

GOVERNMENT OF KARNATAKA

ಪ್ರಧಾನ ಮುಖ್ಯ ಅರಣ್ಯ ಸಂರಕ್ಷಣಾಧಿಕಾರಿ
(ಅರಣ್ಯ ಪಡೆ ಮುಖ್ಯಸ್ಥರು) ರವರ ಕಛೇರಿ

Office of the
Principal Chief Conservator of Forests
(Head of Forest Force)



ಅರಣ್ಯ ಭವನ, 18ನೇ ಅಡ್ಡರಸ್ತೆ

ಮಲ್ಲೇಶ್ವರಂ, ಬೆಂಗಳೂರು-560 003

AranyaBhavan, 18th Cross
Malleshwaram, Bengaluru-560 003
Telephone : 080 2334 6472
Email : apccffc@gmail.com

Old File No. A5(1)/MNG/CR-67/2008-09

E-office File No. KFD/HOFF/A5-1(MNG)/57/2019-FC

E-108613

Date: 16-11-2019

To,

Additional Chief Secretary to Government
Department of Forest, Ecology and Environment
M. S. Building, Bengaluru

Sir,

Sub: Diversion of 159.01 hectare of forest land in Swamimalai (SM) Block Forest, Sandur Taluk, Ballari District in respect of remaining forest area within Mining Lease [ML] No. 1111 in favour of NMDC Limited, Donimalai, Sandur Taluk. **Proposal No. FP/KA/MIN/6858/2014**

- Ref:**
1. Online [FORM-A (PART-I)] proposal dated 26-09-2014 (resubmitted) of M/s NMDC Ltd, Donimalai r/w uploading of 'Acknowledgement' on 29-10-2014 for having delivered hard copies of proposal to jurisdictional Deputy Conservator of Forests and Deputy Commissioner.
 2. This office online communication dated 16-12-2014 to Deputy Conservator of Forests, Ballari Division, Ballari [for processing of proposal].
 3. Online submission of PART-II on 11-09-2019 by Deputy Conservator of Forests, Ballari Division r/w online reply dated 21-07-2018 of User Agency for EDS query [Letter No. M1/MNG/NMDC/M.L. No.1111/2018-19 dated 03-08-2019].
 4. Online submission of PART-III on 23-09-2019 by Chief Conservator of Forests, Ballari Circle [Letter No. M1/MNG/RENEW/CR/ 11/1990-91 (NMDC) dated 20-09-2019].

1. NMDC Ltd has a Mining Lease (ML No. 1111) granted prior to FC Act, 1980, in Swamimalai (SM) Block Forest, Sandur Taluk, Ballari District. The total ML area is 647.50 hectare, which comprises of forest as well as non-forest land with the following breakup.

Particulars	Mining Lease area (ha) as per lease deed & sketch (before)	Forest area (ha) within ML after digitization by CEC	Remarks
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		digitization by CEC)		
Forest	Diverted under Section 2(ii) of FCA	324.70	321.78	GOI, MoEF, letter F.No.8-27/2005-FC dated 24-07-2006 (Stage-II approval) for 341.2 ha comprising of 324.70 ha within ML area and remaining 16.501 ha outside ML.
	Yet to be diverted under Section 2(ii) of FCA	167.63	159.01	Present proposal
	Total forest area (A)	492.33	480.79	-
Non-forest	Non-forest area (B)	155.17		-
Total (forest + non-forest) (A+B)		647.50		-

As there is no forest clearance for above mentioned 159.01 ha of forest land included within Mining Lease, the User Agency had applied under Section 2(iii) of the Forest (Conservation) Act for signing the Mining lease agreement with the Department of Mines & Geology as provided under FC Guidelines No. 11-599/2014-FC dated 01-04-2015. The User Agency has also paid an amount of Rs.12,76,85,030/- towards Net Present Value for said 159.01 ha of forest land on 23-08-2016. Thus, the User Agency is required to submit a formal online proposal in FORM-A under Section 2(ii) of the Forest (Conservation) Act.

