

SITE INSPECTION REPORT

PROPOSAL UNDER SECTION 2 OF FOREST (CONSERVATION) ACT 1980 FOR DIVERSION OF 184.23* HA OF FOREST LAND IN FAVOUR OF M/S ELECTROSTEEL STEELS LIMITED IN BOKARO DISTRICT, JHARKHAND

***174.39 HA ALREADY ENCROACHED AND 9.84 HA VIRGIN/FRESH**

(Proposal No. FP/JH/ENCRH/37467/2018)

1. The site inspection in respect of the proposal was done by Addl. Director General (C)* along with Shri Sujoy Dutta, Technical Officer (Forestry) and Dr. Surojit Panda, Technical Associate (GIS, DSS), Regional Office on 5.07.2019.

The Conservator of Forests, Bokaro (Sh. Satish Chandra Rai) and Divisional Forest Officer, Bokaro (Sh. R. N. Mishra) participated in the site visit and gave information.

The matters related to legal aspects in respect of the use of the lands and litigation etc. in context of the proposal were also discussed with the Regional Chief Conservator of Forests, Bokaro (Sh. D. Venkateswarlu), Conservator of Forests, Bokaro and Divisional Forest Officer, Bokaro.

The Chief Finance Officer (Sh. Jalaj Malpani), Chief People & Advocacy Officer (Sh. S Venkataraman), Head, Legal (Sh. Kumar Ankit) and other officials of M/S Electrosteel Steels Ltd were also present in the site inspection and gave inputs regarding the project related details, technical aspects and the land use matters.

*The post has been re-designated as Dy. Director General (Central) w.e.f. 8.7.2019

2. The salient details of forest land, relevant proposal related facts and observations are as follows:

1.	<p>Legal status* of the forest land proposed for diversion:</p> <p>(1) Total Forest Land 184.23 ha*</p> <p>(i) Protected Forests notified under Indian Forest Act, 1927 – 99.27 ha*</p> <p>(ii) <u>GM Jungle Jhari Forests (JJF) -</u> <u>84.96 ha*</u></p> <hr/> <p>(2) Non-Forest land 190.58 ha</p> <p>(3) Total area of the project 374.81 ha</p> <p>*Explanatory Note: The legal status of the forest lands has been under litigation. It has been claimed that the forest lands under reference were purchased in 2008 from the private individual persons having title, right and interest therein by the User Agency/Project Proponent, Messers Electrosteel Integrated Ltd (later renamed Electrosteel Steels Ltd in 2010) for the</p>
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establishment of the steel manufacturing plant. The State Government has been contending that 99.27 ha are "Protected Forests" notified under Indian (Forest) Act 1927 in 1958 and 84.96 ha are GM Jungle Jhari Forests in the aggregate 374.81 ha land involved in this project (the remaining 190.58 ha. being non-forest tenancy lands). Of the aggregate 375 ha land, 350 ha land is already in use with steel production industrial facility established by the company since 2008 onwards and also under operation since 2010, the *already in use* forest lands aggregate 174 ha: 91 ha of Protected Forests and 83 ha of GM Jungle Jhari Forests.

The matter continues to be under protracted and involved litigation involving proceedings under Public Land (Removal of Encroachment) Act, Indian Forest Act 1927, and title suits in different courts / quasi-judicial authorities. The revocation of Environmental Clearance granted under Environment (Protection) Act 1986 and denial of Consent to Operate under Pollution laws on the grounds of illegal use of forest lands under reference are also under challenge with interim stay order continuing till date.

With the case pending in Hon'ble High Court, Jharkhand and the continuing interim stay order therein, , the company has applied for approval for the diversion of the "forest lands" under reference under Forest (Conservation) Act 1980 and proposes to obtain revised Environmental Clearance under Environment (Protection) Act 1986 for the current location of the Steel Plant patently as an attempt for resolution of the matter.

The company has also made this application without prejudice to its title, right and interest over these lands based on the contention that these lands were non-forest lands purchased from the private individual persons.

More details given in Paras 7 and 9 here below.

In view of the above facts, this is a post-facto/fait accompli case in respect of 174 ha. of forest lands (notified Protected Forest and Jungle Jhari forests); and only 10 ha. of forest land have not been used as yet, which the company proposes to use along with adjoining parts of non-forest area in the envisaged expansion/extension of its activities.



2. Item-wise break-up details of the forest land proposed for diversion.

The item-wise break-up of the forest land and non-forest land are follows:

Components	Forest Land (ha)	Non-Forest Land (ha)	Total
i. Raw Material Handling Section, Coke Oven, Power Plant Complex	71.12	12.91	84.03
ii. Blast Furnace	13.1	2.98	16.08
iii. Sinter Dolo Complex	31.19	34.42	65.61
iv. Utility & Office Complex	20.52	13.03	33.55
v. SMS, Wire Rod Mill, Bar Mill Complex	17.47	19.51	36.98
vi. Four Lane Road	20.45	6.79	27.24
I. Sub-total*	173.85 (66%)	89.64 (34%)	263.49
vii. Old Road – Approach / Access road	10.38	100.94	111.32
II. Total	184.23	190.58	374.81

*The major portion of the steel plant i.e. 2/3rd is situated in the forest land. The approach / access road to the steel plant premises has larger area in the non-forest land.

