



OFFICE OF THE DIVISIONAL FOREST OFFICER, KEONJHAR DIVISION

Ph. No. 06766-254315, E.mail- dfokjr.od@gov.in

Memo No. 3542 / 6F-Mining - 33/2020
Dated, Keonjhar the 18th June, 2021

To

The Regional Chief Conservator of Forests,
Rourkela Circle, Rourkela.

Sub:

Diversion of 63.30 ha Sabik Kissam forest land as on 25th October 1980 (treated as non-forest land in hal record) I addition to 371.192 ha of forest land already diverted out of total forest land of 639.823 ha (including sabik kisam forest land of 114.061 ha), located within the Mining Lease hold area over 767.284 ha of Nuagaon Iron Ore Mines of Shri Kamaljeet Singh Ahluwalia in village-Nuagaon, Topadihi, Kolharudhukela, Barpada and Katasahi etc. under Barbi Tahasil of Keonjhar District, Odisha.

X-Sub:

Compliance of FAC observation on Sabik Kisam Forest land.

Ref:-

F. No. 8-17/001-FC(Vol) dtd. 20.12.2016 of MoEF&CC, GoI & memo no.24393 dtd. 29.12.2016 of Special Secretary to Government Forest 7 Environment Department & No.JSW/S/O/2021/221 dated 10.05.2021 of JSW Steel Ltd.

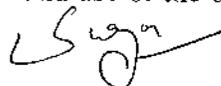
With reference to the aforesaid letters on the captioned subject, this is to intimate that the user agency i.e. M/s JSW Steel Ltd. has submitted the following few points in respect of the aforementioned diversion proposal.

1. The MoEF&CC, GoI have granted forest clearance over 371.192 ha forest land under section 2(ii) of F.C. Act, 1980 vide F. No. 8-7/2001-FC dated 21/22 April, 2004. The said forest clearance has been vested to M/s JSW Steel Ltd. for two years by virtue of the letter No.4167 dated 29.05.2020 of Steel & Mines Department, Govt. of Odisha (copy enclosed).
2. On 06.12.2019 the Govt. of Odisha have issued a Notice Inviting Tender (NIT) for auction of mining lease for Iron & Manganese mines whose lease period were expiring on 31.03.2020. Nuagaon Iron Ore Mines is one of such mine.
3. The e- auction of the said block was conducted in the month of February, 2019 by the Govt. of Odisha. In the said e- auction JSW was declared as the "Preferred Bidder" of the said Nuagaon Iron Ore Blcok.
4. On 29.05.2020 the Vesting Order was issued by the State Government in terms of Rule 9(A)(1) of the Mineral (Other than Atomic and Hydrocarbon Energy Minerals) concession Rules, 2016. By virtue of the said vesting order all rights, approvals, clearances, licences of the ex-lessee got vested with JSW for two years.
5. JSW Steel Ltd. have deposited Net Present Value (NPV) of total forest area of 649.508 ha which includes Sabik Kisam forest land for an amount of Rs.48,71,31,000/- on 05.06.2020 in terms of the Guidelines dated 31.03.2020 issued by the MoEF&CC, GoI and vesting order dated 29.05.2020.
6. Accordingly, the Lease Deed was executed on 27.06.2020.

