

RECOMMENDATIONS IN THE MEETING OF FOREST ADVISORY COMMITTEE
(FAC) HELD ON 22nd MAY, 2019

Agenda No. 1

F. No. 8-10/2015-FC

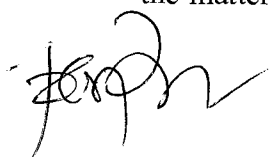
Sub.: Diversion of 54.399 ha of forest land including safety zone of 6.841 ha within total lease area of 70.917 ha for mining of Iron & Manganese in San Indupur Mines in favour of M/s National Enterprises in Sundargarh Districts in the State of Odisha.

The above stated agenda item was considered by FAC in its meeting on 22.05.2019. The corresponding agenda note may be seen at parivesh.nic.in.

1. FAC after detailed discussion and deliberation observed that the present project proposal was considered by FAC on 30.04.2015. In which it had sought certain information from the State Government and asked the regional office to carry out site inspection. The information which were sought from the state is placed as follows:
 - I. A report on circumstances under which 1st RML was granted in 2001, lease deed was executed in 2003 and mining was allowed without prior approval of the Central Government under FC Act 1980 despite knowing the fact that since 1998 the status of 54.399 ha land was 'deemed forest' (as per the orders of Hon'ble Supreme Court dt.12.12.1996 in W.P(C) No. 202/1995); the persons responsible for such unauthorised actions and credible action taken by the State Government against them.
 - II. The current status of the functioning of the mine.
 - III. In case the mining operations are stopped, the exact date of the closure of the mining operations along with the period for which mining was done in violation of the FC Act and the forest land involved in such mining. A report on credible action taken by the State for violation (under FCA Act) carried out by the user agency or any other agency.
 - IV. Complete compliance of Scheduled Tribe and Other Traditional ForestDwellers (Recognition of Forest Rights) Act, 2006 along with translation of the Gram sabha resolution.
 - V. DGPS Map of forest area proposed for diversion and non-forest /degraded forest area identified for CA and adjoining forests boundaries may be submitted. The proposed CA land measuring 44.807 ha was seen in the DSS and it was noticed that most part of it is supporting mixed deciduous forest with moderate to open forest density. How CA is being proposed on such a land may be clarified.

It was also recommended that Regional Office of the MoEF&CC shall carry out inspection and submit a detailed report on mining in violation of FC Act, 1980.

2. FAC deliberated on the reply submitted by State government and site inspection report of regional office. It was observed that user agency has carried out mining in the area within the mining lease which was identified as DLC forest land in 1998. At the time of first renewal from 2000-2020 no FC approval was obtained and mining continued upto 2010. It was also brought to the knowledge of FAC that the user agency had taken the matter to the court and they carried out mining in the area on the strength of court

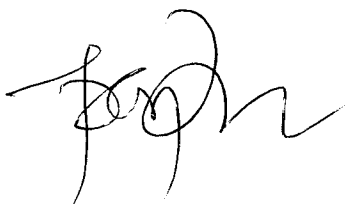


orders. Regional office had also reported that all such matter has been analysed by CEC in its recommendation 26.04.2010 and further Hon'ble Supreme court had also penalised the user agency for violation of statutory clearance on 02.08.2017. All these court orders and CEC reports need proper analysis in context to the present proposal.

Decision of FAC:

FAC after thorough deliberation and discussion with ADG (C), Regional office, Bhubaneswar, Nodal officer (FCA), Odisha and user agency observed that the CEC recommendation dated 26.04.2010 and Hon'ble Supreme Court Orders dated 02.08.2017 which levied 100 per cent penalty on excess produce over the EC limit need proper analysis in context to the present proposal prior to any decision on the issue. FAC further observed that:

1. State Government shall analyse the CEC order dated 26.04.2010 and subsequent order of Hon'ble supreme court on 07.05.2010 in context to the present proposal.
2. State Government may also take into account the details of Hon'ble Supreme Court order dated 02.08.2017 in which 100 percent penalty was reported to be imposed on the user agency on excess produce over the EC limit.
3. All court orders related to the proposal and above stated orders of CEC and Hon'ble Supreme court orders shall be analysed by state government in consultation with Regional office and submit detailed report with clear recommendations related to the project for further action by FAC.



Agenda No. 2

F. No. 8-94/2013-FC (Vol.)

Sub: Proposal for diversion of additional area of 4.2 ha of forest land (PH & Barrage Quarry of 0.5 ha and Muck Access road of 3.7 ha) in respect of Heo Hydro Electric Project (240 MW) being developed by M/s Heo Hydro Power Private Limited in West Siang District of Arunachal Pradesh.

