



OFFICE OF THE REGIONAL CHIEF CONSERVATOR OF FORESTS, ROURKELA CIRCLE,
AT/P.O. PANPOSH, ROURKELA-769 004.

Memo No. 3984 /3F(Misc)-817/2022 Date: 19-11-2022

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 diversion of 22.697 ha of Sabik Kissam forest land within the total mining lease area of 456.037 ha (As per DGPS Survey) of Jilling-Langalota Iron Ore Mines of M/s OMC Ltd of Keonjhar District.

X-Sub: Submission of point wise compliance on observation noticed by MoEF & CC, GoI, New Delhi vide letter dated 05.06.2022.

Ref:-
1. F.No.8-49/1998-FC(Pt-I) dtd.05.06.2022 of MoEF & CC, Govt. of India
2. Memo No.12468 dtd.15.07.2022 of the State Govt. in FE&CC Department.
3. Your Memo No.14030 dtd.16.07.2022.
4. Memo No.8718 dtd.13.11.2022 of the DFO, Keonjhar Division.

With reference to the aforementioned Memos on the captioned subject, the DFO, Keonjhar Division vide his Memo No.8717 Dtd.13.11.2022 addressed to this office & copy thereof endorsed to you in the next Memo of even date has submitted the point wise compliance with the deficiencies raised by the MoEF & CC, GoI vide F. No. 8-49/1998-FC(Pt-I) dtd.05.06.2022 which may kindly be perused.

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

i: Compensatory afforestation has been proposed over an equivalent non-forest area of 22.697 ha. DSS analysis of the CA area revealed the cultivation in the non-forest land identified for CA. Therefore, the State Government needs to confirm its suitability and proximity to existing forest keeping in view ease of its management by the Forest Department.

As reported by the DFO, Keonjhar Division, Non-forest Govt. land over 22.697 ha has been identified in village Petura under Pottangi Tahasil under Koraput Division. Accordingly, the DFO, Koraput Division was requested vide his office memo No.7576 dated 07.10.2022 to confirm its suitability for CA. In reply, the DFO, Koraput Division has reported vide his Memo No.4891 dated 21.10.2022 that, there is no any cultivation land within the proposed CA sites in 3 patches over an area of 22.697 ha in vill-Peturu. The site is about 0.5 km distance from the nearest Forest Block i.e. Majaguda PRF in Semiliguda Range and suitable for CA. The suitability certificate furnished by DFO, Koraput Division is enclosed herewith for reference vide **Annexure-I**.

ii: 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.

The DFO, Keonjhar has reported that, the mining lease area comprises 392.289 ha of forest area. To conserve and improve the flora and fauna of the core area and the forest area coming within 10.0 km of buffer zone, a Site Specific Wildlife

Conservation Plan has been technically approved by the PCCF (WL) and CWLW, Odisha vide his letter No.10895/1WL-C-SSP-167/2010 dt 15.12.2010. Provisions have been made towards protection and improvement of elephant habitat to implement the activities by utilizing the funds deposited by the User Agency. The detailed activities undertaken by the user agency vis-a-vis the financial involvement in core zone is given at **Annexure-II**. The copy of the approval along with approved SSWLCP is enclosed as **Annexure-III** for kind reference.

It is an old mine functioning since 1954. 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 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.

iii: Approval dated 8.10.2014 was granted over an area of 369.592 ha by the Ministry in the past. Following detail in respect of said approval may be provided by the State:

Observation No. iii. a.: Updated status of compliance of conditions stipulated in the approval dated 8.10.2014 granted in the past needs to be intimated by the State.

