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GOVERNMENT OF KARNATAKA

(Public Works Department)

No.EE/NHD/HSN/ NH-173 /Job-873/Forest Clearance/2022-23/ 366

*Office of the Executive Engineer,
National Highway Division,*

Hassan, Date: 29/07/2022

**To,
The Deputy Conservator of the forest,
Chikkamagaluru Division
Chikkamagaluru Dist.**

Sub: Diversion of 5.724414 Ha (revised from 0.58 Ha) of forest land Sy No. 59 and 60 of Dasarahalli village, Sy No.59 and 60 of Devarahalli village, Sy No.118 of Hale Lakya village, Sy No.112 of Hiregowja village Lakya Hobli, Chikkamagaluru Taluk, Sy No.302 of Brahmasamudra village, Sy No.74 and 744 of Sakkarayapatna village, Sakkarayapatna Hobli and Sy No.1 of Yemmedoddi village, Beeruru Hobli, Kadur Taluk, Chikkamagaluru District for work of "Widening to Two Lane with Paved Shoulders from km 24.600 to km 70.063 (45.463kms) of Mudigere - Kadur Section of NH-173 on EPC mode in the State of Karnataka" Job No. KNT-NH-173-2017-18-873" in favour of Executive Engineer, National Highway Division, Public works, Ports & Inland Water Transport Department, Hassan"- **Forest Land Clearance-reg.**

Proposal no: FP/KA/ROAD/41019/2019

- Ref:**
1. Ministry of Road Transport and Highways Sanction letter No. NH-12014/23/2017-KNT (Zone-4) Dated 29-12-2017.
 2. Chief Engineer, National Highways, Bangalore work order agreement No. 06/2018-19 dated 06-08-2018.
 3. Conservator of the forests, Chikkamagaluru circle, Chikkamagaluru letter no.10/LND/FC/NH-173/CR-16/2021-22 Dated 11-04-2022
 4. The Principal Chief Conservator of Forests (Forest Conservation) and Nodal Officer (FCA), AranyaBhavan, Bengaluru letter no. KFD/HoFF/A5-4(GFL)/80/2019-FC Dated 09-05-2022.
 5. Assistant Inspector General of Forests (Central), Ministry of Environment, Forest & Climate Change, Integrated Regional office, Bangalore letter no. 4-KRC1359/2022-BAN /Dated 04-07-2022.

Adverting to the above subject, the compliance is herewith submitted to the observations raised by Assistant Inspector General of Forests (Central), Ministry of Environment, Forest & Climate Change, Integrated Regional office, Bangalore, vide letter cited under ref(5), in respect of Forest clearance Proposal "Diversion of 5.724414 Hectare of Forest Land for the work of Widening to two lane with paved shoulders from Km: 24.60 to 70.063 of Mudigere Kadur section NH-173 in the state of Karnataka. (Job No. NH-173-KNT-2017-18-873).

Sl.no	Observations	Compliance
1	<p>As per the KML file uploaded, at certain locations diversion is proposed only on the edges of the existing road where the widening /improvement is proposed, whereas in some other locations the entire road including widening is included in the proposal. This requires clarification.</p>	<p>The Project highway work <u>"Widening to two lane with paved shoulders from Km: 24.60 to 70.063 of Mudigere Kadur section NH-173 in the state of Karnataka. (Job No. NH-173-KNT-2017-18-873)"</u> has been designed based on the guidelines framed vide Indian Road Congress-Special Publication-73 (IRC-SP-73 Manual of specifications and Standards for Two laning of Highways with paved shoulder).</p> <p>Technical, economic and environmental attributes have been considered during finalising centerline of the highway. The above project is proposed for widening along with design improvement of the road viz, curve improvement, Design speed improvement, Black spot rectifications etc., In view of above design requirements, the center line of the project highway is fixed. Therefore, the proposed highway center line will not be the same as that of the existing road centerline.</p> <p>Hence, in certain locations complete re-alignment of the highway is proposed where complete diversion is shown in the KML map.</p> <p>In addition to that, before 1980, the past road authorities had constructed the road on the government Gomala land bypassing the Right of Way(RoW). Later those Government Gomala land is notified as Deemed Forest. Hence, in the above locations, even though the road is being constructed adjacent to old existing alignment, forest clearance proposal is being made for the entire road section as per Revenue Village Map. (Polygon I, J, K of survey No. 118 Halelakya, Polygon P of survey no. 60 of Dasarahalli, Polygon S of survey no.744 Sakkarayapatna).</p>