7. Subsequent to the execution of the lease, JSW Steel Ltd. have applied for the forest clearance of the entire forest land within the lease hold area as stipulated under Rule 9A(2) of the Mineral Concession (Amendment) Rules, 2020.
8. That, in the meanwhile, the MMDR (Amendment) Act 2021 has been notified which says that *"8B.(1) – all valid rights, approvals, clearances, licences and the like granted to a lessee in respect of the mine--- shall continue to be valid even after expiry or termination of lease and such rights, approvals, clearances, licences and the like shall be transferred to, and vested, subject to the conditions provided under such laws, in the successful bidder of the mining lease selected through auction--:*
9. It is pertinent to mention here that, earlier the State Government vide their letter No.10F(Cons) 138/2015/14826/F7E dated 09.08.2016 submitted a proposal seeking prior approval of the Central Government under Section-2 of the Forest (Conservation) Act, 1980 for diversion of 63.30 ha Sabik Kissam Forest land of Nuagaon Iron Ore Mines in village-Nuagaon, Tapudih. Kolharudhukela, Barpada and Katasahi etc. under Barbil Tahasil of Keonjhar District.
10. This proposal was examined by FAC in their meeting dated 9th -10th November, 2016. FAC recommended the proposal with general, standard and following specific conditions:
 - The user agency shall pay additional NPV at the rate 20 percent for each year since the violation of Forest (Conservation) Act, 1980 has commenced.
 - User Agency shall raise penal CA equivalent to the land utilized in violation of provision of Forest (Conservation) Act, 1980.

FAC further observed that the proposal file shall be placed before Competent Authority for approval on receipt of following information:

- i) State Government shall submit original certificate of complete compliance of FRA, 2006.
- ii) For compensatory afforestation (CA) equivalent non-forest land (NFL) is to be earmarked and plantation has to be raised @1000 plants/ ha, of forest land diverted. On analysis through DSS it is found that some are of the proposed non forest land for CA is having moderately dense vegetation over it, therefore 1000 plants / ha cannot be planted. The proposed non-forest land for CA shall be accepted provided the number of plants which are not possible to be planted on the proposed land, shall be planted on degraded forest land (crown density upto 40% as [er Forest Survey of India report) identified by the Forest Department. State Government shall identified degraded forest land (DFL) within its administration control and submit the location of area and shape file with possible number of plants to be planted in the proposed degraded forest land. The compensatory afforestation scheme shall be for 1000 plants/ ha of the forest land diverted under this proposal including maintenance cost for 10 years. The State Government shall submit the revised CA scheme.
- iii) State Government shall submit latest status of court cases related to violations pending in different Courts.
- iv) FAC took a serious note of the observation of the State Government that the user agency has violated the provisions of FC Act and change the land use of the forest land diverted without prior approval of competent authority. It is observed by the FAC that the user agency had violated the conditions stipulated in the approval by MoEF&CC vide letter No.8-17/2001-FC dated 22.04.2004, for diversion of forest land within the same mining lease. User agency has been found to deviate from the approved land use plan. This speaks about the credibility of the user agency in observing the conditions imposed by this Ministry while granting permission for diversion of the forest land under FC Act, 1980. The MoEF&CC may request the Regional Office (Eastern Zone), Bhubaneswar to initiate proceeding in accordance with the provision of Section 3A & 3B of the FC Act, 1980 and file complaint in the court having jurisdiction in the matter against officials' prime facie found guilty for changing the land use of the diverted forest land without prior approval of competent authority.



11. It is pertinent to mention here that the observation of FAC, MoEF&CC vide their letter dated 20.12.2016 seeking the compliance from Govt. of Odisha, has not been submitted. In this background, M/s JSW have submitted the point wise compliance of letter dated 20.12.2016 of MoEF&CC, GoI as per details given below.

- 1. The user agency shall pay additional NPV at the rate 20 percent for each year since the violation of Forest (Conservation) Act, 1980 has commenced.**

It has been asserted by JSW Steel Ltd. that violations are due to the previous lessee i.e. M/s KJS Ahluwalia and is not attributable to the present lessee. Hence JSW Steel Ltd. states that it cannot be held accountable for the violation carried out by the ex-lessee.

- 2. User agency shall raise Penal CA equivalent to the land utilized in violation of provision of Forest (Conservation) Act, 1980.**

It has been asserted by JSW Steel Ltd. that violations are due to the previous lessee i.e. M/s KJS Ahluwalia and is not attributable to the present lessee. Hence JSW Steel Ltd. states that it cannot be held accountable for the violation carried out by the ex-lessee.

