

GOVERNMENT OF ASSAM
OFFICE OF THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS AND
HEAD OF FOREST FORCE:: ASSAM
PANJABARI :: GAUHATI

Phone No. (Off.) :- 0361-2333252

E- mail ID:- adlpccf.nodal@gmail.com

No.FG.27/Nodal/Proposal/Kahuwa M.M.U.Sand/K.W.Divn.

Dated Ghy, the 15th February/2019

To,

✓ The Additional Principal Chief Conservator of Forests (Central),
Govt. of India, Ministry of Environment Forests & Climate Change
North Eastern Regional Office, Law-U-Sib,
Lumbatngen, Near M.T.C. Workshop, Shillong-793021.

Sub:- **Proposal for diversion of 5.0 ha. of forest land for operation of Kahuwa Minor Mineral Unit (Sand) under Kamrup West Division in favour of DFO, Kamrup West Division.**

Ref: Govt. of India letter No. 3-AS B 009/2019-SHI/3417-18,dated. 21/01/2019.

Sir,

With reference to the subject cited above, I am submitting herewith the additional information/ clarification sought by Govt. of India, MoEF & CC, Regional Office, Shillong letter No. 3-AS B 009/2019-SHI/3417-18,dated. 21/01/2019 as below for your perusal and onward necessary action.

Govt. of India letter No. 3-AS B 009/2019-SHI/3417- 18,dated. 21/01/2019	Information Provided
Point No. (1)	The reply of the Sl. No.10 of Govt. of Assam forwarding letter No. FRS.263/2018/38,dated.24/12/2018. There is no violation of the Forest Conservation Act,1980 in the area proposed for diversion.
Point No.(2)	The Divisional Forest Officer, Kamrup West Division, Bamunigaon has submitted the Net Present Value (NPV) calculation sheet, which enclosed herewith as Annex-I
Point No.(3)	All the four Writ Petitions namely (i) W.P.(C) No. 672/2016 in the matter of Ranjit Das Vs Union of India & Others, (ii) W.P.(C) No. 1172/2017 in the matter of Manidip Rabha & Others Vs Union of India & Others, (iii) W.P.(C) No. 1157/2017 in the matter of Ranjit Das Vs Union of India & Others and (iv) W.P.(C) No. 48/2017 in the matter of Achurya Rabha Vs Union of India & Others filed in Hon`ble Gauhati High Court are in the admission stage and affidavit –in opposition has been filed by Assam Forest Department. All these four cases has been linked together in W.P.(C) No. 1157/2017, Ranjit Das Vs Union of India and others. Final order has not yet been passed by the Hon`ble Gauhati High Court. However, on 17/03/2017 in W.P.(C) No. 1157/2017 the Hon`ble Gauhati High Court has issued interim order that “the respondents may go ahead with the processing of NIT and send the matter for obtaining approval of the Central Government with the condition that the respondents would neither permit any mining activity in any of the areas covered by the NIT dated 10/02/2017 nor issue final order of settlement under the said NIT without obtaining leave of this court”. A report on the current status given by the Legal Cell of O/o the Principal Chief Conservator of Forests & Head of Forest Force, Assam and Hon`ble Gauhati High Court order dated 17/03/2017 is enclosed as Annexure – II.

Since the proposed Kahuwa Minor Mineral Unit (Sand) is a new area and not covered under the NIT dated 10/02/2017, there is no bar from the Hon'ble Gauhati High Court on sending the matter for obtaining the approval of the Government of India. Further, a report received from the Divisional Forest Officer, Kamrup West Division is attached as **Annexure -III**.

Comments of the Chief Wildlife Warden, Assam on operation of Kahuwa Minor Mineral Unit (Sand) has been taken which is enclosed as **Annexure - IV**. According to the Chief Wildlife Warden, Assam "the location of the proposed diversion sites are suitable for sand mining as the depth of River is very shallow, since the Dolphins used only deep water area of Kulsi River mainly near Kukurmara bridge, NH-37, which is approximately 12 Kms. away from the proposed diversion areas."

The Principal Chief Conservator of Forests (Wildlife) and Chief Wildlife Warden, Assam has given no objection to the operation of Kahuwa Minor Mineral Unit (Sand) in Kulsi and Pantan Reserve Forest under Kamrup West Division subject to observing all formalities. (Copy enclosed).