The above stated agenda item was considered by FAC in its meeting on 22.05.2019. The corresponding agenda note may be seen at parivesh.nic.in.

FAC after thorough deliberation and discussion with ADG (Central) Regional office, Shillong and user agency observed that this proposal was a request for diversion of additional forest area as well as reappropriation of part of forest area which has already been granted *In-principle* approval. FAC observed that the details provided by the State government about the area to be added into the proposal which has been granted *in-principle* approval needs to be analysed properly. Regional office conveyed that it has not received any information regarding the change in the area of the proposal.

Decision of FAC

After thorough deliberation and discussion FAC decided that:

1. Regional office Shillong shall inspect the area and submit a detail report related to area required to be deleted or added to the forest land which has already been granted *In Principle* approval.
2. The Status of quarry sites which the user agency had proposed to be abandoned due to geological studies, may be ascertained. Regional office may clearly give recommendation if that area can be taken out of the purview of *In Principle* approval granted earlier to the project and managed under regular management of the forest department or the user agency has to keep the area within the project and maintain as a green belt. The requirement of CA area can be calculated accordingly.
3. Regional office may also see the option of approach roads to the newly proposed quarry sites. It may be checked if the area of approach road is also a part of the proposal.
4. Regional office may see all three HEPs of the same company. The user agency had proposed reappropriation of area of these projects. The requirement of CA need to reassessed and reported accordingly.
5. State government in consultation with Regional office, shillong may submit exact requirement of area along with shape files so that the *in principle* approval granted to the project can be modified accordingly.
6. The area proposed to be added may also be analysed on DSS.



Agenda No. 3

F. No. 8-102/2013-FC

Sub: Diversion of 52.80 ha of forest land (surface forest land-47.1 ha, reiverbed-2.3 ha & underground area-2.8 ha) for construction of Tato-I Hydro Electric Project (186 MW) in West Siang District of Arunachal Pradesh.

The above stated agenda item was considered by FAC in its meeting on 22.05.2019. The corresponding agenda note may be seen at parivesh.nic.in.

FAC after thorough deliberation and discussion with ADG (Central) Regional office, Shillong and user agency observed that this proposal was a request for diversion of additional forest area as well as reappropriation of part of forest area which has already been granted *In-principle* approval. FAC observed that the details provided by the State government about the area to be added into the proposal which has been granted *in-principle* approval needs to be analysed properly. Regional office conveyed that it has not received any information regarding the change in the area of the proposal.

Decision of FAC

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4. Regional office may see all three HEPs of the same company. The user agency had proposed reappropriation of area of these projects. The requirement of CA need to reassessed and reported accordingly.
5. State government in consultation with Regional office, shillong may submit exact requirement of area along with shape files so that the *in principle* approval granted to the project can be modified accordingly.
6. The area proposed to be added may also be analysed on DSS.



Agenda No. 4

F. No. 8-76/2016-FC

Sub: Proposal seeking prior approval of the Central Government under Section -2 (iii) of the Forest (Conservation) Act, 1980 in favour of M/s Arcelor Mittal India Limited in respect of forest land of 202.35 ha for mining of Iron ore and Manganese in Saranda Forest Division, District West Singhbhum (Jharkhand)

The above stated agenda item was considered by FAC in its meeting on 22.05.2019. The corresponding agenda note may be seen at parivesh.nic.in.

FAC after thorough deliberation and discussion with ADG(C) of Regional office, Ranchi and user agency observed that the proposal was submitted by the user agency for diversion of forest land under section 2(iii) of FCA which was considered by FAC through circulation and the decision of FAC was conveyed to the state government on 11th Jan 2017. Now Hon'ble High court of Delhi in its decision on Writ petition no 1376 of 2017 dated 9th April 2019 had directed that,

Since the sustainable mining plan for Saranda Forest is now in place and respondents have no objection to re-examine the petitioner request, this court considers it apposite to remand the matter for the respondent's decision on merits in accordance with law.

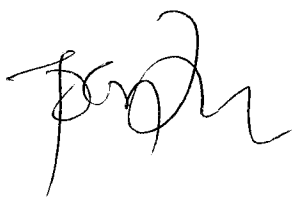
It is however, clarified that all contentions of the parties are reserved, including the issue whether petitioner's application would survive after the cutoff date (11.01.2017). The respondents shall consider the application on merits as well, without prejudice to its aforesaid contention.