As per analysis in the regional office using Google Earth imagery and given site data (kml files), of the total 374.81 ha land, 348 ha land have been already utilized including 172 ha. of forest land (90 ha. of PF + 82 ha. of GM Jungle Jhari Forests) of and remaining 12 ha of forest land (PF - 9 ha + GM Jungle Jhari Forests - 3 ha) along with 52 of non-forest (tenancy) land are to be utilized for expansion of the project for expansion of DIP plant, Weigh Bridge expansion, Installation of Converter and Bar Mill, Parking Yards, Steel Dispatch Yards. Some of the currently unused parcels of land (9 ha) in the already used area will be utilized during modernization/expansion for mechanized loading system using stacker, re-claimers and hoppers and other uses.

3. Whether proposal involves any construction of buildings (including residential) or not. If yes, details thereof:

The project involves construction and installation of Structures etc. of Steel Production Units (Blast Furnace, Smelter, Wire Road Mill, Bar Mill, DI Pipe Mill) Coke Oven Plant, Thermal Power Plant, Material and Products Handling Yards and Facilities, and Buildings for Utilities, Services and Administration – majority of which have been constructed or installed and some more constructions and installations are planned for expansion; however residential complex has not been set up or planned in the proposed forest land.

4.	<p>Total cost of the project at present rates:</p> <p>The cost of project is Rs.15000 crores.</p>
5.	<p><u>Wildlife:</u></p> <p>Whether forest area proposed for diversion is important from wildlife point of view:</p> <p>The proposed forest area for diversion does not form a part of National Park, Wildlife Sanctuary and Biosphere/Tiger Reserve. No rare/endangered species of fauna are found in the area. As mentioned by DFO, Bokaro, the adjoining forests shelters wild fauna like Hyena, Rock python, Peacock, Indian Jackal.</p> <p>To offset any adverse effects of the Steel Industry in the forest landscape in vicinity, the Chief Wildlife Warden has recommended implementation of a Wildlife Conservation Action Plan for forest areas in the radius of 5 km surrounding the Steel Plan at the cost of the project.</p>
6.	<p><u>Vegetation:</u></p> <p>164 ha of the total 184.23 ha. forest lands involved in the proposal have already been converted with tree felling etc. to establish the Steel Production Industry and its access road during 2008 - 2010, almost 10 years before this application has been submitted in 2018 end, and therefore, the currently available vegetation is mainly of avenue or green cover plantation in the industrial premises, and the same has been reported as 738 nos. with species like Chakundi, Chhatwan, Gulmohar and Sesam etc. The 20 ha. of unconverted forest land (PF+Jungle Jhari Forests) yet to be utilized have dominantly <i>Palas (Butea frondosa)</i> trees along with <i>Mahua (Madhuca indica)</i> and other species. The 52 ha of unused non-forest lands comprise of agriculture fields interspersed with patches of Palas, Mahua and other trees. From observation of the surrounding area it appears that the forests of the area already used and converted into industrial complex would also have been constituted of Palas, Mahua and other tree species being part of <i>Jungles of Palas and Mahua, a typical category of Chotanagpur forest landscape</i>. Since 90 percent of the forest land have been converted into steel industry complex, the density of vegetation for the 184 ha. of forest land under this proposal cannot be assigned now although the DFO has mentioned density of 0.1. It could be only speculated that the forest was an open forest and good part of it was open <i>Palas</i> jungle interspersed with Mahua and other species. As a conservative measure, the density may be reckoned 0.4, the upper indicator of open forest.</p>



Total number of trees to be felled.

No information has been furnished. In the already used/converted area of 164 ha, no felling would be required, as the felling has already been done way back in 2008-2010, and the new plantation of 738 trees are to be generally retained as Green Belt under EC.

The expansion of Steel Plant and full use of another 20 ha of forest land would require felling of trees for which information has not been furnished at this stage.

Effect of removal of trees on the general ecosystem in the area:

About 90 % of the forest area (164 ha. of 184 ha. of forest land) has already been converted into industrial complex of steel products, and only small number of trees would be felled in the remaining 20 ha. of forest lands in the expansion of the project. As such effect of additional removal of trees cannot be substantial. Further, due to lack of ascertained information about the previous tree vegetation density in the area involved, it is difficult to make any assessment in this regard with certainty except broad observation about impacts due to loss of open woodland over 164 ha. Due to loss of this vegetation, this has adverse implication for the adjacent stream *Ijri Nala*, which drains into *Sialjori* river nearby, which is a tributary of Damodar river and also the micro-climate. This aspect should have been covered in the EIA for the Steel Industry Project even though the cited location was 5 km away, as surrounding area in 10 km radius is reckoned for impact assessment. The IA division of the Ministry should examine this issue at the time of revision/restoration of EC.

