F. No. 7-31/ 2007-FC (pt.-III)
Government of India
Ministry of Environment and Forests
(FC Division)

Paryavaran Bhawan,
CGO Complex, Lodhi Road,
New Delhi - 110 510.
Dated: **12th** June, 2013

Office Memorandum

Sub: **Draft Policy on Inspection, Verification, Monitoring and Overall Procedure Relating to Grant of Forest Clearance and Identification of Forests.**

The undersigned in directed to enclose a copy of the draft policy on Inspection, Verification, Monitoring and Over all Procedure Relating to Grant of Forest Clearance and Identification of Forests, and to say that a copy of the said draft Policy may kindly be uploaded on website of this Ministry under the following heading-

"Draft Policy on Inspection, Verification Monitoring and Overall Procedure Relating to Grant of Forest Clearance and Identification of Forests-Comments from the stakeholders are invited on or before 15th July 2013"

Encl.: As above

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Draft Policy On Inspection, Verification, Monitoring and the Overall Procedure Relating to the Grant of Forest Clearances and Identification of Forests

Ministry of Environment and Forests,

Government of India

June, 2013

1. Introduction

1.1. The Hon'ble Supreme Court of India in their Judgment dated 6th July 2011 in the Interlocutory Application No. 1868 of 2007 in Writ Petition (Civil) No. 202 of 1995 in the matter of T.N. Godavarman Thirumulpad versus Union of India and others (hereinafter referred to as 'Lafarge Judgement') *inter-alia* directed that the Ministry of Environment and Forests (MoEF) will prepare a comprehensive policy for inspection, verification and monitoring and the overall procedure relating to the grant of forest clearances and identification of forests in consultation with the States (given that forests fall under entry 17A of the Concurrent List).

1.2 Accordingly, the MoEF vide Order dated 5th July 2012 constituted a Committee under the Chairmanship of the Addl. Director General of Forests (Forest Conservation) in the MoEF to formulate a draft policy. Apart from officials in the MoEF such as Joint-Secretary in-charge Impact Assessment Division, Inspector General of Forests in-charge Forest Conservation Division, Addl. Principal Chief Conservator of Forests in-charge Eastern, North Eastern and Southern Regional Offices and Assistant Inspector General of Forests in the Forest Conservation Division etc., the Nodal Officers of Forest (Conservation) Act, 1980 (FC, Act) in Madhya Pradesh, Andhra Pradesh, Odisha, Uttarakhand, Chhattisgarh, Odisha, Arunachal Pradesh and Chhattisgarh were members of the said committee. A copy of the MoEF's said order dated 5th July 2011 is enclosed as **Annexure-I**.

1.3. The Committee held two meetings. In these meetings the Committee decided that its report will be divided into five parts, each dealing with one of the five issues namely; inspection, verification, monitoring, identification of forests and the overall procedure relating to grant of forest clearances specified by the Hon'ble Supreme Court in their said judgment dated 6th July 2011. The Committee further decided that each of these five parts will be sub-divided into two parts. The first part will contain details of the existing provisions related to the issue dealt in the part and the second part will contain recommendations for improvement/strengthening of the existing provisions. The report of the Committee will be circulated to all State/ Union Territory Governments for their comments. The MoEF after examination of the comments from the State Governments, will finalize the policy by consolidating existing as well the additional suggestions which are found to be acceptable.

Inspection

2.1 Existing provisions on inspection of the forest land proposed to be diverted

2.1.1 The Para 4.10 of guidelines issued under the FC Act provides as below:

(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 land aspects of wildlife. The scientific names of the 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 photographs 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 FC Act. 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–II 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 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 up-to 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, scrutinize 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.

2.1.2 The Hon'ble Supreme Court in the Lafarge Judgment *inter-alia* directed that (in the application seeking environment clearance) if the project proponent makes a claim regarding status of the land being non-forest and if there is any doubt about the claim the site shall be inspected by the State Forest Department along with the Regional Office of MoEF to ascertain the status of forests, based on which the certificate in this regard be issued. In all such cases, it

would be desirable for the representative of State Forest Department to assist the Expert Appraisal Committee.

2.1.3 The Hon'ble Supreme Court in the Lafarge Judgment also directed that at each regional office there may be a Standing Site Inspection Committee which will take up the work of ascertaining the position of the land (namely whether it is forest land or not). In each Committee there may be one non-official member who is an expert in forestry. If it is found that forest land is involved, then forest clearance will have to be applied for first.

2.2 Recommendations for improvements

2.2.1 The committee was of the view that there is a need to categories the site inspections according to the objective of the inspection. Generally these inspections can be kept in three broad categories viz.

