



OFFICE OF THE REGIONAL CHIEF CONSERVATOR OF FORESTS, ROURKELA CIRCLE,
AT/P.O. PANPOSH, ROURKELA-769004

Memo No. 3531 /3F(Misc)810/2022

Date: 13.10.2022

To

The Principal Chief Conservator of Forests
(Forest Diversion & Nodal Officer, FC Act),
O/o the Principal Chief Conservator of Forests,
Odisha, Bhubaneswar.

Sub: Proposal for non-forestry use of 194.683 ha of forest land in favour of M/s Odisha Mining Corporation (OMC) involved in total mining lease area of 358.258 ha of Guali Opencast Iron Ore Mines located in District Keonjhar (Odisha) - reg.

X-Sub: Submission of point wise compliance on observation noticed by MoEF & CC, GoI, New Delhi vide letter dated 03.06.2022.

Ref: 1. F No.8-96/1996-FC (PT.-I) dt 03.06.2022 by MoEF & CC, GoI.
2. Your Memo No.12116 Dtd.17.06.2022.
3. Memo No. 7508 Dtd.30.09.2022 of DFO, Keonjhar Division

With reference to the aforementioned Memos on the captioned subject, the DFO, Keonjhar Division vide his Memo No.7507 Dtd.30.09.2022 addressed to this office & copy endorsed to you in the next Memo of even date has submitted the compliance with the deficiencies observed by the MoEF & CC vide F No.8-96/1996-FC (PT.-I) dt 03.06.2022 in respect of the aforementioned proposal which may kindly be perused.

The point wise compliance submitted by the DFO, Keonjhar Division is as follows:-

- i. **27 ha of non-forest land out of 194.683 ha identified for CA falls under MDF category. Detail of degraded forest land identified for raising afforestation in lieu of 27.00 ha MDF non-forest CA land has not been submitted along with the proposal. The same needs to be submitted along with complete detail of supporting attributes such as afforestation scheme, suitability certificate, KML files, etc.**

As reported by the DFO, Keonjhar Division, the compensatory afforestation scheme has been technically approved by CCF (Nodal) over 167.183 ha under block plantation mode @ 1600 plants/ha with soil and moisture conservation (SMC) activities over entire non-forest land of 194.683 ha including 27.0 ha of MDF category. In the CA scheme, 2,67,493 nos. of plants (167.183 ha X 1600) have been approved as against the requirement of 1,94,683 nos. (194.683 ha X 1000 seedlings as stipulated by MoEF& CC). This fulfils the purpose of Compensatory Afforestation to compensate the loss of "land by land" and loss of "tree by tree" as per the guidelines by MoEF& CC vide F.No.11-423/2011-FC dt 08.11.2017 (**Annexure-I**). Therefore, no extra plantation in degraded forest land has been proposed. The afforestation scheme, suitability certificate, kml file etc. enclosed herewith for reference.

- ii. **Detail of degraded forest identified in lieu of 1.5 times the area of safety zone of 6.469 ha of land of the mining lease for raising afforestation has not been submitted along with the proposal. Same needs to be submitted along with**

complete detail of supporting attributes such as afforestation scheme, suitability certificate, KML files, etc.

The DFO, Keonjhar Division has stated that, earlier MoEF, GoI, New Delhi had conveyed in-principle approval over 42.417 ha of already broken up forest land vide letter No.8-96/96-FC dt 25.09.2003 stipulated with one of the conditions to undertake afforestation over 1.5 times area of the safety zone in degraded forest elsewhere. In this case, the safety zone area is 16.16 ha and therefore, 24.24 ha i.e. 1.5 times the SZ area in Atei RF under Patna Range of Keonjhar district has been selected for raising afforestation. DFO, Keonjhar while formulating the scheme has been indicated at Sl.No.3 of the CA Scheme approved by CCF (Nodal) to take up Block Plantation over 24.24 ha in blanks with 1600 plants/ha at 2.5m X 2.5m spacing which confirms that the land is suitable for plantation. Therefore, a separate suitability certificate has not been enclosed in this case. The authenticated plan showing 24.24 ha in Atei RF has been attached to the CA scheme duly approved by CCF (Nodal) which is enclosed as **Annexure-II** for reference. The KML file of 24.24 ha is given in a CD format & enclosed herewith for reference.