7. Background note on the proposal:

- (1) The Steel Plant of Messers Electrosteel Integrated Ltd was established during the period 2008 to 2010. The action of the State Forest Department, Jharkhand, consisting of prosecution under Indian Forest Act 1927 and proceedings under Public Land (Removal of Encroachment) Act against the company could not be effective in checking the construction and establishment of the Steel Plant in forest land. Some of these proceedings were subsequently quashed/stayed by the Hon'ble Jharkhand High Court. The Steel Plant has continued to operate thereafter since 2010. It was also found that that the steel plant was actually set-up at a location 5 km distant from the location cited in the application for Environmental Clearance(EC) under Environment (Protection) Act 1986 etc. A show-cause notice was issued by MoEF&CC, GoI on 6.06.2012 in this regard, but its disposal was pending as the company produced in its defense orders of Hon'ble High Court, Jharkhand with observations on disputed status of the forest land. Jharkhand State Pollution Control Board also issued notices to the company

in this regard, however withholding extension of Consent to Operate (CTO) was kept in abeyance due to the litigation/stay orders of Hon'ble Jharkhand High Court. Eventually, the Jharkhand State Pollution Control Board denied extending CTO (Consent to Operate) in August, 2018. The Electrosteel Steels Limited challenged the denial of CTO by JSPCB in WP(C) No.1873/2018 before Hon'ble High Court, Jharkhand and the Hon'ble High Court in order dated 25.08.2018 directed the MoEF&CC, GoI to dispose the show cause notice by giving the opportunity of hearing to the company. The MoEF&CC, GoI granted an opportunity to the project proponent for personal hearing on 10.09.2018 and thereafter EC was revoked by an order dated 20.09.2018.

The Project Proponent again challenged the revocation of EC in WP(C) No. 4850/2018 wherein the Hon'ble High Court, Jharkhand vide order dated 27.09.2018 granted the interim relief staying implementation of the EC revocation order till 10.10.2018, which has been extended in subsequent hearings. The project proponent was allowed the opportunity to apply for revised Environmental Clearance and Forest Clearance under protest and without prejudice to their rights over the land alleged to be forest.

In view of the direction of the Hon'ble High Court, the project proponent has applied for the diversion of 184.23 ha forest land (174.39 ha encroachment and 9.84 ha virgin/fresh) under the category of *Encroachment*.

Facts and details and observations regarding violation of forest laws etc. are given in para no. 9 here below.

(2) Village wise details of the PF and GMJJ land is given as below:

Village*	Forest Lands			Non-Forest Land (ha)	Total Land (ha)
	PF (ha)	GMJJ (ha)	Total Forest Land		
Siyaljori*	29.07	13.99	43.06	116.07	159.13
Bhagabandh*	59.65	63.35	123.00	58.77	181.77
Budhibinor	0	0	0.00	9.46	9.46
Alkusa	0	1.48	1.48	3.59	5.07
Dhandabar	0	2.01	2.01	0.35	2.36
Bandhdih	0.36	13.60	13.96	2.15	16.11
Hutupathar	0.32	0.41	0.73	0.19	0.92
Total	89.40	94.84	184.24	190.58	374.82

* In the application for Environmental Clearance during 2006-07, the location given was near village Parbatpur and neither of Bhagabandh or Siyaljori, the given location being 5 km from village Bhagabandh, the actual site of the Steel Plant. In the document for public issue for shares of the company Electrosteel Steels Limited published in 2010 (Red Herring Prospectus dated 11 Sep 2010, the location was mentioned as "near village Sialjori" and Bhagabandh village was

not mentioned, where as the major portion of land occupied by the company for this project is in the village Bhagabandh.

(3) Production Capacity:

The present production capacity of the steel plant is 1.5 MTPA. The production capacity is to be expanded and enhanced with additional products. For this purpose some new structures and facilities are also to be created in the already occupied area and the residual unused area on the north and east side of the existing Steel Plant.

8. **Compensatory afforestation:**

Compensatory afforestation has been proposed over 65.743 ha GMJJ land under Lohardaga Forest Division and 118.60 ha NFL under Giridih East Forest Division in 10 patches, details are as follows:

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Sl. No.	District/ Forest Division	Name of Site/ Village	Khasra No.	Land Type	Area (ha)
1	Lohardaga*	Masmano	2689, 2692, 2694, 2771, 2677, 2678	GM Jungle Jhari Forest Lands (GMJJ)	30.934
2		Bedal	437, 715		18.211
3		Udrangi	546, 1610		13.468
4		Salgi	381		3.104
Sub-total					65.717*
5	Giridih	Parasbani	112, 136, 156, 179	Non Forest land	21.873
6		Angia	847, 12, 215 16		22.784
7		Manimohdar	453, 425, 60, 509		16.000
8		Mahuar	4207		21.780
9		Manjiladih	44, 50, 302, 304		14.544
10		Pihra	8285, 8318, 1993, 1926		21.570
Sub-total					118.551
Total					184.268

In Lohardaga Forest Division, out of selected 65.743 ha GMJJ land, only 19800 trees plantation is proposed in 18.00 ha land. Remaining, 45743 plants (As per guidelines 1000 plants/ ha, $65743 - 19800 = 45945$) is proposed to be planted over the degraded forest land of Mahal Protected Forest under Bokaro Forest Division whose details are as follows:

Mouza Mahal	Plot Nos.	Area (ha)
Thana - Chandankiyari	1526	10.59
	1540	1.51
	4200, 6837, 4199, 4181, 4201, 6711	18.98
	6739, 6749	12.91
Total		43.99