2.2.1.1 **Site inspections as a mandatory exercise for submission and processing of proposals for diversion of forest land:** Site inspections by the DFO, CCF of the state government and those by regional office of the Ministry, as provided in the guidelines explained in para 2.1 above, will fall in this category and terms of reference for such inspections will be same as mentioned in the existing guidelines.

2.2.1.2 **Site inspections to resolve the dispute about the status of land:** If the project proponent makes a claim regarding status of the land being non-forest and if there is any doubt about the claim or there is any dispute between the State Government and Project Proponent about status of land a multi party site inspection team shall carry out the site inspections. For this purpose a standing Site Inspection Committee shall be constituted by the Ministry at each of its regional offices. Composition, mandate and terms of references for such committee will be decided by the Ministry. However minimum one person each from concerned State Government, regional office of the Ministry and one non official member with expertise in forestry shall be included in the standing Site Inspection Committee.

2.2.1.3 **Site Inspections ordered by the Ministry of Environment and Forests either *Suo Moto* or on the advice of Forest Advisory Committee**: Such site inspections shall normally be ordered by the officer not below the rank of Inspector General of Forest only when the Ministry /FAC feels that routine site inspections prescribed in Para2.2.1.1 have not provided the information required for taking decision. The Ministry shall make specific orders for such inspections clearly specifying the composition, mandate and terms of reference of the inspecting team. Alternatively the Ministry may order the standing Site Inspection Committee of the concerned regional office to carry out site inspection.

2. Verification

3.1 Existing provisions on verification of information provided in the applications seeking prior approval of Central Government under the FC Act

3.1.1. The existing guidelines do not contain specific provision on verification of information provided in the applications seeking approval under the FC Act.

3.1.2. The procedure stipulated in the FC Act, Forest (Conservation) Rules 2003 (FC Rules) and guidelines issued under the FC Act (FC guidelines) however, provides for scrutiny of applications seeking prior approval of Central Government under the FC Act for diversion of forest land for non-forest purpose at multiple levels. These applications are scrutinized at at-least four levels in the State/ UT Government before they are forwarded to the Central Government. At the Central Government, applications seeking diversion of forest land from 0 to 40 hectares and 40 to 100 hectares are scrutinized by the concerned Regional Office of the MoEF and the Forest Conservation Division in the MoEF respectively. Applications seeking diversion of more than 100 hectares of forest land are scrutinized, both by the concerned Regional Office of the MoEF and Forest Conservation Division in the MoEF.

3.1.3. Existing guidelines issued under the FC Act provide for mandatory inspection of the forest land proposed to be diverted by the concerned Deputy Conservator of Forests (DCF). The guidelines also provides for mandatory inspection by the concerned Conservator of Forests (CF) in case the area of forest land proposed to be diverted is more than 40 hectares. Information provided by the DFO and the CF (in case of proposals seeking diversion of more than 40 hectares of forest land) are therefore based on both the available records as well as the field observations. There is no organized mechanism for the Nodal Officer(FC), PCCF and the State Government to independently verify the information provided in the application seeking approval under the FC act by the subordinate levels.

3.1.4. Similarly, except for inspection by the concerned Regional Office in case of proposals seeking diversion of more than 100 hectares of forest land, the MoEF also does not have any independent mechanism to verify/ascertain information provided in the applications seeking approval under the FC Act.

3.1.5. The Hon'ble Supreme Court in the Lafarge Judgment *inter-alia* directed that the MoEF should undertake measures for creation and regular updating of a GIS based decision support database, tentatively containing *inter-alia* the district-wise details of the location and boundary of (i) each plot of land that may be defined as forest for the purpose of the FC Act; (ii) the core, buffer and eco-sensitive zone of the protected areas constituted as per the provisions of the Wildlife (Protection) Act, 1972; (iii) the important migratory corridors for wildlife; and (iv) the forest land diverted for non-forest purpose in the past in the district. The Survey of India

toposheets in digital format, the forest cover maps prepared by the Forest Survey of India in preparation of the successive State of Forest Reports and the conditions stipulated in the approvals accorded under the FC Act for each case of diversion of forest land in the district will also be part of the proposed decision support database.

2.2 Recommendations for Improvement

3.2.1. Creation of GIS based decision support database as directed by the Hon'ble Supreme Court be expedited and be made available to all concerned dealing with the proposals seeking prior approval of Central Government under the FC Act for diversion of forest land, both in the Centre as well as State/ UT Governments.