In view of the above, it is requested to kindly grant the "**In-Principal Approval**" in respect of the proposal for diversion of 5.0 ha of forest land for operation of **Kahuwa Minor Mineral Unit (Sand)** under **Kamrup West Division** at your earliest convenience.

Encl:- As stated above.

Yours faithfully,



(Dr. Satyendra Singh, IFS)

Chief Conservator of Forest & Nodal Officer, (F.C. Act)
O/o the Principal Chief Conservator of Forests and
Head of Forests Force, Assam

NET PRESENT VALUE (N.P.V) IN RESPECT OF PROPOSED DIVERSION OF FOREST LAND NAMED
KAHUA MINOR MINERAL UNIT (SAND) UNDER KAMRUP WEST DIVISION

Land Involved	Area (in Ha)	Eco Value Class	Nature of Forests	Density of Vegetation	Rate per Ha. (in Rs.)	N.P.V (in Rs.)
Reserve Forest land at Kulsu & Pantan Reserve Forest	5.0	Class -I	Degraded Forest	Open Forest	7,30,000/-	36,50,000/-

(Rupees thirty six lakhs fifty thousand only)

ms

(Ranjan Goswami, AFS)
Divisional Forest Officer
Kamrup West Division, Bamunigaon

CURRENT STATUS AND COMMENTS OF THE STATE GOVT. ON THE FOLLOWING WRIT PETITIONS FILED IN HONBLE GAUHATI HIGH COURT IN RESPECT OF EXTRACTION OF RIVER BED MATERIALS FROM RIVER KULSI, ASSAM.

1. WP(C) NO. 672/ 2016 Ranjit Das –vs- Union of India & Otrs.
2. WP (C) NO.1172/ 2017 Monidip Rabha & Otr. –vs- Union of India & Otrs.
3. WP (C) NO. 1157/ 2017 Ranjit Das –vs- Union of India & Otrs.
4. WP (C) NO. 48/ 2017 Achurya Rabha –vs- Union of India & Otrs.

Status: All the cases mentioned above, pertains to the issuance of the Tender Sale notice dtd.10-02-2017 issued from the O/o of the PCCF & HoFF, Assam, inviting bids for 9 (nine) sand MCA's under Kamrup West Division in respect of Besimari/ Kulsi- 1 sand mahal, Besimari/ Kulsi- 2 sand mahal, Besimari/ Kulsi- 3 sand mahal, Kulsi- 1 sand mahal, Kahua- 1 sand mahal, Bherberi- 1 sand mahal, Sikulibari Sand Mahal, Kahua Sand Mahal No- 2, Bherberi sand mahal- 2.

The core issue of the above stated writ petitions relates to the prevention of mining activities of sand on river Kulsi for facilitating conservation of Dolphins in river Kulsi located under Kamrup West Division.

Presently, all the above stated cases are in **Admission stage**, linked together (similar issues) in WP (C) No. 1157/ 2017 Ranjit Das –vs- Union of India & Otrs. Affidavit- in –opposition has been filed by the DFO, KWD on 25-12-2017 (**Annex.1**) and the last hearing took place on **03-09-2018** (**Annex.2**) as could be traced from the www.ghonline.gov.in website. Also, on 25-12-2017 Affidavit- in –opposition has been filed by the DFO, KWD (**Annex. 3**).

The Hon'ble Gauhati High Court vide order dtd.**28-02-2017** (**Annex. 2**) had passed an interim stay, thereby directing that without leave of the Hon'ble High Court, the tender process pursuant to the tender notice dtd.10-02-2017 shall not be finalized.

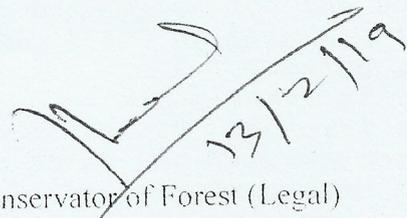
However, vide order dtd.**17-03-2017** (**Annex. 4**), the Hon'ble Court modified the earlier order dtd.**28-02-2017** to the extent that the Respondent may go ahead with the processing of the NIT and send the matter for obtaining approval of the Central Govt. with the condition that the respondents would neither permit any mining activity in any of the areas covered by the NIT dtd.10-02-2017 nor issue final order of settlement under the said NIT without obtaining leave of this Court.