	<p>*As per current guidelines for CA land, the Jungle-jhari lands not in administrative control of Forest Department may also be considered in lieu of non-forest land for the purpose of compensatory afforestation only when provided double in extent of the requirement and subsequently notified as "Protected Forest" and transferred and mutated in the name of State Forest Department. Hence in this proposal, the part of CA land 65.717 ha in Lohardaga district being Jungle Jhari should actually be 131.434 ha, in place of 65.717 ha.</p>
(a)	<p>Whether land for compensatory afforestation is suitable from plantation and management point of view or not: Suitable as reported by DFO, Lohardaga and Giridih East Forest Division.</p>
(b)	<p>Whether land for compensatory afforestation is free from encroachment/other encumbrances: Yes as reported by DFO, Lohardaga and Giridih East Forest Division.</p>
(c)	<p>Whether land for compensatory afforestation is important from Religious/ Archaeological point of view: Not reported.</p>
(d)	<p>Land identified for raising compensatory afforestation is in how many patches, whether patches are compact or not: In 10 patches.</p>
(e)	<p>Map with details: Enclosed</p>
(f)	<p>Total financial outlay: Enclosed</p>



9. **Whether proposal involves violation of Forest (Conservation) Act, 1980 or not. If yes, a detailed report on violation including action taken against the concerned officials:**

The facts and observations in context regarding involvement of violation of Forest (Conservation) Act, 1980 evident from the proposal document furnished by the Government of Jharkhand, as well as the information available with the Environment Wing of ECZ Regional Office in respect of Environment Clearance under Environment (Protection) Act 1986 for the project, and the information gathered in the course of site inspection etc., are as under:

1. Incidence of diversion of forest land and conversion into industrial use:

The forest lands (Protected Forests notified under Indian (Forest) Act 1927 - 91* ha. of the 99.27 ha. applied for) and Jungle Jhari Forests (83* ha. of the 84.96 ha. applied for) have already been utilized for non-forest uses viz. setting up steel industry, access roads and boundary wall without prior approval of Central Government.

*As per Google imagery using site location details furnished.

In the already taken over area of 174 ha, parcels of areas (about 9 ha) are unutilized with original tree vegetation available and the same would be utilized upon progress or expansion of the operations of the steel plant. The remaining portions aggregating 9.84 ha are to be used for expansion or new units/facilities/utilities and installations.

- 2. Information with Central Empowered Committee:** In the year 2010, this matter had come in the cognizance of Central Empowered Committee constituted by Hon'ble Supreme Court also. The Member Secretary of CEC had vide letter no. 1-26/CEC/SC/2010-Pt.XXXV dated 15.7.2010 drawn the attention of Chief Secretary, Govt. of Jharkhand for immediate action. The proposal document forwarded by the State Government does not record any action in response to this letter in the year 2010.

- 3. Information with MoEF&CC, Govt. of India:** It appears that the issue of involvement of forest land in this project came into the cognizance of the MoEF & CC, GoI after the Steel Plant was established. Subsequently reports on the actual status of the lands in question were sought from the State Government by the Impact Assessment Division and Forest Conservation Division, the copies of communication in April 2013 and September 2013 is available in the FC wing of ECZ RO, Ranchi. In May 2014, it was reported by the State Government that steel plant had been established in notified forest lands and recorded Jungle Jhari Forest lands. The company also claimed

before the IA division of MoEF & CC, GoI about the lands being non-forest land and purchased from private individuals who had title, rights and interests in the lands and the contention of the same being notified protected forests was not legally valid. The Scientist of Regional Office, Bhubaneswar was assigned the task to make an inspection in this regard in 2013. However, the inspection could not be conducted during that period. The inspection was eventually conducted at the direction of Lokayukta, Jharkhand in 2017 by the Scientist and Dy Conservator of Forests, ECZ, Regional Office, Ranchi on 3-4 August 2017, as mentioned in para 6 here below.

4. Action taken by State Forest Department and Land Revenue Department:

(a) *Action by State Forest Department, Jharkhand in respect of forest land notified as "Protected Forest" under Indian Forest Act 1927 -*

The State Forest Department have taken action under the provisions of the Indian Forest Act 1927 against the company (User Agency - the predecessor company Messers Electrosteel Integrated Ltd, currently Electrosteel Steels Ltd) by filing of 53 prosecution cases from 26.3.2009 to 20.7.2016 in respect of the "Protected Forest" land usurped/encroached and converted into industrial use as Steel Plant during 2008 to 2010. The User Agency had taken the defense of title of the lands purchased from the private individuals whose claim to tenancy rights are based upon Hukumnama of erstwhile Zamindar. On the other hand, the SFD, Jharkhand has gazette notification of 1958 in respect of 99.27 Ha (i.e. 220.88 Acre) of forest land as "Protected Forests" under the Indian Forest Act 1927 - the subject matter of this proposal.

In respect of 17.66 Acre of the 220.88 Acre of "Protected Forests", there is a judgment by a court in civil suit in favour of the private persons regarding title of tenancy rights and an appeal in title suit is pending in the court of Principal District Judge. The User Agency is relying on the earlier decision in their favour and hopeful of favourable decision in the appeal case with the speculation that this would act as representative judgement in other disputed cases.

As of now, 36 of the 53 criminal prosecution cases have been set aside by Hon'ble Jharkhand High Court in favour of User Agency, and SLP by SFD Jharkhand against 4 of which have been dismissed in the Hon'ble Supreme Court. One SLP of SFD, Jharkhand in Hon'ble Supreme Court is pending. Currently 16 cases are under trial in the Court of Chief Judicial Magistrate, Bokaro.