3.2.2. The authorities in the State/UT as well as Central Government shall compare/ cross check the information provided in the proposal with the same available in the database, and submit a certificate that the information provided in the proposal has been found to be in conformity with the same available in the database. In case of any discrepancy, detailed reasons for the same shall be recorded.

3. Monitoring

4.1 Existing provisions on Monitoring of conditions stipulated in the approvals accorded under the FC Act

4.1.1. Para 3.4 (iii) of guidelines provide that in each case where the compensatory 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.

4.1.2 Similarly, the para 4.16 of guidelines *inter-alia* provides as below:

(i) The conditions stipulated while giving approval under the FC Act for diversion/renewal of forest land for mining purposes shall be reviewed /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 FC Act shall be **revoked.** Concerned Chief Conservators of Forests (Central), Regional Offices of the MoEF 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.

(ii) 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.

4.1.3. The para 4.15 of guidelines provides as below:

(i) 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.

(ii) 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.

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

(iv) 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.

(v) 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 violation/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.

4.1.4 The Forest Conservation Division in the MoEF has recently started to stipulate a condition in the stage-II/final approval that the user agency shall submit an annual self-monitoring report to the State Government and the concerned Regional office in the MoEF. Such condition is however, not stipulated by the Regional Offices in the approvals accorded by them.

4.2. Recommendations for Improvement

4.2.1. The Committee is of the view that monitoring is the weakest link in the entire forest clearance process. An effective system for monitoring of compliance to conditions stipulated in the approvals accorded under the FC Act, by the user agency and the Centre as well as the concerned State/ UT Government needs to be put in place. A transparent, effective and unbiased system to facilitate expeditious follow up action in case of non-compliance/ violation of stipulated conditions also needs to be put in place.

4.2.2. The Committee proposes following system for monitoring and follow up to ensure compliance to conditions stipulated in the approvals accorded under the FC Act.

4.2.2.1. Self Monitoring by User Agency

4.2.2.1.1 Every user agency in whose favour forest land is diverted for non-forest purpose shall periodically review compliance to conditions stipulated in the approval accorded under the FC Act. All those user agencies in whose favour approval under the FC Act for diversion of more than 100 hectares of forest land has been accorded, status of compliance to conditions stipulated in these approvals shall be reviewed by the Executive head of the user agency, at-least once in a year. In such cases, summary of compliance to conditions stipulated in the approval shall specifically be reported in the annual report of the user agency.

4.2.2.1.2 Every user agency in whose favour forest land has been diverted for non-forest purpose, shall prepare an annual self-monitoring report on compliance to conditions stipulated in the each approval accorded under the FC Act, during a calendar year and submit a copy of the same to the Nodal Officer, FC Act; DCF; CF; PCCF; State Government and concerned Regional Office of the MoEF on or before 31st January in the next calendar year. A copy of the self monitoring report shall also be placed on website of the user agency. In case of non-compliance or partial compliance to any of the stipulated conditions, full details of the same along with action taken or proposed to be taken (along with time-line) to rectify the same shall be provided in the self monitoring report. On or before 28th day of the February, the each State/ UT Government shall submit a consolidated report containing details of user agencies who failed to submit self-monitoring report within the stipulated period and the user agencies who have reported non-compliance or partial compliance to stipulated conditions along with action taken/ proposed to be taken (along with time frame) to rectify the same, to the MoEF and its concerned Regional Office. The report submitted by the State/ UT Governments shall also contain their recommendation on appropriate action to be taken against the defaulting user agencies. On receipt of report from the State/ UT Government, the MoEF and its Regional Office shall initiate appropriate action against the user agencies who have either not submitted the self-monitoring report or have reported non-compliance or partial compliance to any of the stipulated conditions.

4.2.2.2 Monitoring by State Government

4.2.2.2.1. Action taken by the State Forest Department to monitor compliance to conditions stipulated in the approvals accorded under the FC Act shall be reported in the Annual Administrative Report of the State Forest Department.

4.2.2.2.2. Various authorities in the State Forest Department such as the DCF, CF/CCF and the Nodal Officer, FC Act shall regularly monitor compliance to conditions stipulated in the approval accorded under the FC Act for diversion of forest land within their jurisdiction. The minimum frequency of monitoring by various authorities in the State Government for projects of different categories shall be as below:

Category of Project	Monitoring Authority		
	DCF	**CF**	**Nodal officer or his representative**
Mining	Once a year	Once in two years	Once in three years
Hydel/irrigation/river valley projects, construction and widening of roads/highways, construction of transmission lines, railways lines, pipelines, wind power/ thermal power/ industrial projects - During construction	Once a year- subject to a minimum one inspection during the construction period	Once in two years- subject to a minimum one inspection during the construction period	Once in two years subject to a minimum one inspection during the construction period-
Hydel/ irrigation/river valley, projects, wind power/ thermal power/ industrial projects – After construction	Once in two years	Once in three years	Once in three years
Construction and widening of roads/highways, construction of transmission lines, railways lines, pipelines etc.	Once in three years	Once in four years	Once in four years
Other projects – During execution	Once a year- subject to a minimum one inspection during the project execution	Once in two years- subject to a minimum one inspection during the project execution	Once in two years subject to a minimum one inspection during the project execution
Other projects – After execution	Once in five years	Once in five years	Once in five years

4.2.2.2.3. In case during the monitoring, violation/ non-compliance to any of the conditions stipulated in the approval accorded under the FC Act is observed, the authority undertaking the

monitoring shall immediately bring it to notice of the user agency and direct the user agency to take immediate necessary action to ensure compliance to the stipulated condition within the stipulated period. A copy of the directions issued by the Monitoring Authority to the user agency shall be endorsed to the authority in the Central Government which has issued the approval under the FC Act. However, in case the violation/non-compliance to stipulated conditions observed by the monitoring authority is of the serious nature having adverse impact on flora/fauna and environment, the monitoring authority shall prepare a self contained report on violation and submit the same, within seven days, to the concerned authority in the Central Government who has accorded approval under the FC Act, to keep such approval in abeyance. Each case of violation/ non-compliance to stipulated conditions of minor nature where the user agency has failed to take corrective measures within the period stipulated in the direction issued by the monitoring authority shall also be brought to notice of the concerned authority in the Central Government who has accorded approval under the FC Act, within seven days from expiry of the period stipulated for taking corrective measures.

4.2.2.2.4. The Central Government shall, after considering the report on violation/non-compliance of serious nature or non-compliance by the user agency of the directions issued by the Monitoring Authority to rectify the violation/non-compliance of minor nature, and after such further enquiry as it may consider necessary take decision to keep the approval accorded under the FC Act in abeyance within 30 days of the receipt of the report from the monitoring authority in the State Government.

4.2.2.2.5. The Nodal Officer shall submit a quarterly report on monitoring undertaken by various authorities in the State Government to the MoEF and the concerned Regional Office of the MoEF within a period of one month from expiry of the quarter. A copy of the report shall also be placed on website of the State Forest Department. Details of violations/ non-compliance to conditions stipulated in the approvals accorded under the FC Act and the action taken by the user agency, state government and the central Government in respect of these violations/ non-compliance shall clearly be indicated in the quarterly report.

4.2.2.2.6 All those State/ UT Governments where approval under the FC Act has been accorded to more than 500 projects, shall appoint a full time officer not below the rank of the Deputy Conservator of Forest to assist the Nodal Officer to monitor and ensure compliance to conditions stipulated in approvals accorded under the FC Act and to ensure timely submission of quarterly report to the Central Government.

4.2.2.3. Monitoring by Centre Government

4.2.2.3.1 The Centre Government will monitor the status of compliance to conditions stipulated in the approval accorded under the FC Act through its (i) regional offices; (ii) panel of accredited institutions/ individual experts and (iii) independent remote sensing satellite based real-time monitoring system. Details of the each of the these systems is given in the following para.

4.2.2.3.2 Monitoring through Regional Offices

4.2.2..3.2.1. Regional Offices of the MoEF will be responsible for regular monitoring of compliance to conditions stipulated in the approval accorded under the FC Act for diversion of forest land in the States/ UTs in their jurisdiction. The minimum frequency of monitoring by Regional Offices for projects of different categories by various authorities in the State Government shall be as below:

Category of Project	**Frequency of monitoring**
Mining - All major mineral mines and minor mineral mines involving more than 40 hectares of forest land	Once a year.
Mining - Minor mineral mines involving up to 40 hectares of forest land	Once in five years.
Hydel/irrigation/river valley projects, construction and widening of roads/highways, construction of transmission lines, railways lines, pipelines, wind power/ thermal power/ industrial projects - During construction	Once a year- subject to a minimum one inspection during the construction period
Hydel/ irrigation/river valley projects, wind power/ thermal power/ industrial projects – After construction	Once in two years
Construction and widening of roads/highways, construction of transmission lines, railways lines, pipelines etc.	Once in three years
Other projects – During execution	Once a year- subject to a minimum one inspection during the project execution
Other projects – After execution	Once in five years