2	It is reported that road work has been completed in the non-forest land. Therefore, the user agency is required to furnish an undertaking as per para 11.3 of the comprehensive FC Guidelines that in case approval under F(C) Act, 1980 is declined for widening of road, width of portion of the road falling in the forest land will be maintained at its existing level.	Under taking is enclosed (Annexure-1)
3	As per the justification note furnished by user agency, authorities have constructed the road in some locations bypassing the right of way of the road. Therefore, it may be clarified whether the construction of road/ widening has taken place in forest land in violation of the provisions of F(C) Act, 1980.	<p>In the past, the road authorities had constructed the road on the government Gomala land bypassing the Right of Way which was existed on village map. Such bypassing from the Right of Way has been done long back and the same road was in service to the public prior to 1980.</p> <p>The land was earlier Government Gomala land which was later considered as Deemed Forest. Therefore, there is no violation of the provisions of F(C) Act, 1980.</p>
4	The legal status of 0.1197 ha, of forest land proposed for diversion in Sy.No. 70, Yemmedoddi village is reported as Section 4 (Tiger Preserve). It may be clarified whether the said land is part of any Protected Area.	The said area is not included in any of the Protected area.
5	As per the proposal, toll plaza is proposed in Sy.No.744 of Sakarayapatna village (in the uploaded KML file also it may be seen). However, in the component wise break up of forest land proposed for diversion, there is no mention about construction of toll plaza. It may be noted that construction of toll plaza in forest area is a non-site specific activity and not encouraged due to its adverse impact on the adjoining forest. Therefore, the user agency may be directed to construct the toll plaza in non-forest area.	<p>Earlier unknowingly the "toll plaza" component was termed as "Drain to PROW". At present, the same has been corrected in the Form A of the FC proposal.</p> <p>Further, it is informed by your kind self that, construction of the toll plaza in the forest land is non-specific activity. In this regard, it is to bring for your kind notice that, as per IRC guidelines the location of toll plaza has to be decided keeping in view the following factors:</p> <ol style="list-style-type: none"> 1. Land availability. 2. Stream of traffic on Toll Plaza. 3. Visibility for the approaching traffic which needs straight reach free from curves and longitudinal gradient. 4. Reasonably away from road intersections and/or rail crossings. 5. Free from risk of flooding and submergence, etc. 6. Preferably on flat land and away from

		<p>congested urban locations minimum of 10 Km's.</p> <p>7. Almost Center point of the project highway.</p> <p>Based on the technical suitability and commuter safety, the above location is most suitable place for the construction of toll plaza. There is no other suitable land available on the project highway meeting the above said technical requirements. In view of technical suitability and treating the land as Gomala land, the toll plaza location is considered at km 54.800.</p> <p>During the preparation of DPR, as per the Revenue records observed in the office of the Assistant director of land records (competent authority for land record and ownership details) the survey no. 744 of Sakarayapatna was a Government Gomala land and at present also it is showing as Gomala land in government records such as RTC. During the project work only, it is aware from the forest authorities that, the survey no.744 is under section 4 notified forest area.</p> <p>At present, in toll plaza location on RHS, private land of 0.825 hectares has also been acquired for the construction of toll plaza. This land get unusable if toll plaza is not constructed here and it is not possible to de-notify also. In the other locations except the stretches proposed for FC, the construction of project highway has been completed. Hence, if toll plaza is not constructed soon, there will be huge revenue loss to the Government.</p>
6	<p>The site suitability of the Government land to an extent of 6.88" ha. in Sy.No.27 of Melinahuluvathi village, Chickamagaluru Taluk is proposed towards CA is not furnished. It is also not mentioned whether the said land is adjacent to any notified forest land. The site suitability certificate in respect of degraded forest land proposed in Sy.No.70 of Yemmedoddi village for CA, provided in the online proposal in is not signed by the competent person. Therefore, proper site suitability certificate for both the lands proposed for CA may be furnished.</p>	<p>The proposed area is adjacent to Sy no 104 of Melinahuluvatti which is a Deemed forest and also adjoining to Melinahulavatti Block-II Reserve Forest.</p> <p>Signed copy of site suitability certificate from competent authority is enclosed (Annexure-2).</p>

