

**RECOMMENDATIONS MADE BY THE FOREST ADVISORY COMMITTEE IN ITS
MEETING HELD ON 27th DECEMBER, 2022**

Agenda No. 1

F.No. 8-20/2014-FC

Sub: Diversion of 1165.66 ha (including 91.331 ha underground area) of forest land for construction of Etalin Hydro Electric Project (EHEP) (3097 MW) in Dibang Valley District of Arunachal Pradesh by M/s Etalin Hydro Electric Power Company Limited, Arunachal Pradesh.

1. The agenda item was considered by the Forest Advisory Committee in the meeting held on 27.12.2022. The corresponding agenda note may be seen at www.parivesh.nic.in. The Nodal Officer (FCA), Government of Arunachal was present in the meeting.
2. The Member Secretary placed all the facts and background of the proposal, along with examination of the proposal in the DSS, before the FAC for examination and analysis. The Committee was also apprised of the provisions of other Acts & Rules relevant to the proposal and their significance.
3. The FAC after through deliberation and discussion observed that:
 - i. The Proposal was earlier considered by FAC on 28.01.2015, 28.02.2017, 17.10.2019, 23.04.2020 and 11.05.2022.
 - ii. A Sub-Committee of the FAC visited the area on 10.02.2020 to 15.02.2020 and after analysis of all issues in a holistic manner submitted the report to the FAC recommending the project.
 - iii. Comments of the M/o Power, Government of India, Wildlife Institute, Dehradun, NTCA, Impact Assessment and Wildlife Divisions of MoEF&CC were also obtained by the Forest Conservation Division. Ministry of Power has recommended the project. IA Division of the Ministry has also recommended the project. Similarly, WII and NTCA have suggested to take cognizance of certain safeguards and mitigating measures for the better conservation and protection of wildlife in the area while considering the approval of project.
 - iv. Pr. Secretary (Forest)/PCCF (HoFF) informed the Committee that State Government is inclined to go ahead with the project. Committee was also apprised that all issues have been examined by the State, including representation received against the project from the public and after thorough examination and due diligence at State level, the State has recommended the project for approval under the FC Act, 1980.
 - v. In the FAC meeting held on 11.05.2022 two committees were constituted. One

committee was constituted under the chairmanship of Dr. Sanjay Deshmukh to examine the content of all the representations made against the proposal. The second committee was constituted under the chairmanship of Regional Officer, Integrated Regional Office, Guwahati and Nodal Officer (FCA), Govt. of Arunachal Pradesh as a member to visit and monitor the compliance of conditions of various FC approvals for Hydro-electric Projects in past in the State of Arunachal Pradesh.

- vi. The committee constituted under the chairmanship of Dr. Sanjay Deshmukh, visited Arunachal Pradesh from 08.06.2022 to 12.06.2022 and submitted the report on 06.12.2022 with the below mentioned recommendation/observation.

I. The recommendations of the Wildlife Conservation Report prepared by Wildlife Institute of India (WII), Dehradun (based on the EIA and other detailed studies carried out by WII Dehradun) may be reviewed by the FAC during its meeting also take due cognizance of

- a. *the views (in writing) expressed by (i) Union Ministry of Power with regard to its consent to proceed with the Project as per previous "Proposal", and (ii) the EAC of MoEF&CC about in principle approval of the Project, as well as*
- b. *those of Wildlife Division of MoEF&CC (which, in consultation with NTCA has already provided its views on whether the Project be considered for approval), and accordingly confirm suitability of the Etalin Project for its implementation in Dibang Valley District of Arunachal Pradesh as proposed by the Project Proponent.*

II. During the Project implementation phase:

- a. *The project mitigation and wildlife management plan based on the recommendations of WII, as per due endorsement of Wildlife Division of MoEF&CC and FAC, could be suitably executed by the Project Proponent.*
- b. *Increase the ambit of economic and social benefits to Project-Affected families, inclusion of affected areas of Lower Dibang District within the target beneficiaries of the Project could be done with formal approval of the concerned Ministry- either MoEF&CC and/ or Union Ministry of Power, Government of India.*
- c. *Recommendations of the FAC Sub-Committee that visited the Project Site in January 2020, with regard to (a) provision of adequate infrastructure (VSAT facility), (b) patrolling facilities (vehicles, etc.), and (c) provision of desired manpower (on contract) with payment for at least three years, be done by the Project Proponent.*

III. After formal recommendation for sanction of the proposed Project, FAC may consider holding a joint meeting with Wildlife Division (along with NTCA representatives), EAC, and other relevant authorities within the MoEF&CC as well as representatives of Union Ministry of Power to

prepare comprehensive recommendations that would be implemented by Project Proponent under overall supervision of Forest Department of Arunachal Pradesh in years to come.

