

F. No. 8-49/2016-FC
Government of India
Ministry of Environment, Forest and Climate Change
(Forest Conservation Division)

Indira Paryavaran Bhawan
Aliganj, Jorbagh Road
New Delhi – 110003

Dated: 25th May, 2017

To,

The Pr. Secretary (Forests),
Govt. of Madhya Pradesh,
Bhopal.

Sub: **Diversion of 6017.00 ha. of forest land in favour of Rashtriya Jal Vikas Abhikaran for development of Ken-Betwa Link Project in Distt. Chattarpur, Panna and Tikamgarh, Madhya Pradesh.**

Sir,

I am directed to refer to the State Government of Madhya Pradesh's letter No. F-3/50/2015/10-11/2182 dated 07.10.2016 on the subject mentioned above seeking prior approval of the Central Government under Section-2 of the Forest (Conservation) Act, 1980 and to say that the proposal has been examined by the Forest Advisory Committee constituted by the Central Government under Section-3 of the aforesaid Act.

After careful examination of the proposal of the State Government and on the basis of the recommendations of the Forest Advisory Committee, **Stage-I Clearance/ In-principle** approval of the Central Government is hereby granted for diversion of 6017.00 ha. of forest land in favour of Rashtriya Jal Vikas Abhikaran for development of Ken-Betwa Link Project in Distt. Chattarpur, Panna and Tikamgarh, Madhya Pradesh subject to the following conditions:

1. Legal status of the diverted forest land shall remain unchanged;
2. The project proponent shall ensure that equal extent of revenue area to be added to Panna Tiger Reserve, either as a part of the core or corridor with other habitats or satellite core areas and consider the entire landscape as one conservation unit allowing for development and livelihood needs and Panna landscape has to be managed as a single landscape in the interest of long-term conservation because merely adding forest area of adjoining forest division to the core/buffer area of the tiger reserve will not be sufficient to compensate for the loss of forest area as these areas are as such available for use by the tiger and other wild animals of the PTR. Therefore it is necessary to compensate the loss of "forest land" through addition of revenue lands/non-forest lands by the project proponents and the government. The project proponents and the government should compensate the loss of forestland and tiger habitat by transferring to PTR equivalent revenue and private land. Inclusion of land to the west of Ken River would consolidate the Panna Tiger Reserve landscape. This land shall be declared as Reserve Forest/protected Forest and be brought under administrative control of Forest Department;
3. The user agency shall identify the CA sites over equal non -forest land which shall be provided by the user agency/ state government on the western side of PTR. The revised CA scheme approved by the competent authority with suitability certificate and shape file shall be submitted. The revised CA scheme should also include plantation of *Anogeissus pendula*.
4. The identified non-forest land for raising compensatory afforestation shall be transferred and mutated in favour of the State Forest Department before issue of the Stage-II clearance. 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 revenue 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;

5. The entire exercise for relocation of revenue villages shall be carried out by the revenue department with the help of the project authorities and that the entire expense for relocation shall be borne by the project. Further, the revenue land so secured through relocation shall be declared Reserve Forest / PF and handed over to the forest department. A Committee consisting of the Field Director Panna National Park (Chairman), a representative of the Project proponent, a representative of the Regional office, Bhopal and a representative of NTCA shall approve such a list of villages to be relocated and forward it to MOEF&CC before the issue of final approval/ Stage II Clearance under Section 2 of Forest (Conservation) Act, 1980 is accorded by this Ministry. Until all the agreed to revenue villages are relocated no closure of dam gates and impounding of water shall be permitted;
6. The land identified for the purpose of CA shall be clearly depicted on a Survey of India topo sheet of 1:50,000 scale;
7. The Catchment area treatment plan as approved by State Government be implemented by/or under the supervision of State Forest Department at the project cost. State Government shall realize cost of implementation of Catchment Area Treatment (CAT) Plan and transfer the same to Ad-hoc CAMPA through on-line portal;
8. 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;
9. The User Agency shall transfer the funds for the Net Present Value (NPV) as applicable to National Park (PTR) for 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 through online portal of Ad-hoc CAMPA account of the State Concerned;
10. The user agency shall submit the revised cost benefit analysis, after considering the ecological cost of diversion of Panna Tiger Reserve(PTR);
11. The State Govt. and the user agency shall ensure that the water flow downstream shall be regulated in line with the natural flow regime and, in the lean period, 100% of the existing flow regime should be maintained while in the non-lean period, the prescribed minimum by hydrology and aquatic biodiversity experts should be ensured. The minimum flow of water in the Ken River will be maintained till it joins the Yamuna to save wildlife including crocodiles and other aquatic animals. The user agency shall also construct a number of concrete dykes across smaller streams going off from the main reservoir which during FRL shall be over flown but which during lean season shall dam up small isolated water bodies for the benefit of the wildlife;
12. The State Govt. and the user agency shall ensure that the e-flow is maintained as given in the EIA and EMP of the project to save the wildlife including mugger and gharial, and to maintain the water regime downstream of the dam;
13. The State Govt. and the user agency shall ensure that the proposed Powerhouse, which have the capacity of 78 MW, shall not be constructed in the forest area to be diverted to avoid constant disturbance in the PTR;
14. The State Govt. and the user agency shall ensure that the canal should be realigned to minimize the use of forest land for construction of canal;
15. The State Govt. shall ensure that the appropriate provision should be made by the project proponent to strengthen and improve habitat management enforcement, and monitoring activities in the core as well as in buffer areas, as there is risk of increased human activities