Comment: The stand taken is that the mining areas in question is not a natural habitat of River Dolphin and the Dolphin abundance area is far away from the mining unit. The river often gets silted heavily, which needs to be removed through mining activity.

Due process will be followed while obtaining Forest clearance and Environmental clearance as per Rules and Regulations in vogue.

As on date, there is no bar on processing of the NIT and sending the matter for obtaining the approval of the Central Govt. However, no mining activity shall be permitted or final settlement order shall be made without obtaining leave of the Hon'ble Court.

In this context, a report dtd.12-02-2019 of the DFO, Kamrup West Division has also been enclosed as Annex. 5 for your kind information.



Conservator of Forest (Legal)
O/o Principal Chief Conservator of Forest and
Head of Forests Force, Assam

(C) 1157/2017

BEFORE

HON'BLE MR. JUSTICE SUMAN SHYAM

Heard Ms. N. S. Takuria, learned counsel for the petitioner. Also heard Mr. T C. Chutia, learned Additional Senior Govt. Advocate, Assam, appearing for respondent Nos.4 to 9. Mr. A. Sarma, learned Central Govt. Counsel, appears for respondent Nos.1 to 3.

The subject matter of the present writ petition relates to protection of the endangered species of River Dolphins found in the Kulshi river or Kolohi river. The writ petitioner has alleged that the Forest Department in the Government of Assam had issued NIT dated 10.02.2017 proposing to settle a number of sand and stone mahals falling in the river area wherein the endangered species of Dolphins are found. According to the petitioner, if the State respondent is allowed to go ahead with the settlement/operation of the stone/sand mahals in the proposed areas, the same would annihilate the Dolphin population of that area causing irreversible damage to the eco-system. It is also the case of the petitioner that at neither the State Government nor the Central Government has the power either to dereserve such forest area or to use such land for non forest purpose and therefore, this Court should impose a complete ban on all mining/non-forest activity in the aforementioned areas.

While denying the plea taken by the writ petitioner, Mr. Chutia submits that the settlement of the mahals would not in any way affect the Dolphin population. On the contrary, due to the interim order passed by this Court the State has been prevented from going ahead with the tender process causing substantial loss to the public exchequer. Mr. Chutia, therefore, seeks leave of this Court to go ahead with the tender process and send the matter for approval of the Central Government with an assurance that it is only after the Central Government issues the necessary clearance the matter will again be brought before the Court seeking approval to issue the final order of settlement.

By the order dated 28.02.2017 this Court had passed an interim order restraining the further process of NIT dated 10.02.2017.

Having heard the learned counsel for the parties and considering the nature of issues involved in the writ petition, I am of the view that the matter calls for deeper examination.

Issue notice of motion returnable on 05.06.2017.

Since the respondents are already represented, hence, no formal notice is required to be sent in this case. However, extra copies of the writ petition, in requisite number, be furnished to the learned State counsel enabling them to obtain instruction.

Also heard on the prayer for interim relief.

Having regard to the facts and circumstances of the case, it is hereby provided that the respondents may go ahead with the processing of the NIT and send the matter for obtaining approval of the Central Government. However, the respondents would neither permit any mining activity in any of the areas covered by the NIT dated 10.02.2017 nor issue final order of settlement under the said NIT without obtaining the leave of this Court.

The order dated 28.02.2017 stands modified to the above extent.



GOVERNMENT OF ASSAM
DEPARTMENT OF ENVIRONMENT & FORESTS
OFFICE OF THE DIVISIONAL FOREST OFFICER
KAMRUP WEST DIVISION :: BAMUNIGAON :: 781141

E-mail: dfo.t.kmpw@gmail.com

ANNEXURE - II
93
14/02/19

Letter No. MHL/New Proposal/R.F./Kahuwa M.M.U/ 326

Dated: 12.02.2019

To,

The Principal Chief Conservator of Forests & Head of Forest Force,
Assam, Panjabari, Guwahati-37

Sub: Proposal for diversion of 5.0 Ha forest land under Forest (Conservation) Act'1980 for operation of Kahuwa Minor Mineral Unit (Sand) under Kamrup West Division, Bamunigaon.

Ref: Your letter No. FG.27/Nodal/Proposal/Kahuwa Minor Mineral Unit (Sand)/K.W.Divn. dtd. 25.01.2019

Sir,

With reference to the above, I have the honour to furnish herewith the additional information along with supporting documents as sought for favour of your kind information and necessary action.