- vii. The second committee constituted as per the decision of FAC held on 11.05.2022 has not submitted the report yet.
- viii. FAC observed that large no. of representations is received voicing concerns against the project.
- ix. It was also deliberated that State Government have poor record of compliance w.r.t. conditions stipulated by FAC in the approval accorded for the earlier projects.
- x. FAC also observed that the proposal was send by the State Govt. way back in 2014, it is imperative to review the facts and figures presented by the state especially w.r.t. number of trees which are required to be felled.
- xi. With respect to the observations of FAC, The Nodal Officer (FCA), Govt. of Arunachal Pradesh submitted the following: -
 - a. Assessment of trees may change however, he submitted that earlier submitted figure may be considered and the actual no. of trees to be felled will be provided once the project commences.
 - b. State Nodal Officer also highlighted the remoteness of the area and the proposed project fall in eastern part of Arunachal Pradesh which is remote and close to the international border areas.
 - c. State Nodal Officer also highlighted that there are lot of representations objecting to the present proposal and with regard to already approved projects as well. Due to which already approved projects have not yet started and certain project are not yet being completed.
 - d. With regard to compliance of earlier granted proposals and the conditions stipulated therein the State nodal submitted that there are difficulties in declaring area as protected area due to the rights of communities involved.

4. Decision of the FAC: - The Committee had detailed discussion and deliberation with Nodal officer (FCA), Arunachal Pradesh. After going through the facts of the proposal and submissions made by the Nodal Officer, the Committee observed that: -

- i. It was noted that since the original proposal was sent by the State Govt. way back in 2014 it is imperative to review the facts and figures presented by the State Govt. especially w.r.t. number of trees which requires to be felled. In this regard, a robust empirical estimate is needed and the State Govt. may seek consultation with FSI in this regard. Further, the concerns regarding the biodiversity and protection of wildlife needs further assessment and safeguards. The Sub-Committee headed by

Dr. Sanjay Deshmukh had observed that the multi seasonal replicate bio-diversity study may be carried further to include multi-seasonal replicate study as desired by the FAC earlier. A cumulative impact assessment is needed considering other projects (hydropower) in the Dibang valley. In addition, the IRO had made certain observations vide letter dated 6th October 2020 regarding the cost and benefit analysis, the State Govt. may offer comments on this matter or submit a revised cost and benefit analysis considering the present fact and figures.

- ii. It was highlighted that in the earlier approved projects where in Forest Clearance has been accorded there is poor record of compliance w.r.t. conditions stipulated by FAC while according the forest clearance. Further, FAC took note of the submission made by the State Nodal Officer that there are lot of representations objecting to the present proposal and with regard to already approved projects as well. Due to which already approved projects have not yet started and certain project are not yet being completed. In view of the above, the FAC requested the State Govt. to review the status of all approved projects (operationalization/execution of the projects, commencing & completion of the project and there after compliance with regard the Stage-I and Stage-II conditions) and submit a status report to this Ministry at the earliest.
- iii. With regard to the 424.83 ha of land which has to be handed over to the State Forest Dept. after commissioning of the project as proposed by the User Agency and State Govt, further details such as KML files of various pockets of land to be handed over back to State Forest Dept., R&R plan for reclamation of the proposed area are required.
- iv. The State Govt. may consider the recommendations of the report submitted on 06.12.2022 by the Sub-Committee under the chairmanship of Dr. Sanjay Deshmukh and take necessary action accordingly with regard to the aspects related to the instant proposal and offer its comments.
- v. The present proposal there are large no. of representation voicing concerns against the project. To resolve the issues raised in various representations the State Govt. may constitute a high level empowered committee to look into the various concerns received and come up with resolution therein. The Sub-Committee constituted by FAC earlier in the Chairmanship of Dr. Sanjay Deshmukh has looked into the representations received and submitted a report with recommendations. However, there are more representations which were received by this Ministry after the visit of the Sub-Committee as well and the same have been communicated to the State Govt. The representations are generally raising concerns against the instant proposal and need proper redress by the State Govt. in totality.