- iii. ***Elephant Habitat-2 is reported in the area proposed for diversion, therefore, comments of PCCF (Wildlife) and CWLW, Odisha on the likely impacts of the project on the elephant habitat and other schedule species reported in the area may be obtained by the State and may be informed to the Ministry.***

As reported by the DFO, Keonjhar Division, as per condition No.II (17) of Stage-I approval letter F. No.8-96-96-FC (pt) dated 02.01.2010 of MoEF, GoI, New Delhi a Site Specific Wildlife Conservation Plan (SSWLCP) was prepared including impacts of the project on the flora and fauna and approved by PCCF (WL) & CWLW, Odisha vide his Memo No.1WL-C-FC-385/08-321 dt 17.01.2009 with a total financial outlay of Rs. 277.00 lakhs towards activities to be implemented in Core and Buffer Zone within a period of ten years. The ex-lessee i.e. M/s. R.P. Sao has deposited Rs.2,71,80,856/- on 03.03.2010 except the cost of a vehicle of Rs.5,19,144/-in the Orissa CAMPA Account towards implementation of various activities in Core as well as Buffer zone.

It is an old mine functioning since 1953. The whole land scape around the mine also involve mining. It is not a critical elephant movement area connecting distant habitat. Elephant do not visit this lease area. There is elephant movement over adjoining forest blocks for which Site Specific interventions have been suggested. There will not be any visible and major negative impact on the habitat of elephant & other species.

The copy of the Site Specific Wildlife Conservation Plan (SSWLCP) technically approved by the Principal Chief Conservator of Forests (WL) & CWLW, Odisha, Bhubaneswar is enclosed as **Annexure-III**.

- iv. ***A Nallah named Topadihi flows inside the ML area and it has been proposed to be diverted. Comments of the Water Resource Department of the State on the efficacy of proposed diversion of nallah need to be informed by the State.***

As reported by the DFO, Keonjhar Division, M/s OMC Ltd. vide their letter No.9647/OMC/F&E/2022 dt 18.06.2022 had requested the Engineer in Chief, Department of Water Resources, Bhubaneswar to give his views in terms of the efficacy of the proposed Nallah diversion. The Department of Water Resources Govt. of Odisha vide their letter No.21122/WR dtd 08.08.2022 has referred the letter No.WG-OMC-15/22-19995/WE dtd 05.08.2022 issued by the Engineer-in-Chief, Water Resource, Odisha, Bhubaneswar which states that, ***there will be no issue on discharge of the nallah due to the diversion proposal and may be considered for obtaining necessary clearance from MoEF & CC, GoI***". The copy of the letters is enclosed herewith as **Annexure-IV series**.

- i. **Cost benefit Analysis of the project has been estimated to be 1:1786.67 which appears to be exorbitantly high. Total cost to be incurred on the project has been estimated to be Rs. 46.46 crores while benefits estimated to the tune of Rs.83,011.84 crores. The same needs to be revisited and estimated using appropriate techno-economic tools for estimation of all parameters and their discounting to arrive at same present values of cost and future benefits.**

As reported by the DFO, Keonjhar Division, the benefits by OMC and the cost estimate by him as per the Guideline by MoEF& CC vide letter dt. 28.03.2019 has been revised and the CB ratio comes to 1:1130.46. The copy of the analysis of benefits by OMC and cost by DFO are enclosed as **Annexure-V** and **Annexure-VI**.