The SFD, Jharkhand also invoked the Public Land (Removal of Encroachment) Act in this matter, but no actual remedy could be

achieved. In all, 39 cases were instituted and 19 orders were passed by Collector cum DFO Bokaro of which 10 orders were quashed by Hon'ble Jharkhand High Court, in writ petitions filed by the User Agency and remaining 9 orders are pending in appeal before the District Collector, Bokaro (appellate court). The residual 20 cases are pending before Collector cum DFO Bokaro.

(b) Action by Land Revenue Authority -

The 84.96 Ha. of unclassified forests being "Jungle Jhari" forests have also been claimed with tenancy rights with private persons and title of which purchased by the User Agency. The Revenue authorities are to act in respect of these Gairmajarua Jungle Jhari forests and violation of statutory provisions. No information in this regard is available in the proposal documents. However in the records available in the Environment Wing of this ECZ Regional Office, the Circle Officer, Chas (Bokaro district) have in their reports submitted to the Deputy Commissioner, Bokaro on 8 September 2018, mentioned that 345.64 Acre Gairmajarua Khas land and 3.37 Gairmazarua Am land (along with 133.38 Acre of notified forest land) have been encroached by the User Agency. Orders for removal of encroachment over 142.9 acre had been passed by C.O. Chas under section 6 of Public Land (Removal of Encroachment) Act. The Circle Officer, Chandankiyari (Bokaro district) has also in his report dated 8.9.2018 mentioned encroachment of 48.82 Acres of Gairmazarua Khas and 71.83 acres of forest land (Total 120.65 acres) by the User Agency, and case section 6 of Public Land (Removal of Encroachment) Act for removal of encroachment is under process.

5. Environmental Clearance under Environment (Protection) Act 1986 and Consent to Establish and Consent to Operate under Water (Control & Prevention of Pollution) Act 1974 and Air (Control & Prevention of Pollution) Act 1981:

The User Agency obtained Environmental Clearance under Environment (Protection) Act 1986 and Consent to Establish under Water (Prevention & Control of Pollution) Act 1974 and Air (Prevention & Control of Pollution) Act 1981 in the year 2008 on the premise that forest land was not involved in this project. As the location of the project was cited with the GPS of key point at Mauza Parbatpur located 5 km away from the actual site (where the Steel Plant was subsequently set up at Bhagabandh and Siyaljori mauza in the forest land along with non-forest land), the concerned DFO construed in 2007 that the industry was being set up on non-forest land and conveyed in the context of reference regarding Environmental Clearance that the Steel Plant

should have its blast furnaces at a minimum distance of 1000 m (i.e. 1 km) from boundary of forest land. Subsequently, the Consent to Operate was also obtained when the steel plant was established in 2010.

Eventually, the facts of deviation in location of the Steel Industry compared to the location indicated in the application for Environmental Clearance and also involvement of forest land in the project without prior approval under Forest (Conservation) Act 1980 were also taken into cognizance in the Impact Assessment Division of MoEF & CC, Govt. of India, and the matter being pending for long eventually precipitated in the revocation of Environmental Clearance on 20.9.2018. The renewal of Consent to Operate (CTO) had also been denied by Jharkhand State Pollution Control Board on 21.8.2018 as this matter was hanging for long.

6. Cognizance of Lokayukta, Jharkhand and Inspection by ECZ, Regional Office, MoEF&CC, Ranchi in 2017:

Complaints related to unlawful establishment and functioning of the Electrosteel Plant and illegitimacy of Consent to Establish and Consent to Operate under Water (Prevention & Control of Pollution) Act 1974 and Air (Prevention & Control of Pollution) Act 1981 given by Jharkhand State Pollution Control Board and involvement of forest lands without due permission under law were taken into cognizance by Hon'ble Lokayukta, Jharkhand in 2014 and a case bearing no. 01/Lok(Van)03/2014 was instituted. In compliance of direction of Hon'ble Lokayukta, Jharkhand in the order dated 20 July 2017, inspection/monitoring was conducted on 3-4 August 2017 by Deputy Conservator of Forests and Scientist D of the ECZ Regional Office, MoEF & CC, Ranchi. The findings of the Inspection/Monitoring report, amongst others, also mentioned involvement of forest land in the establishment of the steel industry. A report to Asstt. Inspector General (Forests) in the FC division of MoEF& CC, GoI was also submitted vide letter no. 4-06/ROR-2017/1428 dated 17.8.2017 and change in location of the industry *vis-a-vis* the location cited in the application for Environment Clearance under Environment (Protection) Act 1986.

7. Litigation by Messers Electrosteel Integrated Ltd and its successor entity Electrosteel Steels Ltd. and implication thereof in respect of this proposal:

The original project proponent Messers Electrosteel Integrated Ltd that initiated the project in 2006/2007, obtained Environmental Clearance etc. in 2008, procured the lands in 2008 and occupied the land and undertook the construction of the Steel Plant during 2008-2010. The company changed its name in 2010 to Electrosteel Steels Ltd. The company has been contesting and litigating in different courts on the pretext of purchase of title of

raiya/tenancy rights from private individuals for the establishment of the steel plant and development of the access road over 374.81 ha. of land, which included 99.27 ha of "Protected Forest" land notified in 1958 under Indian Forest Act 1927 and 84.96 ha of "GM Jungle Jhari" forest land, both purportedly being tenancy "Raiya" land settled/transferred by "Hukumnama" by erstwhile Zamindar.

