

Annexure IX (44), (Vide Article - 9.02(vi))



Government of India
Ministry of Environment and Forests
(Wildlife Division)

Paryavaran Bhawan
CGO Complex, Lodhi Road
New Delhi-110003

F. No. 6-10/2011 WL

Dated: 15th March 2011

Sub: Guidance document for taking up non-forestry activities in wildlife habitats

The Wildlife (Protection) Act, 1972 and orders of Hon'ble Supreme Court makes it mandatory for following certain procedures for taking up any non-forestry activity in wildlife habitats. However, many firms/individuals approach the Ministry seeking the details of procedures to be adopted. In order to facilitate and guide the people on the various steps that need to be followed for taking up non forestry activities in wildlife habitats, a guidance document has been prepared which is enclosed for ready reference and necessary action.


(Prakriti Srivastava)

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Encl: As above

Distribution:

1. The Secretary, all Ministries/Departments of Government of India, New Delhi
2. The Chief Secretary, all States/Union Territories
3. The Pr. Chief Conservator of Forests, all States/Union Territories
4. The Chief Wildlife Warden, all States/Union Territories.

Copy to:

1. PS to Hon'ble MEF
2. PPS to Secretary (E&F), MoEF
3. PPS to DGF & SS, MoEF
4. PPS to Addl. DGF(WL)
5. PPS to Addl. DGF(FC)
6. PS to Advisor, I.A Division, MoEF
7. The NIC Cell- with a request to kindly upload the same on the official website of the Ministry.

GUIDELINES FOR TAKING NON-FORESTRY ACTIVITIES IN WILDLIFE HABITATS

1. POLICY AND APPROACH:

1.1 General Policy

National Parks, Sanctuaries and Conservation Reserves are extremely important for conservation of biodiversity, and for ensuring the survival of floral and faunal components of biodiversity, not only for the present but also for future. However, the rising human population and their growing demands for socio economic development have placed tremendous stress on such areas both directly and indirectly. Keeping in view the fact that a balance has to be struck between development and conservation, any activity involving use or diversion of protected areas may be considered only under **most exceptional** circumstances. Additionally, such activities to be taken up in the wildlife habitats need to be governed by the orders of Hon'ble Supreme Court as well as the statutory requirements as provided in the Wild Life (Protection) Act, 1972.

1.2 Activities inside Wildlife Sanctuaries:

The Wild Life (Protection) Act, 1972 provides that the recommendation of the **State Board for Wildlife** (*a Board chaired by the State Chief Minister*) is essential for any kind of destruction/damage/removal of any wildlife or for diverting the habitat of any wild animal, including removal of forest produce or diverting / stopping / enhancing the flow of water into or outside the Sanctuary.

Further, in view of the directions of Hon'ble Supreme Court in Writ Petition (Civil) No. 337/1995, all such proposals also require the recommendation of the **Standing Committee of National Board for Wildlife** (*a Committee chaired by the Minister in charge of the Ministry of Environment and Forests*).

1.3 Activities inside National Parks:

The Wild Life (Protection) Act, 1972 provides that the recommendation of the **National Board for Wildlife** (*a Board chaired by the Prime Minister*) is essential for any kind of destruction/damage/removal of any wildlife or for diverting the habitat of any wild animal, including removal of forest produce or diverting / stopping / enhancing the flow of water into or outside the National Park.

However, as the **Standing Committee of National Board for Wildlife** has been delegated the powers of the National Board for Wildlife, such cases are to be referred to the Standing Committee of National Board for Wildlife for consideration and recommendation.

1.4 Activities inside Conservation Reserves:

The Ministry of Law and Justice has opined that activities to be taken up inside a Conservation Reserve can also be dealt with the Standing Committee of NBWL. Therefore, the procedure indicated under para 2 below needs to be followed for planning and executing any activity inside Conservation Reserve also.

1.4 Activities within 10 Kms from boundaries of National Parks and Wildlife Sanctuaries:

In pursuance to the order of Hon'ble Supreme Court in Writ Petition (Civil) No. 460/2004, the Ministry of Environment and Forests has issued an Office Memorandum on 2nd December 2009 (**Annexure-1**), indicating that Environmental Clearances for all such projects that fall within 10 Kms boundary of the National Parks and Sanctuaries will be subject to recommendation of the Standing Committee of NBWL.

2. PROCEDURE TO BE FOLLOWED FOR ACTIVITIES INSIDE NATIONAL PARKS, WILDLIFE SANCTUARIES AND CONSERVATION RESERVES:

- 2.1** The User Agency/Project Proponent is required to submit the proposal in the prescribed proforma that has been prescribed by the Ministry of Environment and Forests, and is available on the website of the Ministry (<http://envfor.nic.in>) (**Annexure-2**).
- 2.2** The prescribed proforma has **five** parts and each part is required to be filled in by the User Agency; concerned Divisional Forest Officer/Park Manager; Concerned Chief Conservator of Forests; Concerned Chief Wildlife Warden and the Forest Secretary.