It is further clarified that this court has not expressed any opinion on the merit or maintainability of the petitioner's application, under the Forest (Conservation) Act, 1980 and nothing stated in this order shall be construed as such.

Decision of FAC:

FAC took note of above order of the Hon'ble court and discussed the proposal in detail on merit. After through deliberation and discussion, FAC requested for some additional details to arrive at a decision for appropriate recommendation. It was decided that,

1. MoEF&CC may request the Ministry of Mines to provide the status of *letter of Intent* given to present proposal in light of court orders.
2. As per the provision of MMDR (Amendment) Act, 2015 all such mines were to be placed for auction, in absence of statutory clearances after 11.01.2017. The status of present mine proposal may be ascertained from Ministry of Mines.
3. State Government may ascertain the location of mines with respect to different mining zones as specified in Management Plan for Sustainable Mining (MPSM) of Saranda region.
4. Regional office may carry out fresh Site inspection for the proposal for decision under section 2(ii) of FCA 1980



Agenda No. 5

F. No. 8-53/2011-FC

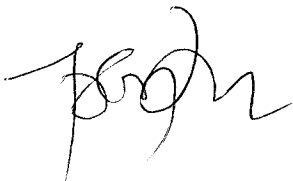
Sub: Diversion of 243.32 ha of forest land for North Karanpura Coal Keredari Coal Mining Project in favour of M/s NTPC Ltd. in Chatra South and Hazaribagh West Forest Division of Districts Chatra and Hazaribagh, respectively in the State of Jharkhand

The above stated agenda item was considered by FAC in its meeting on 22.05.2019. The corresponding agenda note may be seen at parivesh.nic.in.

Decision of FAC:

FAC after thorough deliberation and discussion with ADG(c) regional office Ranchi, agreed with the justification of the State Government and user agency. It was understood that due to rejection of proposed railway line, alternate evacuation plan which was envisaged as per condition no 7 of the Stage-I approval cannot be implemented.

In view of above, FAC recommended that the user agency may work as per evacuation plan in the original proposal. The user agency may accordingly submit complete compliance of other stipulations of Stage-I approval.



Agenda No. 6

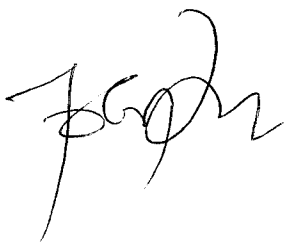
File No. 8-05/ 2019-FC

Sub.: Diversion of 54.87 ha of Forest Land for construction of Hiran Medium Tank Project in favour of Water Resources Department, Jabalpur District of Madhya Pradesh State

The above stated agenda item was considered in FAC meeting on 22.05.2019. The corresponding agenda note may be seen at parivesh.nic.in.

FAC after through deliberation & discussion with Nodal Officer (FCA) of the State recommended to grant of in-principle approval for diversion of 54.87 ha. of Forest Land for construction of Hiran Medium Tank Project in favour of Water Resources Department, Jabalpur District Madhya Pradesh State with following specific conditions:

- a. The CA land has to be resurveyed and one strip of 11 ha on the north portion should be included in CA and the forest land which is shown in DSS as part of CA land shall be excluded before Stage-II approval.
- b. The fresh KML file of the CA land has to be submitted and the CA land shall be fenced by the user agency before handing over to Forest department before Stage-II approval.
- c. Land use plan has to be submitted before Stage-II approval.
- d. Diversion will be for the period of 50 years.



Agenda No. 7

File No. 9-PBB359/ 2018-CHA

Sub.: Diversion of 2.2348 ha area closed under Section 4&5 of PLPA-1900 in favour of M/s Aerospace Builders for use of land for non-forestry purposes Commercial Complex & SCO at village – Baliali under forest division, District S.A.S. Nagar, Punjab State. The proposal was forwarded by the Northern Regional Office Chandigarh for placing before FAC in its meeting

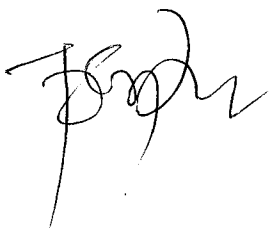
The above stated agenda item was considered in FAC meeting on 22.05.2019. The corresponding agenda note may be seen at parivesh.nic.in.

This proposal was placed before FAC earlier on 21.02.2019 and it had sought following information from State Govt.:

- a. Justification of site-specific nature of the proposed landuse, as submitted by State Nodal Officer.
- b. Relevant court orders interpreting status of the land and change in land-use that is allowed in such lands.

