HANDBOOK

OF

Forest (Conservation) Act, 1980
(With Amendments made in 1988)

Forest (Conservation) Rules, 2003
(With Amendments made in 2004)

Guidelines & Clarifications
(June, 2004)



GOVERNMENT OF INDIA
Ministry of Environment & Forests
New Delhi.

सत्यमेव जयते

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FOREWORD

Revised comprehensive Rules/guidelines under Forest (Conservation) Act, 1980 was brought out last by Ministry of Environment and Forests in October, 1992, hence the need of an updated version of the same.

Since 1991, India has witnessed strategic shift both in the field of Conservation and Development and is pursuing a path of sustainable development in pursuance to the national goals/objectives and international commitments. Forest (Conservation) Act, 1980, Rules and Guidelines made thereunder embody a framework regulating indiscriminate diversion/use of forests for developmental need of the States/people and the nation at large, so that development is not constrained but accommodates conservation parameters. Forests/forest eco-systems represent a unique endowment which must be preserved/ protected and wisdom lies in their wise-use. Hence the need to regulate their indiscriminate diversion for other purposes. Forests whether Govt. village or private, subserve the entire community and represent a community resource that meet the need of the millions of rural people especially the tribals. Life, life style, wellbeing of forest fringe dwellers, villages and others are dependent on forests wholly or in part. Deforestation and forest degradation have adverse consequences on people living near forests.

Forest (Conservation) Act, 1980 is a unique piece of legislation, and a regulatory mechanism that reflects the collective will of the nation to protect its rich biodiversity and natural heritage and that permits only unavoidable use of forest land for various developmental purposes. It embodies the firm commitment of the Government of India to balance the conservation of forests with the sustainable development need of the country contributing to better environment, health and economy. The remarkable feature of this Act is that it is regulatory and not prohibitory.

Since 1980, Rules and Guidelines have been framed for diversion of forest land for non-forestry purposes. Since its inception, the Act has facilitated developmental activities like construction of power projects, irrigation projects, roads, railways, schools, hospitals, rural electrification, telecommunication, drinking water facilities, mining etc. on forest lands and checked the indiscriminate diversion of pristine forest areas. Between 1950 and 1980, forest lands have been diverted at the rate of 1.50 lakh hectare per annum by the various State Governments/UT Administrations. This diversion has however, come down to as low as 0.38 lakh hectare per annum after 1980. If regularization of pre-1980 eligible encroachments (as per the Government policy) over 3.66 lakh hectares of forest land is excluded, the net rate of annual diversion comes to 0.23 lakh per hectare only. Since 1980, about 9.21 lakh hectare forest land have been diverted so far.

Contd..2

Concurrent to regulated forest land diversions, the Government of India in the Ministry of Environment and Forests has also made efforts to consolidate the forest area and regenerate the forest cover through compensatory afforestation process. Till December 2003, compensatory afforestation has been stipulated over 6.82 lakh hectare area which includes 4.55 lakh hectare degraded forest land and 2.27 lakh hectare non-forest land. About 0.13 lakh hectare non-forest land have also been added to forest are in Kerala. Therefore, about 2.40 lakh hectare of non-forest land have been brought under forest category by compensatory afforestation and consolidation.

Over the years, new sets of guidelines have also been issued especially for development of tribals, recognition of their rights on forest lands, and establishment of wind energy farms on degraded forest areas etc. This handbook is a compilation of the Act, latest guidelines and all the guidelines issued by the Government of India earlier. All this information is being presented in the form of a consolidated handbook so that the State Governments, UT Administrations/user agencies/people at large are made aware of the various provisions of the Act and for improved understanding of the provision of the Act/Rules/Guidelines with a view to facilitate their smooth implementation.

(A. RAJA)

New Delhi
Dated the 31ST May, 2004.

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Note: (1) The implementation of Forest (Conservation) Amendment Rules, 2004 notified on 3-2-2004 & 9-2-2004 (pages 14-18 of this handbook) have been stayed by the Supreme Court vide their order dated: 23-2-2004 in IA No. 1126 in IA No. 703 of 2000 in Writ Petition (C) No. 2002 of 1995.

(2) The implementation of guidelines for "Regularization of the rights of the tribals on forest lands" issued vide MoEF's letter No. 2-1/2003-FC (Pt) dated – 5.2.2004 (Appendix-14) has been stayed by the Supreme Court vide their order dated – 23.2.2004 in IA No. 1126 in IA No. 703 of 2000 in WP (C) No.202 of 1995.

PART - A

FOREST (CONSERVATION) ACT, 1980 WITH AMENDMENTS MADE IN 1988

An Act to provide for the conservation of forests and for matters connected therewith or ancillary or incidental thereto.

Be it enacted by Parliament in the Thirty-first Year of the Republic of India as follows:-

1. Short title, extent and commencement-

Short title, extent and commencement

(1) This Act may be called the Forest (Conservation) Act, 1980.
(2) It extends to the whole of India except the State of Jammu & Kashmir.
(3) It shall be deemed to have come into force on the 25th day of October, 1980.

2. Restriction on the dereservation of forests or use of forest land for non-forest purpose -

Restriction on the dereservation of forests or use of forest land for non-forest purpose

Notwithstanding anything contained in any other law for the time being in force in a State, no State Government or other authority shall make, except with the prior approval of the Central government, any order directing -

(i) that any reserved forest (within the meaning of the expression "reserved forest" in any law for the time being in force in that State) or any portion thereof, shall cease to be reserved;
(ii) that any forest land or any portion thereof may be used for any non-forest purpose;
(iii) that any forest land or any portion thereof may be assigned by way of lease or otherwise to any private person or to any authority, corporation, agency or any other organisation not owned, managed or controlled by Government;
(iv) that any forest land or any portion thereof may be cleared of trees which have grown naturally in that land or portion, for the purpose of using it for reafforestation.

Explanation - For the purpose of this section, "non-forest purpose" means the breaking up or clearing of any forest land or portion thereof for-

(a) the cultivation of tea, coffee, spices, rubber, palms, oil-bearing plants, horticultural crops or medicinal plants;
(b) any purpose other than reafforestation,

but does not include any work relating or ancillary to conservation, development and management of forests and wildlife, namely, the establishment of check-posts, fire lines, wireless communications and construction of fencing, bridges and culverts, dams, waterholes, trench marks, boundary marks, pipelines or other like purposes.

3. Constitution of Advisory Committee -

Constitution of Advisory Committee

The Central Government may constitute a Committee consisting of such number of persons as it may deem fit to advise that Government with regard to-

(i) the grant of approval under Section 2; and

(ii) any other matter connected with the conservation of forests which may be referred to it by the Central Government.

3A. **Penalty for contravention of the provisions of the Act -**

Penalty for contravention of the provisions of the Act

Whoever contravenes or abets the contravention of any of the provisions of Section 2, shall be punishable with simple imprisonment for a period which may extend to fifteen days.

3B. **Offences by authorities and Government Departments -**

Offences by authorities and Government Departments

(1) Where any offence under this Act has been committed -

(a) by any department of Government, the head of the department; or

(b) by any authority, every person who, at the time the offence was committed, was directly in charge of, and was responsible to, the authority for the conduct of the business of the authority as well as the authority;

shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render the head of the department or any person referred to in clause (b), liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence punishable under the Act has been committed by a department of Government or any authority referred to in clause (b) of sub-section (1) and it is proved that the offence has been committed with the consent or connivance of; or is attributable to any neglect on the part of any officer, other than the head of the department, or in the case of an authority, any person other than the persons referred to in clause(b) of sub-section (1), such officer or persons shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

4. **Power to make rules -**

(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

Power to make rules

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Repeal and saving -

(1) The Forest(conservation) Ordinance, 1980 is hereby replaced.

Repeal and saving

(2) Notwithstanding such repeal, anything done or any action taken under the provisions of the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

PART - B

FOREST (CONSERVATION) RULES, 2003
(published in Gazette of India : Extraordinary on the 10th January 2003)

G.S.R. 23(E) - In exercise of the powers conferred by sub-section (1) of section 4 of the Forest (Conservation) Act, 1980 (69 of 1980), and in supersession of the Forest (Conservation) Rules, 1981, except as respects things done or omitted to be done before such supersession, the Central Government hereby makes the following rules, namely :-

1. **Short title, extent and commencement** -
   (1) These rules may be called the Forest (Conservation) Rules, 2003.
   (2) They shall extend to the whole of India except the State of Jammu and Kashmir.
   (3) They shall come into force on the date of their publication in the Official Gazette.

2. **Definitions**. - In these rules, unless the context otherwise requires:-
   (a) "Act" means the Forest (Conservation) Act, 1980 (69 of 1980);
   (b) "Committee" means the Advisory Committee constituted under section 3 of the Act;
   (c) "Chairperson" means the Chairperson of the committee;
   (d) "Member" means a member of the Committee;
   (e) "Nodal Officer" means any officer not below the rank of Conservator of Forests, authorised by the State government to deal with the forest conservation matters under the Act;
   (f) "Regional Office" means a Regional Office of the Central Government in the Ministry of Environment and Forests established as part of the Ministry to deal with the forest conservation matters under the Act;
   (g) "Section" means a section of the Act;
   (h) "User Agency" means any person, organisation or Company or Department of the Central or State Government making a request for diversion or de-notification of forest land for non-forest purpose or using forest land for non-forest purpose in accordance with the permission granted by the Central Government under the Act or the rules.

3. **Composition of the Committee** -

   (1) The Committee shall be composed of the following members:-

   (i) Director General of Forests, Ministry of Environment and Forests - Chairperson.
   (ii) Additional Director General of Forests, Ministry of Environment and Forests-Member.
   (iii) Additional Commissioner (Soil Conservation), Ministry of Agriculture - Member.
   (iv) Three eminent experts in forestry and allied disciplines (non-officials) - Members.
   (v) Inspector General of Forests (Forest Conservation), Ministry of Environment and Forests-Member Secretary.

   (2) Additional Director General of Forests shall act as the Chairperson in the absence of Director General of Forests.

4. **Terms of appointment of non-official members shall be as follows** -

   (i) a non-official member shall hold his office for a period of two years;
   (ii) a non-official member shall cease to hold office if he becomes of unsound mind, becomes insolvent or is convicted by court of law on a criminal offence involving moral turpitude;

(iii) a non-official member may be removed from his office if he fails to attend three consecutive meetings of the Committee without any sufficient cause or reasons;

(iv) any vacancy in the membership caused by any reason mentioned in clauses (ii) and (iii) shall be filled by the Government for the unexpired portion of two years term.

(v) travelling and daily allowance shall be payable to the non-official members of the Committee at the highest rate admissible to the Government servants of Group 'A' under the rules and orders made by the Central Government and for the time being in force.

Provided that the payment of travelling allowance and daily allowance to a member who is a Member of the Parliament or a Member of a State Legislature shall be regulated in accordance with the Salary, Allowances and Pension of Members of Parliament Act, 1954 (30 of 1954) or the respective provisions of law pertaining to the member of the concerned State Legislature.

5. **Conduct of business of the Committee -**

(i) The Chairperson shall call the meeting of the Committee whenever considered necessary, but not less than once in a month.

(ii) The meeting of the committee shall be held at New Delhi.

(iii) In a case where the Chairperson is satisfied that inspection of site or sites of forest land proposed to be used for non-forest purposes shall be necessary or expedient in connection with the consideration of the proposal or proposals received under sub-rule (3) of rule 6, he may direct that the meetings of the Committee to be held at a place other than New Delhi from where such inspection of site or sites is necessary.

(iv) The Chairperson shall preside over every meeting of the Committee at which he is present.

(v) Every question upon which the Central Government is required to be advised shall be considered in the meeting of the Committee provided that in urgent cases if the meeting cannot be convened within a month, the Chairperson may direct that papers may be circulated and sent to the members for their opinion within the stipulated time.

(vi) The quorum of the meeting of the Committee shall be three.

6. **Submission of the proposals seeking approval of the Central Government under section 2 of the Act -**

(1) Every user agency, who wants to use any forest land for non-forest purposes shall make his proposal in the appropriate Form appended to these rules, i.e. Form `A' for proposals seeking first time approval under the Act and Form `B' for proposals seeking renewal of leases where approval of the Central Government under the Act had already been obtained earlier, to the concerned nodal officer authorised in this behalf by the State Government, alongwith requisite information and documents, complete in all respects, well in advance of taking up any non-forest activity on the forest land.

(2) Every State Government or other authority, after having received the proposal under sub-rule (1) and after being satisfied that the proposal requires prior approval under section 2 of the Act, shall send the proposal to the Central Government in the appropriate forms, within ninety days of the receipt of the proposal from the user agency for proposals seeking first time approval under the Act and within sixty days for proposals seeking renewal of leases where approval of the Central Government under the Act had already been obtained earlier:

Provided that all proposals involving clearing naturally grown trees in forest land or portion thereof for the purpose of using it for reafforestation shall be sent in the form of Working Plan or Management Plan.

(3) The proposal referred to in sub-rule (2) above, involving forest land of more than forty hectare shall be sent by the State Government to the Secretary to the Government of India, Ministry of Environment and Forests, Paryavaran Bhavan, CGO Complex, Lodhi Road, New Delhi - 110 003, with a copy of the proposal (with complete enclosures) to the concerned Regional Office.

(4) The proposal referred to in sub-rule (2) above, involving forest land up to forty hectare shall be sent to the Chief Conservator of Forests or Conservator of Forests of the concerned Regional Office of the Ministry of Environment and Forests.

(5) The proposal referred to in sub-rule (2) above, involving clearing of naturally grown trees in forest land or portion thereof for the purpose of using it for reafforestation shall be sent to the Chief Conservator of Forests or Conservator of Forests of the concerned Regional Office of the Ministry of Environment and Forests.

7. **Committee to advise on proposals received by the Central Government -**

(1) The Central Government shall refer every proposal, complete in all respects, received by it under sub-rule (3) of rule 6 including site inspection report, wherever required, to the Committee for its advice thereon.

(2) The Committee shall have due regard to all or any of the following matters while tendering its advice on the proposals referred to it under sub-rule (1), namely:-

(a) Whether the forests land proposed to be used for non-forest purpose forms part of a nature reserve, national park, wildlife sanctuary, biosphere reserve or forms part of the habitat of any endangered or threatened species of flora and fauna or of an area lying in severely eroded catchment;

(b) Whether the use of any forest land is for agricultural purposes or for the rehabilitation of persons displaced from their residences by reason of any river valley or hydro-electric project;

(c) Whether the State Government or the other authority has certified that it has considered all other alternatives and that no other alternatives in the circumstances are feasible and that the required area is the minimum needed for the purpose; and

(d) Whether the State Government or the other authority undertakes to provide at its cost for the acquisition of land of an equivalent area and afforestation thereof.

(3) While tendering the advice, the Committee may also suggest any conditions or restrictions on the use of any forest land for any non-forest purpose, which in its opinion, would minimise adverse environmental impact.

8. **Action of the Central Government on the advice of the Committee -**

The Central Government shall, after considering the advice of the Committee tendered under rule 7 and after such further enquiry as it may consider necessary, grant approval to the proposal with or without conditions or reject the same within sixty days of its receipt.

9. **Proceedings against persons guilty of offences under the Act -**

(1) The Central Government may, by notification, authorize any officer not below the rank of Conservator of Forests or the concerned forest officer having territorial jurisdiction over

the forest land in respect of which the said offence is said to have been committed, to file complaints against the person(s) prima-facie found guilty of offence under the Act or the violation of the rules made thereunder, in the court having jurisdiction in the matter.

Provided that no complaint shall be filed in the court, without giving the person(s) or officer (s) or authority (s) against whom the allegations of offence exist, an opportunity to explain his or their conduct and to show cause, by issuing a notice in writing of not less than sixty days, as to why a complaint should not be filed in the court against him or them for alleged offences.

(2) The officer authorised by the Central Government in sub-rule (1) may require any State Government or its officer or any person or any other authority to furnish to it within a specified period any reports, documents, statistics and any other information related to contravention of the Act or the rules made thereunder, considered necessary for making a complaint in any court of jurisdiction and every such State Government or officer or person or authority shall be bound to do so.

APPENDIX
(See Rule 6)

FORM - `A'

Form for seeking prior approval under section 2 of the proposals by the State Governments and other authorities

PART - I
(to be filled up by user agency)

1. Project details:
   (i) Short narrative of the proposal and project/scheme for which the forest land is required.
   (ii) Map showing the required forest land, boundary of adjoining forest on a 1:50, 000 scale map.
   (iii) Cost of the project.
   (iv) Justification for locating the project in forest area.
   (v) Cost-benefit analysis (to be enclosed).
   (vi) Employment likely to be generated.
2. Purpose-wise break-up of the total land required.
3. Details of displacement of people due to the project, if any:
   (i) Number of families.
   (ii) Number of Scheduled Castes/Scheduled Tribe families
   (iii) Rehabilitation plan. (To be enclosed)
4. Whether clearance under Environment (Protection) Act, 1986 required? (Yes/No).
5. Undertaking to bear the cost of raising and maintenance of compensatory afforestation and/or penal compensatory afforestation as well as cost for protection and regeneration of Safety Zone, etc. as per the scheme prepared by the State Government (undertaking to be enclosed).
6. Details of Certificates/documents enclosed as required under the instructions.

Signature
(Name in Block letters)
Designation
Address (of User Agency)

Date:- _____
Place:- _____

State serial No. of proposal _____
(To be filled up by the Nodal Officer with date of receipt)

PART - II
(To be filled by the concerned Deputy Conservator of Forests)

State serial No. of proposal _____

7. Location of the project/Scheme:
   (i) State/Union Territory
   (ii) District.
   (iii) Forest Division

(iv) Area of forest land proposed for diversion (in ha.)
(v) Legal status of forest
(vi) Density of vegetation.
(vii) Species-wise (scientific names) and diameter class-wise enumeration of trees (to be enclosed. In case of irrigation/hydel projects enumeration at FRL, FRL - 2 meter & FRL-4 meter also to be enclosed.)
(viii) Brief note on vulnerability of the forest area to erosion.
(ix) Approximate distance of proposed site for diversion from boundary of forest.
(x) Whether forms part of National Park, wildlife sanctuary, biosphere reserve, tiger reserve, elephant corridor, etc. (If so, the details of the area and comments of the Chief Wildlife Warden to be annexed).
(xi) Whether any rare/endangered/unique species of flora and fauna found in the area-if so details thereof.
(xii) Whether any protected archaeological/heritage site/defence establishment or any other important monument is located in the area. If so, the details thereof with NOC from competent authority, if required.

8. Whether the requirement of forest land as proposed by the user agency in col. 2 of Part-I is unavoidable and barest minimum for the project. If no, recommended area item-wise with details of alternatives examined.
9. Whether any work in violation of the Act has been carried out (Yes/No). If yes, details of the same including period of work done, action taken on erring officials. Whether work in violation is still in progress.
10. Details of compensatory afforestation scheme:
(i) Details of non forest area/degraded forest area identified for compensatory afforestation, its distance from adjoining forest, number of patches, size of each patch.
(ii) Map showing non-forest/degraded forest area identified for compensatory afforestation and adjoining forest boundaries.
(iii) Detailed compensatory afforestation scheme including species to be planted, implementing agency, time schedule, cost structure, etc.
(iv) Total financial outlay for compensatory afforestation scheme.
(v) Certificates from competent authority regarding suitability of area identified for compensatory afforestation and from management point of view. (To be signed by the concerned Deputy Conservator of Forests).
11. Site inspection report of the DCF (to be enclosed) especially highlighting facts asked in col. 7(xi, xii), 8 and 9 above.
12. Division/District profile:
(i) Geographical area of the district.
(ii) Forest area of the district.
(iii) Total forest area diverted since 1980 with number of cases.
(iv) Total compensatory afforestation stipulated in the district/division since 1980 on
(a) forest land including penal compensatory afforestation,
(b) non-forest land.
(v) Progress of compensatory afforestation as on (date) _____ on
(a) forest land
(b) non-forest land.
13. Specific recommendations of the DCF for acceptance or otherwise of the proposal with reasons.

Signature
Name
Official Seal

Date:-_____
Place:-_____

PART-III
(To be filled by the concerned Conservator of Forests)

14. Whether site, where the forest land involved is located has been inspected by concerned Conservator of Forests (Yes/No). If yes, the date of inspection & observations made in form of inspection note to be enclosed.
15. Whether the concerned Conservator of Forests agree with the information given in Part-B and the recommendations of Deputy Conservator of Forests.
16. Specific recommendation of concerned Conservator of Forests for acceptance or otherwise of the proposal with detailed reasons.

Signature
Name
Official Seal

Date:-_____
Place:-_____

PART-IV
(To be filled in by the Nodal Officer or Principal Chief Conservator of Forests or Head of Forest department)

17. Detailed opinion and specific recommendation of the State Forest Department for acceptance or otherwise of the proposal with remarks

(While giving opinion, the adverse comments made by concerned Conservator of Forests or Deputy Conservator of Forests should be categorically reviewed and critically commented upon).

Signature
Name & Designation
(Official Seal)

Date:-_____
Place:-_____

PART-V
(To be filled in by the Secretary in charge of Forest Department or by any other authorised officer of the State Government not below the rank of an Under Secretary)

18. Recommendation of the State Government:
(Adverse comments made by any officer or authority in Part-B or Part-C or Part-D above should be specifically commented upon)

Signature
Name & Designation
(Official Seal)

Date:-_____
Place:-_____

INSTRUCTIONS (for Part-I):-

1. The project authorities may annex a copy of the approved project/plan in addition to filling Col. 1(i) e.g. IBM approved mining plan for major minerals/CMPDI plan with subsidence analysis reports, etc.
2. Map has to be in original duly authenticated jointly by project authorities and concerned DCF- Col.1 (ii).
3. Complete details of alternative alignments examined especially in case of project like roads, transmission lines, railway lines, canals, etc. to be shown on map with details of area of forest land involved in each alternative to be given - Col. 1 (iii).
4. For proposals relating to mining, certificate from competent authority like District Mining Officer about non-availability of the same mineral in surrounding/nearby non-forest areas.
5. In case the same company/individual has taken forest land for similar project in the State, a brief detail of all such approvals/leases be given as an enclosure along with current status of the projects.
6. The latest clarifications issued by the Ministry under Forest (Conservation) Act, 1980 may be kept in mind. In case such information do not fit in the given columns, the same shall be annexed separately.

GENERAL INSTRUCTIONS:-

1. On receipt of proposal, Nodal Officer shall issue a receipt to the user agency indicating therein the name of the proposal, user agency, area in hectare, serial number and date of receipt.
2. If the space provided above is not sufficient to specify any information, please attach separate details/documents.
3. While forwarding the proposal to the Central Government, complete details on all aspects of the case as per Form prescribed above read with the clarifications issued by the Ministry of Environment and Forests, Government of India, New Delhi should be given. Incomplete or deficient proposals shall not be considered and shall be returned to the State Government in original.
4. The State Government shall submit the proposal to the Central Government within stipulated time limits. In case of delay while forwarding, the reasons for the same to be given in the forwarding/covering letter.

FORM - 'B'
(See Rule 6)

Form for seeking prior approval under section 2 of the proposals by the State Governments and other authorities in respect of renewal of leases, which have been earlier granted clearance under Forest (Conservation) Act, 1980

PART-I
(to be filled up by user agency)

1. Letter No. & date vide which clearance under Forest (Conservation) Act, 1980 accorded by the Central Government (copy to be enclosed):
2. Project details:
   i Short narrative of the proposal and project/scheme for which the forest land is required.
   ii. Map showing the required forest land, boundary of adjoining forest on a 1:50,000 scale map.
   iii. Cost of the project:
3. Purpose-wise break-up of the total land required (already broken & to be broken):
4. Details of Certificates/documents enclosed as required under the instructions.

Signature
(Name in Block letters)
Designation
Address (of User Agency)

Date:_____
Place:-_____

State serial No. of proposal _____
(To be filled up by the Nodal Officer with date of receipt)

PART-II
(To be filled by the concerned Deputy Conservator of Forests)

State serial No. of proposal_____

5. Location of the project/Scheme:
   (i) State/Union Territory
   (ii) District
   (iii) Forest Division
   (iv) Area of forest land proposed for diversion (in ha.)
   (v) Legal status of forest
   (vi) Density of vegetation
   (vii) Species-wise (scientific names) and diameter class-wise enumeration of trees in unbroken area.
   (viii) Whether forms part of National Park, wildlife sanctuary, biosphere reserve, tiger reserve, elephant corridor, etc. (If so, the details of the area and comments of the Chief Wildlife Warden to be annexed).
6. Whether any work in violation of the Act has been carried out (Yes/No). If yes, details of the same including period of work done, action taken on erring officials. Whether work in violation is still in progress.
7. Site inspection report of the DCF (to be enclosed) in respect to status of compliance of conditions stipulated during earlier approval.

8. Division/District profile:
   (i) Geographical area of the district.
   (ii) Forest area of the district.
   (iii) Total forest area diverted since 1980 with number of cases.
   (iv) Total compensatory afforestation stipulated in the district/division since 1980 on
      a) forest land including penal compensatory afforestation,
      b) non-forest land.
   (v) Progress of compensatory afforestation as on (date)_____ on
      a) forest land
      b) non-forest land.
9. Specific recommendations of the DCF for acceptance or otherwise of the proposal with reasons.

Signature
Name
Official Seal

Date:-_____
Place:-_____

PART-III
(To be filled by the concerned Conservator of Forests)

10. Whether site, where the forest land involved is located has been inspected by concerned Conservator of Forests (Yes/No). If yes, the date of inspection & observations made in form of inspection note to be enclosed.
11. Whether the concerned Conservator of Forests agree with the information given in Part-B and the recommendations of Deputy Conservator of Forests.
12. Specific recommendation of concerned Conservator of Forests for acceptance or otherwise of the proposal with detailed reasons.

Signature
Name
Official Seal

Date:-_____
Place:-_____

PART-IV
(To be filled in by the Nodal Officer or Principal Chief Conservator of Forests or Head of Forest department)

13. Detailed opinion and specific recommendation of the State Forest Department for acceptance or otherwise of the proposal with remarks

(While giving opinion, the adverse comments made by concerned Conservator of Forests or Deputy Conservator of Forests should be categorically reviewed and critically commented upon).