As reported by the DFO, Keonjhar Division, the user agency has intimated that, they have submitted the updated status of compliance of the conditions stipulated in the approval dt 08.10.2014 over an area of 369.592 ha to the Special Secretary to Government, F & E Department vide letter No.789/OMC/JLIOM/2022 dt 29.04.2022. The copy of the compliance report along with the letter of submission by OMC & the copies compliance reports submitted by the DFO, Keonjhar Division and this office thereon are enclosed as **Annexure-IV** series.

iii. b.: An amount of Rs. 196.12 lakh had been realized from the erstwhile user agency towards the implementation of site-specific Wildlife Management Plan in pursuance to approval under FC Act granted in the past. Current status of implementation of various provisions proposed in the Site-Specific Wildlife Management Plan, supported with year wise activities covered and expenditure incurred thereof, photograph etc. may be submitted by the State.

As reported by the DFO, Keonjhar Division, a sum of Rs 196.12 lakh was deposited by the User Agency in 2 spells on dt. 27.06.2009 and 26.11.2016 towards the cost of Regional Wildlife Management Plan @ Rs 43000/-per hectare over 456.100 ha of ML area (**Annexure-V**) as per the demand raised by the DFO, Keonjhar Division.

Besides, the current status of activities implemented in the lease hold area as per the approved Site Specific Wildlife Conservation Plan is given at **Annexure-II**.

iii. c.: Detail of safety zone maintained in lieu of diversion of 369.592 ha and activities viz plantation, ANR and afforestation over 1.5 times the area of safety zone has not been informed. The same may be informed by the State along with detail of expenditure incurred on the various activities undertaken in respect of safety zone area.

As reported by the DFO, Keonjhar Division, an amount of Rs. 7, 34,474/- has been deposited by the Ex-lessee vide DD No. 371128, 371129, 371130 and 371131 towards the cost of fencing, protection and regeneration of the Safety Zone area over 29.598 ha pertaining to diversion of 369.592 ha of forest land. The scheme includes barbed wire fencing and plantation all along inner side of the 7.5 meter strip of the ML area. Copy of the Safety Zone scheme along with the photographs of the plantation undertaken in safety zone within mining lease area are enclosed as **Annexure-VI**.

Further a scheme over 44.397 ha of degraded forest land identified in Benamunda RF under Telkoi Range of Keonjhar Forest Division towards 1.5 times of safety zone has been prepared. Plantation has been carried out during the year 2009-10. A copy of said is enclosed as **Annexure-VII**. Safety Zone plantation has been carried out by the Forest Department during the year 2011-12 by planting 47357 nos. of seedlings with an expenditure of Rs.667509/- and 1.5 time Safety Zone Scheme plantation has been carried out in identified degraded forest land over 44.397 ha in Benamunda RF during the year 2009-10 by planting 13319 nos. of seedling with an expenditure of Rs.417893/-. Further fencing over 1.06 Km pertaining to 1.5 Safety Zone has been carried out with a cost of Rs.68075/-.

iii. d.: Detail of NPV realized from the user agency in lieu of diversion of forest land accorded in the past and in pursuance to Ministry's guidelines dated 31.03.2020 may be informed by the State.

The DFO, Keonjhar has stated that the ex-lessee had deposited Rs.34,70,46,888/- & Rs.1,01,61,201/- towards NPV over 369.592 ha of forest land involved in the mining lease. Besides, OMC has also deposited Rs.27,71,46,750/- towards NPV over 369.592 ha vide UTR No. SBINR12021011106076046 dt. 11.01.2021. An undertaking has also been submitted by the OMC Ltd. to deposit the additional amount of NPV, if so determined, as per the final decision of the Hon'ble Supreme Court of India and transfer the same to Ad-hoc CAMPA under intimation to the Ministry. The details of NPV deposited by Ex-lessee and M/s OMC Ltd along with the said undertaking are given in **Annexure-VIII series** along with the undertaking submitted by M/s OMC Ltd. for reference.

iii. e.: As evident from the detail provided in the proposal, the mining lease was auctioned to successful bidder, detail of documents/information pertaining to transfer of approval in favour of the new lessee, if any, accorded by the State in terms of guidelines dated 31.03.2020 is not provided in the proposal, the same needs to be informed by the State.