Considering the above, FAC opined that the instant proposal cannot be considered in the present form and the revised proposal may be submitted for further consideration by the State Government.

Agenda No. 2

F.No. 8-33/2019-FC

Sub: Proposal for diversion of 83.12 ha (94.712 ha proposed originally) of forest land for drilling of Oil well at 27 new locations in Changlang District of Arunachal Pradesh by M/s Geo-Enpro Petroleum Limited seeking forest clearance under Section 2(ii) of FC Act' 1980 – regarding.

1. The agenda item was considered by the Forest Advisory Committee in the meeting held on 27.12.2022. The corresponding agenda note may be seen at www.parivesh.nic.in. The Nodal Officer (FCA), Government of Arunachal was present in the meeting.
2. The Member Secretary placed all the facts and background of the proposal, along with examination of the proposal in the DSS, before the FAC for examination and analysis. The Committee was also apprised of the provisions of other Acts & Rules relevant to the proposal and their significance.
3. The FAC after deliberation and discussion observed that:
 - i. The proposal is for diversion of 83.12 ha (94.712 ha proposed originally) of forest land for drilling of Oil well at 24 new locations in Changlang District of Arunachal Pradesh.
 - ii. Legal status of the land proposed for diversion is Reserved Forest.
 - iii. Density of vegetation has been reported to be 0.2 to 0.3 and the forest is of Eco Class I with 889 Trees (198 with girth above 60 cm and 691 with girth below 60 cm) project affected trees.
 - iv. No violation of Forest (Conservation) Act, 1980 have been reported.
 - v. As per Decision Support System the area does not fall in High Conservation Value Zone.
 - vi. The proposal was earlier considered in the FAC meeting held on 31.03.2022.
 - vii. Earlier the CA area for 190 ha. was identified in degraded unclassified community forests and notified as village Reserve Forest (VFR) namely 'Muktur VFR' as per para 2.4 (ii) of this Ministry's handbook of FCA 1980 and FC rules 2003 (guidelines & clarifications) issued in 2019. Later CA area was revised by the State Government and has identified an area of 166.25 ha at Venyi Happa VFR under Hapoli Forest.
 - viii. The proposal was considered in the FAC meeting held on 31.03.2022. In this

meeting it was decided that CA site may be visited by the Sub-Committee of FAC to ascertain its suitability to avoid fait accompli situation in future. Regional Officer, Guwahati will also be part of the Sub-Committee. Following additional information may also be obtained from the State for further consideration of the proposal:

- a. Complete detail of Petroleum Mining Lease, status of grant of general approval, if any, and status of deposition of 2% NPV in pursuance to Ministry's Guidelines dated 24.06.2015
 - b. Detail of forest land involved in the 29 bore holes stated to be drilled already and status of approval, if any, obtained under the Forest (Conservation) Act, 1980.
 - c. Certificate of District Collector certifying the process of settlement of rights needs to be furnished strictly in accordance with the MoEF&CC advisory date 5.07.2013, incorporated at Annexure- II of the Handbook at appropriate time.
 - d. The State Government may also submit its comments on 3 bore holes locations, dropped temporarily by the user agency which are overlapping with the area diverted for mining in Namchik Naphuk Coal Block.
- ix. As per the decision of FAC, a Sub-Committee was constituted under the chairmanship of Dr. Sanjay Deshmukh. The sub-committee inspected the identified CA land from 08.06.2022 to 12.06.2022 and submitted the report on 15.11.2022 with the recommendation that the Sub-Committee found the area suitable for taking up Compensatory Afforestation.
 - x. Further, the State government on 21.06.22 followed by 03.12.2022 submitted the additional information as sought by FAC in its meeting held on 31.03.2022.
 - xi. FAC also observed that the user agency has agreed to temporarily keep in abeyance of three drilling well piths i.e. NL-04, NL-08 & NL-23 falling in overlapping area with Namchik-Namphuk Coal Block till the time of overlapping issue is resolved with Ministry of Coal and in the proposed diversion, area of 3 Nos. wells (11.30 ha.) required to be kept in abeyance from the overlapping area. It is also requested to convey the approval for the effective area which now stands as 83.412 ha. (94.712 ha – 11.30 ha) for diversion under the instant project. In this regard the FAC stated that the diversion will be for 83.412 ha only and the three drilling well piths i.e. NL-04, NL-08 & NL-23 (11.30 ha) falling in overlapping area with Namchik-Namphuk Coal Block should be dropped from the instant proposal.
4. **Decision of the FAC:** - The Committee had detailed discussion and deliberation with Nodal officer (FCA) of Arunachal Pradesh. After going through the facts of the proposal and submissions made by the Nodal Officer, the Committee recommended for grant of in-principle approval for an area of 83.12 ha (originally