Signature
Name & Designation
(Official Seal)

Date:-_____
Place:-_____

PART-V

(To be filled in by the Secretary in charge of Forest Department or by any other authorised officer of the State Government not below the rank of an Under Secretary)

14. Recommendation of the State Government:
(Adverse comments made by any officer or authority in Part-B or Part-C or part-D above should be specifically commented upon)

Signature
Name & Designation
(Official Seal)

Date:-_____
Place:-_____

INSTRUCTIONS (for Part-I):

1. The project authorities may annex a copy of the approved project/plan in addition to filling Col.2 (i) e.g. IBM approved mining plan for major minerals / CMPDI plan with subsidence analysis reports, etc.
2. Map has to be in original duly authenticated jointly by project authorities and concerned DCF - Col.2 (ii).
3. In case the same company/individual has taken forest land for similar project in the State, a brief detail of all such approvals/leases be given as an enclosure along with current status of the projects.
4. Item-wise requirement (Col. 3) should be separately shown for broken up and fresh areas.
5. The latest clarifications issued by the Ministry under Forest (Conservation) Act, 1980 may be kept in mind. In case such information do not fit in the given columns, the same shall be annexed separately.

GENERAL INSTRUCTIONS:

1. On receipt of proposal, Nodal Officer shall issue a receipt to the user agency indicating therein the name of the proposal, user agency, area in hectare, serial number and date of receipt.
2. If the space provided above is not sufficient to specify any information, please attach separate details/documents.
3. While forwarding the proposal to the Central Government, complete details on all aspects of the case as per Form prescribed above read with the clarifications issued by the Ministry of Environment and Forests, Government of India, New Delhi should be given. Incomplete or deficient proposals shall not be considered and shall be returned to the State Government in original.
4. The State Government shall submit the proposal to the Central Government within stipulated time limits. In case of delay while forwarding, the reasons for the same to be given in the forwarding/covering letter.

[F.No. 5-5/98-FC]
Dr. V.K. BAHUGUNA, Inspector General of Forests (Forest Conservation)

Note: The principal rules were published vide G.S.R. No. 719 dated the 1st August, 1981 in part II, Section 3, sub-section (i) of the Gazette of India and subsequently amended vide
(1) G.S.R. 14, dated the 28th December, 1987
(2) G.S.R. 640 (E), dated the 26th June, 1989
(3) G.S.R. 563 (E), dated the 21st May, 1992

Forest (Conservation) Amendment Rules, 2004

(Published in Gazette of India: Extraordinary on 3rd February, 2004 and Corrigendum on 9th February, 2004)

G.S.R.94 (E) - In exercise of the powers conferred by Sub-section (1) of Section 4 of the Forest (Conservation) Act,1980 (69 of 1980), the Central Government hereby makes the following rules to amend the Forest (Conservation) Rules,2003, namely:-

1. (1) These rules may be called the Forest(Conservation) Amendment Rules,2004.
   (2) Rules 1,2,3,5,6 (except Sub-rule (5) of rule 6) and 7 of these rule shall come into force on the date of their publication in the Official Gazette ; whereas, rule 4 of these rules and sub-rule(5) of rule 6 of the principal rule, as contained in rule 5 of these rules, shall come into force on the expiry of 180 days from the date of such publication.

2. In the Forest (Conservation) Rules, 2003(hereinafter referred to as the said rules), in rule 2, for clause (b), the following clause shall be substituted, namely:-

   (b) "Committee" means the Forest Advisory Committee constituted under section 3 of the Act.

3. In the said rules, for rule 3, the following rule shall be substituted, namely :-
   "3. Composition of the Forest Advisory Committee:-
   (1) The Forest Advisory Committee shall be composed of the following members, namely :-
   (i) the Director General of Forest, Ministry of Environment and Forests - Chairperson
   (ii) the Additional Director General of Forests, Ministry of Environment and Forests - Member
   (iii) the Additional Commissioner (Soil Conservation), Ministry of Agriculture - Member
   (iv) Three non-official members who shall be experts one each in Mining, Civil Engineering and Development Economics - Members
   (v) the Inspector General of Forests (Forest Conservation), Ministry of Environment and Forests -Member Secretary

   (2) The Additional Director General of Forests shall act as Chairperson in the absence of the Director General of Forests."

4. In the said rules, after rule 3, the following rule shall be inserted, namely :-
   Constitution of the Regional Empowered Committee:-
   (1) A Regional Empowered Committee shall be constituted at each of the Regional Offices and shall consist of the following members, namely :
   (i) the Regional Principal Chief Conservator of Forests (Central) - Chairperson
   (ii) three non-official members who shall be experts one each in Mining, Civil Engineering and Development Economics - Members.
   (iii) the Conservator of Forests or the Deputy Conservator of Forests in the Regional Office -Member Secretary.
   (2) The term of appointment of non-official Members shall be as specified in rule 4 of these rules.

5. In the said rules, for rule 6, the following rule shall be substituted, namely-

"6. Submission of proposals seeking approval of the Central Government under Section 2 of the Act

(1) Every User Agency who want to use any forest land for non-forestry purposes, shall make its proposal in the relevant Form appended to these rules, i.e. Form 'A' for proposals seeking first time approval under the Act, and Form 'B' for proposal seeking renewal of leases, where approval of the Central Government under the Act had already been obtained, to the Nodal Officer of the concerned State Government or the Union Territory Administration, as the case may be, along with requisite information and documents, complete in all respects.

(2) The User Agency shall endorse a copy of the proposal, along with a copy of the receipt obtained from the office of the Nodal Officer, to the concerned Divisional Forest Officer or the Conservator of Forests, Regional Office as well as the Monitoring Cell of the Forest Conservation Division of the Ministry of Environment and Forests, Paryavaran Bhawan, CGO Complex, New Delhi-110 003

(3) (a) After having received the proposal, the State Government or the Union Territory Administration, as the case may be, shall process and forward it to the Central Government within a period of two hundred and ten days of the receipt of the proposal including the transit period.

(b) The Nodal Officer of State Government or as the case may be, the Union Territory Administration, after having received the proposal under sub-rule (1) and on being satisfied that the proposal is complete in all respects and requires prior approval under Section 2 of the Act, shall send the proposal to the concerned Divisional Forest Officer within a period of 10 days of the receipt of the proposal:

Provided that on the determination regarding completeness of the proposal or the expiry of ten days, whichever is earlier, the question of completeness or otherwise of the proposal shall not be raised.

(c) If the Nodal Officer of the State Government or the Union Territory Administration, as the case may be, finds that the proposal is incomplete, he shall return it within the period of ten days as specified under clause (b), to the User Agency and this time period shall not be counted for any future reference.

(d) The Divisional Forest Officer or the Conservator of Forests shall examine the factual details and feasibility of the proposal, certify the maps, carry out site-inspection and enumeration of the trees and forward his findings in the Format specified in this regard to the Nodal Officer within a period of ninety days of the receipt of such proposal from him.

(e)(i) The Nodal Officer, through the Principal Chief Conservator of Forests, shall forward the proposal to State Government or the Union Territory Administration, as the case may be, along with his recommendations, within a period of thirty days of the receipt of such proposal from the Divisional Forest Officer or the Conservator of Forests.

(ii) The State Government or the Union Territory Administration, as the case may be, shall forward the complete proposal, alongwith its recommendations, to the Regional Office or the Ministry of Environment and Forests, Paryavaran Bhawan, CGO Complex, New Delhi-110 003, as the case may be, in the specified Forms within a period of sixty days of the receipt of the proposal from the Nodal Officer:

Provided that all proposals involving clearing of naturally grown trees on the forest land or a portion thereof for the purpose of using it for reforestation shall be sent in the form of Working Plan or Management Plan.

Provided further that the concerned State Government or as the case may be, the Union Territory Administration, shall simultaneously send the intimation to the User Agency about forwarding of the proposal, alongwith its recommendations, to the Regional Office or the Ministry of Environment and Forests, as the case may be.

(f) If the proposal, alongwith the recommendations, is not received from the concerned State Government or the Union Territory Administration, as the case may be, till fifteen days of the expiry of the time limit as specified under clause (a), it shall be construed that the concerned State Government or as the case may be , the Union Territory Administration, has rejected the proposal and the concerned State Government or the Union Territory Administration shall inform the User Agency accordingly:

Provided that in case the State Government or the Union Territory Administration, as the case may be, subsequently forward the proposal, alongwith its recommendations, to the Regional Office or the Ministry of Environment and Forests, as the case may be, the proposal shall not be considered by the Central Government unless an explanation for the delay to the satisfaction of the Central Government is furnished, together with action taken against any individual held to be responsible for the delay.

(4) The proposal referred to in clause (e)(ii) of sub-rule(3), involving forest land upto forty hectares other than the proposal relating to mining and encroachments, shall be forwarded by the concerned State Government or as the case may be, the Union Territory Administration, alongwith its recommendations, to the Chief Conservator of Forests or the Conservator of Forests of the concerned Regional Office of the Ministry of Environment and Forests, Government of India, who shall within a period of forty-five days of the receipt of the proposal from the concerned State Government or the Union Territory Administration, as the case may be (a) decide the diversion proposal upto five hectares and (b) process, scrutinise and forward diversion proposals of more than five hectares and upto forty hectares, along with the recommendations, if any, to the Ministry of Environment and Forests, Paryavaran Bhawan, CGO Complex, New Delhi-110 003, for obtaining the decision of the Central Government and inform the State Government or the Union Territory Administration, as the case may be, and the User Agency concerned.

(5) The Regional Empowered Committee shall decide the proposal involving diversion of forest land upto forty hectares other than the proposal relating to mining and encroachments, within forty-five days of the receipt of such proposal from the State Government or the Union Territory Administration, as the case may be:

Provided that the Central Government may, if consider it necessary, enhance or reduce the limit of the area of the forest land.

(6) The proposal referred to in clause (e)(ii) of sub-rule (3), involving forest land of more than forty hectares, and all proposal relating to mining and encroachments irrespective of the area of the forest land involved, shall be forwarded by the concerned State Government or as the case may be, the Union Territory Administration, alongwith its recommendations, to the Ministry of Environment and Forests, Paryavaran Bhawan, CGO Complex, New Delhi-110 003".

23.02.../2004 FC

6. In the said rules, in rule 7 :-

(i) in sub-rule(1) for the words, brackets and figures "sub-rule (3) of rule 6", the words brackets and figures "sub-rule(6) of rule 6 " shall be substituted.

(ii) After sub-rule (1), the following sub-rule shall be inserted, namely :-

"(1A) These proposals shall be processed and put up before the Committee and the recommendations of the Committee shall be placed within a period of ninety days of the receipt of such proposals from the State Government or the Union Territory Administration, as the case may be, before the Central Government for its decision."

(iii) in sub-rule(2), in clauses (c) and (d), at both places, for the words, "or the other authority", the words "or the Union Territory Administration, as the case may be" shall be substituted.

7. In the said rules, rule 8 shall be omitted.

(F.No.5-5/98-FC)

Dr. V.K. BAHUGUNA,
Inspector General of Forests(Forest Conservation)

Note : The Principal rules were published in the Gazette of India vide number G.S.R.23(E) dated the 10th January, 2003.

MINISTRY OF ENVIRONMENT AND FORESTS

CORRIGENDUM

New Delhi, the 9th February, 2004

G.S.R. 107(E)- In the Forest(Conservation) Amendment Rules,2004 published in the Official Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide No. G.S.R. 94(E) dated 3rd February, 2004 Sub-rules (4) and (6) of rule 6 of the said rules as contained in rule 5 of the Forest(Conservation) Amendment Rules, 2004 shall be read as follows :

"(4) The proposal referred to in clause (e)(ii) of Sub-rule (3), involving forest land upto forty hectares shall be forwarded by the concerned State Government or as the case may be, the Union Territory Administration, alongwith its recommendations, to the Chief Conservator of Forests or the Conservator of Forests of the concerned Regional Office of the Ministry of Environment and Forests, Government of India, who shall, within a period of forty five days of the receipt of the proposal from the concerned State Government or the Union Territory Administration, as the case may be (a) decide the diversion proposal upto five hectares other than the proposal relating to mining and encroachments, and (b) process, scrutinise and forward diversion proposal of more than five hectares and upto forty hectares including all proposals relating to mining and encroachments upto forty hectares, along with the recommendations, if any, to the Ministry of Environment and Forests, Paryavaran Bhawan, CGO Complex, New Delhi-110 003, for obtaining the decision of the Central Government and inform the State Government or the Union Territory Administration, as the case may be, and the User Agency concerned.

(6) The proposal referred to in clause (e)(ii) of Sub -rule (3), involving forest land of more than forty hectares shall be forwarded by the concerned State Government or as the case may be, the Union Territory Administration, along with its recommendations, to the Ministry Environment and Forests, Paryavaran Bhawan, CGO Complex, New Delhi-110 003"

(F.No.5-5/98-FC)

Dr. V.K. BAHUGUNA, Inspector General of Forests(Forest Conservation)

Note : The Forest (Conservation) Amendment Rules,2004 were published in the Gazette of India vide number G.S.R.94(E) dated the 3rd February,2004.

PART - C

CHAPTER 1
Application of Forest (Conservation) Act, 1980

1.1. Definition

(i) The term 'Forest land' mentioned in Section 2 of the Act refers to reserved forest, protected forest or any area recorded as forest in the government records. Lands which are notified under Section 4 of the Indian Forest Act would also come within the purview of the Act. (Supreme Court's Judgement in NTPC's case). It would also include "Forest" as understood in the dictionary sense (Supreme Court order dated 12.12.1996 in WP No. 202/1995-Annexure-I). All proposals for diversions of such areas to any non-forest purpose, irrespective of its ownership, would require the prior approval of the Central Government.

Clarification : -The term "forest" shall not be applicable to the plantations raised on private lands, except notified private forests. However, felling of trees in these private plantations shall be governed by various State Acts and Rules. Felling of trees in notified private forests will be as per the working plan/management plan duly approved by Government of India.

(ii) The term "tree" for the purpose of this Act will have the same meaning as defined in Section 2 of the Indian Forest Act, 1927 or any other Forest Act which may be in force in the forest area under question.

1.2 Clarifications

(i) The cases in which specific orders for de-reservation or diversion of forest areas in connection with any project were issued by the State Government prior to 25.10.1980, need not be referred to the Central Government. However, in cases where only administrative approval for the project was issued without specific orders regarding dereservation and/or diversion of forest lands, a prior approval of the Central Government would be necessary.

(ii) Harvesting of fodder grasses, legumes etc. which grow naturally in forest areas, without removal of the tree growth, will not require prior approval of the Central Government. However, lease of such areas to any organisation or individual would necessarily require approval under the Act.

(iii) The forest policy, as well as provisions of the Forest (Conservation) Act, 1980, do not interfere in any manner or restrict the Nistar, recorded rights, concessions and privileges of the local people for bonafide domestic use as granted by the State Governments under Indian Forest Act, 1927 or State Forest Acts/Regulations. However, it has to be ensured that while allowing such rights, concessions and privileges to be exercised, the right holders do not resort to felling of trees or break up the forest floor so as to procure stones, minerals, or take up constructions, etc. The forest produce so obtained shall not be utilised for any commercial purposes.

The collection of such forest produce should be manual and should be transported through local modes or transport like bullock carts, camel carts, etc. and no mechanised vehicles shall be allowed to be used in transporting such forest produce and only in exceptional cases with the approval of concerned Divisional Forest Officers, tractors mounted with trolley may be used.

Clarification :- The Supreme Court has passed an order on 14.02.2000 restraining removal of dead, diseased, dying or wind-fallen trees, drift wood and grasses etc. from any National Park or

Game Sanctuary...." Annexure-II A may be referred to. In view of this, rights and concessions cannot be enjoyed in the Protected Areas (PAs).

1.3 Investigation and Survey

(i) Investigations and surveys carried out in connection with development projects such as transmission lines, hydro-electric projects, seismic surveys, exploration for oil drilling, mining etc. will not attract the provisions of the Act as long as these surveys do not involve any clearing of forest or cutting of trees, and operations are restricted to clearing of bushes and lopping of tree branches for purpose of sighting.

(ii) If, however, investigations and surveys involve clearing of forest area or felling of trees, prior permission of the Central Government is mandatory.

(iii) Notwithstanding the above, survey, investigation and exploration shall not be carried out in wildlife sanctuaries, national parks and sample plots demarcated by the Forest Department without obtaining the prior approval of the Central Government, whether or not felling of trees is involved.

Clarification :- The Supreme Court has passed several orders regarding taking up of non-forestry activities in the National Parks/Sanctuaries. Annexure - II A may be referred to. In view of this, the State Governments should not submit any proposal for diversion of forest land in National Parks and Sanctuaries without seeking prior permission of the Indian Board for Wildlife (Now National Board of Wildlife) and Supreme Court.

(iv) The work of actual construction would however, fully attract the provisions of the Act and prior clearance of the Central Government must be obtained even if such work does not require felling of trees.

(v) Prospecting of any mineral, done under prospecting license granted under MMDR Act, which requires collection/removal of samples from the forest land, would be a stage between survey & investigation and grant of mining lease and as such permission under Forest (Conservation) Act 1980 would be required. However, test drilling upto 10 bore holes of maximum 4" diameter per 100 sq. km. for prospecting, exploration or reconnaissance operations, without felling of trees, shall not attract the provisions of the Act. In all other cases involving more number of drilling of bore holes, prior permission of the Central Government under the Act would be required.

(vi) It is clarified that the permission to survey, exploration or prospection would not ipso facto imply any commitment on the part of the Central Government for diversion of forest land.

Clarification: For reconnaissance operations, carried out in forest land in connection with developmental projects, the collection of samples from land surface in addition to drilled out material from 10 holes of 4 inch diameters per 100 Sq. Kms. Will not attract Forest (Conservation) Act, 1980, provided that there is no felling of trees involved (MoEF's letter No. 11-33/2004-FC dated – 7.6.2004).

1.4 Explanation Regarding Non-Forest Purpose

(i) Cultivation of tea, coffee, spices, rubber and palm is a non-forestry activity, attracting the provisions of the Act.

(ii) Cultivation of fruit-bearing trees or oil-bearing plants or medicinal plants would also require prior approval of the Central Government except when:

(a) The species to be planted are indigenous to the area in question; and
(b) Such planting activity is part of an overall afforestation programme for the forest area in question.

1.5 Tusser Cultivation

(i) *Tusser cultivation in forest areas by the tribals as a means of their livelihood without undertaking monocultural Asan or Arjun plantations shall be treated as a forestry activity. Therefore, no prior approval of the Central Government under the Act is necessary.

(ii) *Tusser cultivation in forest areas for which specific plantation of Asan or Arjun trees are undertaken for providing host trees to the silk cocoons shall be treated as forestry activity not requiring prior approval of the Central Government provided such plantation activity does not involve any felling of existing trees; provided further that while undertaking such plantations, at least three species are planted, of which no single species shall cover more than 50% of the planted area.

(iii) Plantation of mulberry for silkworm rearing is a non-forestry activity attracting the provisions of the Act.

1.6 Mining

(i) Mining including underground mining is a non-forestry activity. Therefore, prior approval of the Central Government is essential before a mining lease is granted in respect of any forest area. The Act would apply not only to the surface area which is used in the mining but also to the entire underground mining area beneath the forest. A renewal of an existing mining lease in a forest area also requires the prior approval of the Central Government. Continuation or resumption of mining operation on the expiry of a mining lease without prior approval would amount to contravention of the Act.

(ii) The advice of the Ministry of Law, Government of India in regard to the Supreme Court Order in Civil Appeal No.2349 of 1984 dated 7.5.1985 is at Annexure-III.

(iii) Boulders, bajri, stone, etc., in the riverbeds located within forest areas would constitute a part of the forest land and their removal would require prior approval of the Central Government.

1.7 Clarification on Sub-clause 2(iii) of the Act

(i) The Sub-clause shall not be attracted when any forest land or any portion thereof is assigned to any authority, corporation, agency or any other organisation wholly owned, managed or controlled by the concerned State/Union Territory Government and/or the Central Government. Such Government owned, managed or controlled authority/corporation/agency, which has been assigned such forest land shall not reassign it or any part thereof to any other organisation or individual.

(ii) Any scheme or project which involves assignment of any forest land by way of lease or similar arrangement, for any purpose whatsoever, including afforestation, to any private person or to any authority/agency/organisation not wholly owned, managed or controlled by the Government (such as private or joint sector ventures) shall attract the provisions of this sub-clause.

(* Replaced by new guidelines issued vide MoEF letter No. 2-1/2003-FC (Pt-III) dated 07.06.2004 – see appendix-19)

1.8 **Clarification on Sub-clause 2(iv) of the Act**

(i) Sub-clause 2(iv) of the Act prohibits clearing of naturally grown trees in forest land for the purpose of using it for reforestation. The provisions of this sub-clause will be attracted if the forest area in question bears naturally grown trees and are required to be clear-felled, irrespective of their size, for harnessing existing crop and/or raising plantation through artificial regeneration techniques, which may include coppicing, pollarding or any other mode of vegetative propagation.

(ii) All proposals involving clearing of naturally grown trees in any forest area, including for the purpose of reforestation, shall be sent by the concerned State/UT Government in the form of Management Plans/Working Plans to the Regional Chief Conservator of Forests of the concerned Regional Office of the Ministry of Environment and Forests.

(iii) **All proposals in respect of sanction of Working Plans/Management Plans shall be finally disposed of by the Regional Office, under Section 2 of the Act**. While examining the proposal, the Regional Office would ensure that the final decision is in conformity with the National Forest Policy, Working Plan guidelines and other relevant rules and guidelines issued by the Central Government from time to time. The Regional Office will however, invariably seek prior clearance of the Ministry whenever the proposal involves clear-felling of forest area having density above 0.4 irrespective of the area involved. Also, prior clearance would be required when the proposal is for clear felling of an area of size more than 20 ha. in the plains and 10 ha. in the hilly region, irrespective of density.

(iv) In national parks and sanctuaries where fellings are carried for improvement of wildlife and its habitat only, forests would be managed according to a scientifically prepared management plan approved by the Chief Wildlife Warden, provided that the removed forest produce shall be used for meeting bona fide needs of the people living in and around the National Park/Sanctuary and shall not be used for any commercial purposes. But in cases where large scale felling/removal of timber and non timber products is required in a national park/sanctuary, which need disposal through sales, approval of the Central Government would be necessary. However, this shall be subject to the orders of the Supreme Court, which may be referred to at Annexure-II A.

1.9 **Clarification of Section 3 B of the Act**

(i) Each case of the violation of the Act shall be reported by the concerned State/Union Territory Government to the Central Government.

(ii) The report of violation shall be described in a self-contained note and supported by requisite documents, including particularly the names and designations of the officials/persons who are prima-facie responsible for the contravention of the Act.

(iii) In case it is not possible to fix the responsibility for commission/omission of any action leading to the violation of the Act, a full explanation with relevant supporting documents shall be appended to the report.

(iv) Any person and/or authority nominated by the Central Government may be required to discharge any of the duties, including prosecution under the Act in any Court as may be deemed appropriate for this purpose. In such an eventuality, the Government of the concerned State/Union Territory shall make available all such records or documents as may be called upon by the investigation officer.

Clarification : The provisions of this Section are applicable to the cases where the State Government or any authority passes any order for permitting activities covered by Section 2 of the Forest (Conservation) Act, 1980 without prior approval of the Central Government. Cases of illicit felling/encroachment/illegal mining, etc. have to be dealt under the provisions of the Indian Forest Act, 1927, State Forest Acts, Environment (Protection) Act, 1986, etc.

1.10 Diversion of Forest Land for Regularisation of Encroachments

(i) Detailed guidelines issued in this regard vide this Ministry's letter No.13-1/90-F.P.(1) dated 18.9.90 shall be strictly followed. These are included in Annexure IV.

(ii) The State Governments/UT Administrations may send the proposals as follows:-

(a) A consolidated proposal for the whole State in the prescribed application form.

(b) Detailed information as per the enclosed Table/format - Annexure - IV- A. Division wise proposals, maps, names of encroachers, etc. should be kept ready at Division level, which may be made available whensoever required for inspection and need not be appended with the consolidated proposal.

(c) Detailed compensatory afforestation scheme with areas proposed for raising compensatory afforestation Division-wise, phased planning, fund requirement, commitment of the State Government to provide funds for the purpose, etc. Maps of proposed areas for compensatory afforestation should be kept already at Division level, which may be made available whensoever required for inspection.

(d) A time plan for eviction of ineligible encroachers.

1.11 Review of Disputed Claims over Forest Land, arising out of Forest Settlement

Detailed guidelines issued in this regard vide this Ministry's No.13-1/90-F.P.(2) dated 18.9.90 shall be strictly followed. These are included in Annexure IV-B.

1.12 Disputes Regarding Pattas/Leases/Grants involving Forest Land - Settlement thereof

Detailed guidelines issued in this regard vide this Ministry's No.13-1/90-F.P.(3) dated 18.9.90 shall be strictly followed. These are included in Annexure IV-C.

1.13 Conversion of Forest Villages into Revenue Villages

Detailed guidelines issued in this regard vide this Ministry's No.13-1/90-F.P.(5) dated 18.9.90 shall be strictly followed. These are included in Annexure IV-D.

CHAPTER-2
Submission of Proposals

2.1 General

(i) Rule 6 of the Forest (Conservation) Rules, 2003 prescribes the procedure for submission of proposals for seeking prior approval of the Central Government under Section 2 of the Act. The form appended to the Rules, specifies the particulars to be furnished with the proposal. Only proposal in the prescribed format, and complete in all respects, will be considered. The user agency, if they so desire, for monitoring purpose only, may submit the proposal along with a copy of the receipt from Nodal Officer of having received complete application to the Assistant Inspector General of Forests (FC)/Director incharge of the Monitoring cell.

(ii) **All proposals relating to diversion of forest land up to 40 hectares and proposals for clearing of naturally grown trees for reforestation shall be sent directly to the concerned Regional Office of the MOEF by the State/UT government or other authority**. All other proposals shall be sent by the State/UT Government or other authority to the Secretary to the Government of India, MOEF mentioning "Attention - FC Division" on covering letter as well as on envelope. **Moreover a copy of all these proposals irrespective of area should also be sent to concerned Regional Office of the MOEF.**

For small development and public utility projects involving **diversion of forest land upto 5 hectare**, the State government may authorize the Nodal Officer or any other Officer to submit the proposals directly to the Regional Offices.