4.2.2.3.2.2. In case during the monitoring, violation/ non-compliance to any of the conditions stipulated in the approval accorded under the FC Act is observed, the concerned Regional Office shall immediately bring it to notice of the State Government and direct the State Government to take immediate necessary action to ensure compliance to the stipulated condition. In case approval under the FC Act has been accorded by the Forest Conservation Division in the MoEF, a copy of the directions issued by the Regional Office to the State Government shall be endorsed to the Forest Conservation Division in the MoEF. However, in case the violation/non-compliance to stipulated conditions observed by the Regional Office is of the serious nature having adverse impact on flora/fauna and environment, the Regional Office shall prepare a self-contained report on violation/non-compliance and shall initiate action within seven days to keep such approval in abeyance in case the same has been issued by them. In case the violation/ non—compliance to stipulated conditions has been observed in a project for which approval under the FC Act has been accorded by the FC Division in the MoEF, a copy of the said report shall be submitted to the FC Division in the MoEF within seven-days. Each case of violation/ non-compliance to stipulated conditions of minor nature where the State Government has failed to take corrective measures within the period stipulated in the direction stipulated by the Regional office authority shall, within seven days from expiry of the stipulated period, also be brought to notice of the competent authority in the Central Government who has accorded approval under the FC Act, to keep such approval in abeyance.

4.2.2.3.2.3. The competent authority in the Central Government shall, after considering the report on violation/non-compliance of serious nature or non-compliance by the user agency of the directions issued by the Regional Office to rectify the violation/non-compliance of minor nature, and after such further enquiry as it may consider necessary take decision to keep the approval accorded under the FC Act in abeyance within 30 days of the receipt of such report.

4.2.2.3.2.4. The Regional Offices will submit a quarterly report on monitoring undertaken by them to the MoEF within a period of one month from expiry of the quarter. A copy of the report shall also be placed on website of the MoEF. Details of violations/ non-compliance to conditions stipulated in the approvals accorded under the FC Act and the action taken by the user agency, state government and the Central Government in respect of these violations/ non-compliance shall clearly be indicated in the quarterly report.

4.2.2.3.2.5. In each Regional Office of the MoEF a full time officer not below the rank of the Deputy Conservator of Forest shall be designated to assist the Head of the Regional Office in monitoring of compliance to conditions stipulated in approvals accorded under the FC Act and to ensure timely submission of quarterly report to the MoEF.

4.2.2.3.3 Monitoring through Panel of Accredited Institutions/ Individual Experts

4.2.2.3.3.1. The MoEF will prepare a panel of accredited institutions/ individual experts through a transparent mechanism to monitor compliance to conditions stipulated in the approvals accorded under the FC Act.

4.2.2.3.3.2. The MoEF will develop a systematic random sampling method to select in an unbiased manners the representative project to be monitored during a month and communicate the same to the accredited institutions/ individual experts.

4.2.2.3.3.3. The identified institution/ individual experts will prepare a monitoring report clearly indicating the violation/ non-compliance, if any, to conditions stipulated in the approval accorded under the FC Act and submit the same, within seven days after inspection of the project site, to the MoEF and the concerned Regional Office of the MoEF.

4.2.2.3.3.4. In case violation/on-compliance to any of the conditions stipulated in the approval accorded under the FC Act is reported in the report submitted by the independent monitor, the concerned Regional Office or the FC Division in the MoEF who has accorded such approval shall immediately bring it to notice of the State Government and direct the State Government to take immediate necessary action to ensure compliance to the stipulated condition. However, in case the violation/non-compliance to stipulated conditions observed by the Regional Office is of the serious nature having adverse impact on flora/fauna and environment, the Regional Office or the Forest Conservation Division in the MoEF initiate action within seven days to keep such approval in abeyance. In case of violation/ non-compliance to stipulated conditions of minor nature where the State Government has failed to take corrective measures within the period stipulated in the direction stipulated by the Regional Office or the FC Division in the MoEF, the Regional Office or FC Division in the MoEF shall after expiry of seven days from the stipulated period shall initiate action to keep such approval in abeyance.

4.2.2.3.4 Remote Sensing Satellite Based Monitoring

4.2.2.3.4.1 The Central Government shall establish an independent remote sensing satellite based monitoring system to detect encroachment, unauthorized change in the approved land use plan, illegal mining in forest land after expiry of approval under the FC Act, progress of concurrent/ final reclamation/rehabilitation of mined out area *etc.* in mining projects and damage to flora and fauna in the adjoining forest forests and maintenance of minimum ecological flow in hydel / irrigation and river valley projects.