- vi. **Proposal involves 136 project affected families wherein 99 families have been proposed to be displaced. It is proposed to rehabilitate the displaced families in re-settlement colonies. Detail of R&R Plan, as approved by the State, has not been submitted along with the proposal.**

As reported by the DFO, Keonjhar Division, the letter No.614/SM dt 27.01.2022 by the Under Secretary to Govt. of Odisha, Steel & Mines Department explains adequately regarding use of Private land for mining operation which is covered under the provisions of Rule 52 & Rule 53 of M C Rules, 2016. The content of the above Rules clearly transpires that acquisition of private lands existing within the mining lease area is not mandatorily required for undertaking the mining operation. Department of Steel & Mines has also advised that OMC Ltd., may please proceed to undertake the mining operation in the private lands existing in Guali Mining Lease on the strength of the vested surface right and in due adherence to the applicable provision of laws.

However, M/s OMC Ltd. being a State Govt. PSU shall abide by the R&R Plan, 2016 approved by the State Govt. The copy of the letter by S & M Dept., approved R&R Plan by the State Govt. & undertaking submitted by M/s OMC Ltd. to implement the R&R Plan is submitted here with as **Annexure-VII, VIII&VIII A respectively**.

- vii. **Status of transfer of approvals granted under the Forest (Conservation) Act,1980 from M/s R. P. Sao to M/s OMC Ltd, in accordance with the relevant guidelines issued by the Ministry, has not been intimated by the State. Detail of the same needs to be shared by the State.**

As reported by the DFO, Keonjhar Division,, M/s OMC Ltd. has submitted the compliance vide their letter No. 8564/OMC/F&E/2022 dt. 25.05.2022 for transfer of FC (Stage-II) over 42.417 ha and 95.00 ha pertaining to Guali Iron Ore Mines in favour of OMC Ltd. Accordingly, the DFO, Keonjhar has submitted the FC Transfer proposal to the RCCF, Rourkela Circle for onwards transmission to the Government vide his office memo No.5107 dated 05.07.2022. Accordingly, the RCCF, Rourkela has submitted the FC transfer proposal to the CCF(FD&NO, FC Act), O/o-the PCCF, Odisha vide his letter No.2216 dated 12.07.2022. The CCF (Nodal) has raised some observation to comply which is under process. Copy of the correspondence in this regard is enclosed as **Annexure-IX series**.

- viii. **Detail of NPV paid by the previous lessee i.e. M/s R.P.Sao in lieu of approvals accorded in the past may be intimated by the State.**

As reported by the DFO, Keonjhar Division, the previous lessee i.e. M/s R.P. Sao has deposited NPV for entire forest land over 338.477ha involved in the mining lease as per the decision of the Hon'ble Supreme Court. A sum of total Rs.24,70,88,210/- (Rs. 2,46,01,860/- + Rs.13,11,72,040/- + Rs.3,99,51,510/- + Rs.5,13,62,800/-) has been deposited by the ex-lessee vide D.D No. 466544 dt.19.09.2004,D.D No. 023888 dt.03.03.2010, DD No.011038 dt.14.06.2010 & through RTGS vide UTR

No.UTIBR52018060400358995 dated 04.06.2018 respectively in CAMPA Account. The payment details are indicated in the CAMPA format and enclosed as **Annexure-X**.

ix: Examination of Mining Plan revealed the following:

- a. **As per details of the area involved in the Mining Plan, forest area has been indicated as 229.524 ha while the proposal submitted online indicated the area as 332.10 ha. Similarly, land use provided in the Mining Plan for conceptual period at page 92 is corresponding to area of 339.709 ha while the total area of lease is 358.258ha. Discrepancy in the area needs to be rectified by the State.**

As reported by the DFO, Keonjhar Division, the forest area in the mining plan approved by IBM dtd. 19.03.2021 has been mentioned as 229.524 ha basing on the land schedule attached to the mining lease deed executed on 12.01.2021. This land schedule is based on the HAL settlement RoR. Tahasildar, Barbil, on the request made by OMC, issued a certified copy of the land schedule on dtd. 22.03.2021 (Annexure-VII of the DP at page No.187 to page No.207a-207j) wherein the total forest land included within Guali ML comes to 332.100 ha. Therefore, OMC has uploaded 332.100 ha of total forest land in PARIVESH portal during submission of the application for diversion of forest land. The copy of the abstract of the land schedule as per HAL & SABIK RoR is enclosed as **Annexure-XI**. The total forest land of 332.10 ha mentioned in the online proposal may be accepted as correct.