(iii) Adverse recommendations of subordinate officers in prescribed form or in the documents attached with the form should invariably be commented upon by the Principal Chief Conservator of Forests/Chief Conservator of Forests. Similarly, adverse recommendation by the PCCF/CCF should be commented upon by the State Government to emphasize that a conscious decision has been taken in the matter.

(iv) **Wherever re-diversion of forest land becomes essential, State Government should seek the prior permission of the Central Government giving details of the earlier approval and the proposed activity details in letter form rather than initiating a fresh proposal.**

(v) In cases of irrigation projects or projects involving linear diversion of forest land, when during execution, **some realignment is needed due to technical reasons and where the re-alignment is of a minor nature**, i.e. deviation from the original alignment is at a few points and the number of trees to be cut does not exceed the number given in the original proposal, the State Government need not submit a fresh proposal. Rather, they may send this information through a covering letter giving maps of the original alignment and fresh alignment with details of the additional forest land required and the variation in the number of trees which will be affected due to the realignment.

(vi) **The State Governments are advised not to consider/process cases, which are pending in various Courts or are sub-judice, to avoid all sorts of administrative and legal complications.**

(vii) In order to ensure that the forest lands are diverted only for site specific projects, that too where it is inescapable, so that the ecological balance of the country is well protected, the respective State/UT Administration, should give due consideration to the following and should submit proposal accordingly after detailed scrutiny.

1. **Diversion of forest land within Reserve Forest**:- As per the State of Forest Report, 2001 published by Forest Survey of India, out of 76.84 million hectare of total forest area, roughly 55% is Reserve Forest area. These forests are considered as good forests with plenty of bio diversity and it is necessary too keep these forests intact. **As such, any proposal for diversion in Reserve Forest should be very carefully examined and detailed justification after exhausting all alternatives for locating the project in this forest area should be given while forwarding the proposal.**

2. **Regarding Mining proposals**:- It has been observed by the Central Government that a large number of proposals relating to mining are submitted which are located deep inside the forest areas. Locating such proposals inside makes entire forest area vulnerable due to ancillary activities like construction of approach road, movement of vehicles and coming up of colonies for the workers. It has also been observed that whatever area has already been opened up for mining of different minerals, have not been worked and reclaimed systematically and scientifically. There is a tendency to open up new pits without exhausting the existing once to its full depth/potential. Therefore, Ministry has decided that whenever a proposal for fresh mining is submitted, a brief profile of the lessee/company should be submitted giving details of their existing mining leases in the State with their capacity of production, the present level of average annual production, location of these pits and the status of reclamation of forest land that are exhausted of minerals. Alongwith this, the State Government should also submit details of all other mining leases for that particular mineral with their capacity and average annual production and projected future requirements. They should fully justify the necessity of opening new mining leases for that particular mineral. Mining plan should be approved by the competent authority for concerned minerals e.g. **for coal it should be approved by Controller of Coal and for major minerals by IBM and so on.**

Even in the case of renewals, it has been observed that the State Governments are not giving complete picture of mining activity in the particular block or compartment of the forest block. Whenever such proposal is sent, complete details of existing or proposed leases in that particular forest area with their present status should be indicated on **Survey of India topo-sheet on 1:50,000 scale.**

3. **Diversion for non-site specific projects**:- A large number of proposals for diversion of forest land for non-site specific projects like industries, construction of residential colonies, institutes, disposal of fly ash, rehabilitation of displaced persons, etc. are received by the Central Government. Attention is drawn to items 1(iv) and 8 of the Form "A" in which the proposal is to be submitted by the State Government. In these columns, justification for locating the project in the forest area giving details of the alternatives examined and reasons for their rejection has to be furnished. Normally, there should not be any justification for locating non site-specific projects on forest land. Therefore, the State Government should scrutinize the alternatives in more details and must give complete justification establishing its in-escapability for locating the project in forest area.

4. It has been observed that in respect of many proposals, the Central Government receives representation from NGOs/local public bodies against the diversion of forest land or loss of forest land, environment and ecological grounds. It is felt that it is essential to have the opinion

of the local people, whenever a project is coming up in that area. **Therefore, whenever any proposal for diversion of forest land is submitted, it should be accompanied by a resolution of the 'Aam Sabha' of gram Panchayat/Local Body of the area endorsing the proposal that the project is in the interest of people living in and around the proposed forest land except in cases wherever consent of the local people in one form or another has been obtained by the State or the project proponents and the same is indicated in the proposal explicitly.** However, it would be required where the project activity on forest land is affecting quality of life of the people residing in nearby areas of the site of diversion; like mining projects, displacement of people in submergence area, etc. It is further clarified that such resolution would not be required in following cases:

a. Project requires public hearing in order to get environment clearance. However, a copy of public hearing may be furnished along with the proposal in such cases.
b. For projects like construction of roads, canals, laying of pipelines/ optical fibers and transmission lines etc., where linear diversion of forest land in several villages are involved.
c. Proposals involving diversion of private forest lands.
d. In case of small public utility projects like drinking water, schools, hospitals which are for the welfare of local people.

2.2 **Particulars to be Furnished along with the Proposal**

(i) Map of the forest area required showing boundary of the adjoining forests, etc., is to be furnished along with the prescribed form. **This should normally be on 1:50,000 scale original Survey of India toposheet**. However, if maps on 1:50,000 scale are not available, map on 1"=1 mile or 1"= 4 miles or any other suitable scale would be acceptable. If the area is very small, an index map may be submitted showing forest boundaries and a location map on a larger scale with a land use of the area required.

(ii) Species-wise and diameter class-wise abstract of trees to be felled should be furnished in the prescribed form. Total enumeration is necessary only up to 10 hectares. For larger areas, species-wise and diameter class-wise abstract of trees may be computed either from the working plans or by standard sampling methods.

(iii) **The projects for roads and railway line construction will be processed in their entirety**. Therefore, proposals in piecemeal should not be submitted. A note on the present and future requirement of forest land is required to be submitted along with the proposal.

(iv) **The user agency shall submit the proposal for renewal of mining lease to the Forest Department one year prior to date of expiry of existing lease, failing which the proposal may be liable for rejection**. The State Government shall send the complete proposal to the MOEF at least 6 months prior to the expiry of the existing lease. In case of any delay, a detailed report elaborating the cause of delay shall be sent alongwith the proposal.

(v) Special guidelines in regard to laying of transmission lines in forest area are at Annexure V.

(vi) All proposals seeking prior approval of the Central Government should invariably contain the following information:

(a) Extent of forest cover in the concerned district/State.

(b) Extent of forest land diverted so far under Forest (Conservation) Act 1980 in the concerned district/State.

(c) Extent of forest land diverted for same/similar purpose/project so far in the concerned district/State.

(d) Progress of compensatory afforestation in the concerned district/State under earlier forest clearances.

However, the States/UTs may submit the above information on a consolidated, calendar year basis every year as per the proforma at Annexure-VII so as to avoid duplication/reiteration in each proposal. (No.11-30/96-FC (Pt) dated 28.06.2001)

(vii) **Mining proposals** in forest areas in respect of coal and other major minerals should be accompanied with the following documents:-

1. **In respect of Underground mining in stratified deposits in forest areas**

The mining plan in stratified deposits in forest areas should include the predicted subsidence, slope and strain values and their impact on forests and surface and their mitigation. The maximum tensile strain of 20 mm per metre and thereby the surface cracks of width of about 200 - 300 mm is to be permitted in forest areas. Accordingly, the mine plans should be made to restrict the subsidence movement within these limits with the provision of mitigation measures. All mining plans in respect of coal and other major minerals should be accompanied with numerical modelling in 3-Dimension for subsidence prediction through an expert mining engineer/organisation to assess long term damage on surface vegetation due to underground mining preferably from Banaras Hindu University; ISM, Dhanbad; any of the IITs located at Delhi, Kanpur, Mumbai, Kharagpur, Madras, Roorkee & Guwahati, or M/s CMRI alongwith the mitigation measures suggested by them should be submitted along with the proposal. The surface layout of mining area should be designed so as to use minimum possible land, and wherever feasible, the surface facilities should be planned over non-forest areas.

2. **Open cast mining in forest areas**

In respect of open cast mining in forest areas, a comprehensive study of solid waste management and land reclamation with post mining land use plan and de-commissioning should be made and the plan should envisage the minimum possible overburden dumping outside the mine. In place where the non-forest land is available, the external dumping of the overburden should be planned on non-forest land. **Special attention should be given to top-soil and sub-soil handling and management.**

3. **Use of Fly ash in reclamation of open cast mines**

Wherever feasible, depending upon the characteristic of fly ash and its availability nearby, use of fly ash in reclamation of open pits should be looked into and planned. Fly ash for this purpose should be characterised from the point of view of leaching potential with special reference to heavy metals.

While forwarding the proposals, the State Government may also bear in mind the para 7.13 of The National Mineral Policy, 1993 (For non-fuel & non-atomic mineral) wherein it states that " --- Mining operation shall not ordinarily be taken up in identified ecologically fragile and biologically rich areas.....".

4. **Mining Plan**

Ministry of Environment and Forests is receiving a large number of proposals for grant of/renewal of mining leases. In order to take a holistic view, it is essential that a copy of the mining plan duly approved by the IBM, Nagpur should be enclosed with the proposal alongwith map of forest area on printed original copy of Survey of India topo sheet 1:50,000 scale showing boundaries of forest areas and other mining leases of forest block within that sheet.

2.3 Proposals Requiring Clearance from Environmental Angle

(i) The projects covered under notifications issued from time to time under Environment (Protection Act, 1986, shall require clearance separately from environmental angle, as per procedure laid down by the Environment Wing of the Ministry of Environment and Forests. Environmental clearance where required should be applied for separately and **simultaneously**.

(ii) Notwithstanding the above, if in the opinion of the Ministry or the Advisory Committee, any proposal should be examined from the environmental angle, it may be required that the project proponent refer the case to the Environment Wing of the MOEF.

(iii) For projects requiring clearance from forest as well as environment angles, separate communications of sanction will be issued, and the project would be deemed to be cleared only after clearance from both angles.

2.4 Simplified Procedure for Certain Categories of Proposals

(i) In respect of proposals for laying of transmission lines, pipelines for drinking water supply, laying of telephone/optical fibre lines and exploratory drilling for prospecting of oil which do not involve any felling or cutting of tree, only the following particulars may be furnished in the prescribed form:

(a) Map of the area required along with geographical location of the project.
(b) Purpose for which forest land is required to be used.
(c) Extent of forest area to be diverted.
(d) Legal status of forest land.
(e) Whether forest land forms part of national park, wildlife sanctuary, biosphere reserve or forms part of the habitat of any endangered or threatened species of flora and fauna.
(f) Whether no alternative alignment is possible to avoid or minimise use of forest land and, whether, the required forest area is the minimum needed for the purpose. A certificate in this regard is to be furnished by the concerned Divisional Forest Officer after personal inspection of the spot.
(g) Compensatory afforestation scheme.
(h) A certificate stating specifically that no cutting or felling of trees is involved.

(ii) Other cases involving forest area up to 2 ha. which are devoid of tree cover, may also be dealt with as per above simplified procedure except for proposals for mining and regularisation of encroachments.

2.5 Diversion of Forest Land for Widening or Expansion or Realignment of Road/Rail/Canal

(i) Such lands which had been acquired by Government Departments like Railway, Irrigation, PWD, etc. for specific purposes like laying of roads, railway lines and canals and the vacant area was

planted up with trees and these lands are not yet notified as protected forests will not attract the provisions of Forest (Conservation) Act, 1980 for the purposes of widening or expansion or re-alignment. However, the concerned agency will seek permission under local laws, if any, from appropriate authority.

(ii) Such lands which were acquired by the above departments and the vacant areas were subsequently planted and notified as protected forests for management purposes will need approval from the Central Government under Forest (Conservation) Act, 1980. The user agency will submit the proposal in the prescribed format through the State Forest Department to the concerned Regional Office of the Ministry. The Regional Offices shall be competent to finally dispose of all such proposals irrespective of the area, preferably within 30 days from the date of receipt of the proposal. While issuing the approval, in place of normal provision for compensatory afforestation, the Regional Offices will stipulate a condition that for every tree cut at least two trees should be planted.

(iii) However, if the decision is not ordered by the concerned Regional Office within 30 days of the receipt of fully completed application, the Central Government/State may proceed with the widening/modernisation under intimation to the local State Forest Department and Central Government.

Clarification : This guideline is applicable to only such projects, where plantations have been raised on the lands acquired by the user agency and subsequently notified as Protected Forest. This guideline will not be applicable if the forest land involved is reserved/protected forests belonging to the Forest Department .

2.6 Cost-benefit Analysis

(i) While considering proposals for dereservation or diversion of forest land for non-forest use, it is essential that ecological and environmental losses and socio-economic distress caused to the people who are displaced are weighed against economic and social gains.

(ii) Annexure VI (a) details the types of projects for which cost-benefit analysis will be required. Annexure VI (b) lists the parameters according to which the cost aspect will be determined, while Annexure VI (c) gives the parameters for assessing the benefits accruing.

(iii) A cost-benefit analysis as above should accompany the proposals sent to the Central Government for clearance under the Act.

2.7 Plan for Rehabilitation of Oustees

(i) If the project involves displacement of people, a detailed Rehabilitation Plan shall be submitted along with the proposal for diversion of forest land. The Scheduled Tribe and Scheduled Caste population should be separately considered, and a plan for their rehabilitation should be in consonance with their socio-economic, cultural and emotional lifestyle.

(ii) The Government of India do not allow diversion of forest land for rehabilitation of people. However, such diversion may be considered as a special case, if diversion of forest land is essentially required for the rehabilitation of persons belonging to Scheduled Tribes, Scheduled Castes and other people who may have to be shifted from the core zone of a national park or reserve.

2.8 Transfer of Lease

Where transfer of lease on forest land, from one user agency to another for the same purpose for which the forest land was diverted, becomes necessary, prior permission of the Central Government would be required. For this purpose, the State Government and the original user agency is required to submit no-objection certificate for such transfer and; the new user agency has to submit an undertaking that they shall abide by all the conditions on which the forest land was leased to the original user agency and any other condition which may be stipulated by the Central Government/State Government in future.

2.9. Participation of private sector through involvement of NGOs & Forest Department in afforestation/rehabilitation of degraded forests

Detailed guidelines issued in this regard vide this Ministry's letter No. 8-21/96-FC dated 07.06.1999 shall be strictly followed. These are included in Annexure VIII.

2.10 Cluster mining

Detailed guidelines issued in this regard vide this Ministry's letter No. 11-8/2001-FC dated 15.11.2001 shall be strictly followed. These are included in Annexure IX.

CHAPTER 3
Compensatory Afforestation

3.1 Compensatory Afforestation

(i) Compensatory afforestation is **one of the most important conditions** stipulated by the Central Government while approving proposals for de-reservation or diversion of forest land for non-forest uses. **It is essential that with all such proposals, a comprehensive scheme for compensatory afforestation is formulated and submitted to the Central Government.**

(ii) The comprehensive scheme shall include the details of non-forest/degraded forest area identified for compensatory afforestation, map of areas to be taken up for compensatory afforestation, year-wise phased forestry operations, details of species to be planted and a suitability certificate from afforestation/management point of view alongwith the cost structure of various operations.

(iii) Sometimes the compensatory afforestation schemes are being submitted at such a cost structure, which is at variance with the cost norms for the same area. The compensatory afforesation schemes no doubt has to be site specific and thus per hectare rate will vary according to species, type of forest and site. In this regard, it has been decided that henceforth the compensatory afforestation schemes which are being submitted alongwith the proposals for forestry clearance, must have technical and administrative approvals form the compentent authority and should be in conformity with cost norms based on species, type of forest and site.

3.2 Land for Compensatory Afforestation

(i) Compensatory afforestation shall be done over equivalent area of non-forest land.

Clarification:- As a matter of pragmatism, the revenue lands/zudpi jungle/chhote/bade jhar ka jungle/jungle-jhari land/civil-soyam lands and all other such categories of lands, on which the provisions of Forest (Conservation) Act, 1980 are applicable, shall be considered for the purpose of compensatory afforestation provided such lands on which compensatory afforestation is proposed shall be notified as RF under the Indian Forest Act, 1927.

(ii) As far as possible, the non-forest land for compensatory afforestation should be identified contiguous to or in the proximity of Reserved Forest or Protected Forest to enable the Forest Department to effectively manage the newly planted area.

(iii) In the event that non-forest land of compensatory afforestation is not available in the same district, non-forest land for compensatory afforestation may be identified anywhere else in the State/UT as near as possible to the site of diversion, so as to minimise adverse impact on the micro-ecology of the area.

(iv) Where non-forest lands are not available or non-forest land is available in less extent to the forest area being diverted, compensatory afforestation may be carried out over degraded forest twice in extent to the area being diverted or to the difference between forest land being diverted and available non-forest land, as the case may be.

(v) The non-availability of suitable non-forest land for compensatory afforestation in the entire State/UT would be accepted by the Central Government only on the Certificate from the Chief Secretary to the State/UT Government to that effect.

(vi) **As an exception to 3.2(i) above, compensatory afforestation may be raised over degraded forest land twice in extent of the forest area being diverted/dereserved in respect of following types of proposals:**

(a) For extraction of minor minerals from the river beds.(However, if forest area to be diverted is above 500 hectares, compensatory afforestation over equivalent area of degraded forest shall be required to be done instead of twice the area being diverted subject to a minimum of 1000 hectare compensatory afforestation).

(b) For construction of link roads, small water works, minor irrigation works, school building, dispensaries, hospital, tiny rural industrial sheds of the Government or any other similar work excluding mining and encroachment cases, which directly benefit the people of the area - in hill districts and in other districts having forest area exceeding 50% of the total geographical area, provided diversion of forest area does not exceed 20 hectares.

(c) For laying of transmission lines upto 220 KV.

(d) For mulberry plantation undertaken for silk-worm rearing without any felling of existing trees.

(e) For diversion of linear or 'strip' plantation declared as protected forest along the road/rail/canal sides for widening or expansion of road/rail/canal.

(f) For laying of telephone/optical fibre lines

(vii) **The field firing ranges**, which are used temporarily by the defence establishments for arms practice, comprises of safety zone encompassing the field firing range and danger area/impact zone. Keeping in view that the impact area is only a small portion of the entire firing range and as an exception to 3.2(i) above, compensatory afforestation may be raised over equivalent degraded forest land of the forest area being diverted for impact zone of the field firing range.

(viii) No compensatory afforestation shall be insisted upon in respect of the following :-

(a) For clearing of naturally grown trees in forest land or in portion thereof for the purpose of using it for reforestation.

(b) Proposals involving diversion of forest land up to **one hectare**. (However, in such cases, plantation of ten times the number of trees likely to be felled will have to be carried out by way of compensatory afforestation or any number of trees specified in the order)

(c) For underground mining in forest land below 3 metres. (However, in respect of forest area required for surface right, compensatory afforestation shall be required as per relevant provisions).

(d) Cases of renewal of mining lease, for the forest area already broken/used for mining, dumping or overburden, construction of roads, ropeways, buildings, etc. For the balance area, compensatory afforestation shall be required to be done as stipulated, provided that no compensatory afforestation had been stipulated and done in respect of this area at the time of grant/ renewal of lease earlier.

(ix) **Special provisions for Central Government/Central Government Undertaking Projects.**

(a) Compensatory afforestation may be raised on degraded forest land twice in extent of forest area being diverted. Certificate of Chief Secretary regarding non-availability of non-forest land for compensatory afforestation will not be insisted.

(b) The user agency will deposit the amount for compensatory afforestation with the concerned State Govt. on receiving the demand and the actual transfer/use of forest land will be effected only after the receipt of the demanded amount.

(c) The State Governments will identify 'blank forest' or degraded forest lands for compensatory afforestation. The State Governments of Madhya Pradesh and Rajasthan will identify such degraded forest land in their States for compensatory afforestation of

Central projects in their respective States as indicated by the Chief Secretaries of these two States in the meeting of Committee of Secretaries held on 15-11-1996.

(d) The pool of degraded forest land in Madhya Pradesh and Rajasthan will also be available for the Central Government projects of other States if the concerned State Government fail to identify the requisite land, as mentioned at (a) above, for compensatory afforestation in its own territory within one month of the submission of the proposal to the State Government

(e) While identifying the pool of degraded forest land, blank forest lands in reserved forests in compact /sizeable blocks should be identified as first priority as "plantation bank". An appropriate treatment plan with choice of species should be prepared by the beneficiary States. Only when such areas are not available, the choice of compensatory afforestation will fall on protected, unprotected forests and unclassified forests in declining order of priority.

(f) The Nodal Officer (Forest Conservation), State Forest Department will identify the pool of such degraded forest lands in consultation with concerned Chief Conservator of Forests (C), Regional Offices of the MOEF.

Clarification : The provisions of the above guideline would be applicable to only Central Sector projects and not on State Sector projects which are being undertaken by Central PSUs on turnkey basis. In such cases, Compensatory Afforestation on equivalent non-forest land/a certificate of Chief Secretary regarding non-availability of equivalent non-forest land anywhere in the State shall be insisted upon.

3.3 Elements of Schemes for Compensatory Afforestation

(i) The scheme for compensatory afforestation should contain the following details :-

(a) Details of equivalent non-forest or degraded forest land identified for raising compensatory afforestation.

(b) Delineation of proposed area on suitable map.

(c) Agency responsible for afforestation.

(d) Details of work schedule proposed for compensatory afforestation

(e) Cost structure of plantation, provision of funds and the mechanism to ensure that the funds will be utilized for raising afforestation.

(f) Details of proposed monitoring mechanism.

3.4 Lands identified for Compensatory Afforestation to be Transferred to the Forest Department:

(i) Equivalent non-forest land identified for the purpose are to be transferred to the ownership of the State Forest Department and **declared as reserved/protected forests, so that the plantation raised can be maintained permanently**. The transfer must take prior to the commencement of the project.

(ii) The compensatory afforestation should clearly be an additional plantation activity and not a diversion of part of the annual plantation programme.

(iii) In each case where the afforestation target is over 500 hectares in plains, and 200 hectares in hills, a Monitoring Committee shall be established with a nominee of the Central Government to oversee that the stipulations, including those pertaining to compensatory plantation are carried out.

3.5 **Special Fund**

(i) The State/UT Government should create a special fund to which the individual user agency will make its deposits for Compensatory Afforestation. The Forest Department, or any other technically competent agency which is assigned the job of compensatory afforestation should fully utilise this amount for implementation of the afforestation scheme approved by the Government of India, and keep separate and meticulous account thereof.

(ii) In order that a uniform procedure is followed by all departments, the Controller General of Accounts, Department of Expenditure, Ministry of Finance vide letter No.T-14018/14/90-Codes/485 dated 23.06.1992 has informed that the aforesaid deposit may be booked under the head "J-Reserve Fund(b) Reserve Funds not bearing interest - 8235 -General and Other Reserve Funds - 200 - Other Funds - Special Fund for Compensatory Afforestation".

Clarification : The Supreme Court has passed orders on 30-10-2002 in I.A. No.566 in Writ Petition (Civil) No.202 of 1995, regarding creation of a body for management of compensatory afforestation fund. Annexure-II B may be referred to. In compliance with the orders, creation of a body namely, "Compensatory Afforestation Management & Planning Agency (CAMPA)" is under consideration . As soon as this body comes into existence, all the funds received by the State/UT Governments towards Compensatory Afforestation, Additional Compensatory Afforestation, Penal Compensatory Afforestation, Net Present Value of forest land, Catchment Area Treatment Plan Funds, Wildlife Management Plan etc. for the conditions stipulated by the Central Governments , shall be transferred to the CAMPA. Further , Compensatory Afforestation Funds which have not yet been realised as well as the unspent funds already realised by the States shall be transferred to the said body within six months of its constitution by the respective States and the user-agencies.

Further, Supreme Court in its order dated 1.8.2003 in I.A. No.826 & 859 in I.A. No.566 in Writ Petition (Civil) No.202 of 1995 reiterated that no approval shall be granted without imposing the condition indicated in this Court's order dated 30.10.2002 relating to the payment of **net present value** of the forest land. Annexure-II C may be referred to.

Note:- Compensatory Afforestation Fund Management and Planning Authority (CAMPA) has been notified in Official Gazette on 23rd April, 2004 (Refer Appendix).

(iii) Guidelines for collection of Net Present Value (NPV) of forest land in compliance to the orders of the Supreme Court have been issued vide letter No. 5-1/98-FC (Pt.II) dated 18-9-2003 & 22-9-2003 (Appendix). In this regard, a clarification has also been issued by the Ministry of Environment and Forests vide letter No. 5-1/98-FC (Pt.II) dated : 25.5.2004 (Appendix).

CHAPTER 4
Some Clarifications

4.1 Delegation of Powers

(i) All proposals involving diversion/dereservation of forest land up to 40 hectares, and proposals for clearing of naturally grown trees in forest area or portion thereof shall be sent by the concerned State/UT Government to the concerned Regional Office of MOEF.

(ii) Chief Conservator of Forests of the concerned Regional Office shall be competent to finally dispose of all proposals (including decision regarding violation of Act) involving diversion/dereservation for forest land up to 5 hectare , except in respect of proposals for regularisation of encroachments and mining (including renewal of mining leases). Similarly, proposals involving clearing of naturally grown trees in forest area or portion thereof for reforestation shall also be finally disposed of by the Chief Conservator of Forests of the concerned Regional Office, subject to guidelines/instructions issued in this regard (refer to para 1.8) and any other instructions issued from time to time.

(iii) In the absence of Chief Conservator of Forests, these powers shall be exercised by the concerned Conservator of Forests of the Regional Office in case the post of Chief Conservator of Forests is vacant due to transfer, long leave, etc. (In respect of Regional Office at Chandigarh, these powers shall be exercised by Conservator of Forests of the Regional Office of Chandigarh).

(iv) A list of cases finally disposed of and a list of cases rejected along with reasons thereof for rejection would be required to be sent every month to the MOEF by the Regional Office.