1. The reply of the Sl. No. 10 of Govt. of Assam forwarding letter No. FRS.267/2018/36 dtd. 21.12.2018 submitted. There is no violation of Forest Conservation Act'1980 in the 5 Ha of Kahuwa minor mineral unit (Sand) area proposed for diversion.
2. The NPV calculation of the proposed area has already been submitted, however a copy of the same is enclosed as ANNEXURE-1.
3. Regarding status of the PIL and writ petition (c) filed in the Hon'ble Guwahati High Court are as follows:
 - a) W.P. (C) No. 672/2016 in the matter of Ranjit Das Vs Union of India & Others:

The parawise comments on the writ petition in W.P. (C) No. 672/2016 has already been submitted along with relevant documents in the shape of CD as well as hard copy vide letter No. MHL/GENL/W.P. (C) No. 672/2016/945 dtd. 18.04.2016. The matter was heard by the Hon'ble High Court and asked this matter to be listed along with W.P. (C) No. 1157/2017 in its order passed on 08.09.2018. The copies of parawise comments and order passed by Hon'ble Guwahati High Court are enclosed as ANNEXURE-2 & 3

b) W.P. (C) No. 1172/2017 in the matter of Mandip Rabha & Others Vs Union of India & Others:

The parawise comment of W.P. (C) No. 1172/2017 has already been submitted vide this office letter No. GFM/W.P. (C) No. 1157 & 1172/2017/1143 dtd. 08.03.2017. The matter was heard by the Hon'ble Court and passed its order on dtd. 08.09.2018 where direction was given to list this matter along with W.P. (C) No. 1157/2017. No update information was found available afterwards. The copies of parawise comments and court order are enclosed as ANNEXURE-4 & 5

c) W.P. (C) No. 1157/2017 in the matter of Rajit Das Vs Union of India & others:

The parawise comments of W.P. (C) No. 1157/2017 has been submitted along with its relevant documents vide this office letter No. GFM/W.P. (C) No. 1157 & 1172/2017/1143 dtd. 08.03.2017. The matter was heard by the Hon'ble Court on 03.09.2018 and passed an order where Hon'ble court directed to tag the affidavit submitted by the petitioner with the record of the case and listed the matter again after two weeks. The learned standing counsel of Forest Department was asked to obtain necessary instruction in the matter but no upto date instruction is received. The copies of parawise comments and Hon'ble Court order are enclosed as ANNEXURE-6 & 7.

d) W.P. (C) No. 48/2017 in the matter of Achurya Rabha Vs Union of India & others:

The parawise comment against W.P. (C) No. 48/2017 has been submitted vide this office letter No. MHL/W.P. (C) No. 48/2017/185 dtd. 17.01.2017. The matter was heard by the Hon'ble court and passed an order on 08.09.2018 with a direction to list this matter along with W.P. (C) No. 1157/2017. No update information have been found afterwards. The copies of parawise comments and court order are enclosed as ANNEXURE-8 & 9.

As per study report of Abdul Wakid, Ph. D, Programme leader Gangetic Dolphin Research and Conservation Programme, Aranyak, Guwahati-28, Assam and Gill Braulik Sea Mammal, Research Unit University of St. Andrews, St. Andrews Fife DY16 & LB UK the total length of Kulsii river is 80 KM which originate from Meghalaya and the Geo-coordinates are N: 25°38', E: 91°38'. Out of this total length 76 KM length falls within Kamrup District i.e. within the jurisdiction of Kamrup West Division. The Meghalaya segment is mainly hilly stony terrain from where profuse sands are flowing towards down stream along with river water and

huge siltation are taking place in the entire Kulsi River of Assam segment and much siltation is remaining confine within the upper stream of the river for which the depth of the riverbed remain 3' to 7' even during rainy season and may be for depth factor river dolphin is not encountered in these areas. The abovementioned study report also revealed that the river dolphin were encountered in the Kulsi river stretch from Ghoramara to Nagarbera but the highest encounter rate was from Borpit to Jiakur and Jambari to Malibari area of Kulsi River.