The state government submitted the above information as:

S.No.	Information Sought by FAC	Reply given by the Govt. of Punjab
1.	Justification of site-specific nature of the proposed landuse, as submitted by State Nodal Officer	1) As per the report of the project proponent, the present activity can only be developed on the specific location on following grounds: <ul style="list-style-type: none">• The project proponent is the owner of the site as per the revenue records and this is the only chunk of land he owns.• The present project is viable at this very site which is obvious from the current land use in the close vicinities. The project site is surrounded by Government approved residential and industrial projects. A map is appended to exhibit the site and its surroundings.• Project proponent has reported that alternative sites have been examined but those alternative are not viable because of non-availability of purchasable land.
2.	Relevant court orders interpreting status of the land and change in land-use that is allowed in such lands	Relevant court orders interpreting the status of land is already sent to the Regional Office, MoEF&CC, Chandigarh.



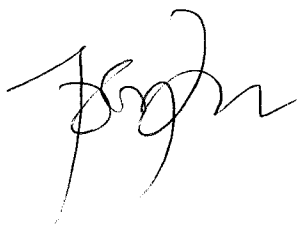
After detail deliberation on the matter, FAC observed that, the justification given by the State Government is neither adequate not acceptable. Moreover, the State Government has not been able to bring any new fact/information in support of their proposal.

The FAC also took note of the submission made by the Nodal Officer (FCA) Punjab that about 66,000 ha of similar land has been de-notified by the state Govt. with the permission of Hon'ble Supreme Court earlier for habitation, cultivation and livelihood purposes, but not for commercial activities. Moreover, this parcel of land could not be included for denotification during that time.

Decision of FAC

FAC after thorough deliberations and discussions, with the Nodal officer (FCA) Punjab, observed that, the proposal is non-site specific in nature and for construction of Commercial Complex & SCO (Shop-cum-Office) which is not permissible under provisions of FCA. It decided that:

- a. The State Govt. may approach Hon'ble Supreme Court for this land and other similar lands which were not included earlier for denotification.
- b. Accordingly, the proposal may be returned to the State Government.



Agenda No. 8

File No. 8-13/ 2019-FC

Sub.: Diversion of 90.84 ha of Forest land in favour of M/s ADC Rewari for Construction of New All India Institute of Medical Sciences (AIIMS) in District Rewari of Haryana State

The above stated agenda item was considered in FAC meeting on 22.05.2019. The corresponding agenda note may be seen at parivesh.nic.in.

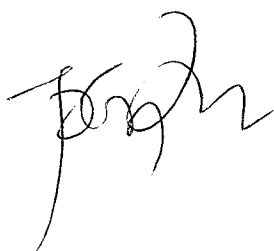
The FAC observed following:

- a. The proposal is of non-site specific in nature.
- b. The CA site is about 11 km from Rewari and is on the Jaipur-Delhi six lane National Highway, while the proposed land to be diverted is about 30 km away from the highway.
- c. The proposed area is part of a single forest patch, diversion of which will result in honeycombing of the only forest patch of the landscape.
- d. The state Government has not explored the possibility of alternative sites for the project.

Decision of FAC:

FAC after thorough deliberations and discussions in the light of above observations with the officers of Haryana and User Agency decided following:

- a. The Haryana State has very less forest area and existing forest areas should not be proposed for diversion, when vast non-forest areas are available.
- b. The proposal is not site specific, hence may be taken up in some non forest land elsewhere in the area, may be on the proposed CA site itself.



Agenda No. 9

File No. 8-17/ 2019-FC

Sub.: Proposal seeking permission for Survey & Exploration of Uranium over 83 sqkm (over an area of 7 sqkm in two blocks of 3 and 4 sqkm in Nidgul RF of WLM Division, Nagarjuna Sagar and 76 sqkm in two blocks of 38sqkm of each) in Amrabad Tiger Reserve by Atomic Minerals Directorate for exploration and Research, South Central Region, Hyderabad

The above stated agenda item was considered in FAC meeting on 22.05.2019. The corresponding agenda note may be seen at parivesh.nic.in.

The FAC observed that there are certain deficiencies in the proposal. However, considering the fact that the proposal is of critical importance from national perspective, it recommended for in-principle approval subject to submission of all required document/information in due format. After receipt of the same, the complete proposal may be placed before the Competent Authority for approval.