proposed 94.712 ha) excluding the three drilling well piths i.e. NL-04, NL-08 & NL-23 (11.30 ha) falling in overlapping area with Namchik-Namphuk Coal Block with general and standard conditions.

Agenda No. 3

F. No. 8-32/2022-FC

Sub: Proposal for seeking prior approval of the Central Government under Section 2 of Forest (Conservation) Act, 1980 for non-forestry use of 48.6711 ha of forest land for relocation of Army Ammunition Depot from Powari to Lippa, District Kinnaur State Himachal Pradesh (Online Proposal No. FP/HP/DEF/40603/2019)-:

The proposal was deferred for discussion in the next Forest Advisory Committee. The FAC desired that the Nodal Officer (FCA), Govt. of Himachal Pradesh should be present in person in the next FAC meeting for discussion.

Agenda No. 4

F. No. 8-17/2020-FC

Sub: Proposal for seeking prior approval of the Central Government under Section 2 of Forest (Conservation) Act, 1980 for non-forestry use of 64.2016 (Originally proposed 75.3931 ha) ha of forest land for construction of North Campus of Central University in favour of the Registrar Central University Himachal Pradesh at Dharamshala, District Kangra State Himachal Pradesh (Online Proposal No. FP/HP/Others/39044/2019).

The proposal was deferred for discussion in the next Forest Advisory Committee. The FAC desired that the Nodal Officer (FCA), Govt. of Himachal Pradesh should be present in person in the next FAC meeting for discussion.

Agenda No. 5

File No. 8-05/2022-FC

Sub: Proposal for diversion of 466.592 ha. Forest land in favour of Airport Authority of India Kota for Construction of New Green Field Airport Kota, District – Bundi in the State of Rajasthan- regarding. (Online Proposal No. FP/RJ/Others/150590/2021)-Reg.

1. The agenda item was considered by the FAC in its meeting held on 27.12.2022.

The corresponding agenda note may be seen at www.parivesh.nic.in.

2. During the meeting, all the factual details along with examination of the proposal in the DSS were presented before the FAC which after thorough deliberation and discussion observed that:
 - i. Government of Rajasthan has submitted proposal for diversion of 466.592 ha. forest land in favour of Airport Authority of India for Construction of New Green Field Airport at Kota.
 - ii. The proposal has been recommended for approval under section 2(ii) of Forest (Conservation) Act, 1980 by DFO, CCF, PCCF/Nodal Officer and the State Government.
 - iii. The entire 466.592 ha area proposed for diversion falls within notified Buffer area of Ramgarh-Vishdhari Tiger Reserve (Notified by the Rajasthan Govt. on 16.05.2022) and the same is within 10 Kms of Chambal Ghariyal Wildlife Sanctuary. State Government has intimated that the ESZ of the Chambal Ghariyal Wildlife Sanctuary has not been notified, however, keeping in view the default ESZ of 10 Kms, the Wildlife clearance has been obtained from the Standing Committee of the National Board for Wildlife. Further, the proposed area is also within 10 Kms of the Mukundra Hills Tiger Reserve, however, it is not within its notified ESZ.
 - iv. The proposal for exclusion of the proposed area from the Buffer zone of Ramgarh-Vishdhari Tiger Reserve is under consideration. The consent of the NTCA has been obtained in this regard, however, approval from the SCNBWL is yet to be obtained. The State Govt. informed that Wildlife Clearance is required from the NBWL and application has already been submitted for the Wildlife Clearance.
 - v. With reference to the justification for locating the project in the forest area, it has been submitted that the construction of New green field airport Kota has been examined for Social, Technical and Economical consideration and possible efforts were made to avoid the forest land by Airport Authority of India Kota, Rajasthan, but the existing Kota airport is located in the urban area and surrounded by the sub-urban area therefore existing airport expansion is not feasible hence new green field airport has been proposed. Further, it has been informed that as per the Airport Authority of India site requirements, the proposed site is the most feasible therefore no other alternative is feasible. It has also been stated that the area of forest land involved for the construction of New Green Field Airport Kota, District-Bundi in the State of Rajasthan is bare minimum.
 - vi. The comments were sought from NTCA, which has informed vide letter dated 23.12.2022, that the NTCA has no objection to the aforementioned forest diversion proposal.

