

Recommendation of Forest Advisory Committee in its meeting held on 01.08.2022

Agenda No. 1

File No. 8-33/2021-FC

Subject: Diversion of 150.098 ha Forest land including 61.656 ha forest land in Forest Compartment No. RF-710, PF-730 A & PF-730 B of Parasiya Range of West Chhindwara Forest Division and 88.442 ha Revenue forest land under various Khasra's for Brahampuri Open Cast & underground Coal Mining Project in favour of M/s Birla Corporation Limited under Chhindwara District of Madhya Pradesh State (Online No. FP/MP/MIN/51637/2020) - regarding.

1. This proposal was considered by FAC in its meeting held on 01st August, 2022. The details of the proposal may be seen at www.parivesh.nic.in.
2. During the meeting, all the facts and background of the proposal, were presented and explained by Member Secretary before the FAC for their examination and analysis.
3. The Nodal Officer (FCA), Government of Madhya Pradesh and DDG (Central), IRO, Bhopal attended the meeting through video conference. They had participated in the deliberation.
4. While deliberating on the proposal, FAC observed that:
 - i. The Addl. Principal Chief Conservator of Forests (Land Management) and Nodal Officer under Forest (Conservation) Act, 1980, Government of Madhya Pradesh, vide their letter No. F-1/830/2021/10-11/4241 dated 20.12.2021 forwarded a fresh proposal on the above cited subject to obtain prior approval of the Central Government, in terms of the Section-2 of the Forest (Conservation) Act, 1980
 - ii. The instant proposal was discussed in FAC in its meeting held on 13.06.2022 wherein the Committee deferred the proposal with following observations:
 - A. The User Agency shall submit an undertaking that in future the proposed forest land shall not be sought for open cast mining purpose.
 - B. The detail of Muck to be generated during the mining and the plan for its disposal shall be submitted.
 - C. The mining plan has been prepared in the year 2008 and Subsidence Prediction Report in the year 2013 for M/s Pushp Steels & Mining (P) Ltd., therefore the relevance and the validity of the Mining plan and Subsidence Prediction Report after such a long gap and now in favour of present user agency is required to be ascertained by the State Government.
 - D. The extent of forest land involved as per the mining plan shall also be ascertained by the State Govt.
 - E. The variation in the Cost Benefit Ratio as submitted in the online proposal and that in the hard copy of the proposal as pointed out in the Site Inspection report of IRO Bhopal needs clarification and correct Cost Benefit Analysis Ratio shall be submitted.
 - iii. The above decision of FAC was communicated to the State Government vide Ministry

letter of even no. dated 20.06.2022.

- iv. In this reference, the State Government vide their letter no. F-1/830/2021/10-11/2274 dated 27.06.2022 submitted the information.
 - v. Out of the total proposed area of 150.098 ha, an area of 146.407 ha is proposed for underground mining and the remaining 3.691 ha is proposed for surface rights.
 - vi. In the proposed diversion for Brahampuri Coal Mining Project, the Compensatory Afforestation has been proposed on 4.00 ha of non-forest land because out of total forest area of 150.098 ha, only 3.691 ha forest land will be used for surface rights.
 - vii. It has been observed that in past the Ministry has issued In-principle/Stage-I approval for diversion of 151.095 ha forest land for Bikram Coal Block Open cast & underground Coal Mining Project in favour of same user agency i.e. M/s Birla Corporation Limited vide Ministry letter no. 8-34/2021-FC dated 21.04.2022 wherein after issuance of Stage-I approval, the user agency i.e. M/s Birla Corporation Limited has submitted a request for change in CA land and Ministry vide letter no. 8-34/2021-FC dated 27.07.2022 has sought certain information from the State Government and reply is awaited.
 - viii. The Nodal Officer MP informed that the user agency has sought the change in CA areas as some legal issues have come up during the registration/mutation of said land in favour of the forest department.
 - ix. The FAC observed that change in CA areas indicates that due diligence has not been done by the user agency while submitting the proposals and finalizing the Compensatory Afforestation areas. The State Governments and the User agencies must appreciate that in such circumstances the proposals are repeatedly placed before the FAC/Ministry, which leads to undue pressure on the resources.
- 5. Decision of FAC:** The FAC after thorough deliberation, deferred the proposal and recommended that:
- i. The State Govt. shall ensure that the areas proposed for Compensatory Afforestation are suitable for planting and free from all encumbrances. The proposed areas should also be in conformity with the guidelines issued by this Ministry.
 - ii. An undertaking stating that the proposed areas are free from all encumbrances and are final will be submitted.
 - iii. The proposal may again be taken up in the FAC once the issue of change in CA areas in case of diversion of 151.095 ha forest land for Bikram Coal Block Open cast & underground Coal Mining Project is thoroughly examined and a decision on the same is taken.

Agenda No. 2

File No. 8-42/2002-FC

Subject: De-reservation of 1517.08 acre (613.96 ha) of forest land in favour of M/s NEPA Ltd., Nepa Mills Nagar in district Khandwa, Madhya Pradesh-- regarding.

1. The proposal for transfer of 200.501 acres of forest land under the possession of Nepa

Mill Management to Neapanagar Municipality was considered by FAC in its meeting held on 01st August, 2022.