- 2.3 The proforma also seeks information in detail on the biodiversity of the area in question; maps of the area, other activities already in place; possible impacts of the proposal, etc.
- 2.4 The User agency is required to submit Part-I and Part-II of the proforma duly filled in to the concerned Forest Officer, who in turn, forwards the same to the Chief Wildlife Warden through the Chief Conservator of Forest.
- 2.5 The Chief Wildlife Warden, after giving his specific comments on the proposal, forwards the same to the Government of India, through the Forest Secretary **after obtaining the recommendation of the State Board for Wildlife on the proposal.**
- 2.6 The proposal so received from the State Government is placed before the Standing Committee of NBWL, chaired by Minister of State (I/C) Environment and Forests. The meeting of the Standing Committee is convened once in 2-3 months.
- 2.7 In cases where the area proposed for diversion is large and/or the impact of the project on wildlife is considered to be serious, site inspections are conducted by the members of the Committee on the instructions of the Standing Committee of NBWL.
- 2.8 The site inspection reports are generally considered in the next meeting of the Standing Committee to enable the Committee to make its recommendation.
- 2.9 After the Standing Committee of NBWL recommends the proposal, the User Agency/State Government is required to approach Hon'ble Supreme Court for final clearance in view of the Court orders dated 13.11.2000 .

[**Note:** *Hon'ble Supreme Court vide their order dated 13.11.2000 had directed that there shall be no dereservation/denotification of National Parks and Sanctuaries without approval of the Supreme Court. Therefore, to take up any such activity, a clearance from Hon'ble Court is mandatory.*]

- 2.10 In case of Border Roads, proposals of the Ministry of Defence, a simplified proforma for simultaneous clearance under the Forest (Conservation) Act, 1980 and wildlife clearance is being adopted under 'A Single Window System'.

3. PROCEDURE TO BE FOLLOWED FOR ACTIVITIES WITHIN 10 KMS FROM BOUNDARIES OF NATIONAL PARKS AND WILDLIFE SANCTUARIES:

- 3.1 In case the project site is located within the eco-sensitive zone or 10 Kms in absence of delineation of such a zone from the boundaries of National Parks, Wildlife Sanctuaries or is an Elephant Reserve/Tiger Reserve and/or important corridors of wildlife movement, the User agency/Project Proponent should seek prior clearance from the Standing Committee of NBWL before seeking Environmental Clearance and the procedure as mentioned under paragraphs 2.1 to 2.8 above are required to be followed in such cases also.

[Note: The Standing Committee of NBWL has been insisting on the recommendation of the State Board for Wildlife for all proposals, including those falling within 10 Kms from the boundary of National Parks and Sanctuary].

4. PROPOSALS FOR SURVEY WORK TO BE CARRIED OUT INSIDE NATIONAL PARKS AND WILDLIFE SANCTUARIES:

In case any kind of survey work and/or Environment Impact Assessment (EIA) studies, that is a prelude to future diversion of land, are to be taken up in areas involving a wildlife habitat, then also the entire procedure, as prescribed in paragraph 2 above would need to be followed.

No. J-11013/41/2006-IA.II(I)
Government of India
Ministry of Environment & Forests

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Telefax: 24362434

Dated the 2nd December, 2009

OFFICE MEMORANDUM

Sub: Procedure for consideration of proposals for grant of environmental clearance under EIA Notification, 2006, which involve forestland and or wildlife habitat – Regarding.

The issue regarding the procedure to be followed for consideration of proposals for grant of environmental clearance under EIA Notification, 2006, which involve forestland and or wildlife habitat has been under consideration of this Ministry. The issue has been discussed and deliberated at length and the provisions of EIA Notification, 2006 as contained in para 8 (v) of the said notification have also been considered.

2. It has now been decided that the following procedure shall be adopted in dealing with such cases.

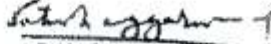
- (i) The proposals for environmental clearance will not be linked with the clearances from forestry and wildlife angle even if it involves forestland and or wildlife habitat as these clearances are independent of each other and would in any case need to be obtained as applicable to such projects before starting any activity at site.
- (ii) While, considering such proposals under EIA Notification, 2006, specific information on the following should be obtained from the proponent:
 - (a) Whether the application for diversion of forestland involved in the project has been submitted? If so, what is the status of grant of forestry clearance? It would be essential that in such cases, the application for diversion of forestland has been submitted by the project proponent before they come for environment clearance and a copy of the application submitted for forestry clearance along with all its enclosures should also be submitted by the proponent along with their environment clearance application.
 - (b) Information about wildlife clearance, as applicable to the project should also be obtained. The project proponent should submit their application for wildlife clearance / clearance from Standing Committee of the National Board for Wildlife to the Competent Authority before coming for environment clearance and a copy of their application should be furnished along with environment clearance application.
- (iii) The proposal from environmental angle will be appraised by the respective Expert Appraisal Committee and recommendations made on the same which will be processed by the IA Division and approval obtained from the Competent Authority. However, while granting environmental clearance to projects involving forestland, wildlife habitat (core zone of elephant/tiger reserve etc.) and or located within 10 km of the National Park /