The DFO, Keonjhar has stated that during the online auction process, M/s Shyam Ores (Jharkhand) Pvt. Ltd had been selected as L1 bidder and accordingly the State Government had issued conditional grant order in their favour. The State Govt. cancelled the grant order due to non-fulfillment of the conditions stipulated therein. Subsequently, the State Govt. vide letter No.338/SM/IV (B)SM-11/2020 dt 11.01.2021 granted the same mining lease in favour of OMC subject to fulfillment of conditions stipulated therein. M/s OMC Ltd. complied all the conditions and the lease was granted in favour of M/s OMC Ltd. vesting with all the already approved statutory approvals communicated by the State Govt. in Steel and Mines Dept. vide their letter No. 317/SM/IV(AB)SM-01/2021 dtd. 11.01.2021. The copy of all the correspondences in this regard are enclosed as **Annexure-IX** for reference.

iii.f: Cost benefit Ratio has been estimated as 1:16411.5 which is exorbitantly high. It seems appropriation of cost and benefits components has not been done properly i.e. cost corresponding to 22.697 ha have been estimated while the benefits to be accrued from the entire mining lease area have been accounted for in the analysis. The analysis needs to be recasted by accounting CB parameters either only in respect of 22.697 ha or for entire mining lease area.

The DFO, Keonjhar has stated that the mining lease has been granted over 456.10 ha out of which 392.289 ha is forest land. M/s OMC Ltd. has proposed to work within 22.697 ha of forest land in addition to the already diverted forest area. Hence, the

cost benefit analysis is estimated over entire mining lease. The benefits by OMC and the cost estimate prepared by the DFO, Keonjhar have been revised and enclosed herewith. The revised CB ratio comes to 1:567.578 for the entire ML. The copy of the revised cost benefits by M/s OMC Ltd. and cost estimate revised by the DFO, Keonjhar Division over 22.697 ha are enclosed as **Annexure-X** and **Annexure-X A** respectively.

iv: Examination of the Mining Plan submitted along with the proposal revealed the following: Mining Plan revealed the following:

a. State Government, in its forwarding letter, mentioned total lease area and forest area thereof is 392.289 ha, respectively while the corresponding forest areas indicated in the approved Mining Plan are 342.199 ha. Discrepancy in the Mining Plan needs to be rectified by the State.

That the State Government executed the mining lease in favour of M/s OMC Ltd. to commence the mining operation immediately to meet the raw material demand of the local industries as many iron ore mines of Odisha has been terminated by 31st March, 2020. Therefore, while preparing the mining plan, HAL Kissam land schedule was considered for designing the land use plan. In order to ascertain the exact forest area, M/s OMC Ltd. vide letter no. 338/SM dt. 11.01.2021 requested Tahasildar, Barbil to provide land schedule of the total ML area as per SABIK kissam. Tahasildar, Barbil vide letter No. 1281 dt. 09.04.2021 provided the status of land involved in the Jilling-Langalota Iron Ore Mines of M/s OMC Ltd., wherein the total forest land came to 392.289 ha. Out of 392.289 ha of total forest land, 26.990 ha of forest land was acquired for Daitari-Banspani Rail link project and Stage-II FC granted over the balance 342.602 ha of forest land in favour of the ex-Lessee. Therefore, M/s OMC Ltd. Has submitted the forest diversion proposal over 22.697 ha of SABIK kissam forest land.

b. Area of various land uses mentioned in the approved Mining Plan and extant proposal is observed to be at variance. Moreover, component of magazine and safety zone involving area of 81.280 ha is not mentioned in the land uses indicated in the mining plan. Discrepancies in the areas of land uses may be justified and if needed be rectified by the State Government;

The DFO, Keonjhar has stated that in the current diversion proposal, the purpose-wise break up of 22.697 ha of forest land has been proposed whereas mining plan has been prepared for the entire ML area over 456.100 ha. The proposed land use over 22.697 ha of forest land is a part of the land use proposed over entire ML area of 456.100 ha. Hence, he has requested to drop the discrepancies so observed.