2. During the meeting, all the facts and background of the proposal, were presented and explained by Member Secretary before the FAC for examination and analysis.
3. The Nodal Officer (FCA), Government of Madhya Pradesh and DDG (Central), IRO, Bhopal attended the meeting through video conference and participated in the deliberation.
4. While deliberating on the proposal, FAC observed that:
 - i. An agreement was signed on 10.10.1947 between News Print and Paper Mills Limited (NEPA Mill) and Central Provinces and Berar, under which 1517.08 acres of land was allotted to Nepa Mill for setting up a paper mill at Neapanagar in Khandwa district of Madhya Pradesh. This land was allotted for 90 years lease.
 - ii. The Ministry vide letter of even no. dated 23.07.2002 has issued approval under Section - 2 of FCA Act, 1980 for diversion of 849.90 acres (343.59 ha. approx.) of forest land except 667.18 acres of forest land meant for afforestation in favour of M/s NEPA Ltd., Nepa Mills Nagar in district Khandwa, Madhya Pradesh, without any penal compensatory afforestation.
 - iii. The Nodal Officer (FCA), Government of Madhya Pradesh informed that as per the condition no. (c) of Ministry approval letter of even no. dated 23.07.2002, 667.18 acres of forest land has been returned by Nepa Mill to the Forest Department. Thus 849.9 acres of forest land is presently under the possession of Nepa Mill Management.
 - iv. The Nodal Officer (FCA), Government of Madhya Pradesh informed that as per the User Agency it was submitted that in a meeting held in the Prime Minister's Office, it was decided that 300 acres of forest land under the possession of Nepa Mill Management shall be transferred to Neapanagar Municipality.
 - v. The Nodal Officer (FCA), Government of Madhya Pradesh informed that in relation to the 300 acres of forest land to be transferred by Nepa Mill Management to Neapanagar Municipality, the Chief Municipal Officer, Neapanagar has written to transfer it in his favour with effect from 24.09.2021.
 - vi. The Nodal Officer (FCA), Government of Madhya Pradesh informed that the 300 acres of forest land that Nepa Mill Management wants to transfer to Neapanagar Municipality is divided into 10 patches. After examining these 10 patches, it was found that out of these, one patch, whose area is 94.69 acres, has forest established. Therefore, instead of transferring it to Neapanagar Municipality, the State Government has recommended to return it to the Forest Department. The area of remaining 09 patches comes to 200.501 acres.
 - vii. The Nodal Officer (FCA), Government of Madhya Pradesh also informed that the buildings constructed would be used as per their present position.
 - viii. It has been mentioned by the State Govt., that the land-use will not be changed. However, as per letter dated 24/09/2021 of the user agency, the request for transfer of approval has been submitted with the reason that the Urban local body is not able to do any construction work in the area. It has also been submitted that many poor families are not getting the benefit of PM Awas Yojna. This indicates that it may not be possible to keep the land use as such.

- ix. State Government has not submitted detail of any mechanism by which the concerned authorities will regulate or prevent the change in land use after the land and buildings are transferred to Neapanagar Municipality.
 - x. In case the forest land is not required by the Nepa Mills, the same should be returned back to the forest department. However, the Nodal Officer (FCA), Government of Madhya Pradesh also informed that presently the Nepa Mill is non-functional and the revival of same is under consideration at the State Government level.
 - xi. The forest land was allowed to be diverted for Nepa Nagar Mills by considering it as an integrated project involving different components, whereas now the state government has proposed to transfer a part of said land to Municipality. However, it is not clear as to who will be using the residential buildings once they are transferred to Neapanagar Municipality.
5. **Decision of FAC:** The FAC after thorough deliberation as above, decided that the proposal for transfer of approval for 200.501 acres of forest land from Nepa Mill Management to Neapanagar Municipality cannot be accepted in its present proposition and recommended to reject the proposal.

Agenda No. 3

F. No. 8-03/2022-FC

Sub: Proposal for permission under clause - (iii) of section 2 of Forest Conservation Act, 1980 for grant of lease over 112.621 ha of forest land in village Baldihi of Netrabandha Pahar Iron Ore Block allotted to M/s Bhusan Power and Steel Limited under Bonai Forest Division of Sundargarh District.

1. The agenda item was considered by the FAC in its meeting held on 1.08.2022. The corresponding agenda note may be seen at www.parivesh.nic.in. Nodal Officer (FCA), Odisha also attended the meeting through video conference.
2. Member Secretary placed all the facts and background of the proposal, along with examination of the proposal in the DSS, before the FAC for their 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 is for permission under clause – (iii) of Section-2 of Forest (Conservation) Act, 1980 for grant of lease over 112.621 ha of forest land in village Baldihi of Netrabandha Pahar Iron Ore Block allotted to M/s Bhusan Power and Steel Limited under Bonai Forest Division of Sundargarh District.
 - ii. The forest land being diverted supports vegetation density of 0.5 and 4038 trees will be affected by the project. This land is covered with Tropical Moist Deciduous Forest.
 - iii. The total lease is 139.223 ha. It consists of 112.621 ha of forest land, and 13.994 ha of Govt non-forest land and 12.608 ha of tenancy land. The forest land of 112.621 ha consists of 48.346 ha of PRF, 19.532 ha of Revenue Forest land and 44.743 ha of DLC

land.