- 3. State Government shall submit original certificate of complete compliance of FRA, 2006.**

As intimated the Collector, Keonjhar has completed entire process of FRA and certificate has been issued over 631.544 ha of forest land vide his Order No.2093 dated 18.12.2017. Copy enclosed as **Annexure-I**.

- 4. For Compensatory Afforestation (CA) equivalent non-forest land (NFL) is to be earmarked and plantation has to be raised @1000plants/ha, of forest land diverted. On analysis through DSS it is found that some area of the proposed non-forest land for CA is having moderate dense vegetation over it, therefore, 1000 plants/ ha cannot be planted. The proposed non-forest land for CA shall be accepted provided the number of plants which are not possible to be planned on proposed land shall be planted on degraded forest land (Crown density up to 40% as per Forest Survey of India report) identified by the forest department. State Govt. shall identified degraded forest land (DFL) within its administrative control and submit the location of the area and shape file with possible nos. of plants to be planted in the proposed DFL. The CA Scheme shall be for 1000 plants/ ha of the forest land diverted under this proposal including maintenance cost for 10 years. The State Govt. shall submit the revised CA Scheme.**

In this regard, Forest Range Officer, Champua has identified about 253.20 ha DFL for CA in Chamakpur RF. JSW Steel Ltd undertake to bear the statutory levies towards the CA scheme including maintenance cost for 10 years against the approved revised CA Scheme.

- 5. State government shall submit latest status of court Cases related to violations pending in different Courts.**

Up to date status of the cases filed in compliance to condition No.2 (iii) of FAC observation is furnished here under:-

Sl No.	Forest Case No.	Court	Violation Committed	Status of the Case
1	OR No.172 BL of 2011-12 PR No.2 of 2012-13	Hon'ble JMFC, Barbil, Keonjhar	1. Un-authorized extraction of mineral and subsequent dumping on the same site over 8.12 ha virgin forest land. 2. Extension of broken up pit No. H & I over 4.86 ha. in VF. 3. Dislocation of all the broken up	Case is sub-judice in the Court of the Hon'ble JMFC, Barbil, Keonjhar

			pillars in Block- J from their original position. 4. Non-grouting of ML pillars with cement concrete. 5. Seizure of 07 Nos. Sal log and 03 Nos. Siris log (0.6911 Cum) inside lease hold area (Bhuyan Barapada VF area) & Tipper bearing regd. No. OR-09J-9305.	
2	OR No.67 BL of 2012-13, PR No. 15 of 2012-13	-do-	1. Illegal dumping of sub-grade iron ore in safety zone area within ML pillar No. 95 to 97 of dimension 593 mtr X 7.5 mtr in forest kissam land in village Barapada. 2. Breaking of Safety zone from ML pillar No.106 to 110 over dimension 571 mtr x 36 mtr. x 15 mtr.	Case is sub-judice in the Court of the Hon'ble JMFC, Barbil, Keonjhar

6. FAC took a serious note of the observation of the State Government that the user agency has violated the provisions of FC Act and change the land use of the forest land diverted without prior approval of competent authority. It is observed by the FAC that the user agency had violated the conditions stipulated in the approval by MoEF&CC vide letter No.8-17/2001-FC dated 22.04.2004, for diversion of forest land within the same mining lease. User agency has been found to deviate from the approved land use plan. This speaks about the credibility of the user agency in observing the conditions imposed by this Ministry while granting permission for diversion of the forest land under FC Act, 1980. The MoEF&CC may request the Regional Office (Eastern Zone), Bhubaneswar to initiate proceeding in accordance with the provision of Section 3A & 3B of the FC Act, 1980 and file complaint in the court having jurisdiction in the matter against officials' prime facie found guilty for changing the land use of the diverted forest land without prior approval of competent authority.

Necessary action has been initiated for violation of FC Act, 1980 & change of the land use of the forest land diverted without prior approval of the competent authority. The detail action taken report is furnished below.