Subsequently, the original firm has gone into liquidation and under Insolvency Bankruptcy Code process conducted by NCLT, with the takeover of the firm by another promoter (Vedanta Group), the litigations are also being pursued by the successor corporate entity.

In WP(C) no. 1873 of 2018 and 4850 of 2018 in Hon'ble Jharkhand High Court, the defenses and concerns of the company including the adverse implications for employment of more than 10000 persons due to impending closure of operations of the steel plant resulting from the revocation of Environmental Clearance has been raised. The Hon'ble High Court has in its order dated 27.9.2018 stayed the operation, implementation and execution of revocation order of Environmental Clearance by MoEF&C, GoI as an interim relief and thereby provisionally allowed the Steel Plant to operate with the stipulation that the company shall apply for approval under Forest (Conservation) Act 1980 and for revised Environmental Clearance under Environment (Protection) Act 1986, and the applications shall be expeditiously dealt with by the concerned authorities in accordance with the statutory provisions. The interim relief has been extended in subsequent hearings. The matter is to be again taken up in the Hon'ble High Court in the next hearing on 25.7.2019.

This proposal is in pursuance of the order of the order of Hon'ble High Court in WP(C) no. 4850 of 2018, whereby the User Agency has, as advised by the SFD, Jharkhand, submitted the application under "encroachment" category of proposals under Forest (Conservation) Act 1980.

8. Observations and Recommendation of State Government, Jharkhand / SFD in respect of violation of Forest (Conservation) Act 1980:

- (1) The State Government, Jharkhand has recommended that in view of the violation of Forest (Conservation) Act 1980, the penal provision prescribed in MoEF & CC, Govt. of India letter no. 11-42/2017-FC dated 29.1.2018.
- (2) In the forwarding letters of the Nodal Officer (FC), Jharkhand, RCCF, Bokaro and CF, Bokaro, details/status of prosecution cases filed in respect of "Protected Forest" have been given. In respect of "Jungle Jhari" forests, it has been stated that there has been disputes about the status of Jungle Jhari forest land, and subsequently "Jungle Jhari" forests have been

included in the proposal, and there is no information available regarding the action taken by the district Land Revenue authorities regarding the violation of Forest (Conservation) Act 1980 in the Jungle Jhari forests. However in the records available in the Environment Wing of this ECZ Regional Office, the Circle Officer, Chas (Bokaro district) have in their reports submitted to the Deputy Commissioner, Bokaro on 8 September 2018, mentioned that 345.64 Acre Gairmajarua Khas land and 3.37 Gairmazarua Am land (along with 133.38 Acre of notified forest land) have been encroached by the User Agency. Orders for removal of encroachment over 142.9 acre had been passed by C.O. Chas under section 6 of Public Land (Removal of Encroachment) Act. The Circle Officer, Chandankiyari (Bokaro district) has also in his report dated 8.9.2018 mentioned encroachment of 48.82 Acres of Gairmazarua Khas and 71.83 acres of forest land (Total 120.65 acres) by the User Agency, and case Section 6 of Public Land (Removal of Encroachment) Act for removal of encroachment is under process.

- (3) The Divisional Forest Officer has also recommended in Part II of the proposal proforma that the counter cases filed by the User Agency against SFD personnel should be withdrawn forthwith when the approval under Forest (Conservation) Act 1980 is given.

9. Observations of ECZ Regional Office, Ranchi:

- 1) The User Agency - a corporate entity should have in the very beginning ensured that procurement of lands is lawful and undisputed before commencing and proceeding with the construction of the Steel Plant, access roads and boundary wall. Despite objections and prosecution cases instituted by SFD, Jharkhand, and without getting these lawfully resolved, the construction of the Steel Plant was carried out. The company has taken recourse to and relied upon litigation in this matter and has been obtaining reliefs/stays.

Once the Steel Plant became operational in 2010, the company has been also able to get relief/respite against action by Jharkhand State Pollution Control Board and MoEF&CC, GoI.

It has also been revealed that the location of Steel Plant cited in the application for Environment Clearance was 5 km distant from the actual site of establishment of the Steel Plant.

Thus the User Agency is accountable for the incidence of violation of Indian Forest Act 1927 and Forest (Conservation) Act 1980.

- 2) The SFD, Jharkhand has claimed that 99.27 ha of forest land notified as "Protected Forests" under Indian Forest Act 1927 have been encroached by the User Agency - a corporate industrial entity (Messer Electrosteel Ltd) in 2008 and onwards. The Revenue Authorities have also claimed that 84.96 ha of "Gairmajarua (GM) land" have been encroached by the User Agency - the same corporate industrial entrepreneur (Messer Electrosteel Ltd) in 2008 and onwards for the same purpose and simultaneously with the encroachment of the notified "Protected Forests" as part of same sequence of incidents. It is pertinent that these are not the cases of "encroachment" done by the notified forest lands (PF) or GM lands by tenants for extension of agriculture farm or allied activities or homesteads with their adjoining tenancy/homestead lands, which is typically incremental, fractional, imperceptible and gradual. It is neither the case of encroachment/capture and taking possession by local community of landless people or extremist elements as deviant incidents or by petty livelihood earners on marginal lands. Rather it is a case of illegitimate procurement, capture and usurpation of large area of notified forest lands and GM lands which are state properties, by an entrepreneur for the establishment of an industry which requires so many government permits and clearances.

