

F. No. 8-87/2012-FC
Government of India
Ministry of Environment and Forests
(F.C. Division)

Paryavaran Bhawan,
CGO Complex, Lodhi Road,
New Delhi - 110003.

Dated: 15th March, 2013

To

The Principal Secretary (Forests),
Government of Odisha,
Bhubaneswar.

Sub: Diversion of 134.41 hectares of forest land including 0.18 hectares to be maintained as safety zone in addition to the already diverted 71.64 hectares of forest land for Bharatpur open cast coal mining expansion project of M/s Mahanadi Coal Fields Limited in Angul district, Odisha- reg.

Sir,

I am directed to refer to the State Government of Odisha's letter No. 10F (Cons) 440/2012-19009/F & E dated 08.10.2012 on the above-mentioned subject, wherein prior approval of the Central Government for diversion of 134.41 hectares of forest land including 0.18 hectares to be maintained as safety zone in addition to the already diverted 71.64 hectares of forest land for Bharatpur open cast coal mining expansion project of M/s Mahanadi Coal Fields Limited in Angul district, Odisha, was sought, in accordance with Section 2 of the Forest (Conservation) Act, 1980. The said proposal has been examined by the Forest Advisory Committee constituted by the Central Government under Section-3 of the aforesaid Act.

2. After careful consideration of the proposal of the State Government of Orissa and on the basis of the recommendations of the Forest Advisory Committee, the Central Government hereby accords **Stage-I approval** for diversion of 134.41 hectares of forest land including 0.18 hectares to be maintained as safety zone in addition to the already diverted 71.64 hectares of forest land for Bharatpur open cast coal mining expansion project of M/s Mahanadi Coal Fields Limited in Angul district, Odisha, subject to fulfilment of the following conditions:

- (i) Legal status of the diverted forest land shall remain unchanged;
- (ii) Compensatory afforestation over the degraded forest land double in extent to the forest land proposed to be diverted (*i.e.* 269 hectares) shall be raised and maintained by the State Forest Department from funds to be provided by the User Agency;
- (iii) The User Agency shall transfer the cost of raising and maintaining the compensatory afforestation, at the current wage rate, to the State Forest Department;
- (iv) Following activities shall be undertaken by the User Agency at the project cost:
 - (a) A plan containing appropriate mitigative measures to minimize soil erosion and choking of streams shall be prepared and implemented;

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- (b) Planting of adequate drought hardy plant species and sowing of seeds in the appropriate area within the mining lease to arrest soil erosion;
 - (c) Construction of check dams, retention / toe walls to arrest sliding down of the excavated material along the contour;
 - (d) Stabilize the overburden dumps by appropriate grading/benching so as to ensure that that angles of repose at any given place is less than 28°; and
 - (e) Strict adherence to the prescribed top soil management.
- (v) The State Government shall charge the Net Present Value (NPV) of the forest area diverted under this proposal from the User Agency as per the Orders of the Hon'ble Supreme Court of India dated 28.03.2008, 24.04.2008 and 09.05.2008 in Writ Petition (Civil) No. 202/1995 and the guidelines issued by this Ministry vide its letter No. 5-3/2007-FC dated 05.02.2009 in this regard;
 - (vi) At the time of payment of the Net Present Value (NPV) at the present rate, the User Agency shall furnish an undertaking to pay the additional amount of NPV, if so determined, as per the final decision of the Hon'ble Supreme Court of India;
 - (vii) All the funds received from the User Agency under the project shall be transferred to the ad-hoc CAMPA in the Saving Bank Account of the State concerned in Union Bank of India, Sunder Nagar, New Delhi-110003;
 - (viii) The User Agency shall obtain the Environment Clearance as per the provisions of the Environmental (Protection) Act, 1986, if required;
 - (ix) The State Government shall assess the area of forest land located within the mining lease which was used for non-forest purposes during different years without obtaining approval under the Forest (Conservation) Act, 1980 and intimate the same to the Ministry of Environment and Forests;
 - (x) The State Government shall raise penal compensatory afforestation from funds to be realized from the user agency, over degraded forest land double in extent to the forest land utilized for non-forest purpose without obtaining approval under the FC Act;
 - (xi) The state Government shall realize from the user agency penal NPV @ 20 % of the rates applicable on the date of grant of the Stage-I approval, of forest land utilized for non forest purpose without obtaining approval under the FC Act for each year or fraction thereof. (Explanation: In case a patch of forest land has been utilized for non-forest purpose without obtaining approval under the FC Act for 3 years, penal NPV to be realised in respect of such forest land will be at the rate of 60 % of the rates applicable on the date of grant of stage-I approval.);
 - (xii) The State Government and the user agency shall identify the concerned officials responsible for execution of non-forest activity in forest land and change of status of forest land to non-forest without obtaining approval under the FC Act, initiate and conclude disciplinary action against them before grant of stage-II approval under the FC Act;