- iv. The area does not form part of National Park, Wildlife Sanctuary, Biosphere Reserve, Tiger Reserve, Eco-sensitive Zone Elephant Corridor etc. However, movement of wild Elephant is noticed in the area proposed for diversion.
- v. The mining lease of Kalamanga West (Northern Part) Block Iron Ore was auctioned in favour of M/s Bhusan Steel Ltd on 19.05.2017 and Letter of Intent (LoI) was issued by Govt. of Odisha, on 24.06.2017 conveying intent of the State for granting mining lease for 50 years. The period of validity of the LoI was subsequently extended by the State on 27.07.2020 for a period of 2 years. The status of further extension, if any, granted by the State is required to be ascertained.
- vi. The proposal has been submitted in accordance with the relevant guidelines issued by the MoEF&CC for submission of proposal under clause (iii) of section 2 of FC Act for the purpose of assignment of forest land on lease only i.e. the proposal does not involve any physical breaking up of forest land.
- vii. Violation of Forest (Conservation) Act, 1980 have not been reported.
- viii. With regards to elephant's movement in the area, the Committee was apprised that the PE Division of the Ministry informed that the proposal is located at a distance of 13.31 km and 79.50 km from the Karo-Karampada Elephant Corridor and Simlipal Wildlife Sanctuary, respectively. The proposed area completely falls in the elephant distribution range.
- ix. The Committee was also briefed that there are other mines which are been already granted or are in the process of granting approval under section 2(iii) of FC Act. Therefore, a holistic assessment of likely impact of the mining leases operational and proposed to be granted in the area on the elephant habitat and movements is essential.
- x. The IRO of the Ministry carried out inspection of the area and has recommended the proposal for approval under clause (iii) of section 2 of the FC Act.

6. Decision of FAC: After detailed discussion and deliberation on the proposal with the Nodal Officer (FCA), Odisha and Regional Officer, IRO, Bhubaneswar on the observations of Project Elephant Division, the FAC deferred the proposal and desired that a team of following officers, may visit the area and submit the report:

- i. Shri Preet Pal Singh, Dy. IGF, MoEF&CC, New Delhi
- ii. Dr. Bilal Habib, Faculty, Elephant Cell, WII, Dehradun
- iii. Dr. K Muthamizh Selvan, Scientist 'E', Project Elephant Division, MoEF&CC, New Delhi

The Team, as indicated above will inter alia ascertain the following:

- i. Status of elephant distribution and movement in the area;
- ii. Holistic assessment of likely impact of the mining leases operational and proposed to be granted in the area on the elephant habitat and movements; and
- iii. Mitigation measures, if any, required to be undertaken for the conservation and protection of elephants in the area.

Agenda No. 4

F. No.8-88/1996-FC

Sub: Extension of Forest Clearance co-terminus with the extended mining lease period for Belakundi Iron & Manganese Mining Lease of M/s OMDC Ltd. regarding.

1. The above subject agenda item was considered by FAC in its meeting held on 1.08.2022. The corresponding agenda note may be seen at www.parivesh.nic.in. Nodal Officer (FCA), Odisha also attended the meeting through video conference.
2. The Member Secretary explained all the facts and background of the proposal, along with examination of the proposal in the DSS, to the FAC members for their examination and analysis. The Committee was also apprised of the provisions under other Acts & Rules relevant to the proposal and their significance.
3. The FAC after through deliberation and discussion observed that:
 - i. Government of Odisha, vide their letter dated 08.12.2021, had submitted the proposal to extend the validity of forest clearance to make it co-terminus with the validity of lease granted under the MMDR Act, 1957 by the State for a period expiring on 15.08.2026.
 - ii. Total area of mining lease is 1276.79 ha, comprising of 695.907 ha of forest land (RF and Revenue land) and 580.883 ha of non-forest land. Stage-II approval under the Forest (Conservation) Act, 1980 was granted by the Ministry vide letter dated 15.08.2006 over an area of 384.54 ha.
 - iii. MoEF&CC has already issued guidelines dated 1.04.2015, incorporated at Para 7.3 (iii) of the Handbook of the Forest (Conservation) Act, 1980, wherein it has been provided that in case of existing mining leases where approval under the FC Act, 1980 has been granted in the past, the period of validity of approvals accorded under Section-2 of the FC Act shall be deemed to have been extended up to a period co-terminus with the period of mining lease in accordance with the provisions of the MMDR Act, 1957.
 - iv. The proposal was earlier considered by the Committee in its meeting on 11.05.2022 and the FAC recommended that a Sub-Committee of the FAC will visit the area. The Sub-Committee visited the area and observed compliance of the conditions stipulated in the approval dated 26.02.1998 read with 15.08.2026 as satisfactory. Sub-Committee also made the additional recommendations based on its visit to the area as under:
 - a. The work on Penal Compensatory Afforestation has to be done as per target.
 - b. Propoeer protection needs to be provided to the plantation.
 - c. Considering that the total area of the Division is 6267 sq km and good quality sal forest is found in the Division, the Sub-Committee emphasized the need to create additional forest ranges and to fill up all the vacant posts of RFOs and forest Guards on urgent basis.
4. **Decision of FAC:** After detailed discussion and deliberation on the proposal with the Nodal Officer (FCA), Odisha and Regional Officer, IRO, Bhubaneswar and duly noting the recommendations of the Sub-Committee, the FAC decided to recommend the proposal for extension of approval granted under the Forest (Conservation) Act, 1980 to make it co-terminus with the validity of lease granted under the MMDR Act,

1957 subject to the fulfilment of the following conditions:

- i. The State Government shall ensure that afforestation work related to penal compensatory afforestation is completed within the current financial year.
- ii. The State Government shall ensure that proper protection measures are implemented in the area afforested in lieu of forest land diverted to check felling of trees and local biotic pressure.
- iii. Considering that total area of the Division is 6267 sq. km and good quality sal forest is found in the Division, additional Forest Ranges in the Division shall be created by the State and all the vacant posts of RFOs and forest Guards should be filled up on urgent basis.

Agenda No. 5

File No. 8-01/2000-FC Vol.