due to this project. Further, support should be provided for buffer management and community activities, including eco-development and skill development programs, for local villagers. Alternative activities for local communities involved in extractive activities inside PTR should be implemented;

16. In the long-term interest of tiger conservation, the project proponent may implement landscape level conservation, which is administratively/legally effective for which Landscape Management Authority/Council/ Society should be brought under the purview of tiger reserve management;
17. The State Govt. shall ensure that no building material for the construction of dam/power house/canal or any other purpose should be permitted from the national park/forest area;
18. The task of consultancy for preparation of Action Plan for conservation of Vultures in affected area of PTR shall be given to BNHS and the program for Species Recovery Program for gharial in the landscape shall be done by the Wildlife Institute of India and the cost for these species recovery programs shall be borne by the project proponent;
19. The State Govt. shall constitute a dedicated team involving State Forest Department, National Tiger Conservation Authority, Wildlife Institute of India and the project proponent including NDWA should oversee this project during and post construction phases, and shall provide regular management inputs for ensuring the conditions proposed herewith;
20. As per the Supreme Court order, 5% of the project cost corresponding to the project area falling inside the Protected Areas would be paid by the user agency for the development of the concerned National Park/Wildlife Sanctuary and the fund so collected from the Project should be used exclusively for funding conservation and administrative activities for the Panna Tiger Conservation Landscape;
21. **The State Govt. shall carry out fresh enumeration for entire project area by increasing the sampling intensity;**
22. There will not be any tree felling done above tree line up to FRL minus 10 Mts. Tree felling below 10 meter from FRL shall not be carried out before ascertaining that these trees are actually getting submerged for considerably long period and eventually die. It is only after actually attaining FRL that the decision to fell trees above FRL minus 10 shall be taken by the forest department;
23. The State Govt. and the user agency shall comply the recommendations made by the National Tiger Conservation Authority (NTCA) as per provisions of Sections 38 0 (2), 38 (0)(1)(b) and 38 (0)(1)(g) of the Wildlife (Protection) Act, 1972 inclusive of recommendations of the NTCA Committee constituted in December, 2013, recommendation of the Committee constituted by the Standing Committee of the National Board for Wildlife (NBWL) vide its 37 th Meeting, and discussions held by the Expert Group which was suggested in the 38th Meeting of the SC of NBWL); vide their letter no. 7-2/2016-NTCA dated 22.08.2016 subject to the modifications/recommendations of CEC in light of the cognizance taken by CEC regarding NBWL recommendations and communication of CEC dated 10th April 2017 and subsequent discussion in CEC office and approval of the Supreme Court, if referred by the CEC. **The condition listed in letter no. 7-2/2016-NTCA dated 22.08.2016 is given below:**

i. The following protected areas in the landscape shall be brought under Project Tiger;

- a) Nauradehi Wildlife Sanctuary, Madhya Pradesh
- b) Rani Durgawati Wildlife Sanctuary, Madhya Pradesh
- c) Ranipur Wildlife Sanctuary, Uttar Pradesh

Commencement of works shall not be permitted till notification of at least core/critical tiger habitats is carried out by respective State Governments. States should expedite the process as benefits of the project shall accrue to both.

ii. Critical areas in buffer of the Panna Tiger Reserve, which facilitate tiger dispersal to the west and south, shall be taken into the core/critical tiger habitat.