- vii. Transmission lines of Power Grid Corporation of India Limited (PGCIL) are passing through the proposed area and the PGCIL is ready to shift/re-route them. As intimated by the State, the shifting of the Transmission lines will require additional forest land and a separate diversion proposal will be submitted by the concerned user agency. In this regard, the KML file showing 'To & Fro' passage of the transmission line proposed to be shifted have not been received. However, a sketch has been provided indicating the shifting of existing transmission lines which is not legible.
- viii. The CA is proposed to be carried out over 933.18 ha Degraded Forest Land in 13 patches in various locations spread in Dabi and Hindoli Ranges of Bundi Division.
- ix. The IRO Jaipur in its SIR has reported that out of 2276.29 ha forest land in Jhakhmund Forest Block, Dabi -Range of Bundi Forest Division, 466.592 ha forest land is proposed for New Green Field Airport. Two fragmented patches of forest land on Northern side of the proposed airport, which are about 33.5 ha. and 137.01 ha. will be left prone to encroachment. It is proposed to construct boundary wall for these two patches for saving the fragmented forest area from encroachment. The State Government has however submitted that the wall will be constructed by the State Government at its own cost.
- x. As per DSS analysis, a part of area which has been reported to be Non-forest land by the State is within the digital boundary of the forest as available on DSS portal. After detailed discussion it was observed that there is discrepancy in the actual status/extent of forest and the digital boundary of the forest land. The digital boundaries prepared by the State would therefore need correction.
- xi. The area proposed for CA is infested with *Prosopis juliflora* and Lantana. Therefore, as recommended by the IRO, the provision for removal of such species has to be incorporated wherever necessary in CA plantations.
- xii. As per component wise breakup provided in the proposal, a forest area of 93.322 ha is proposed to be used for City side commercial development. Further, the proposal also involves 33.408 ha Non forest land proposed to be used under various components. The FAC observed that the forest area proposed for city side commercial development must be kept at bare minimum and accordingly the layout is required to be revised.

6. Decision of the FAC: FAC after thorough deliberation and discussion with the Nodal Officer (FCA) Rajasthan and IRO Jaipur decided that the State Government shall not use more than 33.408 ha forest land (an area equivalent to the Non-forest land involved in the proposal) for commercial city side development. Accordingly, the FAC recommended a forest area of 406.678 ha (out of the originally proposed 466.592 ha.) for In-Principal/Stage-I approval with General, Standard and following specific conditions: -

- i. The revised layout plan indicating different components shall be submitted.
- ii. The proposed area is within the default ESZ of the Chambal Ghariyal WLS and within the Buffer zone of Ramgarh-Vishdhari Tiger Reserve. It has been intimated that the proposal for exclusion of the proposed area from Buffer Zone of Tiger Reserve is under consideration. The State Govt. shall therefore submit a copy of the Wildlife clearance in case of Wildlife Sanctuary and the notification excluding the proposed area from the Buffer zone of Tiger Reserve.
- iii. In order to save the forest land from encroachment, the State Govt. shall take necessary action/steps to construct boundary wall for the two fragmented patches of forest land (i.e. 33.5 ha. and 137.01 ha. as recommended by the IRO) on the Northern side of the proposed area.
- iv. The State Govt. shall rectify the discrepancy in digital boundary of the forest land of the concerned area and submit the correct digital boundary to FSI, Dehradun for updating the same on DSS portal.
- v. The provision for removal of *Prosopis juliflora* and Lantana shall be incorporated wherever necessary in CA plantations
- vi. The KML/shape files along with the area details of the existing and proposed new alignment of the transmission line shall be submitted.