Sub: Proposal for change in nomenclature of the area approved under the Forest (Conservation) Act, 1980 for renewal of mining lease over an area of 142.80 ha of forest land in favour of M/s NMDC Ltd in Dantewada (Chhattisgarh)- regarding.

The above stated agenda item was considered in FAC meeting on 22.05.2019. The corresponding agenda note may be seen at parivesh.nic.in.

The FAC considered the above proposal and various facts related to the proposal as presented in the factsheet, site inspection report of the Regional Office and in the proposal submitted by the State Government. The Addl. PCCF & Nodal Officer (FCA), Government of Chhattisgarh and representatives of the User Agency were also present in the meeting. After examination of the proposal and interaction with the Nodal Officer (FCA), Maharashtra, FAC observed that:

- (i) The proposal had been accorded Stage-II approval vide letter dated 29th July, 1998 for diversion of forest land for setting up infrastructure facilities ancillary to mining activities. Infrastructure facilities, already developed by the User Agency, under the approval dated 29th July, 1998, are common for their mining leases located in the area.
- (ii) Original mining lease, over an area of 308.13 ha of forest land was granted by the State Government on 12th September, 1967 for a period of 30 years. However, subsequent exploration revealed non-mineralized area in the lease and accordingly, during first renewal of lease, an area of 165.33 ha was surrendered and lease was renewed for an area of 142.80 ha which was earmarked/proposed for infrastructural facilities. Currently, the mining lease of the User Agency is valid till 31st March, 2020 as per the provisions of the Mines and Minerals (Development and Regulation) Amendment Act, 2015.
- (iii) With regards to the justification for change in the nomenclature, the User Agency informed the Committee during the process of lease deed agreement as per the amended provisions of the MM(DR) Amendment Act, 2015, that the State Government insisted for a Mining Plan. Accordingly, they approached the Indian Bureau of Mines (IBM) for the preparation of Mining Plan. Regional Controller, IBM, vide letter dated 28th April, 2011 informed the User Agency that mining lease area over 142.80 ha is to be used for only infrastructure facilities and clearance under FC Act does not permit mining operation in the aforesaid area and accordingly, no mining plan is required. Therefore, for the sake of clarity, the proposal for change in the nomenclature of the approval dated 29th July, 1998 from renewal of mining lease to infrastructural facilities has been moved along with the recommendation of the State Government.
- (iv) The Regional Office of the Ministry at Nagpur conducted the site inspection of the area on 22nd January, 2019 and submitted report vide their letter dated 5th February, 2019. The Regional Office recommended the proposal for change in the nomenclature as recommended by the State Government. The Regional Office in its report has also reported non-compliance of conditions no. 4 and 8 of the Stage-II approval dated 29th July, 1998.



Decision of FAC:

After detailed deliberations, the FAC **recommended the proposal** for allowing change in the nomenclature of Stage-I and Stage-II approvals dated 4th May, 1998 and 29th July, 1998, respectively from renewal of mining lease to infrastructural facilities over an area of 142.80 ha of forest land in favour of M/s NMDC Ltd in Dantewada (Chhattisgarh) subject to following condition:

Conditions stipulated in the Stage-II approval dated 29th July, 1998 shall be strictly complied with by the User Agency. Compliance of conditions no. 4 and 8 of Stage-II approval shall be ensured by the State Government and a progress report on the same shall be submitted by the State Government within a period of six months to the MoEF&CC and its Regional Office.



Other agenda items which were discussed with permission of chair

Additional agenda no 1

Sub: Proposal for transfer of final forest clearance in favour of M/s JSW Utkal Steel Ltd., which was granted vide this Ministry's letter dated 04.05.2011 for diversion of 1253.225 ha forest land for establishment of Integrated Steel Plant and Captive Port in Jagatsinghpur district of Odisha by POSCO-India Pvt. Ltd

The above stated agenda was placed on agenda of FAC meeting held on 21Feb 2019. The same could be seen at parivesh.nic.in. The minutes of the meeting is also available in the same website. In the abovementioned meeting of the FAC it was decided that,

1. MoEF&CC shall seek legal opinion on the issue of transfer of FC approval from one user agency to other and the relevance of its guideline 2.8 which deals with transfer of lease.
2. State government shall submit the shapefile of the area diverted to POSCO -India Pvt ltd and area requested by M/S JSW Utkal steel limited.
3. State government shall submit a comparative statement of the components which were allowed for POSCO-India Pvt ltd and those proposed for M/S JSW Utkal steel limited. The difference in land use shall be highlighted clearly. DGPS map depicting different components of the proposed project may also be submitted.
4. Shapefile of CA land and present status shall be confirmed by State Government.