7	<p>The cost benefit analysis may be calculated as per the FC Guidelines and furnished.</p>	<p>Earlier, cost benefit analysis report was submitted for your kind self which was calculated in view of vehicle operation cost, reduction in travel time and improved level of service.</p> <p>The project Highway runs along the plain section. It is not located in the Hill section. Since, the area proposed for forest diversion is only 5.724414 Hectare, the "cost benefit analysis" is not required for the forest diversion below 20 Hectare as per Ministry of Environment, Forest & Climate change, New Delhi, GoI circular F.No.7-69/2011-FC(pt) dated 01-08-2017. (Annexure-3)</p>
8	<p>A W.P.No.51645. of 2019 (PIL). was earlier filed in the Hon'ble High Court of Karnataka by Shri D.V.Girish& others Vis Union of India and others where in it was inter-alia alleged that the NHAI has spilt construction of road widening in to packages viz (1) Nellyadi- to Mudigere Hand post 68.9 km, (ii) Mudigere Hand post to Chikkamagaluru (46.1 km), (iii) Chikkamagalur to Tamatadahalli (56 km) & (iv) Tamatadahalli to Chitradurga (Kadur) (61 km) to circumvent EIA Notification 2006. In this W.P., MoEF&CC and State Government /State Forest Department were respondents. The said W.P. was disposed of by the Hon'ble High Court vide order dated 04/10/2021 with the observation that "..... Learned Counsel appearing for NHAI, at the outset, has stated before this court that all the four packages in respect of construction of Highways have been kept in abeyance and the present writ petition be disposed of with a liberty to the petitioners to file a fresh petition in case need so arises in future....". It was also directed that "in case NHAI revise any of the project. They shall intimate the petitioners through registered post and the petitioners shall certainly free to approach this court again". It may be clarified whether the above directions of Hon'ble High Court has been complied and whether any as been complied and whether any fresh litigation is pending in this matter.</p>	<p>The writ petition is not related to this project.</p> <p>The W.P. No. 51645 of 2019(PIL), pertains to the 4 lane work from Nelyadi to Chitradurga which is under planning stage under Bharat mala Scheme. The executing agency is National Highway Authority of India.</p> <p>This project "Widening to two lanes with paved shoulders from Km: 24.60 to 70.063 of Mudigere Kadur section NH-173 in the state of Karnataka. (Job No. NH-173-KNT-2017-18-873)" is undertaken by the Ministry under budget allocation for the financial year 2017-18. The work is already at the completion stage and the executing agency (User agency) National Highway Zone of state PWD.</p>

Hence, bringing the above subject matter to your kind self, it is to report that, the work of "Widening to two lane with paved shoulders from Km: 24.60 to 70.063 of Mudigere Kadur section NH-173 in the state of Karnataka. (Job No. NH-173-KNT-2017-18-873)" was entrusted to M/s JMC constructions Pvt Ltd (JMCCPL) JV with CHVN Reddy and the work is in completion stage. As the Work is time bound project of the Central Government which is to be completed within the Scheduled time. Except the Forest Clearance reach, the contractor has completed the Road widening work in the remaining reaches. Without completing the work in the forest clearance reach it is not possible to dedicate the work to the Public.

Hence, it is here by requested your kind self to Process the Forest Clearance proposal of the above work at the earliest.

This is for favour of your kind information and further needful action.

Encl:as above

Yours faithfully



Executive Engineer
National Highway Division
Hassan.