- Accordingly, the NMDC Limited, Donimalai, Sandur Taluk [USER AGENCY] has submitted a proposal under Section 2(ii) of the Forest (Conservation) Act on 26-09-2014 seeking diversion of the balance 159.01 hectare of forest land in Swamimalai (SM) Block Forest, Sandur Taluk, Ballari District within Mining Lease [ML] No. 1111. The same was accepted by Nodal Officer for processing under FC Act, and the User Agency was informed online to deliver the hard copies of the proposal to jurisdictional DCF & DC. After uploading of the 'Acknowledgement' online by the User Agency for the same, the proposal was transferred to the Deputy Conservator of Forests, Ballari Division for field verification and further processing under the Forest (Conservation) Act, 1980.
- Location and component wise details of the project:** The location and component wise details of the proposal are given below.

District, Taluk, Name of Forest	Village	Sy No.	Project component	Forest extent proposed for diversion (ha)	Legal status of land
Ballari District, Sandur Taluk, Swamimalai	Near Deogiri	Not assigned	For Mining Pit Limits	66	Section 4 Notified Forest
			For Hilltop Road and approach road from B-Block	14	
			Main Mine Road from C- Block to Crusher	5	

(SM) Block Forest		Dynamic Stock Pile	6	
		Service Roads	10	
		Waste dumps, construction of Check dams and <i>Grarlan</i>	42.01	
		Sub-grade stock piles	16	
Total (ha)			159.01	

4. **DCF, Ballari Division Report:** The Deputy Conservator of Forests, Ballari Division has inspected the site on 29-06-2019 and vide Ref (3) has submitted the *Site Inspection Report* along with other details in PART-II of the proposal to the Chief Conservator of Forests, Ballari Circle. The Deputy Conservator of Forests has not recommended the proposal. The details of the proposal as reported by the Deputy Conservator of Forests, Ballari Division r/w the reports of Chief Conservator of Forests, Ballari Circle and also of ICT Centre of Forest Department are as follows.

- The forest land proposed for diversion is a fresh / virgin forest with steep slope and is vulnerable to soil erosion. The User Agency will be required to take up Soil & Moisture Conservation works, if mining is permitted.
- The forest land proposed for diversion is in general landscape of Eco-class-III (Tropical Dry Deciduous Forests) with fairly dense forest vegetation having 0.4 to 0.6 canopy density. [Note: The Crown density mentioned in Item 4(i) of the PART-II may be read accordingly.]
- Total enumeration of trees within the forest land proposed for diversion has not been done. However, Sample Plot method has been used to estimate the number of trees in the area. As per Item 4(ii) of the proposal, there are 2642 trees in 16 ha area (16 Sample Plots of 0.1 ha each) in different girth classes in the proposed forest land. It yields a figure of about 26,000 trees in various girth classes within the 159.01 ha of forest land proposed for diversion. Major tree species include *Chloroxylon swietenia*, *Boswellia serrata*, *Terminalia tomentosa*, *Aneigissus latifolia*, *Grewia tiliaefolia*, *Madhica latifolia*, *Pterocarpus marsupium*, *Cassia fistula*, *Albizia lebbeck*, *Bischofia javanica*, *Embllica officinalis*, *Tectona grandis*, *Acacia catechu*, *Albizzia amara*, *Diospyros melanoxylon*, *Santalum album*, etc.
- Major wild animals found in the area include Leopard, Sloth bear, Four-horned antelope, Jackal, Indian wolf, Indian fox, Wild pig, Monitor lizard, Hare, Porcupine, Peafowl, etc.
- There are no other rare/endangered/unique species of flora and fauna reported in the area.
- The forest land proposed for diversion does not form part of any National Park, Wildlife Sanctuary, Biosphere Reserve, Tiger Reserve, Elephant Corridor, Wildlife Migration Corridor, etc.
- The forest land proposed for diversion is not located within Eco-sensitive Zone (ESZ) of any Protected Area notified under Wildlife (Protection) Act, 1972.
- The forest land proposed for diversion is not located within one kilometre of any National Park, Wildlife Sanctuary, Biosphere Reserve, Tiger Reserve, Elephant Corridor, Wildlife Migration Corridor, etc.
- The forest land proposed for diversion is close to ancient *Sri Kumaraswamy - Parvati Temple complex*, which is Archaeologically Protected monument. **Nearly 14 hectare**

of the forest area proposed for diversion lies within one kilometre radius of the said temple complex. In this regard, the Hon'ble Supreme Court has issued direction to the State Government to constitute a committee to examine and recommend measures with respect to restriction of the mining activities, in the portion of mining lease falling within 1 km & up to 2 km, of archeologically important temples/ sites in Karnataka vide its order in SLP No. 20180/2010.

