

Sub: Diversion of 19.52 ha of forest land for raising the height of Barvi Dam for submergence and rehabilitation in District Thane of Maharashtra – regarding.

1. The State Govt. of Maharashtra vide their letter no. FLD-1215/CR-292-F-10 dated 15.09.2015 was submitted a proposal for diversion of 19.52 ha of forest land for raising the height of Barvi Dam for submergence and rehabilitation in District Thane of Maharashtra to Regional Office, Nagpur.
2. The stated proposal was considered by the REC in its meeting held on 25.01.2015. The Addl. PCCF & Nodal Officer (FCA), Government of Maharashtra and representative of the user agency were also present in the said Regional Empowered Committee (REC) meeting. After detailed examination of the proposal and interaction with the Nodal officer (FCA) and representatives of the User Agency, the REC observed as under:
 - i. The Committee noted that project envisages raising the height of Barvi Dam in Thane District in the State of Maharashtra to meet the increased demand of water for industrial and drinking purposes. Project was already completed and in the 3 stages out of which two stages area already completed and in the **3rd Stage of the project, height of dam is proposed to be increased by 7.01 meters i.e. from RL 65.05 meters to 72.06 meters to augment the storage capacity of the reservoir to meet the increased demand of water in the region.**
 - ii. The Committee also noted that Government of India vide its letter no. 8-115/2000-FC dated 19.12.2005 had accorded approval for diversion of 513.66 ha of forest land. However, while submitting the initial proposal for diversion of 513.66 ha of forest land, an area of 14.17 ha of forest land coming into the submergence area of the project comprising of 5.88 ha of recorded forest land and 8.29 ha of restored forest land and additional area of 5.350 ha of forest land proposed for the rehabilitation of 4 villages, was not included in the proposal approved by the Central Government. Hence, the instant proposal for diversion of 19.52 ha of forest land comprising of 14.17 ha of forest land coming into the submergence area and 5.350 ha of forest land proposed for the rehabilitation of 4 villages, has been submitted by the State Government for approval under the Forest (Conservation) Act, 1980.
 - iii. The Committee also noted that during Stage-I a dam height was kept at 62.05 meters with storage capacity of 122.85 meters and during Stage-II a dam height was further increased to 66.05 meters with enhanced storage capacity of reservoir to 178.58 MCM and now during the Stage-III a further increase in the dam height by 7.01 meter has been proposed to increase the storage capacity to 340.48 MCM. **However, the user agency has provided no details or clarification regarding approval of the Central Government, if any obtained, under the Forest (Conservation) Act, 1980 for increasing the dam height from 62.05 to 66.05 meters and corresponding increase in the submergence area.**
 - iv. The Committee also noted that area does not form part of any Protected Area, however, it falls within the 10 km distance i.e. located at a distance of 8.586 Km from the boundary of Bhimashankar Wildlife Sanctuary. The user agency explained the Committee, as a consequence of increasing the dam height the approach road and private agricultural land will be submerged causing the connectivity problems for the villagers and hence their relocation is necessary. **On being asked by the Committee, about the alternative non-forest sites explored for the rehabilitation, the user agency has informed that they have tried to explore the non-forest sites but due to their distant location, the villagers did not opt for the same. However, the user agency could not produce any document supporting their claim about the exploration of the alternatives for the rehabilitation of the villages.**