The W.P. (C) No. 672 is relevant to NIT dtd. 06.12.2016 where tender was invited against the sand mahals of (1) Singra Marakalahi, (2) Singimari (3) Singra-1, (4) Rowmari-2 and (5) Chhaygaon No. 2. Among these mahals Rowmari-2 and Singra-1 Mahal fall in Singra and Boko river respectively and both the river does not have any dolphin habitat area which are kept abeyance from the sale process. The Chhaygaon No. 2 sand mahal falls another course of Kulsi River which bifurcated at Kulsi area and in this part no dolphin is encountered. The study reports too revealed conformity. The Singra-Marakalahi and Singimari Mahals fall in Kalahi river and dolphin is encountered in this area for which these mahals are kept abeyance from the sale process and remain as inoperative.

The W.P. (C) No. 48/2017 is also relevant to NIT dtd. 06.12.2016 and the sequence is as elaborated above.

The W.P. (C) No. 1157/2017 and 1172/2017 were challenging the NIT dtd. 08.02.2017 where tender was invited against sand mahal of Besimari Kulsi-1, Besimari Kulsi-2, Besimari Kulsi-3, Kulsi-1, Kahuwa-1, Kahuwa-2, Bherbheri-1, Bherbheri-2 and Simulibari Sand Mahal. The area of these mahals are quite upper stream of Kulsi river where depth of riverbed is only 3' to 7' for the whole year and siltation of sand is profuse for which river dolphin is not encountered in these areas, since last two decade. Moreover, the study report revealed the non-abundance of river dolphin beyond Ghoramara area of Kulsi River and its upper stream. All the above mahal area are about 10- 15 KM away upper stream of Kulsi river from Ghoramara (Borpit) area, hence, there will be no adverse effect over the Dolphin habitat area as well as violation of Forest Conservation Act'1980 if sand mining is allowed in these mahal area. Again there is a bifurcation of Kulsi river at Kulsi area where one course flowed down towards Chhaygaon area and the entire course doesn't have any dolphin habitat area. The proposed 5 Ha Kahuwa and 5 Ha Bahatpur minor mineral unit area which are adjacent to earlier proposed mahals of Kahuwa-1 & 2 area, Bherbheri-1 & 2 area and Simulibari Mahal area

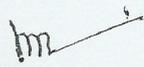
are also falling in this course. The proposed 5 Ha Besimari sand mining unit area falls in the main stream of Kulsri River but it is quite in the upper stream where profuse siltation of sand is occurred. So there will be no adverse affect on dolphin habitat area as well as violation of Forest Conservation Act'1980 if sand mining will carry out over these area. Instead of adverse affect or violation of Forest Conservation Act'1980, the systematic sand mining will be more helpful to maintain the depth of the river course in downstream to keep the habitat favourable for river dolphin. Another aspect of sand mining over these area is that its create employment avenue to the local people which reduces pressure of fishing practices in the river and makes feeding easier for river dolphin.

Hence, pondering the above factors, the authority may consider for systematic sand mining over the area which virtually maintain the depth of water and keep the river favourable for dolphin, creates employment avenues which reduces trapping of fishes and make abundance food for dolphin. The systematic sand mining also control illegal mining over the area as the selected user agency will be made responsible for illegal activities. It also earn a reasonable Govt. revenue.

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

Enclosed: As stated above.

Yours faithfully,


Divisional Forest Officer,
Kamrup West Division,
Bamunigaon

Copy to:

1. The Chief Conservator of Forests & Nodal Officer (F.C. Act), O/o the Principal Chief Conservator of Forests & Head of Forest Force, Assam, Guwahati-27 for favour of kind information.
2. The Special Principal Chief Conservator of Forests (T), Lower Assam Zone, Guwahati-1 for favour of kind information.
3. The Chief Conservator of Forests (T), Central Assam Circle, Guwahati-29 for favour of kind information.


Divisional Forest Officer,
Kamrup West Division,
Bamunigaon

14/2/19

GOVERNMENT OF ASSAM
OFFICE OF THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS (WILDLIFE) AND
CHIEF WILDLIFE WARDEN, ASSAM :: PANJABARI :: GUWAHATI-37

Email ID: pccf.wl.assam@gmail.com

No.WL/FG.35/Nodal/F.C. Act 1980,

Dated:14/02/2019

To,

✓ The Chief Conservator of Forests (Nodal)
O/o. PCCF & HoFF, Assam
Panjabari, Guwahati-37.

Sub: Proposal for diversion of forest land for operation of Besimari (5.0Ha.), Kahuwa (5.0Ha.) and Bahatpur (5.0Ha.) Minor Mineral Unit (Sand) in Borduar, Pantan & Kushi Reserve Forest under Kamrup West Division- regarding.