(v) (a) In respect of proposals involving diversion of forest area above 5 hectares and up to 40 hectares and all proposals for regularisation of encroachments and mining up to 40 ha., the proposals shall be examined by the Regional Chief Conservator of Forests/Conservator of Forests in consultation with an Advisory Group consisting of representatives of the State Government from Revenue Department, Forest Department, Planning and/or Finance Department and concerned Department whose proposal is being examined. The views of the Advisory Group shall be recorded by the Regional Chief Conservator of Forests and along with the same, the proposal shall be sent to Secretary, MOEF for consideration and final decision. It is to be clarified that views of this Advisory Group in no way shall be binding while deciding the proposal. The meeting of the Advisory Group may be held at the State Capital. The proposal will not be deferred for want of quorum.

(b) The meeting of the State Advisory Group (SAG) will normally be held once in a month at concerned State Capital. The Regional Chief Conservator of Forests shall act as Chairman of the Advisory Group and Nodal Officer may be nominated to work as Member Secretary of the State Advisory Group

(c) State Government may take immediate steps to nominate representatives of the State Government not below the rank of Joint Secretary for the Advisory Group. Nodal Officer may be nominated to work as Member Secretary of the State Advisory Group.

(d) The details of the officers alongwith addresses, telephone number, etc. may be directly communicated to the concerned Regional Chief Conservator of Forests under intimation to this Ministry to facilitate early processing of the proposals by the Advisory Group.

4.2 Two Stage Clearance of Proposals

(i) Forestry clearance will be given in two stages. In 1st stage , the proposal shall be agreed to in principle in which usually the conditions relating to transfer, mutation and declaration as RF/PF under the Indian Forest Act, 1927 of equivalent non-forest land for compensatory afforestation and funds for raising compensatory afforestation thereof are stipulated and after receipt of compliance report from the State Government in respect of the stipulated conditions, formal approval under the Act shall be issued.

(ii) However in cases where compliance of conditions stipulated in the in-principle approval is awaited for more than 5 (five) years from the State Governments, the in-principle approvals would summarily be revoked. After the revocation of the in-principle approval, if the State Government/user agency is still interested in the project, they would be required to submit a fresh proposal which shall be considered de-novo.

(iii) Sometimes the proposals for renewal of mining leases are accorded in-principle approval/temporary working permission subject to compliance of certain conditions. It has come to the notice of the Ministry that many a times the user agency approaches the Courts against the very conditions on which the proposals are accorded in-principle approval. Ideally the user agency should sort out any grievance in respect of any stipulated condition with the Central Government/State Government. **Therefore, it has been decided that in cases where the user agency decides to approach the Courts for redress, the in-principle approval and temporary working permission shall stand revoked/in abeyance unless the Court cases are withdrawn and conditions complied with or till the cases are decided by the Courts.**

(iv) Approved proposals shall not normally be reopened for review of the conditions, which have been stipulated earlier.

4.3 Anticipatory Action by the State/UT Governments – Penal Compensatory Afforestation

(i) Cases have come to the notice of the Central Government in which permission for diversion of forest land was accorded by the concerned State Government in anticipation of approval of the Central Government under the Act and/or where work has been carried out in forest area without proper authority. Such anticipatory action is neither proper nor permissible under the Act which clearly provides for prior approval of the Central Government in all cases. Proposals seeking ex-post-facto approval of the Central Government under the Act are normally not entertained. The Central Government will not accord approval under the Act unless exceptional circumstances justify condonation. However, penal compensatory afforestation would be insisted upon by the MOEF on all such condonation.

(ii) The Penal compensatory afforestation will be imposed over the area worked/used in violation. However, where the entire area has been deforested due to anticipatory action of the State Government, the penal compensatory afforestation will be imposed over the total lease area.

4.4 Projects Involving Forest as well as Non-forest Lands

Some projects involve use of forest land as well as non-forest land. State Governments/project authorities sometimes start work on non-forest lands in anticipation of the approval of the Central Government for release of the forest lands required for the projects. Though the provisions of the Act may not have technically been violated by starting of work on non-forest lands, expenditure incurred on works on non-forest lands may proved to

be infructuous if diversion of forest land involved is not approved. **It has, therefore, been decided that if a project involves forest as well as non-forest land, work should not be started on non-forest land till approval of the Central Government for release of forest land under the Act has been given.**

4.5 Diversion for Construction of Houses

(i) On a proposal for construction of houses, the late Prime Minister had observed : "Destruction of our forest has already caused great damage to our environment. Therefore, I am not at all in favour of use of forest land for construction of houses .... . The State Government should find other land for such purposes."

The Central Government will not entertain any proposal for diversion of forest land for construction of residential or dwelling houses.

(ii) Diversion of forest land for construction of other buildings also will not be normally considered. However, such diversion may be allowed for construction of schools, hospitals/dispensary, community halls, cooperatives , panchayats, tiny rural industrial sheds of the Government etc., which are to be put up for the benefit of the people of that area, but such diversion should be strictly limited to the actually needed area and further it should not exceed one hectare in each case.

4.6 Extraction of Minor Minerals from the River Beds

(i) Extraction of minor minerals like boulders, bajri, stone, shell, etc. from the river beds shall not be permitted if the river bed is in a national park or a wildlife sanctuary unless such extraction is for the benefit of the forest or wildlife.

(ii) There shall be no labour camp in the forest area for the labour involved in the extraction work.

(iii) Extraction of minor minerals shall be from the middle of the river bed after leaving one fourth of the river bed on each bank untouched.

4.7 Safety Zone for Mining Operations

(i) **Forest area required for safety zone for mining operations should not be part of the forest area proposed for diversion. However, it should be indicated separately in the proposal**. Such area will have to be fenced at the cost of the project authority. Further, project authority will have to deposit funds with the Forest Department for the protection and regeneration of such safety zone area and also will have to bear the cost of afforestation over one and a half times of the safety zone area in degraded forest elsewhere.

(ii) Safety zone area calculation in the proposal should be done taking 7.5 metres strip of the forest land all along the outer boundary of the mining lease area. If it is a cluster proposal, then the outer boundaries of the cluster should be taken as the safety zone.

(iii) In order to safeguard public roads, forest roads, natural streams and nallahs located in mining lease areas, it is necessary that no mining activities should be carried out up to certain reasonable extent. This area can also be included in the safety zone calculation and provision for its fencing and regeneration should be made in the proposal.

4.8 Catchment Area Treatment Plan

(i) Proposals for diversion of forest land for **major and medium irrigation projects** shall invariably be accompanied by detailed catchment area treatment plan. However, in respect of minor irrigation project, catchment area treatment plan will not be insisted.

(ii) Proposals for diversion of forest land for Hydro-electric projects shall invariably be accompanied by detailed catchment area treatment plan. However, in respect of small hydel projects **(maximum up to 10 MW capacity)**, which are either canal head or run-of the river projects without involving impounding of water/submergence of forest land, catchment area treatment plan will not be insisted

4.9 Special arrangement in case of Large Projects

In case of large projects, depots for fuel wood should be set up by project authorities who will also arrange alternate fuel like coal, kerosene, biogas, LPG, electricity etc. The supply should be free of cost to the labourers and free or at subsidised rates to the other staff as may be determined by the project authorities.

4.10 Site Inspection

(i) The proposed forest area shall be inspected by a responsible Forest Officer of the State Government. If the area is very important from the forestry angle, the territorial Conservator should himself inspect the area and give complete information relating to the forest and aspects of wildlife.. The scientific names of important timber species should be given while describing composition of the forest crop. If the area is relatively less important, the DFO could inspect the area. The Inspecting Officers should clearly record in the proforma if any violation is observed like tree felling, land breaking etc., in that area by the user agency. In any case the recommendations of the Chief Conservator of Forests should be categorical and specific and should be sent with photographers of inspected sites, highlighting the aspects observed, especially when the area is large or is sensitive and fragile. However, every proposal up to 40 hectare must be accompanied by a site inspection report from the DFO and proposals involving area above 40 hectare should have a site inspection report of the CF. They should, apart from providing the information in the proforma, also attach a clear cut certificate as regards the violation of the Forest(Conservation) Act, 1980. In case, violation has taken place, a detailed report should be submitted by the DFO and countersigned by the CF along with the proposal.

(ii) **In respect of proposals involving diversion of forest land above 100 hectare, site inspection shall be carried out by the Regional Offices of the Ministry**. However, the State/UT Governments are required to continue to send a copy of proposals involving diversion of forest land above 40 hectare to the concerned Regional Office as per existing practice.. The site inspection report should be on the prescribed proforma, which is at Annexure-X and it should be specific on alternatives examined by the project authority, minimum requirement of forest land and self explanatory particularly with regard to overall impact of the project and also contain site specific mitigating measures, in case of recommending a project. The report should also contain photographs of the site indicating main points mentioned in the report.

(iii) However, site inspection of proposals involving diversion of forest land upto 100 hectares will be need based i.e. done by the Regional Officers as and when desired by the Forest Advisory Committee or Ministry. The Regional Office will, however, scrutinise the proposal (involving forest land between 40 to 100 hectares) and can send their observation or any

feedback particularly violation of the Forest (Conservation) Act, 1980 for further processing of the proposal.

(iv) In respect of proposals involving renewal of leases, the Regional Offices of the Ministry should submit a copy of the report of the latest monitoring done (one year before the expiry of lease period) along with the abstract of monitoring report of the project during the lease period specially highlighting the conditions which have not been fulfilled, with complete details of the reasons for not fulfilling. The conditions which have been complied with should also be highlighted with the quality of performance of the project authorities with short note on the desirability of renewal of lease and other recommendations

4.11 Complete Details

While forwarding the proposal to the Central Government, complete details in all aspects of the case should be given. Incomplete and deficient proposal will not be considered and will be returned to the State Government in original.

4.12 Specific Time Limits

(i) To ensure speedy disposal of proposal of proposals, specific time limits have to be laid down for disposal of references at various levels. Efforts should be made to dispose of each reference at the State Governments level within a maximum period of 90/60 days as per the Forest (Conservation) Rules, 2003. Specific instructions may be issued in this regard to officers at all levels.

(ii) Cases which are complete in all respects shall be disposed of within 60 days by the Central Government.

4.13 Quarterly Progress Report (QPR)

A Monitoring Cell has been created in the Ministry of Environment & Forests, which shall be looked after by Director (FC) and an Asstt. Inspector General of Forests. In all cases, the States/UTs will submit quarterly progress reports to the Director(FC) regarding the implementation of the stipulations laid down by the Government of India while approving the project especially in respect of compensatory afforestation and future clearances of project of the States and Union Territories concerned will depend upon the fulfillment of stipulations and the achievements in compensatory afforestation. Monitoring Cell will also monitor the time taken by the authorities in processing the case at different levels of the State Government as well as Central Government.

Along with quarterly progress report, a statement in tabular form as given below should also be submitted which will give status of the total number of proposals in the State :

(a) Name of State
(b) Total no. of proposals submitted since 1980
(c) No. of proposals finally approved
(d) No. of proposals given Stage I approval
(e) No. of proposals rejected
(f) No. of proposals withdrawn by State Govt.
(g) No. of proposals closed for want of information
(h) No. of proposals pending with Central Govt.
(i) No. of proposals pending with State Govt. for want of information
(j) Remarks

4.14 Rejection /Reopening of Cases

(i) In cases where the State Government is requested to furnish clarifications or additional information relating to a proposal, all particulars should be made available to the Central Government within 60 days. If such particulars are not received within a maximum of 90 days, the proposal may be rejected by the Central Government for non-furnishing of essential information. Such cases could be reopened provided the following conditions are satisfied:

(a) all the required information has been made available
(b) delay in providing the information is satisfactorily explained, and
(c) there is no change in the proposal in terms of scope, purpose and other important aspects.

(ii) in some cases, the State Government comes up with a request for reconsideration of the proposal after it has been considered and rejected by the Ministry. Such request should be made within three months from the date of the issue of the rejection letter. The request should give a detailed justification for reconsideration as well as comments on the grounds on which the proposal was rejected by the Ministry.

4.15 Nodal Officer

(i) Separate cells for dealing with diversion of forest land cases should be opened at the State Government level and the PCCF Office level. A whole-time senior officer not below the rank of Conservator of Forests should head the cell, who should be designated as the Nodal Officer.

(ii) The Nodal Officer should receive cases from the user agencies and entertain all correspondence from them. He should scrutinise and process the case and after obtaining views/certificate of the Chief Conservator of Forests, should put up the case to State Government. Besides office staff, the Nodal Officer should also be given sufficient field staff to facilitate timely processing. The State Government while forwarding cases to the Central Government may endorse copies to the Chief Conservator of Forests and the Nodal Officer. The Central Government may also, while corresponding with the State Government, send copies to the Nodal Officer. The Nodal Officer should also obtain all additional information required by the Central Government about the proposals from the concerned authorities directly and endorse a copy directly to the Central Government.

(iii) While approving a proposal, the Government of India stipulates certain conditions to reduce the environmental damage on account of forest loss. The conditions must be enforced.. Their non-compliance should be reported by the Nodal Officer to Regional Office who should inspect the site from time to time.

(iv) In case of opencast mining, it should be the responsibility of the Nodal Officer and his staff to ensure that all necessary inputs like creation of nursery, storage of top soil for reuse and methodology for its reforestation, choice of species, etc. are so planned and implemented that the mined area is fully afforested by the time mining operations are completed.

(v) The Nodal Officer should monitor the implementation of the conditions of compensatory afforestation and the survival ratio of the seedlings planted.

(vi) The Nodal Officer may also report compliance of Stage-I conditions after getting it vetted by the State Government wherever it is called for mainly dealing with land and fund matters..

(vii) The Nodal Officer may also inform violation/non-compliance of stipulations/conditions prescribed by the Central Govt. so that remedial actions could be taken up early since it is

likely to be further delayed after these violations/non-compliance are to be received only from the State Govt. level. . In case of gross violations, for which delay/time lag is crucial, such reports from territorial CCF/CF shall also be entertained by Government of India.

(viii) The Nodal Officer shall submit a monthly report on all the complete applications received by the State Government and their status of processing in the State. The report shall be sent to the Regional Office concerned and the Assistant Inspector General of Forests (FC)/Director in charge of the monitoring cell.

4.16 Lease period for mining lease

(i) The approval under the Forest (Conservation)Act, 1980 for diversion of forest land for grant/renewal of mining leases shall normally be granted for a period co-terminus with the period of mining lease proposed to be granted under MMDR Act, 1957 or Rules framed thereunder, but not exceeding 30 years. While recommending cases for approval under the FC Act, the user agency/ State Government shall indicate the period for which the mining lease is proposed to be granted/renewed under MMDR Act or Rules framed thereunder. However, in the event of non compliance of stipulations to the satisfaction of the MOEF, the clearance accorded may be summarily withdrawn.

(ii) The conditions stipulated while giving approval under the Forest (Conservation)Act, 1980 for diversion/renewal of forest land for mining purposes shall be renewed/monitored every five years. If it is found that the lessee has violated or is not complying with the stipulated conditions, then the approval given under the Forest (Conservation) Act, 1980 shall be **revoked**. Concerned Chief Conservators of Forests(C), Regional Offices of the Ministry will issue a certificate regarding fulfillment of these conditions after carrying out the monitoring. These guidelines shall be applicable retrospectively for all the mining leases which have more than five years of lease period left.

(iii) The Regional Office will monitor the main parameters/conditions of formal approval as frequently as possible at least once in a year. At least once in five years a comprehensive monitoring as to the effect of mining on air and water pollution will also be carried out. Regional Offices should send such reports/certificates in respect of the monitoring mechanism indicated above to this Ministry, so that a view can be taken on continuation of mining lease beyond five years.

4.17 Renewal of Mining Lease - Temporary Working Permission

If an application for renewal of mining lease, complete in all respects, has been submitted by the user agency, to the State Government one year before the expiry of the existing lease period, but the State Government has not been able to process and forward the proposal for approval of the Central Government, till the date of the expiry of existing lease period; in such cases, the Central Government on an application from the user agency, may grant the user agency, temporary working permission in the already broken up area till a final decision is taken on the proposal.

4.18 In respect of proposals related to renewal of mining leases, the Central Government would grant one year working permission alongwith in-principle approval, for already broken up areas so as to enable the State Government to comply with the conditions. This period can be extended by one more year subject to submission of reasonable progress report from the State Government as regards to the steps taken to comply with the stipulated conditions.

CHAPTER 5
Conditions stipulated in Forestry Clearances

Whenever clearances are accorded for diversion/de-reservation of forest land under the provisions of the Forest (Conservation) Act, 1980, certain conditions to minimise impact on forest land are imposed by the Ministry. These conditions comprise of general conditions, which are stipulated in almost all the proposals; standard conditions, which are stipulated on types/category of projects and specific conditions, which are stipulated keeping in view the impact of the project on forest. However, the list of conditions given below is illustrative and the Central Government or the State Government may impose any other additional condition in the interest of conservation, protection or development of forests, wildlife and environment.

5.1 General Conditions

(i) Legal status of forest land to remain unchanged.
(ii) Compensatory afforestation as per guidelines.
(iii) Transfer and mutation of non-forest land in favour of Forest Deptt., if applicable.
(iv) Notification of such land as RF/PF under the Indian Forest Act, 1927.
(v) User agency to provide fuelwood preferably alternate fuel to the labourers and the staff working at the site so as to avoid any damage & pressure on adjacent forest areas.
(vi) The forest land shall not be used for any purpose other than that specified in the proposal.
(vii) Demarcation of lease area to be done on the ground at project cost using four feet high reinforced cement concrete pillars with serial numbers, forward & back bearings and distance from pillar to pillar.
(viii) Rehabilitation of Project affected families, if any.
(ix) Environmental clearance if required.

5.2 Standard conditions

(i) Mining Proposals :
  (a) Phased reclamation of mined area.
  (b) Safety zone area, its afforestation and fencing.
  (c) Afforestation on one and half times degraded forest land in lieu of the area used for safety zone.
  (d) In case of under ground mines, areas on surface to be fenced and afforested.

(ii) Hydel and irrigation proposals :
  (a) Catchment Area Treatment Plan for medium and major projects.
  (b) Minimum requirement of forest land for canals.
  (c) Afforestation along the reservoir & canals.
  (d) No tree felling between FRL (Full Reservoir Level) and FRL-4 meters.
  (e) Free water for forestry related projects.

(iii) Road proposals :
  (a) Minimum trees to be felled.
  (b) Strip plantation on sides and central verge.

(iv) Transmission line proposals :
  (a) Minimum trees to be felled.
  (b) Plantation of dwarf species (preferably medicinal plants) in right of way under the transmission lines.

5.3 Specific conditions

These conditions are specific to the nature of the project and are stipulated on case to case basis by the Central Government/State Government.

ANNEXURES

ANNEXURE-I

SUPREME COURT ORDERS

".....The term "forest land" occurring in Section 2, will not only include "forest" as understood in the dictionary sense, but also any area recorded as forest in the Government record irrespective of its ownership. This is how it has to be understood for the purpose of Section 2 of the Act. The provisions enacted in the Forest Conservation Act, 1980 for the conservation of forests, and the matters connected therewith must apply clearly to all forests so understood irrespective of the ownership or classification thereof....."

(Supreme Court orders dated 12.12.1996 in WP No.202/1995)

SUPREME COURT ORDERS IN RESPECT OF PROTECTED AREAS

1. ".....In the meantime, we restrain respondents Nos. 2 to 32 from ordering the removal of dead, diseased, dying or wing-fallen trees, drift wood and grasses, etc. from any National Park or Game Sanctuary....."
(Supreme Court orders dated 14.02.2000 and 21.02.2000 in I.A. No. 548 in WP No.202/1995)

2. ".....Pending further orders, no dereservation of forests/sanctuaries/national parks shall be effected."
(Supreme Court orders dated 13.11.2000 in I.A. No.2 in WP No.337/1995)

Note:- This order was re-iterated by the Supreme Court on 9.2.2004 in IA No. 16.

3. ".....In the meantime, no permission under Section 29 of the Wildlife(Protection) Act, 1972 should be granted without getting approval of the Standing Committee of Indian Board for Wildlife....."
(Supreme Court orders dated 09.05.2002 in I.A. No.18 in WP No.337/1995)

ANNEXURE-II B

SUPREME COURT ORDERS DATED 30.10.2002 IN RESPECT OF COMPENSATORY AFFORESTATION FUND IN I.A. NO.566 IN WP(C) NO.202/1995

1. "The Union of India shall.....frame comprehensive rules with regard to the constitution of a body and management of the compensatory afforestation funds in concurrence with the Central Empowered Committee....."

2. Compensatory Afforestation Funds which have not yet been realised as well as the unspent funds already realized by the States shall be transferred to the said body within six months of its constitution by the respective States and the user-agencies.

3. In addition to above, while according transfer under Forest (Conservation) Act, 1980 for change in user-agency from all non-forest purposes, the user agency shall also pay into the said fund the net value of the forest land diverted for non-forest purposes. The present value is to be recovered at the rate of Rs.5.80 lakhs per hectare to Rs.9.20 lakhs per hectare of forest land depending upon the quantity and density of the land in question converted for non-forest use. This will be subject to upward revision by the Ministry of Environment and Forests in consultation with Central Empowered Committee as and when necessary.

4. A 'Compensatory Afforestation Fund' shall be created in which all the monies received from the user-agencies towards compensatory afforestation, additional compensatory afforestation, penal compensatory afforestation, net present value of forest land, Catchment Area Treatment Plan Funds, etc. shall be deposited. The rules, procedure and composition of the body for management of the Compensatory Afforestation Fund shall be finalized by the Ministry of Environment and Forests with the concurrence of Central Empowered Committee.....

5. The funds received from the user-agencies in cases where forest land diverted falls within Protected Areas i.e. area notified under Section 18, 26A or 35 of the Wild Life (Protection) Act, 1972, for undertaking activities related to protection of bio-diversity, wildlife, etc., shall also be deposited in this Fund. Such monies shall be used exclusively for undertaking protection and conservation activities in protected areas of the respective States/Union Territories.

6. The amount received on account of compensatory afforestation but not spent or any balance amount lying with the States/Union Territories or any amount that is yet to be recovered from the user-agency shall also be deposited in this Fund.

7. Besides artificial regeneration(plantations), the fund shall also be utilized for undertaking assisted natural regeneration, protection of forests and other related activities. For this purpose, site specific plans should be prepared and implemented in a time bound manner.

8. The user agencies especially the large public sector undertaking such as Power Grid Corporation, NTPC, etc. which frequently require forest land for their projects should also be involved in undertaking compensatory afforestation by establishing Special Purpose Vehicle. Whereas the private sector user agencies may be involved in monitoring and most importantly, in protection of Compensatory Afforestation. Necessary procedure for this purpose would be laid down by the Ministry of Environment and Forests with the concurrence of the Central Empowered Committee.

9. Plantations must use local indigenous species since exotics have long term negative impacts on the environment.

10. An independent system of concurrent monitoring and evaluation shall be evolved and implemented through the Compensatory Afforestation Fund to ensure effective and proper utilization of funds.

ANNEXURE-II C

Supreme Court's Order dated 1.8.2003 in I.A. No.826 & 859 in I.A. No.566 in Writ Petition (Civil) No.202 of 1995 in the matter of compensatory afforestation fund regarding collection of Net Present Value (NPV)

".....In the meantime, no approval shall be granted without imposing the condition indicated in this Court's order dated 30.10.2002 relating to the payment of net present value of the forest land."

ANNEXURE-III

LAW DEPARTMENT'S ADVICE IN REGARD TO MINING LEASES

(i) In respect of the mining operations being carried out on forest lands leased before the commencement of the Forest (Conservation) Act, 1980 during the continuance of the lease period, the approval of the Central Government under Section 2 of the said Act is not required.

(ii) A renewal of a lease is really the grant of a fresh lease.[See Delhi Development Authority Vs. Durga Chand Kausish, AIR 1973 SC 2609]. The prior approval of the Central Government in terms of Section 2 of the Forest (Conservation) Act, 1980 would be required when a mining lease granted before the commencement of the said Act is renewed after its coming into force.

(iii) As held by the Supreme Court in State of Bihar Vs. Banshi Ram Modi (supra), prior approval of the Central Government in terms of Section 2 of the Forest (Conservation) Act, 1980 would not be required for mining and winning any new mineral from a forest land leased for mining before the commencement of the said Act during the leased period originally granted, if the said land is already broken up or cleared before the commencement of the Act. Otherwise, the prior approval of the Central Government under Section 2 of the said Act would be required.

REGULARISATION OF ENCROACHMENTS ON FOREST LAND

Encroachment of forest land for cultivation and other purposes continues to be the most pernicious practice endangering forest resources throughout the country. Statistical information compiled by Ministry of Agriculture during early 1980s revealed that nearly 7 lakh hectares of forest land was under encroachment in the country about a decade back. This is despite the fact that prior to 1980, a number of States had regularised such encroachments periodically and approximately 43 lakh hectares of forest land was diverted for various purposes between 1951 and 1980, more than half of it for agriculture. The decisions of the State Government to regularise encroachments from time to time seem to have acted as strong inducement for further encroachments in forest areas and the problem remained as elusive as ever for want of effective and concerted drive against this evil practice.

2. The National Forest Policy, 1988 has also observed the increasing trend in encroachments on forest land and stated that these should not be regularised. Implementation of this pronouncement has been examined by this Ministry keeping in view the constraints of various State Governments some of whom have expressed that they stand committed to regularise encroachments of a period prior to 1980. The issue figured prominently in the Conference of the Forest Ministers held in May, 1989 and was later examined by an inter-Ministerial Committee, set up by this Ministry in consultation with the representatives of some of the States. Keeping in view the recommendations of the Forest Ministers' Conference and the committee referred to above, and with due approval of the competent authority, the following measures are suggested for review of the old encroachments and effective implementation of the pronouncement made in this regard in the National Forest Policy, 1988.

2.1 All the cases of subsisting encroachments where the State Governments stand committed to regularise on account of past commitments may be submitted to this Ministry for seeking prior approval under the Forest(Conservation) Act, 1980. Such proposals should invariably conform to the criteria given below:

1. **PRE-1980 ENCROACHMENTS WHERE THE STATE GOVERNMENT HAD TAKEN A DECISION BEFORE ENACTMENT OF THE FOREST (CONSERVATION) ACT, 1980, TO REGULARIZE 'ELIGIBLE' CATEGORY OF ENCROACHMENTS.**

1.1 Such cases are those where the State Governments had evolved certain eligibility criteria in accordance with local needs and conditions and had taken a decision to regularise such encroachments but could not implement their decision either wholly or partially before the enactment of the Forest (Conservation) Act, on 25.10.80.