- v. The Committee also note that user agency could not make the necessary detail available about forest area as wells as non-forest land/agricultural land of the villager likely to be submerged from the proposed increased height.
 - vi. **The Committee also noted that no detail about the compliance of the conditions stipulated in the Stage –II approval dated 19.12.2005 has been provided by the State Government along with the current proposal.**
 - vii. The Committee also taken note of the recommendation made by the PCCF wherein he has stated that Government of India do not allow diversion of forest land for rehabilitation of people. However, **such diversion may be considered as a special case, if diversion of forest land is essentially required for the rehabilitation of persons belonging to Scheduled Tribe, Scheduled Castes and other people who may have to be shifted form the core zone of a National park or a Reserve, the instant proposal does not qualify the criteria, which calls for special consideration.** The PCCF, adverting to the relevant Guidelines issued by the MoEF&CC, in respect of such cases, has further mentioned that such Guidelines have not been followed in this case and in case the Central Government considers the instant proposal for diversion, the said Guidelines as given under para 2.7 (ii) and 4.5 (i) and (ii) issued under the Forest (Conservation) Act, 1980 need to be relaxed to this extent.
 - viii. The Committee also noted that PCCF in his said recommendation has also mentioned that status of 9.015 ha of forest land indicated as Restored Private Forest is not substantial as the comments of the APCCF (Conservation) are yet to be received and the same will be submitted to the State Government on its receipt. Accordingly, Committee expressed its view that complete legal status of the forest land yet to be communicated by the State Government.
 - ix. The Committee from the further examination of the proposal ascertained that **no environment clearance, as per the provision of the EIA Notification, 2006, has been obtained by the project proponent for increasing the height or enhancing the storage capacity of the reservoir.**
3. In view of the above observations and above mentioned facts and also submission of inadequate information related to the proposal, it was found that the proposal is too immature to be decided by the Committee for making any recommendation for further consideration of the Central Government.
 4. **The Committee also considered the fact that the original proposal was dealt by the Central Government at Delhi and the instant proposal is for the additional requirement of the forest area i.e. area proposed for diversions in addition to what was approved by the Central Government in the year 2005 therefore, it will be prudent that current proposal, after attending to the observation of the Committee may be forwarded to the Ministry of Environment Forests & Climate Change- Delhi to take a holistic view on the proposal.**
 5. It is impretive to mention here that the In-principle approval and final approval for diversion of 513.66 ha of forest land for raising the height of the existing Barvi Dam in Thane district, Maharashtra was granted on 01.05.2001 (**Pg. 195-196/c**) and 19.12.2005 (**pg. 240-241/c**) respectively .
 6. It is also mentioned that the **Audit vide their Memo No. 41 dated 20.03.2013** in connection with diversion of 513.66 ha of forest land for raising the height of the existing Barvi Dam in Thane district, Maharashtra, observed that MoEF in May 2001 granted in-principle approval and final approval in December 2005 for diversion of 513.66 ha of forest land for raising the height of the existing Barvi Dam in District Thane, Maharashtra as against the recommendations of 256.782 hectares only from PCCF Maharashtra and RCCF, Bhopal on the certain conditions but **MoEF, had not initiated any action towards the recovery of NPV under the project.** The MoEF replied to Audit (**pg.253/c**) that the final approval was issued in 2006 after the State Government reported compliance regarding all conditions including deposition of monies for CA, CAT and transfer and mutation of non-forest land in favour of State Forest Department. However, the State Government has not recovered the Net Present Value (NPV) for 513.66 ha of forest land so far as per the Hon'ble Supreme Court's order communicated to State Government vide letter No. 5-1/98-FC (Part. I) dated

17/18.09.2003 that NPV shall be charged in all those cases which have been granted for principle approval after 13.10.2002.

7. Accordingly, as per the reply given to Audit and in view of the Hon'ble Supreme Court's order, the State Government was directed vide this Ministry's letter dated 9th May, 2013 to recover NPV from the project proponent immediately and deposit in Adhoc CAMPA . But no response in this regard is received from State Govt.
8. After examination of the above facts of this proposal and recommendation of REC in the FC Division of this Ministry, the State Govt. vide this Ministry's letter dated 09.03.2017(**Pg.1118/c**) was requested to submit their reply on the several observations. Now the Addl. Principal Chief Conservator of Forest of Maharashtra Nagpur vide his letter no. Desk-17/NC/II/ID.12398/(58)/2227/2017-18 dated 14.12.2017 (**Pg. 1119-1189/c**) in response to this Ministry's letter dated 09.03.2017 (**pg. 1118/c**) forwarding their response in connection with diversion for 19.52 ha of forest land for raising the height of Barvi Dam for submergence and rehabilitation in District Thane of Maharashtra. The poin-wise information as sought are as under:-