Agenda No. 6

File No. 8-04/2021-FC

Subject: Proposal for diversion of 382.131 hectares of forest land for Bunder Diamond Mining Project in favour of M/s Essel Mining & Industries Limited, District Chhatarpur, State of Madhya Pradesh (Online No. FP/MP/MIN/45288/2020) - regarding.

1. The above stated agenda was considered by FAC in its meeting held on 27.12.2022. The details of the proposal may be seen at www.parivesh.nic.in.
2. During the meeting, all the factual details along with examination of the proposal in the DSS were presented before the FAC which after thorough deliberation and discussion observed that:
 - i. The Government of Madhya Pradesh vide their letter No. F-1/822/2021/10-11/577 dated 05.02.2021 forwarded a fresh proposal to obtain prior approval of the Central Government, in terms of the Section-2 (ii) of the Forest (Conservation) Act, 1980 on the above mentioned subject.
 - ii. This proposal was considered by FAC in its meeting held on 31.03.2022.

- iii. The FAC in its meeting dated 31.03.2022 deferred the proposal with following observations:
- a. The Standing Committee of National Board for Wildlife in its 39th meeting held on 23.08.2016 in case of Ken-Betwa proposal had recommended that no new mining lease will be granted in this landscape considering its significance in permitting tiger dispersal.
 - b. The site inspection committee constituted by the SCNBWL in its recommendation in case of Ken-Betwa proposal has recommended that: *To protect the small landscape of PTR and its surrounding areas and also to reduce sedimentation in the reservoir and maintain water flow in the Ken River, there should be no destructive activities, including mining in the Ecologically Sensitive Zone and catchment area of the river. New industrial development or mining or expansion of the existing mining in and around the landscape would seriously compromise the scope for tiger's survival in Panna Tiger Reserve.*
 - c. The project involves 215875 trees. However, out of the total forest land involved, an area of 138.31 ha is proposed for side burden and waste dump and another 66.34 ha is to be used as Tailing Dump. The State Govt. has not provided enough justification for using large chunk of forest area for dumping.
 - d. While deciding the proposal for diversion of 971.595 hectares of forest land for Diamond Mining Project in case of Rio-Tinto the FAC had observed that as per NTCA report, project can potentially disrupt the landscape character vis a vis tiger dispersal around Panna landscape as such this may be taken only when Ken Betwa link project is finalized as well as detailed study done to assess other alternatives. The State Govt. may therefore provide the status of the Ken-Betwa link project.
 - e. The project involves diversion of the course of a stream and creation of a waterbody, which may adversely affect the watershed and the flow of water downstream thereby affecting the biodiversity as well as the effectiveness of Ken-Betwa link project. The State Govt. shall examine whether the ecological impact of diversion of stream and creation of water body has been taken into account or not? A detailed report in this regard shall be submitted.
 - f. The State Govt. shall submit the latest status of the Original Application pending in the Hon'ble NGT in this regard.
- iv. The same was communicated to the Government of Madhya Pradesh vide Ministry letter of even no. dated 08.04.2022 and in this reference, the State Government vide their letter dated 30.11.2022 submitted the information.
- v. The project involves 2,15,875 trees. Moreover, out of the total forest land involved,

an area of 138.31 ha is proposed for side burden and waste dump and another 66.34 ha is to be used as Tailing Dump. Further, the State Government has informed that the successful bidder is entitled to conduct mining operations only in the lease area and accordingly dumping of kimberlite, waste and tailings is proposed within mining lease area. The said justification given for utilizing forest land for dumping the overburden is not tenable and the State Government should have explored other alternatives on non- forest land for this purpose.

- vi. The proposed area falls under Inviolable or in high conservation zone (HCV) category as per the DSS Rule-2 because total 3 grids of 1x1 sq km are falling on the mining lease area and all the 3 grids are having average score above 70 by taking into consideration average score of four major layers (Forest cover, Forest type, Biological richness and Landscape integrity).
- vii. The Standing Committee of the National Board for Wildlife in its 39th meeting held on 23.08.2016 in case of Ken-Betwa proposal had recommended that no new mining lease would be granted in this landscape considering its significance in permitting tiger dispersal.
- viii. Further the IGF (NTCA) who attended the meeting informed that the proposed mining site is located in a landscape which has the presence of tigers and leopards. Moreover, the tiger population in Panna Tiger Reserve is improving and the proposed area will play a vital role for tiger dispersal in future. The Tiger corridors are also being redrawn.
- ix. A huge area comprising of important Tiger Habitat in Panna Tiger Reserve will be submerged after the construction of Ken-Betwa project. Any further loss in the landscape would be cumulative, adding to the area being lost to the Ken-Betwa river interlinking project. Considering the Ken-Betwa river interlinking project, the proposed area may have a greater significance in permitting tiger dispersal in future.