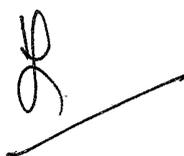


Necessary funding support to voluntarily rehabilitate people from these areas shall be borne by the user agency.

- iii. Areas of South Panna and Chhatarpur Divisions which have historically seen tiger presence shall be notified as buffer of the Panna Tiger Reserve and shall be brought under unified control of the Field Director Panna to ensure suitable interventions in the long run.
- iv. The aforesaid Landscape Management Plan (LMP) shall be prepared by the NTCA and WII with complete funding support by the user agency in three years. Phase I of the same shall focus on delineation of connecting/interlinking areas for tiger dispersal, at the micro level in consultation with stake holders and shall be completed within a year of commencement of LMP preparation work. No construction activity shall commence prior to delineation of these areas at the micro level. Strategies and management interventions for these delineated areas shall be proposed and implemented subsequently.
- v. The LMP shall inter alia, also focus on a vulture recovery programme in consultation with domain experts as per a dynamic scenario based on effect of construction of the works and water levels on nesting behavior;
- vi. The LMP shall be made part of the adjoining area plan/corridor plan of the Tiger Conservation Plan (TCP) of the Panna Tiger Reserve which shall categorically propose a tripartite Memorandum of Understanding between the State, Ministry controlling the User Agency (Ministry of Water Resources) and the NTCA ensuring reciprocal commitments by each party to safeguard the landscape. The contents of the MoU shall be worked by mutual consultation between the parties. However, the Panna Tiger Reserve Management need not wait for the LMP to be completed to furnish the TCP, as the LMP shall be incorporated as part subsequently by the NTCA as per Section 38 (0)(1)(a) of the Wildlife (Protection) Act, 1972.
- vii. At Gherighat region in the Panna Tiger Reserve, an early warning system shall be installed by the user agency to predict water levels so as to maintain connectivity with the west of the tiger reserve. If required, structural interventions camouflaged to mimic nature shall be constructed at cost of the user agency to maintain tiger dispersal to the west;
- viii. Along the canal alignment, structural interventions shall be carried out at wildlife cross over points, which are duly camouflaged and mimic nature, at cost to the user agency, so that dispersal is not hindered;
- ix. At the end of ramification of the submergence water level, suitable water retention structures like dykes, shall be created by the user agency which can hold water during pinch periods for wildlife after the water has receded;
- x. As the mitigation strategy envisaged involves operationalizing a landscape approach to tiger conservation, no new mining areas shall be proposed in the delineated corridor areas as well as those wherein tiger dispersal movement has been historically recorded. Further, extending of existing mining leases shall not be carried out until it is concretely justified that the project is in public interest and following due process of law;
- xi. A Committee shall be set up to monitor the works during pre-construction, during construction and post construction phases as follows;
 - (i) AIG (NTCA), Regional Office, Nagpur with AIG (NTCA), Headquarters as link officer.
 - (ii) Representative of the Wildlife Institute of India, Dehradun, conversant with the landscape
 - (iii) Deputy Director, Panna Tiger Reserve with Field Director, Panna as link officer
 - (iv) Representative of the Global Tiger Forum