4.2.2.3.4.2. The Central Government shall establish geo-referenced database of boundary of the important mining leases, hydel/ river valley projects and periodically assess the change in land use in and around boundary of such projects by using high resolution satellite imageries.

4.2.2.3.4.3. In case satellite based monitoring reveals violation/non-compliance to any of the conditions stipulated in the approval accorded under the FC Act, the same shall within seven days be brought to notice of the concerned Regional Office or Forest Conservation Division of the MoEF who has accorded the approval under the FC Act. The Regional Office or the FC Division in the MoEF on receipt of such report shall immediately bring it to notice of the concerned State/UT Government and direct them to take immediate necessary action to ensure compliance to the stipulated condition. However, in case the violation/non-compliance to stipulated conditions detected through remote sensing is of the serious nature having adverse impact on flora/fauna and environment, the Regional Office or the Forest Conservation Division in the MoEF shall initiate action within seven days to keep such approval in abeyance. In case of violations/ non-compliance of stipulated conditions of minor nature where the State Government has failed to take corrective measures within the period stipulated in the direction stipulated by the Regional Office or the FC Division in the MoEF, the Regional Office or FC Division in the MoEF shall after expiry of seven days from the stipulated period shall initiate action to keep such approval in abeyance.

4.2.2.3.4.4. The MoEF shall prepare a quarterly report on violations/ non-compliance to stipulated conditions detected/ reported during the quarters and action taken by them on such violations and place a copy of the same on its website within one month from expiry of the quarter

4.2.2.3.4.5. The coordinate and ensure effective follow action the MoEF appoint a full time officer not below the rank of the Deputy Inspector General of Forests, to monitor and ensure compliance to conditions stipulated in approvals accorded under the FC Act.

5. Identification of Forests

5.1. Existing Provision on Identification of Forests

5.1.1. The FC Act and FC Rules do not contain anything on identification of forests. The Hon'ble Supreme Court of India in their order dated 12th December 1996 in the Writ Petition (Civil) No. 202/1995 in the matter of T.N. Godavarman Thirumulpad versus Union of India and Others has however, *inter-alia* directed that *"The Forests Conservation Act, 1980 was enacted with a view to check further deforestation which ultimately results in ecological imbalance; and therefore, the provisions made therein for the conservation of forests and for matters connected therewith, must apply to all forests irrespective of the nature of ownership or classification thereof. The word "forest" must be understood according to its dictionary*

meaning. This description covers all statutorily recognized forests, whether designated as reserved, protected or otherwise for the purpose of Section 2 (i) of the Forest Conservation Act. The term "Forest land ", occurring in section 2, will not only include "forest" as understood in dictionary sense, but also any area recorded as forest in the Government record irrespective of the ownership." The operative part of the said order has been incorporated in para 1.1 of guidelines.

5.1.2 The Hon'ble Supreme Court of India in their said order dated 12th December 1996 further directed that *"Each State Government should constitute within one month an expert committee to (i) identify areas which are "forests" irrespective of whether they are so notified, recognized or classified under any law, and irrespective of the land of such forest (ii) identify area which were earlier forests but stand degraded, denuded and cleared; and (iii) identify areas covered by plantation trees belonging to the Government and those belonging to private persons".*

5.1.3 The Hon'ble Supreme Court in their order dated 18th March 2004 in the Writ Petition (Civil) No. 4677 of 1985 in the matter of M.C. Mehta versus Union of India and others *inter-alia* directed that the areas covered under notification issued under section 4 and 5 of the Punjab Land Preservation Act, 1900 shall be treated as forest and for use of it for non-forestry purpose, it would be necessary to comply with the provisions of the FC Act.

5.1.4 The Hon'ble Supreme Court in the Lafarge judgment *inter-alia* directed that exercise undertaken by each State/UT Govt. in compliance of their order dated 12.12.1996 wherein *inter-alia* each State/UT Government was directed to constitute an Expert Committee to identify the areas which are "forests" irrespective of whether they are so notified, recognized or classified under any law, and irrespective of the land of such "forest" and the areas which were earlier "forests" but stand degraded, denuded and cleared, shall be culminated in preparation of Geo-referenced district forest-maps containing the details of the location and boundary of each plot of land that may be defined as "forest" for the purpose of the FC Act.

5.1.5 The Hon'ble Supreme Court in the Lafarge Judgment *inter-alia* also directed that (in the application seeking environment clearance) if the project proponent makes a claim regarding status of the land being non-forest and if there is any doubt the site shall be inspected by the State Forest Department along with the Regional Office of MoEF to ascertain the status of forests, based on which the certificate in this regard be issued. In all such cases, it would be desirable for the representative of State Forest Department to assess the Expert Appraisal Committee.