3. Decision of the FAC: The FAC observed that the instant project can potentially disrupt the landscape character vis-a-vis tiger dispersal around Panna landscape. Further, the instant proposal may be taken up for consideration only when Ken-Betwa river interlinking project is finalized, the tiger dispersal in the area post construction of Ken-Betwa link project is studied and a detailed study is done to assess other alternatives. After detailed discussion with the Nodal Officer (FCA), Madhya Pradesh and Dy. DGF (Central), IRO, Bhopal, keeping in view the location of the proposed area, the recommendation of the NTCA and the non-site specific components of project, the FAC decided that the proposal cannot be accepted in its present proposition.

Agenda -7 (Policy issues)**Policy issue No - 1**

Subject: Request for extending the guidelines for allowing commencement of mining operations in non-forest land before obtaining Stage-II FC for non-coal mining leases involving both forest and non-forest land similar to coal mines - reg (File No. FC-11/66/2022-FC)

1. The policy agenda item was considered by the Advisory Committee in its meeting held on 27.12.2022. The corresponding agenda note may be seen at www.parivesh.nic.in.
2. The Member Secretary explained all the facts and background of the matter to the Committee for their examination and analysis.
3. After through deliberation and discussion, the Committee observed that:
 - i. The Ministry vide letter no. FC-11/238/2019-FC dated 10.12.2021 issued guideline allowing commencement of mining operations in non-forest land in respect of coal mines after obtaining Stage-I approval under the Forest (Conservation) Act, subject to fulfilment of the following conditions:
 - a. The Mining Plan for working in the non-forest area within a coal block/lease (which also has forest area within it), shall not involve any forest area in the coal block/lease concerned.
 - b. No component/activity of the mining in the non-forest forest of such block/lease shall have any dependency in the forest area of the same block/lease.
 - c. Such permission in the non-forest area shall not create any obligation or *fait accompli* with regard to approval (Stage-I or Stage-II) under the Forest (Conservation) Act, 1980 by the Central Government.
 - d. Stand-alone proposal shall be made, if mining is intended in the forest area of the coal block/lease, under the provisions in the FC Act, 1980. No reference of mining already taken up in non-forest area shall be made in such proposal.
 - e. In case of any violation over forest area is reported, matter shall be dealt as per the provisions in the FC Act, 1980 and Rules made thereunder.
 - f. Provisions of the all Acts, Rules, Regulations, Guidelines, Hon'ble Court Order (s) and NGT Order (s), pertaining to mining, for the time being in force, as applicable shall be complied with.
 - ii. Adverting to above guidelines, FIMI has now requested to extend the said dispensation to non-coal mining projects also. Besides this, Ministry of Coal and M/o Mines have requested the Ministry to reconsider the condition mentioned at clause (a) of the said guidelines citing the limitation that breaking of the Mining

- Plan for forest and non-forest land of a Mining lease is not allowed given the current statutory provisions and guidelines issued under the MMDR Act, 1957.
- iii. The Committee observed that Ministry with a view to avoid the situation of fait accompli likely to be emanating from the decision/approvals granted under the Forest (Conservation) Act, 1980 has always adhered to the directions of Hon'ble Supreme Court and ensured that guidelines clarification issued by the Ministry do not result into such situations.
 - iv. In the year 2015 also, the Ministry, while considering working on non-forest land in leases having forest as well as non-forest, has issued guidelines dated 10.11.2015, clarifying that the State Government, if so desire, may execute a separate mining lease for a whole or part of non-forest land falling in such mining leases, once the Stage-I approval is obtained and single lease may be executed after Stage-II approval.
 - v. Committee also observed that allowing working on non-forest land without ensuring the separate mining plan or lease for the non-forest land may create fait accompli situations which is not permissible in terms of direction contained in the Hon'ble Supreme Court order dated 6.07.2011 (Lafarge Judgment). Therefore, guidelines dated 10.12.2021 aptly address the issue related to creation of fait accompli situations.
4. **Decision of the FAC:** After detailed discussion and deliberation on the proposal with the Regional Officers and Officials of the Forest Conservation Division, the Committee decided that in mining leases having forest as well as non-forest land, working on non-forest land without ensuring the separate mining plan or lease for the non-forest land may *create fait accompli* situations, which is not desirable in terms of directions contained in the Hon'ble Supreme Court orders. Therefore, Advisory Committee decided that after obtaining the Stage-I approval, deposition of compensatory levies and environment clearance, the State/UT Government or authorities concerned should prepare a separate Mining Plan or execute a separate mining lease for full or part of non-forest land involved in the mining lease before allowing mining operations in the non-forest land of such mining leases.