The State Forest Department authorities have taken action under the provisions of Indian Forest Act 1927 by instituting 53 cases, but due to litigations, could not actually prevent or restrict the establishment of steel plant during 2008 to 2010 and conversion of the entire 91 ha of notified forest land into a major industrial area in perpetration of violation of the Indian Forest Act 1927 and in turn violation of Forest (Conservation) 1980. Although the main accountability lies with the company - Electrosteel Steels Ltd (User Agency), it appears that the SFD authorities due to infirmities and deficiencies on various fronts (on ground demarcation, security and surveillance, vigilance, effective prosecution and sound defense in title related litigation and appeal cases, documentation), have been initially faltered or failed to safeguard the forest land assets in their administrative control and custody in 2008 and 2009 when the company actually occupied the forest land and constructed the Steel Plant. The reasons of such failures, especially during the period when the forest lands were unlawfully occupied by the company is a matter of thorough examination by the SFD authorities themselves for effective remedial action, successful defense in the ongoing litigations in this case, and for taking up precautionary and anticipatory measures against other such incidences besides fixing the

accountability and responsibility.

- 3) The District Land Revenue functionaries have instituted cases of encroachment in respect of GM JJ Forest lands, which are under their administrative control and custody, but in effect the Land Revenue authorities failed to check and control the illegal occupation of the GM lands vested in the State during 2008, 2009 and 2010. This has in turn, resulted in the violation of Forest (Conservation) 1980 by establishment of a major industry of steel plant and conversion of the entire 83 ha of GM JJ Forest land into steel industry area. The reasons for failure of the Revenue authorities in securing the GM lands vested in the State against this kind of usurpation by corporate entity needs to be examined in the State Government for effective remedial action, successful defense in the ongoing litigations in this case, and also for precautionary and anticipatory measures against other such cases. Anticipatory and precautionary alertness against unlawful alienation of large areas of GM land and adjacent notified forest lands with common or related plot nos. etc. have been lacking on part of Land Revenue functionaries and authorities in the initial period before the year 2010, when the occupation GM JJ Forest Land and construction of steel plant thereupon took place in 2008 and 2009, and this matter may need thorough examination by concerned authorities in the State Government.
- 4) As notified forests under the control of SFD has been adjacent and intertwined with GM JJ lands (Jungle Jhari and others) in this case, (typical of many areas in the forest landscape of Jharkhand in general), concerted and coordinated action in tandem by Land Revenue and Forest Department authorities, over and above their acting severally, would have checked the matter in the initial stage in 2008, 2009 and 2010, with the disputes resolved lawfully, and violation of Forest (Conservation) Act 1980 would have been averted. It appears that there was lack of such cooperation and coordination between the Land Revenue Administration and State Forest Department, Jharkhand.

10. Whether proposal involves rehabilitation of displaced persons. If yes, whether rehabilitation plan has been prepared by the State Government or not :

Not applicable.

11. Reclamation plan: Not applicable.

Details & Financial allocation: Not applicable

12.	Details on catchment and command area under the project: Not applicable. Catchment area treatment plan to prevent siltation of reservoir: Not applicable.
13.	Cost benefit ratio: The cost-benefit ratio is 1:173 (As per Ministry's guidelines dated 1.08.2017).
14.	Recommendations of the Principal Chief Conservator of Forests/State Government: Recommended by the PCCF / State Government with imposition of penal provision prescribed in MoEF & CC, Govt. of India letter no. 11-42/2017-FC dated 29.1.2018 for violation incurred by construction of Steel Plant in the proposed forest land over 174.39 ha forest land without obtaining prior approval from the Central Government under Forest (Conservation) Act, 1980.
15.	Recommendation of Addl. DG (Central) along with detailed reasons: <ol style="list-style-type: none"> (1) This proposal has come up as a case of <i>fait accompli</i>, as substantial tracts of forest land aggregating 184 ha is to be considered for <i>post-facto</i> approval for diversion, when the steel plant has been already established and made functional therein during 2008 to 2010 on usurped / encroached forest land and 174.39 ha of the same already converted into industrial area. (2) A recommendation on merits in this case would not have been tenable because establishment of steel plant is not so site specific project as mining and other alignment-specific linear projects, and the User Agency should have procured 370 ha of non-forest land as it could procure 190 ha of non-forest land for this project at an appropriate location. Any incidental minor/miniscule requirement of forest land for access etc. could have been justified in such a case, but in this case the main operational units (blast furnace, smelter, coke oven plant, captive thermal power plant, DI pipe production unit, wire rod and bar mills) have been established in the forest lands. (3) The following issues and aspects are crucially adverse to this proposal: <ol style="list-style-type: none"> (i) The approval even with penalty portends negation of the anticipatory and precautionary preventive approach of the Forest (Conservation) Act 1980. (ii) The fact of the nature and manner of the incidence of violation of the Indian Forest Act 1927 and the Forest (Conservation) Act 1980 renders this proposal undeserving. The violation is not a case of incidental or inadvertent omission or constrained commission, rather it is a case of known, informed and deliberated commission by an agency that is a corporate entity and not persons compelled by circumstances beyond their control.