Sub: Application for 02nd Renewal of Indaram Mining Lease over 929.29 ha. of forest land involving 15.16 ha for surface use in compartment Nos. from 699 to 703, 706 to 709 and 711 to 713 in Indaram RF, Mancherial Range of Mancherial Forest division in Mancherial District in favour of M/s. Singareni Collieries Company Limited. -regarding (Online proposal No. FP/TG/MIN/34878/2018).

1. The above stated agenda item was considered by FAC in its meeting on 01.08.2022. The corresponding details of the agenda may be seen at www.parivesh.nic.in.
2. During the meeting, all the facts and background of the proposal, along with examination of the proposal in the DSS were presented and explained by Member Secretary before the FAC for their examination and analysis. Committee was also apprised of the relevant provisions under other Acts & Rules relevant to the proposal and their significance.
3. The Nodal Officer (FCA), Government of Telangana and IRO, Hyderabad attended the meeting through video conference.
4. FAC after through deliberation and discussion observed that:
 - i. The proposal was considered by FAC in its meeting held on 31.03.2022.
 - ii. Indaram Mining lease of M/s SCCL was originally granted by State Government on 28.05.1979 for a period of 20 years w.e.f. 23.07.1980 over an area of 2900 ha, comprising of 1070 ha of forest and 1830 ha of non-forest land.
 - iii. Approval under the Forest (Conservation) Act, 1980 over an area of 1070 ha, including 15.16 ha earmarked for surface rights, was granted by the Central Government on 28.11.2001 read with letter dated 20.03.2002. Renewal of second term was granted by the State for a period of 20 years w.e.f. 23.07.2000
 - iv. Recent DGPS survey of the mining lease area conducted by the agency revealed the total forest area involved in the mining lease as 929.9 ha, including surface rights area, against the

earlier diverted area of 1054.84 ha.

v. Mining lease of the user agency has been expired on 23.07.2020 and *ipso facto* approval under the Forest (Conservation) Act, 1980 has also been expired. Accordingly, the State Government has submitted the proposal for renewal of approval granted under the Forest (Conservation) Act, 1980.

vi. The Committee was further apprised that out of total area of 929.90 ha, only 480.83 ha of area has only been used for UG operations while the remaining area of 342.36 ha has been kept for future expansion. Committee further noted that recently Ministry has granted Stage-I approval on 12.03.2021 over an area of 162.45 ha (Srirampur OC-II Expansion) and out of these 162.45 ha area, 106.10 ha is included in the extant renewal proposal of 929.90 ha. Therefore, the area applied for renewal needs to be rationalized by the State in light of approval under the FC Act, 1980 already granted by the Ministry.

vii. The FAC on its meeting held on 31.03.2022 deferred the proposal for obtaining the following information from the State:

- a. Complete detail of mining leases covered within the approved forest area of 929.90 ha may be provided by the State along with the nature of mining operations i.e. opencast or underground.
- b. Forest area overlapping in the underground and opencast mines needs to be worked out and forest area proposed for renewal in the extant proposal may accordingly be rationalized and submitted by the State along with supporting details.
- c. Detail of NPV and CA, if any, realized from the user agency in the past by the State.
- d. Detail of mining operations, if any carried out by the agency, in contravention to the provisions of Forest (Conservation) Act, 1980, Rules and Guidelines made thereunder needs to be intimated by the State.
- e. Implications of the amendments affected in the MMDR Act, 1957 from time to time on the extant renewal proposal and relevant guidelines issued by the MoEF & CC needs to be examined and intimated.

5. The Government of Telangana vide letter dated 26.05.2021 forwarded the requisite information as desired by FAC in its meeting held on 31.03.2022. It was informed that: -

i. The proposed area for 2nd renewal of 929.29 ha forest land is falling in the Mining lease. Indaram Mining Lease, which has been extended by the Government of Telangana under Mineral Concession Rules – 1960 (amended as on 01.10.2021) to an extent of 2044.34 ha (involving 929.29 ha of Forest land) duly extending validity till 28.07.2030. Later, renewal to be obtained for further 20 years. Hence, the permission under F(C) Act, 1980 will be co-terminus with this period. Further the user agency has stated that the proposal for renewal of Mining Lease as well as renewal under F(C) Act, 1980 was submitted well before two years from the date of expiry of lease. Hence, as per Rule 24A of Mineral Concession Rules-1960, mining continued under deemed clause extension till State Government issue orders or two years whichever is earlier.

ii. The SCCL submitted proposal to Forest department for 2nd renewal of 929.29 ha (including 15.18 ha surface rights) on 19.07.2018. As on that date, the bifurcation of 929.29

ha of Forest Land is as follows:

S. No	Description	Extent in Ha.
1	Underground Mining (RK-6 Incline, RK-7 Incline RK New Tech & RK-8 Incline)	465.65
2	Surface for RKNT incline	8.98
3	Surface for RK 8 Incline	6.20
4	Area for future exploration with UG rights	448.46
	Total	929.29

iii. It was further informed that out of the required 162.45 ha of forest land for SRP OC -II Exp. an extent of 106.10 ha is covered in forest land which is falling in instant proposal of Indaram mining Lease of 929.29 Ha.

iv. The MOEF & CC, GOI, vide F.No.8-06/2019FC, dt.12.03.2021 has granted Stage-I approval for diversion of 162.45 ha (SRP OC-11) including 106.10 ha falling in Indaram Mining Lease. (out of 929.29 ha). Hence, the present bifurcation of 929.29 ha of forest land in Indaram ML becomes as follows:

S. No	Description	Extent in Ha
1	Underground Mining	465.65
2	Surface for RKNT incline	8.98
3	Surface for RK 8 Incline	6.20
4	Opencast mining for SRP GC -II Exp (out of 162.45 ha) - overlapping	106.10
5	Area for future exploration with UG rights	342.36
	Total	929.29

6. **Decision of FAC:** The Committee had detailed discussion and deliberation with Nodal officer (FCA) of Telangana. It was noted that the proposal submitted by the State Government is lacking clarity. After going through the facts of the proposal and submissions made by the Nodal Officer, the Committee deferred the proposal for obtaining the following information from the State:

- i. Forest area overlapping in the underground and opencast mines needs to be worked out and forest area proposed for renewal in the extant proposal may accordingly be rationalized. The Nodal Officer (FCA), Government of Telangana may present a detailed presentation about the changes from 1st renewal till today before chairperson FAC for further clarity of the proposal.
- ii. Conditions laid down and their compliance needs to be relooked since the proposal has overlapping areas involved. State must give a detail report in this regard.

POLICY ISSUES

Policy Issue No-1

Sub: Clarification on the validity of approval granted under the Forest (Conservation) Act, 1980 to Government companies for mining to make approval granted under the FC Act, 1980 co-terminus with the validity of leases granted under the MMDR Act, 1957 – reg.

1. The policy agenda item was considered by FAC in its meeting held on 1.08.2022. The corresponding agenda note may be seen at www.parivesh.nic.in.
2. During the meeting, Member Secretary explained all the facts and background of the matter to the FAC for their examination and analysis.
3. After through deliberation and discussion, the FAC observed that:
 - i. Pursuant to amendment in the MMDR Act, 1957 in 2015, MoEF&CC has issued guidelines dated 1.04.2015, incorporated at para 7.3 (iii) of the Handbook of the Forest (Conservation) Act, 1980 wherein it has been provided that in case of existing mining leases period of validity of approvals accorded under Section-2 of the FC Act shall be deemed to have been extended up to a period co-terminus with the period of mining lease in accordance with the provisions of the MMDR Act, 1957.
 - ii. Sub rule (2) of rule 3 of the Mineral (Mining by Government Company) Rule, 2015 notified on 3rd December, 2015, provides the following in respect of validity of the mining leases of Government company:

"3. Period of mining lease granted to Government companies or corporations before 12th January, 2015. - (1) All mining leases for minerals granted to a Government company or corporation before the date of commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2015 (10 of 2015), namely, the 12th January, 2015 shall be deemed to have been granted for a period of fifty years.

(2) The State Government, upon an application made to it in this behalf by the Government company or corporation at least twelve months prior to the expiry of the mining lease, may, for reasons to be recorded in writing, extend the period of the mining lease for further periods of up to twenty years at a time."

- iii. In pursuance to above, provisions of the MMDR Act, 1957 and rules made thereunder read with FCA guidelines, State Governments have been extending the validity of mining leases of Government mining companies for a period of 20 years.
- iv. The Committee was also apprised that pursuant to the enactment of MMDR Amendment Act, 2021, the Ministry has issued guidelines dated 7.07.2021 wherein it has been provided that after expiry of the mining lease and its auction to successful bidder, the approval granted under the Forest (Conservation) Act, 1980 to erstwhile agency shall be transferred to successful bidder.
- v. The Committee further noted that the proposals for extension of approval granted under the Forest (Conservation) Act, 1980 are being received from the Government of

Odisha only while the other States are extending/transferring the approval based on the guidelines issued by the Ministry on 1.04.2015 read with guidelines dated 7.07.2021.

- vi. The Committee further observed that as per the provisions of the guidelines dated 1.04.2015 validity of approvals granted under the Forest (Conservation) Act, 1980 MMDR Act, 1980 already stands extended to make it co-terminus with the validity of mining lease granted under the MMDR Act, 1957. Therefore, during the currency of validity of lease under the MMDR Act, 1957, validity of approval granted under the FC Act, 1980 can be extended by the State Government as per provisions of guidelines dated 1.04.2015. However, in case the user agency changes during the currency of validity of lease, prior approval of Central Government under the FC Act, 1980 will be obtained by the State.
4. **Decision of FAC:** After detailed discussion and deliberation on the proposal with the Nodal Officers (FCA), Regional Officers and Officers of Forest Conservation Division, the FAC recommended the following:
- i. The State Governments concerned may extend the validity of approvals granted under the Forest (Conservation) Act, 1980 to make it co-terminus with the validity of lease granted under the MMDR Act, 1957 as per the provisions of guidelines dated 4.01.2015, incorporated at clause (iii) of para 7.3(iii) of the Handbook of Forest (Conservation) Act, 1980, 2019.
 - ii. In case the user agency changes during the on-going term of validity of lease, the State Government concerned shall obtain prior approval of Central Government under the Forest (Conservation) Act, 1980.

Policy Issue No-2

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 above policy agenda item was considered by the FAC in its meeting held on 1.08.2022. The corresponding agenda note may be seen at www.parivesh.nic.in.
2. During the meeting, Member Secretary explained all the facts and background of the matter to the FAC for their examination and analysis.
3. After through deliberation and discussion, the FAC 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 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.
4. **Decision of FAC:** After detailed discussion and deliberation on the proposal with the Nodal Officers (FCA), Regional Officers and Officers of Forest Conservation Division, the FAC observed that before considering the extension of the guidelines dated 10.12.2021 to non-coal mining proposals, it would be desirable to ascertain the status of implementation of the guidelines dated 10.12.2021 from the State Government concerned because as such cases have high likelihood of creating *fait accompli* situations.