Policy issue No - 2

Sub: Request for transfer of exemption of Compensatory Afforestation Land granted for broken area prior to 1980 under forest clearance of mining leases to new lessee after expiry of old lease tenure.

1. The policy agenda item was considered by Advisory Committee in its meeting held on 27.12.2022. The corresponding agenda note may be seen at www.parivesh.nic.in.

2. The Member Secretary explained all the facts and background of the matter to the Committee for their examination and analysis.
3. After through deliberation and discussion, the Committee observed that:
 - i. Issue involved relates to applicability of CA in lieu of forest areas which have been broken prior to 1980 but still forms the part of the mining lease. A clarification in this regard has been requested by the Indian Steel Association in light of circumstances emerging from the provisions of the MMDR Amendment Act, 2021 and Ministry's guidelines dated 7.07.2021.
 - ii. Provisions of MMDR Amendment Act, 2021 authorizes the new lessee to carry out the mining operations after the expiry of the mining leases and also provides for transfer of all statutory approvals vested with the erstwhile agency to the new lessee (successful bidder).
 - iii. Further, guidelines dated 7.07.2021 were issued by the Ministry to align the provisions of validity of approvals granted under the Forest (Conservation Act, 1980 provides for transfer of approval granted under the FC Act, 1980 from the erstwhile agency to the new agency subject to certain conditions prescribed therein, including compliance of NPV and CA, if the same was not done earlier.
 - iv. As per the provisions of guidelines issued by the Ministry in the past it was held that in respect of mining leases granted/continuing before 1980, prior approval of the Central Government under the FC Act 1980 was not required during the currency of such lease, however, at the time of renewal approval under the FC Act, 1980 is was required to be obtained and such leases will be treated as afresh for the purpose of FC Act, 1980.
 - v. Committee also observed that since during the intervening period of almost 42 years, after the enactment of Forest (Conservation) Act, 1980 there has been substantial changes/amendments in the legislations relating to grant of various statutory approvals to mining leases. Moreover, Hon'ble Supreme Court has also given a number of decisions which may have bearing in the matter. Committee opined that matter needs holistic examination.
4. **Decision of the FAC:** After detailed discussion and deliberation on the proposal with the Regional Officers and Officials of the Forest Conservation Division, the Committee observed that during the intervening period of 42 years, a number of changes/amendments have been in the various legislations and also Hon'ble Supreme Court passed many decisions which may have bearing in the matter. Accordingly, the FAC decided that Forest Conservation Division of the Ministry may examine the matter holistically in light of amendments/changes made in the various statutory provisions and directions/Judgements passed by Hon'ble Supreme Court relating to applicability of Forest (Conservation) Act, 1980 in the

mining leases having forest areas broken prior to 1980 and a consolidated view may be placed before the Committee for further consideration latest by February 2023.

(Confirmed through email)

(Sh S. D. Vora)

Non-official Member

(Confirmed through email)

(Dr Sanjay Deshmukh)

Non-official Member

(Confirmed through email)

(Sh Anmol Kumar)

Non-official Member

(Not present)

(Sh Om Prakash Sharma)

Member

(Not present)

(Sh SP Yadav)

Additional Director General of Forests (FC)

Member

(Confirmed through email)

(Sh Bivash Ranjan)

Additional Director General of Forests (WL)

Member

(Confirmed)

(Sh Ramesh Kumar Pandey)

Inspector General of Forests (FC)

Member-Secretary

(Approved)

(Sh. C.P. Goyal)

Director General of Forests & Special Secretary

Chairperson