Wildlife Sanctuary (at present the distance of 10 km has been taken in conformity with the order dated 4.12.2006 in writ petition no. 460 of 2004 in the matter of Goa Foundation Vs Union of India), a specific condition shall be stipulated that the environmental clearance is subject to their obtaining prior clearance from forestry and wildlife angle including clearance from the Standing Committee of the National Board for Wildlife as applicable. Further, it will also be categorically stated in the environment clearance that grant of environmental clearance does not necessarily implies that forestry and wildlife clearance shall be granted to the project and that their proposals for forestry and wildlife clearance will be considered by the respective authorities on their merits and decision taken. The investment made in the project, if any, based on environmental clearance so granted, in anticipation of the clearance from forestry and wildlife angle shall be entirely at the cost and risk of the project proponent and Ministry of Environment & Forests shall not be responsible in this regard in any manner.

- (iv) A copy of the clearance letter, besides others, shall also be endorsed to (i) IGF(FC), MoEF, (ii) IGF(WL), MoEF, (iii) POCF of respective States and (iv) Chief Wildlife Warden of the State.

Note: There will not be any need to refer the files relating to grant of environmental clearance from IA Division to FC Division and or Wildlife Division during consideration of proposals under EIA Notification, 2006, as done at present in view of the course of action stipulated at paras 2(i) – (iv) above.

This Issues with the approval of the Competent Authority.


(S.K. Aggarwal)
Director

To

All the Officers of IA Division

Copy to:-

1. PPS to AS(JMM)
2. PPS to ADG(F)
3. PPS to ADG (Wildlife)
4. IGF(FC)
5. Advisor (GKP)
6. Advisor (NB)
7. Director (PLA) with a request to issue necessary instructions to all the SEIAAs/SEACs to follow the above instructions.
8. Website of the Ministry.

FORMS

**(All documents to be submitted in triplicate and signed in
Blue ink)**

PART I

Proposal for Investigation and Survey in the National Park / Sanctuary

(Details to be provided by the Applicant)

1. Name of the Organization
2. Aims and Objectives of the Proposed Project
3. Location and Map (1:50,000 scale) of the area duly authenticated by the competent authority to be investigated/ surveyed
4. Whether investigation/survey requires clearing of vegetation
5. If yes, please specify the extent (in Ha.)
6. Opinion of the Officer In Charge of the NP/ WLS (Attach signed copy)
7. Opinion of the Chief Wildlife Warden (Attach signed copy). The following be included in the opinion:
 - i) Brief history of the protected area
 - ii) Current status of wildlife
 - iii) Current status of pressures on protected areas.
 - iv) Projected impacts of projects on wildlife, habitat management and access/ use of resource by various stakeholders.
 - v) Contiguous wildlife areas which would benefit wildlife if added to national park/sanctuary.
 - vi) Other areas in the State which have been recommended by State Government, Wildlife Institute of India, BNHS, SACON, IISC, IUCN or other expert body for inclusion in protected area network.

Signed

Signed

Signed

Project Head
Name
Organization

The Officer In Charge of the NP/ WLS
Office Seal

The CWLW
Office Seal

PART II

(To be filled in by the Applicant)

1 Project details:

- (i) Copy of the Investigation and Survey report.

(The report should include the dates of survey and the names of the investigators, surveyors and all officials of the concerned NP/ WLS who remained present during the period)

- (ii) Self contained and factual project report for which NP/WLS area is required

(Enclose copy of the Project Appraisal document)

- (iii) Map (duly authenticated by the Divisional / District Head of the Department dealing with Forests and Wildlife) on a scale of 1: 50,000 showing the boundaries of the NP/WLS, delineating the area in question in red color).

- (iv) Self contained and factual report of at least two alternatives considered by the project authorities along with technical and financial justification for opting national park/ sanctuary area.

- (v) Copy of the Bio diversity Impact Assessment report in case the proposal involves diversion of more than 50 ha. NP/WLS area.