5.1.6 The Hon'ble Supreme Court in the Lafarge Judgment also directed that at each regional office there may be a Standing Site Inspection Committee which will take up the work of ascertaining the position of the land (namely whether it is forest land or not). In each Committee there may be one non-official member who is an expert in forestry. If it is found that forest land is involved, then forest clearance will have to be applied for first.

5.2 . Recommendations for improvements

5.2.1 The Committee recommends that implementation of the directions given by the Hon'ble Supreme Court in the Lafarge Judgment for preparation of geo-referenced district forest maps should be expedited.

5.2.2 In case of the some North Eastern States cadastral survey has not been undertaken so far and thus the credible land records are not available in these States. Substantial portion of the areas having fairly thick vegetation of natural origin of forestry species have in these states have also not been recorded as 'forest' in the Government records. Major portion of forest in these States may therefore, be defined so as per dictionary meaning only. Identification of forests as per dictionary meaning in these States in an objective and transparent manner, has to be based on certain objective parameters. Suggested parameters are (i) stand density (no. of trees per hectare); (ii) crown density (percentage foliage cover); (iii) minimum extent of contiguous forested area; (iv) nature of vegetation (horticulture/forestry); (v) origin (naturally grown or man-made) and an appropriate combination thereof. The Committee recommends that all compact patches of minimum one hectare area having crown density more than 30 % on any day after 12th December 1996, as per the successive State of Forest Reports, shall be treated as 'forest' as per dictionary meaning even if these areas are not recorded as forest in the Government record, unless it is proved with credible evidence that the vegetation available in such patch is other than the forestry species of natural origin.

5.2.3 The Committee recommends that to monitor progress in preparation of the geo-referenced district forest map, the MoEF shall constitute a Steering Committee under the Chairmanship of the Director General of Forests and Special Secretary. The Steering Committee shall in consultation with the State/ UT Governments draw milestone for preparation of geo-referenced district forest maps, and review progress in preparation of geo-reference forest maps at-least once in every three months.

5.2.4 The Committee reiterates that directions given by the Hon'ble Supreme Court in the Lafarge Judgment should be incorporated in the guidelines.

5.2.5 The Committee further reiterates that constitution of the Standing Site Inspection Committee at each Regional Office, as specified by the Hon'ble Supreme Court in the Lafarge Judgment may also be expedited by the MoEF.

6. Overall procedure for grant of forest clearance.

6.1. Existing procedure for grant of forest clearance.

6.1.1 To facilitate scrutiny of the proposals seeking prior approval of the Central Government under the FC Act in an effective, efficient, transparent and un-biased manner, an elaborate institutional mechanism, both at the Centre as well as at the State/ Union Territory Government has been set up. It is because of the effective of the present institutional arrangement for implementation of the FC Act, the annual rate of diversion of forest land for non-forest purpose has successfully been reduced from 1.65 lakh hectares per annum during the 25 years period from 1951-52 to 1975-76 prior to enactment of the FC Act during which 4.135 million hectares of forest land was diverted for non-forest purposes without any mitigative measures, to 35,554 hectares per annum during 32.50 years of the existence of the Act, during which Central Government accorded approvals under the Act for diversion of 11,55,504 hectares of forest land for non-forest purposes with adequate mitigative measures. Any major modification in the present procedure for grant of forest clearance at this stage is neither desirable nor required.

6.1.2 The major area of concern in the forest clearance process is the huge backlog in execution of the measures stipulated in the approval accorded under the FC Act to mitigate impact of diversion of forest land on flora, fauna and environment. Though the funds for execution of these measures are realized before transfer of forest land to the user agency, a huge sum of more than 25,000 crore is presently lying unutilized with the ad-hoc CAMPA.

6.2. Suggestions for Improvements

6.2.1 Suggestions made for improvement of inspection, verification, monitoring and identification of forests shall be implemented expeditiously to strengthen the existing procedure for grant of forest clearance.

6.2.2 To ensure expeditious implementation of the measures stipulated in the approval accorded under the FC Act to mitigate impact of diversion of forest land on flora, fauna and environment, the MoEF shall expeditiously put in place an institutional mechanism for efficient, effective and expeditious utilization of funds already realized as well as likely to be realized in future.