In reply to the second part of the observation, it is submitted that the area for land use provided in Chapter 2.0 (f) of the Mining Plan under "Land Use Planning" during conceptual stage has been estimated excluding 17.786 ha as other un-utilized area and 0.763 ha retained for Plantation. Thus, the total area comes to 358.258 ha (339.709 + 17.786 + 0.763) which is equal to the total ML area. Hence, there seems no discrepancy. The copy of the extract of the Mining Plan is enclosed as **Annexure-XII**.

- b. **Further, Mining lease has been granted for a period of 10 years while the Mining Plan has been submitted only for 5 years. State Government may intimate the detail of Mining Plan, if any prepared for the entire lease period addressing the excavation of the entire mineable reserve in the lease.**

As reported by the DFO, Keonjhar Division, the user agency has intimated that, the ML area contains 160.136 million tons of iron ore reserve and by the end of 5th year i.e. 2025 the total production will be 96.19 million tons. Therefore, the remaining reserve of 63.946 million tons (160.136 - 96.19) shall run the mines for another 3 years. By the end of 8th year, the mineral gets exhausted i.e. much before the lease period is expired. This has been approved by IBM vide letter No. MP/A/38-ORI/BHU/ 2020-21/2916 dt.19.03.2021 along with the planning for disposal of mineral rejects, Waste disposal and use of 212.27 ha for mining by the end of Conceptual period is justified. The copy of the extract of the Mining Plan is enclosed as **Annexure-XIII**.

Further, the user agency has intimated that, at least 180 days before the expiry of current mining plan, M/s OMC Ltd. shall submit a mining scheme before IBM for the remaining period of the ML as per clause No. 17 (2) of the MCR, 2016 for approval of Mining Scheme.

- c. **Figures of different land uses in the mining lease as provided in the proposal and in Progressive Mine Closure Plan cannot be tallied for want of consolidated detail of land use in the proposal. Reconciled detail of land use in proposed in the forest and non-forest land may therefore be provided by the State.**

As reported by the DFO, Keonjhar Division, the user agency has intimated that, the figures of different land uses provided in the proposal is mentioned for 194.683 ha of

forest land and 19.572 ha of non-forest land which is a part of the entire ML area of 358.258 ha mentioned in the Progressive Mine Closure Plan. However, a comparative statement of land use approved and proposed with that of the land use given in Progressive Mine closure Plan is given at **Annexure-XIV** for reference.

- d. ***As per detail furnished in the Mining Plan, in the ongoing project, area earmarked for dumping is 6.959 ha while an area of 0.093 ha is earmarked for storage of topsoil. Area for dumping in the extant project has been increased to 56.90 including additional area of 49.051ha, a justification for abrupt increase in the area earmarked for dumping may be furnished by the State.***

As reported by the DFO, Keonjhar Division, the user agency has intimated that, in the current proposal, Revenue forest land has been proposed to be utilized for dumping of overburden within the ML. Dumping of overburden outside the ML is not permissible under MMDR Act and the Rules made there under. As per the Mining Plan approved by IBM, the disposal of waste has been earmarked within the ML on the non-mineralized areas.