- (iii) The failure or inability of State machinery of the State Forest Department, Jharkhand and Land Revenue Department in this case in checking the actual physical occupation and violation of large areas of 184 hectares of forest lands by a corporate entity over 2-3 years in 2008, 2009 and 2010 notwithstanding the proceedings initiated by them is also a matter to be reckoned in considering the approval of this proposal.
- (4) On the other hand, under the given *fait accompli* predicament, the extenuating factors that support the proposal may be considered as follows:
- (i) The forest tract involved has already been almost irreversibly transformed, and its immediate restoration does not seem to be of critical or crucial ecological imperative, as it is not a part of ecologically significant bio-region or landscape, although the increasing relative value of even pockets of natural vegetation of low floral biodiversity in the progressively being mined and industrialized Dhanbad-Bokaro coal belt cannot be discounted.
 - (ii) The steel plant is already operational with substantial resources sunk there in; as such, the relocation of the steel plant may not be prudent option from economic considerations as it would entail considerable societal costs, including impact on direct and indirect employment for more than 10000 persons (8000+ one roll of company and 4000 outsourced).
- (5) The matter having been in the cognizance of **Hon'ble Lokayukta, Jharkhand** and the **Central Empowered Committee** constituted by **Hon'ble Supreme Court** for monitoring the implementation of Forest (Conservation) Act 1980, also has implications on consideration of this proposal for approval.
- (6) Having regard to both adverse and supportive perspectives of this proposal, the competent authorities concerned may take decision as deemed fit or may consider referring this proposal to the Central Empowered Committee constituted by Hon'ble Supreme Court. In the event that the proposal is considered for in-principle (Stage I) approval, the following terms and stipulations should be considered in addition to the conditions as per the guidelines and norms:
- (a) The issue of dispute, as held by User Agency, about legal nature of the land irrespective of title etc., being "forest land" (both the notified "Protected Forest" and the "GM Jungle Jhari") should be settled with finality and the current User Agency /Project Proponent should concede any claims to the contrary.

	<p>(b) The State Government, Jharkhand should get a thorough inquiry conducted into the illegitimacy of the settlement or transfer or claims to title, rights (tenancy or otherwise) or interests on the forest lands ("GM Jungle Jhari" lands and notified protected forest lands) involved in this proposal before procurement of these lands by the then User Agency Messers Electrosteel Integrated Ltd before 2010, and the ground for the encroachment over these lands vested in the State to secure the interests of State in the notified forest lands and other forest lands. A report on the findings of the enquiry, the remedial measures taken and the action taken against officials and functionaries if found accountable in this case should be furnished with the compliance report of Stage I approval.</p> <p>(c) The penalty imposed should be exemplary: the User Agency should also bear the cost of a long-term project of ecological restoration of large degraded tracts in Bokaro-Dhanbad region along with rejuvenation of Sialjori river and the segment of Damodar river therein.</p>
16.	<p>Addl. DG (Central) shall give detailed comments on whether there are any alternative routes / alignment for locating the project on the non-forest land:</p> <p>Since the plant is already constructed in the year 2008-2010 and in running position, the exploration of alternate is not arise.</p>
17.	<p>Utility of the project:</p> <p>Steel and special steel products contribute to national development in many ways. The Electrosteel Steels Limited has recently undergone a Corporate Insolvency Resolution Process and the new management (Vedanta Limited) has taken over the plant w.e.f 4.06.2018. This Steel Plant also provides employment to approximately 30,000 people (Permanent - 3200, Temporary - 10000 and remaining indirect). This is beneficial to the community of Bokaro-Dhanbad region and a factor in economic development of Jharkhand. The modern plant having new technologies with enhanced efficiencies of economy, energy and environmental factors, as stated by the project proponent, are attributes to be promoted and fostered.</p>
18.	<p>Numbers of Scheduled Caste / Scheduled Tribes to be benefited by the project:</p> <p>Not Reported.</p>
(a)	<p>Whether land being diverted has any socio-cultural/ religious value: Not reported.</p>
(b)	<p>Whether any sacred grove or very old growth trees/forests exist in the areas proposed for diversion: Not reported.</p>

(c)	<p>Whether the land under diversion forms part of any unique eco-system:</p> <p>Not reported.</p>
19.	<p>Situation with respect to any Protected Area:</p> <p>The forest area under proposal for diversion is not part of any National Park, Wildlife Sanctuary, Biosphere Reserve, Tiger Reserve, Elephant Corridor etc. and no such Protected Area is within 10 km of the same, the nearest PA – Topchanchi Wildlife Sanctuary is situated at 29 km, and other two sanctuaries of Hazaribag WLS and Koderma WLS are located far away at 90 km and 110 km.</p>
20.	<p>Any other information relating to the project:</p> <p>The contents of this report and especially those of para 9 and 7 are subject to amendments or rectification by SFD/State Government, Jharkhand or the applicant in respect of any inadvertent error as the report has been finalized hurriedly in view of the next hearing in Hon'ble Jharkhand High Court scheduled on 25.07.2019.</p>

Bharat 15/7/19
(Bharat Jyoti)

Dy. Director General (Central)