Policy Issue No-3

Subject: Report of the Committee on Extended Reach Drilling (ERD) vis-à-vis its impact on the above ground biodiversity of forest areas – reg (File No. 11/46/2021-FC)

1. This policy agenda item was considered by FAC in its meeting held on 1.08.2022. The corresponding agenda note may be seen at www.parivesh.nic.in.
2. During the meeting, Member Secretary explained all the facts and background of the matter to the FAC for their examination and analysis.
3. After through deliberation and discussion, the FAC observed that:
 - i. The ERD report of DGH, inter-alia recommending exemption of Extended Reach Drilling Technology from the purview of Forest (Conservation) Act, 1980, was considered by the FAC in its meeting held on 31.03.2022. After detailed deliberations and discussion, the Committee was of the opinion that recommendation made in the ERD report may be accepted and agreed 'in-principle' by Ministry. The Committee, with a view to ensuring holistic assessment of impacts as envisaged in the report, recommended that a copy of report may also be provided to the Wildlife Institute of India for examination of the report with reference to impact on the wildlife.
 - ii. Wildlife Institute of India, Dehradun, vide their letter dated 09.05.2022, submitted their observations on the report *inter-alia* mentioning that the committee report is primarily based on secondary information/data. There is no quantitative and scientific data supporting the observations of the committee. To devise precise guidelines, especially concerning wildlife, credible primary data concerning wildlife species needs to be relied upon. The below mentioned are the general recommendations of WII to be considered while considering ERD near wildlife sensitive areas:

- a. The drilling sites should be located at the base of the catchment areas or downstream to avoid the spill-over directly into the water.
 - b. The drilling should be avoided in corridor areas, especially in areas known to have landscape-dependent species such as Elephants, Tigers, etc.
 - c. The distance of the drilling site from the PA/corridors/Wildlife sensitive areas should not be less than 1 km, as recommended in the committee report. This distance is only based on the precautionary principle. The exact distance should be recommended based on the detailed study.
 - d. The drilling site should be installed with an active noise-proof solution to avoid impacting local habitats and wildlife.
 - e. There should be a comprehensive plan to mitigate the effects of light pollution around the drilling site.
 - f. The approach roads built towards the drilling site should be mitigated if passing through sensitive wildlife areas/protected areas or corridors.
 - g. The operations should only be limited to drilling at the drilling site, whereas all other subsidiary infrastructure should be far away from critical wildlife habitats.
 - h. Drilling sites close to important wildlife habitats should avoid operations during peak wildlife activity, such as early morning and late evening hours.
 - i. A boundary wall should enclose all the drilling points/wells. They should have a 10 m wide road running across the periphery to form a barrier against fire and allow easy movement of tire tenders during fire incidence.
 - j. The contingency plan /team/ protocol should be active for the drilling zone/sites to meet any contingencies during emergencies without time loss. Wildlife should be an integral part of this plan.
 - iii. The Committee further opined that as per the details provided in the report, the use of technology is already being carried out in our country. Primary data as per the observations of the WII may be collected as per the observations of the WII and the same may be provided to the Ministry for further consideration.
4. **Decision of FAC:** After detailed discussion and deliberation on the proposal with the Nodal Officers (FCA), Regional Officers and Officers of Forest Conservation Division, the FAC recommended that Wildlife Institute of India Dehradun in collaboration with the DGH may collect the primary data from the existing locations where ERD technology is being used in the country and prepare a report and submit the same to the Ministry within a period of three months for further consideration. Expenses to be incurred in the process of data collection and report preparation will be borne by the Directorate General of Hydrocarbon.

Policy Issue No-4

Sub: Request from Ministry of Petroleum and Natural Gas, GoI to introduce a separate category in the PARIVESH portal for Hydrocarbons projects-reg.

1. This policy agenda item was considered by FAC in its meeting held on 1.08.2022. The corresponding agenda note may be seen at www.parivesh.nic.in.
2. During the meeting, Member Secretary explained all the facts and background of the matter to the FAC for their examination and analysis.