- j. The forest land proposed for diversion includes 1.448 ha area, which is under existing approach road to ML No. 2313 (of JSW Steel Limited) that has been permitted to be used by JSW Steel Limited in the Stage-I approval vide Government of India letter F. No. 8-323/1989-FC (pt.) dated 11-04-2018. Even though, the forest diversion in respect the aforesaid FC proposal is for 3.496 ha of forest land under the existing approach road to ML No. 2313, the approval stipulates sharing of NPV in respect of 1.448 ha mentioned in para 4(j) above, the User Agency is required to share the NPV with JSW Steel Limited.
- k. The requirement of forest land as proposed by the User Agency is unavoidable and bare minimum for the project *(as it is a part of 492.33 hectare of forest land comprised within mining lease area of 647.50 ha)*.
5. **CCF Ballari Circle Report:** The CCF, Ballari Circle has inspected the site on 05-09-2019 and vide Ref (4) has submitted / uploaded the *Site Inspection Report* along with the final opinion in Item No. 16 of PART-II/III of the proposal. Agreeing with the opinion of DCF, Ballari Division, the Chief Conservator of Forests, Ballari Circle, has not recommended the proposal.
6. **Net Present Value (NPV):** Payment of the Net Present Value (NPV) of forest land proposed for diversion is applicable as per Para 3.1 to 3.4 of the FC Guidelines communicated by Government of India, Ministry of Environment, Forests and Climate Change, New Delhi vide F.No. 5-2/2017-FC dated 28-03-2019. Accordingly, the User Agency has already paid an amount of Rs.12,76,85,030/- towards Net Present Value for 159.01 ha of forest land on 23-08-2016 in respect of its previous proposal submitted under Section 2(iii) FCA as mentioned in Para 1 above. Copy of the NEFT/RTGS challan for such remittance is enclosed as ANNEXURE-1. Further, in respect of 1.448 ha mentioned in para 4(j) above, the User Agency is required to share the NPV with JSW Steel Limited. **Thus, there is no net liability of the present User Agency in respect of NPV.**
7. **Compensatory Afforestation (CA):** The User Agency being a Central Government agency is governed under para 2.5(i)(f) of the latest FC Guidelines communicated by the Government of India, Ministry of Environment, Forests and Climate Change, New Delhi vide F.No. 5-2/2017-FC dated 28-03-2019, and accordingly the CA can be raised at the cost of User Agency on degraded forest land twice in extent of the forest area proposed for diversion. **However, the User Agency has identified and got mutated an extent of 159.01 hectare of non-forest government land in Sy No. 295 of Appanalli village, Gudekote Hobli, Kudligi Taluk, Ballari District, for compensatory afforestation.** It is adjacent to the Gudekote Sloth Bear Sanctuary and only about 6 ha (~4%) area is suitable for afforestation and the remaining 153 ha is in the form of rocky patches that can be used as buffer zone / wildlife corridor for the Gudekote Sloth Bear Sanctuary. It will necessitate planting of the balance seedlings in proportional extent degraded forest land in accordance with the working plan prescriptions, has stipulated in para 2.4(vi) of the FC Guidelines. **The proposed CA land is adjoining to the CA land proposed by the same User Agency in respect its two other FC proposals with proposed CA extents of**

235.648 ha and 75.92 ha. The relevant information of the proposed CA land is uploaded online / enclosed herewith in form of Topo Map, Geo reference Map, KML File, Corner GPS readings, CA Suitability Certificate and CA Scheme. Further, the User Agency has also furnished an 'Undertaking' to pay the CA charges.