- xii. Forest Clearance in the said case shall follow its due course and the matter shall be referred to the NTCA under Sections 38 (0)(1)(b) and 38 (0)(1)(g) of the Wildlife (Protection) Act, 1972 by the Forest Advisory Committee, when received, as per procedure.
23. (a) State Government of Madhya Pradesh and the user agency shall obtain prior approval before seeking Stage-II clearance from NTCA under Sections 38 of the Wildlife (Protection) Act, 1972;
 24. State Government of Madhya Pradesh and the user agency shall implement the approved Rehabilitation and Resettlement (R & R) plan of the project affected families in a time bound and transparent manner;
 25. To prevent illegal occupation/encroachment of the forest land by the families to be displaced from the project site, the user agency shall ensure that each family being displaced from the project site actually acquires and settles on non-forest land. Apart from taking other measures to achieve the said objective, as a measure to discourage the project affected families from encroachment on the forest land, payment of annuity for a period of at-least five years at the rate of the minimum wage payable to the unskilled person for 200 person-days per annum to each adult member of the project affected families, on receipt of a certificate signed by a forest officer not below the rank of a Range Officer having jurisdiction over the area where such person has settled after displacement from the project site, should be incorporated in the R & R plan. Payment of the said annuity should be an additionality and not in replacement of any of the benefits to be accrued to the project affected persons, as per the approved R&R Plan;
 26. The State Govt. shall ensure that the User agency shall track location of each displaced family and ensure that none of them encroach/ occupy forest land. In support of compliance to the said condition at least for five years from the date of taking possession of the forest land, the user agency shall submit an annual certificate to the Principal Chief Conservator of Forests, Madhya Pradesh that none of the persons displaced from the project land has encroached/ settled on the forest land during the year;
 27. 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;
 28. Any fund received from the user agency under the project, except the funds realized for regeneration/ demarcation of safety zone, shall be transferred to Ad-hoc CAMPA through online portal of Ad-hoc CAMPA account of the State Concerned;
 29. The User Agency shall obtain the Environment Clearance as per the provisions of the Environmental (Protection) Act, 1986, if required;
 30. No labour camp shall be established on the forest land;
 31. 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;
 32. The boundary of the diverted forest land 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;
 33. The layout plan of the proposal shall not be changed without the prior approval of the Central Government;
 34. The forest land shall not be used for any purpose other than that specified in the proposal;
 35. 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;
 36. The water shall be provided from the reservoir to the Forest Department for raising and maintenance of plantations and nurseries around the site whenever required, free of charge. The quantity and time of supply of water shall be as decided by the Forest Department.
 37. No damage to the flora and fauna of the adjoining area shall be caused;



38. Felling of trees on the forest land being diverted shall be reduced to the bare minimum and the trees shall be felled under strict supervision of the State Forest Department;
39. The User Agency shall undertake afforestation along the periphery of the reservoir and canals (as applicable).
40. The User Agency shall carry out muck disposal at pre-designated sites in such a manner so as to avoid its rolling down.
41. The dumping area for muck disposal shall be stabilized and reclaimed by planting suitable species by the User Agency at the cost of project under the supervision of State Forest Department. Retaining walls and terracing shall be carried out to hold the dumping material in place. Stabilization and reclamation of such dumping sites shall be completed before handing over the same to the State Forest Department in a time bound manner as per Plan.
42. The State Government and the User Agency shall ensure that the trees available between full reservoir level (FRL) and FRL-4 meters are not felled;
43. A plan for conservation of wildlife will be made by the User Agency in consultation with the CCF (Wildlife) to be implemented at the User Agency's cost.
44. 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;
45. The User Agency shall submit the annual self-compliance report in respect of the above conditions to the State Government and to the concerned Regional Office of the Ministry regularly;
46. 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
47. The User Agency and the State Government shall ensure compliance to provisions of the all Acts, Rules, Regulations, Guidelines and relevant Hon'ble Court Order (s), if any, pertaining to this project for the time being in force, as applicable to the project.

After receipt of compliance report on fulfilment of the conditions mentioned above, the proposal shall be considered for final approval under Section-2 of the Forest (Conservation) Act, 1980. Transfer of forest land shall not be affected till final approval is granted by the Central Government in this regard.

Yours faithfully,

(Nisheeth Saxena)

Sr. Assistant Inspector General of Forests (FC)

Copy to:-

1. The PCCF, Government of Madhya Pradesh, Bhopal.
2. The Member Secretary, National Tiger Conservation Authority (NTCA), 7th Floor, Paryavaran Bhawan, CGO Complex, Lodhi Road, New Delhi.
3. Addl. Director General of Forest (Wildlife), Ministry of Environment, Forest and Climate Change, IPB, New Delhi.
4. The Nodal Officer (FCA), O/o PCCF, Government of Madhya Pradesh, Bhopal.
5. The Addl. PCCF (Central), Regional Office, Bhopal.
6. User Agency.
7. Forest Conservation Monitoring Cell, MoEF&CC, New Delhi
8. Guard File.

(Nisheeth Saxena)

Sr. Assistant Inspector General of Forests (FC)