2 Location of the project/scheme

- (i) State/Union Territory
(ii) District
(iii) Name of the National Park/ Sanctuary

3 Details of the area required (in Hectares only)

(Provide break up of the land use under the project, e.g., construction of dam, submergence, housing for staff, road etc)

4 Details of displacement of people, if any, due to the project

- (i) Total number of families involved in displacement
- (ii) Number of scheduled caste/Scheduled tribe families involved in displacement
- (iii) Detailed rehabilitation plan

5 Any other information relevant to the proposal but not covered in any of the columns above.

Signed by

Project Head
Name
Organization

Date of submission to the Head of the National Park / Sanctuary

PART III

(To be completed by the Officer –in- Charge of the National Park/ Sanctuary completed and submitted to the Chief Wild Life Warden or officer authorized by him in this behalf within 30 days of the receipt of PART - II)

- 1 Date of receipt of the PART – II
- 2 Total Area (Ha.) of national park/sanctuary
- 3 Total area (Ha.) diverted from the NP/WLS so far for development purposes
- 4 List the past projects and the area (Ha.) diverted

Name of Project	Area Diverted	Year of Diversion
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- 5 Positive impact(s) due to the diversion of area for the projects referred to in column 4 above

Name of the Project(s)	Positive Impact	Scientific Basis of Assessment
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(Attach separate sheet, if required)

- 6 Negative impact/s due to the diversion of area for the projects referred to in column 4 above

Name of the Project(s)	Negative Impact	Scientific Basis of Assessment
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(Attach separate sheet, if required)

- 7 Management Plan Period

Attach copy of the Management Plan/Management Scheme/ Recommendation of Chief Wildlife Warden

- 8 List Management actions taken/ proposed to be taken in the whole Block/ Zone in which the proposed area is located.
- 9 Type of forest in which the proposed area falls.

10 Location of the proposed area w.r.t. the critical/intensive wildlife management areas/ wildlife habitats (attach Map to scale).

11 List the likely POSITIVE AND NEGATIVE impact/s of the proposed project giving scientific and technical justification for each impact.

12 Provide COMPREHENSIVE details of the impact of the proposal in terms of Sections 29 and/or section 35 (6) of the Wild Life (Protection) Act, 1972 as the case may be.

13 Whether the project authorities have ever committed violation of the Wild Life (Protection) Act, 1972 or Forest Conservation Act, 1980. If yes, provide the EXHAUSTIVE details of the offence and the present status of the case.

(Concealing or misrepresenting the facts will lead to rejection of the case in addition to any other penalty as prescribed under Law)

14 Have you examined the Project Appraisal document and the alternatives as provided in PART – II?

15 Have you examined the Bio diversity Impact Assessment Report?

16 If Yes, please give your comments on the recommendations given in the report?

17 Dates and duration of your field visits to the proposed site.

18 Do you agree that the present proposal of diversion of NP/WLS area is the best or the only option and is viable.

19 Any other information that you would like to bring to the notice of the State Board for Wildlife, National Board for Wildlife or its Standing Committee that may be relevant and assist in decision making.

20 Do you recommend the project.

(Please provide full justification to support your recommendations)

Signed by

The Officer In Charge of the NP/ WLS

Official Seal

Date of submission to the Chief Wild Life Warden or any other officer authorized by him in this regard

PART IV

(To be completed by the Chief Wildlife Warden within 15 days of the receipt of PART - II and Part- III)

- 1 Date of RECEIPT of PART- II and Part- III by the Chief Wild Life Warden or the officer authorized by him in this regard
- 2 Do you agree with the information and recommendations provided by the Officer – in – Charge in PART – III?
- 3 If not, please provide the reasons
- 4 Have you visited the site yourself and held discussions with the applicant?
- 5 Do you agree that the present proposal for permitting use of NP/WLS area is the best option or the only option, and is viable?
- 6 Please provide specific comments w.r.t. Section 29 of the Wild Life (Protection) Act, 1972
- 7 Any other information that you would like to bring to the notice of the State Board for Wildlife, National Board for Wildlife or its Standing Committee that may be relevant and assist in decision making
- 8 Do you recommend the project?
(Please provide full justification to support your recommendations)
- 9 Conditions, if any, to be ensured in the interest of protection and conservation of wildlife for allowing use of the area?

Signed by

The Chief Wildlife Warden

Name

State

Official Seal

Date of submission to the State Government

PART - V

(To be completed by the Department in Charge of Forestry and Wild Life in consultation with the State Board for Wild Life within 30 days of the receipt of PART – II, PART- III and PART- IV)

- 1 Date of RECEIPT of PART- II, PART- III and PART - IV by the Department
- 2 Do you agree with the recommendation(s) of the Chief Wildlife Warden
- 3 If not, please provide the reasons.
- 4 Did you provide PART- II, PART- III and PART - IV to the members of the State Board for Wild Life?
- 5 Attach copy of the opinion of the State Board for Wild Life
- 6 Give details of the recommendations of the State Government

Signed by

The Principal Secretary

Name

State

Official Seal

Date of submission to the Central Government