The area utilized over 42.417 ha and 95.0 ha within Guali Mines for mining and ancillary purposes has so far generated very less overburden and hence only 6.959 ha has been used for dumping of Over Burden. Mining till date continued at depth without any lateral expansion. On getting Stage-II Forest Clearance over 194.683 ha of virgin forest land, mining activity will be carried out in virgin forest land. It has been estimated that 9.5 Mm³ of wastes will be generated from Guali Iron Ore Mines till conceptual period out of which 2.85 Mm³ will be utilized for road formation, maintenance and bund formation and remaining 6.65 Mm³ waste will be dumped at proposed dump location. For safe disposal of 6.65 Mm³ of waste, there is a requirement of additional 49.051 ha of forest land for waste dumping. This has been approved by IBM.

Further, the user agency has intimated that, the current rated production of 5.48 MTPA of iron ore has been planned to enhance up to 30.0 MTPA (almost six fold increase) and hence the sudden increase in the area for dumping is justified. The copy of the relevant pages of approved mining plan is enclosed as **Annexure-XV** for ready reference.

x. The State Government may also submit their considered opinion or justification on the following:

a. The State Government may comment on observation of DFO contained in part-II of Form-A reporting apparent violation of Forest (Conservation) Act, 1980 by using Sabik forest land of 38 ha for dumping without prior approval under the FC Act, 1980.

As reported by the DFO, Keonjhar Division, the Non-forest land as per HAL settlement RoR has been used for dumping by the previous lessee i.e. M/s R.P.Sao and the same has been used as such by the new lessee i.e. M/s OMC Ltd. which is found subsequently to be forest land as per SABIK record and has been considered as violation of FC Act, 1980 by him and has been reflected in Part-II of Form-A. The said area has been included within 194.683 ha of forest land proposed for diversion. The higher authorities may give their comments in this regard.

b. The State Government may comment on observation of DFO contained in part-II of Form-A reporting apparent violation of Forest (Conservation) Act, 1980 by using Sabik forest land of 38 ha for dumping without prior approval under the FC Act, 1980.

As reported by the DFO, Keonjhar Division, the reply to above observation is the same as given above against Point No.x.a.

c. M/s Deepak Steel has purchased and established a Steel Plant over 8.0 ha of Sabik land within the ML area. Therefore, comments are desired on whether sale purchase within ML area after lease execution is permissible, impact of such activities on lease sanctity and reasons for not including the same into the detail of project components submitted along with the proposal.

As reported by the DFO, Keonjhar Division, the user agency has intimated that, M/s Deepak Steel & Power has set up a Steel Plant inside the lease hold area of Sri R.P.Sao, during the non-working period (1997 to 2002) of the mines, in the purchased tenanted land as well as encroached Govt. land. Sale and purchase of land within ML area after lease execution is permissible for establishment of infrastructure. In order to commence mining and allied operation, surface right permission over 286.089 ha by the Collector, Keonjhar has been granted basing on the application made by the ex-lessee. Prior to M/s OMC Ltd. taking over the lease, M/s Deepak Steel had purchased and established a Steel Plant over 8.0 ha of non-forest land which was subsequently found to be located in Sabik kissam forest land of the ML. The plant is not in operation since 2006 and the structures standing on it is in demolition stage. It will not have any impact on the lease administration. OMC is in the process of exploring this patch by core drilling and if found mineralized shall put under mining land use. M/s OMC has reported that, they have no plan to operate the plant.

Further, in complying to the observation, the Deputy Secretary to Government, Steel & Mines Department, Govt. of Odisha, Bhubaneswar vide his letter No.9235/SM dated 28.09.2022 submitted the compliance to the M/s OMC Ltd. dated 28.09.2022 and the same has been intimated by the User Agency vide their letter No.16162 dated 28.09.2022 to incorporate in the compliance report(copy enclosed as **Annexure-XVI**).

d. Whether the lease executed between Collector, Keonjhar and M/s OMC on 12.01.2021, includes forest land of 194.683 ha and if so, why execution of lease without the prior approval of the Central Government under the FC Act for 194.683 ha should be treated as a violation of Forest(Conservation) Act, 1980 and relevant orders of Hon'ble Supreme Court.