1.2 All such cases should be individually reviewed. For this purpose the State Government may appoint a joint team of the Revenue, Forest and Tribal Welfare Department for this work and complete it as a time-bound programme.

1.3 In case where proposals are yet to be formulated, the final picture after taking into considerations all the stipulations specified here may be placed before the concerned Gaon Sabha with a view to avoid disputes in future.

1.4 All encroached lands proposed for regularisation should be properly surveyed.

1.5 Encroachments proposed to be regularised must have taken place before 25.10.1980. This must be ascertained from the First Offence Report issued under the relevant Forest Act at that point of time.

1.6 Encroachments must subsist on the field and the encroached land must be under continuous possession of the encroachers.

1.7 The encroacher must be eligible to avail the benefits of regularisation as per the eligibility criteria already fixed by the State.

1.8 As far as possible scattered encroachments proposed to be regularised should be consolidated/relocated near the outer boundaries of the forests.

1.9 The outer boundaries of the areas to be denotified for regularisation of encroachments should be demarcated on the ground with permanent boundary marks.

1.10 All the cases purposed to be regularised under this category should be covered in one proposal and it should give district-wise details.

1.11 All cases of proposed regularisation of encroachments should be accompanied by a proposal for compensatory afforestation as per existing guidelines.

1.12 No agricultural practices should be allowed on certain specified slopes.

2. 'INELIGIBLE' CATEGORY OF PRE-1980 ENCROACHMENTS WHERE THE STATE GOVERNMENTS HAD TAKEN A DECISION PRIOR TO THE ENACTMENT OF THE FOREST(CONSERVATION) ACT, 1980.

2.1 Such cases should be treated at par with post 1980 encroachments and should not be regularised.

3. ENCROACHMENTS THAT TOOK PLACE AFTER 24.10.1980

3.1 In no case encroachments which have taken place after 24.10.1980 should be regularised. Immediate action should be taken to evict the encroachers. The State/UT Government may, however, provide alternate economic base to such persons by associating them collectively in afforestation activities in the manner suggested in this Ministry's letter No.6-21/89-FP dated 1.6.90, but such benefits should not extend to fresh encroachers.

CLARIFICATION

A reference is invited to the guidelines issued by this Ministry for regularisation of certain cases of forest encroachments reproduced above. The relevant paragraph 1.1 of the guidelines, which clarifies the cases of encroachments, which subject to specified conditions, would be eligible for regularisation, is reproduced below:

"Such cases are those where the State Governments had evolved certain eligibility criteria in accordance with local needs and conditions and had taken a decision to regularise such encroachments but could not implement their decisions either wholly or partially before enactment of the Forest(Conservation) Act on 25.10. 1980.

2. Doubts have been raised as to whether all encroachments that had taken place up to 25.10.1980 could be regularised in accordance with an eligibility formula by which some earlier encroachments were regularised.

3. A perusal of the paragraph reproduced above will make it clear that there are 2 pre-conditions for any encroachments to be considered for regularisation. These are:-

(a) The State Government should have taken the decision on regularisation of encroachments before 25.10.1980; and

(b) That the decision should be with reference to some eligibility criteria (normally expected to be related to social and economic status of encroachers, location and extent of encroachment, cut off date of encroachment, etc.)

4. It would be seen that the encroachments which are proposed to be considered for regularisation, subject to the prescribed conditions, are those which fulfilled the eligibility criteria evolved by the State Government as per decision taken before 25.10.1980 for regularisation of encroachments. The objective is limited to permitting implementation of decisions taken before 25.10.1980 which could not be implemented because the enactment of Forest (Conservation) Act, 1980 intervened. It is therefore quite clear that while all encroachments that can be considered as eligible for regularisation would have taken place before 25.10.1980, all encroachments that had taken place before 25.10.1980 would not be eligible for regularisation - they may be ineligible because either they do not meet the eligibility criteria or are not covered by any decision taken before 25.10.1980. Thus, if the decision on regularisation of encroachments in a State covered only encroachments upto a date earlier than 25.10.1980, the guidelines on regularisation of encroachments do not envisage that the State Government would now survey encroachments between that date and 25.10.1980 and propose regularisation. The latter encroachments though occurring before 25.10.1980 are not covered by any regularisation decision taken prior to that date and hence cannot be considered for regularisation at this juncture.

5. Accordingly, the State Governments may take up for implementation only such decision of pre 25.10.1980 period which could not be implemented because of Forest (Conservation) Act, 1980 intervening and propose regularisation of encroachments as per those decisions and in accordance with the eligibility criteria laid down in those decisions. No encroachments not covered by any pre 25.10.1980 decisions - even though they might have occurred prior to that - should now be considered for regularisation in terms of our guidelines.

ANNEXURE-IV-A

INFORMATION FOR PROPOSAL FOR REGULARISATION OF ENCROACHMENTS

S.No.	Division	District	Total encroachers		Eligible encroachers		Area with ineligible encroachers	Excess area with eligible encroachers	Area to be retrieved from encroachers (8+9)
			No.	Area	No.	Area			
1	2	3	4	5	6	7	8	9	10

Community of eligible encroachers				Legal status of forest land			Eligible encroachers in W.L.S./NP		Eligible encroachers in midst of forest		Eligible Encroachers to be relocated to fringes of forest or in excess forest land recovered from encroaches	
SC	ST	OBC	OTH	RF	PF	OTH	No.	Area	No.	Area	No. (18+20)	Area (19+21)
11	12	13	14	15	16	17	18	19	20	21	22	23

Review of disputed claims over forest land, arising out of forest settlement.

It has been brought to the notice of this Ministry that local inhabitants, living in and around forest areas, have preferred claims on certain notified forest lands contending that they were in occupation of such areas prior to the initiation of forest settlements and/or their rights were not enquired and/or commuted before notifying these lands as forests under respective laws. The claimants are requesting that title of such lands should be conferred on them. It is being generally felt that even bonafide claims are persistently overlooked causing wide-spread discontentment among the aggrieved persons. Such instances ultimately erode the credibility of the Forest Administration and sanctity of the forest laws, especially in the tracts inhabited by tribals.

2. Seized of its complexities, the issue regarding disputed claims over forest land was got critically examined by this Ministry through an inter-Ministerial Committee. The Committee, after prolonged deliberations and due consultations with representatives of some of the States, stressed the need to resolve such disputes with utmost urgency and suggested the feasible course of action to redress genuine grievances without jeopardising protection of forests and forest land. Keeping in view the recommendations of the said Committee and with due approval of the competent authority, the following course of action is suggested for amicably resolving disputed claims on forest land:

2.1 The State Government/UT Administration should review the cases of disputed claims over forest land and identify the following three categories of claims:

(a) Claims in respect of forest areas notified as deemed Reserved Forests without observing the due process of settlement as provided in Forest Acts provided that these pertain to:
   (i) tribal areas; or affect a wide cross section of rural poor in non-tribal areas; and
   (ii) the claimants are in possession of the 'disputed land'.

(b) Claims in tribal areas wherever there is prima facie evidence that the process of forest settlement has been vitiated by incomplete or incorrect records/maps or lack of information to the affected persons, as prescribed by law, provided that:
   (i) Such forest settlement pertains to a period after 1947; and
   (ii) The claimants are in possession of the 'disputed land'.

(c) Claims in tribal areas wherever the process of settlement is over but notification under Section 20 of the Indian Forest Act, 1927 (or corresponding section of the relevant Act) is yet to be issued, particularly where considerable delay has occurred in the issue of final notification under Section 20, provided that the claimants are still in possession of 'disputed land'.

2.2 After identifying the above three categories of the claims, the State Government/UT Administration should get these enquired through a Committee which should consist of atleast the concerned Divisional Forest Officer, Sub-divisional Officer (Revenue Department) and a representative of the Tribal Welfare Department. The Committee should determine genuineness of the claims after examining all available evidence to establish that:

(i) In case of category 2.1(a) the claimant was in possession of the disputed land when the notification declaring 'deemed reserved forests' was issued; and

(ii) In case of categories 2.1(b) and 2.1(c) the claimant was in possession of the disputed land when the notification showing Governments intention to declare reserved forest was issued under Section 4 of the Indian Forest Act, 1927 (or corresponding section of the relevant Act) and his rights were not commuted or extinguished in accordance with due process of law.

2.3 In no case either the Government or the above Committee shall entertain any claim in which the claimant has not been in possession of the disputed land throughout.

2.4 Once the bonafides of the claims are established through proper enquiry, the State/UT Government may consider restoration of titles to the claimants. While deciding to restore titles to the claimants the following aspects should be duly considered:

(i) As far as possible, restoration of claims should not be result in honey combing of forest land. In such cases possibility of exchange of land near periphery or elsewhere (e.g. non-forest Govt. land) should be exhausted.

(ii) The land to be restored to the claimants should be properly demarcated on the ground with permanent boundary marks.

2.5 After the State Government/UT Administration has decided in principle to restore titles to the claimants proposals may be formulated suitably and submitted for seeking prior approval of this Ministry under the provision of the Forest (Conservation) Act, 1980, alongwith proposals for compensatory afforestation.

Disputes regarding pattas/leases/grants involving forest land - settlement thereof

An inter-Ministerial Committee, which was set up by this Ministry to look into various aspects of tribal-forest interface has pointed out that a number of cases of pattas/leases/grants involving forest land in one way or the other, have become contentious issues between different departments of the State/UT Govt. Such pattas/leases/grants are said to have been issued under the proper authority and orders of the respective State/UT Governments and the land in question continues in the possession of the allottees or under their authorised use but its status is under dispute between different departments. Some of such cases are listed below for illustration.

1.1 Protected forests in Madhya Pradesh, terms as "**Orange Areas**" which according to the State Governments decision were to be transferred to Revenue Department after demarcation for issuing pattas to the beneficiaries. It is observed that pattas were issued to the individuals but transfer of the land from Forest to Revenue Department which should have preceded allotment of pattas, was not effected.

1.2 'Dali' lands in Maharashtra which are said to have been leased to the entire village community in the past by the State Government. The assignees continue to make use of these lands for various purposes as per original terms and conditions and some times, in accordance with the decision of the village community wherever such leases are for collective use of the community as a whole. But the formal status of these 'Dali' lands is not clear.

1.3 Cases in which land was assigned by the Revenue Department supposedly from revenue lands. But eventually these were found to be notified forest land even though the assignees were not dispossessed of their holdings.

1.4 Leases granted by the State Governments for cultivation, agro-forestry or tree plantation; the leases continue to possess the land though these have not been renewed since enactment of the Forest(Conservation) Act, 1980.

2. An ambiguity about the status of the land involved in the type of cases cited above, particularly when the forest land continues under the possession of the assignees, is likely to adversely affect forest protection in these and the neighbouring areas, apart from forcing the lawful assignees to live in a state of uncertainty. Keeping these and similar other aspects in view and after careful consideration of the recommendations of the inter-Ministerial Committee, it has been decided that inter-departmental issues related to pattas/leases/grants involving forest land should be settled at the earliest. The following steps are suggested in this regard.

2.1 All the cases of pattas, leases, grants involving forest land whether by intent, omission, oversight or accident, should be reviewed by the State/UT Government. Such review should enable the State/UT Government to identify those cases in which the pattas/leases/grants were awarded under proper authority. The assignees continue to be in possession of the land and the term of the pattas/leases/grant is yet to expire.

2.2 In all those cases, where pattas/leases/grants were given by the State Government Departments to Scheduled Tribes or rural poor either individually or collectively, such pattas/leases/grants should be honoured and inter-departmental disputes should not affect the rights of the leases provided they are in physical possession of the land, and term of the patta/lease/grant has not yet expired. These cases should be examined by district level committees consisting of D.F.O., S.D.O. Revenue Department and a representative of Tribal Welfare Department. The disputes should be

resolved at the district level wherever it is possible, or after obtaining suitable order of the State/UT Government or the Government of India (if the provisions of the Forest (Conservation) Act, 1980 are attracted), as the case may be.

2.3 Lease of a period prior to 25.10.1980 which were granted to the Scheduled Tribes or to other rural poor for agro-forestry, tree plantation or alike but could not be renewed, despite the State/UT Government's intention to do so, on account of enactment of the Forest (Conservation) Act, 1980 should be examined expeditiously. Wherever the State/UT Government's desire to continue the leases proposals, should be submitted to this Ministry, in the prescribed manner, for seeking prior approval under the Forest (Conservation) Act, 1980. Pending final decision the lessees should not be dispossessed of the land.

2.(a) In cases where Forest (Conservation) Act 1980, is attracted, proposals for denotification of forest land should be accompanied by proposals for compensatory afforestation.

Conversion of forest villages into revenue villages and settlement of other old habitations.

Forest villages, were set up in remote and inaccessible forest areas with a view to provide uninterrupted man-power for forestry operations. Of late, they have lost much of their significance owing to improved accessibility of such areas, expansion of human habitations and similar other reasons. Accordingly, some of the States converted forest villages into revenue villages well before 1980. Nevertheless there still exist between 2500 to 3000 forest villages in the country. Besides, some cases of other types of habitations e.g. unauthorised houses/homesteads, dwellings of tribals who have been living in them in virtually pre-agrarian life styles, are suspected to exist in forest lands even though these may not have been recognised either as revenue villages or forest villages.

2. In March, 1984, the then Ministry of Agriculture suggested to the State/UT Governments that they may confer heritable and inalienable rights on forest villagers if they were in occupation of land for more than 20 years. But this suggestion does not seem to have been fully implemented. Development of forest villages has also been addressed to in the National Forest Policy, 1988 which states that these should be developed on par with revenue villages. This issue was again examined by an inter-Ministerial Committee, set up by this Ministry to look into various aspects of tribal-forest-interface, in consultation with representatives of some of the States.

3. Although the forest villagers have lived in harmony with their surrounding forests and the concept of forest villages prove an effective arrangement for sustained supply of man-power, yet it would not be appropriate to deny them legitimate rights over such lands which were allotted to them decades ago for settlement and have been continuously under their occupation since then. Keeping this aspect and the recommendations of the inter-Ministerial Committee in view, the following measures are suggested to resolve the outstanding issues of forest villages and other types of habitations existing in forest lands.

3.1 Forest Villages

Forest villages may be converted into revenue villages after denotifying requisite land as forest. Proposals seeking prior approval of Government of India for this purpose under the Forest (Conservation) Act, 1980 may be submitted expeditiously. While converting these villages into Revenue Villages, the following principles may be adhered to:

(i) the villagers are conferred heritable but inalienable rights;

(ii) administration of these and other Revenue Villages enclaved in forest areas should preferably be entrusted to the State Forest Departments.

3.2 Other habitations

(a) Habitations other than Forest Villages may be grouped into the following categories:

(i) Cases where dwelling belong to persons who have encroached on forest land for cultivation.

(ii) Dwellings of other persons who have been living therein since past without encroaching on forest land for cultivation but their habitations are neither recognised as Revenue Villages nor Forest Villages.

(b) Each case may be examined on its merits. Suggestions for resolving the cases are given below:-

(i) In case of category (a)(i) above, wherever encroachments for agricultural cultivation are regularised, the house sites and homesteads, too, may be

regularised either in-situ or as near to the agricultural field as possible subject to certain safe-guards in the interest of forest protection and "eligibility" criteria as may be evolved by the State Government.

(ii) In case of category (a)(ii) above, certain specific habitations, more than 25 years old, involving sizeable group of families, may be examined, case by case, on merits for their amicable settlement.

(iii) Scheduled Tribes and rural poor not covered under (i) and (ii) above should be resettled in non-forest Government land.

(iv) All other unauthorised habitations must be evicted.

(v) Wherever provisions of Forest (Conservation) Act, 1980 are attracted, comprehensive proposals may please be submitted for seeking prior approval of this Ministry. It may kindly be noted that such proposals will be considered only when the State/UT Govt. ensure that all the measures are taken simultaneously and effectively and are accompanied with proposals for compensatory afforestation.

GUIDELINES FOR LAYING TRANSMISSION LINES THROUGH FOREST AREAS

1. Where routing of transmission lines through the forest areas can not be avoided, these should be aligned in such a way that it involves the least amount of tree cutting.

2. As far as possible, the route alignment through forest areas should not have any line deviation.

3. (i) The maximum width of right of way for the transmission lines on forest land shall be as follows:

Transmission Voltage (KV)	Width of Right of Way (Mts)
11	7
33	15
66	18
110	22
132	27
220	35
400	52
800	85

(ii) Below each conductor, width clearance of 3 mts. would be permitted for taking the tension stringing equipment. The trees on such strips would have to be felled but after stringing work is completed, the natural regeneration will be allowed to come up. Felling/pollarding/pruning of trees will be done with the permission of the local forest officer whenever necessary to maintain the electrical clearance. One outer strip shall be left clear to permit maintenance of the transmission line.

(iii) In the remaining width the right of way up to a maximum of 85 metres (for 800 KV lines), trees will be felled or lopped to the extent required, for preventing electrical hazards by maintaining the following:

Voltage (KV)	Minimum clearance between conductors and trees (Mts)
11	2.6
33	2.8
66	3.4
110	3.7
132	4.0
220	4.6
400	5.5

The sag and swing of the conductors are to be kept in view while working out the minimum clearance mentioned as above.

(iv) In the case of transmission lines to be constructed in hilly areas, where adequate clearance is already available, trees will not be cut.

4. Where the forest growth consists of coconut groves or similar tall trees, widths of right of way greater than those indicated at SI. No.3 may be permitted in consultation with the CEA.

ANNEXURE-VI (a)

CATEGORY OF PROPOSALS FOR WHICH COST-BENEFIT ANALYSIS IS APPLICABLE

Sl No.	Nature of Proposal	Applicable/not applicable	Remarks
1.	All categories of proposals involving forest land up to 20 hectares in plains and up to 5 hectares in hills.	Not applicable	These proposals are to be considered on case by case basis and value judgement.
2.	Proposal for defence installation purposes and oil prospecting (prospecting only)	Not applicable	In view of National Priority accorded to these sectors, the proposals would be critically assessed to help ascertain that the utmost minimum forest land above is diverted for non-forest use.
3.	Habitation, establishment of industrial units, tourist lodges/complex and other building construction	Not applicable	These activities being detrimental to protection and conservation of forest, as a matter of policy, such proposals would be rarely entertained.
4.	All other proposals involving forest land more than 20 hectares in plains and more than 5 ha. in hills including roads, transmission lines, minor, medium and major irrigation projects, hydel projects mining activity, railway lines, location specific installations like micro-wave stations, auto repeater centres, T.V. towers etc.	Applicable	These are cases where a cost-benefit analysis is necessary to determine when diverting the forest land to non-forest use is in the overall public interests.

ANNEXURE-VI (b)

PARAMETERS FOR EVALUATION OF LOSS OF FORESTS

Sl. No	Parameters	Roads, Tr. Lines & Railway lines	Minor irrigation projects, quarrying of stones/ metals	Medium & major irrigation, hydro electric, large mining & other misc. projects.
1.	Loss of value of timber, fuelwood and minor forest produce on an annual basis, including loss of man-hours per annum of people who derived livelihood and wages from the harvest of these commodities.	To be quantified & expressed in monetary terms.	To be quantified & expressed in monetary terms.	To be quantified & expressed in monetary terms.
2.	Loss of animal husbandry productivity, including loss of fodder	-do-	-do-	-do-
3.	Cost of human resettlement	-do-	-do-	-do-
4.	Loss of public facilities and administrative infrastructure (Roads, building, schools, dispensaries, electric lines, railways etc.) on forest land, or which would require forest land if these facilities were diverted due to the project.	-do-	-do-	-do-
5.	Environmental losses: (soil erosion, effect on hydrological cycle, wildlife habitat, microclimate upsetting of ecological balance).	Though technical judgement would be primarily applied in determining the losses, as a thumb rule the environmental value of one hectare of fully stocked forest (density 1.0) would be taken as Rs. 126.74 lakhs* to accrue over a period of 50 years. The value will reduce with density, for example, if density is 0.4, the value will work out at Rs. 50.696 lakhs. So if a project which requires disforestation of 1 hectare of forest of density 0.4 gives monetary returns worth over Rs. 50.696 lakhs over a period of 50 years, may be considered to give a positive cost benefit ratio. The figure of assumed environmental value will change if there is an increase in bank rate; the change will be proportional to percentage increase in the bank rate.		
6.	Suffering to oustees.	The social cost of rehabilitation of an oustee (in addition to the cost likely to be incurred in providing residence, occupation and social services to him) be worked out as 1.5 times of what he should have earned in two years had he been not shifted.		

ANNEXURE-VI (c)

PARAMETERS FOR EVALUATION OF BENEFIT, NOTWITHSTANDING LOSS OF FORESTS

		Nature of Proposal		
Sl. No	**Parameters**	**Roads, Tr. Lines& Railway lines**	**Minor projects**	**Irrigation/hydel projects & Others.**
1.	Increase in productivity attributable to the specific project	To be quantified & expressed in monetary terms.	To be quantified & expressed in monetary terms.	To be quantified & expressed in monetary terms.
2.	Benefits to economy	Value judgement	-do-	-do-
3.	No. of population benefited.	-do-	Value judgement	Value judgement
4.	Employment potential	-do-	-do-	-do-
5.	Cost of acquisition of facility on non-forest land wherever feasible	To be quantified & expressed in monetary terms	To be quantified & expressed in Monetary terms	To be quantified & expressed in monetary terms
6.	Loss of (a) agriculture & (b) animal husbandry production due to diversion of forest land.	To be quantified & expressed in monetary terms.	To be quantified & expressed in monetary terms.	To be quantified & expressed in monetary terms.
7.	Cost of rehabilitating the displaced persons as different from compensatory amounts given for displacement.	To be quantified & expressed in monetary terms	To be quantified & expressed in monetary terms	To be quantified and expressed in monetary terms
8.	Cost of supply of free fuel-wood to workers residing in or near forest area during the period of construction.	To be quantified & expressed in monetary terms.	To be quantified & expressed in monetary terms.	To be quantified & expressed in monetary terms.

PROFORMA FOR FURNISHING STATE/DISTRICT PROFILE

1. STATE/UT: _____
2. PERIOD 25.10.1980 TO 01.01.20_____

S.No.	Name of District	Forest Cover (ha.)	Clearances under the Act so far	
			Forest land diverted (ha.)	No. of proposals
1	2	3	4	5
	Total			

Purpose of diversion												Compensatory Afforestation			
Hydel		Irrigation		Mining		Road/Railway		Thermal /Transmission lines		Others		Stipulated		Achieved	
Area	No	Area	No	Area	No	Area	No	Area	No	Area	No	Non-forest land	Degraded forest land	Non-forest land	Degraded forest land
6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21

ANNEXURE - VIII

GUIDELINES FOR PARTICIPATION OF PRIVATE SECTOR THROUGH INVOLVEMENT OF NGOs & FOREST DEPARTMENT IN AFFORESTATION/REHABILITATION OF DEGRADED FOREST

PREAMBLE

Our National Forest Policy of 1988 envisages that one third of the geographical area of the country should be under forest/tree cover. The total recorded forest area in the country is about 23% of the geographical area. According to the State of Forest Report, 1997, the actual forest cover in the country is only about 19.27%. It has been further estimated by Forest Survey of India that out of this 19.27% only 11.17% is dense forest i.e. having density of more than 40%. About 7.95 (2.61310 sq. km) of the geographic area is open forest i.e. having density less than 10%. This degraded forest needs urgent attention and sufficient monetary input so that it is rehabilitated and fully covered. These forest areas were endowed with rich biological diversity and should be our immediate concern to rejuvenate at the earliest.

The Ministry is greatly concerned over the slow rate of afforestation owing to financial and other constraints. The afforestation has gone down from about 89,000 sq. km in the VII Five-Year Plan to about 70,000 sq. km in the VIII Plan. Even if it is presumed that there will be no further degradation of forest areas it will take more than 25 years to restock the degraded forest areas. Even if we take a conservative norm of Rs.20,000 per hectare cost it will require a budgetary allocation of more than Rs.600 billions to rehabilitate them.

It is, therefore clear that Ministry is not in a position even to restore the existing degraded forests from the available resources, leaving aside the goal of increasing the forest cover to 33% of the geographical area by afforestation.

It therefore requires some innovative policy decision wherein without compromising the basic provisions of our forest policy we can attain the goal. One of the proposals received from the Govt. of Maharashtra under the Forest (Conservation) Act, 1980 appears to be aimed in that direction. It has been proposed by the Govt. that about 100 ha of degraded forest land near Thane will be afforested/rehabilitated by BAIF an NGO through funding from NOCIL in consultation/guidance of the local Forest Department. It will be done through an agreement signed between BAIF-NOCIL, and the State Govt. BAIF-NOCIL will have no rights over the land or the usufruct at anytime thereafter whatsoever.

It has been observed that a large number of like minded industrial houses are willing to join hands in this green movement through NGOs and under the supervision and guidance of the Forest Department voluntarily without any rights whatsoever on the forest land or the usufruct. The executing NGO will work over the land for a time till the plantations/tree cover gets established.

GUIDELINES

The Ministry, therefore after due consideration has taken a decision to encourage this joint participation of Industrial houses, NGOs and Forest department in order to rehabilitate/reforest the vast degraded forest in the country. This will not only result in greening of the nation but will also result in employment generation. However, in order to have a clarity on the method and procedures, Ministry is issuing following guidelines.

1. There must be tri-partite agreement between the industrial house, an acceptable NGO of repute and the local Forest Department.

2. The agreement must have the commitment of the industrial house to bear the cost of the scheme, of the NGO to faithfully implement the scheme under the supervision and direction of the Forest Department.
3. The industrial house and the NGO will not claim any right whatsoever over the forest land or the produce anytime thereafter.
4. The rights of local people if any, over the forest land will not be affected by this agreement.
5. The agreement will be for a period of say 5 to 7 years during which the area is likely to be tackled including maintenance.
6. The scheme should be prepared in such a way so that naturally occurring species should be given priority in the rehabiliation and even plantations should be of local native species.
7. Only such forest lands that are less than 0.4 density and that cannot be regenerated with natural regeneration should be taken up under this scheme.
8. Any other condition that State Forest Departments considers essential to fulfill objectives and preamble of these guidelines.