8. **Status of RoFR compliance:** With regard to compliance of the provisions of Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forests Rights) Act 2006 and Rules 2008, the User Agency has submitted the RoFR certificate FORM-II (for Non-linear/Hybrid projects) issued by the Deputy Commissioner, Ballari District vide letter No. Rev/Mining/F.R.A/61/14-15 dated 24-07-2015 (date is not clear). The User Agency is being requested to ensure submission of the original certificate at the earliest.
9. **Status of Mining Lease:** ML No.1111 was granted to NMDC in the year 1972 and the lease was executed on 18-10-1972 for a period of 30 years. It has a total extent of 647.50 ha, out of which 492.33 ha is forest land and the remaining area of 155.17 ha is revenue land. The ML was due for renewal in 2002. The ML renewal was granted on 04-04-2005 vide Notification No. CI:35:MMM:2005 dated 04-04-2005, however w.e.f. 18-10-2002, for a period of 20 years. The Government of Karnataka (Commerce and Industries Department) vide letter No. CI 218 MMM 2015 dated 14-08-2019 [ANNEXURE-2] has again informed the Director, Department of Mines & Geology that period of Mining lease bearing ML No. 1111 held by M/s NMDC Limited is extended up to 17-10-2022 under Section 8(A)(8) of MMDR Act, 1957 subject to certain conditions.
10. **Status of FC Lease:** Out of 480.79 ha of forest land (*after digitization by CEC*) comprised within 647.50 ha area of ML No. 1111, the User Agency has Forest Clearance in respect of 324.70 ha for mining vide Government of India, Ministry of Environment, Forests and Climate Change, letter F.No.8-27/2005-FC dated 24-07-2006 (Stage-II approval) for 341.20 ha (*which also includes 16.501 ha for ancillary purposes outside ML*). As per Condition no.3 of the aforesaid approval, the lease period of diverted forest land shall be co-terminus with the current mining lease granted under MMDR Act 1957 i.e., up to 17-10-2022.
11. **Desirability of forest diversion proposed by User Agency:** The Field officers (DCF, Ballari Division as well as CCF, Ballari Circle) have observed that the forest land proposed for diversion, even though adjoining to the already approved FC area, is a fresh / virgin forest area with good canopy cover (more than 0.5) and has steep slope. Based upon the sampling carried out to enumerate the number of trees in the area, they have further stated that the forest area has about 26,000 trees. Removal of forest vegetation from the area would result in severe soil erosion and severe environmental damage. The facts of the case suggest that the forest area has great ecological significance and therefore, needs preservation. Further, this office vide letter No. KFD/HOFF/A5-1(MNG)/ 59/2019-FC (E-117203) dated 13-08-2019 [ANNEXURE-3], while elaborating on various relevant issues connected with new mining proposals, has taken a stand that no fresh forest areas should be considered for prospection or mining activity till a detailed exercise is undertaken in the state for mapping the mineral resources within and outside forest areas and a decision is taken to prioritize exploitation of minerals outside the forest areas. However, such proposal includes the ML 1111 of M/s NMDC.

In light of the facts stated above, and in conformity with the stand taken by the Forest Department against opening fresh/unbroken forest areas for mining activities, it is requested to not to consider the proposal for moving to Government of India seeking 'in-principle' (Stage-I) approval for diversion of 159.01 hectare of forest land in Swamimalai (SM)

Block Forest, Sandur Taluk, Ballari District in respect of remaining forest area within Mining Lease [ML] No. 1111 in favour of NMDC Limited, Donimalai, Sandur Taluk.

However, in case, the proposal is considered for forest diversion, such approval may be subject to the User Agency providing an authenticated copy of the RoFR Certificate in prescribed format and further conditions specified in Annexure 'A'.


The hard copy of the proposal along with the relevant documents in 3 sets is submitted herewith for further needful. The present status of the proposal obtained from the web-portal is also appended for necessary action.