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Annexure-I

F. No. 7-31/ 2007-FC (pt.-III)
Government of India
Ministry of Environment and Forests
(FC Division)

Paryavaran Bhawan,
CGO Complex, Lodhi Road,
New Delhi - 110 510.
Dated: 5th July, 2012

ORDER

Whereas, The Hon'ble Supreme Court on July 6th, 2011 delivered its final judgment in the I.A. No. 1868 of 2007 filed by Lafarge Umiam Mining Pvt. Ltd. and other related I.A.s in Writ Petition (Civil) No. 202 of 1995 in the matter of T.N. Godavarman Thirumulpad versus Union of India and Others.

2. **And Whereas,** the judgment has two parts. The part-I deals with the environment and forest clearance accorded by the MoEF to a limestone mining project of Lafarge Umiam Mining Private Limited, located in East Khasi Hills district of Meghalaya. In Part-II of the judgment Supreme Court issued guidelines on long term and short term measures to be taken by the Central Government, State Government and the various authorities under the Forest (Conservation) Act, 1980 and the Environment Protection Act, 1986 to prevent recurrence of *fait accompli* situations. A copy of the said judgment has already been sent to the Eastern Regional Office.

3. **And whereas,** the Guidelines issued by the Hon'ble Supreme Court *inter-alia* provides that the MoEF will prepare a comprehensive policy for inspection, verification and monitoring and the overall procedure relating to the grant of forest clearance and identification of forests in consultation with the States.

4. **Now therefore,** it is hereby decided that a committee, with the following composition, is constituted with immediate effect to formulate draft policy for inspection, verification and monitoring and the overall procedure relating to the grant of forest clearance and identification of forests:

(i)	Addl. Director General of Forests (Forest Conservation), Ministry of Environment & Forests	**Chairman**
(ii)	Inspector General of Forests, Forest Conservation Division, Ministry of Environment & Forests (MoEF)	**Member**
(iii)	Joint Secretary, In-charge Impact Assessment Division, MoEF	**Member**
(iv)	Addl. Principal Chief Conservator of Forests, Regional Office, Eastern Zone, MoEF, Bhubaneswar,	**Member**
(v)	Addl. Principal Chief Conservator of Forests, Regional Office, Southern Zone, MoEF, Bangalore	**Member**

(vi)	Addl. Principal Chief Conservator of Forests, Regional Office, North Eastern Zone, MoEF, Shillong	**Member**
(vii)	Nodal Officer, Forest (Conservation) Act, Madhya Pradesh	**Member**
(viii)	Nodal Officer, Forest (Conservation) Act, Andhra Pradesh	**Member**
(ix)	Nodal Officer, Forest (Conservation) Act, Odisha	**Member**
(x)	Nodal Officer, Forest (Conservation) Act, Uttarakhand	**Member**
(xi)	Nodal Officer, Forest (Conservation) Act, Chhattisgarh	**Member**
(xii)	Nodal Officer, Forest (Conservation) Act, Arunachal Pradesh	**Member**
(xiii)	Nodal Officer, Forest (Conservation) Act, Jharkhand	**Member**
(xv)	Assistant Inspector General of Forests, Forest Conservation Division, MoEF	**Member-Secretary**

5. **And,** it is further decided that committee will submit its report within two months from date of its constitution.

(H.C. Chaudhary)
Assistant Inspector General of Forests

1. Addl. Director General of Forests (Forest Conservation), Ministry of Environment & Forests
2. Inspector General of Forests, Forest Conservation Division, Ministry of Environment & Forests (MoEF)
3. Joint Secretary, In-charge Impact Assessment Division, MoEF
4. Addl. Principal Chief Conservator of Forests, Regional Office, Eastern Zone, MoEF, Bhubaneswar,
5. Addl. Principal Chief Conservator of Forests, Regional Office, Southern Zone, MoEF, Bangalore
6. Addl. Principal Chief Conservator of Forests, Regional Office, North Eastern Zone, MoEF, Shillong
7. Nodal Officer, Forest (Conservation) Act, Madhya Pradesh
8. Nodal Officer, Forest (Conservation) Act, Andhra Pradesh
9. Nodal Officer, Forest (Conservation) Act, Odisha
10. Nodal Officer, Forest (Conservation) Act, Uttarakhand
11. Nodal Officer, Forest (Conservation) Act, Chhattisgarh.
12. Nodal Officer, Forest (Conservation) Act, Arunachal Pradesh
13. Nodal Officer, Forest (Conservation) Act, Jharkhand.
15. Assistant Inspector General of Forests, Forest Conservation Division, MoEF

Annexure-II

Proforma for Site Inspections Reports by Regional Offices

1. Legal status of the forest land proposed for diversion.
2. Item-wise break-up 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.
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 along with detailed reasons.

16. Regional Chief Conservator of Forests shall give detailed comments on whether there are any alternatives routes/ alignments 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.