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- (xiii) The concerned Regional Office of the MoEF shall initiate appropriate proceedings under Section-3 A and Section-3 B of the FC Act against persons responsible for violation of the FC Act;
- (xiv) The user agency shall prepare a site specific wildlife conservation plan as per the guidelines provided by the Chief Wildlife Warden, Odisha and provide funds for its implementation;
- (xv) The State Government and the user agency shall take immediate necessary action to evict the encroachers (most of them are reported to be the former employees of the user agency) from the forest land proposed for diversion, and to ensure that no encroachment on the forest land proposed for diversion should takes place in future;
- (xvi) The user agency should take appropriate measures such as construction of ponds, water conservation / harvesting structure, to ensure conservation of water in and around the project site;
- (xvii) The user agency shall provide sufficient funds to the State Forest/ Environment departments to organize environmental awareness programme to generate awareness among the employees as well as local residents on issues pertaining to conservation and protection of environment;
- (xviii) The State Government shall commission a study from funds to be provided by the user agency to assess impact of project on floral and faunal biodiversity and shall take appropriate measures at the project cost to mitigate the identified impacts;
- (xix) The User Agency either himself or through the State Forest Department shall undertake fencing, protection and afforestation of the safety zone area (7.5 meter strip all along the outer boundary of the area identified to undertake mining) of the area proposed to be used for surface use, at the project cost;
- (xx) The User Agency either himself or through the State Forest Department shall undertake afforestation on degraded forest land, one and half time in extent to the area used for safety zone;
- (xxi) The period of diversion of the said forest land under this approval shall be for a period co-terminus with the period of the mining lease proposed to be granted under the Mines and Minerals (Development & Regulating) Act, 1957, or Rules framed there under, subject to a maximum period of 30 years;
- (xxii) User Agency either himself or through the State Forest Department shall undertake gap planting and soil & moisture conservation activities to restock and rejuvenate the degraded open forests (having crown density less than 0.4), if any, located in the area within 100 m. from outer perimeter of the mining lease;
- (xxiii) The User Agency shall undertake de-silting of the village tanks and other water bodies located within five km from the mine lease boundary so as to mitigate the impact of siltation of such tanks/water bodies, whenever required;

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- (xxiv) The User Agency shall undertake mining in a phased manner after taking due care for reclamation of the mined over area. The concurrent reclamation plan shall be executed by the User Agency from the very first year, and an annual report on implementation thereof shall be submitted to the Nodal Officer, Forest (Conservation) Act, 1980, Government of Odisha and the Addl. Principal Chief Conservator of Forests (Central), Ministry of Environment & Forests, Regional Office (Eastern Zone), Bhubaneswar. If it is found from the annual report that the activities indicated in the concurrent reclamation plan are not being executed by the User Agency, the Nodal Officer or the Addl. Principal Chief Conservator of Forests (Central) may direct that the mining activities shall remain suspended till such time, such reclamation activities are satisfactorily executed;
- (xxv) No labour camp shall be established on the forest land;
- (xxvi) State Government and user agency shall monitor the mining induced subsidence and take appropriate mitigative measures to ensure that it remains within the permissible limit;
- (xxvii) Area on surface of the forest land proposed to be utilised for underground mining shall be fenced and afforested;
- (xxviii) The User Agency shall provide firewood preferably alternate fuel to the labourers and the staff working at the site so as to avoid any damage and pressure on the adjacent forest areas;
- (xxix) The boundary of the mining lease and safety zone shall be demarcated on ground at the project cost, by erecting four feet high reinforced cement concrete pillars, each inscribed with its serial number, forward and back bearing and distance from pillar to pillar;
- (xxx) The forest land shall not be used for any purpose other than that specified in the proposal;
- (xxxi) The State Government shall complete settlement of rights, in term of the Scheduled Tribes and Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, if any, on the forest land to be diverted and submit the documentary evidence as prescribed by this Ministry in it's letter No. 11-9/1998-FC (pt.) dated 03.08.2009, in support thereof;
- (xxxii) Any other condition that the Regional Office (Eastern Zone), Bhubaneswar of this Ministry, Bhubaneswar and State Government of Odisha may stipulate, from time to time, in the interest of conservation, protection and development of forests & wildlife; and
- (xxxiii) The User Agency and the State Government shall ensure compliance to provisions of the all Acts, Rules, Regulations and Guidelines, for the time being in force, as applicable to the project.

3. After receipt of a report on compliance to the conditions stipulated in Paragraph -2 above, from the State Government of Odisha, final/stage-II approval of the Central Government, in accordance with Section-2 of the Forest (Conservation) Act, 1980, for diversion of the Said forest land will be issued by this Ministry. Till receipt of the final/

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stage-II approval, transfer of the said forest land to the User Agency shall not be affected by the State Government.

Yours faithfully,

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(H. C. Chaudhary)

Assistant Inspector General of Forests

Copy to:

1. The Principal Chief Conservator of Forests, Government of Odisha, Bhubaneswar.
2. The Nodal Officer, Forest Department, Government of Odisha, Bhubaneswar.
3. The Addl. Principal Chief Conservator of Forests (Central), Regional Office, Bhubaneswar.
4. User Agency.
5. Monitoring Cell, FC Division, MoEF, New Delhi.
6. Guard File.

15/10/2017
(H. C. Chaudhary)

Assistant Inspector General of Forests