S. No.	Observations	Compliance
i.	Observation(i): The para-wise comments on the observation made by REC may be given. The minutes of REC are available on the website of this Ministry: www.forestclearance.nic.in .	
	Reply of State Govt.: The State Govt. stated that the user agency has submitted the para wise comments on the observation made by REC were submitted vide letter No. EE/D26570 dt. 26.09.2016(Pg.1125-1128/c).The point-wise detail are as under:	
	S. r. N o.	REC Observation
	1.	The committee noted that project envisages raising the height of Barvi Dam in Thane District in the State of Maharashtra to meet the increased demand of water for industrial and drinking purposes. Project was proposed to be implemented in 3 stages are already completed and in the 3 rd Stage of the project, height of dam proposed to be increased by 7.01 meters i.e. from RL 65.05 m to 72.06 m to augment the stoerage capacity of the reservoir to meet the increased demand of water in the region.
	2.	The committee also noted that Government of India vide its letter no. 8-115/2000-FC dated 19.12.2005 (pg. 240-241/c) had accorded approval for diversion of 513.66 ha of forest and coming into the submergence area of the project comprising of 5.88 ha of recorded forest land and 8.29 ha of restored forest land and additional area of 5.350 ha of forest land proposed for the rehabilitation of 4villages, was not included in the proposal approval by the Central Government. Hence, the instant proposal for diversion of 19.52 ha of forest land comprising of 14.17 ha of forest land coming into the submergence area and 5.350 ha of forest land proposed for the rehabilitation of 4 villages, has been submitted by the State Government for approval under the Forest (Conservation) Act 1980.
	3.	However, the user agency has provided no details or clarification regarding approval of the Central government, if any obtained, under the Forest
		No Comments
		No Comments
		The project was started in 1968 and was commissioned in 1976 with 62.05 m above MSL and top of the non over flow section was at 68.60

	(Conservation) Act, 1980 for increasing the dam height from 62.05 to 66.05 meters and corresponding increase in the submergence area.	m above MSL. Land up to a level of 68.60 m was acquired before Forest (Conservation) Act 1980 existed in 1980. The Central Government granted the permission for Diversion of 513.66 ha of forest land for height of the existing Barvi Dam vide letter dt. 15.12.2005. Up to raising height 72.60 m of 3 rd stage, the 3 rd stage has been not completed yet due to remaining of the diversion of the private forest land 19.52 h for which the additional proposal is submitted.
4.	However, the user agency could not produce any document supporting their claim about the exploration of the alternative for the rehabilitation of the villages.	As the three sites of the village Kolevadakhall, Tal- Murbad, Dist. Thane, Maharashtra will be surrounding by the back water of the dam, due to which their approach road will be submerged in water and the village will be isolated, and they can not reached their agricultural land during monsoon. Hence, they need to shift and rehabilitate near their agricultural land. The exploration took place for the require land. The surrounding of the village is mostly of forest land or private forest land. Hence, the proposed piece of private land was acquired land by MIDC in year 2001 however, the section 35 has been applied to this land in the year 2003. As there is no such land private owner of required quantum near by the village, there is no another option to rehabilitate the villagers at near by place. Hence, the said location plot has been incorporated in this diversion proposal and same may be considered.
5.	The committee also note that user agency could not make the necessary detail available about forest area as well as non-forest land/agricultural land of the villagers likely to be submerged from the proposed increased height.	The detailed map and breakup of land of the submergence of forest land as well as non – forest land and agricultural land of the villagers which is likely to be submerged from the proposed increased height is submitted herewith for information.
6.	The committee also noted that no detail about the compliance of the conditions stipulated in the Stage-II approval dated 19.12.2005 has been provided by the State Government along with the current proposal.	The compliance of the conditions stipulated in the Stage-II approval dated 19.12.2005 already been done by the MIDC. Accordingly, the MIDC has paid NPV charges amounting to Rs. 4175.15 lakhs to forest department as well as the necessary alternative Forest land in lieu of submergence land of 513.666 Ha land is given to forest Department as follow: - Lote Parshuram, Dist. – Ratnagiri: - 113.168 Ha, Nandgaon PethIndl. Area, dist. Amravati- 285.04 Ha. Mahad- 116.14 ha In addition to this MIDC has also paid the total amount of Rs. 1,23,54,490/- for deforestation under submergence land and alternative forestation amounting to Rs. 299.29 Lakhs and catchment area treatment amounting to Rs. 472.03 Lakhs. The concern forest officials have accepted the possession of above land and same can be verified from their office records.
7.	Central Government considers the instant proposal for diversion, the said Guidelines as given under para2.7(ii)	Since there is no alternative arrangement for rehabilitating of the village Kolevadakhall in