ANNEXURE - IX

Guidelines for preparation of Cluster Mining Proposals

1. Cluster proposal may be prepared for such leases, which have contiguous boundaries.
2. All the existing mining proposals/fresh proposals in pipeline be included in that including non-forest lands, if within.
3. States will take individual proposals from different lessees in the proforma with relevant documents.
4. However, with covering letter, a comparative statement of all mines with area and other details be given and all leases with boundaries be shown on one map.
5. Even existing approved leases be included in the proposal so that they can be brought to the same time frame.
6. The condition of compensatory afforestation will apply on the basis of each individual lease rather than on pro-rata basis.
7. The safety zone shall be at the outer boundary of the cluster and condition of safety zone will apply on pro-rata basis.

This is to further clarify that where existing forest roads outside the lease areas/cluster are being used by lessees for transporting mined minerals, it is not desirable to insist inclusion of such forest areas in the lease proposal unless a new road is proposed for such lease or cluster. The State Governments should rather permit its use on the terms and conditions to be decided by the State Government.

Proforma for Site Inspections Reports by Regional Offices

1. Legal status of the forest land proposed for diversion.
2. Item-wise break-up details of the forest land proposed for diversion.
3. Whether proposal involves any construction of buildings (including residential) or not. If yes, details thereof.
4. Total cost of the project at present rates.
5. **Wildlife:-**
   Whether forest area proposed for diversion is important from wildlife point of view or not.
6. **Vegetation:-**
   Total number of trees to be felled.
   Effect of removal of trees on the general ecosystem in the area.
   Important species:-
   Number of trees to be felled of girth below 60 cm.
   Number of trees to be felled of girth above 60 cm.
7. Background note on the proposal.
8. **Compensatory afforestation:-**
   Whether land for compensatory afforestation is suitable from plantation and management point of view or not.
   Whether land for compensatory afforestation is free from encroachments/other encumbrances.
   Whether land for compensatory afforestation is important from Religious/Archaeological point of view.
   Land identified for raising compensatory afforestation is in how many patches, whether patches are compact or not.
   Map with details.
   Total financial outlay.
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.
10. Whether proposal involves rehabilitation of displaced persons. If yes, whether rehabilitation plan has been prepared by the State Government or not.
    Details be furnished specifically if rehabilitation plan would affect any other forest area by translocating oustees in and around the said forest.
11. **Reclamation plan:** Details and financial allocation.
12. Details on catchment and command area under the project. Catchment area treatment plan to prevent siltation of reservoir.
13. Cost benefit ratio.
14. Recommendations of the Principal Chief Conservator of Forests/State Government.
15. Recommendations of Regional Chief Conservator of Forests alongwith detailed reasons.
16. Regional Chief Conservator of Forests shall give detailed comments on whether there are any alternatives routes/alignment for locating the project on the non-forest land.
17. Utility of the project.
    Numbers of Scheduled Caste/Scheduled Tribes to be benefited by the project.
18. Whether land being diverted has any socio-cultural/religious value.
    Whether any sacred grove or very old growth trees/forests exist in the areas proposed for diversion.
    Whether the land under diversion forms part of any unique eco-system.
19. Situation w.r.t. any P.A.
20. Any other information relating to the project.

APPENDICES

APPENDIX - I

Telegram : PARYAVARAN
NEW DELHI
Telephones:
Telex: W-66185 DOE IN
Fax: 4360678

GOVERNMENT OF INDIA
MINISTRY OF ENVIRONMENT & FORESTS
PARYAVARAN BHAVAN,C.G.O. COMPLEX
LODHI ROAD, NEW DELHI-110 003

No. 11-9/98-FC

4-5-2001

To

The Secretary (Forests),
All States & Union Territories

Sub : **Guidelines for diversion of forest - land for non-forest purposes under the Forest (Conservation) Act,1980 that are part of National Parks and Wildlife Sanctuaries**

Sir,

I am directed to invite your attention to the guidelines circulated by this Ministry vide letter of even no. dated 4-12-98 regarding submission of proposals for diversion of forest land in Sanctuaries/National Parks and Tiger Reserve areas. You may be aware that subsequent to the issue of this guidelines, the Hon'ble Supreme Court of India has passed two important orders relating to National Parks and Sanctuaries - one dt. 13.11.00 in WP No.337/95, where they have directed that pending further orders, no de-reservation of Sanctuaries and National Parks shall be effected. In the other order dt. 14.2.00, in WP No. 202/95, the Hon'ble Supreme Court has restrained all the States from ordering even the removal of dead, diseased, dying or wind-fallen trees and grasses etc. from any National Park or Sanctuary.

2. In view of the above orders of the Supreme Court, the State Governments are advised not to submit any proposal for diversion of forest land in National Parks and Sanctuaries under the Forest (Conservation) Act, 1980 without seeking prior permission of the Supreme Court. The earlier guideline issued by the Ministry may be considered modified to this extent.

Yours faithfully

Sd/-
(A.N. PRASAD)
Deputy Inspector General of Forests

Copy to:
1. PCCFs/Chief Wildlife Wardens/Nodal Officers of all States & Union Territories
2. Regional CCFs(Central) and CF(Central) for information and necessary action.

Sd/-
(A.N. PRASAD)
Deputy Inspector General of Forests

APPENDIX-2

Government of India
Ministry of Environment & Forests
Tel/Fax : 24360379

Dated : 3.5.2002

No.7-16/2002-FC

To,

1. The Chief Secretary,
(All States/UTs)

2. The Secretary (Forests)
(All States/UTs)

3. The Principal Chief Conservator of Forests
(All States/UTs)

Subject : Eviction of illegal encroachment on forest lands in various States/UTs time bound action plan

Sir,

I am directed to draw your attention to the problem of encroachments of forest lands which is assuming a serious proportion in the country. These encroachments have been attracting the attention of Central Government and State Governments have been requested from time to time to take prompt action against the encroachers under various Acts and Rules. Such encroachments are generally done by the powerful lobbies and cause great harm to forest conservation particularly when these are carried out in the remote areas in a honey comb pattern. These encroachments are also seriously threatening the continuity of the Wild Life corridors between the various National Parks and Sanctuaries. Somehow, timely action is not being taken by the frontline staff for the eviction of the encroachers which further emboldens others also for similar actions. As per the information received from various States approximately 12.50 lakh hectares of forest land is under encroachment. There may be many more unrecorded instances which will add to the over all tally.

Hon'ble Supreme Court has also been greatly concerned with this pernicious practice and in their order of 23.11.2001 in IA No. 703 in WP No. 202/95 have restrained the Central Government from regularization of encroachments in the country. There is now a need to frame a time bound programme for eviction of the encroachers from the forest lands for which following steps are suggested:

(i) All encroachments which are not eligible for regularization as per guidelines issued by this Ministry vide No. 13.1/90-F.P. (1) dated 18.9.90 should be summarily evicted in a time bound manner and in any case not later than 30th September, 2002.

(ii) A cell should be constituted in the PCCF office headed by a CCF level officer to plan and monitor eviction of encroachments on forest lands on a continuous basis.

(iii) Forest officers should be delegated powers under relevant Acts for trials of encroachers and adequate steps should be taken for the completion of the eviction process through summary trials in a time bound manner.

(iv) At the State level, a monitoring committee may be constituted under the Chairmanship of the Chief Secretary, which may meet biannually to take stock of the situation. The Committee while monitoring forest encroachments should also fix responsibility of the field formulation including the revenue officials for their failures to prevent/evict encroachments on the forest lands.

(v) At the forest Circle level, a Committee should be constituted under the Chairmanship of Conservator of Forests with District Collector and Superintendent of Police as members which may meet every quarter and take effective steps to assist the Divisional Forest Officers or the Territorial Division/Wildlife Warden/National Park and Sanctuary Director for the eviction of the encroachers.

(vi) A comprehensive list of encroachments in your State with current status of eviction process etc. may please be prepared as the base line information and a copy of the same be also sent to this Ministry preferably by June 30th , 2002. Principal Chief Conservator of Forests may be bound to give detail progress report of the action taken, area evicted and area reclaimed/planted etc. every quarter commencing form July 2002.

(vii) It may please be noted that the Ministry may be constrained to link processing of requests for clearance under Forest (Conservation) Act 1980, approval of relevant Working Plan and, funding under Centrally Sponsored Schemes as well, to the progress shown in eviction of the encroachers as per the instant guidelines.

Yours faithfully,

Sd/-
(Dr. V.K. BAHUGUNA)
Inspector General of Forests

Copy for information and necessary action to :

1. All Chief Conservator of Forests/Conservator of Forests (Central), Ministry of Environment and Forests, Government of India. They are requested to fix a meeting with the concerned senior functionary of the State Government to sensitise them about the urgency of the implementing these guidelines and monitor action taken by the States regularly. While giving approval of the working plans they may also insist for a detailed status report on encroachment and vacation thereof in that particular division.

Sd/-
(Dr. V.K. BAHUGUNA)
Inspector General of Forests

APPENDIX - 3

GOVERNMENT OF INDIA
MINISTRY OF ENVIRONMENT & FORESTS

Tel: 24360379

Dated : 30.10.2002

No.IGF/FC/2002

To

The Chief Secretary
All States/UTs.

The Secretary (Forests),
All States/UTs.

The Principal Chief Conservator of Forests,
All States/UTs.

Sub: **Eviction of all illegal encroachment on forest land in various States/UTs -Time Bound Action Plan-Clarification thereof**

Sir,

I would like to draw your attention to this Ministry's letter of even number dated 3.5.2002 on the above subject. This Ministry has received several communications from various individuals and organisations requesting us to stop the eviction of encroachments in various States. There is an apprehension in some quarters that the present communication supersedes the guidelines issued vide this Ministry No.30-1/90-FP dated 18.9.1990 relating to regularization of encroachments on forest lands.

This is to clarify that there is no change in the policy of the Ministry with regard to regularisation of pre-1980 eligible encroachments and the commitment with reference to forest tribal-interface on the disputed settlement claims. In respect of disputed claims of eligible encroachment of the tribals for want of First Offence Report/non-settlement of rights, etc., the States may consider setting up Commission/Committees at the level of Districts involving Revenue, Forest and Tribal Welfare Department for their settlement provided other conditions are fulfilled. A copy of the guidelines issued by the Ministry in 1990 is enclosed. In such identified cases the State should submit their proposals to the Central Government so that final decision can be taken within a time-bound manner.

The State should simultaneously show progress on the eviction of ineligible encroachments. The States may consider 'in situ' economic rehabilitation by involving these ineligible encroachers in forestry activities through Joint Forest Management. But forest land encroached for agriculture, building etc. will have to be vacated and put to forests use in the interest of Tribal Communities.

Yours faithfully,

Sd/-
(Dr. V.K. Bahuguna)
Inspector General of Forests

GOVERNMENT OF INDIA
MINISTRY OF ENVIRONMENT & FORESTS

No.8C/7/2002 (FCW)

To
The Secretary Forests
All State/UTs.

Dated 18.11.2002

Sub: **Guidelines for diversion of forest land for non-forestry purpose under Forest (Conservation) Act 1980**

Sir,

I am directed to invite your attention to the guidelines issued under the Forest (Conservation) Act 1980 form time to time. Ministry has been receiving proposals from the State Govt./UTs where the State Govt./UTs themselves are of the view that the proposed activity cannot be allowed on forest land; such proposals have been sent to Govt. of India with recommendation for rejection.

In this connection it is clarified that for rejection of the proposal, except of the Central Govt. and its organization, approval of the Central Govt. is not required. The State Govt./UTs themselves can intimate the user agency directly of the decision not to allow diversion/denotification of any forest land for no-forestry activity. However, all the proposals involving requirement of forest land for the projects of the Central Govt. and its organization will be decided by the Central Govt. only.

Yours faithfully

Sd/-
(G.C. Basumatary)
Director (FC)

Copy to
(1) The Chief Conservator of Forests (C)/Conservator of Forests of Regional Offices
(2) Guard file.

F.No.5-1/98-FC (Pt II)
Ministry of Environment & Forests
Government of India
(FC Division)

Paryavaran Bhavan,
C.G.O. Complex, Lodi Road,
New Delhi - 110 003

New Delhi, the 17th/18th September, 2003

To,

The Secretary (Forests),
All States and Union Territories.

Subject **Guidelines for diversion of forest land for non forest purposes under the Forest (Conservation) Act, 1980 - Guidelines for collection of Net Present Value.**

Sir,

I am directed to invite your attention to the orders of the Hon'ble Supreme Court of India dated 30/10/2002 and 01/08/2003 in I.A. No. 566 in Writ Petition (Civil) No.202 of 1995 in the matter of Compensatory Afforestation Fund regarding collection of Net Present Value (NPV) from the User Agencies, which have already been circulated by this Ministry's letters of even number dated 10/07/2003 and 11/08/2003.

In this regard this Ministry has received correspondences from some States/UTs and Regional Offices requesting to issue the guidelines. Considering the request of the .State/UT Governments and the Regional Offices, the Ministry of Environment and Forests issues following guidelines for the recovery / collection of Net Present value of the forest land being diverted for non forest purposes under Forest (Conservation) Act, 1980:

1. NPV shall be charged in all those cases which have been granted in-principle approval after 30-10-2002.
2. NPV shall be realized before Stage-II (Final) approval.
3. Hon'ble Court has given a range for the rates i.e. Rs 5.80 lakhs per hectare to Rs. 9.20 lakhs per hectare for Net Present Value depending upon the quantity and density of land in question, converted for non-forestry use. Therefore, the State/UT Governments should charge NPV within the given rates depending upon the quality of forest, density and the type of species in the area.
4. The State/UT Governments shall transfer these funds to Compensatory Afforestation Management and Planning Agency (CAMPA), as and when created.

Yours faithfully,

Sd/-
(ANURAG BAJPAI)
Asstt. Inspector General of Forests

Copy to:
1. All PCCF/Nodal Officers (All States/UTs).
2. All Regional Offices.
3. Director (FC)/AIGs (FC).

F.No.5-1/98-FC (Pt II)
Ministry of Environment & Forests
Government of India
(FC Division)

Paryavaran Bhavan,
C.G.O. Complex, Lodi Road,
New Delhi - 110 003

New Delhi, the 19th/22nd September, 2003

To:

The Secretary (Forests),
All States and Union Territories.

Subject **Guidelines for diversion of forest land for non forest purposes under the Forest (Conservation) Act, 1980 - Guidelines for collection of Net Present Value.**

Sir,

In continuation of this Ministry's letter of even number dated 17.9.2003 regarding guidelines for collection of Net Present Value in compliance to the orders of the Hon'ble Supreme Court of India dated 30/10/2002 and 01/08/2003 in I.A. No. 566 in Writ Petition (Civil) No. 202 of 1995, I am directed to clarify that NPV will be charged in all those cases which have been granted in-principle approval after 30-10-2002. NPV will be realized before Stage-II (Final) approval.

NPV will also be charged in all those cases, where Stage-I approval has been granted after 30-10-2002 and final approval has also been granted.

All the States/UTs shall comply with the orders of the Hon'ble Court and complete the collection process of NPV for the cases approved under Forest (Conservation) Act, 1980 after 30.10.2002, within a period of two months and submit a compliance report through their respective Regional Offices of this Ministry. Regional Offices shall submit the compliance report to the Ministry after due verification.

Yours faithfully,

Sd/-
(ANURAG BAJPAI)
Asstt. Inspector General of Forests

Copy to:

1. All PCCF/Nodal Officers (All States/UTs).
2. Member Secretary, CEC for information.
3. All Regional Offices.
4. Director (FC)/AIGs (FC).
5. Shri A.D.N. Rao, Advocate, Supreme Court, New Delhi, for information.
6. File.

F.No.11-9/98-FC
Government of India
Ministry of Environment & Forests
FC Division

Paryavaran Bhavan,
C.G.O. Complex, Lodi Road,
New Delhi - 110 003
Dated: 19.09.2003

To,

The Secretary (Forests),
(All States/UTs).

Sub: **Guidelines for diversion of forest land for non forest purposes under the Forest (Conservation) Act, 1980.**

Sir,

Detailed guidelines for submission of proposals for diversion of forest land for non-forestry purposes under the Forest (Conservation) Act, 1980 were finalised and circulated to all the State Government/Union Territories on 25.10.1992. A constant review of these guidelines has been done from time to time.

After a review, the Ministry of Environment & Forests, Government of India vide letters of even number dated 16.10.2000, 31.10.2001 and 23.12.2002, had conveyed its general approval under Section-2 of the Forest (Conservation) Act, 1980 from time to time, for diversion of forest land for underground laying of optical fiber cables, underground electric cables, underground laying of telephone lines and underground laying of drinking water supply pipelines subject to certain parameters/conditions. Last general approval will expire on 15.10.2003. Considering requirement of infrastructure development in the country and for their expeditious implementation, the Ministry of Environment & Forests, Government of India further extends the period of general permission for a period of two years i.e. from 16.10.2003 to 15.10.2005, subject to all the parameters and conditions stipulated in the letters dated 16.10.2000, 31.10.2001 & 23.12.2002.

Yours faithfully,

Sd/-
(ANURAG BAJPAI)
Asstt. Inspector General of Forests

Copy to:

1. The Secretary, Ministry of Communications and Information Technology, Govt. of India, Sanchar Bhawan, New Delhi.
2. All PCCF/Nodal Officers (All States/UTs) for information and with a request to submit the complete details of forest land diverted for the purpose during 16.10.2000 to 15.10.2003 to the respective Regional Offices.
3. All Regional Offices with a request to submit a status report on such diversions under their jurisdiction and to review whether the conditions on which this clearance was accorded are being complied with or not.
4. IGF (FC), Director (FC), AIGs (FC).

Sd/-
(ANURAG BAJPAI)
Asstt. Inspector General of Forests

MINISTRY OF ENVIRONMENT AND FORESTS

NOTIFICATION

New Delhi, the 1st October, 2003

S.O. 1186 (E). — In pursuance of sub-rule (1) of rule 9 of the Forest (Conservation) Rules, 2003, the Central Government hereby authorizes the Chief Conservator of Forests, Regional Office, Ministry of Environment and Forests, having regional jurisdiction over the forest land in respect of which any offence under the Forest (Conservation) Act, 1980 is alleged to have been committed, to file complaints against persons prima-facie found guilty of such offence, in the court having jurisdiction in the matter.

[F.No. 5-5/98-FC]
N.K. JOSHI,
DIRECTOR GENERAL OF FORESTS AND
SPECIAL SECRETARY.

F.No.2-1/2003-FC
Government of India
Ministry of Environment and Forests
F.C. Division

Paryavaran Bhawan
CGO Complex, Lodhi Road
New Delhi- 110 003

Dated: 20.10.2003

To

The Chief Secretary/Administrator,
(All States/UTs).

Sub: **Guidelines for diversion of forest land for non-forest purposes under the Forest (Conservation) Act, 1980.**

Sir,

Detailed guidelines for submission of proposals for diversion of forest land for non-forestry purposes under the Forest (Conservation)Act, 1980 were circulated to all the State Government/Union Territories on 25.10.1992. Based on experience, a constant review of these guidelines has been done from time to time to maintain a logical balance between environmental conservation and developmental process.

After a recent review, the Ministry of Environment & Forests, Government of India, has approved certain modifications in specific paras of the existing guidelines. The important modifications are as follows :

1. **Para 1.1(i)** defines "forests" as understood in the dictionary sense in view of the Hon'ble Supreme Court's orders dated 12.12.1996 in WP(C) No.202/1995. Now, *all proposals for diversion of such forest areas to any non-forest purpose, irrespective of its ownership, would require the prior approval of the Central Government. However, the term "forest" shall not be applicable to the plantations raised on private lands, except notified private forests. Felling of trees in these private plantations shall be governed by the relevant provisions of various State Acts and Rules. Felling of trees in notified private forests will be as per the working plan/management plan duly approved by Government of India.*

2. **Para 1.2 (iii),** now clarifies *that rights and concessions cannot be enjoyed in the Protected Areas (PAs)* in view of the orders of the Supreme Court dated 14.02.2000, restraining removal of dead, diseased, dying or wind-fallen trees, drift wood and grasses etc. from any National Park or Game Sanctuary.

3. **Para 1.3 (i)** has stipulation that the provision of the Act shall not be attracted for investigations and surveys carried out in connection with development projects such as transmission lines, Hydro-electric projects, Seismic surveys, exploration for oil drilling, etc. **as long as these surveys do not involve any clearing of forest or cutting of trees, and operations are restricted to clearing of bushes and lopping of tree branches for purpose of sighting**. Now in view of various representations from Ministry of Mines, Government of

India. ***'Mining'*** has also been exempted from the permission under the Act, for investigations and surveys subject to same conditions.

4. In view of various representations from Ministry of Mines, Government of India, **Para 1.3(v)** has been modified and now it reads as *"prospecting of any Mineral, done under prospecting licence granted under MMDR Act, which requires collection/removal of samples from the forest land, would be a stage between survey & investigation and grant of mining lease and as such permission under Forest (Conservation) Act, 1980 would be required. However, test drilling upto 10 bore holes of maximum 4" diameter per 100 sq.km for prospecting, exploration or reconnaissance operations, without felling of trees, shall not attract the provisions of the Act. In all other cases involving more than 10 number of bore holes, prior permission of the Central Government under the Act would be required".*

5. Now, **Para 1.8(iv)** clarifies that in National Parks and Sanctuaries where fellings are carried out for improvement of wildlife and its habitat only, forests would be managed according to a scientifically prepared management plan approved by the Chief Wildlife Warden, provided that *the removed forest produce shall be used for meeting bonafide needs of the people living in and around the National Park/Sanctuary and shall not be used for any commercial purposes.*

6. **Para 2.2(vii)-1** deals with underground mining. For better technical evaluation and feasibility, now **Para 2.2(vii)-1** makes it mandatory that *all mining plans in respect of coal and other major minerals should be accompanied with numerical modelling in 3-Dimension for subsidence prediction through an expert mining engineer/organisation to assess long term damage on surface vegetation due to underground mining preferably from Banaras Hindu University; ISM, Dhanbad; any of the IITs located at Delhi, Kanpur, Mumbai, Kharagpur, Madras, Roorkee & Guwahati; or M/s CMRI* along with the mitigation measures suggested by them.

7. **Para 2.8** is regarding **transfer of lease**. This para reads as, *'Where transfer of lease on forest land, from one user agency to another for the same purpose for which the forest land was diverted, becomes necessary, prior permission of the Central Government would be required. For this purpose, the State Government and the original user agency is required to submit no-objection certificate for such transfer and; the new user agency has to submit an undertaking that they shall abide by all the conditions on which the forest land was leased to the original user agency and any other condition which may be stipulated by the Central Government/State Government in future'.*

8. **Para 3.2(i)** deals with Compensatory afforestation of non-forest land and takes into account the difficulty of States/UTs in finding non-forest land for the purpose of Compensatory afforestation. This para now clarifies that *the revenue lands/zudpi jungle/chhote/bade jhar ka jungle/jungle-jhari land/civil-soyam lands and all other such category of lands, on which the provisions of Forest (Conservation) Act, 1980 are applicable, shall be considered for the purpose of compensatory afforestation provided that such lands on which compensatory afforestation is proposed, shall be notified as RF under the Indian Forest Act, 1927.*

9. **Para 3.5(ii)** gives details of orders of the Hon'ble Supreme Court dated : 30.10-2002 in I.A. No.566 in Writ Petition (Civil) No.202 of 1995 regarding creation of a body for management of compensatory afforestation fund and collection of Net Present Value of forest lands i.e. ***"Compensatory Afforestation Management & Planning Agency (CAMPA)".***

10. **Para 3.5(iii)** is regarding the Guidelines already circulated by the Ministry of Environment & Forests for collection of net present value of forest land diverted for non-forestry purposes in compliance with the orders of the Hon'ble Supreme Court dated 30/10/2002 & 01/08/2003 in IA No. 566 in WP(C) No. 202 of 1995.

11. **Para 4.2(i)** stipulates that *the non-forest land which is transferred and mutated in favour of the State Forest Department for the purpose of compensatory afforestation, should be declared as RF/PF under the Indian Forest Act, 1927 prior to Stage-II approval.*

12. **Para 4.2(iv)** clarifies that *previously approved proposals shall not normally be reopened for review of the condition.*

13. **Para 4.13** clarifies that *the approval of the proposals for diversion of forest lands will depend upon the achievements of the State/UT Governments in respect of compensatory afforestation.*

14. **Para 4.13** gives details of the Monitoring cell, which has been created in the Forest Conservation Division for data base management, up-dating of web-site, monitoring the movement of proposals in the State and at the Central Government level and also to monitor the compliance of the stipulated conditions of the approved cases.

15. In conformity with the National Forest Policy, 1988 and to provide boost to the development of tribal areas, new guidelines for "Development projects in tribal areas" are also being issued separately.

A comprehensive compilation of detailed Guidelines along with Forest (Conservation) Act, 1980 and Forest (Conservation) Rules, 2003 etc. in booklet form shall be issued separately.

Yours faithfully,

Sd/-
(Dr. V.K. Bahuguna)
Inspector General of Forests

Copy to :-

1. The Secretary, Ministry of Mines, Govt. of India. Shastri Bhavan, New Delhi
2. The Secretary (Forests), All States/UTs
3. PCCF- All States/UTs
4. Nodal Officers- All States/UTs
5. All Regional Offices of this Ministry
6. Director(FC), AIGs(FC)
7. Guard File

Sd/-
(Dr. V.K. Bahuguna)
Inspector General of Forests

F.No.2-1/2003-FC
Government of India
Ministry of Environment and Forests
F.C. Division

Paryavaran Bhawan, CGO Complex,
Lodhi Road, New Delhi- 110 003

Dated: 20.10.2003

To

The Chief Secretary/Administrator,
(All States/UTs).