3. After through deliberation and discussion, the FAC observed that:

- i. A request has been received from the Director General of Hydrocarbons, Ministry of Petroleum and Natural Gas, vide his DO letter dated 31.01.2022, has requested to create a separate category under PARIVESH portal for Hydrocarbon Project which are currently applied under the mining category.
 - ii. The issue relates to de-linking of Hydrocarbon projects was initially considered by the SC of NBWL in 2018 while dealing with a proposal pertaining to the State of Tripura wherein it was opined that Government of Tripura may obtain the opinion of its Advocate General in the matter. The Advocate General gave the legal opinion that extraction of natural gas/oil cannot be considered as mining in terms of Hon'ble Supreme Court order dated 04.08.2006 in IA-1000 in WPC 202/1995 (Godavarman vs UOI).
 - iii. Secretary, MoPN&G also requested MoEF&CC on 6th June, 2019 to delink oil and gas exploration from mining activities and the same was considered by the FAC in its meeting held on 23.04.2019 and 31.07.2019 wherein FAC recommended that M/o PN&G may seek legal advice of MoLJ whether Survey, exploration and extraction of oil and natural gas is to be treated as mining activity or not?
 - iv. Secretary, MoP&NG on 9.01.2020 informed that MoL&J in the matter opined that *"the specific requirement for certain specific activities, framing of separate guidelines is purely an administrative policy matter/decision and not a legal issue. Hence, it is for the administrative Ministry to take up the matter with MoEF&CC. However, if in the course of framing guidelines any legal issue arises the same may be formulated and referred to this Department for advise"*.
 - v. MoEF&CC, after examination of the request of the MoL&J observed that there is no explicit clarification *whether Survey, exploration and extraction of Oil and Natural gas from the forest land is to be treated as mining activity or not*. A clarification was accordingly sought from the MoP&NG.
 - vi. Recently, IRO, Guwahati has forwarded a number of proposals, which were kept on hold in the wake of ongoing deliberations in the Ministry i.e. whether such proposals are to be treated as mining or not? The IRO also desired clarification in the stand of the Ministry to enable them to process these proposals accordingly.
 - vii. The Committee further noted that Ministry vide letter 30.06.2020 constituted a Committee headed by the ADG (Exploration) and the said Committee submitted its report to the Ministry inter-alia recommending that two operations conventional mining and exploration of oil and natural gas are totally different and they should be treated separately at the time of online application through PARIVESH portal and separate guidelines be issued by MoEF&CC for their assessment and clearance. The said report although agreed 'in-principle' by the Ministry but require more inputs to evaluate its impacts on the wildlife and surrounding vegetation which should be undertaken by the WII, Dehradun and after receipt of WII report, decision to accept the said report will be undertaken by the Ministry.
4. **Decision of FAC:** After detailed discussion and deliberation on the proposal with the Regional Officers and Officers of Forest Conservation Division, the FAC observed that since the report of the Committee on ERD, which inter-alia contains the

recommendation on considering the Oil and Explorations as a separate category on PARIVESH, is yet to be finally accepted by the Ministry. The FAC, after taking holistic stock of various development desired that it will be therefore, be appropriate that legal opinion in the matter may be obtained from the Ministry of Law and Justice on the following:

"Whether the exploration and development for petroleum and natural gas is to be construed a mining activity as per the provisions of Oilfield (Regulation and Development) Act, 1948."

After receipt of the legal opinion from the M/o Law and Justice, the matter may again be placed before the Committee.

Additional Policy Issue - 5

Sub: Processing of proposals in the MoEF&CC pertaining to violation of Forest (Conservation) Act, 1980 – reg.

1. The policy agenda item was considered by FAC in its meeting held on 1.08.2022. The corresponding agenda note may be seen at www.parivesh.nic.in.
2. During the meeting, Member Secretary explained all the facts and background of the matter to the FAC for their examination and analysis.
3. After through deliberation and discussion, the FAC observed that:
 - i. Ministry, vide guidelines dated 22.03.2022, clarified that proposals for use of forest land for non-forest purpose involving violation of Forest (Conservation) Act, 1980 as specified in Part 1.21 (i) and (ii) are required to be examined at the level of Ministry. The Integrated Regional Office may examine and process all such proposals as per extant rules and guidelines; however, the same should be forwarded to the with specific comments Ministry for with specific comments/recommendations, for appropriate decisions.
 - ii. In pursuance to the provisions of the above guidelines, IROs have started submitting such proposals in the Ministry for their processing and ex-post facto approval without undertaking examination of such violations cases at the level of Regional Empowered Committee. Existing guidelines provided under para 1.21 of the Handbook of Forest (Conservation) Act, 1980 also do not specify the process to be adopted to deal with such cases.
 - iii. The Ministry has notified Forest (Conservation) Rules, 2022 wherein it has been provided that all cases pertaining to violation, encroachment and dereservation will be dealt at MoEF&CC level only. A clarification dated 18.07.2022 was also issued by the Ministry stating that provisions of new rules will be applicable in cases, which have been submitted on after 28.06.2022 and cases which have been accepted by the Nodal Officer of the State/UT before 28.06.2022 will be processed as per provisions of the Forest (Conservation) Rules, 2003.
 - iv. As per the provisions of Forest (Conservation) Rules, 2003, the proposal pertaining to

categories viz. mining, hydel and encroachment are only examined and processed by the concerned IRO while their approval is granted by the MoEF&CC, New Delhi. The process of examination and approval of the proposals pertaining to mining, hydel and encroachment categories of the proposals is provided under clause (c) of sub rule -2 of rule -7 of the Forest (Conservation) Rules, 2003.

- v. Cases involving violation of Forest (Conservation) Act, 1980 submitted for *ex-post facto* approval of the Central Government are at par with the cases pertaining to the encroachment and therefore process prescribed in the Forest (Conservation) Rules, 2003 to deal with the cases relating to encroachment should be followed in cases relating to violation of Act.
 - vi. Cases involving violation of the Forest (Conservation) Act, 1980, being dealt at MoEF&CC as well as IRO level, are generally considered for approval subject to levying of penal compensatory levies only. No penal provisions stipulated under section 3 A and 3B of the Act are invoked by the IROs while dealing with such cases. Such tendencies among the IROs, has resulted into the present situation of almost no legal proceedings under Section 3A and 3B of the Act despite innumerable violations of the Forest (Conservation) Act, 1980. Such situation also conveys an unwarranted message of getting the FC Act violation condoned merely by paying nominal penalties which are paid conveniently by the user agencies and hence arrangement is not deterring various agencies and other functionaries from committing violation of the Forest (Conservation) Act, 1980.
2. **Decision of the FAC** : The FAC after detailed deliberations and discussion recommended the following:
- i. Proposals submitted for ex-post facto approval, involving violation of Forest (Conservation) Act, 1980 are at par with the cases pertaining to the encroachment and therefore process prescribed under clause (c) of sub rule -2 of rule -7 of the Forest (Conservation) Rules, 2003 needs to be followed for the processing of cases involving area up to 40 ha while proposal involving area more than 40 ha. shall be dealt as per the provisions of sub rule -4 of rule -7 of the Forest (Conservation) Rules, 2003. And the proposals submitted after 28.06.2022 will be dealt as per the provisions of Forest (Conservation) Rules, 2022. All proposals of regularization of encroachment or *ex-post facto* approval will be decided by Ministry at Central level and not by IROs.
 - ii. IRO of the Ministry will ensure that appropriate action under section 3A and 3B of the Forest (Conservation) Act, 1980 are initiated by them in such cases involving violation of the Forest (Conservation) Act, 1980.
 - iii. Necessary amendment in the FC module of Parivesh will be made by the Forest Conservation Division in consultation with the NIC, MoEF&CC, New Delhi.