As reported by the DFO, Keonjhar Division, Mining Lease executed between Collector, Keonjhar and M/s OMC on 12.01.2021, includes forest land of 194.683 ha. Regarding execution of lease without prior approval of the Central Govt., the clause No.7.3 (vi) of the letter by MoEF& CC dtd. 31.03.2020 keeps a provision which is read as under:

" a. A new lessee of the mining leases expiring under the provisions of sub-section (5) and (6) of Section 8A of Mines and Minerals (Development and Regulation) Amendment Act,2015,shall be deemed to have acquired all valid rights, approvals, clearances, licenses and like vested with the previous lessee for a period of two years....."

Subsequently, as per MMDR Amendment Act, 2021 dt 28.03.2021 the following is reproduced for clarity:

"8B. (1) Notwithstanding anything contained in this Act or any other law for the time being in force, all valid rights, approvals, clearances, licenses and the like granted to a lessee in respect of a mine (other than those granted under the provisions of the Atomic Energy Act, 1962 and the rules made there under) shall continue to be valid even after expiry or termination of lease and such rights, approvals, clearances, licenses and the like shall be transferred to, and vested; subject to the conditions provided under such laws; in the successful bidder of the mining lease selected through auction under this Act:

Provided that where on the expiry of such lease period, mining lease has not been executed pursuant to an auction under provisions of sub-section (4) of section 8A, or lease executed pursuant to such auction has been terminated within a period of one year from such auction, the State Government may, with the previous approval of the Central Government, grant lease to a Government company or corporation for a period not exceeding ten years or till selection of new lessee through auction, whichever is earlier and such Government company or corporation shall be deemed to have acquired all valid rights, approvals, clearances, licenses and the like vested with the previous lessee:

Provided further that the provisions of sub-section (1) of Section 6 shall not apply where such mining lease is granted to a Government company or corporation under the first proviso:

Provided also that in case of atomic minerals having grade equal to or above the threshold value, all valid rights, approvals, clearances, licenses and the like in respect of expired or terminated mining leases shall be deemed to have been transferred to, and vested in the Government company or corporation that has been subsequently granted the mining lease for the said mine.

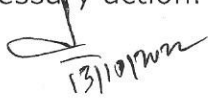
(2) Notwithstanding anything contained in any other law for the time being in force, it shall be lawful for the new lessee to continue mining operations on the land till expiry or termination of mining lease granted to it, in which mining operations were being carried out by the previous lessee."

Ministry of Mines vide letter No.4/1/2020-M.VI dt. 05.01.2021 reserved Jilling-Langalota Iron Ore Mines and Guali Iron Ore Mines. Accordingly, Mining Lease was granted and executed in favour of M/s OMC Ltd. to produce iron ore as per the raw material requirement of the industries. The area of operation is strictly confined within approved forest area of 137.417 ha, excluding 194.683 ha of forest area to be utilized after grant of stage-II Forest clearance.

Further, in complying with the observation the Deputy Secretary to Government, Steel & Mines Department, Govt. of Odisha, Bhubaneswar vide his letter No.9235/Sm dated 28.09.2022 submitted the compliance to the M/s OMC Ltd. dated 28.09.2022 and the same has been intimated by the user agency vide their letter No.16162 dated 28.09.2022 to incorporate in the compliance report (copy enclosed as **Annexure-XVI**).

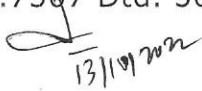
This is for favour of your kind information and necessary action.

Encl: As above.


Regional Chief Conservator of Forests,
Rourkela Circle

Memo No. **3532** / Date: **13.10.2022**

Copy forwarded to the Divisional Forest Officer, Keonjhar Division for information and necessary action with reference to his Memo No.7507 Dtd. 30.09.2022.


Regional Chief Conservator of Forests
Rourkela Circle