Sub: **Guidelines for diversion of forest land for non-forest purposes under the Forest (Conservation) Act, 1980.**

Sir,

As you are aware, National Forest Policy, 1988 recognizes the symbiotic relationship between tribal people and forests. It emphasizes that the primary task of all agencies responsible for forest management, including the forest development corporations should be to associate the tribal people closely in the protection, regeneration and development of forests as well as to provide gainful employment to people living in and around the forests. While safeguarding the customary rights and interests of such people, forestry programmes should pay special attention to development of cooperatives; protection, regeneration and optimum collection of minor forest produce; development of forest villages at par with revenue villages; family oriented schemes and integrated area development programme to meet the needs of tribal economy.

Further, the Ministry of Environment & Forests has noticed that conflict between the Forest Administration and the tribals in various States/UTs exists, which is certainly not in the interest of the forest conservation. Government of India recognizes that development of tribals is an integral part of the conservation efforts. It has become relevant to issue separate Guidelines to execute the developmental projects in the tribal areas consistent with the provisions of the Forest (Conservation) Act, 1980, which is a tribal friendly Act.

Accordingly, in conformity with the National Forest Policy, 1988 and considering the fact that there is requirement of equitable development all over the country including tribal areas, after a recent review, the Ministry of Environment & Forests, Government of India, has approved certain specific '**Guidelines under the Forest (Conservation) Act, 1980 for stepping up the development projects in tribal areas**'. We hope that your State/UT will take full advantage of these guidelines for the development of tribal area.

The guidelines are as follows:

(i) It must be recognized by all that the maintenance of good forest cover is essential for sustaining the livelihood of tribal population. Therefore, only infrastructure development projects (other than commercial) should be encouraged in tribal areas.

(ii) For the purpose of implementation of these guidelines, tribal areas will be those areas which are recognized in the Schedule V and VI of the Constitution of India. With all the proposals, the latest census data clearly indicating size of tribal population shall be enclosed by the State/UT Governments.

(iii) In the tribal areas, there shall be general approval under Section-2 of the Forest (Conservation) Act, 1980 for underground laying of electricity cables and electric wires to individual households, drinking water supply/water pipelines, telephone lines, which involve felling of trees not exceeding 50 number per project (should be below 60 cm. girth class) and are outside National Parks or Wildlife Sanctuary and are laid along the roads and within the existing right of way. This general approval shall be subject to the condition that the Nodal Officer shall certify compliance. Records of such works undertaken shall be maintained by the Nodal Officer and the Territorial DFO. Nodal Officer shall send quarterly report to concerned Chief Conservator of Forests (Regional Office) for monitoring purpose. In lieu of felling of trees, five times of the number of felled trees shall be planted by the User Agency at or near the site. Any deviation, shall require permission from the Central Government under the Forest (Conservation) Act, 1980.

(iv) Infrastructure development projects like power, roads, railways, telephone line/cables, irrigation, drinking water facility, schools, hospitals etc. designed for tribal areas, should be given priority and forwarded by the State/UT Governments in the prescribed time frame to the concerned Regional Office or Central Government as the case may be, for consideration.

(v) During the execution of the project, the State Government/User Agency shall ensure maximum employment for the local tribals.

(vi) While formulating a project in a tribal area, the User Agency shall earmark 5% the total project cost for the development of indigenous skill of tribals, basic amenities, education, health, sports facilities for children/youths etc. in the area. The detailed plan should be enclosed along with the proposal. The funds for these components shall be deposited with Compensatory Afforestation Management and Planning Agency (CAMPA) to be created by Government of India.

(vii) All the project proposals involving diversion of 40 ha. or more forest area in tribal areas, should have an important component of providing the alternative source of domestic energy on subsidized basis like distribution of LPG etc., to reduce pressure on the existing forests. The funds for these components shall be deposited with CAMPA.

(viii) For regularization of encroachments, detailed guidelines issued in this regard vide this Ministry's letter No. 13.1/90-F.P.(1) dated 18.9.90 shall be strictly followed in a time bound manner.

(ix) For review of disputed claims over forest land, arising out of Forest Settlement, detailed guidelines issued in this regard vide this Ministry's letter No. 13.1/90-F.P. (2) dated 18.9.90 shall be strictly followed in a time bound manner.

(x) For disputes regarding Pattas/Leases/Grants involving Forest Land — Settlement thereof - detailed guidelines issued in this regard vide this Ministry's letter No. 13.1/90-F.P.(3) dated 18.9.90 shall be strictly followed in a time bound manner.

(xi) For conversion of forest villages into revenue villages, detailed guidelines issued in this regard vide this Ministry's letter No. 13.1/90-F.P. (5) dated 18.9.90 shall be strictly followed. Proposal for conversion of all forest villages into revenue villages should be submitted to Government of India in a time bound manner.

(xii) If the tribals are residing inside a National Park/Sanctuaries / Protected Area/Reserve, para 2.7 (ii) of the guidelines shall remain applicable.

Yours faithfully,

Sd/-
(DR. V.K. BAHUGUNA)
Inspector General of Forests

Copy to:-

1. The Secretary, Ministry of Tribal Affairs, Govt. of India, Shastri Bhawan, New Delhi.
2. The Secretary (Forests), All States/UTs.
3. PCCF-All States/UTs.
4. Nodal Officers - All States/UTs.
5. All Regional Offices of this Ministry.
6. Director (FC), AIGs (FC).
7. Guard File.

Sd/-
(DR. V.K. BAHUGUNA)
Inspector General of Forests

APPENDIX - 10

MOST IMMEDIATE

F.No. 11-9/98-FC
Government of India
Ministry of Environment and Forests
F.C. Division

Paryavaran Bhawan,
CGO Complex, Lodhi Road,
New Delhi - 110 003.
Dated: 20th/24th 11.2003

To

The Secretary (Forests),
(All States/UTs).

Sub: **Mining leases in National Parks / Sanctuaries etc.**

Sir,

In continuation of this Ministry's letter of even number dated 4-5-2001 regarding the orders of the Hon'ble Supreme Court dated 14-2-2000 in Writ Petition (C) No. 202 of 1995 and dated 13-11-2000 in Writ Petition (C) No. 337 of 1995 in respect of National Parks/Sanctuaries, I am directed to request you for strict compliance of the orders of the Supreme Court. Further, in all those cases also, where forestry clearances have been granted for diversion of forest land for mining leases before the orders of the Supreme Court or before the notification for setting up of National Park/Sanctuary in your State/UT, it is requested to ensure the suspension of all the mining activities till further orders.

Yours faithfully,

Sd/-
24.11.2003
(ANURAG BAJPAI)
Asstt. Inspector General of Forests

Copy to:-

1. All PCCF/Nodal Officers/Chief Wildlife Wardens (All States/UTs)
2. All Regional Offices
3. IGF (FC), Director (FC), AIGs (FC).

Sd/-
24.11.2003
(ANURAG BAJPAI)
Asstt. Inspector General of Forests

APPENDIX - 11

F.No. 5-5/98-FC (pt.)
Government of India
Ministry of Environment and Forests
F.C. Division

Paryavaran Bhawan,
CGO Complex, Lodhi Road,
New Delhi - 110 003.

Dated: 15.12.2003

To

The Principal Secretary (Forests),
All State / UT Governments.

Subject: **Forest (Conservation) Rules, 2003 - Submission of DRP under Forest (Conservation) Act, 1980.**

Sir,

Forest (Conservation) Rules, 2003 notified on 10/03/2003, prescribe a new format for the submission of project proposals by the user agencies to the respective State / UT Governments. It has come to the notice of this Ministry that some of the State/UT Governments are returning even those proposals for resubmission in new format, to the respective user agencies which have been received by them prior to notification of Forest (Conservation) Rules, 2003.

In this context, I am directed to clarify that the new format is applicable to those project proposals which have been submitted by the User Agency to the respective State / UT Governments on 10/01/2003 and thereafter. The proposal in the pipeline before 10/01/2003 should be processed.

Yours faithfully,

Sd/-
(ANURAG BAJPAI)
Asstt. Inspector General of Forests

Copy to:

1. PCCF, All State/UT Governments.
2. All Regional Offices.
3. Nodal Officers, All State / UT Governments.
4. Director (FC), AIGs (FC).

F.No.8-84/2002-FC
Ministry of Environment and Forests
Government of India
(FC Division)

Paryavaran Bhavan,
CGO Complex, Lodhi Road,
New Delhi-110 003.

Dated:3rd February, 2004

To

The Secretary(Forests)
All States and Union Territories

Subject:**Guidelines for diversion of forest land for non forestry purposes under the Forest(Conservation) Act, 1980 - modification in Para 4.2(i) regarding**

Sir,

I am directed to inform you that detailed specific guidelines for submission of proposals for diversion of forest land for developmental projects under the Forest(Conservation) Act, 1980 were finalised and circulated to all the State Government/Union Territories by the Ministry of Environment & Forests vide letter number No.2-1/2003-FC dated 20.10.2003. Para 4.2 (i) of the guidelines stipulated that *"The non-forest land which is transferred and mutated in favour of the State Forest Department for the purpose of compensatory afforestation, should be declared as RF/PF under the Indian Forest Act, 1927 prior to State-II approval."*

In this regard, the Central Government has received representations from various State Governments/User Agencies, more specifically from Karnataka Renewal Energy Development Limited (KREDL), an undertaking of Government of Karnataka, as the process of declaration of the non-forest land as RF/PF is a time taking process. This long duration may cause the unnecessary delay in implementation/execution of the developmental projects.

Considering the fact that the responsibility of declaration of non-forest land as RF/PF rests with the State Forest Department and after examination of the whole issue, the Central Government hereby modifies Para 4.2 (i) of the Guidelines issued on 20.10.2003 under Forest (Conservation) Act, 1980. Now, para 4.2 (i) shall read as follows:

> "The non-forest land which is transferred and mutated in favour of the State Forest Department for the purpose of compensatory afforestation, should be declared as RF/PF under the Indian Forest Act, 1927. The land shall be handed over to the User Agency after the same has been mutated in favour of Forest Department. Stage-II clearance shall be given after the land is mutated in favour of the Forest Department but the Nodal Officer must report compliance within a period of 6 months and send a copy of the original notification declaring the non-forest land under Section 4 or Section 29 of the Indian Forest Act, 1927, as the case may be, to the Central Government for information and record."
>
> This issues with the approval of the competent authority.

Yours faithfully,

Sd/-
(ANURAG BAJPAI)
Asstt. Inspector General of Forests

Copy to:

1. All PCCFs/Nodal Officers(All States/UTs)
2. All Regional Offices
3. Director (FC)/AIGs (FC)
4. Karnataka Renewal Energy Development Limited(KREDL), Bangalore
5. PS to IGF(FC)
6. F.No.2-1/2003-FC
7. Guard File

APPENDIX - 13

GOVERNMENT OF INDIA
MINISTRY OF ENVIRONMENT & FORESTS

Tel: 24360379
Fax: 24365721

No. 11-70/2002-FC (Pt)

Date: 3.2.2004

To

1. The Chief Secretary,
   All the States/UTs

2. The Principal Secretary
   All the States/UTs

3. The Principal Chief Conservator of Forests
   All the States/UTs

Subject: **Stepping up of process for conversion of forest villages into revenue villages.**

Sir,

As you are aware that the National Forest Policy of 1988 envisages that development of forest villages should be on par with the revenue villages. In order to ensure this, the Ministry had issued guideline on 18th September, 1990 vide this Ministry letter No. 30-1/90-FP (5) for conversion of these forest villages into revenue villages. But so far, very few proposals have been received from the State Governments, and even of the proposals received, many are either incomplete and/or also include the encroachments in adjoining forests, as also the balance forest land in the compartment. So far only 384 forest villages have been converted into revenue villages (311 in Madhya Pradesh and 73 in Maharashtra) during the last one year. From rest of the states, proposals are yet to be received.

The matter was reviewed last year in September, 2003 by the Ministry on the basis of information furnished by 13 states (Assam, Chhattisgarh, Gujarat, Jharkhand, Maharashtra, Meghalaya, Madhya Pradesh, Mizoram, Orissa, Tripura, Uttaranchal, Uttar Pradesh and West Bengal), a total of 2690 forest villages have been enumerated as existing in the country. It has been decided that the state governments may be requested to immediately expedite the process of conversion of these forest villages into revenue villages.

The following procedure may be followed while preparing the proposal so that the complete proposals are sent within a fixed time limit for taking a decision under the provisions of the Forest (Conservation) Act, 1980.

i) This is to reiterate that the Central Government is committed to the conversion of forest villages into revenue villages in accordance with the guidelines approved by the Union Cabinet in 1990.

ii) Central Government would consider all land on which pattas have been issued prior to 25.10.1980 by the concerned Divisional Forest Officers or the authorised officers and patta holders and the land is in their or legal successors' continuous possession. These lands will include land under habitation, existing buildings, gochar lands, health centre, community centre, cremation ground, road etc. for diversion. Isolated patches of settlement should be brought to the

periphery of forests by the State Government and proposals sent for the areas in which the resettlement will take place.

For purposes of conversion of forest villages into revenue villages, the State Government shall submit a map delineating the external boundaries of the areas where pattas have been issued pre-1980. It should not be necessary for them to submit details of individual pattas.

iii) The balance forest areas in the forest compartment shall be demarcated and retained as reserve forests and managed by the State Forest Department. These areas shall also be demarcated in the field by the State Forest Department.

iv) Forest lands which have been encroached shall be dealt with in accordance with the guidelines issued by the Ministry for regularisation of the encroachment and the State Governments shall ensure that all ineligible pre-1980 and post-1980 encroachments are evicted in tune with the Hon'ble Supreme Court orders. Only eligible category of pre-1980 encroachment shall be considered for regularisation if and when the ban on regularisation of the encroachment is lifted by the Supreme Court. The State Governments may also simultaneously approach the Supreme Court in this regard.

v) If any of the forest village falls in a National Park and Sanctuary, the State Government shall submit the proposal for conversion to the revenue villages only after obtaining the approval of the Standing Committee of the National Board of Wildlife and Hon'ble Supreme Court.

vi) Regarding traditional rights of inhabitants of forest villages on forest lands outside the village boundaries, the State Governments may document such rights and notify them under the provisions of relevant Acts or Rules as applicable, furnishing the details of specific rights so granted, the villages where individuals are entitled and the specific forest-lands on which such rights may be exercised.

It is therefore, requested that a time bound programme may be drawn up by the State Government for expeditiously converting forest villages into revenue villages in the next six months so that the people living in these villages can enjoy the fruits of development and also their dependency on forest is reduced.

Yours faithfully,

Sd/-
(Dr. V.K. Bahuguna)
Inspector General of Forests

Copy for information and necessary action to:

1. Chief Conservator of Forests (Central) of all Regional Offices located at Bhubaneshwar, Bangalore, Bhopal, Shillong, Lucknow, Chandigarh.
2. The Secretary, Ministry of Tribal Welfare, Government of India, New Delhi.
3. The Advisor (Environment and Forests), Planning Commission, Yojana Bhawan, New Delhi.

Sd/-
(Dr. V.K. Bahuguna)
Inspector General of Forests

GOVERNMENT OF INDIA
MINISTRY OF ENVIRONMENT AND FORESTS

Tel: 24360379, Fax:24365721

No.2-1/2003-FC(Pt)

Dated: 5.2.2004

To:

1. All Chief Secretary,
   All the States/UTs

2. The Principal Secretary
   All the States/UTs

3. The Principal Chief Conservator of Forests
   All the States/UTs

Subject: **Regularisation of the rights of the tribals on the forest lands**

Sir,

The Government of India have been receiving a number of representations for regularisation of rights of tribal forest dwellers on forest lands in different parts of the country. The question has also been raised in various public discussions including meetings of various Standing Consultative Committees of Parliament attached to different Ministries, as also various State Governments, that the tribals have been living in harmony with the forests since time immemorial, and their rights on such lands should be recognised. However, while these areas were being brought under the purview of relevant Forest Acts their traditional rights could not be settled due to number of reasons, making them encroachers in the eyes of the law. The Central Government in September, 1990 vide No.13-1/90-FP (2) & (3) had requested the State Governments/UTs to settle the disputed claims, issue patta lease, etc of the tribal population on the forest land, but so far no such proposals have been received. Proposals have been received only under the category of regularisation of eligible encroachments only from a couple of States. This has deprived the tribals of natural justice as guidelines for regularisation of encroachment are different from the guidelines for settling disputed settlement claims.

This issue has been examined in its entirety in considerable depth by the Central Government and after careful consideration, the Central Government hereby takes the following decisions with a request to the State Governments/UT Administrations to take necessary follow up action as under:

1. The State Government/UT Administration should recognise the traditional rights of the tribal population on forest lands, and these rights should be incorporated into the relevant Acts, rules and regulations prevalent in the concerned States/UTs by following the prescribed procedure.

2.(i) In respect of these recognised rights of the tribal forest dwellers on the forest lands, the Central Government upon receipt of complete proposals from the State Government/UT Administration concerned, shall consider these proposals for diversion of continuously occupied forest land under the Forest (Conservation) Act, 1980 so that these tribals can get unfettered legal rights over such lands. The tribals shall have heritable but inalienable rights over such lands. This decision shall apply for those tribal dwellers who are in continuous occupation of such forest land at least since 31.12.93.

(ii) The diversion proposals shall, however, be considered only if an integrated tribal rehabilitation scheme forms part of the proposal to be submitted by the State/UT, alongwith the financial commitments, so that the tribal population are retained at that particular land, and the problem is solved once and for all. In order to ensure in situ biodiversity conservation with the rehabilitation

package, the programme should be implemented by the tribal rehabilitation wing of the forest department. Where such wings do not exit these may be created. The model adopted by the Kerala Government for rehabilitation of the tribals is a case in point and the State Governments may follow this pattern.

(iii) As the Hon'ble Supreme Court vide their Order dated 23.11.2001 in W.P. 202/95 had restrained the Central Government from regularisation of encroachments, the Central Government shall approach the Court for modification of their order so that the instant decision taken in this regard by the Central Government is implemented.

3. In respect of any fresh occupation of forest land by tribals and non-tribals in forest areas henceforth, the State Government/UT Administration shall hold the concerned District Magistrate and Collector, Superintendent of Police, and the Divisional Forest Officer personally responsible for such encroachment and they will be liable for disciplinary action in respect of any such encroachment.

4. Attention of the State Government/UT Administration is invited to this office letter No.7-16/2002-FC dated 3rd May, 2002 in which the constitution of State level and Circle level encroachment monitoring committees had been suggested. Apart from this, a district level committee consisting of District Magistrate & Collector, Superintendent of Police and the Divisional Forest Officer should also be constituted immediately for eviction of encroachment, and monitoring of the same should be done at the State level, the Circle level and the District level Committees at quarterly intervals. The notification constituting these committees and action taken by them shall also be part of the diversion proposal.

5. The State Government and UTs should make sincere efforts for making available an equivalent area of non-forest land wherever feasible for inclusion of such lands as reserved forests or protected forests.

6. It is also clarified that in respect of pre-1980 eligible encroachers, the Central Government has already approached the Supreme Court in October 2002 to permit to regularise such eligible encroachments as per the guidelines and policy of the Government.

7. The consideration of the proposals from the State Governments/UTs shall depend on the progress achieved by the concerned State/UT Administration in eviction of all pre-1980 and post 1980 ineligible non-tribal encroachers and all encroachers post 31.12.1993.

8. It may please be noted that this issue of tribal rights must be settled in a fixed time period of one year from the date of issue of this letter and no proposals shall be entertained thereafter.

9. The State level committee, headed by the Chief Secretary mentioned under Para 3 above, shall monitor the implementation of the above decisions.

Yours faithfully,
Sd/-
(DR. V.K. BAHUGUNA)
Inspector General of Forests (FC)

Copy for information and necessary action to:

1. The Prime Minister's Office, New Delhi (Attention: Shri K.V. Pratap, Deputy Secretary)
2. All Chief Conservator of Forests/Conservator of Forests(Central), Ministry of Environment and Forests, Government of India
3. The Secretary, Ministry of Tribal Welfare, Government of India, New Delhi
4. Member/Adviser(Environment), Planning Commission, New Delhi

Sd/-
(DR. V.K. BAHUGUNA)
Inspector General of Forests (FC)

F.No.2-1/2004-FC
Ministry of Environment and Forests
Government of India
(FC Division)

Paryavaran Bhavan, C.G.O. Complex,
Lodi Road, New Delhi - 110 003.

Date: 10th March, 2004.

To,

The Secretary (Forests),
All States and Union Territories.

Subject: **Supreme Court Orders that 13/11/2000 & 09/02/2004 in Writ Petition (C) No. 337 of 1995 and orders dated 30/10/2002 & 01/08/2003 in IA No. 566 in Writ Petition (C) No. 202 of 1995.**

Sir,

With reference to the subject mentioned above, the Hon'ble Supreme Court of India had passed the following order on 13/11/2000:-

"Pending further orders, no dereservation of forests / National Parks / Sanctuaries shall be effected."

Further, on 09/02/2004, the Hon'ble Court rejected the appeal of the Government of India praying for deletion of the word "forests" from the above mentioned order. Therefore, the order of the Hon'ble Supreme Court dated 13/11/2000, as mentioned above, is still operative.

In view of the above mentioned orders, all the approvals, including conversion of forest villages into revenue villages and regularisation of encroachments, issued by the Central Government after 13/11/2000 under Forest (Conservation) Act, 1980, stand modified to the extent that the legal status of the diverted forest land shall remain unchanged.

Further, in view of the Hon'ble Supreme Court's order dated 30/10/2002 and 01/08/2003 in IA No. 566 in Writ Petition (C) No. 202 of 1995, the User Agency shall deposit the Net Present Value of the diverted forest land in all the approvals (Stage - I) including conversion of forest villages into revenue villages and regularisation of encroachments, issued by the Central Government after 30/10/2002 under Forest (Conservation) Act, 1980.

This issues with the approval of the competent authority.

Yours faithfully,

Sd/-
(ANURAG BAJPAI)
Asst. Inspector General of Forests

Copy to:

1. All PCCFs / Nodal Officers (All States/UTs).
2. All Regional Offices.
3. Director (FC) / AIGs (FC)
4. PS to IGF (FC)
5. F.No. 2-1/2003-FC
6. Guard File

Sd/-
(ANURAG BAJPAI)
Asst. Inspector General of Forests

THE GAZETTE OF INDIA
EXTRAORDINARY
Part II – Section 3 – Sub-section (ii)

MINISTRY OF ENVIRONMENT AND FORESTS

ORDER

New Delhi, the 23rd April, 2004

S.O. 525 (E) — Whereas a Central Empowered Committee (hereinafter referred to as CEC) was constituted for examining the issues relating to compensatory afforestation, net present value of diverted forest land, other monies recoverable, received and utilized in this regard; and

Whereas, the CEC has inter-alia observed that it is desirable to create a separate fund for compensatory afforestation etc. wherein all the monies received from the user agencies are to be deposited and subsequently released directly to the implementing agencies as and when required; and

Whereas, the recommendations of the CEC have been accepted by the Hon'ble Supreme Court and the Hon'ble Supreme Court in its order dated: 30-10-2002 in Interlocutory Application No. 566 in Writ Petition © No. 202 of 1995 directed the Central Government to take necessary steps required for implementing the recommendations of the CEC;

And whereas, the Central Government considers it necessary and expedient to constitute a body for the management of compensatory afforestation funds; now, therefore,

In exercise of the powers conferred by Sub-section (3) of Section 3 of the Environment (Protection) Act, 1986 (29 of 1986) (hereinafter referred to as the said Act), and in pursuance of the Hon'ble Supreme Court's order dated the 30th October 2002 in IA No. 566 in Writ Petition (Civil) No. 202 of 1995, the Central Government hereby constitutes an authority to be known as **Compensatory Afforestation Fund Management and Planning Authority (hereinafter referred to as CAMPA)** with effect from the date of publication of this order for the purpose of management of money towards compensatory afforestation, Net Present Value and any other money recoverable in pursuance of the Hon'ble Supreme Court's order in this regard and in compliance of the conditions stipulated by the Central Government while according approval under Forest (Conservation) Act, 1980 (69 of 1980) for non-forestry uses of the forest land.

2. The CAMPA shall consist of the following Chairperson and Members and shall function through a Governing body and an Executive body namely :

2.1 **GOVERNING BODY :**

(i) Minister for Environment and Forests, Government of India - Chairperson
(ii) Secretary, Ministry of Environment and Forests, Government of India - Member
(iii) Director General of Forests and Special Secretary, Ministry of Environment and Forests, Government of India - Member
(iv) Addl. Director General of Forests (Forests) Ministry of Environment and Forests, Government of India - Member
(v) Addl. Director General of Forests (Wildlife) Ministry of Environment and Forests, Government of India - Member

(vi)	Joint Secretary and Financial Advisor, Ministry of Environment and Forests, Government of India	- Member
(vii)	Regional Chief Conservator of Forests (Bangalore, Bhopal, Bhubaneswar, Lucknow and Shillong regions) and Regional Conservator of Forests, Chandigarh	- Member
(viii)	Six Principal Chief Conservator of Forests one each from six regions — to be nominated annually by MOEF on rotation basis	- Member
(ix)	Inspector General of Forests (Forest Conservation), Ministry of Environment and Forests, Government of India	- Member
(x)	An eminent professional ecologist, not being from the Central and State Government, for a period of two years at a time, for up to two consecutive terms	- Member
(xi)	Chief Executive Officer (CAMPA)	- Member Secretary

2.2 EXECUTIVE BODY:

(i)	Director General of Forests and Special Secretary, Ministry of Environment and Forests, Government of India	- Chairperson
(ii)	Addl. Director General of Forests (Forests) Ministry of Environment and Forests, Government of India	- Member
(iii)	Addl. Director General of Forests (Wildlife)	- Member
(iv)	Inspector general of Forests (Forest Conservation), Ministry of Environment and Forests, Government of India	- Member
(v)	Joint Secretary and Financial Advisor, Ministry of Environment and Forests, Government of India	- Member
(vi)	Chief Executive Officer (CEO)	- Member
(vii)	A professional ecologist, not being from the Central and State Government, for a period of two years at a time, for up to two consecutive terms	- Member

2.3 The Chief Executive Officer (CEO) shall be an officer of the rank of Inspector General of forests.

2.4 In addition to the CEO, there shall be one Joint CEO of the level of Conservator of Forests and two Deputy CEOs of the rank of Deputy Conservator of Forests to assist the Executive Body. These officers shall be appointed by the CAMPA on deputation basis for a period not exceeding five years after obtaining required clearances from the competent authority in the Ministry of Environment and Forests. The Governing body can create posts in CAMPA at the level of Deputy Inspector General of Forests and Assistant Inspector General of Forests to be filled on deputation. They shall be appointed for a period not exceeding five years on terms and conditions to be decided by the CAMPA with the concurrence of the Central Government in Ministry of Environment and Forests.