Additional Policy Issue - 6

Sub: clarification sought by the Government of Karnataka on the applicability of guidelines dated 7.07.2021 in respect of category A, B, C mines and operation of guidelines dated 31.03.2022 – reg.

1. This policy agenda item was considered by FAC in its meeting held on 1.08.2022. The corresponding agenda note may be seen at www.parivesh.nic.in.
2. During the meeting, Member Secretary placed all facts and background of the matter before the FAC for their examination and analysis.
3. After through deliberation and discussion, the FAC observed that:
 - i. The Government of Karnataka, vide their letter dated 17.06.2022, sought clarification from the Ministry, in respect of provisions of guidelines dated 31.03.2020 and 7.07.2021, on the following:
 - a. whether the guidelines dated 7.07.2021 supresses the guidelines dated 31.03.2020;
 - b. If the answer to (i) above is yes, then can the mining operations be continued after the expiry of period of 2 years on till the end of lease period;
 - c. if the answer to (i) above is no then whether the guidelines dated 7.07.2021 can be applied to Category A and B mining leases considering them standalone guidelines for transfer of approval; and
 - d. Status of leases approval which has been expired and now approached authorities for transfer of the same as per guidelines dated 7.7.2021.
 - ii. The Committee was apprised about the background of the guidelines dated 31.03.2020 and 7.07.2021 as under:
 - a. To align the provisions of validity of approval granted under the Forest (Conservation) Act, 1980 with 'The Mineral (Amendment) Act, 2020, the Ministry issued guidelines on 31.03.2020 wherein *inter-alia* it was provided that it will be lawful for the new lessee to carry out mining operation for a period of two years after expiry of mining lease and the new lessee will obtain approval under the Forest (Conservation) Act, 1980 during the said period of 2 years.
 - b. Subsequently, pursuant to promulgation of Mines and Minerals (Development and Regulations) Amendment Act, 2021, Ministry again issued guidelines dated 7.07.2021 wherein it has been provided that approval granted under the Forest (Conservation) Act, 1980 in favour of erstwhile lessee shall be transferred to the new lessee *inter-alia* subject to condition that lease should have valid approval under the FC Act 1980 on the date of expiry of mining lease.
 - iii. With regards to clarifications sought by the Government of Karnataka, the Committee noted the following:
 - a. Guidelines dated 31.03.2020 allows continuation of mining operations for a period of two years. Since the relavant provisions of Section 8(B) of the MMDR Amendment Act, 2020 were substituted with new provisions inserted vide MMDR Amendmet Act, 2015, the provisions of guidelines dated 31.03.2020 are carried forward by the guidelines dated 7.07.2021. Therefore, mining opertation can continue on the strength of guidelines dated 7.07.2021 provided the lease has valid approval under the Forest (Conservation) Act, 1980 on the date of expiry of lease, no violation of FC Act is

involved, and the lease is not terminated by the State or by any court of law.

- b. The Guidelines dated 7.07.2021 are applicable only in cases where the mining lease has valid FC on the date of expiry of lease under the MMDR Act, 1957. Category 'A' and 'B' mining leases were continuing leases and will be expiring or expired after completing the normal term of validity granted under the MMDR Act, 1957. Therefore, these leases will be having valid FC on the date of expiry and hence the provisions of the Guidelines dated 7.07.2021 will be applicable in the case of Category 'A' and "B' mining lease.
4. **Decision of FAC:** After detailed discussion and deliberation on the proposal with the Regional Officers and Officers of Forest Conservation Division, the FAC recommended the following:
- i. Since the relevant provisions of Section 8(B) of the MMDR Amendment Act, 2020 were substituted with new provisions inserted vide MMDR Amendment Act, 2021, the provisions of guidelines dated 31.03.2020 are carried forward by the guidelines dated 7.07.2021. Therefore, mining operation can continue on the strength of guidelines dated 7.07.2021 provided the lease has valid approval under the Forest (Conservation) Act, 1980 on the date of expiry of lease, no violation of FC Act is involved, and the lease is not lapsed or terminated by the Central Government or State Government or by any court of law.
- ii. Provisions of the Guidelines dated 7.07.2021 will be applicable in the case of Category 'A' and "B' mining lease provided such leases has valid approval granted under the FC on the date of expiry of lease.
- iii. Provisions of guidelines dated 7.07.2021 are not applicable in case of leases which have been lapsed or terminated or cancelled by the Central Government or State Government or by any court of law. Therefore the C-Category mines will need to apply afresh and transfer in this case will not be tenable. Relevant guidelines issued may be modified and consolidated and issued afresh.

(Not present)

(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

(Confirmed through email)

(Sh Om Prakash Sharma)

Member

(Confirmed)

(Sh SP Yadav)

Additional Director General of Forests (FC)

Member

(Confirmed)

(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