Ref: Your letter Nos.:

- i. FG.27/Nodal/Proposal/Besimari M.M.U Sand/K.W. Divn., dtd. 10th Jan/2019.
- ii. FG.27/Nodal/Proposal/Kahuwa M.M.U Sand/K.W. Divn., dtd. 10th Jan/2019.
- iii. FG.27/Nodal/Proposal/Bahatpur M.M.U Sand/K.W. Divn., dtd. 10th Jan/2019.

Sir,

With reference to the subject cited above, I am directed to inform you that the Divisional Forest Officer, Guwahati Wildlife Division, visited the proposed mentioned sites on 20.01.2019 along with Divisional Forest Officer, Kamrup West Division & other forest officials and found that:

“the location of the proposed diversion sites are suitable for sand mining as the depth of River is very shallow, since the Dolphins used only deep water area of Kushi River mainly near Kukurmara bridge, NH-37, which is approximately 12 kms. away from the proposed diversions areas’.

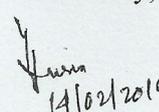
In this regard, a copy of the report of the DFO, Guwahati Wildlife Division submitted vide his letter no. A/GWL/Misc. 2019/67, dtd. 30th Jan/2019 is enclosed herewith for onward necessary action.

In view of the above, this office has no objection to the operation of Besimari (5.0Ha.), Kahuwa (5.0Ha.) and Bahatpur (5.0Ha.) Minor Mineral Unit (Sand) in Borduar, Pantan & Kushi Reserve Forest under Kamrup West Division subject to observing all formalities.

The original diversion proposal documents are returned herewith.

Yours faithfully,

Encl: As stated above.


14/02/2019
Deputy Conservator of Forests (Publicity)
O/o the PCCF, WL & CWLW, Assam,
Panjabari, Guwahati-37.

Copy for information and necessary action to the Principal Chief Conservator of Forests & Head of Forests Force, Assam, Panjabari, Guwahati.


Deputy Conservator of Forests (Publicity)
O/o the PCCF, WL & CWLW, Assam,
Panjabari, Guwahati-37.



GOVT. OF ASSAM
OFFICE OF THE DIVISIONAL FOREST OFFICER:: GUWAHATI WILDLIFE DIVISION
BASISTHA, GUWAHATI-29

No. A/GWL/Misc.2019/67

Dated Guwahati the 30th Jan/2019

To.

The Principal Chief Conservator of Forests, Wildlife &
Chief Wildlife Warden, Assam,
Panjabari, Guwahati-37

Sub: Regd.- Proposal for diversion of forest land for operation of Besimari, Kahuwa and Bahatpur Minor Mineral Unit (Sand) in Kulsu and Pantan reserve Forest under Kamrup West Division.

Ref: As per your verbal instruction dtd. 10.01.2019.

Sir.

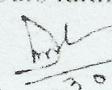
With reference to the above, I have the honour to inform you that, as per your instruction I along with the DFO, Kamrup West Division and other forest officials had visited the proposed mentioned sites on 20.01.2019 and found that the location of the proposed diversion sites are suitable for sand mining as the depth of the River is very shallow, since the Dolphins used only deep water area of Kulsu River mainly near Kukurmara bridge, NH-37, which is approximately 12 kms. away from the proposed diversion areas.

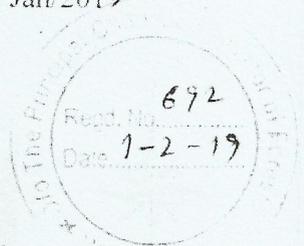
Hence, necessary permission for diversion of forest land for operation of Besimari, Kahuwa and Bahatpur Minor Mineral Unit (Sand) in Kulsu and Pantan Reserve Forest under Kamrup West Division may be accorded. Soft copy of the map showing all the diversion sites as well as the area having presence of Dolphins is enclosed herewith for favour of your ready reference.

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

Encl: As stated above.

Yours faithfully,


30/01/2019
(Pradipta Baruah, AFS)
Divisional Forest Officer
Guwahati Wildlife Division
Basistha, Ghy-29



10/Jan/19
Recd. 30/01/2019

CF
Pl. communicate to Sh. Subhendra Singh, Model of the FCA Act