	and 4.5 (i) and (ii) issued under the forest (Conservation) Act, 1980 need to be relaxed to this extent.	nearby area and the land was acquired by MIDC for the same purpose before declaring it as private forest in 2003, it is requested to relax the guidelines issued under para 2.7(ii) and 4.5 (i) and (ii) of the Forest (Conservation) Act, 1980.
	8. Status of 9.015 ha of forest land indicated as Restored Private Forest is not substantial as the comments of the APCCF are yet to be received and the same will be submitted to the State Government on its receipt. Accordingly, Committee expressed its view that complete legal status of the forest land yet to be communicated by the State Government.	The details of status of 9.015 ha forest land indicated as Restored Private Forest may be obtained from Forest Department.
	9. The committee from the further examination of the proposal ascertained that no environment clearance, as per the provision of the ELA Notification, 2006 has been obtained by the project proponent for increasing the height or enhancing the storage capacity of the reservoir.	Clearance of the Ministry of Environment and Forests of Govt. of India is not required for this project vide letter no. J-12011/12/96-IA-I DT. 09.12.1996 (pg.1177/c). As per the provision of EIA Notification 2006 guidelines the Environmental clearance is not needed in this particular subjected proposal for increasing the height of dam and enhancing the storage of the reservoir (pg.1178-1188/c).
ii.	The State Government was requested vide this Ministry's letter of even number dated 09.05.2013 to recover NPV from the project proponent immediately towards diversion of 513.66 ha of forest land for raising the height of Barvi Dam in Thane District, Maharashtra and the same may be deposited in Adhoc CAMPA. But no record is available in file whether the admissible NPV was deposited in Adhoc CAMPA.	In this regard, The State Govt. informed that the user agency has deposited the amount of NPV i.e. Rs. 41,24,73,798/- vide cheque No. 757704 dt. 17.09.2009 drawn on "Bank of Maharashtra, Ambernath (E) and transferred in favour of "Ad-hoc body of CAMPA CA – 1575, Maharashtra", through RTGS No CORP 0000371 on account No 01001575 of Corporation Bank Block No II CGO Complex, phase-I Lodhi Road, New delhi-3. A copy of bank statement is given (Pg.1169-1170/c).
iii.	Details with documentary evidences for alternative sites explored by the State Government for rehabilitation purpose.	The State Govt. forwarded the comments of user agency which are as under:- The main businesses of the villagers of Kolevadkhal are farming. They do not want to shift away from their farms as it is not possible for them to do their day by day routine work by living away from the farms. Therefore villagers are insisting to rehabilitate them to their original village. Accordingly, the exploration took place for the required land. The surrounding of the village is mostly of forest land of private forest land. Hence, the proposed piece of private land was acquired by MIDC in year 2001. However, the section 35 has been applied to this land in Year 2003. As there is not such land of private owner of required quantum near by the village, there is no other option to rehabilitate the villagers at nearby place. Hence, the said location plot has been incorporated in this diversion proposal and same may be considered as a special case.
iv.	It may be clarified whether the conditions stipulated in Stage-II approval for diversion of 513.66 ha of forest land dated 19.12.2005 have been complied by the user agency.	The State Govt. informed that the user agency has submitted the compliance report of the conditions stipulated in Stage –II approval for diversion of 513.66 ha forest land. The same may kindly be seen at pg.1171-1172/c.

v.	Status of Environment Clearance is not given.	The State Govt. informed that that the user agency has submitted that GOI MoEF, vide letter no. J-12011/12/96/IA/I dt. 09.12.1996 (pg.1177/c). intimated that this project do not require Environment Clearance. As per notification of MoEF dt. 14.09.2006 this project does not fall under the Scheduled project hence do not required Environment clearance. Copy of said letter is enclosed (pg.1178--1188/c).
vi.	Status of Forest (Conservation) Act, 1980 approval to increase the height of Dam from 62.05 to 66.05 may be provided.	The State Govt. stated that the user agency has submitted that the Project was started in 1968 and was commissioned in 1976 with 62.05 m above MSL and top of the non over flow section was at 68.60 m above MSL. Land up to a level of 68.60 m was acquired by MIDC before enactment of Forest (Conservation) Act 1980. The Central Government granted the permission for diversion of 513.66 ha of forest land for raising height of the existing Barvi Dam vide letter dt. 15.12.2005. Raising of height up to 72.60 m under IIIrd stage has been not completed yet because diversion of remaining private forest land 19.52 Ha is pending and for which the additional proposal has submitted.
vii.	A CD containing Digital maps (Differential GPS) in shape file / KML file of the forest land approved earlier for diversion of 513.66 ha of forest land on 19.12.2005 and Compensatory Afforestation done in lieu of earlier diversion. In addition, the shape file / KML file of the forest land proposed now for diversion and Compensatory Afforestation site identified towards proposed diversion of 19.52 ha of forest land may be given.	The user Agency has submitted the CD of KML/ shape file of the forest land approved earlier for diversion of 513.66 ha and for this proposal 19.52 ha is enclosed .

In view of the above, the facts of the proposal may be placed before FAC in its forthcoming meeting to be held on 25.01.2018 for consideration and appropriate recommendation.