Yours Faithfully

(Punati Sridhar IFS)

Principal Chief Conservator of Forests
(Head of Forest Force)

1. Copy communicated to the Chief Conservator of Forests, Ballari Circle, Ballari for information.
2. Copy communicated to the Deputy Conservator of Forests, Ballari Division, Ballari for information.
3. Copy communicated to the General Manager, M/s NMDC Limited, Donimalai Iron Ore Mine, Donimalai Township, Ballari District – 583 118 for information and **with a request to provide an authenticated copy of the RoFR Certificate at the earliest (including submission of the original to the Chief Conservator of Forests, Ballari Circle).**



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26-11-2019
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ANNEXURE - 'A'

[In case, the proposal (FP/KA/MIN/6858/2014) is considered for forest diversion under FC Act]

1. The legal status of forest land shall remain unchanged and it shall continue to be forest land.
2. The User Agency shall pay the applicable charges towards Net Present Value (paid), Compensatory Afforestation, cost of extraction of trees, Land lease rent and any other levies as per the conditions of approval.
3. The User Agency shall demarcate the lease area in the manner specified at the time of approval at its own cost.
4. The roads sought should be made *pucca* (tar/concrete) by User Agency at their own cost and shall be used for transportation of ore between sunrise and sunset only.
5. The User Agency will ensure that overburden/ soil/any other waste does not flow down the slope in non-diverted area/ water drainage pathways (streams).
6. The lessee shall not sub-lease, mortgage & hypothecate the forest area.
7. The leased out forest area should be used for the purpose for which it is granted. In case the land is not used for the stipulated purpose within two years or when it is no longer needed for the stipulated purpose, the area would stand resumed to the Forest Department.
8. No change in Land Use Plan on forest land shall be done except with prior approval of Government of India under FC Act 1980.
9. The application for renewal of the lease in the prescribed form and manner shall be submitted at least six months prior to the expiry of forest lease. In case no renewal is sought, the Lessee shall hand over the lease.
10. No residential or commercial buildings shall be permitted in the forest area proposed for diversion.
11. No crushing / breaking of stones or labour camp shall be allowed on forest land and all waste / debris generated shall be scientifically disposed off outside the forest area.
12. Any damage to forest area because of implementation of the proposal shall be compensated by the Lessee. The extent of damage shall be assessed by the jurisdictional Deputy Conservator of Forests/ Conservator of Forests/ Chief Conservator of Forests.
13. The Lessee shall ensure that no avoidable harm is caused to the fauna and flora in and around the proposed area.
14. In case, any violation of the provisions of the Karnataka Forest Act, 1963 & Rules, 1969 or other relevant Acts/Rules is reported during the lease period, the lease will be liable for forfeiture under Section 82 of Karnataka Forest Act, 1963. The Chief Conservator of Forests / Deputy Conservator of Forests concerned are authorized to take necessary action in this regard.
15. The approval under the Forest (Conservation) Act, 1980 is subject to any other clearances necessary under the prevailing statutes.
16. The User Agency shall also abide by other conditions those may be imposed by the Government of India, Government of Karnataka and Principal Chief Conservator of Forests (Head of Forest Force) before or after the approval.


Principal Chief Conservator of Forests
(Head of Forest Force)

PART – IV

(To be filled in by the Nodal Officer or Principal Chief Conservator of Forests or Head of Forest Department)

Detailed opinion & specific recommendation of the State Forest Department for acceptance or otherwise of the proposal with remarks

(While giving opinion, the adverse comments made by concerned Conservator of Forests or Deputy Conservator of Forests should be categorically reviewed and critically commented upon).

Recommended not to consider the proposal for moving to Government of India seeking 'in-principle' (Stage-I) approval for diversion of 159.01 hectare of forest land in Swamimalai (SM) Block Forest, Sandur Taluk, Ballari District in respect of remaining forest area within Mining Lease [ML] No. 1111 in favour of NMDC Limited, Donimalai, Sandur Taluk.

However, in case, the proposal is considered for forest diversion, such approval may be subject to the User Agency provide an authenticated copy of the RoFR Certificate in prescribed format and further conditions specified in Annexure 'A'.

Proposal No. FP/KA/MIN/6858/2014

Signature:

Name:

Designation:

RAJIV RANJAN IFS

Additional Principal Chief Conservator of Forests
(Forest Conservation) AND
Nodal Officer (FCA)

Countersigned by :

Name:

Designation:

PUNATI SRIVIDHAR IFS

Principal Chief Conservator of Forests
(Head of Forest Force)

N.D.O. No: 16/2019-20

(Official Seal)

Date: 26-11-2019