Component of magazine and safety zone involving an area of 81.280 ha was proposed by the ex-lessee in their proposal. At page No. 7 of the Part-I of the present Mining Plan, Safety zone of 33.195 ha including safety zone for Nalla and National Highway has been proposed which includes 2.841 ha forest land of current proposal over 22.697 ha for consideration.

c. As per land use details provided in the Mining Plan, out of total lease area of 456.100, an area of 269.241 ha has been utilized so far for mining and allied activities while 186.859 ha is unutilized, out of which 106.108 ha has been proposed to be utilized during the next conceptual period while 80.751 ha is proposed to unutilized (Pg 352/c). State Government may therefore explore the possibility to handover the forest land involved in the unutilized area to Forest Department.

The DFO, Keonjhar has stated that as per the condition No. 2.i of the Stage-II FC over 342.602 ha, legal status of forest land shall remain unchanged. As per the approved progressive mine closure plan, reclamation activity is being undertaken by OMC only. When the entire mineral is completely exploited by M/s OMC Ltd. and the

same is certified by IBM then reclamation will be carried out as per the approved final mine closure plan.

An area over 80.751 ha proposed to be unutilized is situated in the northern corner of ML area. This part of the ML area will not be utilized till conceptual period i.e. for a period of ten years. After exploration if the area is found to be mineralized then the same may be utilized for mining and ancillary activity during the renewal of Mining Lease.

vi: Current status of 22.297 ha i.e. whether the area has been mined already or proposed to be mined during the conceptual period may be clarified by the State.

The DFO, Keonjhar has stated that out of 22.297 ha of SABIK forest land proposed for diversion, 5.70 ha was utilized for mining by the ex-lessee as it was non-forest land. In order to utilize the entire SABIK forest land, OMC has proposed for diversion.

vi: Examination of phase wise reclamation plan submitted along with the proposal mentioned consolidated area of 372.222 ha will be reclaimed technically and biologically. Year wise detail of reclamation in consonance with the provisions provided in the Progressive Mine Closure Plan may also be intimated by the State.

The DFO, Keonjhar has stated that the year wise reclamation schedule as approved in the progressive mine closure plan is given at **Annexure-XI** for kind reference.

vii: Ministry's vide its guidelines dated 10.03.2015 clarified that areas which were recorded as forest in Sabik land records and subsequently changed to non-forest land as per Hal records should be considered as forest for the purpose of FC Act, 1980 and prior approval. Therefore, in view of the said guidelines, the State Government may submit its considered opinion on 'why should the lease executed between Collector Keonjhar and M/s OMC on 12.01.2021, despite Ministry's standing instructions in guidelines dated 10.03.2015, without prior approval of Central Government under the Forest (Conservation) Act, 1980 in respect of 22.697 ha of forest land, not be treated as a violation of Forest (Conservation) Act, 1980.

The DFO, Keonjhar has stated that ML executed between Collector, Keonjhar and M/s OMC Ltd. on 12.01.2021, includes forest land of 22.697 ha. Regarding execution of lease without prior approval of the Central Govt., the clause No.7.3 (vi) of the letter by MoEF& CC dt. 31.03.2020 keeps a provision which reads 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:

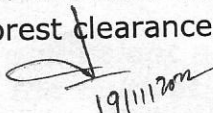
Provided further that the provisions of sub-section (1) of section 6 shall not apply where such mining lease is granted to a Government company or corporation under the first proviso:

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."


As reported by the DFO, Keonjhar Division, 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 OMC 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 342.602 ha, excluding 22.697 ha of forest area to be utilized after grant of stage-II Forest clearance.

Encl: As above.


19/11/2022
Regional Chief Conservator of Forests,
Rourkela Circle

Memo No. 3985 Date: 19-11-2022.

Copy forwarded to the Divisional Forest Officer, Keonjhar Division for information and necessary with reference to his Memo No.8717 Dtd. 13.11.2022.


19/11/2022
Regional Chief Conservator of Forests,
Rourkela Circle