Based on the recommendation FAC, the matter was referred to MoLJ for advice in which the issue pertaining to guideline and apprehension of Ministry that case to be treated as transfer of lease or transfer of approval of forest conservation was highlighted. In the mean time the comprehensive guidelines (under FC Act, 1980) has been approved by the Competent Authority in the Ministry and the same has been placed in the Ministry's website. The para 5.1 deals with transfer of lease, which reads as:

However, transfer of user agency for same purpose, or re-diversion for another purpose by same or another user agency may be considered on following basis:

5.1 Transfer of User Agency:

The following procedure shall be followed:

- (a) *An application from the concerned State/Union Territory Government along with an undertaking from the new user agency shall be submitted.*
- (b) *The undertaking shall state that the new user agency will abide by all conditions on which diversion of forest land was approved in favour of the previous user agency.*
- (c) *Transfer of User Agency can be considered by the Central Government (MoEF&CC) for same use and on same conditions.*
- (d) *The Central Government shall levy a transfer fee, to discourage middle men from processing applications and then selling it to other, @10% of NPV or Rs. 100,000 whichever is less.*
- (e) *The transfer fee will not be applicable to change of UA associated with change in legal heir, and wind power generation projects involving of transfers.*
- (f) *However, in case the transfer is from a Central Government Department/Central Government Undertaking (CPSU) to a User Agency other than Central Government*




Department /CPSU, the proposal will be examined by the Central Government afresh, and transfer can be agreed to with additional conditions so as to ensure that special concessions given to Central Government Department/CPSU while granting the approval are not extended to the new User Agency.

FAC analysed the guideline and opines that based on the provisions of comprehensive guidelines it is clear that the approval granted under the provisions of Forest (Conservation) Act 1980 to one user agency for particular land use can be transferred to other user agency for the same land use, on the recommendation of state government, with the conditions specified in para 5,1 of comprehensive guidelines.

In this backdrop **FAC decided that** its earlier recommendation i.e

“MoEF&CC shall seek legal opinion on the issue of transfer of FC approval from one user agency to other and the relevance of its guideline 2.8 which deals with transfer of lease”

shall be deleted. The remaining information sought by FAC will be submitted by the State Government.

A handwritten signature in black ink, appearing to be 'J. P. Singh', written in a cursive style.

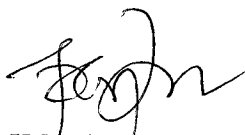
Additional agenda no 2

With the permission of the Chair following issue of M/S Suzlon Energy Limited was taken up for discussion as an additional agenda. FAC observed that:

1. M/s Suzlon Energy Limited, vide their letter dated 2nd May, 2019 has forwarded following suggestions on the guidelines related to wind energy projects for the consideration of the Ministry:
 - (i) Para 8.2 of the Handbook of Forest (Conservation) Act, 1980 – Under reconnaissance survey for the wind mast projects, it has been suggested to extent the period of wind mast in forest areas further by two years i.e. total period of 4 years has been suggested to be incorporated into the guidelines which is reported to be helpful in better assessment of data and choosing the right model of wind turbines.
 - (ii) Possession value of the forest land- It is suggested to relax the possession value of forest land, which currently levied in the form of lease rent of Rs. 30,000/- per MW for 30 years. It is advocated that since the wind power projects are clean and green source of energy and after lease period is over, the Forest Department claims the land back. It is further mentioned that Government of India promotes such projects to strengthen national commitment towards Paris Agreement, under which one of the National Commitment is to have 40% of the power capacity based on non-fossil fuel sources. Given the current scenario of reduced wind tariffs and completion of projects within a period of 18 months, it is necessary to keep the cost of wind projects sustainable with faster execution.

Recommendation of FAC

FAC after thorough deliberations observed that wind power is a clean and green source of energy and country is committed to take positive steps in achieving the target assured by it through international commitments. In this backdrop it is recommended that MoEF&CC may not charge the lease rent of Rs. 30,000/- per MW for 30 years., with effect from the date of issue of concerned guidelines/circular.



(AK Mohanty)
IF(FC) and MS (FAC)


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Member, FAC

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(Anmol Kumar)
Member, FAC

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(SD Vora)
Member, FAC

Absent
Addl. Commissioner (Soil Conservation)
Ministry of Agriculture, Member (FAC)


(Saibal Dasgupta)
ADG(FC) and Member, FAC


(Siddhanta Das)
DGF&SS and Chairperson (FAC)