3. POWER AND FUNCTIONS OF THE GOVERNING BODY:

The Governing Body shall —

(i) review the broad policy framework of the CAMPA;

(ii) monitor the progress of the utilization of funds released by the CAMPA;
(iii) approve the annual budget of CAMPA for expenditure subject to overall ceiling of 10% of the average income from interest etc. on establishment and capital expenditure excluding income from funds received as per para 6.2 (iii);
(iv) appoint the CEO, Joint CEO and Deputy CEO;
(v) be empowered to create posts in CAMPA equivalent to the level of Deputy Inspector General of Forests and Asstt. Inspector General of Forest;
(vi) approve the annual reports and audited accounts of the CAMPA.

4. **MEETINGS:**

The Governing body shall meet at least once in six months.

5. **POWERS AND FUNCTIONS OF THE EXECUTIVE BODY:**

The Executive Body shall decide —

(a) deployment of staff on contractual basis or on deputation;
(b) financial procedure;
(c) delegation of financial or administrative powers;
(d) other day-to-day working in respect of receipts of funds;
(e) investment of funds;
(f) expenditure on establishment and other overheads including office accommodation subject to the approval of the annual budget by the Governing Body.

6.1 The CAMPA shall be custodian of the Compensatory Afforestation Fund and shall have the following functions and powers relating to the Fund, namely:

6.2 There shall be constituted a fund to be called the Compensatory Afforestation Fund and there shall be credited thereto —

(i) Receipt of all monies from user agencies towards Compensatory Afforestation, Additional Compensatory Afforestation, Catchment Area Treatment Plan or for compliance of any other condition (s) stipulated by the Central Government while according approval under the Forest (Conservation) Act, 1980.
(ii) The unspent funds already realized by the States/Union Territories shall be transferred to the CAMPA by the respective States/Union Territories to user agencies within six months from the date of the issue of this Order and any Compensatory Afforestation Funds which have not yet been realized shall be realized by the States and Union Territories and transferred to the CAMPA.
(iii) The funds recoverable from the user agencies in cases where forest land diverted falls within the protected areas i.e. areas notified under Sections 18, 26-A or 35 of the Wildlife (Protection) Act, 1972 (53 of 1972) for undertaking activities related to protection of biodiversity and the Wildlife shall be maintained separately.
(iv) Net Present Value (NPV) of the forest land diverted for non-forestry purposes which may be realized pursuant to the Hon'ble Supreme Court's order dated 30-10-2002 in I.A. No. 566 in Writ Petition (C) No. 202 of 1995.
(v) Money receivable in pursuance of the orders of the Hon'ble Supreme Court or the Central Government or any other competent authority authorised in this regard by the Central

6.3 MANAGEMENT OF THE FUND:

(i) The amount collected by the CAMPA shall be invested in Reserve Bank of India, Nationalized Banks, Post Office, Government Securities, Government Bonds and deposits.

(ii) The non-recurring as well as recurring cost for the management of CAMPA including the salary and allowances payable to its officers and staff shall be met by utilizing a part of the income by way of accrued interest on the funds invested by the CAMPA excluding income from funds received as per para 6.2 (iii).

(iii) The expenditure incurred on independent monitoring and evaluation shall be borne by the CAMPA out of the income by way of interest on the funds invested by the CAMPA excluding income from funds received as per para 6.2 (iii).

(iv) The CAMPA shall get the annual accounts audited internally as well as externally through chartered accountant(s) who are on the panel of the Comptroller and Auditor General of India and the auditor(s) shall be selected on the approval of the Governing Body.

6.4 DISBURSEMENT OF FUNDS:

(i) The money received for compensatory afforestation, additional compensatory afforestation may be used as per the site specific schemes received from the States and Union Territories alongwith the proposals for diversion of forest land under the Forest(Conservation) Act, 1980.

(ii) The money received towards Net Present Value (NPV) shall be used for natural assisted regeneration, forest management, protection, infrastructure development, wildlife protection and management, supply of wood and other forest produce saving devices and other allied activities.

(iii) Monies realized from the user agencies in pursuance of the Hon'ble Supreme Court's orders or decision taken by the National Board for Wildlife involving cases of diversion of forest land in protected areas shall form the corpus and the income therefrom shall be used exclusively for undertaking protection and conservation activities in protected areas of the States and the Union Territories and in exceptional circumstances, a part of the corpus may also be used subject to prior approval of the CAMPA.

(iv) CAMPA shall release monies to the concerned State and Union Territory in predetermined installments through the State Level Management Committee as per the Annual Plan of Operation (APO) finalized by the concerned State and the Union Territory.

(v) The monies received in CAMPA from a State or the Union Territory as per para 6.2 and the income thereon after deducting expenditure incurred by the CAMPA on its establishment cost, monitoring and evaluation on a prorata basis shall be used only in that particular State or the Union Territory.

6.5 MONITORING AND EVALUATION OF THE WORKS:

(i) An independent system for concurrent monitoring and evaluation of the works implemented in the States utilizing the funds released by the CAMPA shall be evolved and implemented to ensure effective and proper utilization of funds and services of the Regional Offices of the Ministry of Environment and Forests in this regard may also be utilized.

(ii) The CAMPA shall have the powers to order inspection and financial audit of works executed by utilizing CAMPA funds in any State or the Union Territory.

(iii) On being satisfied that the funds released to a particular State or the Union Territory are not being utilized properly, the Executive Body of the CAMPA shall have the power to withhold or suspend the release of remaining funds or part thereof.

6.6 **OTHER FUNCTIONS:**

(i) The CAMPA may establish Special Purpose Vehicles (SPV) for undertaking Compensatory Afforestation particularly by involving large public sector undertakings which frequently require forests land for their projects, in consultation and as far as possible with the concurrence of the CEC.

(ii) The CAMPA may also consider evolving new mechanism to generate additional sources of fund for forest conservation works and to create capacity and data base for better conceptualization and management of fund.

7. Every State or the Union Territory shall have a Steering Committee and a Management Committee consisting of the following Chairperson and Members namely:

7.1 **STATE LEVEL STEERING COMMITTEE:**

(i)	Chief Secretary	- Chairperson
(ii)	Principal Chief Conservatory of Forests	- Member
(iii)	Principal Secretary (Forests)	- Member
(iv)	Principal Secretary(Finance)	- Member
(v)	Principal Secretary(Planning)	- Member
(vi)	Chief Wildlife Warden	- Member
(vii)	Nodal Officer	- Member
(viii)	An eminent Non-Government Official to be nominated by the State Govt. for a period of two years at a time who shall be eligible for renomination	- Member
(ix)	Chief Conservator of Forests (Plan/Schemes)	- Member Secretary

7.2 **STATE MANAGEMENT COMMITTEE:**

(i)	Principal Chief Conservator of Forests	- Chairperson
(ii)	Chief Wildlife Warden	- Member
(iii)	Chief Conservator of Forests(Planning/Schemes)	- Member
(iv)	Financial Controller/Financial Adviser in the Office of the Principal Chief Conservator of Forests	- Member
(v)	An eminent Non-Government Official to be nominated by the State Government for a period of two years at a time who shall be eligible for renomination	- Member
(vi)	Nodal Officer	- Member Secretary

8. **POWERS AND FUNCTIONS OF THE STATE STEERING COMMITTEE:**

The Steering Committee shall -

(i) facilitate and be responsible for policy decision;

(ii) ensure inter departmental coordination;

(iii) take steps for grant of special sanction for procurement;

(iv) accord concurrence to the Annual Plan of Operation(hereinafter referred to APO)

8.1 **MEETINGS:**

The Steering Committee shall meet at least one in six months.

9. **POWERS AND FUNCTIONS OF THE STATE MANAGEMENT COMMITTEE SHALL BE AS UNDER:**

(i) Preparation of the Annual Plan of Operation (APO) of the State for various activities in conformity with para 6.4

(ii) (a) Submission of the Annual Plan of Operation (APO) to the CAMPA after obtaining concurrence of Steering Committee for release of fund giving break up of the proposed activities and estimated cost.

(b) The Annual Plan of Operation (APO) may include the expenditure on overhead and contingency expenses upto a maximum of 2% of the total annual expenditure.

(iii) (a) Qualitative and quantitative supervision of the works being implemented in the State out of the funds released from CAMPA.

(b) It shall also be responsible for proper auditing of both receipt and expenditure of funds.

(iv) Development of the code for maintenance of the account at implementing agency level

(v) Submission of reports or clarifications to CAMPA.

10. The mechanism for receipt and disbursement of funds by the State Management Committee shall be decided by the CAMPA in consultation with the States or the Union Territories concerned.

11. The CAMPA shall function under the supervision of the Central Government in the Ministry of Environment and Forests.

12. The jurisdiction of the CAMPA shall be the whole of India.

13. The Headquarters of the CAMPA shall be at New Delhi.

[File No.5-1/98-FC]
DR. V.K. BAHUGUNA, INSPECTOR GENERAL OF RORESTS
(FOREST CONSERVATION)

F. No. 8-84/2002-FC
Government of India
Ministry of Environment and Forests
F.C. Division

Paryavaran Bhawan
CGO Complex, Lodhi Road
New Delhi - 110 003

Dated 14.5.2004

To

1. The Chief Secretary / Administrator
2. The Principal Secretary (Forests)
3. Principal Chief Conservators of Forests
   (All States / Uts).

Sub: **Guidelines for diversion of forest land for non-forest purposes under the Forest (Conservation) Act, 1980 - For projects utilizing Wind Energy thereof.**

Sir,

Please refer to the policy guidelines issued by the Central Government for diversion of forest land for projects utilizing Wind Energy under the Forest (Conservation) Act, 1980 vide Ministry of Environment & Forests' letter of even number dated: 10-11-2003. In this context, subsequently the Ministry of Environment & Forests has received some representations from various stakeholders seeking certain modifications in the policy guidelines to make it more compatible with the Indian conditions and available technology. Accordingly, a meeting of stakeholders was called by the Ministry of Environment & Forests on 13-4-2004 to discuss these issues, which was attended by representatives of Ministry of Non-Conventional Energy Sources, Government of India; Government of Karnataka, Maharashtra, Rajasthan besides the representatives of Indian Wind Turbine Manufacturers' Association, Indian Wind Energy Association and various other stakeholders.

The stakeholders have represented on certain points of policy guidelines. These issues were discussed at length in the meeting. After taking a holistic view on the existing technology available in the country and need to promote the investment in environment friendly energy sector and after careful examination of the technical issues with the State Governments and user agencies, the Central Government hereby, approves modifications in the already issued guidelines.

Therefore, **in supersession of the guidelines issued vide letter of even number dated: 10-11-2003**, the Central Government hereby issues the following guidelines:

1. In order to have a long term view on energy sources, the State/UT Governments should fix the ratio of the wind energy with respect to other sources of energy in advance i.e. the ratio of thermal, nuclear, wind energy in the State/UT.

2. (i) Areas like National Parks and Sanctuaries, areas of Outstanding Natural Beauty (AONBs), Natural Heritage Site, sites of Archeological importance and sites of Special Scientific Interests and other important landscapes should not be considered for the wind energy farms.

(ii) The wind energy farm shall be located at a safe distance from the sites mentioned in para 2(i).

(iii) The vane tips of the wind turbine shall be painted with orange colour to avoid bird hits. The State Government should take sufficient precaution in considering the location of the wind mills so that it should not stand in the migratory path of the birds and should not be near the breeding sites of the migratory birds as the turbine of the wind mill produces a humming sound, which may cause disturbance for the avian habitat.

(iv) The distance of the wind mill turbines from the highways, village habitation shall be at a safe distance, and in normal course, a distance of 300 metre would be considered safe.

3. (i) A large number of small wind turbines, together with their access paths, will constitute more disturbance to the forest area than a small number of large turbines. Large size wind turbines upto 4.5 MW capacity are being now utilized in most of the countries. Large size wind turbines are not only cost effective and generate substantially more power but also need less forest land. Therefore, as the technology is available, in forest areas the wind mills of less than 500 KW power generating capacity shall not be allowed. However, within the perimeter of wind farm having at least 500 KW power generating capacity turbines, smaller turbines may be allowed for optimization of wind energy.

(ii) If the terrain permits, wind mills of capacity of atleast 1 MW should be installed in order to ensure optimal use of forest land. However, this condition shall not be applicable to the proposals involving wind mills of 500 KW and above but below 1 MW power generating capacity, already in pipeline or pending before the State Government / Central Government as on date.

(iii) As an exception, "Stand alone" wind mills upto 10 KW off grid (where no transmission grid is needed) shall be allowed in the forest areas, so that developer could strive for providing electricity in remote rural areas.

(iv) Wind energy sector is witnessing rapid technological innovation at the global level through research and development activities. In order to bring latest technology, after a period of 3 years, the Ministry will review the situation and technology available to consider any further changes. The policy will be further reviewed after 5 years in order to see if the wind mills of high power generation capacity on the forest lands could be promoted. The wind farm developers should therefore, be encouraged and motivated to adopt latest technology best at par in the world.

(v) The lease period initially shall be for a period of 30 years. The forest land will first be leased in favour of the developers and within a period of 4 years of Stage-II approval, the lease shall be transferred in the name of investors/power producers. In case the developers fail to develop wind farms, the land shall be reverted back to Forest Department without any compensation.

(vi) The proposal shall include requirement of forest land inclusive of the corridors between the successive wind mills, statutory buildings, earthing pits, transmission lines and roads including provision for repose, breast walls, drains, curvature etc.

(vii) Details of alternatives explored on non-forest lands shall be clearly given in the proposal.

(viii) Since the output of the wind mill is only 25% of its capacity, cost benefit analysis of the project would be an essential requirement. Details of employment generated, cost of electricity produced by wind energy, economic viability of the project etc. should also be given in the proposal.

4. In order to plan the wind farms on the forest land systematically, reconnaissance survey etc. as allowed in other cases, shall be allowed for wind farms development also in accordance with para 1.3 (i) of the guidelines issued under the Forest (Conservation) Act, 1980. For this purpose, the developers should ensure that "Wind Metmast" are erected in forest areas for wind mapping covering an area of not more than 50 m X 50 m @ one Wind Mast for every 500 hectare. A one time payment of Rs 1.00 lakh per wind mast shall be charged for this permission. The amount so collected shall be deposited with CAMPA which shall be further utilized for forest conservation activities and providing gas connections to the forest dependent communities. The wind mast shall be removed maximum after two years. Further, wherever wind data is already available, erection of wind mast shall not be mandatory. After the wind density and other technical parameters are ascertained, the proposal shall be forwarded by the State/UT Forest Department to the Central Government, for diversion of forest land for establishment of wind farms. However, existing proposals in the pipeline or under consideration at various stages, shall be dealt with according to the guidelines and parameters issued for different wind density regions by the Ministry of Non-conventional Energy Sources, Government of India.

5. A lease rent of Rs 30,000/- per MW for the period of lease in addition to compensatory afforestation, net present value etc. shall be charged from the user agency. This amount shall be utilized in providing gas connections to the local villagers under the Joint Forest Management Programme and for other conservation measures. This amount shall be deposited with Compensatory Afforestation Management and Planning Agency (CAMPA).

6. (i) Due to high wind velocity, most of the areas where the wind farms are being established are having scrubby vegetation devoid of large size trees. Around 65% to 70% lease out areas in the wind farms shall be utilized for developing medicinal plant gardens, wherever feasible, by the Forest Department at the cost of the User Agency. The State/UT Governments could also take help of National Medicinal Plant Board in properly creating corridors of medicinal plant gardens. The intervening areas between two wind mills footprints should also be planted up by dwarf species of trees at the project cost.

(ii) Soil & Moisture conservation measures like contour trenching shall be taken up on the hillocks supporting the wind mill.

7. The alignment of roads shall be done by a recognized firm and got approved by the Divisional Forest Officer concerned. Further, the transmission lines from the wind farms to the grid as far as possible should also be aligned collaterally along the roads.

8. The wind turbines/wind mills to be used on forest land shall be approved for use in the country by the Ministry of Non-Conventional Energy Sources, Government of India.

The States/UTs should follow these guidelines while considering proposals for diversion of forest lands for establishment of wind energy farms on forest lands.

This issues with the approval of the competent authority.

Yours faithfully,

Sd/-
(Dr. V.K. Bahuguna)
Inspector General of Forests

Copy to:-

1. The Secretary, Ministry of Non-conventional Energy Sources, Govt. of India, C.G.O. Complex, New Delhi.
2. The Secretary (Power), Govt. of India, New Delhi.
3. Nodal Officers - All States/UTs.
4. All Regional Offices of this Ministry
5. Director (FC), AIGs (FC).
6. General Manager, M/s KREDL, Government of Karnataka
7. General Manager, M/s MEDA, Government of Maharashtra
8. General Manager, M/s RREC, Government of Rajasthan.
9. Director (Technical) NIC, with a request to place these guidelines on website.
10. Indian Wind Turbine Manufacturers' Association
11. Indian Wind Engery Association
12. File No. 2-1/2003-FC.
13. Guard File.

Sd/-
(Dr. V.K. Bahuguna)
Inspector General of Forests

F.No.5-1/98-FC (Pt II)
Ministry of Environment & Forests
Government of India
(P.C. Division)

Paryavaran Bhavan,
C.G.O. Complex, Lodhi Road
New Delhi - 110 003.

New Delhi, the 25th May, 2004

To,

1. The Principal Secretary (Forests)
Government of Karnataka, Bangalore.

2. The Principal Chief Conservator of Forests,
Government of Karnataka, Bangalore.

Subject: **Guidelines for diversion of forest land for non forest purposes under the Forest (Conservation) Act, 1980 - Collection of Net Present Value in compliance with the orders of the Supreme Court dated : 30-10-2002 in IA No. 566 in Writ Petition (C) No. 202 of 1995 - Clarification thereof.**

Sir,

This has come to the notice of the Central Government that the State Government of Karnataka has charged/has been charging Net Present Value of diverted forest land in certain cases in which in-principle approval was granted prior to the orders of the Supreme Court dated : 30/10/2002 as mentioned above. In this connection, in continuation of the Ministry of Environment & Forests' letter of even number dated : 18-9-2003 and 22-9-2003, I am directed to clarify that the Net Present Value of diverted forest land shall be charged in following categories of cases:

(i) In-principle approval granted after 30-10-2002 but final approval is yet to be granted;
(ii) In-principle approval granted after 30-10-2002 and final approval has also been granted subsequently;
(iii) In those cases where in-principle approval was not required, single final approval has been granted after 30-10-2002.

Further, Net Present Value of diverted forest land shall not be charged in those cases where in-principle or final approval has been granted prior to 30-10-2002.

The State Government is requested to ensure the circulation of the clarification to avoid any confusion at the field level. If any action incoherent with the guidelines has already been taken at the field level, the State Government may resort to necessary rectification measures to avoid harassment of the user agencies.

This issues with the approval of the competent authority.

Yours faithfully,
Sd/-
(ANURAG BAJPAI)
Asstt. Inspector General of Forests.

Copy to:

1. All PCCFs / Nodal Officers (All States / Uts).
2. All Regional Offices.
3. Director (FC) / AIGs (FC).
4. Guard file.

F.No.2-1/2003-FC (Pt-III)
Ministry of Environment & Forests
Government of India
(FC Division)

Paryavaran Bhavan, C.G.O. Complex,
Lodi Road, New Delhi-110003.

To,

Dated: 7th June , 2004.

The Secretary (Forests),
All States and Union Territories.

The PCCFs,
All States and Union Territories

Subject:**Guidelines for diversion of forest land for non-forest purposes under Forest (Conservation) Act, 1980-Revised guidelines for Tusser Cultivation *(Vanya Silk Cultivation)*.**

Sir,

I would like to draw your attention towards the National Forest Policy, 1988 which recognizes that the holders of the customary rights and concessions in forest areas should be motivated to identify themselves with the protection and development of forests from which they derive their livelihood. The rights and concessions from forests should primarily be for the bonafide use of the communities living in and around forest areas, especially tribals.

The National Forest Policy also recognizes that the symbiotic relationship between tribal people and forests is essential for sustainable forest management. It emphasizes that the primary task of all agencies responsible for forest management, including the forest development corporations should be to associate the tribal people closely in the protection, regeneration and development of forests as well as to provide gainful employment to them.

Tusser culture is a way of life for many tribal families and forest dwellers particularly in Central and Eastern India. Therefore, silk cultivation in forest areas which can be termed as "Vanya Silk Cultivation", with active participation of local communities could be one such area which can earn benefit for them and help conservation and protection of forests by reducing their dependency on forests. The silk cultivation has got tremendous potential for contributing to the economy of the forest dependent communities. It is estimated that at least one family can earn upto Rs.13,000/- per annum through cultivation of silk.

The issue of cultivation of silk worm in forest areas was examined in detail in the Ministry of Environment & Forests in consultation with various State/UT Governments and Ministry of Textiles, Government of India. After careful consideration in the interest of forest conservation and protection, the

Central Government hereby, issues following guidelines for ***Vanya Silk Cultivation*** under Forest (Conservation) Act, 1980 :

1. The State/UT Forest Departments shall encourage silk cultivation in forest areas by tribals and non-tribals who live in and around the forests and are dependent on such forests for their livelihood. However, priority shall be given to the tribals and to those who enjoy traditional rights on such forests.

2. The State/UT Forest Departments shall permit such activities in already identified naturally grown forest areas for silk cultivation and the plantations raised for the purpose thereof in coordination with the State/UT Sericulture Department and Central Silk Board.

3. Central Silk Board and the State/UT Sericulture Department shall ensure training of the growers involved in silk cultivation prior to taking up such activities in forest areas.

4. Cultivation of trees on which Vanya Silks or silk worms of Tusser, Oak Tusser, Muga, Eri and Frithi could be reared by tribals and non-tribals living in and around the forest areas for their livelihood without undertaking monocultural plantations shall be treated as forestry activity. Therefore, no prior permission of the Central Government under Forest (Conservation) Act, 1980 is required. The concerned Divisional Forest Officer/Deputy Conservator of Forests shall however, maintain the record of such activities and people involved in it.

5. The State/UT Sericulture Department or Central Silk Board shall issue the pass books to each silk worm grower.

6. Vanya silk cultivation in forest areas for which specific plantation of food trees are undertaken for providing host trees to the silk cocoons shall be treated as forestry activity. This will not require prior approval of the Central Government under Forest (Conservation) Act, 1980 provided such plantation activities do not involve any felling of trees; provided further that while undertaking such plantations, at least three species are planted, of which no single species shall cover more than 50% of the planted area.

7. Vanya silk cultivation shall be allowed on following tree species as host trees:

Sl. No.	Scientific Name	Local Name/Common Name
	For Tusser:	
(i)	*Terminalia arjuna*	Arjun
(ii)	*Terminalia tomentosa*	Asan
(iii)	*Shorea robusta*	Sal
(iv)	*Lagerstroemia indica*	Saoni
(v)	*Lagerstroemia parviflora*	Sidha
(vi)	*Syzygium cumini*	Jamun
(vii)	*Zizyphus mauritiana*	Ber
	For Oak Tusser (Temperate Tusser):	
(viii)	*Quercus serrata*	Phanat
(ix)	*Quercus seniserrata*	Phanat

Sl. No.	Scientific Name	Local Name/Common Name
(x)	*Quercus dealbata*	Uyung
(xi)	*Quercus semicarpifolia*	Phanat
(xii)	*Quercus leucotricophora*	Phanat
(xiii)	*Quercus glauca*	Phanat
(xiv)	*Quercus himalayana*	Phanat
	For Muga:	
(xv)	*Machilus bombycina* (*Persea bombycina*)	Som
(xvi)	*Litsea polyantha* (*L. monoptela*)	Soalu
	For Eri:	
(xvii)	*Heteropanax fragrans*	Kesseru
(xviii)	*Evodia fraxinifolia*	Payam
(xix)	*Ailanthus altissima*	Barkesseru
(xx)	*Ailanthus grandis*	Gulancha
(xxi)	*Other Ailanthus species*	Maharukh, Bhotera

8. This activity could also be introduced on degraded forest lands under Joint Forest Management, especially in tribal areas through tribal cooperative societies with proper investment from public or private sources for raising a mixture of indigenous species including tree species suitable for silk cultivation as given in list mentioned in para 6 above. For this purpose, a Micro-plan shall be prepared jointly by the State/UT Forest Department, village communities, State/UT Sericulture Department and the Central Silk Board.

9. In order to ensure that the silk cultivation is within the carrying capacity of the forests, the concerned Divisional Forest Officer shall issue the permit based on the recommendations, which shall involve technical parameters evolved by the State/UT Sericulture Department and Central Silk Board for rearing of silk worms.

10. To preserve the ecology of a particular forest area, no exotic silk worm or any hybrid variety developed by using exotic genome, shall be introduced in forest areas.

11. This activity shall not be permitted in National Park, Sanctuaries or Biosphere Reserves.

12. Biannual monitoring of the forest areas under silk cultivation shall be done by a team comprising of the concerned Divisional Forest Officer, Director(Sericulture Department) and the officials of Central Silk Board in order to ensure prevention of any epidemic in forest areas as well as proper handling of trees by the growers. The monitoring report shall be submitted to the concerned Regional Office of Ministry of Environment & Forests.

The States/UTs should follow these guidelines while considering proposals for diversion of forest lands for Vanya Silk Cultivation on forest lands.

This issues with the approval of the competent authority.

Yours faithfully,

Sd/-
(ANURAG BAJPAI)
Asstt. Inspector General of Forests

Copy to:-

1. The Secretary, Ministry of Textiles, Govt. of India, New Delhi.
2. Central Silk Board.
3. Nodal Officers - All States/UTs.
4. All Regional Offices of this Ministry
5. Director(FC), AIGs(FC).
6. Director(Technical) NIC, with a request to place these guidelines on website.
7. File No.2-1/2003-FC.
8. Guard File.

Sd/-
(ANURAG BAJPAI)
Asstt. Inspector General of Forests