural approval shall be undertaken and the recommendations be implemented by the user agency to avoid any possible unforced conditions;



- (iii) As the CA site is rugged with inert shallow soil strata, therefore the CA scheme would be revised so as to augment moisture regime in the area and planting indigenous species only;
- (iv) Compensatory afforestation shall be raised over equivalent non forest land and at least 1000 plants will be planted ($426.763 \text{ ha} \times 1000 \text{ plants/ha} = 426763 \text{ plants}$) on the non-forest land. CA cost will be revised accordingly and CA cost will be deposited by the user agency in CAF managed by Ad-hoc CAMPA. Special fence to protect the CA area for reducing biotic interference will be erected by the forest department at the cost of the user agency;
- (v) 25% of the CA cost will be deposited in addition to normal CA cost in CAF managed by Ad-hoc CAMPA for the soil & moisture conservation activities on the CA land;
- (vi) The catchment area treatment (CAT) plan will be prepared by the State government and the cost of the CAT will be deposited in the CAF managed by Ad-hoc CAPMA;
- (vii) As the area of Panna Tiger Reserve is involved, 5% of the NPV shall be deposited and used for Wildlife Management Plan in Panna Tiger Reserve;
- (viii) Since 11 families settled over 22.683 ha in North Panna forest division & 40 families settled over 39.52 PTR area are involved, the R&R plan shall be prepared and submitted by the User Agency;
- (ix) Penal CA shall be raised over 426 ha of the degraded forest land forest land since work has been done in violation of FC;
- (x) Penal NPV will be imposed as per the guideline of the ministry as applicable in this case;
- (xi) The area under diversion should be measured again using Total station method as area proposed found to be more (661.54 ha.) through DSS as compared to proposed;
- (xii) The proposal attracts Para 2(iii) of guideline F. No. 11-327/2015-FC dated 14th August 2015 and based on which FC clearance for protected area may be considered after obtaining the Wildlife Clearance. Wildlife Clearance for this project is not submitted and the same may be obtained by the state government;
- (xiii) The proposed dam is 8 km long & C-shaped earthen dam at Panna District. In 2016 monsoon there were two (2) dam burst cases at Panna. Looking in to length of dam, shape of dam, earthen dam, pre 2015 design and act of violation is also reported. So, it is proposed to seek a study from reputed national institute for required structural approval for taking triple the precaution to avoid any possible unforced conditions;
- (xiv) The quantum of penalty of violations committed by user agency shall be arrived in accordance with guidelines issued by this Ministry vide no.11-42/2017-FC dated 29th January, 2018;
- (xv) Complete compliance of the FRA 2006 shall be done by the State Government before diverting the forest land for non-forestry purpose in the proposed project;
- (xvi) It has been reported that the District Collector, Panna, Madhya Pradesh has issued certificate dated 21.09.2015 for diversion of 426.763 ha of forest land in favour of Water Resources Department, Panna District for construction of Majhagaon

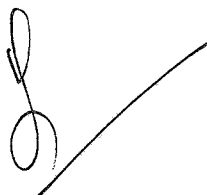


Medium Irrigation project Panna district in the State of Madhya Pradesh without approval under FC Act. The matter should be investigated under section 3A/3B of the FC Act by the Regional office and reported along with the action taken report against erring officials (those involved in non-forestry use of forest land) already initiated by the State Government;

- (xvii) The land identified for the purpose of CA shall be clearly depicted on a Survey of India toposheet of 1:50,000 scale;
- (xviii) The 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;
- (xix) 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;
- (xx) 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**;
- (xxi) 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;
- (xxii) 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;
- (xxiii) **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;**
- (xxiv) 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;
- (xxv) 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;

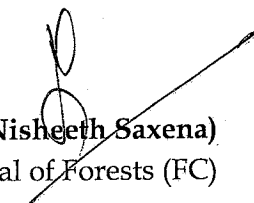


- (xxvi) The State Govt. shall submit a certificate, that site for CA is suitable and free from all encroachments and other encumbrances, under the signature not below the rank of Nodal Officer (FCA) in the State Government;
- (xxvii) User agency shall obtain the Environment Clearance as per the provisions of the Environment (Protection) Act, 1986, if required;
- (xxviii) 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;
- (xxix) The User Agency shall undertake afforestation along the periphery of the reservoir;
- (xxx) User agency shall provide free water for the forestry related projects;
- (xxxi) Layout plan of the proposal shall not be changed without the prior approval of the Central Government;
- (xxxii) No labour camp/huts shall be established on the forest land;
- (xxxiii) 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;
- (xxxiv) Felling of tress on the forest land being diverted shall be reduced to the bare minimum and the trees should be felled under strict supervision of the State Forest Department;
- (xxxv) 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;
- (xxxvi) 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;
- (xxxvii) 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;
- (xxxviii) 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;
- (xxxix) 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;
- (xl) 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;



- (xli) 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;
- (xlii) 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
- (xliii) 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,


(Nisheet Saxena)

Sr. Assistant Inspector General of Forests (FC)

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.


(Nisheet Saxena)

Sr. Assistant Inspector General of Forests (FC)