Sl No.	Violation Committed by the user agency	Action Taken Report
1	1. Un-authorized extraction of mineral and subsequent dumping on the same site over 8.12 ha virgin forest land. 2. Extension of broken up pit No. H & I over 4.86 ha. in VF. 3. Dislocation of all the broken up pillars in Block- J from their original position. 4. Non-grouting of ML pillars with cement concrete. 5. Seizure of 07 Nos. Sal log and 03 Nos. Siris log (0.6911 Cum) inside lease hold area (Bhuyan Barapada VF area) & Tipper bearing regd. No. OR-09J-9305.	Forest Offence case vide OR case No. 172BL of 2011-12 has been registered and prosecution sanctioned vide PR No. 02 of 2012-13 and submitted in the Hon'ble Court of JMFC, Barbil. The case is sub-judice.
2	1. Illegal dumping of sub-grade iron ore in safety zone area within ML	Forest Offence case vide OR case No. 67BL & 68BL of 2012-13 has been

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<p>pillar No. 95 to 97 of dimension 593 mtr X 7.5 mtr in forest kissam land in village Barapada.</p> <p>2. Breaking of Safety zone from ML pillar No.106 to 110 over dimension 571 mtr x 36 mtr. x 15 mtr.</p>	<p>registered and prosecution sanctioned vide PR No. 15 of 2012-13 and PR No. 16 of 2012-13 and submitted in the Hon'ble Court of JMFC, Barbil. The case is sub-judice.</p>
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12. In the light of the facts stated above the present lessee i.e JSW Steel Ltd. has requested vide their letter No.JSW/S/O/2021/121 dated 10.05.2021(Copy enclosed) to accord necessary Stage-I / In-principle approval over 63.30 ha of Sabik Kissam Forest land as the said forest diversion proposal has already been processed by the previous lessee and is under consideration of MoEF&CC, GoI. The present lessee has also stated that, for the above diversion proposal CA land has been identified, NPV has been paid & the FRA compliance has been completed.

13. Further it is also requested to clarify as to :

- i) Whether the present lessee M/s JSW Steel Ltd can submit after a lapse of four and half years the compliance report on FAC observations for a diversion proposal which is at an advance stage of consideration by MoEF&CC and which had been processed by the ex-lessee i.e, M/s KJS Ahluwalia in view of amended Section 8B of MMDR Amendment Act, 2021.
- ii) Fixing of accountability regarding payment of statutory levis remaining unpaid by the ex-lessee as observed by the FAC and not being agreed upon for payment by the present lessee i.e. M/s JSW Steel Ltd.

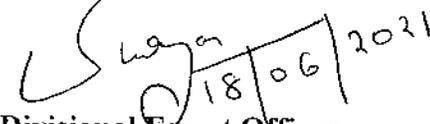
This is for favour of kind information and necessary action.

Encl:-As above.


18/06/2021
Divisional Forest Officer,
Keonjhar Division.

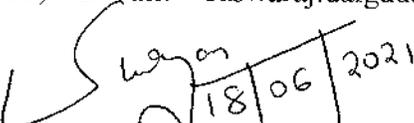
Memo No. 3543 / Dated. 18-6-2021

Copy submitted to the Principal Chief Conservator of Forests, (FD&NO) FC Act, o/o-the PCCF, Odisha, Bhubaneswar for favour of kind information & necessary action.


18/06/2021
Divisional Forest Officer,
Keonjhar Division.

Memo No. 3544 / Dated. 18-06-2021

Copy forwarded to Shri Baswaraj Mahadevppa Dalgade, Authorised Signatory, Asst. General Manager (Project), Nuagaon Iron Ore Block of M/s JSW Steel Limited, JSW Centre Bandra Kurla Complex, Bandra East, Mumbai, PIN-400051, E-mail: baswaraj.dalgade@jsw.in for information & necessary action.


18/06/2021
Divisional Forest Officer,
Keonjhar Division.